CALIFORNIA DEPARTMENT OF TRANSPORTATION

AMERICANS WITH DISABILITIES ACT ANNUAL REPORT FISCAL YEAR 2010–2011

Prepared in Compliance With the June 2010 Final Order Concerning
Californians for Disability Rights, Inc., et al. v. California Department of Transportation
Case No.: C 06 5125
Settlement Agreement re Class Action Settlement

December 2011
(Amended February 10, 2012)

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EXECUTIVE SUMMARY

In August 2006, Californians for Disability Rights, Inc., the California Council of the Blind, Mr. Ben Rockwell, and Mr. Dmitri Belser, on behalf of themselves and on behalf of all others similarly situated, filed in the United States District Court for the Northern District of California a class action lawsuit against the California Department of Transportation (Caltrans) and the Caltrans director, in his official capacity, claiming violations of both federal and State laws, principally concerning statutory provisions contained in the Americans With Disabilities Act (ADA).[1] The plaintiffs' claimed the vioilations were caused by Caltrans' alleged failure to install and/or maintain curbs and sidewalks that allow reasonable access for mobility and visually impaired persons. In June 2010, a lawsuit settlement agreement was ordered by the court and entered into by and among all parties.[2]

The settlement agreement (appendix A) requires that for thirty years Caltrans complete an annual report providing sufficient information to allow the plaintiffs' attorneys to evaluate whether Caltrans is complying with the terms of the settlement agreement. As noted in the settlement agreement, the reporting period was to be based on the federal fiscal year, October 1 through September 30, of each year. The first annual report was to cover the first full federal fiscal year following the fiscal year in which the final approval was granted. By later mutual agreement between the parties (via e-mail), the reporting period was changed from the federal fiscal year to the State fiscal year, July 1 through June 30, the first report being due within 180 days after the close of FY 2010–2011 (that is, by December 27 2011).

Caltrans' "Americans With Disabilities Act Annual Report, Fiscal Year 2010–2011" is the first annual report and includes information on Caltrans' compliance with the settlement agreement. Caltrans' accomplishments for each of the ten reporting requirements, as noted in exhibit 2, section 1.B, of the settlement agreement are as follows:

1. **Program Access Improvements Funded by the Annual Commitment.** Caltrans completed construction on six ADA stand-alone projects totaling approximately $8.4 million.

2. **Allocation of Annual Commitment of Funds for Program Access Improvements.** Of the $25 million annual commitment goal for FY 2010–2011, $14.9 million was expended, which included $6.6 million in annual commitment–eligible ADA program-related costs. The resulting carry-over to FY 2011–2012 equals $10.1 million.

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[1]The Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq. and 47 U.S.C. § 225, Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended by the ADA Amendments Act of 2008, Pub. L. 110–325, September 25, 2008).

[2]*Californians for Disability Rights, Inc. v. California Department of Transportation,* Case No.: C 06 5125 Settlement Agreement re Class Action Settlement.

3. **Access Improvements Relating to Pedestrian Facilities and Park and Ride Facilities Not Funded by the Annual Commitment Completed as Part of New Construction, Alteration, or Capital Preventive Maintenance (CAPM) Projects.** Caltrans constructed 560 curb ramps, more than 15.5 miles of sidewalks, and added or modified 471 pedestrian push buttons in FY 2010–2011 as part of normal highway improvement projects. (See appendix B.)

   Other Pedestrian Facilities and Park and Ride Facilities Newly Constructed or Altered During the Reporting Fiscal Year. Caltrans did not have any projects related to other pedestrian facilities or park and ride facilities in FY 2010–2011 other than those listed under the Program Access Improvements in section 1(1) on pages 3 through 6 of this report.

4. **Training and Monitoring Efforts Undertaken During the Reporting Fiscal Year to Ensure That Temporary Routes, When Provided Through and Around Work Zones, Are Accessible to Pedestrians With Disabilities.** Caltrans developed for workers in the field a *Temporary Pedestrian Facilities Handbook* about protecting and accommodating pedestrians with disabilities through and around work zones. (See appendix C.) Caltrans also developed for construction employees mandatory training about pedestrian accessibility through and around work zones.

5. **Revisions to "Pedestrian Accessibility Guidelines for Highway Projects" (Caltrans Design Information Bulletin 82).** In August 2010, Caltrans revised DIB 82 to clarify the treatment of curb ramps in CAPM overlay projects and the accessibility of shoulders designated as pedestrian paths as noted in exhibit 3 of the settlement agreement. (See appendix D.)

6. **Program Access Improvements Planned for the Next Fiscal Year.** Six program access improvement projects, totaling approximately $11.13 million, are scheduled to complete construction in FY 2011–2012. (See table 2.)

7. **Estimated Dollar Amount of Funding to Be Allocated to Program Access Improvements Planned for Future Fiscal Years.** Caltrans is planning to complete seventeen projects in FY 2012–2013 with an estimated cost of $25.9 million, five projects in FY 2013–2014 with an estimated cost of $36.15 million, and six projects in FY 2014–2015 with an estimated cost of $47.14 million. Projects for FY 2015–2016 and FY 2016–2017 are in the planning stage.

8. **Grievances Received From the Accessibility Grievance Procedure Described in Exhibit 5.** Caltrans received 42 accessibility grievances and access requests in FY 2010–2011.

9. **Status of the Resolution of Accessibility Grievances.** All accessibility grievances received in FY 2010–2011 were investigated by Caltrans and are in various stages of resolution. (See appendix E.)

BACKGROUND

Caltrans owns and maintains an estimated 4,000 miles of sidewalks along 15,000 miles of roadways in addition to pedestrian facilities that are part of bridge structures, park and ride facilities, vista points, safety roadside rest areas, and pedestrian tunnels and overcrossings as part of the State Highway System. The majority of Caltrans' pedestrian infrastructure are located on routes that pass through urban centers. Regular maintenance of and upgrades to this extensive pedestrian infrastructure are required to keep the system functioning and compliant with federal and State laws.

According to the terms of the 2010 lawsuit settlement agreement, Caltrans shall:

1. Allocate $1.1 billion from the State Highway Operation and Protection Program (SHOPP) in annual commitments over a compliance period of thirty years to improve access on sidewalks and other pedestrian facilities (program access improvement projects). Annual commitment levels are:

    - $25 million a year for the first five fiscal years (2010–2011 through 2014–2015).
    - $35 million a year for the next ten fiscal years (2015–2016 through 2024–2025).
    - $40 million a year for the next ten fiscal years (2025–2026 through 2034–2035).
    - $45 million a year for the last five fiscal years (2035–2036 through 2038–2040).

2. Ensure that each new construction or rehabilitation project improves pedestrian facilities as part of that project. ADA-required work accomplished as part of these projects is Caltrans' responsibility under federal and State ADA laws and regulations and does not count toward fulfillment of the annual commitment.

3. Revise ADA design guidance, contained in DIB 82, to provide that CAPM projects adjacent to pedestrian facilities must include installation or upgrade of curb ramps at the time the CAPM work is performed, and where vehicular lanes and shoulders are intended by Caltrans for pedestrian use, those lanes and shoulders must comply with accessibility requirements.

4. Develop and implement temporary routes through work zones guidance, ensuring that construction activities requiring temporary pedestrian routes are accessible by persons with disabilities, including training of Caltrans personnel involved in designing and inspecting such work.

5. Accept accessibility grievances and access requests from persons with disabilities and others, and respond within specific timeframes in accordance with U.S. Department of Justice regulations and the terms of the settlement agreement.

6. Complete an annual report, at the end of the first full fiscal year and every year after during the compliance period, with sufficient detail to allow the plaintiffs' attorneys to evaluate whether Caltrans is complying with the terms of the settlement agreement.

7. Retain for the first seven years of the compliance period an outside access consultant with substantial experience in evaluating and/or assisting public entities in evaluating the accessibility of programs, services, activities, and facilities.

Caltrans implemented the ADA Infrastructure Program in July 2010 and established a single statewide Caltrans focal point for infrastructure-related ADA compliance issues. The program's primary functions are to develop and coordinate guidelines and policy improvements and to support the initiation of ADA-compliant projects that fulfill the requirements of the settlement agreement. In addition, the program acts as a liaison and improves coordination between functional areas related to accessibility; monitors and updates the ADA compliance transition plan; manages the two ADA programs in the SHOPP, ADA Curb Ramps Program (201.361) and the Pedestrian Infrastructure Program (201.378); and provides leadership and guidance on the resolution of ADA-related complaints.

In the first full year under the terms of the settlement agreement, Caltrans has made progress toward substantial compliance with all settlement terms. Completion of the statewide pedestrian infrastructure assessment and mandated SHOPP funding levels for ADA programs have generated a large number of new ADA compliance projects that are currently moving through the Caltrans project delivery processes. In addition, significant improvements to the accessibility grievance procedure and access request process have been implemented, demonstrating Caltrans' commitment to making its infrastructure accessible to all users.

ACCESS CONSULTANT

According to the settlement agreement, for the first seven years of the compliance period Caltrans must retain an outside access consultant with substantial experience evaluating and assisting public entities in evaluating the accessibility of programs, services, activities, and facilities. The consultant's duties include reviewing Caltrans' ADA-required access improvements and the annual report and providing an evaluation to the plaintiffs and members of the settlement class concerning Caltrans' compliance with the settlement agreement. In April 2011, Caltrans hired Sally Swanson Architects, Inc. as the access consultant for an initial two-year term. The contract was approved for $150,000 for two years in accordance with the maximum contract fee of $75,000 a year, as noted in exhibit 2 of the settlement agreement.

Because of the delay in obtaining an approved contract, the parties involved in the lawsuit have agreed that an access consultant will be on contract with Caltrans through the end of FY 2017–2018.

PERFORMANCE REPORT

Within 180 days after the end of every fiscal year, starting with FY 2010–2011 and continuing through the 30-year compliance period, Caltrans is required to prepare an annual report to demonstrate Caltrans' compliance with the terms of the settlement agreement. As stated in exhibit 2, section 1.B, of the settlement agreement, the annual report shall provide information about the ten items listed, in order to allow the plaintiff's attorneys to evaluate Caltrans' performance.

A significant portion of the annual report will address delivery of program access improvement, new construction, and alteration projects. A typical project delivery process involves several milestones.

The project funding milestone is achieved when the funds for projects are approved by Caltrans management and the California Transportation Commission. The project approval and environmental document milestone is reached when the project report and the environmental document are approved after going through extensive project scope and environmental impact reviews. The right-of-way certification milestone is achieved when Caltrans is able to secure temporary rights, easements, utility relocations, or fee title acquisitions needed to complete the project. Project design begins at the initiation of the project in the early planning phases and continues through preliminary design, necessary for making project scope decisions in the project report, and ends with the development of project plans, specifications, and estimates. Once the project design is completed and accompanying right-of-way and other permits are obtained, the project is ready for construction and can be packaged and advertised for bids. The project then goes through the contracting and construction process. The construction completion milestone is reached when construction has been completed. Depending on the size and complexity of the project, this entire process could take anywhere from one to eight years. The details about how Caltrans builds projects are available on the Internet at <http://www.dot.ca.gov/hq/oppd /proj_book/index.htm>.

In order to simplify the tracking of costs and barrier removal locations within projects, program access improvement, new construction, and alteration projects will be reported once the construction is complete. All costs associated with a project and the barriers removed can be reported more accurately and consistently in this manner even though the actual expenditures occur over one or more years prior to construction being complete.

1. Program Access Improvements Funded by the Annual Commitment

A major component of the 2010 ADA lawsuit settlement agreement and the annual report is the annual commitment as specifically defined in exhibit 1 of the settlement agreement. The annual commitment is an annual level of funding allocated by Caltrans primarily for program access improvement projects that remove accessibility barriers within its pedestrian infrastructure. The annual commitment also includes resources required

to implement the program access improvement projects, establish and maintain the new accessibility grievance procedure and access request process, complete the identification of access barriers within Caltrans pedestrian infrastructure, and retain an access consultant.

For the first five years of the compliance period, starting with FY 2010–2011, the annual commitment funding level is $25,000,000. The amounts set forth are Caltrans' targeted commitment of funds: if the total annual commitment is not met each year, the uncommitted portion of that year's target will be used in subsequent years as soon as practical. Excess commitments in any given fiscal year will be credited toward the target commitment in future years.

Expenditures that may be included in the annual commitment include:

(1) Program access improvements.

   (a) Stand-alone ADA-compliant projects developed as a result of access requests.
   (b) Projects derived from grievances received from the accessibility grievance procedure.
   (c) ADA-compliant access improvements constructed as part of CAPM projects, up to 25 percent of the total annual commitment.

(2) Costs related to managing Caltrans' ADA Infrastructure Program and implementing ADA program access improvements.

(3) Costs associated with establishing and managing the new accessibility grievance procedure and access request process.

(4) Completion of Caltrans' infrastructure assessment of accessibility barriers.

(5) Retention of an access consultant.

(1) Program Access Improvements. The main funding source for ADA-required accessibility compliance projects is the SHOPP. The SHOPP is a four-year funding program, updated every two years, and is the vehicle by which the majority of Caltrans' maintenance, rehabilitation, and operational improvements, including ADA-required access improvements, are programmed and managed for delivery. In 2009, Caltrans established the Pedestrian Infrastructure Program (201.378) as a complement to the existing Curb Ramp Program (201.361) within the SHOPP to accommodate ADA-compliant access improvement projects that focus on aspects of barrier removal other than curb ramps (sidewalks, pedestrian structures, pedestrian signals, and park and ride lots). Major projects (projects greater than $1 million) contained in the SHOPP's two ADA programs will encompass the majority of ADA-required barrier removal work needed to meet the $25 million annual commitment. In order to deliver smaller and less complicated ADA-compliant improvements more quickly, Caltrans has elected to create a $10 million ADA reservation in the SHOPP Minor Program (projects less than $1 million) for FY 2011–2012. Minor Program projects are typically scoped,

designed, and put out to bid within a single fiscal year, allowing for expedited response to safety or urgent access barrier issues and accessibility grievances.

(a) Stand-Alone ADA-Compliant Projects Developed as a Result of Access Requests. ADA stand-alone projects are primarily composed of curb ramp installations or upgrades, sidewalk improvements and repairs, crosswalks, obstruction removal, and the installation or upgrade of accessible pedestrian signals. Non-ADA work including drainage improvements, utility relocation, signal relocation, and so on may be included if minor to the scope of the project and necessary for improved pedestrian accessibility and safety. Criteria for determining the priority of projects to be funded as program access improvements are specified in exhibit 1 of the settlement agreement. In FY 2010–2011, the initial year of the settlement agreement, Caltrans completed six ADA stand-alone projects that included construction of 155 curb ramps, 2,463 lineal feet of sidewalks, and modification of 14 pedestrian signals. Specific project locations and costs are listed below in table 1.

Table 1

STAND-ALONE ADA-COMPLIANT PROJECTS DEVELOPED AS A RESULT OF ACCESS REQUESTS FY 2010–2011

Route	County	City	Location	Project No.	Construction Completed	Project Cost
5	San Diego	San Diego	SR 274	11–28340	06/30/2011	$3,186,967
18	San Bernardino	Victorville	Palmdale Rd.	08–45832	07/02/2010	$ 983,541
63	Tulare	Visalia	Mooney Blvd.	06–0G950	03/21/2011	$1,231,485
75	San Diego	San Diego	Saturn Blvd.	11–29670	03/22/2011	$ 961,083
101	Marin	Mill Valley	SR 1	04–3A820	05/13/2011	$1,229,243
187	Los Angeles	Los Angeles	Maplewood Ave.	07–3A820	06/23/2011	$ 784,393
Total						$8,376,712

(b) Projects Derived From Grievances Received From the Accessibility Grievance Procedure. ADA program access improvement projects completing construction in FY 2010–2011 were derived from either noncompliant locations listed in Caltrans' ADA compliance transition plan or field review information collected as part of the project development process. None of the six ADA stand-alone projects completed were directly attributable to an accessibility grievance.

(c) ADA-Compliant Access Improvements Constructed as Part of CAPM Projects, up to 25 Percent of the Total Annual Commitment. CAPM projects are necessary and important components of Caltrans' pavement preservation and rehabilitation strategy. CAPM projects are overlays of existing pavement with a new "wear surface" of asphalt concrete that protects the integrity of the roadbed without changing the existing pavement structure. CAPM projects do not usually include other work such as signal replacement, drainage improvement, roadway upgrade, or accessibility barrier removal.

As part of the settlement agreement, Caltrans agreed to upgrade or install missing curb ramps within the project limits of CAPM projects beginning in FY 2010–2011. DIB 81, "Capital Preventive Maintenance (CAPM) Guidelines," and DIB 82, "Pedestrian Accessibility Guidelines for Highway Projects," were revised to include the new ADA accessibility requirement for CAPM projects that completed design after July 1, 2010. Not all CAPM locations and pavement rehabilitation projects have adjoining pedestrian infrastructure features. Much of the highway infrastructure has no pedestrian access because roadway sections have access controls that restrict pedestrians or are located in stretches of rural highways where no pedestrian facilities exist. CAPM projects that completed construction within FY 2010–2011 are included in appendix B. Since these projects were initiated before the settlement agreement (prior to FY 2010–2011), ADA accessibility requirements were not included in these projects. In future fiscal years, ADA program access improvements will be included in CAPM projects and up to 25 percent of the ADA-related costs will be claimed against the annual commitment.

Expenditures Towards FY 2010–2011 Annual Commitment: **$8,376,712**

(2) Costs Related to Managing Caltrans' ADA Infrastructure Program and Implementing ADA Program Access Improvements. In February 2010, Caltrans requested and was granted a two-year limited-term increase of three positions ($391,000 in personal services) in State Highway Account funds to establish its ADA Infrastructure Program. These positions include the program manager (Career Executive Assignment II), the accessibility program advisor (Senior Transportation Engineer), and the accessibility coordinator (Staff Services Manager I). The organizational chart of Caltrans' ADA Infrastructure Program is included in this report as appendix F. In the initial year of implementation, administrative and other support, including budgets, accounting, human resources, and legal services, were supplied by the Division of Traffic Operations, the Division of Maintenance, and the Legal Division.

Expenditures Towards FY 2010–2011 Annual Commitment: **$306,985**

(3) Costs Associated With Establishing and Managing the New Accessibility Grievance Procedure and Access Request Process. As the owner-operator of the State's transportation infrastructure, including pedestrian infrastructure, Caltrans has a legal obligation to respond to complaints regarding accessibility barriers brought to its attention by persons with disabilities and others. As part of the terms of the settlement agreement, Caltrans has revised its procedures for responding to accessibility grievances and access complaints. A detailed explanation of the revised accessibility grievance procedure and access request process is included in section 9 of this report.

Appendix E lists the accessibility grievances and access requests received in FY 2010–2011 and includes the locations, action dates, and status of resolution for each. The Office of Business and Economic Opportunity resources expended on intake and follow up for the reporting period were determined to total $126,562. District traffic investigation costs for ADA-related investigations totaled $1,311,000, which included project initiation for removal of barriers.

Expenditures Towards FY 2010–2011 Annual Commitment: **$1,437,562**

(4) Completion of Caltrans' Infrastructure Assessment of Accessibility Barriers. Phase 2 of Caltrans' infrastructure assessment was completed in FY 2010–2011 through a contract with ADA Accrediting & Consulting as part of Caltrans' ADA compliance transition plan update. Over 2,500 miles of sidewalks and associated pedestrian infrastructure throughout the Bay Area, the Central Valley, and Southern California were assessed for compliance with federal and State ADA standards. The results of the assessment, combined with the information gathered in Phase 1, are included in the 2011 transition plan. Costs associated with completion of the assessment are allowable expenditures within the annual commitment.

Expenditures Towards FY 2010–2011 Annual Commitment: **$4,706,000**

(5) Retention of an Access Consultant. Sally Swanson Architects, Inc., the access consultant, was hired by Caltrans in April 2011 for an initial two-year term. Because of a delay in obtaining an approved contract, the consultant's services were not usable until later in the fiscal year.

Expenditures Towards FY 2010–2011 Annual Commitment: **$3,000**

2. Allocation of Annual Commitment of Funds for Program Access Improvements

The annual commitment goal for FY 2010–2011 are summarized below.

FY 2010–2011 Annual Commitment		$25,000,000
Program Access Improvements		
Stand-Alone ADA-Compliant Projects Developed as a Result of Access Requests	$ 8,376,712	
Projects Derived From Grievances Received From the Accessibility Grievance Procedure	$ 0	
ADA-Compliant Access Improvements Constructed as Part of CAPM Projects, up to 25 Percent of the Total Annual Commitment	$ 0	
Costs Related to Managing Caltrans' ADA Infrastructure Program and Implementing ADA Program Access Improvements	$ 306,985	
Costs Associated With Establishing and Managing the New Accessibility Grievance Procedure and Access Request Process	$ 1,437,562	
Completion of Caltrans' Infrastructure Assessment of Accessibility Barriers	$ 4,706,000	
Retention of an Access Consultant	$ 3,000	
Total Annual Commitment Expenditures in FY 2010–2011	$ 14,830,259	

Carry-Over to FY 2011–2012 Annual Commitment	$ 10,169,741
Credit Toward FY 2011–2012 Annual Commitment	$ 0
Planned Annual Commitment for FY 2011–2012	$ 25,000,000
Adjusted Annual Commitment for FY 2011–2012	$ 35,169,741

3. Access Improvements Relating to Pedestrian Facilities and Park and Ride Facilities Not Funded by the Annual Commitment Completed as Part of New Construction, Alteration, or CAPM Projects

In addition to making program access improvements, Caltrans removes accessibility barriers and creates accessible pedestrian infrastructure through highway and bridge rehabilitation, signal replacements, and safety and mobility projects in compliance with federal and State ADA regulations. A list of all new construction and alteration projects with type and number of access improvements is included in appendix B. Every effort was made to collect the data for all access improvements and verify those quantities with the individual project designer upon completion of construction. Because of the incorporation of access improvements within other general bid items (for example, minor concrete), identifying curb ramps, sidewalk improvements, and accessible pedestrian signal upgrades within a project requires an estimate of quantities from a review of the final plans. In FY 2010–2011, Caltrans constructed or upgraded 560 curb ramps, 82,659 linear feet of sidewalks, and 471 pedestrian push buttons. Projects delivered after July 1, 2011, will include a listing of accessibility performance measures (curb ramp, sidewalk, and signal modifications) as a component of a completed project.

4. Other Pedestrian Facilities and Park and Ride Facilities Newly Constructed or Altered in FY 2010–2011

No separate access barrier removal projects were constructed on Caltrans' pedestrian facilities or park and ride facilities in FY 2010–2011 separate from those included within section 1(1)(a) of this report. Every effort has been made to ensure this type of work is included within other new construction or alteration projects as noted in section 3.

5. Training and Monitoring Efforts Undertaken in FY 2010–2011 to Ensure That Temporary Routes, When Provided Through and Around Work Zones, Are Accessible to Pedestrians With Disabilities

As part of the settlement agreement, Caltrans agreed to make its best effort to ensure that temporary routes, when provided through and around work zones, are accessible to pedestrians with disabilities. In FY 2010–2011, Caltrans developed for workers in the field a *Temporary Pedestrian Facilities Handbook* about protecting and accommodating pedestrians with disabilities through and around work zones. The handbook references and is consistent with part 6 of the *California Manual on Uniform Traffic Control Devices* (California MUTCD). A copy of the handbook is included in this report as appendix C.

Caltrans also developed training for personnel responsible for the development, approval, and implementation of work zones including temporary routes for use by the public. The mandated training for all construction inspectors, based on the temporary pedestrian facilities guidance and the California MUTCD, is now available as an on-line

course. Training for designers about temporary routes through work zones is included in the ADA Highway Design Class given regularly by Caltrans' Division of Design.

Mandated training for construction personnel about accessible temporary routes through construction was developed in May 2011 and has been scheduled to be given during the construction winter season beginning in November 2011. The Caltrans *Construction Manual* was revised in March 2011 to require that preconstruction meetings with contractors include discussion about work zones including temporary routes. The discussions address how contractors will comply with the requirements in part 6 of the California MUTCD. The memorandum to construction personnel regarding the above requirements was dated April 5, 2011, and is included with appendix C of this report.

6. Revisions to "Pedestrian Accessibility Guidelines for Highway Projects" (Caltrans Design Information Bulletin 82)

In August 2010, Caltrans revised DIB 82 to clarify the treatment of curb ramps in CAPM overlay projects and the accessibility of shoulders designated as pedestrian paths as noted in exhibit 3 of the settlement agreement. The revised bulletin, DIB 82–04, includes specific reference to part 6 of the California MUTCD concerning temporary pedestrian routes through construction work zones. The current version of DIB 82 and the cover memorandum dated December 1, 2010, are included in this report as appendix D. Comments from internal reviews, the lawsuit plaintiffs, and the access consultant will be considered for inclusion in the next update of DIB 82.

7. Program Access Improvements Planned for FY 2011–2012

The six proposed program access improvement projects listed below in table 2, estimated to cost approximately $11.13 million, are part of the annual commitment expenditures for FY 2011, with expected construction completion in the same fiscal year.

Table 2

PROGRAM ACCESS IMPROVEMENTS PLANNED FOR FY 2011–2012

County	Route	Location/Description	Total
Glenn	162	In Willows, at North Humboldt Avenue. Install curb ramp and improve curve.	$ 815,000
Monterey	101	In Greenfield, from Elm Avenue to Walnut Avenue. Construct curb ramps and sidewalk extensions.	$ 1,147,000
Santa Barbara	VAR	Near the city of Santa Barbara, at various locations. Construct and upgrade pedestrian curb ramps and sidewalks.	$ 2,728,000
Fresno	99	In the city of Fresno, at various locations from Central Avenue to McKinley Avenue. Construct ADA-compliant curb ramps.	$ 2,464,000
Los Angeles	1	From the city of Torrance to the city of Malibu from Calle Mayor Road to Webb Way. Construct ADA-compliant curb ramps.	$ 2,450,000
San Diego	75	In the cities of San Diego and Imperial Beach, from Saturn Boulevard to 13th Street. Modify pedestrian sidewalks and driveways.	$ 1,523,000
Total			$11,127,000

8. Estimated Dollar Amount of Funding to Be Allocated to Program Access Improvements Planned for Future Fiscal Years

Program access improvements in future fiscal years consist of seventeen projects in FY 2012–2013 with an estimated cost of $25.9 million, five projects in FY 2013–2014 with an estimated cost of $36.15 million, and six projects in FY 2014–2015 with an estimated cost of $47.14 million. Projects for FY 2015–2016 and FY 2016–2017 are currently in the planning stage and will be amended into the 2012 SHOPP plan in July 2012. Table 3 illustrates the number of program access improvement projects anticipated in the next few fiscal years and an estimated total cost for those projects.

Table 3

ESTIMATED DOLLAR AMOUNT OF FUNDING TO BE ALLOCATED TO PROGRAM ACCESS IMPROVEMENTS FY 2012–2013 THROUGH FY 2015–2016

	FY 2012–2013	FY 2013–2014	FY 2014–2015	FY 2015–2016[†]
Number of ADA-Specific Projects[*]	17[‡]	5	6	10
Estimated Total Project Costs[§,¶]	$25,900,000	$36,150,000	$47,140,000	$35,000,000

[*]Projects programmed in the SHOPP ADA Curb Ramps Program (201.361) and the Pedestrian Infrastructure Program (201.378).

[†]Specific projects to be determined and programmed in July 2012.

[‡]Includes eleven minor projects under $1,000,000.

[§]Includes capital construction and right-of-way estimates, utility relocation, environmental mitigation, and capital support costs including environmental review, preliminary engineering, surveys, right-of-way acquisition, project design, and construction inspection.

[¶]ADA stand-alone project costs only; does not include other annual commitment–eligible expenditures.

9. Grievances Received From the Accessibility Grievance Procedure Described in Exhibit 5

In FY 2010–2011, Caltrans revised its accessibility grievance procedure and the access request process to meet the requirements of the ADA and the terms of the settlement agreement. The accessibility grievance procedure is open to anyone and is intended to provide prompt and equitable resolution of accessibility grievances alleging noncompliance with, or any action prohibited by, the ADA and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794). The accessibility grievance procedure applies to all accessibility grievances regarding facilities owned and controlled by Caltrans under title II of the ADA. Information about the accessibility grievance procedure is posted on Caltrans' Web site at <http://www.dot.ca.gov/contactus.htm>.

The accessibility grievance procedure was revised in 2010 as follows:

- Within 15 working days, Caltrans will respond to receipt of the accessibility grievance in writing or in a manner appropriate for the particular disability.
- If the accessibility grievance involves a facility not owned and controlled by Caltrans, Caltrans will facilitate notification of the accessibility grievance to the appropriate entity as expeditiously as possible but in any event within 120 working days.

- Within 180 working days following the date Caltrans acknowledges receipt of the accessibility grievance, Caltrans will provide a response to the grievant that explains Caltrans' position and offers a resolution responsive to the accessibility grievance. The response will include information about the right to appeal.

- Caltrans will proceed with implementation of its proposed resolution unless the grievant files a written appeal of Caltrans' decision within 15 working days.

In FY 2010–2011, Caltrans received 42 accessibility grievances and access requests through the ADA coordinator in Caltrans' Office of Business and Economic Opportunity, the local district ADA liaisons, and other sources. Appendix E provides a summary of these accessibility grievances and access requests.

In April 2011, Caltrans circulated a Request for Proposals for a consultant contract to provide a centralized Web-based accessibility grievance and access request intake and tracking system, field investigation services, and training for Caltrans personnel about the accessibility grievance procedure. ADA Accrediting & Consulting was selected as the consultant and in August 2011 began serving as Caltrans' accessibility grievance consultant. All past accessibility grievances and access requests, going back to 2003 and including FY 2010–2011, have been entered into the database tracking system and will be investigated to confirm the recorded status of the complaints. Also in August 2011, the responsibilities of the ADA coordinator and responsibility for the accessibility grievance and access request intake and investigations were transferred from Caltrans' Office of Business and Economic Opportunity to the ADA Infrastructure Program.

10. Status of the Resolution of Accessibility Grievances

Caltrans' district traffic safety engineers investigated all 42 accessibility grievances and access requests received in FY 2010–2011, many concerning multiple locations. In addition, staff investigated numerous other ADA-related maintenance service requests, pedestrian safety issues, and internal accessibility inquiries, which resulted in a total of 193 accessibility investigations conducted in FY 2010–2011. The status of the 42 accessibility grievances and access requests received in FY 2010–2011, including those reaching resolution in this same fiscal year, are provided in the last two columns of appendix E.

OTHER ADA-RELATED ACTIVITIES

In addition to the required annual reporting elements, other accomplishments and activities initiated or completed in FY 2010–2011 are listed below.

ADA Compliance Transition Plan. In June 2011, ADA Accrediting & Consulting completed Phase 2 of the sidewalk infrastructure assessment, determining that approximately 4,000 miles of pedestrian infrastructure within the highway right-of-way comply with ADA regulations Assessment data has been included in Caltrans' updated ADA compliance transition plan. The transition plan is expected to be available to the public by the end of

FY 2011–2012 on Caltrans' Web site at < http://www.dot.ca.gov/hq/bep /ada_coordinator.htm> and will provide users with a Google Earth plug-in interface with access barrier information and photos identifying noncompliant infrastructure.

Accessible Work Zones Event. On June 8, 2011, Caltrans, the Federal Highway Administration, and the American Traffic Safety Services Association hosted a national Temporary Accessible Pedestrian Routes Demonstration on the west steps of the State Capitol in Sacramento. The event was part of a national effort to improve pedestrian safety in work zones, using methods that comply with federal and State accessibility standards.

American Traffic Safety Services Association members set up a course of temporary pedestrian traffic controls that allowed persons with disabilities, including pedestrians with visual impairments, to reach their destinations safely when their normal path of travel was disrupted because of roadway work activities. Persons with varying levels of vision and mobility disabilities teamed with transportation representatives from across the nation to negotiate their way through a course of accessible pedestrian barriers, rails, and warning devices, and they then evaluated the different products' effectiveness in meeting temporary pedestrian route accessibility standards.

Results of the evaluations, a video of the event, and additional temporary route guidance will be provided to all fifty states' transportation agencies to encourage the use of these new, safer, temporary accessible pedestrian routes in highway and other public works projects.

Training of Caltrans Staff. Caltrans continues to train engineering and design staff in the technical aspects of ADA regulations; in FY 2010–2011, more than 560 employees across the State received technical design training related to DIB 82. Other staff who maywork with the ADA community also are given training about general accessibility requirements; in FY 2010–2011, the Office of Business and Economic Opportunity provided ADA Basic Principles and Procedures training for 55 frontline employees in four Caltrans districts.

CONCLUSION

Caltrans owns and maintains a large inventory of roadway infrastructure as part of the State Highway System, which includes several pedestrian-accessible facilities such as bridge structures, park and ride facilities, vista points, safety roadside rest areas, and pedestrian tunnels and overcrossings. Caltrans is committed to making its facilities accessible to all users and also is working closely with its local partners to ensure all accessibility grievances and access requests related to their transportation facilities are addressed expeditiously. This annual report summarizes Caltrans' accomplishments for FY 2010–2011.

APPENDIX A

CALIFORNIANS FOR DISABILITY RIGHTS, INC. v. CALIFORNIA DEPARTMENT OF TRANSPORTATION
CASE NO.: C 06 5125
SETTLEMENT AGREEMENT RE CLASS ACTION SETTLEMENT

APPENDIX B

ACCESS IMPROVEMENTS RELATING TO PEDESTRIAN FACILITIES AND PARK AND RIDE FACILITIES NOT FUNDED BY THE ANNUAL COMMITMENT COMPLETED AS PART OF NEW CONSTRUCTION, ALTERATION, OR CAPITAL PREVENTIVE MAINTENANCE (CAPM) PROJECTS

APPENDIX C

CONSTRUCTION PROGRAM DIRECTIVE 11–1 AND THE *TEMPORARY PEDESTRIAN FACILITIES HANDBOOK* APRIL 2011

APPENDIX D

DESIGN INFORMATION BULLETIN 82-04
"PEDESTRIAN ACCESSIBILITY GUIDELINES FOR HIGHWAY PROJECTS"
AUGUST 18, 2011

APPENDIX E

STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010–2011

APPENDIX F

ADA INFRASTRUCTURE PROGRAM ORGANIZATIONAL CHART FY 2010–2011

APPENDIX A

CALIFORNIANS FOR DISABILITY RIGHTS, INC. v. CALIFORNIA DEPARTMENT OF TRANSPORTATION
CASE NO.: C 06 5125
SETTLEMENT AGREEMENT RE CLASS ACTION SETTLEMENT

CALIFORNIANS FOR
DISABILITY RIGHTS, INC.
v.
CALIFORNIA
DEPARTMENT OF TRANSPORTATION

CASE No.: C 06 5125

SETTLEMENT AGREEMENT RE CLASS ACTION SETTLEMENT

(Including Exhibits 1–9)

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR"), CALIFORNIA COUNCIL OF THE BLIND ("CCB"), BEN ROCKWELL and DMITRI BELSER, on behalf of themselves, and on behalf of all others similarly situated

Plaintiffs,

v.

CALIFORNIA DEPARTMENT OF TRANSPORTATION ("Caltrans") and WILL KEMPTON, in his official capacity.

Defendants.

Case No. C-06-5125 SBA

SETTLEMENT AGREEMENT RE: CLASS ACTION SETTLEMENT

Judge: Hon. Saundra Brown Armstrong

This Settlement Agreement is made and entered by and among Plaintiffs Californians for Disability Rights, Inc. ("CDR"), California Council of the Blind ("CCB"), Ben Rockwell and Dmitri Belser, on behalf of themselves and each of the Plaintiff Settlement Class Members, and Defendants California Department of Transportation and the Department's Director in his official capacity.

1. DEFINITIONS.

Except to the extent expressly stated to the contrary, any term not expressly defined in this Section or elsewhere in this Settlement Agreement shall have the meaning ascribed to it, if any, by Pedestrian Accessibility Guidelines for Highway Projects (DIB 82), Federal Access Laws or California Access Laws, in that order of preference. All other terms shall be interpreted according to their plain and ordinary meaning. The following terms have the stated meanings when used in this Settlement Agreement:

1.1. "Access Consultant" means and refers to the consultant hired pursuant to **Exhibit 2** of this Settlement Agreement.

1.2. "Access Request(s)" means and refers to requests, comments, inquiries, as well as formal accessibility grievances (as reflected in **Exhibit 5**) from individuals, organizations, public agencies, cities, and/or local government entities conveyed to Caltrans (as set forth in **Exhibits 1** and **5**) that relate to access for pedestrians with Mobility and/or Vision Disabilities to Pedestrian Facilities and Park and Ride Facilities.

1.3. "Accessibility Guidelines" means and refers in the broadest sense to federal and California state standards and guidelines relevant to Pedestrian Facilities and/or Park and Ride Facilities (including but not limited to ADAAG, PROWAG and Title 24). However, for the purposes of this Settlement Agreement, Accessibility Guidelines means and refers to DIB 82 (See **Exhibit 3A**).

1.4. "ADAAG" means and refers to federal guidelines used to enforce design requirements of the ADA, that were developed by the U.S. Access Board, and that were adopted pursuant to regulations of the United States Department of Justice ("DOJ"). ADAAG guidelines

currently are found in Appendix A of the DOJ Title III Regulations for the ADA and are referenced in the DOJ's Title II Regulations, Section 35.151(c) of Title 28 of the Code of Federal Regulations.

1.5. "ADA" means and refers to the statutory provisions contained in the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.).

1.6. "Alterations" means and refers to that term as used in DIB 82 Section 4.1.2 (See Exhibit 3A).

1.7. "Altered Facility" means and refers to any Pedestrian Facility and/or any Park and Ride Facility that will have or has had Alterations.

1.8. "Annual Commitment," "Annual Commitment for Program Access Improvements" or "ACPAI" means and refers to the Defendants' commitment to allocate funding annually for the duration of the Compliance Period. "Annual Commitment for Program Access Improvements" is defined in greater detail in **Exhibit 1** to this Settlement Agreement.

1.9. "Annual Report" shall have the meaning set forth in **Exhibit 2** to this Settlement Agreement.

1.10. "APS" means and refers to accessible pedestrian signals.

1.11. "Caltrans" and "the Department" mean and refer to the State of California Department of Transportation, including all district level offices, all of its officers, directors, employees, and agents, and any state-wide agency or department that may hereafter assume the authorities and responsibilities currently held by Caltrans, and any of them.

1.12. "CAPM Work" or "CAPM Projects" means and refers to projects performed through Caltrans' Capital Preventive Maintenance (CAPM) Program, as part of the State Highway Operation and Protection Program (SHOPP). CAPM projects are performed to preserve the existing pavement structure utilizing strategies that preserve or extend pavement life. These terms also shall mean and refer to any successor program with a substantially similar purpose.

1.13. "California Access Laws" means and refers to the Unruh Act (Cal. Civ. Code § 51 et seq.), the Disabled Persons Act (Cal. Civ. Code § 54 et seq.), California Government Code Sections 4450 et seq. and 11135 et seq., California Health and Safety Code Section 19953, California Civil Code Section 526a, and California Code of Regulations Title 24.

1.14. "Caltrans' Jurisdiction" means and refers to Pedestrian Facilities and/or Park and Ride Facilities owned and controlled by Caltrans, either in part or in full.

1.15. "Complaint(s)" mean and refer to the complaint(s) filed by Plaintiffs in the Federal Action, the amended complaint filed by Plaintiffs in the Federal Action, the complaint filed by Plaintiffs in the State Action, and/or the amended complaint filed by Plaintiffs in the State Action.

1.16. "Compliance Period" means and refers to the period of time for which this Settlement Agreement will be in effect. The Parties agree that the Settlement Agreement shall become effective upon Final Approval, and remain in effect for the duration of the thirty (30) year Annual Commitment.

1.17. "Compliance Evaluation Period" means and refers to the seven year period following Final Approval in which compliance by the Defendants will be evaluated by the Access Consultant. (See **Exhibit 2**).

1.18. "Curb Ramp" means and refers to the sloped transition where a Pedestrian Facility crosses a curb.

1.19. "Defendant(s)" shall mean and refer to Caltrans, and the Department's Director (formerly Will Kempton, succeeded by Randell Iwasaki) in his capacity as Director of Caltrans, or his successor(s), or either of them.

1.20. "Detectable Warnings" means and refers to a standardized walking surface to warn pedestrians with Vision Disabilities of hazards in the path of travel including but not limited to Vehicular Ways. Compliant designs include those referenced in DIB 82.

1.21. "DIB 82" means and refers to the Caltrans' Design Information Bulletin attached hereto as **Exhibit 3A** which synthesizes and reflects the most stringent federal and state

standards and guidelines and best practices, and which is currently entitled "Pedestrian Accessibility Guidelines for Highway Projects" (current version designated 82-03) and subsequent revisions thereto. As such federal and state standards, guidelines and best practices evolve, DIB 82 will be revised to synthesize and reflect the design standards current at the time of publication.

1.22. "Dispute" means and refers to each and every dispute that arises out of this Settlement Agreement, any interpretation thereof, any asserted breach thereof, and/or the claims released in this Settlement Agreement.

1.23. "Effective Date" means and refers to the date on which the Court grants Final Approval of this Settlement Agreement.

1.24. "Existing Pedestrian Facilities" and/or "Existing Park and Ride Facilities," mean and refer to Pedestrian Facilities and/or Park and Ride Facilities in existence on the Effective Date.

1.25. "Fairness Hearing" means and refers to the hearing to be held by the Court, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, to determine whether the settlement set forth in this Settlement Agreement is fair, reasonable and adequate.

1.26. "Federal Access Laws" means and refers to Section 504 of the Rehabilitation Act of 1973 and its implementing regulations and Title II of the ADA and its implementing regulations.

1.27. "Federal Action" means and refers to the action between Plaintiffs and Defendants filed in the United States District Court, Northern District of California entitled *Californians for Disabilities Rights, Inc. et al. v. California Department of Transportation, et al.*, Case No. C-06-5125 SBA (Armstrong, J.).

1.28. "Federal Court" or "Court" means and refers to the United States District Court in which Plaintiffs filed their class action Complaint against Defendants in the Federal Action.

1.29. "Final Approval" means and refers to the Order by the Federal Court, after notice and the holding of a Fairness Hearing, granting final approval of this Settlement Agreement.

1.30. "Litigation" means and refers to the Federal Action and the State Action.

1.31. "Mobility Disability" or "Mobility Disabilities" means and refers to any impairment or condition that limits a person's ability to move his or her body or portion of his or her body including, but not limited to, a person's ability to walk, ambulate, maneuver around objects, and ascend or descend steps or slopes. A person with a Mobility Disability may or may not use a wheelchair, scooter, Electric Personal Assisted Mobility Device, crutches, walker, cane, brace, orthopedic device, Functional Electrical Stimulation, or similar equipment or device to assist his or her navigation along sidewalks, or may be semi-ambulatory.

1.32. "New Construction" or "Newly Constructed" means and refers to any Pedestrian Facility and/or any Park and Ride Facility newly constructed after the Effective Date.

1.33. "Order" means and refers to the Federal Court's Order issuing Final Approval of this Settlement Agreement.

1.34. "Parties" or "Party" means and refers to Plaintiffs, members of the Plaintiff Settlement Class, and Defendants or either of them.

1.35. "Park and Ride Facility" or "Park and Ride Facilities" means and refers to those portions of buildings, structures, improvements, elements and routes intended for use by members of the public contained in Park and Rides under Caltrans' Jurisdiction.

1.36. "Pedestrian Facility" or "Pedestrian Facilities" means and refers to any paved walkways under Caltrans' Jurisdiction that Caltrans intends for use by members of the public, including but not limited to outdoor pedestrian walkways, sidewalks, crosswalks, pedestrian undercrossings and/or pedestrian overcrossings.

1.37. "Plaintiff(s)" means and refers to CDR, CCB, Ben Rockwell, and/or Dmitri Belser, and/or any or all of their agent(s).

1.38. "Plaintiff Settlement Class" or "Plaintiff Settlement Class Member(s)" means and refers to all persons with Mobility and/or Vision Disabilities who currently or in the future will use or attempt to use any Pedestrian Facility or Park and Ride Facility under Caltrans' Jurisdiction.

1.39. "Plaintiffs' Attorneys" means and refers to the law firms of: Disability Rights Advocates, including Laurence W. Paradis, Esq., Mary-Lee E. Kimber, Esq, and all other members, partners, employees and associates thereof; AARP Foundation Litigation, including Daniel B. Kohrman, Esq., Julie Nepveu, Esq., and all other employees and associates thereof; and Jose Allen, Esq. Plaintiffs' Attorneys represent Plaintiffs and the Plaintiff Settlement Class in both the Federal Action and in the State Action.

1.40. "Preliminary Approval" means and refers to the preliminary approval, substantially in the form attached hereto as **Exhibit** 7, by the Federal Court of the terms of this Settlement Agreement.

1.41. "Program Access" means and refers to applicable Federal Access Laws and California Access Laws directing a public entity and/or a state agency to operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities except, for the purposes of this Settlement Agreement, as related to APS.

1.42. "Program Access Improvements" means and refers to Program Access work performed by or on behalf of Defendants necessary to bring Pedestrian Facilities and/or Park and Ride Facilities into compliance with Accessibility Guidelines including but not limited to (i) installation of Curb Ramps where such ramps are missing; (ii) upgrades to existing Curb Ramps; (iii) repair of broken and/or uneven pavement on a Pedestrian Facility; (iv) correction of noncompliant cross-slopes along Pedestrian Facilities; (v) removal of protruding and overhanging objects and/or obstructions that narrow the Pedestrian Facility; and/or (vi) widening of Pedestrian Facilities.

1.43. "Public Rights of Way Accessibility Guidelines" or "PROWAG" means and refers to guidelines which are in the process of being developed by the U.S. Access Board to provide accessibility guidance specific to facilities within pedestrian rights of way. The guidelines, currently in draft form, can be found on the World Wide Web at: http://www.access-board.gov/rowdraft.htm.

1.44. "Released Claims" means and refers to those claims released pursuant to this Settlement Agreement as set forth herein.

1.45. "Settlement Agreement" means and refers to this Settlement Agreement re: Class Action Settlement and all Exhibits hereto.

1.46. "State Action" means and refers to the action between Plaintiffs and Defendants filed in the Superior Court of California, County of Alameda, entitled *Californians for Disability Rights, Inc., et al. v. California Department of Transportation, et al.*, Case No. RG08376549 (Superior Court, Alameda County) (Dept. 20, Freedman, J.).

1.47. "State Court" means and refers to the State of California Court in which Plaintiffs filed their class action complaint against Defendants in the State Action.

1.48. "Temporary Routes" means and refers to pedestrian walkways provided around or through areas known as "Work Zones" when the permanent route is obstructed for any period of time.

1.49. "Title 24" means and refers to California Code of Regulations Title 24 (California Building Standards Code).

1.50. "Vision Disability" or "Vision Disabilities" means and refers to any impairment or condition that limits a person's ability to see. A person with a Vision Disability may be blind, legally blind, or may have low vision. A person with a Vision Disability may or may not use a cane, a service animal, or other assistive device to aid in navigation along sidewalks.

1.51. "Work Zones" means and refers to areas of work that obstruct or close a Pedestrian Facility.

2. FACTS AND PROCEDURAL HISTORY.

On August 23, 2006, Plaintiffs brought the Federal Action in the United States Court for the Northern District of California entitled *Californians for Disabilities Rights, Inc. et al. v. California Department of Transportation, et al.*, Case No. C-06-5125 SBA, on behalf of themselves and all others similarly situated. The Complaint alleges that Plaintiffs and all others similarly situated have been discriminated against and denied full and equal access to Pedestrian

Facilities and Park and Ride Facilities due to access impediments throughout the State of California in violation of the ADA (42 U.S.C. § 12101, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 793), the California Disabled Persons Act (California Civil Code §§ 54, et seq.), the Unruh Act (California Civil Code §§ 51, et seq.), and California Government Code §§ 4450, et seq. and 11135, et seq. On September 20, 2007, Defendants asserted sovereign immunity, thereby precluding the state law claims from being resolved in the Federal Court.

On March 13, 2008, the Federal Court dismissed without prejudice Plaintiffs' claims arising under state law and granted Plaintiffs' motion for class certification, thereby certifying the Federal Action as a class action. The class certified consists of "all persons with mobility and/or vision disabilities who are allegedly being denied access under Title II of the Americans with Disabilities Act and the Rehabilitation Act of 1973 due to barriers along sidewalks, crosswalks, pedestrian underpasses, pedestrian overpasses and any other outdoor designated pedestrian walkways throughout the State of California which are owned and/or maintained by the California Department of Transportation." On the same day, Plaintiffs filed the State Action against the same Defendants in the Superior Court of California, County of Alameda, entitled *Californians for Disability Rights, Inc., et al. v. California Department of Transportation, et al.*, Case No. RG08376549, reasserting their claims arising under state law.

On March 24, 2009, in the Federal Action, the Parties cross-moved for judgment on the pleadings and for partial summary judgment concerning Defendants' obligations relating to Temporary Routes when Pedestrian Facilities are blocked by construction. The Federal Court held that Defendants are not required to provide Temporary Routes, but when they elect to do so, they are obligated to make such Temporary Routes accessible. The Federal Court also held that Defendants are not required to strictly follow ADAAG in the design and/or construction of Temporary Routes.

Trial of the Federal Action began on September 16, 2009, before the Honorable Saundra Brown Armstrong, United States District Court Judge. Before the start of trial and during the pendency of the trial the Parties engaged in multiple mediation sessions before the Honorable

(Ret.) Edward Panelli, the Honorable John M. True of the Superior Court of California for the County of Alameda, and Magistrate Judge Elizabeth Laporte of the United States District Court for the Northern District of California. The terms set forth in the Settlement Agreement is the product of arm's length negotiations between the Parties supervised by Magistrate Judge Elizabeth Laporte.

3. NATURE AND EFFECT OF SETTLEMENT.

3.1. No Admission.

In entering into this Settlement Agreement, Defendants do 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 or any other matter. Nor do Defendants admit that Plaintiffs have met or can meet the legal standards for a preliminary or permanent injunction or a declaratory judgment to issue. Moreover, inclusion of obligations or requirements in this Settlement Agreement shall not be construed as a concession or admission by Defendants, nor shall it be construed as a finding or determination by the Court that, absent this Settlement Agreement, Defendants would otherwise have such obligations or requirements. Any references in this Settlement Agreement to policies and/or procedures to be enforced by Defendants shall not be construed as implying any admission that Defendants have failed to abide by any of these policies or procedures in the past. To the contrary, Defendants assert that they are, and have been, in full compliance with both Federal Access Laws and California Access Laws.

3.2. Settlement Purpose and Scope.

To avoid the cost, expense, and uncertainty of protracted litigation, Plaintiffs and Defendants agree to enter into this Settlement Agreement; that it shall be binding upon Defendants and upon Plaintiffs and all Plaintiff Settlement Class Members. This Settlement Agreement shall extinguish all Released Claims and constitutes the final and complete resolution of all issues addressed herein. The purpose of this Section is to prevent relitigation of any issues

settled herein. The res judicata and collateral estoppel doctrines apply to all named Plaintiffs and all Plaintiff Settlement Class Members.

4. PROCEDURE.

4.1. Court Approval.

This Settlement Agreement shall be subject to Court approval. However, nothing in this Settlement Agreement shall be deemed to authorize the Court to change or vary any of its terms.

4.2. Preliminary Approval by the Court of the Settlement Agreement.

Within 30 days of the execution of this Settlement Agreement by all Parties, the Parties will jointly move for Preliminary Approval of this Settlement Agreement in the Federal Action, along with a request for an order preliminarily approving this Settlement Agreement, conditionally approving a Plaintiff Settlement Class as defined above, directing notice to the Plaintiff Settlement Class Members and setting forth procedures and deadlines for comments and objections, including scheduling a Fairness Hearing. (See **Exhibit** 7, Preliminary Approval by Federal Court of Settlement Agreement.)

4.3. Class Action Fairness Act ("CAFA").

Within ten days of the date that this Settlement Agreement is filed in the Court for Preliminary Approval, Defendants will provide the notice of this Settlement Agreement as required by the CAFA (28 U.S.C.A. § 1715(b)) to the U.S. Attorney General, the California Governor's Office, the California Attorney General's Office, and the California Division of State Architect.

4.4. Notice to Plaintiff Settlement Class Members.

The Parties jointly recommend to the Court that the notice to the Plaintiff Settlement Class be provided as follows: within 30 days after Preliminary Approval, the Parties shall distribute notice of the proposed Settlement Agreement as set forth in the Court's "Preliminary Approval by Federal Court of Settlement Agreement" advising the Plaintiff

Settlement Class of the terms of the proposed Settlement Agreement and their right to object to the proposed Settlement Agreement. This notice shall be published as follows:

4.4.1. Defendants shall pay for publication in newspapers listed herein of a notice of class settlement. This notice will include: A brief statement of the claims released by the class; the date of the hearing on the final approval of the proposed class Settlement Agreement; the deadline for submitting objections to the proposed Settlement Agreement; the web page, address, and phone and fax numbers that may be used to obtain a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT (attached as **Exhibit 8**) in the format and language requested. Publication in these newspapers will be every other day for a period of thirty (30) days, no larger than one eighth page, in the legal notice section of the following papers of general circulation: The Los Angeles Times, The San Diego Union Tribune, The San Francisco Chronicle, The Sacramento Bee, The Riverside Press, and The Oakland Tribune. The notice published in the newspapers will contain a statement in Spanish of the web page, e mail address, and phone numbers that may be used to obtain a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in Spanish and alternative accessible formats.

4.4.2. Plaintiffs' Attorneys and Defendants' attorneys shall provide the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in the manner, format and language requested by any class member, advocacy group, government, or their counsel. Copies of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be provided without charge for copying or mailing.

4.4.3. Defendants shall establish a web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available in English and Spanish and in a format that can be recognized and read by software commonly used by the individuals with visual impairments to read web pages. Defendants shall post on the Caltrans website a link to the web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available.

4.4.4. A copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be mailed to the U.S. Attorney General, to the Assistant Attorney General for Civil Rights, U.S. Department of Justice, and to the Attorney General for the State of California with a request that each office include a description of the settlement in their publications and post a description of the same on their web pages.

Plaintiff Settlement Class Members shall have an opportunity to object to the proposed Settlement Agreement but may not opt-out.

4.5. Additional Steps.

The Parties shall take all procedural steps regarding the Fairness Hearing that may be requested by the Court and shall otherwise use their respective best efforts to consummate this settlement and to obtain approval of this Settlement Agreement and Entry of the Judgment, Final Order and Decree attached hereto as **Exhibit 9**, and dismissal with prejudice of the Complaints subject to the retention of jurisdiction set forth in Section 4.7.

4.6. Fairness Hearing.

The Parties shall jointly request that the Court schedule and conduct a Fairness Hearing to address the fairness of this final settlement of the claims of the Plaintiff Settlement Class against Defendants and to decide whether there shall be Final Approval of the settlement embodied in this Settlement Agreement. At the Fairness Hearing, the Parties shall jointly move for and recommend certification of the Plaintiff Settlement Class and Final Approval of this Settlement Agreement and entry of an Order in substantially the form as attached hereto as **Exhibit 9**. The Fairness Hearing shall take place at dates allowing for such period of notice to the Plaintiff Settlement Class as the Court may direct.

4.7. Dismissal of the State Action and of the Federal Action.

4.7.1. Upon the Federal Court's Preliminary Approval of this Settlement Agreement and the setting of a date for the Fairness Hearing, Plaintiffs' Attorneys shall request that the State Action be dismissed with prejudice conditional upon the Federal Court's Final Approval of the settlement embodied in this Settlement Agreement at the Fairness Hearing.

Defendants cannot proceed with the Fairness Hearing in Federal Court until the State Court has granted conditional approval of the dismissal with prejudice of all claims in the State Court Action.

4.7.2. Upon Final Approval of the Settlement Agreement, the Court shall enter final judgment under Rule 54(b) of the Federal Rules of Civil Procedure dismissing the Federal Action with prejudice subject to the Court retaining jurisdiction to resolve any Dispute regarding compliance with this Agreement that cannot be resolved through the meet and confer process detailed herein and to resolve any motion for attorneys fees and costs, as described in detail in **Exhibit 6** hereto. The proposed Judgment, Final Order and Decree is attached hereto as **Exhibit 9**.

4.8. Duration of the Settlement Agreement.

The Settlement Agreement shall be in effect for the duration of the Compliance Period.

5. SETTLEMENT RELIEF.

The Parties to this Settlement Agreement will request, as part of the settlement approval process, that the Federal Court issue the proposed Judgment, Final Order and Decree attached as **Exhibit 9** adopting the substantive terms of the Settlement Agreement as an order of the Court.

5.1. Substantive Settlement Terms.

5.1.1. **Exhibit 1** hereto constitutes the final resolution of all issues relating to Defendants' Annual Commitment for Program Access Improvements. The Parties shall implement and comply with the terms set forth in **Exhibit 1**.

5.1.2. **Exhibit 2** hereto constitutes the final resolution of all issues relating to Defendants' reporting obligations on compliance with this Settlement Agreement and the terms relating to the Access Consultant to be engaged by Defendants. The Parties shall implement and comply with the terms set forth in **Exhibit 2**.

5.1.3. **Exhibits 3 and 3A** hereto constitute the final and complete resolution of issues pertaining to New Construction and Alterations, including Pedestrian Accessibility

Guidelines for Highway Projects. The Parties shall implement and comply with the terms set forth in **Exhibit 3**.

5.1.4. **Exhibit 4** hereto constitutes the final resolution of all issues relating to access through and around Work Zones. The Parties shall implement and comply with the terms set forth in **Exhibit 4**.

5.1.5. **Exhibit 5** hereto constitutes the final and complete resolution of all issues relating to grievance procedures. The Parties shall implement and comply with the terms set forth in **Exhibit 5**.

5.1.6. **Exhibit 6** hereto and Section 5.5 below constitute the final resolution of all issues relating to Plaintiffs' Attorneys fees and costs and the payment thereof by Defendants. The Parties shall implement and comply with the terms set forth in **Exhibit 6**.

5.2. Other Matters.

5.2.1. State Court Claims

Conditioned upon the Federal Court granting Final Approval of this Settlement Agreement, and the State Court's conditional dismissal of all claims, the Parties hereby stipulate and agree that Defendants consent to the Federal Court exercising jurisdiction over Plaintiffs' state law claims for purposes of the Parties' Settlement Agreement. Defendants will not, after Final Approval, assert that the Federal Court lacks jurisdiction to enforce the terms of the Settlement Agreement or raise any jurisdictional defense to any such enforcement proceedings.

5.2.2. Dispute Resolution

5.2.2.1. Meet and Confer Obligation

The Parties shall negotiate in good faith to resolve any Dispute and agree to strict compliance with the following procedures for dispute resolution. In the event that a Dispute arises between any of the Defendants and any named Plaintiff or Plaintiff Settlement Class Member, the person(s), Party or Parties asserting the Dispute or the person(s), Party's or Parties' designee(s), shall notify counsel for the other person(s), Party or Parties to the Dispute,

as set forth below in Section 5.2.2.2 before seeking judicial resolution of the Dispute. Notification shall be in writing as set forth below in Section 5.2.3.2 and shall be accomplished by mail, facsimile or hand delivery.

5.2.2.2. Mandatory Dispute Resolution Procedures

The Party or Parties asserting the Dispute shall provide the other Party or Parties with a detailed statement of the Dispute (hereafter "Statement of Non-compliance") to allow the Parties to attempt to resolve the Dispute. That statement will at a minimum include:

a) A description of the term(s) of this Settlement Agreement in dispute and the corresponding section number(s) of this Settlement Agreement;

b) Where applicable to the claim, a description of all locations, features, policies, practices and/or conditions at issue in the Dispute, the dates on which any particular locations, features, policies, practices and/or conditions allegedly were in violation of the term(s) of this Settlement Agreement, and the dates that the Party or Parties encountered and/or learned of such locations, features, policies, practices and/or conditions, along with any photos, videos, and diagrams relevant to such locations, features, policies, practices and/or conditions available to the Party or Parties.

c) Where applicable to the claim, a detailed statement of how each location, feature, policy, practice and/or condition is in violation of the term(s) of this Settlement Agreement.

d) Where applicable to the claim, the specific relief sought by the Party or Parties. For each location or feature, a statement of the change(s) that the Party or Parties demand, or if change to policy, practice or condition is sought the specific policy, practice or condition that the Party or Parties seek to be modified or rectified.

e) Within 30 days of receipt of a Statement of Non-compliance with the terms of the Settlement Agreement, the Parties shall meet and confer in an attempt to resolve the Dispute. If the parties agree that the disputed matter requires action to bring the responding party into compliance with the terms of the Settlement Agreement, the responding party shall be

given a reasonable opportunity and sufficient time to cure the defect in its performance of the Settlement Agreement obligations.

5.2.2.3. Enforcement Proceedings

If the Parties cannot resolve the Dispute within 90 days of the date of the service of the Statement of Non-compliance as described above, then the Party or Parties asserting the Dispute may bring a motion in the Federal Court seeking to enforce the terms of the Settlement Agreement. The Parties agree that any and all such enforcement proceedings will be limited to the location(s), feature(s), polic(y/ies), practice(s), and/or conditions detailed in the required Statement of Non-compliance which led to the enforcement proceeding and the relief sought will be limited to the relief detailed in that statement. A copy of the Statement of Non-compliance will be submitted with any motion to enforce the Settlement Agreement.

5.2.3. Construction of Settlement Agreement

5.2.3.1. Entire Agreement

This Settlement Agreement, when granted Final Approval, expresses and constitutes the sole and entire agreement between the Parties and supersedes all prior agreements, negotiations and discussions between the Parties and/or their respective counsel with respect to the subject matter of the Federal Action, the State Action, and/or this Settlement Agreement. The Settlement Agreement, when granted Final Approval, supersedes any prior or contemporaneous oral or written agreement or understanding between and among the Parties and/or counsel for the Parties regarding the subject matter of the Federal Action, the State Action, and/or this Settlement Agreement.

5.2.3.2. Notice to Parties

Wherever in this Settlement Agreement, Defendants are required to provide notice, copies, or other documents or materials to Plaintiffs' Attorneys, it shall be sufficient for Defendants to provide such solely to: Laurence W. Paradis, Disability Rights Advocates (or to a successor designated by either Laurence W. Paradis or the Executive Director of Disability Rights Advocates in a writing delivered to Defendants), at 2001 Center Street,

Fourth Floor, Berkeley, California 94704-1204, Fax: (510) 665-8511. A copy in accessible format, such as Microsoft Word, shall also be delivered to: California Council of the Blind, 1510 J. Street, Suite 125, Sacramento, CA 95814, Attn: CCB President.

Wherever in this Settlement Agreement, Plaintiffs' Attorneys are required to provide notice, copies, or other documents or materials to Defendants, it shall be sufficient for Plaintiffs' Attorneys to deliver such items to: Randell Iwasaki, Director of Transportation, 1120 N Street, Sacramento, California, 94274 (or to a successor or designee identified by the Director of Transportation in a writing delivered to Plaintiffs' Counsel). A copy shall also be delivered to: Ronald Beals, Chief Counsel, Department of Transportation Legal Division, 1120 N Street, Sacramento, California, 94274; Fax: (916) 654-6128, (or to a successor designated by Defendants, in a writing delivered to Plaintiffs' Attorneys).

5.3. Effect of Final Approval Order.

This Settlement Agreement, when granted Final Approval, shall be binding upon Defendants and upon Plaintiffs, including the named Plaintiffs, the Plaintiff Settlement Class and all Plaintiff Settlement Class Members and, to the extent specifically set forth in this Order, upon Plaintiffs' Attorneys; it shall extinguish all Released Claims and it shall constitute the final and complete resolution of all issues addressed herein. This Settlement Agreement is the complete and final disposition and settlement of any and all Released Claims, as detailed in Section 5.4 below.

5.4. Released and Unreleased Claims.

5.4.1. Released Claims

Conditioned upon and subject to (a) the Court granting Final Approval of this Settlement Agreement, (b) Section 5.4.2 below, and (c) Defendants' compliance with the terms of this Settlement Agreement, Plaintiffs and the Plaintiff Settlement Class release Defendants during the Compliance Period from any and all injunctive and/or declaratory relief claims, known or unknown, relating to the subject matter of the Litigation that are alleged or that could

have been alleged in the Litigation that any Plaintiff Settlement Class Member had, has, or will have against Defendants, except as set forth in Section 5.4.2 below.

Accordingly, Plaintiffs and the Plaintiff Settlement Class and agree that, except as set forth in Section 5.4.2 below, by complying with the terms of this Settlement Agreement, Defendants shall have no obligation to do more to comply with Federal Access Laws and/or California Access Laws relating to the subject matter of the Litigation and that Defendants' compliance with the terms of this Settlement Agreement shall constitute a full and complete defense to any claim for injunctive or declaratory relief asserting that Defendants have failed to comply with any and all federal and state laws, statutes, rules, regulations (including without limitation the self-evaluation and transition plan regulations [28 C.F.R. §§ 35.105 & 35.150(d)] and the access coordinator and grievance procedure regulation [28 C.F.R. § 35.107]), standards and guidelines raised in any or all of the Complaints relating to the subject matter of the Litigation.

Except as set forth in Section 5.4.2 below, the Released Claims include all claims for injunctive or declaratory relief relating to Existing, Newly Constructed and Altered Pedestrian Facilities and Park and Ride Facilities, including access to Work Zones, brought under the ADA, the Rehabilitation Act of 1973 (29 U.S.C. § 793), any regulations promulgated under the ADA or the Rehabilitation Act, the Disabled Persons Act (Cal. Civ. Code § 54 et seq.), the Unruh Act (Cal. Civ. Code § 51 et seq.), California Government Code Sections 4450 et seq. and 11135 et seq., California Health and Safety Code Section 19953, California Civil Code Section 526a, and the regulations codified in Title 24 of the California Code of Regulations, the self-evaluation and the transition plan regulations (28 C.F.R. §§ 35.105 & 150(d) and claims related to Program Access.

This release applies to declaratory and injunctive relief claims brought either separately (as a claim for just injunctive and/or declaratory relief) or in conjunction with a claim for damages. No further injunctive and declaratory requirements concerning the Released Claims may be imposed on the Department beyond the terms of the Settlement Agreement

through any later actions brought by any class member. The purpose of this section is to prevent relitigation of the injunctive and declaratory relief issues settled herein.

The res judicata and collateral estoppel doctrines apply to all named Plaintiffs and all Plaintiff Settlement Class Members. The final entry of the Court's Order approving this Settlement Agreement is a fully binding judgment for purposes of res judicata and collateral estoppel upon all Plaintiff Class Members.

5.4.2. Unreleased Claims

Nothing in this Settlement Agreement shall be interpreted as a release of any claims for damages or of any claims of any type concerning APS. Defendants represent that they are not aware of any access lawsuits filed seeking injunctive or declaratory relief for any particular Pedestrian Facilities or Park and Ride Facilities.

5.5. Plaintiffs' Attorneys Fees and Costs.

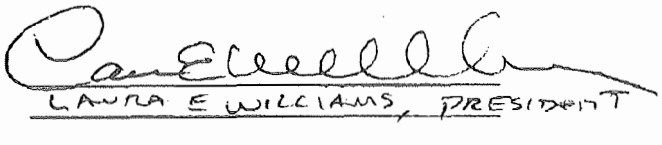
As noted above in Section 5.1.6, the final resolution of the issue of Plaintiffs' Attorneys fees and costs in this Litigation and the payment thereof by Defendants is contained in **Exhibit 6** hereto. Plaintiffs and/or Plaintiffs' Attorneys will not seek or recover additional attorneys fees or costs from Defendants in the Federal Action and/or the State Action for work undertaken pursuant to Sections 5.2.2.1 and 5.2.2.2 of this Settlement Agreement. Except as specifically provided therein, no other Plaintiffs' Attorneys fees, expenses, or costs may be recovered in the Federal Action and/or in the State Action and/or for evaluating, monitoring, or enforcing Defendants' compliance with this Settlement Agreement.

5.6. Execution by Facsimile and in Counterparts.

This Agreement may be executed by the Parties hereto by facsimile and in separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: 
Name and Title: LAURA E WILLIAMS, PRESIDENT

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: _____

Plaintiff BEN ROCKWELL

_____

Plaintiff DMITRI BELSER

_____

Approved as to form and content by Plaintiffs' Attorneys
on behalf of Plaintiffs and Plaintiffs Settlement Class

_____
Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

_____
Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

_____
Jose R. Allen, Esq.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: _____
Name and Title: _____

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: Jeff Thom, President

Plaintiff BEN ROCKWELL

_____

Plaintiff DMITRI BELSER

_____

Approved as to form and content by Plaintiffs' Attorneys
on behalf of Plaintiffs and Plaintiffs Settlement Class

_____
Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

_____
Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

_____
Jose R. Allen, Esq.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: _____
Name and Title: _____

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: _____

Plaintiff BEN ROCKWELL

Ben Rockwell

Plaintiff DMITRI BELSER

_____

Approved as to form and content by Plaintiffs' Attorneys
on behalf of Plaintiffs and Plaintiffs Settlement Class

_____
Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

_____
Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

_____
Jose R. Allen, Esq.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: _____
Name and Title: _____

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: _____

Plaintiff BEN ROCKWELL

_____

Plaintiff DMITRI BELSER

_____

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_____
Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

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Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

_____
Jose R. Allen, Esq.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: _____
Name and Title: _____

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: _____

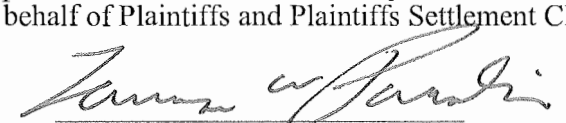
Plaintiff BEN ROCKWELL

_____

Plaintiff DMITRI BELSER

_____

Approved as to form and content by Plaintiffs' Attorneys
on behalf of Plaintiffs and Plaintiffs Settlement Class



Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

_____
Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

_____
Jose R. Allen, Esq.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: _____
Name and Title: _____

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: _____

Plaintiff BEN ROCKWELL

_____

Plaintiff DMITRI BELSER

_____

Approved as to form and content by Plaintiffs' Attorneys
on behalf of Plaintiffs and Plaintiffs Settlement Class

_____
Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

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Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

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Jose R. Allen, Esq.

PLAINTIFFS

Plaintiff CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR")

By: _____
Name and Title: _____

Plaintiff CALIFORNIA COUNCIL OF THE BLIND ("CCB")

By: _____
Name and Title: _____

Plaintiff BEN ROCKWELL

_____

Plaintiff DMITRI BELSER

_____

Approved as to form and content by Plaintiffs' Attorneys
on behalf of Plaintiffs and Plaintiffs Settlement Class

_____
Laurence W. Paradis, Esq.
DISABILITY RIGHTS ADVOCATES

_____
Daniel Kohrman, Esq.
Julie Nepveu, Esq.
AARP FOUNDATION LITIGATION

_____
Jose R. Allen, Esq.

DEFENDANTS

Defendants CALIFORNIA DEPARTMENT OF TRANSPORTATION and WILL KEMPTON

_____/s/_____
By: Randell Iwasaki,
Individually as successor to WILL KEMPTON and
acting in his capacity as Director of Transportation

Approved as to form and content by Defendants' Attorneys on behalf of Defendants

_____/s/_____
Gregory F. Hurley, Esq.
GREENBERG TRAURIG, LLP

_____/s/_____
Ronald W. Beals, Chief Counsel
CALIFORNIA DEPARTMENT OF TRANSPORTATION LEGAL DIVISION

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EXHIBIT 1

EXHIBIT 1

ANNUAL COMMITMENT FOR PROGRAM ACCESS IMPROVEMENTS

The Parties agree to the following terms as a final and complete resolution of issues pertaining to the Department's funding for Program Access Improvements during the Compliance Period. The Department shall allocate a total of $1.1 billion during the Compliance Period for Program Access Improvements.

1. Amount of the Annual Commitment. For the five fiscal years beginning the fiscal year following the fiscal year in which the Final Approval is granted, the Department shall allocate $25 million per year. Thereafter, the Department shall allocate $35 million per year for a period of ten years. Thereafter, the Department shall allocate $40 million per year for a period of ten years. Thereafter, the Department shall allocate $45 million per year for a period of five years.

2. Use of the Annual Commitment. The Department's Annual Commitment shall be used for the following types of expenses: (1) total project development and construction costs for the covered Program Access Improvements, including support costs, (2) costs associated with any newly created staff positions needed, if any, to implement the covered Program Access Improvements; (3) costs of establishing and maintaining the new Accessibility Grievance Procedure as well as a system for processing other Access Requests; (4) costs of further surveying work as described below; and (5) the cost of retaining the Access Consultant. The costs of meeting Accessibility Guidelines in connection with New Construction or Alteration projects relating to Pedestrian Facilities and Park and Ride Facilities will be funded separately

when such projects are undertaken for purposes other than Program Access Improvements.

3. Allocation of Annual Commitment. For the duration of the Compliance Period, the Annual Commitment shall be allocated for Program Access Improvements. New Construction and work done pursuant to Section 4.1.3 of DIB 82 (attached as **Exhibit 3A** to the Settlement Agreement) shall not count towards the Annual Commitment, except as follows: For each year of the Compliance Period, no more than 25% of the Annual Commitment shall be allocated to installation of missing Curb Ramps and upgrading Curb Ramps to the extent necessary for the Curb Ramps to comply with the applicable provisions of the Accessibility Guidelines when CAPM work is performed on a Vehicular Way with adjacent Pedestrian Facilities. Annual costs in excess of the 25% commitment cap (related to installation and/or upgrade of curb ramps for CAPM projects in order to comply with DIB 82 Section 4.1.3) shall be paid from other funds.

4. Third Party Funding. To the extent that additional funding for Program Access Improvements is provided through other non-Federal sources such as third parties, alternate funding streams or other outside sources, such funding will supplement the Department's commitment of resources. The Department will cooperate with other public entities that wish to undertake Program Access Improvements along Caltrans' Pedestrian Facilities.

5. Pour-Over Provision. The amounts set forth are the targeted commitment of funds of the Department. If the total commitment is not met each year, the uncommitted portion of that year's target will be utilized in subsequent years as soon as

practical. Excess commitments in any given year will be credited toward the target commitment in future years.

6. Project Prioritization ("Priorities"). The selection of projects for Program Access Improvements will be based on needed Program Access Improvements that have been identified by the Department through Access Requests and other means. These projects will be prioritized as follows:

A. The highest priority will go to Program Access Improvements needed to address the most severe access barriers and most significant safety hazards for class members.

B. The next level of priority will go to Program Access Improvements needed to address Pedestrian Facilities and / or Park and Ride Facilities serving:

1) State and local government offices and facilities;

2) important transportation corridors;

3) places of public accommodation such as commercial and business zones;

4) facilities containing employers; and

5) other areas such as residential neighborhoods and undeveloped areas of the State.

7. Access Requests. The Department will consider, in the development of its project Priorities, Access Requests as well as needs identified by the Department. Access requests may be submitted as a grievance pursuant to **Exhibit 5**. Alternatively, Access Requests may be conveyed, without filing a grievance, to the Department's Statewide ADA Coordinator, the Department's District ADA Liaisons, or the Department's ADA Compliance Office:

- Charles Wahnon
  Caltrans Statewide ADA Coordinator
  1823 14th Street

Sacramento, California 95811
Phone (916) 324-1353 or Toll Free (866) 810-6346
FAX (916) 324-1869, TTY 711

- Department District ADA Liaisons, contact information is provided on the Department's website: http://www.dot.ca.gov/contactus.htm

- Email: ADA_Compliance_Office@dot.ca.gov

This contact information for submitting non-grievance Access Requests will be posted to the Department's website under the "Contact Us" link. Such non-grievance Access Requests do not follow the procedures set forth in **Exhibit 5** and may be addressed by the Department without the subsequent input or participation of the individual, organization or agency making the non-grievance Access Request. The Department will explore and, if feasible, implement an online process for submitting Access Requests.

8. Remaining Funds. To the extent there is funding left over from the Annual Commitment after addressing projects for Program Access Improvements discussed above (hereafter "Remaining Funds"), the Department will use the Remaining Funds (if any) to survey Pedestrian Facilities and Park and Ride Facilities to assist in the effort of identifying future projects for Program Access Improvements. Program Access Improvements using the Remaining Funds will be prioritized according to the criteria above.

9. Other Considerations. During the development of projects, consideration will be given to the severity of the Program Access Improvements needed and efficient methods for delivering such projects. (For example, project scope may be expanded to address additional severe Program Access Improvements needed nearby, even if such improvements are not identified as a higher priority, if the Department determines that this would be an efficient use of funds from the Annual Commitment.) The Department may also take advantage of partnering opportunities with other public entities or other

third parties to maximize the used of the committed funds. The Department will make good faith efforts to follow the priority guidance set forth above. However, the Department retains ultimate discretion in the selection and timing of the projects on which the Annual Commitment funds for Program Access Improvements will be spent. This may result in the use of funds from the Annual Commitment to address lower priority Program Access Improvements before higher priority Program Access Improvements.

EXHIBIT 2

EXHIBIT 2

REPORTING REGARDING COMPLIANCE BY THE DEPARTMENT AND ENGAGEMENT OF ACCESS CONSULTANT

The Parties agree to the following as a final and complete resolution of issues pertaining to reporting by the Department of its compliance with this Settlement Agreement.

1. Annual Reporting By The Department

A. Each year until the end of the Compliance Period, the Department shall complete an Annual Report as described below. The reporting period will be based on the Federal Fiscal Year ("FFY"), October 1 through September 30, of each year. The first Annual Report will cover the first full FFY following the fiscal year in which the Final Approval was granted.

B. The Annual Report shall provide sufficient information to allow Plaintiffs' Attorneys to evaluate whether the Department is in compliance with the terms of the Settlement Agreement by including the following information:

1) A detailed summary of the Program Access Improvements funded by the Annual Commitment completed by the Department during the reporting FFY. The projects listed will include, but not be limited to:

(a) Projects pursuant to **Exhibit 1**, including a summary of projects selected pursuant to paragraph 6 of **Exhibit 1**;

(b) Projects derived from grievances received from the Accessibility Grievance Procedure described in **Exhibit 5**;

(c) CapM projects funded by the Annual Commitment.

2) A detailed summary of the allocation of Annual Commitment of funds for Program Access Improvements for the reporting FFY, including the amount of any funds that will pour over or be credited against the Annual Allocation for the subsequent FFY, if any. The Annual Commitment is described in **Exhibit 1**.

3) A summary of other access improvements (see Settlement Agreement, Section 1.42 for examples) relating to Pedestrian Facilities and Park and Ride Facilities not funded by the Annual Commitment completed by the Department during the reporting FFY. The projects listed will include a summary of:

(a) access improvements undertaken in conjunction with New Construction or Alterations, including 2R and 3R projects during the reporting FFY.

(b) access improvements undertaken in conjunction with CapM Projects funded by sources other than the Annual Commitment during the reporting FFY.

4) A summary of any other Pedestrian Facilities and Park and Ride Facilities Newly Constructed or Altered during the reporting FFY.

5) A summary of training and monitoring efforts undertaken during the reporting FFY to ensure that Temporary Routes, when provided through and around Work Zones, are accessible to pedestrians with disabilities.

6) Revisions to Pedestrian Accessibility Guidelines for Highway Projects (DIB 82) including copies of updated versions of written guidelines that apply statewide.

7) Identification of the Program Access Improvements planned for the next FFY.

8) The estimated dollar amount of funding to be allocated to Program Access Improvements planned for the future FFYs.

9) A summary of grievances received from the Accessibility Grievance Procedure described in **Exhibit 5**, during the reporting FFY.

10) A description of the status of the resolution of grievances received during the reporting FFY.

C. It is the intent of Paragraphs B.7 and 8 that the Department make a good faith effort to provide Plaintiffs and Plaintiff Settlement Class with advance notice of its prospective project planning and funding decisions for Program Access Improvements. Plaintiffs' Attorneys acknowledge that prospective plans can change.

D. The Annual Report shall be provided to Plaintiffs and Plaintiffs' Settlement Class in a manner consistent with Settlement Agreement Section 5.2.3.2 within 180 days after the end of the FFY.

2. Access Consultant

A. Term. For the first seven (7) years of the Compliance Period following Final Approval of the Settlement Agreement, the Department shall retain an Access Consultant.

B. Compensation. The Department shall pay the reasonable fees and expenses of the Access Consultant up to a maximum of $75,000 per year, paid out of the Annual Commitment set forth in **Exhibit 1**.

C. Selection Process and Hiring Authority

1) The Department will hire, pursuant to this Settlement Agreement and consistent with State contracting requirements, an Access Consultant with substantial experience in evaluating and/or assisting public entities in evaluating the accessibility of programs, services, activities and facilities under Title II of the Americans with Disabilities Act. The selected consultant shall be knowledgeable in current Federal and State accessibility standards and shall have a minimum of five (5) years experience in providing ADA consulting services related to highway pedestrian facilities. Candidates must be licensed in California either as an Architect and/or as a Registered Civil Engineer.

2) In consultation with Plaintiffs' Attorneys, the Access Consultant shall be selected by the Department, consistent with State contracting requirements. The statement of duties for the Access Consultant will be based, in part, on the terms of this Settlement Agreement.

3) The Access Consultant contract will be consistent with State contracting requirements and the Access Consultant shall be directed by the Department to produce the deliverables described in Paragraph 2.D. below.

D. General Scope of Duties. The Access Consultant will report to the parties concerning the Department's compliance with this Settlement Agreement. The activities performed by the Access Consultant shall include, and be limited to, the following:

1) Reviewing Program Access Improvements annually for compliance with this Settlement Agreement.

2) Consulting, as needed, with appropriate Department employees such as the contract manager and the author of the Department's Annual Report to obtain any information concerning compliance with the terms of the Settlement Agreement.

3) Conducting field spot checks of Pedestrian Facilities and Park and Ride Facilities, as needed, to verify that (i) completed Program Access Improvements; (ii) completed New Construction or Alterations; (iii) completed CapM projects; and/or (iv) the provision of accessible Temporary Routes, when provided through and around Work Zones, are in compliance with this Settlement Agreement.

4) Reviewing a random sample of grievances and the Department's response.

5) Providing an annual written report. The written report shall be delivered to the contract manager and to the parties in a manner consistent with the Settlement Agreement Section 5.2.3.2. within sixty (60) working days of receipt of the Department's Annual Report. The written report shall document and analyze:

(a) The Department's compliance with the terms of this Settlement Agreement; and

(b) The Department's Annual Report.

EXHIBIT 3

EXHIBIT 3

PEDESTRIAN ACCESSIBILITY GUIDELINES FOR HIGHWAY PROJECTS

The Parties agree to the following as a final and complete resolution of issues pertaining to New Construction and Alterations, including Pedestrian Accessibility Guidelines for Highway Projects.

1. The Department shall revise DIB 82 to provide that CapM projects adjacent to Pedestrian Facilities must include installation of Curb Ramps where they do not exist and upgrades to Curb Ramps existing at the time the CapM work is performed to comply with Accessibility Guidelines.

2. The Department shall revise DIB 82 by adding the following sentence to the end of Section 4.2 of DIB 82: "Where vehicular lanes and shoulders are intended by the Department for pedestrian use, thus rendering them walkways, they shall be made accessible."

3. A copy of the DIB 82 that the Parties have revised to incorporate the revisions described in the Paragraphs above, with certain additional agreed upon changes, is attached to this Settlement Agreement as **Exhibit 3A.**

4. The Department shall adopt and implement the revised DIB 82, and shall notify all relevant Caltrans employees that DIB 82 is superseded.

5. The Department will ensure that the Pedestrian Accessibility Guidelines for Highway Projects are followed. The Department shall comply with the Accessibility Guidelines, as defined in Section 1.3 of the Settlement Agreement, for all New Construction or Alterations relating to Pedestrian Facilities and Park and Ride Facilities under the Department's jurisdiction. To the extent DIB 82 does not address design

features that are otherwise covered by legally enforceable State or Federal access standards, the Department will comply with those standards with regard to New Construction and Alterations for Pedestrian Facilities and Park and Ride Facilities.

6. The parties recognize that FHWA, USDOJ and DSA and possibly others may require further modifications and refinements to the revised DIB 82 during a review and comment process. In addition, as federal and state standards, guidelines and best practices evolve, DIB 82 will be revised to synthesize and reflect the design standards current at the time of publication. The Department shall promptly notify plaintiffs, pursuant to Settlement Agreement Section 5.2.3.2, when changes have been made to the Pedestrian Accessibility Guidelines for Highway Projects (currently designated as DIB 82).

EXHIBIT 3A

DESIGN INFORMATION BULLETIN NUMBER 82-04

Department of Transportation
Division of Design
Office of Geometric Design Standards

PEDESTRIAN ACCESSIBILITY GUIDELINES FOR HIGHWAY PROJECTS

APPROVED BY:

Original to be Signed By

TERRY L. ABBOTT
DIVISION CHIEF
DIVISION OF DESIGN

Date To Be Determined

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1.0 BACKGROUND

The Americans with Disabilities Act (ADA) of 1990, along with its implementing regulations, and the California Government Code Sections 4450 et seq. prescribe that facilities shall be made accessible to persons with disabilities. To comply with the ADA, the Federal Highway Administration (FHWA) has recommended that the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) shall apply to the design of the California Department of Transportation (Department) facilities. Although the current ADAAG is not specifically written for public rights-of-way projects, some of the ADAAG provisions can apply to the highway environment and are included in this Design Information Bulletin (DIB).

In addition to ADAAG, other Federal documents on designing accessible pedestrian facilities in public rights-of-way were used to develop this DIB. For example, the publication Designing Sidewalks and Trails for Access is referred to several times and is available on the Internet at: www.fhwa.dot.gov/environment/bikeped/tranmemo.htm. Also, certain portions of the Draft Guidelines for Public Rights-of-Way (DGPROW) released by the US Access Board are used in this DIB.

Title 24 of the California Code of Regulations (Title 24) is similar to the ADAAG in that it prescribes accessibility design standards for the State of California; in Part 2, the California Building Code. The Department of General Services - Division of the State Architect (DSA) oversees California Building Code compliance; however, for transportation facilities on the State highway system, the Department (in addition to DSA) is authorized to certify, on a project-by-project basis, that a project complies with State pedestrian accessibility design standards. Rail and transit stations are the exception. Rail and transit stations are to be reviewed and require an approval from DSA that they comply with the State pedestrian accessibility code.

Please note, this DIB has been written to provide general design guidance on how to comply with the various Federal laws and State codes on pedestrian accessibility. The accessibility "requirements" typically associated with projects constructed in public rights-of-way have been presented in this DIB as "accessibility design standards" only to facilitate the creation of Departmental processes and procedures. It is not the intent of this DIB to discuss all of the various Federal laws and State codes that apply to making buildings and public facilities accessible; nor is it the intent of this DIB to diminish the importance of and the requirement to comply with those accessibility standards not specifically mentioned in this DIB and as may be required on a project-by-project basis. See Section 3.1 of this DIB for further guidance on the review process for projects.

2.0 DEFINITIONS

The following words and phrases that are shown in bold text are used in this DIB and are defined as shown. As appropriate, reference documents are mentioned within the brackets to indicate the source of the definition.

Accessible Route: A continuous, unobstructed path connecting all accessible elements and spaces of a building or facility [ADAAG].

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

Facility: All or any portion of buildings, structures, improvements, elements, and pedestrian or vehicular routes located in a public right-of-way [DGPROW].

Historic Property/Historical Resources: Under Federal law [36 CFR 800.16(l)] the term used is "Historic Property" and includes any building, structure, site, object or district that is listed in or eligible for listing in the National Register of Historic Places.

Under State law [CEQA Guidelines 15064.5 and California Public Resources Code 5020] the term used is "Historical Resources" and includes any building, structure, site, object or district that meets one of the following:

- Listed in or eligible for listing in the National Register of Historic Places,
- Listed in or eligible for listing in the California Register of Historical Resources,
- Has been identified as significant for purposes of the California Environmental Quality Act (CEQA) by the lead agency because it meets the eligibility criteria of the California Register,
- Is listed in a local register of historical resources or has been identified as significant in an historical resource survey meeting the California Office of Historic Preservation's standards.

Path or Pathway: A track or route along which people are intended to travel [*Designing Sidewalks and Trails for Access*].

Pedestrian: A person who travels on foot or who uses assistive devices, such as a wheelchair, for mobility [*Designing Sidewalks and Trails for Access*]. This includes a person with a disability.

Person with Disability: An individual who has a physical impairment, including impaired sensory, manual or speaking abilities, that results in a functional limitation in gaining access to and using a building or facility [California Code of Regulations Title 24].

Public Right-of-Way: Public land or property, usually in interconnected corridors, that is acquired for or devoted to transportation purposes [DGPROW].

Sidewalk: A surfaced pedestrian way contiguous to a street used by the public [California Code of Regulations Title 24]. Also, see the discussion in Section 4.3.1, "Surface" of this DIB.

State Highway: A traversable highway adopted as or designated in the Streets and Highways Code as a state highway.

Structurally Impracticable: Rare circumstances when the unique characteristics of terrain or the potential of removing or altering a load-bearing structure prevent the incorporation of accessibility features [ADAAG].

Technically Infeasible: An alteration that has little likelihood of being accomplished because existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility [ADAAG].

Transition Plan: The Department's written commitment to accomplish ADA compliance in its services, programs, and activities. Modifications to the State highway infrastructure is part of the commitment.

Vehicular Way: A route intended for vehicular traffic, such as a street, driveway, or parking lot [ADAAG].

Walk or Walkway: An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts [ADAAG].

3.0 PROCEDURES

3.1 Applicability and Review Process

Every highway project (Capital and Maintenance; including all Encroachment Permit projects) within the State highway right-of-way, regardless of the project sponsor, that proposes to construct pedestrian facilities [See Section 4.1], must be designed in accordance with the policies and standards of this DIB. Documentation of project compliance with this DIB will be at Ready-to-List (RTL) Certification (by checking the appropriate box on Section 4c of the RTL Certification Form), or at encroachment permit issuance, whichever is applicable. If it is found that an accessibility design standard cannot be fully incorporated in a design, an accessibility design exception will be required. For an accessibility design exception to be approved, it will be necessary to document that, in the case of alterations to existing facilities, it is technically infeasible to do so because existing physical structural conditions would require removing or altering a load-bearing member which is an essential part of an existing structure; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility. For new construction, the accessibility design standard must be structurally impracticable and only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of the accessibility standard. Approval of accessibility design exceptions shall occur prior to approval of the project initiation document or as soon as the recommended alternative is identified. Accessibility design exceptions shall be submitted, using the Exception to Accessibility Design Standards document format [See Attachment], to the Design Reviewer for comments and are ultimately approved by the Design Coordinator. The Division of Engineering Services – Office of Transportation Architecture (OTA) will determine the compliance with accessibility design standards related to building projects. Please note, the related site work not part of the building will be subject to the procedures in this DIB. OTA will provide ADA site design assistance for the Districts on building projects that they are responsible for designing.

3.2 Rail and Transit Stations

Approval authority for accessibility design of rail and transit stations rests with DSA and must occur by RTL or encroachment permit issuance. The appropriate filing fees [See Section 3.2.1] and a completed application form [See www.documents.dgs.ca.gov/dsa/forms/DSA-1_08-23-04.pdf] need to be transmitted to DSA along with the title sheet and pertinent project plans that show the details of the rail or transit station facilities being altered or newly constructed. DSA's office locations are listed on their website at www. dsa.dgs.ca.gov/ContactDSA/default.htm. An Exception to Accessibility Design Standards document [See Attachment] must also be submitted as supplemental information when an exception is being requested to the accessibility design standards listed in Section 4.3 of this DIB. The DSA Regional Office will need to be contacted to discuss these details and confirm their specific requirements. Early submittal to DSA is recommended once enough design information, such as layouts, cross sections, profiles, construction details, etc. are developed and it is certain that the pedestrian facility design will not change. In the event of disagreement with the DSA Regional Office, DSA has an appeal process, which may invoke the involvement with their Headquarters DSA Office; the Headquarters Division of Design ADA Technical Specialist should be contacted immediately to assist with the negotiations and to contact the FHWA California Division Office for their assistance in resolving the issue(s). The DSA Regional Office review process is expected to take between 30 and 60 days from application submittal until receipt of their approval letter. Approval letters will be sent by DSA to the Project Engineer for incorporation into the

project history files. DSA will stamp copies of the plan sheets that have been sent to them for their use during the project review and will retain them for their records.

3.2.1 Filing Fees for Rail and Transit Station Projects

Filing fees are to be calculated according to the fee schedule as prescribed in Part 1, Title 24, Chapter 5, Article 1, Section 5-104 of the *California Building Code* - -

> "The filing fee for project applications is 0.2 percent of the first $500,000 of estimated construction cost, plus 0.1 percent of the estimated cost between $500,000 to $2,000,000, plus 0.01 percent of the estimated cost over $2,000,000. The minimum fee in any case is $200.00."

The DSA website provides a fee calculator to determine the filing fee. The Internet site address for the DSA fee calculator is: www.applications.dgs.ca.gov/dsa/eTrackerWeb/Calinput.asp. The fees to be paid by the Department can be authorized by completing the "Request for Revolving Fund Check" form (FA-0017). This form should indicate that the "Vendor" is DSA and that the expenditure is to be charged against the Project EA and the appropriate Agency Object Code. The check can be mailed directly to the DSA Regional Office, if requested on the form. On the form, under "Purpose," indicate that this payment is for the DSA filing fee and reference the District and EA. The District and EA will then be referenced on the check for identification purposes. The completed form FA-0017 should then be mailed to Mail Station 25 (MS 25) or faxed (916-227-8766) to the Division of Accounting, Service Payables Branch, Alpha G. The completed DSA application form for the project must be sent with this form to substantiate payment. It is anticipated that it should not take more than 5 working days to obtain this check.

4.0 DESIGN GUIDANCE AND BEST PRACTICES FOR PEDESTRIAN FACILITIES

4.1 Pedestrian Accessibility

All pedestrian facilities on all projects are to be accessible in accordance with State and Federal laws. The following guidance and best practices are an attempt to capture the lessons learned through the years since the passage of the ADA and to document the Federal and State regulatory standards that apply. Early consultation with the Design Reviewer or Design Coordinator is recommended to discuss pedestrian accessibility issues and their resolution.

4.1.1 New Construction

Federal regulations require that each facility or part of a facility constructed on State right-of-way shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities.

4.1.2 Alterations

Federal regulations require that each facility or part of a facility altered in the State right-of-way in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities.

Where existing elements or spaces are altered, each altered element or space within the limits or scope of the project shall comply with the applicable requirements for new construction to the maximum extent feasible. The limits of the project refers to the work that will physically impact a pedestrian feature and the

scope of the project refers to the work on a pedestrian feature identified in the project initiation document or the project report.

The following types of highway work are considered to be alterations of existing facilities:

1. Pavement focused (2R) and resurfacing, restoration, and rehabilitation (3R) work needs to be evaluated for pedestrian accessibility and comply with the guidance in Section 4.1.3 of this DIB. When determining the scope of a 2R and 3R project, the curb ramps immediately adjacent to the 2R and 3R pavement work are assumed to be within the scope of the project. For additional guidance see DIB 79 – "Design Guidance and Standards for Roadway Rehabilitation Projects [Pavement Focused (2R) and Reurfacing, Restoration, and Rehabilitation (3R) Projects] . . .".
2. Traffic signalization work that will physically impact or is scoped to address sidewalks, curb ramps and crosswalks are to comply with the pedestrian accessibility guidance in this DIB.
3. Any other work that will physically impact or is scoped to address a pedestrian facility requires that the pedestrian facilities comply with the pedestrian accessibility guidance in this DIB.

Preventive maintenance and routine maintenance work are not considered alterations. Preventive maintenance and routine maintenance projects may be designed following the guidance in this DIB, but they are not required to unless the work physically affects a pedestrian facility. However, Capital Preventive Maintenance (CAPM) projects [see DIB 81 – "Capital Preventive Maintenance (CAPM) Guidelines"] must be evaluated for pedestrian accessibility and comply with the guidance in Section 4.1.3 of this DIB.

4.1.3 Accessibility Requirements on 2R, 3R, and CAPM Projects

The accessibility needs of the communities and highway users, in particular the needs of users with disabilities, need to be considered on each 2R, 3R, and CAPM project. Early stakeholder participation, as appropriate, to identify accessibility deficiencies is recommended.

2R and 3R projects require reconstructing the affected existing pedestrian facilities to the accessibility design standards discussed in this DIB (see Section 4.3) to the maximum extent feasible, unless doing so is shown to be "technically infeasible" (see Section 2.0 "Definitions"). The Design Coordinator must agree with the finding that the work is technically infeasible and then approve a supporting Exception to Accessibility Design Standards document. Cost cannot be a consideration in justifying technically infeasible. On CAPM projects that are adjacent to existing sidewalks within the State highway right-of-way where curb ramps do not currently exist (at any intersection having curbs from a street level pedestrian walkway) new curb ramps shall be installed. On CAPM projects that are adjacent to existing sidewalks within the State highway right-of-way with existing curb ramps, the curb ramps must be evaluated and upgraded where necessary to meet the accessibility design standards discussed in this DIB (see Section 4.3).

Any pedestrian facility work that needs to be completed outside of the scope of a 2R, 3R, or CAPM project should be added to the Transition Plan through the following process. The pedestrian facility needing accessibility improvements must be specifically identified and documented by memorandum to the project history file. The District ADA Coordinator needs to be contacted and involved in submitting this information to the Headquarters Division of Civil Rights. The District ADA Coordinators (Liaisons) are identified on the Department's Intranet site at: http://onramp.dot.ca.gov/eo/eo_ada.htm. Externally

sponsored work that is not being designed by the Department is not exempt from this requirement. The Department representative that is working with the external sponsor for the work is required to contact the District ADA Coordinator and assist them in submitting any work to the Headquarters Division of Civil Rights for inclusion in the Department's Transition Plan.

4.1.4 Minimum Accessibility

Newly constructed or altered (see Section 4.1.2) streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

To the maximum extent feasible, at least one accessible route must be provided from one facility to another. If a more direct route exists that is not an accessible route, the accessible route must be in the same vicinity as the other route.

Whether the project is for new construction, for an alteration of an existing facility, or a CAPM project, full compliance with the design standards contained herein are not required where it can be demonstrated that it is structurally impracticable (for new construction) or technically infeasible (for alterations and CAPM projects) to meet the requirements. Any portion of the new facility that can be made accessible to persons with disabilities shall comply to the extent that it is not structurally impracticable. Also, any elements or features of the facility that are being altered and can be made accessible shall be made accessible within the scope of the alteration.

4.1.5 Historic Preservation

In meeting the aforementioned requirements of "Minimum Accessibility," a design that would alter or destroy the historic significance of a historic property/historical resource should not be constructed. Historic property/historical resource is any property listed or eligible for listing in the National Register of Historic Places, or properties designated as historic under State or local law. In order to comply with Public Resources Code 5024 and CEQA, the District Heritage Resources Coordinator should be contacted as early as possible in the planning process in order to initiate the required consultation. Non-construction strategies may be an option. See Section 4.1.6, "Program Accessibility" of this DIB.

The fourth item under Section 4.3.7 in this DIB may be used to maintain historic preservation of a historic property/historical resource based on the California State Historic Building Code, which is the mandatory code for State-owned historical resources. An approved accessibility design exception must be obtained to use this standard. Additionally, consultation with the State Historical Building Safety Board is required

4.1.6 Program Accessibility

In some situations, an operational solution may achieve accessibility without the need for construction. Existing facilities do not have to be made accessible if other methods of providing access are effective. Non-construction approaches may include alternate accessible routings, relocating services or activities to accessible locations, or taking the service or benefit directly to the individual. Coordination with local agencies, transit agencies, or other affected entities may be required to achieve these strategies.

4.2 Placement of Pedestrian Facilities

Vehicular lanes and shoulders are not required to be designed as accessible pedestrian routes just because it is legal for a pedestrian to traverse along a highway. Where vehicular lanes and shoulders are intended by the Department for pedestrian use, thus rendering them walkways, they shall be made accessible.

Deciding to construct pedestrian facilities and elements where none exist is an important consideration. In built-up urban areas with pedestrians present, pedestrian facilities should be constructed. In rural areas where few or no pedestrians exist, it would not be reasonable or cost effective to construct pedestrian facilities. For situations between these two extremes the designer should consult with the affected local agency, and special interest groups. Any decision made should be clearly documented in the project files.

All pedestrian facilities proposed within the State highway right of way shall follow the guidance in Chapter 31 "Non-motorized Transportation Facilities" in the *Project Development Procedures Manual*. Pedestrian facilities proposed by non-Departmental entities within State highway access controlled right-of-way shall also comply with Chapter 17 "Encroachments in Caltrans' Right of Way," also in the *Project Development Procedures Manual*.

4.3 Accessibility Design Standards

The most current version of the *Standard Plans* for Curbs and Driveways A87A, Curb Ramp Details A88A, Curb Ramp and Island Passageway Details A88B, Accessible Parking Off-Street A90A, and Accessible Parking On-Street A90B should be used for designing accessible facilities. Modifying the features shown on the *Standard Plans* or designing pedestrian facilities not covered by the *Standard Plans* shall be in accordance with the following standards and best practices. Following each accessibility design standard is a reference to the applicable Federal and/or State regulation.

4.3.1 Surface

(1) All surfaces on an accessible route shall be stable, firm, and slip resistant.
[ADAAG 4.5.1 and Title 24 1124B.1]

(2) Changes in level up to ¼ inch may be vertical and without edge treatment.
[ADAAG 4.5.2 and Title 24 1124B.2]

(3) Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2 (50%).
[ADAAG 4.5.2 and Title 24 1124B.2]

(4) Changes in level greater than ½ inch shall be accomplished by means of a ramp.
[ADAAG 4.5.2]

Surface types on State right of way can vary due to the type of facility served. Normally, sidewalks are made of Portland cement concrete, or in some situations asphalt concrete. Surface type selection is a decision made by the designer. Design factors to consider for surface materials are discussed in *Designing Sidewalks and Trails for Access* published by the United States Department of Transportation.

The use of paving units, stamped concrete, or stamped asphalt concrete, although within the surface uniformity requirements of an accessible route, could lead to a vibration effect causing repeated jarring to a wheelchair user. No roughness index exists for walkways, as it does for roadway surfaces. Until such guidance becomes available, engineering judgment must be used; the Design Reviewer or Traffic Operations Liaison can be consulted for further assistance. As a general rule, cobblestone or similar treatments should not be used.

If paving units are used, they must meet the specification requirements of the American Society for Testing and Materials (ASTM) C936.

All walkway surfaces shall have a broom finish texture or an equivalent. A broom finish surface is described in Section 73 of the current *Standard Specifications*. Regardless of surface type, if the walkway encroaches onto a roadway, as in the case of a crosswalk, the surface must have a coefficient of friction not less than 0.35 as determined by using California Test Method 342.

At present, no particular color requirement is prescribed in Federal guidelines. However, material used to provide contrast on detectable warnings on walkway surfaces should have a contrast by at least 70%. This is intended to assist the visually impaired pedestrian. This contrast is calculated by [(B1-B2)/B1] x 100, where B1=light reflectance value (LRV) of the lighter area, and B2=light reflectance value (LRV) of the darker area. Visual contrast can be quantified with a luminance meter that measures the amount of light reflected by each subject (where zero is total darkness and 100 is theoretical complete light reflection). This contrast may be used to distinguish elements of a walkway, such as to differentiate a curb ramp from the sidewalk, or the crosswalk from the rest of the pavement. Also, crosswalk or sidewalk surfacing shall not cause glare to the user. Colored pavement or paving units are not to be used in lieu of striping for marked crosswalks.

4.3.2 Vertical Clearance

(1) Walks shall have 80 inches minimum clear headroom.
[ADAAG 4.4.2 and Title 24 1133B.8.6.2]

It should be noted that the *Manual on Uniform Traffic Control Devices (MUTCD)* requires a vertical clearance at pedestrian pathways to the bottom of signs to be at least 7 feet. This will cover most pedestrian vertical clearance needs. Pedestrian pathways that are part of a shared facility, i.e., bicyclists and equestrians, shall follow the appropriate guidance in the *Highway Design Manual*. See Section 4.4, "Shared Facilities" of this DIB for further information.

4.3.3 Clear Width

Highway Design Manual (HDM) Index 105.1 states, as an Advisory Design Standard, that "the minimum width of a sidewalk should be 5 feet." In many locations, local agency sidewalk standards will require greater widths; which can provide even greater accessibility than the minimum standard stated in the *HDM*. If for a specific project this is the case, the local agency standard should be used. Street furniture, signs, above ground utilities and poles, business frontage needs, street landscaping, etc. should all be placed outside of the "clear width zone" of a sidewalk.

In addition to the standards referenced above, the following Accessibility Design Standards are to be followed:

(1) If an accessible route has less than 60 inches clear width, then passing spaces at least 60 inches by 60 inches shall be located at reasonable intervals not to exceed 200 feet.
[ADAAG 4.3.4]

(2) The typical walkway minimum width of an accessible route shall be at least 48 inches.
[Title 24 1133B.7.1]

(3) When, because of right-of-way restrictions, natural barriers or other existing conditions, the enforcing agency determines that compliance with the 48-inch clear sidewalk width would create an unreasonable hardship, the clear width may be reduced to 36 inches.
[Title 24 1133B.7.1 Exception Statement]

Regarding (3) above, an unreasonable hardship must be concurred with by the Design Coordinator and documented using the Exception to Accessibility Design Standards format (see attached). In the exception

document under Reason for Exception, the following factors for an unreasonable hardship are to be discussed for each location: 1) the cost of providing access, 2) the impact of proposed improvements on financial feasibility of the project, 3) the nature of the accessibility which be gained or lost, and 4) the nature of the use of the facility under construction and its availability to persons with disabilities.

4.3.4 Grade

(1) All walks with continuous gradients shall have level areas at least 5 feet in length at intervals of at least every 400 feet.
[Title 24 1133B.7.6]

(2) Where the walkway of a pedestrian access route is contained within a street or highway border, its grade shall not exceed the general grade established for the adjacent street or highway.
[DGPROW R301.4.2]

The accessibility standard in (1) above does not apply to sidewalks, but (2) does. The grade or slope of an accessible route should be as flat as possible. Since exterior facilities must drain, a walkway can be at 2% and still be considered level. The practical use of the accessibility standard in (1) above is thus applied for grades exceeding 2%. Any part of an accessible route with a slope greater than 1:20 (5%) shall be considered a ramp, and must comply with the standards of a ramp. See Section 4.3.7 of this DIB, "Ramps," for further information.

A profile of the pedestrian pathway should be developed to ensure compliance with grade and other design parameters.

4.3.5 Cross Slope

(1) No more than a 1:50 (2%) cross slope shall be constructed on a walkway that is an accessible route.
[ADAAG 4.3.7 and Title 24 1133B.7.1.3]

Drainage is always a design consideration for exterior facilities. Walkways shall be designed so that water will not accumulate on the surface.

4.3.6 Grates and Railroad Tracks

(1) If gratings are located in walks, then they shall have spaces no greater than ½ inch in one direction. If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel.
[ADAAG 4.5.4 and Title 24 1133B.7.2]

(2) Where a path crosses tracks, the opening for wheel flanges shall be permitted to be 2-½ inches maximum.
[ADAAG 10.3.1(13)]

Walks shall be free of grating whenever possible.

4.3.7 Ramps

(1) Slopes that are greater than 1:20 will be considered ramps and must not exceed a 30 inch rise without landings.
[ADAAG 4.8.2 and Title 24 1133B.5.1, 1133B.5.4.1]

(2) The maximum slope of a ramp shall not exceed 1:12 (8.33%).
[ADAAG 4.8.2 and Title 24 1133B.5.3]

(3) The cross slope of ramp surfaces shall be no greater than 1:50 (2%).
[ADAAG 4.8.6 and Title 24 1133B.5.3.1]

(4) In the case of a historic property/historical resource, ramps greater than 1:12 (8.33%), but no greater than 1:10, cannot exceed a horizontal distance of 12 feet. Or, ramps of 1:6 slope cannot exceed a horizontal distance of 13 inches. Signs shall be posted at upper and lower levels to indicate steepness of the slope.
[Title 24 8-603.5]

This standard should only be used with an approved exception.

It should be noted that a sidewalk is not bound by the requirements of a ramp. Curved (or helical) ramps shall be subject to the same design standards as straight ramps. However, because of the complexity, curved ramps should not be constructed if a straight ramp can accomplish the same accessibility. If a curved ramp is sloped at the maximum 1:12 (8.33%), then the minimum radius needed is 50 feet; otherwise, a smaller radius will provide a path that exceeds the maximum 2% cross slope. Table 4.3.7 shows the minimum radius required for a given ramp slope:

TABLE 4.3.7 – HELICAL RADIUS REQUIREMENTS

Slope	Minimum Radius Required to Inner Side of Ramp
5%	30 feet
8.33%	50 feet

4.3.8 Curb Ramps

(1) Curb ramps shall be a minimum of 4 feet in width and shall lie, generally, in a single sloped plane, with a minimum of surface warping and cross slope.
[Title 24 1127B.5.2]

(2) Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20 (5%) within 4 feet of the top and bottom of the curb ramp.
[ADAAG 4.7.2 and Title 24 1127B.5.3]

(3) In general, for the flare, a maximum slope of 1:10 (10%) parallel to curb is used. However, if the level landing at the top of the curb ramp is less than 4 feet, the slope of the flares shall not exceed 1:12 (8.33%).
[ADAAG 4.7.5 and Title 24 1127B.5.3, 1127B.5.4]

(4) In the case of a single (diagonal) curb ramp with flared sides, it shall have at least a 24 inch long segment of straight curb located on each side of the curb ramp and within the marked crossing, if the crosswalk is marked.
[ADAAG 4.7.10 and Title 24 1127B.5.10]

(5) In the case of a marked crosswalk, the bottom of diagonal curb ramps shall have a clearance to the crosswalk marking of 48 inches minimum.
[ADAAG 4.7.10 and Title 24 1127B.5.10]

Regarding (4) above, this standard applies only on flared sides; the Caltrans Case C curb ramp and others without flares are not subject to this standard. Curb ramps are the most common type of ramp. Different types of curb ramps have been approved and are contained in the *Standard Plans*. Standard Plan A88A shows the illustration of curb ramps that may apply to curved alignments on a corner or on a tangent. The ramp width shall be consistent with the width of an accessible route. Flares are needed if the curb ramp is located where pedestrians may traverse across the ramp.

Curb ramps placed within crosswalk markings do not have to be aligned in the direction of the crosswalk marking. The Federal recommendation found in Part II of *Designing Sidewalks and Trails for Access* is for curb ramps to be aligned perpendicular to curb face.

In addition to the curb ramp slope, the cross slope of a sidewalk will determine the horizontal length of the curb ramp run, since anything more than a flat surface (no slope) will require more length to intercept the sidewalk surface. Table 4.3.8 can be used as a design aide when the sidewalk has a 2% cross slope.

TABLE 4.3.8 – Curb Ramp Runs for Sidewalks with 2% Cross Slopes

Height of Curb Face	**Curb Ramp Run** (Horizontal Length)
4 inches	63 inches
5 inches	78 inches
6 inches	95 inches
7 inches	111 inches
7-½ inches	118-½ inches
8 inches	126 inches

4.3.9 Medians and Islands

(1) Raised medians or islands in street crossing paths shall be either cut through level with the street or have curb ramps and a level area at least 48 inches long between curb ramps. [ADAAG 4.7.11]

The width of the cut through raised medians or islands should be consistent with the widths required in Section 4.3.3 in this DIB. Since the cut for the path through the raised median or island is adjacent to traffic and without a “barrier,” it must have a detectable warning surface as described in Section 4.3.14 in this DIB. The detectable warning surface width and placement shall follow the details in Standard Plan A88B.

4.3.10 Handrails

Handrails are not required on curb ramps or along sidewalks. In all other situations, the following applies:

(1) If a ramp run has a rise greater than 6 inches or a horizontal projection greater than 72 inches, then it shall have handrails on both sides.
[ADAAG 4.8.5 and Title 24 1133B.5.5.1]

(2) Handrails shall be provided along both sides of ramp segments. Handrails shall be continuous within the full length of each stair flight or ramp run.
[ADAAG 4.8.5(1) and Title 24 1133B.5.5.1]

(3) The clear space between the handrail and the wall (if any) shall be 1-½ inches.
[ADAAG 4.8.5(3) and Title 24 1133B.5.5.1]

(4) Gripping surfaces shall be continuous.
[ADAAG 4.8.5(4)]

(5) Top of handrail gripping surfaces shall be mounted between 34 inches and 38 inches above ramp surface.
[ADAAG 4.8.5(5) and Title 24 1133B.5.5.1]

(6) Handrails shall not rotate within their fittings.
[ADAAG 4.8.5(7)]

(7) The grip portion shall not be less than 1-¼ inches nor more than 1-½ inches, or the shape shall provide an equivalent gripping surface and all surfaces shall be smooth with no sharp corners.
[Title 24 1133B.5.5.1]

4.3.11 Warning Curb and Guardrail

Guardrail as used in this section is defined from the *California Building Code* [Title 24 208-G] as a vertical barrier erected along the open edges of a floor opening, wall opening, ramp, platform, runway or other elevated area to prevent persons from falling off the open edge.

(1) Abrupt changes in level, except between a walk or sidewalk and an adjacent street or driveway, exceeding 4 inches in a vertical dimension, such as at planters or fountains located in or adjacent to walks, sidewalks or other pedestrian ways, shall be identified by curbs projecting at least 6 inches in height above the walk or sidewalk surface to warn the blind of a potential drop off.
[Title 24 1133B.8.1]

(2) When a guardrail or handrail is provided, no curb is required when a guide rail is provided centered 3 inches plus or minus 1 inch above the surface of the walk or sidewalk, the walk is 5 percent or less gradient or no adjacent hazard exists.
[Title 24 1133B.8.1]

(3) Where the edge of a pedestrian path, including ramps, has a drop off of more than 30 inches, the path shall be protected by a guardrail.
[Title 24 509.1, 1133B.5.7]

(4) The top of guardrails shall not be less than 42 inches in height.
[Title 24 1133B.5.7.3]

(5) Open guardrails shall have intermediate rails or an ornamental pattern such that a sphere 4 inches in diameter cannot pass through.
[Title 24 1133B.5.7.4]

Chain link fence Type CL-1.2 satisfies the requirements of a guardrail, see the *Standard Plans* for details. As a good practice, if the above-mentioned 4 inches and 30 inches drop off occurs within a horizontal distance of 24 inches from the edge of the pedestrian path, this path should still require the warning curb/guardrail.

4.3.12 Wheel Guides

Where the ramp surface is not bounded by a wall or fence and the ramp exceeds 10 feet in length, the ramp shall comply with one of the following requirements:

(1) A guide curb a minimum of 2 inches in height shall be provided at each side of the ramp [Title 24 1133B.5.6.1]; or,

(2) A wheel guide rail shall be provided, centered 3 inches plus or minus 1 inch above the surface of the ramp.
[Title 24 1133B.5.6.2]

These requirements are not applicable to sidewalks or on curb ramps.

4.3.13 Landings

A level landing is allowed to be sloped up to 2% to accommodate drainage. For curb ramp landing guidance, see Section 4.3.8 of this DIB. This DIB does not discuss the situation where a door opens onto a landing at a building entrance. For this situation, as well as with any building egress design, refer to *California Building Code* Section 1003.3.4.4 and confer with the Office of Transportation Architecture in the Division of Engineering Services.

Landings shall be designed as following:

(1) Ramps shall have level landings at bottom and top of each ramp and each ramp run.
[ADAAG 4.8.4 and Title 24 1133B.5.4.1]

(2) The landing shall be at least as wide as the ramp run leading to it.
[ADAAG 4.8.4(1) and Title 24 1133B.5.4.5]

(3) The landing length shall be at least 60 inches.
[ADAAG 4.8.4(2) and Title 24 1133B.5.4.2, 1133B.5.4.7]

(4) Top landings shall be not less than 60 inches wide and shall have a length of not less than 60 inches in the direction of the ramp run.
[Title 24 1133B.5.4.2]

(5) If ramps change direction at a landing, the landing shall be at least 60 inches by 60 inches. [ADAAG 4.8.4(3)]

(6) Intermediate and bottom landings at a change of direction in excess of 30 degrees shall have a dimension in the direction of the ramp run of not less than 72 inches to accommodate the handrail extension.
[Title 24 1133B.5.4.6]

4.3.14 Detectable Warning Surface

(1) If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous detectable warning which is 36 inches wide.
[ADAAG 4.29.5 and Title 24 1133B.8.5]

Detectable warnings shall consist of raised truncated domes as shown on Standard Plans A88A, A88B, A90A, and A90B. Curb ramps shall contain detectable warning surfaces according to these *Standard Plans*.

4.3.15 Grooves

(1) Grooves shall consist of indentations at the top of a curb ramp as shown on Standard Plan A88A. The grooves shall form a 12 inch border at the level surface of the sidewalk.
[Title 24 1127B.5.7]

4.3.16 Bus Stops

(1) Where new bus stop pads are constructed at bus stops, bays or other areas where a lift or ramp is to be deployed, they shall have a firm, stable surface; a minimum clear length of 96 inches (measured from the curb or vehicle roadway edge) and a minimum clear width of 60 inches (measured parallel to the vehicle roadway) to the maximum extent allowed by legal or site constraints.
[ADAAG 10.2.1(1)]

(2) Where provided, new or replaced bus shelters shall be installed or positioned so as to permit a wheelchair or mobility aid user to enter from the public way and to reach a location, having a minimum clear floor area of 30 inches by 48 inches, entirely within the perimeter of the shelter.
[(ADAAG 10.2.1(2) and Title 24 1131B.4]

(3) Newly constructed bus stop pads must provide a square curb surface between the pad and road or other detectable warning [Title 24 1131B.4].

Caltrans Type A or B curb, will satisfy the square curb requirement.

(4) Bus stop pads shall be at same slope as the roadway in direction parallel to roadway profile grade, and maximum of 2 percent slope perpendicular to roadway.
[ADAAG 10.2.1(1) and Title 24 1131B.4]

4.3.17 Parking

(1) For off street parking, Table 4.3.17 establishes the number of accessible parking spaces required.
[ADAAG 4.1.2(5)(a) and Title 24 1129B.1]

(2) Where single spaces are provided, they shall consist of a 9 foot wide parking area and a 5 foot loading and unloading access aisle on the passenger side of the vehicle. When more than one space is provided, a 9 foot wide parking area on each side of a 5 foot loading and unloading access aisle in the center may be allowed. The minimum length of each parking space shall be 18 feet.
[Title 24 1129B.4.1]

(3) One in every eight accessible spaces, but not less than one, shall be served by an access aisle that is, at a minimum, 96 inches wide and placed on the side opposite the driver's side of the vehicle when the vehicle is driven forward into the parking space; the space shall be designated van accessible.
[ADAAG 4.1.2(5)(b) and Title 24 1129B.4.2]

(4) Surface slopes of accessible parking spaces shall be the minimum possible and shall not exceed 1 unit vertical to 50 units horizontal (2% slope) in any direction. This applies to parking spaces and access aisles.
[ADAAG 4.6.3 and Title 24 1129B.4.4]

Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

In each parking area, a bumper or curb shall be provided and located to prevent encroachment of cars over the required width of walkways. Also, the space shall be so located that persons with disabilities are not compelled to wheel or walk behind parked cars other than their own. Pedestrian ways which are accessible to persons with disabilities shall be provided from each such parking space to related facilities, including curb cuts or ramps as needed. Ramps shall not encroach into any accessible parking space or the adjacent access aisle.

TABLE 4.3.17 – OFF STREET ACCESSIBLE PARKING SPACE REQUIREMENTS

Total Number of Parking Spaces in Lot or Garage	Minimum Number of Spaces Required
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	See Note 1
1,000 and over	See Note 2

Notes:
1. Two percent of total.
2. Twenty plus one for each 100, or fraction over 1,001.

Signing and striping for on and off street parking shall conform to the design details shown on Standard Plans A90A and A90B. Consult with the Headquarters Traffic Liaison regarding proposed signing and striping changes.

4.3.18 Trails

Trails within the State Highway right of way are considered to be pedestrian facilities if pedestrians may traverse the path, either for their exclusive use or shared with other users. Trails that are intended for nonpedestrian use only, e.g., equestrian or for mountain bikes, are not subject to the guidance in this section.

(1) This DIB adopts the trail guidance provided in Section 16 and in Sections 16.1 through 16.4.10 of the Federal Guide on "Outdoor Developed Areas" as found on the US Access Board website: www.access-board.gov/outdoor/outdoor-rec-rpt.htm. The provisions found on this website shall be regarded as enforceable design standards.
[Draft ADAAG 16]

Any proposed exception to the design standards in the "Outdoor Developed Areas Guide" must make reference to those applicable sections in the exception request. The conditions described in Section 16.1.1 "Extent of Application" may be used, as specified in the provisions, to support an exception.

The sign referenced in Section 16.2.10, "Signs," of the "Outdoor Developed Areas Guide" shall be the disabled persons sign, MUTCD Code RM-080.

4.3.19 Protruding Objects

(1) Objects protruding from walls (for example, telephones) with their leading edges between 27 inches and 80 inches above the finished floor shall protrude no more than 4 inches into the walk.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

(2) Objects mounted with their leading edges at or below 27 inches above the finished floor may protrude any amount.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

(3) Free-standing objects mounted on posts or pylons may overhang 12 inches maximum from 27 inches to 80 inches above the ground or finished floor.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

(4) Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

In general, street furniture or any item placed within the pedestrian environment must be cane detectable. Objects that protrude over a pedestrian pathway above a height of 27 inches are not considered detectable by cane. A critical zone, which is not considered detectable, is between 27 inches and 80 inches above the pedestrian pathway surface. Many transportation elements within the pedestrian pathway are cane detectable, such as electrical systems hardware, and these are specified in the Caltrans *Standard Plans*.

Where it is decided to prohibit pedestrian crossings at an intersection or ramp crossing, a pedestrian barricade per Standard Plan ES-7P should be used. Consult with your Traffic Operations Liaison for further guidance.

4.4 Shared Facilities

Pedestrian facilities that are part of nonmotorized transportation facilities must be designed in accordance with the *Highway Design Manual* for the appropriate bikeway classification, and the *Designing Sidewalks and Trails for Access* for best practice equestrian design.

Designers of pedestrian-shared facilities must consider the geometric requirements that are most critical for the intended users. In some cases designing for pedestrians may govern the geometric features. For example, a designated Class 1 bikeway may legally be used by pedestrians and bicycles. But, it may not be practical to design for both users at certain segments of the path. In such cases, a design exception will either be needed for a bicycle standard in Chapter 1000 of the *Highway Design Manual* or for a pedestrian accessibility standard in this DIB.

4.5 Alternate Standards

Federal regulations allow the use of other accessibility standards, if they provide substantially equivalent or greater access to the facility system, as the minimum Federal accessibility standards. Similarly, the *California Building Code* allows the enforcing agency to make design judgments as to equivalent designs. Local Agency standards that provide equivalent or greater accessibility than the Federal ADAAG and the *California Building Code* may be used in lieu of the minimum standards in this DIB. Those standards not in this DIB should be discussed with the Design Coordinator and the justification documented in the project files. In the case of a historic property/historical resource, use of the California State Historical Building Code is mandatory for State-owned facilities as well as consultation with the State Historical Building Safety Board.

4.6 Temporary Traffic Control

Temporary traffic control zones can impact a wide range of State highway users, including persons with disabilities. On a project-by-project basis, a decision must be made to either include the provisions of the California Manual of Uniform Traffic Control Devices (CA MUTCD) as part of the construction contract documents or that they must be discussed with the Contractor prior to the beginning of work during the preconstruction meeting. In either case, if it is elected to close any sidewalk(s) due to construction and it is elected to provide a temporary route for use by the public, the various provisions for pedestrian safety as set forth in the CA MUTCD Part 6, Chapter 6D “Pedestrian and Worker Safety” shall apply.

Dist – Co – Rte
KP(PM)
Project EA or Encroachment Permit Number

EXCEPTION TO ACCESSIBILITY DESIGN STANDARDS

Prepared by:

_____
(Name), Registered Civil Engineer [3]

Submitted by: _____ Date: _____
(Name), Design Engineer

Recommended by: _____ Date: _____
(Name), Project Manager

Concurrence [1] by: _____ Date: _____
(Name), Office Chief
Or District/Region Division Chief of Design

Approved [2] by: _____ Date: _____
(Name), Design Coordinator

Notes:

1. Must be a Supervising Transportation Engineer or higher Civil Service Engineering Classification.
2. Delete this signature line for Rail or Transit Station projects (DSA is the approving entity).
3. A Licensed Architect or Licensed Landscape Architect may prepare this document and sign and seal it in lieu of a Registered Civil Engineer, provided the same Licensed Architect or Licensed Landscape Architect designed the on-site improvements. Use the seal of the appropriate licensed person in responsible charge.

Dist – Co – Rte
KP(PM)
Project EA or Encroachment Permit Number

This documentation shall be filed in the district project history files. A copy shall be sent to Headquarters Division of Design, attention Design Report Routing. Attach, as necessary, the information discussed in Item Number 3. At a minimum, the Exception to Accessibility Design Standards should contain the following sections:

1. Project Description

Describe the overall project scope and the proposed pedestrian facility design portion. Provide geographic project limits and lengths. Also, describe the existing highway facility as well as the existing pedestrian facilities.

If using an accessibility standard not listed in DIB 82-04, describe the accessibility standard and its reference of origin.

2. Project Costs

Provide the total capital cost estimate of the project. Also, provide an estimate of the capital cost of the proposed pedestrian features.

3. Nonstandard Features

Describe the nonstandard accessibility feature(s) to be constructed or to be maintained in an alteration. Provide sufficient information in written and graphic (layouts, cross sections, profiles, details, etc.) format to convey the extent of noncompliance with accessibility standards.

4. Standards From Which an Exception is Requested

State the accessibility standard from DIB 82-04.

5. Reason for Exception

The request for exception to accessibility design standards must state the reason why the facility or element is in whole or in part structurally impracticable (for new construction) or technically infeasible (for alterations) to comply with DIB 82-04 standards. Exceptions must be based on factors which may include historical significance, existing terrain, environmental issues, right of way constraints, conflicts with other design standards, and/or other significant considerations. Excessive cost may be supplemental information but cannot be used to support an exception related to a structural impracticability or technical infeasibility.

The four (4) factors for unreasonable hardships related to Clear Width, discussed in Section 4.3.3 of DIB 82-04, are to be documented in this section.

6. Work Required to Make Standard

Provide a description of the additional work in excess of the proposed project work required to meet the subject accessibility standard.

7. Reviews and Concurrence

As appropriate, provide the names of the Headquarters Design and District personnel who have discussed and concurred with this document; plus, the date of their concurrence.

EXHIBIT 4

EXHIBIT 4

WORK ZONES

The Parties agree to the following as a final and complete resolution of issues pertaining to Work Zones. The Department agrees to make its best efforts to ensure that Temporary Routes, when provided through and around Work Zones, are accessible to pedestrians with disabilities. In meeting this obligation, the Department will do the following:

1. Guidance for Pedestrian Accommodation. The Department shall develop a summarized informational document for workers in the field for the accommodation of pedestrians with disabilities through and around Work Zones within one hundred eighty (180) working days following Final Approval. To develop this document, the Department will investigate procedural models utilized by other entities, including but not limited to Pacific Gas & Electric Company's work procedure entitled "Path of Travel Encroachments and Pedestrian Safety" and/or the Federal Highway Administration / American Traffic Safety Services Association's Guidance Sheet entitled "Temporary Traffic Control Zone Pedestrian Access Considerations." The content of this document developed by the Department will reference and be consistent with Part 6 of the California Manual on Uniform Traffic Control Devices ("CA MUTCD"). A copy of this informational document shall be promptly delivered to Plaintiffs Attorneys and to the Access Consultant when it is ready for dissemination to employees, contractors, and individuals/companies/entities requesting temporary encroachment permits.

2. Revisions to DIB 82. In addition to the changes made to DIB 82 pursuant to **Exhibit 3** of this Settlement Agreement, DIB 82 has been revised (See **Exhibit 3A**,

Section 4.6) to reference that the CA MUTCD Part 6, Chapter 6D (PEDESTRIAN AND WORKER SAFETY) procedures should be followed in the event the Department elects to close any sidewalk(s) due to construction, including those instances, if any, when the Department elects to provide Temporary Routes for use by the public.

3. Training of Caltrans Personnel. The Department shall provide training to personnel responsible for the development, approval and implementation of Work Zones, including Temporary Routes for use by the public. Within 180 one hundred eighty (180) working days following Final Approval, the Department will provide to Plaintiffs Attorneys and to the Access Consultant training documents to be used for the development, approval and implementation of Work Zones, consistent with the informational document prepared and the existing training conducted on Part 6 of the CA MUTCD.

5. Revised Design and Construction Procedures. The Department shall revise its current procedures for construction contract development and enforcement as follows:

A. Caltrans' Construction Manual and specifications shall be revised to require that pre-construction meetings with the contractor include a discussion regarding Work Zones, including Temporary Routes for use by the public, if any, and how the contractor will meet their contractual obligations and applicable guidance in the CA MUTCD. Contractors' participation in these pre-construction meetings shall constitute certification that they have reviewed and understand said contractual obligations and CA MUTCD guidelines.

B. The Department shall require the review of all contract plans and specifications as part of the normal project development review process to ensure that when Temporary Routes for use by the public are provided, they are accessible to pedestrians with disabilities.

C. As part of routine construction safety inspections performed on every project, inspections of any Temporary Routes that are provided for use by the public will be performed to ensure compliance with contract plans and specifications. Safety inspection checklists, to the extent they are used, will be revised to include a category regarding accessible Temporary Routes.

EXHIBIT 5

EXHIBIT 5

ACCESSIBILITY GRIEVANCE PROCEDURE

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a grievance alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Department. It is intended and designed to provide prompt and equitable resolution of grievances alleging noncompliance with, or any action prohibited by, the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794). This procedure applies to all Title II ADA-related grievances regarding facilities owned and controlled by the Department, including Pedestrian Facilities and Park and Ride Facilities. The Department's Personnel Policy governs employment-related complaints of disability discrimination.

Information about the Accessibility Grievance Procedure shall be posted to the Department's website under the "Contact Us" link.

The grievance should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to any of the following Departmental contacts, who have been designated to coordinate Section 504/ADA compliance efforts:

- Charles Wahnon
  Caltrans Statewide ADA Coordinator
  1823 14th Street
  Sacramento, California 95811
  Phone (916) 324-1353 or Toll Free (866) 810-6346
  FAX (916) 324-1869, TTY 711

- Department District ADA Liaisons, contact information is provided on the Department's website: http://www.dot.ca.gov/contactus.htm
- Email: ADA_Compliance_Office@dot.ca.gov

The grievance should be submitted to the Department in writing (by mail, e-mail, or fax) and contain information about the alleged discrimination, condition, policy or practice at issue, such as name, address, phone number of the grievant and location, date, and description of the problem. Alternative methods of filing such as personal interviews or a tape recording of the grievance will be made available for persons with disabilities upon request.

Within 15 working days the Department will respond to the receipt of the grievance in writing or where appropriate, in a format accessible to the grievant (such as large print, Braille, or audio tape). The response will acknowledge receipt of the grievance, provide documentation of the grievance, as understood by the Department, and will include an offer to meet with the grievant to clarify the circumstances of the alleged discrimination, condition, policy or practice at issue.

In the event it is determined that the grievance involves a facility not owned and controlled by the Department, the Department will facilitate the notification of the grievance to the appropriate entity, as expeditiously as possible but in any event within 120 working days.

The time it will take the Department to respond to a grievance will depend on the scope and complexity of the request. However, no later than 180 working days following the date the Department acknowledges receipt of the grievance, the Department will provide a response to the grievant in writing, and, where appropriate, in a format accessible to the grievant. This response will explain the position of the Department and

offer a resolution responsive to the grievance. The response will also inform the grievant/complainant of their right to appeal.

The Department will proceed with the implementation of its proposed resolution unless the grievant files (i.e., by sending an e-mail or fax, or by depositing with a delivery service, or by postmarking a submission via regular mail) a written appeal of the Department's decision within 15 working days.

Within 15 working days following receipt of an appeal, the Department will meet with the grievant to discuss the grievance and the Department's response. Within 15 working days following the meeting between the appellant and the Department, the Department will respond in writing, and where appropriate, in a format accessible to the grievant, with a final resolution of the grievance.

After the recommended resolution is implemented and completed, the Departmental ADA designee will provide notification to the grievant, in writing, and, where appropriate, in a format accessible to the grievant, of completed resolution.

All grievances received by the Department, including any appeals, will be retained by the Statewide ADA Program until the subject matter of the grievance has been fully resolved or for at least three years, whichever is later.

EXHIBIT 6

EXHIBIT 6

ATTORNEY FEES AND COSTS

With respect to the issue of Plaintiffs' Attorneys' fees and costs and the payment thereof by Defendants, the following is agreed to as a complete resolution of the issue.

1. No fees or costs incurred by the Plaintiff Class in connection with the Federal Action and/or the State Action may be claimed except as expressly set forth herein.

2. The Parties agree that conditioned on the Federal Court granting Final Approval of the Parties' Settlement Agreement, Defendants shall pay Plaintiffs' Attorneys reasonable attorneys fees and costs for work pursuing the claims pleaded in the Federal Action and the State Action ("Fees" and "Costs"), subject to the limits set forth herein.

3. The Parties agree that they will attempt in good faith to reach an agreement as to the amount of Fees and Costs and a schedule for payment. If agreement is reached, Plaintiffs' Attorneys will submit a motion in the Federal Action requesting that the Federal Court approve the agreed amount of Fees and Costs, and Defendants will stipulate to that amount as fair and reasonable.

4. If the Parties are unable to reach an agreement as to the amount of Fees, Plaintiffs' Attorneys will file a motion for Fees in the Federal Action requesting that the Federal Court determine the amount of Fees to be awarded, subject to the following agreement: Defendants agree to pay Fees of no less than $3.75 million and no more than $8.75 million for all work related to claims pleaded in the Litigation, settlement, and future monitoring of all claims in the Litigation, including any Fees for time spent preparing a fee motion. Plaintiffs agree not to seek more than $8.75 million for all Fees related to the Litigation, settlement, and future monitoring of these claims including any Fees for time spent preparing a fee motion. Plaintiffs' Attorneys expressly waive any claim for Fees in excess of $8.75 million. The only additional Fees available for any work by Plaintiffs' Attorneys related to these claims would be any Fees ordered by the Court in future enforcement proceedings as provided for in Section 5.2.2.3 of the Settlement Agreement.

5. If the Parties are unable to reach an agreement as to the amount of Plaintiffs' Costs, Plaintiffs' Attorneys may seek to recover Costs by filing a motion in the Federal Court. Plaintiffs' Attorneys shall not seek more than $391,477 in total for all Costs related to the Litigation, settlement, and future monitoring of claims. Plaintiffs' Attorneys expressly waive any claim for Costs in excess of $391,477, and agree that their recovery shall not exceed that amount. The only additional Costs available for any work by Plaintiffs' Attorneys related to claims pleaded in the Litigation would be Costs ordered by the Court in future enforcement proceedings as provided for in Section 5.2.2.3 of the Settlement Agreement.

6. Upon dismissals of both the Federal Action and the State Action with prejudice, the Federal Court's Final Approval of the Settlement Agreement, and the Parties reaching agreement(s) and/or the Federal Court determining the amounts of Plaintiffs' Attorneys Fees and/or Costs, Defendants shall pay Plaintiffs' Attorneys Fees and Costs in the amount(s) agreed upon by the Parties, or if the Parties were unable to reach agreement(s), in the amount(s) determined by the Federal Court (the "Payment"). In the event the Federal Court is asked to determine the amount of Fees and/or Costs, the time for Payment shall be as ordered by the Court. Plaintiffs understand that Defendants intend to ask the Court that the Fees be paid over several years. Defendants understand that the Plaintiffs intend to ask the Court to order Payment of the total amount of Fees and Costs within sixty (60) days and/or to order interest on any delayed Payments.

7. The Payment is in full and complete satisfaction of any and all claims for Fees and Costs incurred in the Federal Action and/or in the State Action against Defendants, and for all claims released in this Settlement Agreement. The Plaintiff Settlement Class Members expressly waive any right to recover any additional Fees that they may incur in monitoring or evaluating Defendants' compliance with this Settlement Agreement, except for Fees and/or Costs ordered by the Court in future enforcement proceedings as provided for in Section 5.2.2.3 of the Settlement Agreement.

EXHIBIT 7

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR"), CALIFORNIA COUNCIL OF THE BLIND ("CCB"), BEN ROCKWELL and DMITRI BELSER, on behalf of themselves, and on behalf of all others similarly situated, Plaintiffs, v. CALIFORNIA DEPARTMENT OF TRANSPORTATION ("Caltrans") and WILL KEMPTON, in his official capacity. Defendants.	**Case No.: C06-5125 SBA** **ORDER RE: PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Judge: Hon. Saundra Brown Armstrong Date Action Filed: August 23, 2006

WHEREAS, trial of the above-captioned case began before this Court on September 16, 2009;

WHEREAS, the Parties have advised the Court that they have settled the Litigation, the terms of which have been memorialized in a Settlement Agreement;

WHEREAS, this Court has reviewed and considered the Settlement Agreement entered into among the Parties in this Litigation, together with all exhibits thereto, the record in this case, and the arguments of counsel;

NOW THEREFORE, for good cause appearing, it is hereby ordered as follows:

1. All capitalized terms and definitions used herein have the same meanings as set forth in the Settlement Agreement.

2. The proposed settlement set forth in the Settlement Agreement is hereby preliminarily approved as being within the range of reasonableness such that notice thereof should be given to Plaintiff Settlement Class Members.

3. The contents of the class notice, which are attached to the Settlement Agreement as **Exhibit 8**, are hereby approved as to form.

4. The proposed Plaintiff Settlement Class is hereby conditionally certified subject to Final Approval of the Settlement Agreement.

5. The Parties are hereby authorized to issue the class notice as follows:

Within 30 days after Preliminary Approval, the Parties shall distribute notice of the proposed Settlement Agreement advising the Plaintiff Settlement Class of the terms of the proposed Settlement Agreement and their right to object to the proposed Settlement Agreement. This notice shall be published as follows:

(a) Defendants shall pay for publication in newspapers of a notice of class settlement. This notice will include: A brief statement of the claims released by the class; the date of the hearing on the final approval of the class settlement; the deadline for submitting objections to the settlement; the web page, address, and phone and fax numbers that may be used to obtain a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT (attached as **Exhibit 8** to the Parties' Settlement Agreement) in the format and language requested. Publication in these

newspapers will be every other day for a period of thirty (30) days, no larger than one eighth page, in the legal notice section of the following papers of general circulation: The Los Angeles Times, The San Diego Union Tribune, The San Francisco Chronicle, The Sacramento Bee, The Riverside Press, and The Oakland Tribune. The notice published in the newspapers will contain a statement in Spanish of the web page, e-mail address, and phone numbers that may be used to obtain a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in English, Spanish and alternative accessible formats.

(b) Plaintiffs' Attorneys and Defendants' attorneys shall provide the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in the manner, format and language requested by any class member, advocacy group, government, or their counsel. Copies of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be provided without charge for copying or mailing.

(c) Defendants shall establish a web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available in English and Spanish, and in a format that can be recognized and read by software commonly used by the individuals with visual impairments to read web pages. Defendants shall post on the Caltrans website a link to the web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available.

(d) A copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be mailed to the U.S. Attorney General, the U.S. Department of Justice, Civil Rights Division, and the Attorney General for the State of California with a request to each office that they consider publishing a description of the settlement in their newsletters and web pages.

(e) Plaintiffs' Attorneys shall post NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT on the website of Disability Rights Advocates and shall make good faith efforts to distribute it through disability-related listservs and other internet postings.

(f) Counsel for the Parties shall send by first class mail the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT to the last known address for each member of the proposed Plaintiff Settlement Class whose declaration Counsel submitted in this action.

6. The Court finds that the forms of notice to Plaintiff Settlement Class Members regarding the pendency of the Litigation and of this settlement, including the methods of dissemination to the proposed Plaintiff Settlement Class Members in accordance with the terms of this order, constitute the best notice practicable under the circumstances.

7. Any Plaintiff Settlement Class Member may enter an appearance in the Litigation and/or may seek to intervene in the Litigation, individually or through the counsel of their choice at his or her expense. Plaintiff Settlement Class Members who do not enter an appearance will be represented by Class Counsel.

8. Objections by any Plaintiff Settlement Class Member to: (a) the proposed settlement contained in the Settlement Agreement and described in the class notice; (b) the payment of fees and reimbursement of expenses to Plaintiffs' Counsel up to the negotiated maximum amounts set forth in the Settlement Agreement; and/or (c) entry of the Judgment shall be heard, and any papers submitted in support of said objection shall be considered by the Court at the Fairness Hearing only if, on or before _____2010, such objector files with the Clerk of the United States District Court for the Northern District of California: (1) a notice of his, her or its objection and a statement of the basis for such objection; (2) if applicable, a statement of his, her or its intention to appear at the Fairness Hearing. Copies of the foregoing must also be mailed or delivered to counsel for the Parties identified in the class notice. In order to be considered for hearing, all objections must be submitted to the Court and actually received by the counsel identified in the class notice on or before _____, 2010. A Plaintiff Settlement Class Member need not appear at the Settlement Hearing in order for his, her or its objection to be considered.

9. No later than seven days before the Fairness Hearing, the Parties shall file all papers in support of the Application for Final Approval of the Settlement and/or any papers in response to any valid and timely objection with the Court, and shall serve copies of such papers upon each other and upon any objector who has complied with the provisions of Paragraph 8 of this Order.

10. A hearing (the "Fairness Hearing") shall be held by the Court on April 27, 2010 at ____.m., in United States District Court for the Northern District of California, 1301 Clay street, Oakland, California 94612-5212, to consider and determine whether the proposed settlement of the

Litigation on the terms set forth in the Settlement Agreement should be approved as fair, just, reasonable, adequate and in the best interests of the Plaintiff Settlement Class; whether Plaintiffs' Counsels' attorneys' fees and reimbursement of expenses should be approved; and whether the Order approving the settlement and dismissing the Litigation on the merits and with prejudice against the Plaintiffs and all Settlement Plaintiff Class Members, subject to the Court retaining jurisdiction to administer and enforce the Settlement Agreement, should be entered.

11. The Fairness Hearing may, from time to time and without further notice to the Plaintiff Settlement Class Members (except those who have filed timely and valid objections or entered an appearance), be continued or adjourned by order of the Court.

12. Reasonable costs incurred in identifying and notifying Plaintiff Settlement Class Members shall be paid by Defendants. In the event that the Settlement Agreement is not approved by the Court, or otherwise fails to become effective, neither the Plaintiffs nor any of Plaintiffs' Counsel shall have any obligation to repay the amounts actually and properly disbursed to accomplish such notice and administration.

IT IS SO ORDERED.

DATED: _____

_____
HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

EXHIBIT 8

EXHIBIT 8

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

ATTENTION: All persons with a mobility and/or vision disability who currently or in the future will use or attempt to use (1) Caltrans sidewalks, cross-walks, pedestrian overcrossings, pedestrian undercrossings, other outdoor pedestrian walkways; (2) Caltrans Park and Ride facilities; and/or (3) other Caltrans's facilities in the public right of way, such as certain highway shoulders or temporary routes through and around work zones, owned and/or maintained by the California Department of Transportation ("Caltrans"). You may be a member of the proposed settlement class affected by this lawsuit."

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION.

NOTICE OF CLASS ACTION

The purpose of this notice is to inform you of the proposed settlement in two pending class action lawsuits brought on behalf of people with mobility and/or vision disabilities. The class action settlement (the "Settlement Agreement"), which must be approved by the Court, was reached in connection with two lawsuits, *Californians for Disability Rights, et al. v. California Department of Transportation, et al.,* N.D. Cal. Case No. C 06-5125 SBA and *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, Alameda County Superior Court No. RG08376549. The lawsuits, filed in 2006 and 2008 respectively, allege that the California Department of Transportation ("Caltrans") has discriminated against persons with mobility and/or vision disabilities by denying them access to sidewalks, cross-walks, pedestrian overcrossings, pedestrian undercrossings, other outdoor pedestrian walkways ("pedestrian facilities") and Park and Ride facilities owned or maintained by Caltrans. The Defendants deny any liability or wrongdoing.

THE SETTLEMENT CLASS

If you are a person with a mobility and/or vision disability, and you currently or in the future will use or attempt to use (1) Caltrans sidewalks, cross-walks, pedestrian overcrossings, pedestrian undercrossings, other outdoor pedestrian walkways; (2) Caltrans Park and Ride facilities; and/or (3) other Caltrans's facilities in the public right of way, such as certain highway shoulders or temporary routes through and around work zones, owned and/or maintained by the California Department of Transportation ("Caltrans"). **Y**ou may be a member of the proposed settlement class affected by this lawsuit. Please read this notice carefully because your rights may be affected.

SUMMARY OF THE PROPOSED SETTLEMENT AGREEMENT

Access Barrier Removal in Existing Facilities

The settlement agreement provides that Caltrans will spend $1.1 billion over the next 30 years to remove access barriers along existing pedestrian facilities and within existing Park and Ride facilities. Caltrans will allocate funding to access barrier removal work according to the following schedule: $25 million per year for the first five years; $35 million per year for the following ten years; $40 million per year for the following 10 years; and $45 million per year for the last five years. The annual allocations will come from dedicated federal and state transportation funding.

Access Requests and Priority Guidelines For Removal of Access Barriers

The $1.1 billion fund for removal of existing access barriers along pedestrian facilities and within Park and Ride facilities will be distributed as follows:

First, Caltrans will consider, in the distribution of the funds, access requests as well as needs identified by the Department. Individuals, organizations, public agencies, cities, and/or local government entities may submit access requests relating to Caltrans pedestrian facilities and Park and Ride facilities by: (1) filing a grievance or (2) submitting a non-grievance access request. Filing a grievance triggers a formal process which requires the grievant to submit a written grievance and which sets deadlines for Caltrans to act. Alternatively, access requests may be submitted to Caltrans, without filing a grievance, in order to report an access barrier. Access barriers identified through access requests and access barriers already identified by Caltrans will be removed according to the following general order of priorities: (i) access barriers that are the most severe and most significant safety hazard for class members; (ii) access barriers along pedestrian facilities and/or within Park and Ride facilities serving State and local government offices and facilities, (iii) access barriers along pedestrian facilities and/or within Park and Ride facilities serving important transportation corridors; (iv) access barriers along pedestrian facilities and/or within Park and Ride facilities serving places of public accommodation such as commercial and business zones; (v) access barriers along pedestrian facilities and/or within Park and Ride facilities serving facilities containing employers; and (vi) access barriers along pedestrian facilities and/or within Park and Ride facilities serving other areas such as residential neighborhoods and undeveloped areas.

Second, to the extent additional funds are available after removing access barriers identified through access requests and access barriers already identified by Caltrans, Caltrans will then survey its existing facilities to identify other existing access barriers. Caltrans will use the same prioritization listed above for the removal of access barriers identified through Caltrans' surveys.

Access to Newly Constructed and Altered Facilities

In addition to the $1.1 billion fund for removal of access barriers in existing facilities, Caltrans has agreed that when it resurfaces its roadways, it will upgrade existing but non-compliant curb ramps and/or install new curb ramps where they are lacking along the sidewalks adjacent to the resurfacing project. Caltrans will also ensure that it follows

federal and state accessibility guidelines when undertaking new construction or alterations of pedestrian facilities and/or Park and Ride facilities.

Access to Temporary Routes Through and Around Construction
Caltrans will provide access at Temporary Routes and access at Work Zones as specified in the Settlement Agreement. Caltrans will make its best efforts to ensure that Temporary Routes, when provided through and around Work Zones, are accessible to pedestrians with disabilities

Resolution of Claims
This Settlement Agreement resolves all claims for injunctive relief. The Settlement Agreement does not provide for any monetary relief to be paid to any plaintiffs or members of the class or release any damage claims such class members may have.

Attorneys Fees
The class was represented by Disability Rights Advocates, AARP Foundation Litigation and Jose R. Allen, Esq. ("Class Counsel"). The settlement agreement provides that the Court will decide the amount of fees and costs that should be awarded to Class Counsel. The parties have agreed that the award may range between $3.75 million and $8.75 million for reasonable attorneys fees and costs for time expended and costs incurred during the course of the two lawsuits. The parties may agree upon an amount within this range through further negotiations or alternative dispute resolution, but any such agreement will be subject to Court approval.

Fairness of Agreement
The class representatives and Class Counsel have concluded that the terms and conditions of the proposed Settlement Agreement are fair, reasonable, and in the best interests of the class. In reaching this conclusion, the class representatives and Class Counsel have considered the benefits of the settlement, the possible outcomes of continued litigation of these issues, and the expense and length of continued litigation and possible appeals.

OBJECTIONS TO THE SETTLEMENT

The Court has given preliminary approval of the Settlement Agreement, and has scheduled a hearing for April 27, 2010 in the Courtroom of the Honorable Saundra Brown Armstrong, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, to determine whether the proposed settlement is fair and reasonable and should be finally approved. Although you are not required to attend, as a Class Member, you have the right to attend and be heard at this hearing. This hearing date may be changed by the Court without further notice to the entire class. If you wish to be on the service list to be informed of any changes to the schedule, please file a notice of appearance or objection with the Court.

Any Class Member may object to the terms of the proposed Settlement Agreement described above by filing a written, signed objection with the Court. If you wish to

object, you must send a written statement, **postmarked on or before [DATE]**, specifying the reason(s) for your objection to the settlement and, stating whether you intend to appear at the above-referenced hearing to object to the settlement. Your written objection must be sent to each of the following:

The Court:

Clerk of the United States District Court
Northern District of California
1301 Clay Street
Oakland, CA 94612
Reference: *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, Case No. C 06-5125 SBA

Class Counsel Representing Plaintiffs and the Plaintiff Settlement Class:

Mary-Lee Kimber, Esq.
DISABILITY RIGHTS ADVOCATES
2001 Center St., Fourth Floor
Berkeley, CA 94704

Counsel representing the California Department of Transportation:
Gregory F. Hurley
GREENBERG TRAURIG, LLP
3161 Michelson Drive, Suite 1000
Irvine, CA 92612

IF YOU DO NOT TIMELY SUBMIT AN OBJECTION AS DESCRIBED HEREIN, YOU WILL BE DEEMED TO HAVE WAIVED YOUR OBJECTION AND SHALL BE FORECLOSED FROM MAKING ANY OBJECTION TO THE SETTLEMENT.

IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT APPEAR OR FILE ANYTHING IN WRITING.

BINDING EFFECT

The proposed Settlement Agreement, 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 seeking different or additional relief regarding all issues resolved in the Settlement Agreement for the term of the settlement.

FURTHER INFORMATION

The federal and state lawsuits and the terms of the settlement are only summarized in this Notice. More detailed information concerning the settlement or a copy of the Settlement Agreement may be obtained from Class Counsel at the following address:

Disability Rights Advocates
Attn: Mary-Lee Kimber
2001 Center St., Fourth Floor
Berkeley, CA 94704
510-665-8644 (Voice)
510-665-8716 (TTY)
E-mail: mkimber@dralegal.org

Or by consulting the public file on the case at the Office of the Clerk at the following address:

For the federal case:
Clerk of the United States District Court
Northern District of California
1301 Clay Street
Oakland, CA 94612
Reference: *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, Case No. C 06-5125 SBA

For the state case:
Clerk of Alameda County Superior Court
Rene C. Davidson Alameda County Courthouse
1225 Fallon St.
Oakland, CA 94612
Reference: *Californians for Disability Rights, et al. v. California Department of Transportation, et al.*, No. RG08376549

Please do not direct questions to the Court.

To obtain copies of this Notice in alternative accessible formats, please contact Class Counsel listed above.

EXHIBIT 9

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR"), CALIFORNIA COUNCIL OF THE BLIND ("CCB"), BEN ROCKWELL and DMITRI BELSER, on behalf of themselves, and on behalf of all others similarly situated, Plaintiffs, v. CALIFORNIA DEPARTMENT OF TRANSPORTATION ("Caltrans") and WILL KEMPTON, in his official capacity. Defendants.	**Case No. : C06-5125 SBA** **JUDGMENT, FINAL ORDER AND DECREE** Judge: Hon. Saundra Brown Armstrong Date Action Filed: August 23, 2006 Trial Date: September 16, 2009

This matter came on for hearing on _____, 2010. The Court has considered the Settlement Agreement, objections and comments received regarding the proposed settlement, the record in the Litigation, the evidence presented, and the arguments and authorities presented by counsel. Good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Court, for purposes of this Judgment, Final Order and Decree ("Judgment") adopts the terms and definitions set forth in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this Litigation and over all Parties to the Litigation and the Plaintiff Settlement Class Members.

3. Defendants consent to the Federal Court exercising jurisdiction over Plaintiffs' state law claims for purposes of the Parties' Settlement Agreement.

4. The Court finds that the notice to the Plaintiff Settlement Class of the pendency of the Litigation and of this settlement pursuant to the Order Re: Preliminary Approval of Class Action Settlement ("Preliminary Approval Order) constitute the best notice practicable under the circumstances to all persons within the definition of the Plaintiff Settlement Class and fully complied with the requirements of due process of all applicable statutes and laws.

5. The Court hereby adopts and approves the Settlement Agreement, and finds that it is in all respects fair, reasonable, adequate, just, and in the best interests of the Parties and the Plaintiff Settlement Class. The objections have been considered and are overruled. Accordingly, the Court directs the Parties and their counsel to implement and consummate this settlement in accordance with the terms and conditions of the Settlement Agreement.

6. The Court certifies a Plaintiff Settlement Class as defined in the Settlement Agreement.

7. Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, this Court hereby dismisses on the merits and with prejudice and without costs (except as otherwise provided in the Settlement Agreement) the Litigation, subject to Paragraph 9 below. The terms of the Settlement Agreement re: Class Action Settlement are hereby incorporated into this Final Judgment.

8. The Court rules that Defendants' compliance with the terms of the agreed-upon resolution set forth in the Settlement Agreement shall constitute a full and complete defense to any claim for injunctive or declaratory relief asserting that Defendants have failed to comply with any and all state and federal laws, rules, regulations, standards and guidelines relating to the subject matter of the Litigation. Damage claims and Claims, of any kind, relating to APS (accessible pedestrian signals) are not being released. Defendants shall not be required in any proceedings brought by any Plaintiff Settlement Class Members to take any action beyond those set forth in the Settlement Agreement relating to the subject matter of the Litigation.

9. Without affecting the finality of this Judgment in any way, the Court hereby enters final judgment under Fed. R. Civ. Proc. 54(b), dismissing the Federal Action with prejudice, subject to retaining jurisdiction to resolve any Dispute regarding compliance with the Agreement that cannot be resolved through the meet and confer process set forth therein.

10. As more fully addressed by separate order, Plaintiffs' Attorneys' application for an award of attorneys' fees and expenses has been submitted to the Court and fees and expenses are allowed in the amount of $_____ for fees and $ _____ for expenses, and shall be paid by Defendants in the time and manner set forth in such separate order.

11. The Clerk of the Court is hereby ordered to enter this Judgment forthwith.

Final Judgment is hereby entered on this _____ day of _____, 2010.

_____
HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

~~[PROPOSED]~~ ORDER RE: PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Signed 01/25/10

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR"), CALIFORNIA COUNCIL OF THE BLIND ("CCB"), BEN ROCKWELL and DMITRI BELSER, on behalf of themselves, and on behalf of all others similarly situated, Plaintiffs, v. CALIFORNIA DEPARTMENT OF TRANSPORTATION ("Caltrans") and WILL KEMPTON, in his official capacity. Defendants.	**Case No.: C06-5125 SBA** **~~[PROPOSED]~~ ORDER RE: PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Judge: Hon. Saundra Brown Armstrong Date Action Filed: August 23, 2006

WHEREAS, trial of the above-captioned case began before this Court on September 16, 2009;

WHEREAS, the Parties have advised the Court that they have settled the Litigation, the terms of which have been memorialized in a Settlement Agreement;

WHEREAS, this Court has reviewed and considered the Settlement Agreement entered into among the Parties in this Litigation, together with all exhibits thereto, the record in this case, and the arguments of counsel;

NOW THEREFORE, for good cause appearing, it is hereby ordered as follows:

1. All capitalized terms and definitions used herein have the same meanings as set forth in the Settlement Agreement.

2. The proposed settlement set forth in the Settlement Agreement is hereby preliminarily approved as being within the range of reasonableness such that notice thereof should be given to Plaintiff Settlement Class Members.

3. The contents of the class notice, which are attached to the Settlement Agreement as **Exhibit 8**, are hereby approved as to form.

4. The proposed Plaintiff Settlement Class is hereby conditionally certified subject to Final Approval of the Settlement Agreement.

5. The Parties are hereby authorized to issue the class notice as follows:

Within 30 days after Preliminary Approval, the Parties shall distribute notice of the proposed Settlement Agreement advising the Plaintiff Settlement Class of the terms of the proposed Settlement Agreement and their right to object to the proposed Settlement Agreement. This notice shall be published as follows:

(a) Defendants shall pay for publication in newspapers of a notice of class settlement. This notice will include: A brief statement of the claims released by the class; the date of the hearing on the final approval of the class settlement; the deadline for submitting objections to the settlement; the web page, address, and phone and fax numbers that may be used to obtain a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT (attached as **Exhibit 8** to the Parties' Settlement Agreement) in the format and language requested. Publication in these

newspapers will be every other day for a period of thirty (30) days, no larger than one eighth page, in the legal notice section of the following papers of general circulation: The Los Angeles Times, The San Diego Union Tribune, The San Francisco Chronicle, The Sacramento Bee, The Riverside Press, and The Oakland Tribune. The notice published in the newspapers will contain a statement in Spanish of the web page, e-mail address, and phone numbers that may be used to obtain a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in English, Spanish and alternative accessible formats.

(b) Plaintiffs' Attorneys and Defendants' attorneys shall provide the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT in the manner, format and language requested by any class member, advocacy group, government, or their counsel. Copies of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be provided without charge for copying or mailing.

(c) Defendants shall establish a web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available in English and Spanish, and in a format that can be recognized and read by software commonly used by the individuals with visual impairments to read web pages. Defendants shall post on the Caltrans website a link to the web site where a copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT will be available.

(d) A copy of the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT shall be mailed to the U.S. Attorney General, the U.S. Department of Justice, Civil Rights Division, and the Attorney General for the State of California with a request to each office that they consider publishing a description of the settlement in their newsletters and web pages.

(e) Plaintiffs' Attorneys shall post NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT on the website of Disability Rights Advocates and shall make good faith efforts to distribute it through disability-related listservs and other internet postings.

(f) Counsel for the Parties shall send by first class mail the NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT to the last known address for each member of the proposed Plaintiff Settlement Class whose declaration Counsel submitted in this action.

6. The Court finds that the forms of notice to Plaintiff Settlement Class Members regarding the pendency of the Litigation and of this settlement, including the methods of dissemination to the proposed Plaintiff Settlement Class Members in accordance with the terms of this order, constitute the best notice practicable under the circumstances.

7. Any Plaintiff Settlement Class Member may enter an appearance in the Litigation and/or may seek to intervene in the Litigation, individually or through the counsel of their choice at his or her expense. Plaintiff Settlement Class Members who do not enter an appearance will be represented by Class Counsel.

8. Objections by any Plaintiff Settlement Class Member to: (a) the proposed settlement contained in the Settlement Agreement and described in the class notice; (b) the payment of fees and reimbursement of expenses to Plaintiffs' Counsel up to the negotiated maximum amounts set forth in the Settlement Agreement; and/or (c) entry of the Judgment shall be heard, and any papers submitted in support of said objection shall be considered by the Court at the Fairness Hearing only if, on or before March 30, 2010, such objector files with the Clerk of the United States District Court for the Northern District of California: (1) a notice of his, her or its objection and a statement of the basis for such objection; (2) if applicable, a statement of his, her or its intention to appear at the Fairness Hearing. Copies of the foregoing must also be mailed or delivered to counsel for the Parties identified in the class notice. In order to be considered for hearing, all objections must be submitted to the Court and actually received by the counsel identified in the class notice on or before March 30, 2010. A Plaintiff Settlement Class Member need not appear at the Settlement Hearing in order for his, her or its objection to be considered.

9. No later than fourteen days before the Fairness Hearing, the Parties shall file all papers in support of the Application for Final Approval of the Settlement and/or any papers in response to any valid and timely objection with the Court, and shall serve copies of such papers upon each other and upon any objector who has complied with the provisions of Paragraph 8 of this Order.

10. A hearing (the "Fairness Hearing") shall be held by the Court on April 27, 2010 at 1:00 p.m., in United States District Court for the Northern District of California, 1301 Clay street,

Oakland, California 94612-5212, to consider and determine whether the proposed settlement of the Litigation on the terms set forth in the Settlement Agreement should be approved as fair, just, reasonable, adequate and in the best interests of the Plaintiff Settlement Class; whether Plaintiffs' Counsels' attorneys' fees and reimbursement of expenses should be approved; and whether the Order approving the settlement and dismissing the Litigation on the merits and with prejudice against the Plaintiffs and all Settlement Plaintiff Class Members, subject to the Court retaining jurisdiction to administer and enforce the Settlement Agreement, should be entered.

11. The Fairness Hearing may, from time to time and without further notice to the Plaintiff Settlement Class Members (except those who have filed timely and valid objections or entered an appearance), be continued or adjourned by order of the Court.

12. Reasonable costs incurred in identifying and notifying Plaintiff Settlement Class Members shall be paid by Defendants. In the event that the Settlement Agreement is not approved by the Court, or otherwise fails to become effective, neither the Plaintiffs nor any of Plaintiffs' Counsel shall have any obligation to repay the amounts actually and properly disbursed to accomplish such notice and administration.

IT IS SO ORDERED.

DATED: 1/25/10

Saundra B. Armstrong

HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

ORDER GRANTING PLAINTIFFS' APPLICATION FOR FINAL APPROVAL OF PROPOSED SETTLEMENT AGREEMENT AND OVERRULING OBJECTIONS TO SETTLEMENT AGREEMENT

Signed 06/02/10

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

CALIFORNIANS FOR DISABILITY RIGHTS, INC. ("CDR"), CALIFORNIA COUNCIL OF THE BLIND ("CCB"), BEN ROCKWELL, AND DMITRI BELSER, on behalf of all others similarly situated, Plaintiffs, vs. CALIFORNIA DEPARTMENT OF TRANSPORTATION ("CALTRANS") and WILL KEMPTON, in his official capacity, Defendants.	Case No: C 06-5125 SBA **ORDER GRANTING PLAINTIFFS' APPLICATION FOR FINAL APPROVAL OF PROPOSED SETTLEMENT AGREEMENT AND OVERRULING OBJECTIONS TO SETTLEMENT AGREEMENT**

This is a class action brought by Plaintiffs, Californians for Disability Rights ("CDR"), California Council for the Blind ("Council for the Blind"), Ben Rockwell ("Rockwell") and Dmitri Belser ("Belser"), on behalf of a class of mobility and vision impaired individuals against the California Department of Transportation and its director (collectively "Caltrans" or "Defendants"). Plaintiffs allege that Caltrans has failed to remove barriers and ensure accessibility at existing pedestrian facilities and Park and Ride facilities throughout California in violation of Title II of the Americans with Disabilities Act ("ADA") and section 504 of the Rehabilitation Act of 1973.

Pursuant to Federal Rule of Civil Procedure 23(e)(2), this matter came before the Court on April 27, 2010, for the fairness hearing for final approval of the parties' settlement in the above-captioned class action. Having reviewed the papers submitted and considered the statements made at the hearing, the Court GRANTS Plaintiffs' application for final approval of the settlement and overrules all objections thereto.

I. BACKGROUND

On August 23, 2006, Plaintiffs filed the instant class action on behalf of persons with mobility and/or vision impairments. The Complaint alleges that as a result of Caltrans' failure to comply with federal disability laws, Plaintiffs and Class members have been denied access to sidewalks, cross-walks, pedestrian underpasses and other public rights of way. Plaintiffs seek injunctive relief only; no damages are sought.

On March 13, 2008, the Court certified the Class, pursuant to Federal Rule of Civil Procedure 23(b)(2), as follows: "All persons with mobility and/or vision disabilities who are allegedly being denied access under Title II of the Americans with Disabilities Act and the Rehabilitation Act of 1973 due to barriers along sidewalks, cross-walks, pedestrian underpasses, pedestrian overpasses and any other outdoor designated pedestrian walkways throughout the state of California which are owned and/or maintained by the California Department of Transportation." Californians for Disability Rights, Inc. v. California Dept. of Transp., 249 F.R.D. 334, 351 (N.D. Cal. 2008).

A court trial in this action commenced on September 16, 2009. Within a few days of the start of trial, Plaintiffs completed the direct testimony of their expert, Peter Margen, and Defendants commenced their cross-examination. During the proceedings, however, the parties proposed temporarily suspending the trial to enable them to engage in settlement discussions before Magistrate Judge Elizabeth LaPorte. The Court agreed and recessed the proceedings. Over the course of the next several months, the parties engaged in several settlement conferences with Magistrate Judge LaPorte and ultimately reached a global settlement that resolves all claims in this case, as well as those being litigated in a parallel state court action.[1] The parties then filed a Joint Motion for Preliminary Approval of Settlement, which the Court

[1] The state court action is pending in Alameda County Superior Court, and is styled as Californians for Disability Rights v. California Dept. of Transp., Case No. RG08376549 ("State Action"). The State Action is being held in abeyance pending final approval of the settlement, after which it will be dismissed. The instant case is denoted in this Order as the "Federal Action."

granted on January 25, 2010. (Docket 457.) The Preliminary Approval Order set the fairness hearing for April 27, 2010, and ordered the parties to disseminate notice to the Class.

The salient features of the Settlement Agreement include, among other things: (1) a funding commitment of $1.1 billion over the next thirty years to eliminate barriers and improve access for Class members; (2) a monitoring procedure, which will include the hiring of an access consultant to oversee compliance for the first seven years, and mandatory annual reporting by Caltrans for the next thirty years; (3) a grievance procedure for public complaints relating to access issues and Caltrans responses thereto; and (4) payment of attorneys' fees (a minimum of $3.75 million to a maximum of $8.75 million) for past work and future compliance services. (Docket 454).

Several objections to the proposed settlement have been filed. On March 31, 2010, after the expiration of the objection period, attorney Patricia Barbosa of Barbosa Group filed an objection on behalf of thirty-four CDR and Class members ("Barbosa Objectors"), alleging that the settlement was not approved consistent with CDR's by-laws; that the thirty-year compliance period is too long; that Caltrans should increase the amount of the settlement fund; and that the monitoring provisions are insufficient. (Docket 473.) In addition, the Court received three individually-submitted objections. Specifically, Marilynn Pike and Arnie T. Pike filed separate letter objections on February 1, 2010, and Branlett Kimmons filed a letter objection on April 16, 2010.[2]

II. LEGAL STANDARD

The Court may finally approve of a class settlement "only after a hearing and on finding that it is fair, reasonable, and adequate." Fed.R.Civ.P. 23(e)(2); Officers for Justice v. Civil Serv. Comm'n of the City and County of San Francisco, 688 F.2d 615, 625 (9th Cir. 1982). The primary concern of Rule 23(e) is "the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties."

[2] Plaintiffs' brief in response to the objections filed also makes reference to a letter, dated January 27, 2010, from California Walks, a public advocacy group. This letter was not filed and therefore is not properly before the Court. However, the Court has obtained a copy of the letter from Class counsel and reviewed its contents.

Officers for Justice, 688 F.2d at 624. Factors that the Court may in deciding whether or not to approve the settlement include:

> the strength of the plaintiffs' case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement.

Hanlon v. Chrysler Corp., 150 F.3d 1011, 1026 (9th Cir. 1998); accord Molski v. Gleich, 318 F.3d 937, 953 (9th Cir. 2003).

The district court's role at a fairness hearing is limited. The Court may approve or reject the settlement. Hanlon, 150 F.3d at 1026. The district court does not have the authority to "delete, modify or substitute certain provisions." Id. (internal quotations omitted). "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." Officers for Justice, 688 F.2d at 625. Rather, "the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." Id. To that end, the Court should consider whether there are any objections to the proposed settlement and, if so, the nature of those objections. In re General Motors Corp., 594 F.2d 1106. If objections are filed, the district court is to evaluate whether they suggest serious reasons why the settlement proposal might be unfair. Bennett v. Behring Corp., 737 F.2d 982 (11th Cir. 1984).

III. DISCUSSION

A. APPROVAL OF THE SETTLEMENT

The record supports the conclusion that that the proposed settlement is fair, reasonable and adequate. First, the burdens, expenses and risks associated with further litigation in this action are tremendous. This case involves numerous, complex and novel issues of law, and seeks statewide relief on an unprecedented scale. The complexity of the case is exemplified by

the extensive motion practice, which, in many instances delved into uncharted legal territory. Though Plaintiffs prevailed on *some* of those rulings, Caltrans undoubtedly would have appealed them in the event of an adverse judgment. The risk of proceeding further also is underscored by questions regarding the strength of Plaintiffs' case. Though Plaintiffs certainly were able to present evidence to support their claim that Caltrans' facilities are not entirely compliant with disability laws, Caltrans had viable grounds for mounting an undue burden defense. Thus, by resolving this *and* the state court action, Plaintiffs are able to avoid protracted litigation and appeals and ensure the provision of immediate and tangible benefits to the Class that might never have been realized absent a settlement.

The Court further finds that the settlement is the product of good faith negotiations at arm's length, and is not the product of fraud or collusion. See Officers for Justice, 688 F.2d at 625. By the time of the settlement, the parties were well informed regarding the available evidence both in support of and in opposition to their respective positions. Not only had the parties, who were represented by well-qualified counsel,[3] conducted extensive fact and expert discovery, the parties had the benefit of having participated in several days of trial proceedings—thus affording them a unique and fully informed opportunity to objectively assess the case. In addition, the settlement was the direct result of multiple arms-length court-supervised settlement conferences before Magistrate Judge LaPorte, whose persistence no doubt was instrumental in facilitating the resolution.

In sum, the relevant considerations militate in favor of approving the settlement. Plaintiffs balanced concerns such as the risks inherent in further litigation and the State's fiscal constraints against maximizing the benefit to the Class. The settlement affords significant and immediate relief that may never have materialized had the trial concluded. Moreover, the

[3] The experience of counsel representing Plaintiffs and Defendants also favors final approval of the proposed settlement. See Hanlon, 150 F.3d at 1026. The Class has been represented by Disability Rights Advocates ("DRA"), which has extensive experience litigation ADA class action claims. Likewise, Defendants were represented by Green Taurig, a reputable private firm. The experience of the parties' counsel further supports the conclusion that the negotiated settlement is fair, adequate and reasonable.

settlement guarantees increased funding for removal of access barriers and avoids years of delay attributable to the ensuing appeals in the absence of a settlement.

B. CERTIFICATION OF THE SETTLEMENT CLASS

Plaintiffs seek final certification of the Plaintiff Settlement Class, which is defined as: "all persons with Mobility and/or Vision Disabilities who currently or in the future will use or attempt to use any Pedestrian Facility or Park and Ride Facility under Caltrans' Jurisdiction." (Settlement § 1.38.) The certification of a class is governed by Federal Rule of Civil Procedure 23. In order to be certified, (1) the class must be sufficiently numerous that joinder of all the members is impracticable, (2) there must be questions of law or fact common to the class, (3) the claims or defenses of the representative must be typical of those of the class, and (4) the representative must be able to fairly and adequately protect the class' interests. Fed. R. Civ. P. 23(a).

Because this Court has already certified the class as to the federal claims, the inquiry at this juncture is limited to the question of whether the addition of the state law claims provides any basis for changing the Court's prior determinations regarding the propriety of class certification. It does not.[4] The claims in the state case allege that the Caltrans is obligated to "develop and implement a transition plan which sets milestones and benchmarks for fixing the existing barriers." Californians for Disability Rights, Inc. v. California Dept. of Transp., 249 F.R.D. 334, 343 (N.D. Cal. 2008). The "program access" claim concerns pre-1993 facilities and whether there is any obligation to render them accessible under the ADA. The other two state claims are premised upon California Civil Code § 54 (Unruh Civil Rights Act), Government Code § 4450 (ensuring accessibility of sidewalks, etc., to the disabled), and Government Code § 11135 (prohibiting disability discrimination). These state claims seek the same relief as the federal claims, though in some instances are based on more stringent California regulations. (Mot. for Prelim. Approval ("Mot.") at 10.)

[4] No party or objector has raised any concern regarding certification of the Settlement Class.

The inclusion of the state law claims does not alter the Court's analysis of the numerosity, commonality, typicality, and adequacy of representation components of class certification under Rule 23. The state statutes essentially are the state counterparts to the ADA and Rehabilitation Act. As they did in seeking federal class certification, Plaintiffs proffered the declarations of thirty-one class members in support of their motion for class certification of the state law claims. (Mot. at 11.) As in the instant case, the fundamental premise of the motion for class certification is that Defendants have acted or refused to act on grounds that affect class members similarly, i.e., they are denied access. In short, the same rationale for certifying the federal claims exists for certifying the state claims. Therefore, the Court certifies the Plaintiff Settlement Class as set forth in Section 1.38 of the Settlement Agreement.

C. OBJECTIONS

1. Barbosa Objectors

a) Authority to Enter Into Settlement

Three of the Barbosa Objectors, Susan Barnhill ("Barnhill"), Terrelle Terry ("Terry") and Linda Hinchey ("Hinchey"), are affiliated with CDR. They allege that CDR President Laura Williams negotiated and agreed to the settlement without obtaining the approval of the Executive Committee, ostensibly in violation of CDR's by laws. They further claim that "they were never provided with any information regarding the negotiations of the settlement class" and were not allowed to participate in any settlement negotiations before Williams agreed to the proposed settlement. (Barbosa Objections at 3.) Barbosa Objectors request that the Court reject the settlement and require the parties to return to the bargaining table. (Id.)

Despite Barbosa Objectors suggestions to the contrary, CDR's by-laws are silent with regard to the organization's management and disposition of litigation. (Williams Decl. ¶ 11; Terry Decl. ¶ 10, Ex. 1.) In practice, authority over litigation and related decisions is vested in CDR's Litigation Committee of which Williams is the chair. (Williams Decl. ¶ 12.)[5] Though the Litigation Committee generally obtains approval from the Executive Committee before

[5] During the course of the litigation, Williams invited two objectors, Richard Skaff ("Skaff") and Hollyn D'Lil ("D'Lil") to join the committee, but they declined to do so. (Id.)

commencing litigation, it does not obtain their approval to settle matters. (Id.) In this instance, Williams first learned on March 23, 2010, that a few CDR members were objecting to the settlement, even though the settlement had been public since December 2009. (Id.) Out of an abundance of caution, Williams submitted the settlement to the Executive Committee, which approved the settlement and Williams' actions on behalf of CDR, by a majority vote. (Id. ¶ 37.) Notably, only 8 of 544 CDR members have objected to the settlement. (Id.) Thus, the Court rejects the Barbosa Objectors' assertions that Williams was not authorized to approve the settlement.

The above notwithstanding, whether Williams acted beyond her authority is inapposite to the question before the Court; to wit, whether the settlement is fair, reasonable and adequate. As set forth above, the settlement was reached through Court-supervised, arms-length negotiations which ultimately yielded a beneficial outcome for the Class that they might not have otherwise received had the case proceeded to verdict. Moreover, Barbosa Objectors ignore that there are other Plaintiffs (Ben Rockwell, Dmitri Belser and California Council for the Blind), who independently approved the settlement. Thus, irrespective of CDR, the Court may properly consider the fairness of the settlement based on Rockwell and Belser's request that the Court do so.

b) "Censorship" of Dissenting Members

Next, Barbosa Objectors D'Lil and Skaff claim that Williams prevented them from posting comments regarding the settlement on the CDR list-serv (i.e., an electronic bulletin board) regarding their objections to the settlement. (Barbosa Objections at 6.) Without citation to any legal authority, these objectors assert that William's censorship should invalidate the Executive Board's after-the-fact ratification of the settlement.

Williams acknowledges that she prevented the postings at issue as a matter of internal CDR policy, as she believed that they would be inconsistent with CDR's good faith acceptance of the settlement. (Williams Decl. ¶ 32.) Nonetheless, as CDR correctly points out, whether or not these two CDR members' postings were allowed is a matter of internal CDR policy and is irrelevant to the issue of whether the settlement should be approved by the Court. In addition,

as set forth above, the Court has the authority to approve the settlement, even without CDR's approval.

c) Fairness to the Class

i. Thirty-Year Compliance Period

Barbosa Objectors complain that the thirty-year compliance period is too long, and that some of the Class Members may not live to see the improvements. (Barbosa Objections at 7.)[6] Such concerns, while perhaps understandable, ignore the real world financial constraints that undeniably exist. More importantly, this objection must be placed in context with the overall agreement and immediate benefits that will be conferred. See Hanlon, 150 F.3d at 1026 ("It is the settlement taken as a whole, rather than the individual component parts, that must be examined for overall fairness."). First, the settlement *guarantees* an immediate, annual $25 million level of funding for barrier removal, which is a significant increase from the existing $1 million allocation. (Rockwell Decl. ¶ 13.) Second, the settlement will result in access upgrades beginning almost immediately in July 2010. Finally, a shorter compliance period will not result in the elimination of access barriers more quickly unless there is a corresponding increase in funding, which is not available.

While purporting to recognize Caltrans' financial constraints, Barbosa Objectors argue that "[t]he Agreement should allow for modifications due to the changing economy." (Barbosa Objections at 7.) However, it is not within the purview of the Court to second guess the details of the settlement. See Officers for Justice, 688 F.2d at 625. Moreover, Barbosa Objectors ignore that if the settlement is not approved, there will be no obligation imposed on Caltrans to increase its funding for barrier removal, curb ramp upgrades or any other access improvements. Perhaps more fundamentally, such a modification cuts both ways. If Caltrans' budget continues to decline, a provision that allows funding to be adjusted due to economic changes would actually result in *less* funds for access improvements. While perhaps a shorter

[6] At the same time, they offer varying views as to how long the compliance period should be; some want 15 years, while others want 10 years. (D'Lil Decl. ¶ 7; Skaff Decl. ¶ 7; Chandler Decl. ¶ 9; Hinchey Decl. ¶ 6.)

compliance period would be preferable in a vacuum, the length of the compliance period as set forth in the settlement does not detract from its overall fairness, adequacy and reasonableness.

ii. Seven-Year Monitoring Period

Next, Barbosa Objectors contend that the Agreement only provides funding for compliance monitoring for the first seven years of the compliance period, and that there is no assurance that proper monitoring will continue for the subsequent twenty-three years. (Barbosa Objections at 8.) This argument, however, glosses over the monitoring provisions of the Agreement. (Settlement Agt. ¶ 2.) For the first seven years of the compliance period, the settlement calls for funding to hire an access consultant with specialized knowledge and training to ensure Caltrans' compliance with state and federal accessibility requirements. The access consultant will ensure that Caltrans establishes an institutional framework (including staffing, prioritization planning, etc.) in order to comply with the agreement. The seven-year period was selected based on Class counsel's experiences in other class settlements; namely, that the first several years following a settlement is the most critical time period because that is when the majority of implementation issues are likely to arise. (Paradis Decl. ¶ 27.) In counsel's opinion, which is based on their extensive experience in such matters, a seven-year period for the access consultant is sufficient in this case. (Id.)

Compliance with the settlement agreement will also be monitored through detailed, annual reports which Caltrans must submit to Class counsel for each of the next thirty years. (Settlement Agt. Ex. 2.) Among other things, the report will include:

- a summary of barrier removal projects completed the preceding year, including projects requested by the public;
- a detailed summary of the funding allocation for that year;
- a summary of pedestrian facilities and/or Park and Ride facilities newly constructed that year;
- a summary of training and monitoring efforts;
- any revisions made to Design Information Bulletin (DIB) 82, which sets forth accessibility guidelines for California pedestrian facilities;

- the identification of barrier removal projects and requisite funding for the following year; and
- a summary of grievance and a status report on the Caltrans' resolution of those grievances.

In short, there will be ample oversight of Caltrans' compliance with the Agreement both during and after the time period that the access consultant is retained.

Barbosa Objectors question DRA's ability to monitor compliance without the access consultant, and propose that the Court (1) specify the amount of funds DRA must spend on monitoring and (2) establish a procedure through which class members can be assured of DRA's compliance with its monitoring obligations. (Barbosa Objections at 8.) Tellingly, Barbosa Objectors fail to provide any authority or evidentiary support for the proposition that the Court can and/or should require that the compliance monitor itself be monitored. Indeed, such a system would be duplicative and unwieldy, and would inevitably lead to infighting over how this second level of monitoring should be implemented.

Equally unpersuasive is the Barbosa Objectors' claim that $75,000 per year for an access consultant is "inadequate" to ensure compliance. (Barbosa Objections at 8.) No proof is offered in support of this speculative assertion. In addition, as discussed above, the Court is persuaded that seven years is sufficient time for the access consultant to identify any serious violations of the Agreement. In that event, Plaintiffs may order the appointment of a special master to increase or extend the monitoring of Caltrans' compliance. (Paradis Decl. ¶¶ 29, 32.)

iii. Opt-Out

Next, Barbosa Objectors complain that there is no opt-out provision for Class members who disagree with the terms of the agreement. (Barbosa Objections at 9.) However, the Class was certified under Rule 23(b)(2), which is applicable where "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed.R.Civ.P. 23(b)(2). Opting out generally is not permitted in Rule 23(b)(2) class actions. Molski, 318 F.3d at 947 ("members of a Rule 23(b)(2) class do not have the right to opt-out."). Opt-out provisions usually are applicable where damages are sought. Id. at 948. Here,

Plaintiffs seek injunctive relief only; no damages are being sought. As such, the lack of an opt-out provision is of no consequence.[7]

d) Adequacy of Funding

Finally, Barbosa Objectors criticize the $1.1 billion settlement as amounting to less than 1% of Caltrans overall budget and argue that there is no assurance that $1.1 billion is sufficient to rectify all of the access barriers. (Barbosa Objections at 10.) This argument erroneously assumes that the entirety of Caltrans budget is available to fund access improvements. The vast majority of the Caltrans budget is allocated to operations, maintenance and local assistance projects that cannot be applied to barrier removal. (Paradis Decl. ¶ 9.) According to Defendants' expert, the only budget specifically available to fund access projects is the SHOPP (State Highway Operation and Protection Program), which amounts to only $1.5 billion of the total Caltrans budget of $13 billion. (Id.) In addition, SHOPP funds are not dedicated to barrier removal, but are used to rehabilitate and maintain 50,000 miles of highway and 12,559 bridges. (Id. ¶ 11.) SHOPP is already underfunded and its budget is shrinking. (Id. ¶ 13.) Thus, Barbosa Objectors' claim that the settlement fund should be a greater percentage of Caltrans' overall budget is inaccurate and ignores the evidence, the reality of the state's financial constraints and the myriad of issues that the parties were required to balance in reaching this agreement.

As an ancillary matter, Barbosa Objectors assert that the settlement does not take into account that future Caltrans budgets may increase, as shown by the budget increase in the 2008/2009 fiscal year. Again, this contention ignores the converse; namely, that future budgets could dwindle. Indeed, given the State's budget crisis, Caltrans budget for the 2009/2010 year is $1.3 billion less than the prior year. (Id.) The settlement takes into account the risk of shrinking financial resources and guarantees a minimum level of funding will be allocated to access improvements. No such guarantees presently exist. The Court finds that the Barbosa

[7] Some of the objectors complain that Plaintiffs should have sought damages. The settlement does not bar individual damage claims. In addition, it has been public knowledge since 2006 that Plaintiffs were seeking only injunctive relief. Thus, any complaints that Plaintiffs should have sought damages are untimely.

Objectors' concerns regarding the adequacy of the amount allocated to barrier removal to be unpersuasive.

2. California Walks

This letter is, ostensibly, from an advocacy group that promotes walking. The letter, dated January 27, 2010, is addressed to the Court, but was never filed. California Walks does not object to the settlement. Rather, they request that the settlement include a provision to allocate some of the barrier removal funds to construct "sidewalk gap closures," i.e., to construct new sidewalks to fill in the gap where there are two existing walkways that do not connect.

California Walks' letter was not filed and is not properly before the Court. But even if it were, the Court finds that the concerns expressed therein do not undermine the fairness, adequacy and reasonableness of the settlement. As an initial matter, California Walks does not profess to represent any class members and thus lacks standing to object. See Tarlecki v. bebe Stores, Inc., 2009 WL 3720872 at *1 n.1 (N.D. Cal. Nov. 3, 2009) (Patel, J.). In addition, they fail to cite to any federal or state provision imposing a legal obligation to close sidewalk gaps. (Paradis Decl. ¶ 40.) To the extent that any gaps pose accessibility issues for Class members, they will be rectified under the terms of the settlement. (Settlement Agreement, Ex. 3 ¶ 2.)

3. Arnie & Marilynn Pike

The Pikes submitted separate letters to the Court on February 1, 2010, wherein they complain that the thirty-year compliance period is too long. These objections are identical to those presented by the Barbosa Objectors, and thus, for the same reasons, are overruled.

4. Walter Park

The Court's preliminary approval order expressly alerted the public that to be considered, objections were to be submitted to the Court and Class counsel by no later than March 30, 2010. (Docket 457 ¶ 8.) Park's objection, filed on March 31, 2001, is untimely and need not be considered.

Even if considered on the merits, Park's objections are without merit. First, he argues that a 30-year compliance period is too long. This argument fails for the reasons stated above.

Second, Park contends that Caltrans' information regarding its expenditures are "murky." Again, as set forth above, Plaintiffs and their counsel considered the actual amount of monies available to fund access improvements. Park has presented no evidence to the contrary.

Third, Park claims that future budget projections are "biased" because they are based on the current fiscal crisis. Aside from being unsupported, this assertion fails to take into account the inherent instability of the budget, and the fact that the settlement is intended to account for that uncertainty.

Fourth, Park alleges that the settlement does not require a written transition plan. However, both the Ninth Circuit and this Court have concluded that there is no private right of action to compel a public entity to adopt a transition plan. See Lonberg v. City of Riverside, 571 F.3d 846, 852 (9th Cir. 2009) ("a public entity may be fully compliant with [Section II of the ADA] without ever having drafted a transition plan, in which case, a lawsuit forcing the public entity to draft such a plan would afford the plaintiff no meaningful remedy."); Docket 207 at 12.

Finally, Park claims that the grievance procedure "is not well formed." However, Park's quibbling with navigation features and links on the State's website does not undermine the overall fairness, adequacy and reasonableness of the settlement.

5. Branlett Kimmons

Kimmons' objection was filed on April 16, 2010, and therefore, is untimely. That aside, his objection merely states that he "objects" to all aspects of the settlement without any explanation. He also does not appear to be a Class member, and therefore, has no standing to object. For these reasons, Kimmons' objections, whatever they may be, are overruled.

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IV. CONCLUSION

For the reasons stated above,

IT IS HEREBY ORDERED THAT:

1. The Court, for purposes of this Judgment of Dismissal, Final Order and Decree incorporates by reference the Court's order approving the Settlement Agreement (Docket No. 457).

2. The Court, for purposes of this Order, adopts the terms and definitions set forth in the Settlement Agreement re: Class Action Settlement ("Settlement Agreement").

3. This Court has jurisdiction over the subject matter of this Litigation and over all parties to the litigation and the Plaintiff Settlement Class Members.

4. Defendants consent to the federal court exercising supplemental jurisdiction over Plaintiffs' state law claims for purposes of the Settlement Agreement.

5. The Court hereby dismisses this action, with prejudice and without costs, subject to Paragraphs 6 and 7 below. The terms of the Settlement Agreement are hereby incorporated into this Order.

6. Without affecting the finality of this Order in any way, the Court hereby retains jurisdiction to resolve any dispute regarding compliance with the Settlement Agreement that cannot be resolved through the meet and confer process set forth therein. Any disputes regarding the Settlement Agreement shall be referred to Magistrate Judge Elizabeth LaPorte for Report and Recommendation.

7. Per the parties' agreement, the attorney fee award for past work and future compliance services will be no less than $3.75 million and no more than $8.75 million, and costs are not to exceed $391,477. Plaintiffs' application for an award of attorneys' fees and expenses has been submitted to the Court and referred to Magistrate Judge Maria Elena James for determination, subject to review by this Court upon timely request by either party.

8. The Clerk shall terminate any pending docket matters and close the file.

IT IS SO ORDERED.

Dated: June 2, 2010

SAUNDRA BROWN ARMSTRONG
United States District Judge

APPENDIX B

ACCESS IMPROVEMENTS RELATING TO PEDESTRIAN FACILITIES AND PARK AND RIDE FACILITIES NOT FUNDED BY THE ANNUAL COMMITMENT COMPLETED AS PART OF NEW CONSTRUCTION, ALTERATION, OR CAPITAL PREVENTIVE MAINTENANCE (CAPM) PROJECTS

ACCESS IMPROVEMENTS RELATING TO PEDESTRIAN FACILITIES
AND PARK AND RIDE FACILITIES NOT FUNDED BY THE ANNUAL COMMITMENT
COMPLETED AS PART OF NEW CONSTRUCTION, ALTERATION, OR CAPITAL PREVENTATIVE MAINTENANCE (CAPM) PROJECTS

District	EA	County	Route	Number of Curb Ramps	Linear Feet of Sidewalk	Number Pedestrian Buttons	Description	Program
01	3116U	MEN	253	0	0	0	WIDEN BRIDGES AND UPGRADE RAIL	Bridge Rail replacement/Upgrade
01	38570	MEN	001	0	1968	0	REPLACE BRIDGE SEISMIC RETROFIT - PHASE 2	Bridge Rehabilitation
01	36320	HUM	101	0	0	0	PLACE RUBBERIZED HOT MIX ASPHALT TYPE O AND G AND LIGHTING.	Roadway Rehabilitation (3R)
01	29030	HUM	101	2	754	0	CONSTRUCT INTERCHANGE AND FRONTAGE ROADS 36/101	New Construction
02	0E390	SHA	044	0	0	0	SHOULDER WIDENING	Safety Improvements
02	1E210	TRI	299	0	0	0	REPLACE STRUCTURAL SECTION AND WIDEN ROADWAY WITH HMA OVER AB	Safety Improvements
02	2E080	SIS	096	0	0	0	IMPROVE SUPERELEVATION	Safety Improvements
02	4C94U	SHA	044	0	0	0	IMPROVE CRUVE AND SHOULDER WIDENING	Safety Improvements
02	1E480	SHA	299	2	42	6	INSTALL SIGNALS	Safety Improvements
02	1E440	SHA	273	3	148	6	INSTALL SIGNALS	Safety Improvements
02	39580	SHA	005	2	425	0	REHABILITATE FACILITIES	Safety Roadside Rest Area Rehabilitation
02	39090	LAS	395	0	0	0	CONSTRUCT TURN LANES	New Construction
02	32803	SHA	044	8	9039	8	WIDEN HIGHWAY AND RAMPS	New Construction
02	4C950	TRI	299	8	538	0	TRAFFIC CALMING ELEMENTS SIDEWALK AND LANDSCAPING	New Construction
02	4C580	TEH	099	11	640	7	INSTALL SIDEWALKS, CURB, GUTTERS, DECORATIVE LIGHTING & DRAINAGE	New Construction
03	4E130	BUT	070	0	0	0	UPGRADE GUARD RAIL AND GORE AREAS	Collision Severity Reduction
03	0F520	SAC	099	0	0	0	PLACE OPEN GRADED ASPHALT CONCRETE	Safety Improvements
03	0F530	BUT	191	0	0	0	PLACE HOT MIX ASPHALT	Safety Improvements
03	4C090	ED	049	0	0	0	WIDEN ROADWAY	Safety Improvements
03	3E850	BUT	162	1	0	4	INSTALL TRAFFIC SIGNAL	Safety Improvements
03	1E980	YOL	016	8	0	8	INSTALL TRAFFIC SIGNAL	Safety Improvements
03	3864U	SUT	070	6	80	7	WIDEN AND REALIGN ROADWAY	New Construction
04	44630	SOL	084	0	0	0	REPLACE CACHE SLOUGH FERRY	Bridge Rehabilitation
04	1A250	CC	080	5	950	5	REPLACE BRIDGE	Bridge Seismic Restoration
04	0A781	SCL	009	0	0	0	UPGRADE TRAFFIC BARRIER AND GUARD RAIL TERMINALS	Collision Severity Reduction
04	0A782	SCL	009	0	0	0	UPGRADE GUARD RAIL	Collision Severity Reduction
04	21986	SON	012	0	0	0	CONSTRUCT LEFT-TURN LANES AND REALIGN ROADWAY	Roadway Rehabilitation (3R)
04	27202	SCL	280	11	0	5	REHABILITATE ROADWAY	Roadway Rehabilitation (3R)
04	2A050	SCL	152	0	0	0	CONSTRUCT LEFT TURN POCKET AT PRUNEDALE AVENUE EASTBOUND	Safety Improvements
04	44421	NAP	121	0	0	0	REALIGN CURVES AND WIDEN SHOULDER	Safety Improvements
04	0T14F	SOL	037	0	0	0	HIGHWAY PLANTING AND IRRIGATION	New Construction
04	12063	NAP	029	0	0	0	PLANTING AND IRRIGATION	New Construction
04	1A870	MRN	101	0	0	0	NATIVE PLANT REVEGETATION	New Construction
04	25378	ALA	680	0	0	0	WIDEN BRIDGES AND ROADWAY	New Construction
04	25379	ALA	680	0	183	0	WIDENING AND ROADWAY REHABILITATION	New Construction
04	29492	ALA	024	0	0	0	REALIGN WESTBOUND ROUTE 24 TO NORTHBOUND ROUTE 13 CONNECTOR	New Construction
04	4C15U	SOL	080	0	0	0	ASPHALT CONCRETE OVERLAY	New Construction
04	29493	ALA	024	4	184	4	WIDENING OF ROADWAY	New Construction
05	0F570	SB	192	0	0	0	CONSTRUCT UNDERGROUND DRAINAGE	Collision Severity Reduction
05	0K570	SLO	101	0	0	0	INSTALL METAL BEAM GUARD RAIL	Collision Severity Reduction
05	0L800	MON	001	0	0	0	INSTALL METAL BEAM GUARD RAILING	Collision Severity Reduction
05	0E242	MON	183	0	0	0	HIGHWAY PLANTING	Roadway Rehabilitation (3R)
05	0H190	SLO	101	1	50	0	REHABILITATE ROADWAY	Roadway Rehabilitation (3R)
05	0L220	SLO	001	0	0	0	DRAINAGE IMPROVEMENTS	Safety Improvements
05	0S400	SB	246	0	0	0	PLACE HOT MIX ASPHALT OVERLAY	Safety Improvements
05	0Q420	SB	166	4	0	4	INSTALL TRAFFIC SIGNALS	Safety Improvements

ACCESS IMPROVEMENTS RELATING TO PEDESTRIAN FACILITIES
AND PARK AND RIDE FACILITIES NOT FUNDED BY THE ANNUAL COMMITMENT
COMPLETED AS PART OF NEW CONSTRUCTION, ALTERATION, OR CAPITAL PREVENTATIVE MAINTENANCE (CAPM) PROJECTS

District	EA	County	Route	Number of Curb Ramps	Linear Feet of Sidewalk	Number Pedestrian Buttons	Description	Program
05	46410	MON	101	4	4000	0	REMODEL SAFETY ROADSIDE REST AREAS	Safety Roadside Rest Area Rehabilitation
05	48562	SLO	101	0	0	0	CONSTRUCT AUXILLARY LANES	New Construction
05	40280	SLO	101	12	1950	18	INTERCHANGE IMPROVEMENTS	New Construction
06	0F29U	FRE	168	0	0	0	REPLACE METAL BEAM GUARD RAIL	Bridge Preventative Maintenance
06	32210	KER	166	0	0	0	ASPHALT CONCRETE OVERLAY	Roadway Rehabilitation (3R)
06	41610	MAD	145	0	0	0	ASPHALT CONCRETE OVERLAY	Roadway Rehabilitation (3R)
06	42031	FRE	099	0	0	0	PLANTING AND IRRIGATION	Roadway Rehabilitation (3R)
06	39790	FRE	145	1	0	32	PAVE ROADWAY	Roadway Rehabilitation (3R)
06	0E100	MAD	041	0	0	0	WIDENING ROADWAY	Safety Improvements
06	42630	KER	184	1	165	6	CHANNELIZATION AND SIGNALIZATION	Safety Improvements
06	46300	KER	058	2	1235	0	CONSTRUCT NEW BUILDINGS	Safety Roadside Rest Area Rehabilitation
06	0A980	FRE	005	8	3600	0	CONSTRUCT NEW ROADSIDE REST AREA	Safety Roadside Rest Area Rehabilitation
06	0A710	TUL	063	0	2040	0	BEAUTIFICATIOM MEASURES - SIDEWALK, CURB, GUTTER & TREE WELLS	New Construction
06	34244	FRE	180	0	0	0	HIGHWAY PLANTING AND IRRIGATION	New Construction
06	34243	FRE	180	12	5060	0	CONSTRUCT FREEWAY AND BRIDGES	New Construction
06	30700	TUL	063	38	4464	50	WIDEN ROADWAY TO SIX LANES	New Construction
06	43210	FRE	041	1	90	2	WIDEN RAMPS	Transportation Management System
07	1189A	VEN	150	0	0	0	UPGRADE BRIDGE RAILS *POR/=118991	Bridge Rail replacement/Upgrade
07	1189G	VEN	150	2	80	0	REPLACE BRIDGE *POR/=118991	Bridge Rail replacement/Upgrade
07	23120	LA	039	0	0	0	REPLACE BRIDGE FOUNDATION	Bridge Scour Mitigation
07	19310	LA	005	2	80	0	REHABILITATE PAVEMENT	Long Life Pavement Rehabilitation Corridors (4R)
07	18311	LA	710	4	450	0	REHABILITATE ROADWAY	Long Life Pavement Rehabilitation Corridors (4R)
07	21740	LA	005	0	0	0	WIDEN RAMP	Safety Improvements
07	23961	LA	138	2	500	0	RECONSTRUCT INTERSECTION	Safety Improvements
07	1660U	LA	001	11	5,589	10	WIDEN AND REALIGN ROADWAY	New Construction
07	1294V	LA	060	12	0	0	CONSTRUCT HOV LANE AND SOUNDWALLS *INCL=1294U,12942	New Construction
07	23590	LA	005	0	0	0	CONSTRUCT LITTER REMOVAL DEVICES	Stormwater
07	25850	VAR	000	0	0	0	SLOPE PAVING	Stormwater
08	42220	RIV	78	0	0	0	REPLACE CONCRETE BRIDGE	Bridge Scour Mitigation
08	0E570	SBD	018	0	0	0	REPLACE METAL BEAM GUARD RAILING	Collision Severity Reduction
08	47221	SBD	015	0	0	0	REHABILITATE PAVEMENT	Roadway Rehabilitation (3R)
08	0F780	SBD	138	0	0	0	REALIGN VERTICAL CURVES	Safety Improvements
08	0K640	SBD	018	0	0	0	INSTALL TRAFFIC SIGNALS	Safety Improvements
08	0L780	RIV	371	0	0	0	CONSTRUCT LEFT TURN LANES FENCE TYPE BW METAL BEAM GUARD	Safety Improvements
08	0L810	RIV	371	0	0	0	CONSTRUCT LEFT TURN LANES	Safety Improvements
09	31060	INY	000	0	0	0	REMODEL SHOP FACILITIES	Equipment Facilities
09	30070	MNO	395	1	320	0	REHABILITATE ROADSIDE REST AREA	Safety Roadside Rest Area Rehabilitation
09	32710	MNO	395	0	0	0	INSTALL WILDLIFE CROSSINGS	New Construction
09	34510	INY	168	0	0	0	SHOULDER WIDENING	New Construction
09	33380	INY	190	2	310	0	CONSTRUCT SCENIC OVERLOOK	New Construction
09	2144U	INY	395	38	8970	0	WIDEN TO FOUR-LANE EXPRESSWAY	New Construction
10	44420	ALP	088	0	0	0	CONSTRUCT TWO NEW BUILDINGS	Maintenance Facilities
10	28320	SJ	004	0	0	0	WIDEN HIGHWAY	Roadway Rehabilitation (3R)
10	37930	CAL	012	0	0	0	PAVEMENT REHABILITATION	Roadway Rehabilitation (3R)
10	3A650	STA	132	105	1032	63	REHABILITATE PAVEMENT	Roadway Rehabilitation (3R)
10	0H320	TUO	108	0	0	0	TWO-WAY LEFT TURN CHANNELIZATION	Safety Improvements

ACCESS IMPROVEMENTS RELATING TO PEDESTRIAN FACILITIES
AND PARK AND RIDE FACILITIES NOT FUNDED BY THE ANNUAL COMMITMENT
COMPLETED AS PART OF NEW CONSTRUCTION, ALTERATION, OR CAPITAL PREVENTATIVE MAINTENANCE (CAPM) PROJECTS

District	EA	County	Route	Number of Curb Ramps	Linear Feet of Sidewalk	Number Pedestrian Buttons	Description	Program
10	0J150	TUO	049	0	0	0	REALIGN ROADWAY AND WIDEN SHOULDERS	Safety Improvements
10	0N440	STA	108	0	0	0	INSTALL SIGNALS	Safety Improvements
10	0N980	SJ	026	0	0	0	INSTALL TRAFFIC SIGNALS'	Safety Improvements
10	04995	AMA	049	0	0	0	PLANTING AND IRRIGATION	New Construction
10	41481	MER	099	0	0	0	CONSTRUCT FREEWAY AND BRIDGES	New Construction
10	2A770	STA	099	36	1650	48	RECONSTRUCT INTERCHANGE	New Construction
11	08164	SD	805	5	400	3	CONSTRUCT SOUTHBOUND AUX LANES	Operational Improvements
11	27490	SD	078	0	0	0	RUBBERIZED HOT MIX ASPHALT OVERLAY	Pavement Preservation (CAPM)
11	28660	SD	008	4	0	2	MODIFY INTERSECTION	Safety Improvements
11	16788	IMP	078	0	0	0	CONSTRUCT FOUR-LANE EXPRESSWAY AND INTERCHANGE - (STAGE 2)	New Construction
11	2T091	SD	015	9	912	2	CONSTRUCT MANAGED LANES - SOUTH SEGMENT	New Construction
11	09182	SD	905	20	13953	20	CONSTRUCT NEW FREEWAY - PHASE 1A	New Construction
11	01061	SD	052	12	2969.84	6	CONSTRUCT FOUR-LANE FREEWAY	New Construction
11	2T000	SD	052	0	239.5	0	CONSTRUCT FREEWAY AND INTERCHANGE	New Construction
11	2T010	SD	052	4	1429.16	4	TO CONSTRUCT A FOUR LANE DIVIDED FREEWAY.	New Construction
12	0G030	ORA	057	0	0	0	REPLACE METAL BEAM GUARD RAIL	Collision Severity Reduction
12	08510	ORA	39	97	20.5	109	REHABILITATE PAVEMENT	Roadway Rehabilitation (3R)
12	0H550	ORA	005	0	0	0	SIGNING AND STRIPING	Safety Improvements
12	0H950	ORA	055	0	0	0	INSTALL CONCRETE BARRIERS	Safety Improvements
12	0J570	ORA	405	0	0	0	ASPHALT CONCRETE OVERLAY	Safety Improvements
12	0K270	ORA	133	0	0	0	HOT MIX ASPHALT OVERLAY	Safety Improvements
12	0K550	ORA	022	0	0	0	BRIDGE DECK OVERLAY	Safety Improvements
12	0E250	ORA	055	0	0	0	WIDEN ROADWAY WITH HOT MIX ASPHALT PAVEMENT	New Construction
12	10167	ORA	005	39	6149	32	RECONSTRUCT AND WIDEN FREEWAY	New Construction
				Number of Curb Ramps	**Linear Feet of Sidewalk**	**Number Pedestrian Buttons**		
				560	82659	471	TOTAL	

APPENDIX C

CONSTRUCTION PROGRAM DIRECTIVE 11–1 AND THE *TEMPORARY PEDESTRIAN FACILITIES HANDBOOK* APRIL 2011

State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

Flex your power!
Be energy efficient!

To: DEPUTY DISTRICT DIRECTORS, Construction
DEPUTY DIVISION CHIEF, Structure Construction
CONSTRUCTION MANAGERS
SENIOR CONSTRUCTION ENGINEERS
RESIDENT ENGINEERS

Date: April 5, 2011

File: Division of Construction
CPD 11-1

From: MARK LEJA
Chief
Division of Construction

Subject: ADA Requirements for Temporary Pedestrian Facilities

The Department of Transportation (Caltrans) recently settled a class action lawsuit stemming from evolving changes in the Americans with Disabilities Act (ADA) as well as other state codes and federal laws and regulations. As a result, the Division of Construction has developed guidelines for dealing with ADA requirements for temporary pedestrian facilities through Caltrans construction zones. The guidelines provide resident engineers with the tools needed to assure compliance and should be distributed to field staff.

Caltrans will work to ensure that pedestrians with disabilities have access to temporary routes provided through and around work zones and has implemented the following:

- The *Construction Manual*, revised in March 2011, requires that pre-construction meetings with the contractors include a discussion about work zones, including temporary routes. The discussion will address how the contractor will comply with requirements in the *California Manual on Uniform Traffic Control Devices* (CA MUTCD) Part 6, Chapter 6D. Contractors' participation in these pre-construction meetings will acknowledge that they have reviewed and understand those requirements.

- The Design Information Bulletin 82-04, "Pedestrian Accessibility Guidelines for Highway Projects," revised on August 18, 2010, requires that CA MUTCD Part 6, Chapter 6, "Pedestrian and Worker Safety," be followed when temporary routes are provided. You can find the revised DIB 82-04 online at www.dot.ca.gov/hq/oppd/dib/dib82-04.pdf.

- The *Temporary Pedestrian Facilities Handbook* for field staff summarizes how to accommodate pedestrians with disabilities. It references and is consistent with Part 6 of the CA MUTCD. The handbook is attached to this directive and is available online:

  http://www.dot.ca.gov/hq/construc/safety/

- The Division of Construction Capital Project Skills Development group is working on computer-based training, projected to be available May 2011. The training, consistent with the *Temporary Pedestrian Facilities Handbook*, is for personnel responsible for developing, approving, and implementing work zones, including temporary routes for use by the public. The group is also developing modules for the Resident Engineer Academy and the Construction Traffic Management class.

If you have questions or comments about this construction procedure directive, please contact Celso Izquierdo, Division of Construction, at Celso_Izquierdo@dot.ca.gov or (916) 654-5627.

Attachment: *Temporary Pedestrian Facilities Handbook*

TEMPORARY PEDESTRIAN FACILITIES HANDBOOK

Caltrans

April 2011

This handbook is for informational purposes only.

NOTE: The information is for workers in the field for accommodation of pedestrians with disabilities through and around work zones.

April 2011

Introduction

Caltrans maintains safe and convenient access for users of its roads and highways. The needs and control of road users are an essential part of highway construction, utility work, maintenance operations, and management of traffic incidents through a temporary traffic control zone. We have developed this handbook to help field staff accommodate pedestrians—including persons with disabilities, as described in the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG)—through and around work zones.

Related Caltrans Standards

- Section 7-1.02A, "General," of the 2010 *Standard Specifications* requires the contractor to comply with current laws, regulations, and decrees.
- Section 7-1.04, "Public Safety," requires that the contractor provide for the safety of the public during construction.
- Section 12, "Maintaining Traffic," directs the contractor's attention to the *California Manual on Uniform Traffic Control Devices* (CA MUTCD).
- Standard Special Provision 12-150, "Maintaining Traffic," requires the contractor to maintain pedestrian access.

If the contractor's operation requires the closure of one accessible pedestrian facility, provide a travel path that replicates, if possible, the most desirable characteristics of the existing walk way. Take special care to consider areas in school or senior citizen center locations.

When affected by construction, the contractor should maintain a continuous unobstructed path connecting all existing accessible elements (parking lots, bus stops) through the project.

Provide advanced notification of sidewalk closures.

Keep pedestrian facilities clear of obstructions. Traffic control devices, equipment and other construction materials and features must not intrude into the usable width of the sidewalk, temporary pathway, or other pedestrian facility. Signs and other devices mounted lower than seven feet above the temporary pedestrian pathway should not project more than four inches into accessible pedestrian facilities.

In addition to required openings through falsework, provide accessible pedestrian facilities during pile driving, footing, wall, and other bridge construction operations where an accessible route was available before construction began.

Provide hand railings on each side of pedestrian walkways as necessary to protect pedestrian traffic from hazards from construction operations. Maintain railings and walkways in good condition.

Provide protective overhead covering as necessary to ensure protection from falling objects and dripping from overhead structures.

The resident engineer may require a pedestrian traffic handling plan if the affected facility is not identified in the contract plans. The contractor is responsible for accommodating pedestrians through the temporary traffic control (TTC) whenever the work disrupts pedestrian facilities.

California MUTCD Requirements

The following three items should be considered when planning for pedestrians in TTC zones:

- ✓ Pedestrians should not be led into conflicts with work site vehicles, equipment, and operations.
- ✓ Pedestrians should not be led into conflicts with vehicles moving through or around the work site.
- ✓ Pedestrians should be provided with a reasonably safe, convenient, and accessible path that replicates as nearly as practical the most desirable characteristics of the existing sidewalk(s) or footpath(s).

Do not sever or move a pedestrian route for non-construction activities such as parking for vehicles and equipment.

Place a barrier detectable by a person with a visual disability traveling with the aid of a long cane across the full width of the closed sidewalk they would normally use.

Unless a reasonably safe route that does not involve crossing the roadway can be provided, advance signing should appropriately direct pedestrians to cross to the opposite side of the roadway. In urban and suburban areas with high vehicular traffic volumes, place these signs at intersections. Midblock work sites should not induce pedestrians to attempt skirting the work site or make a midblock crossing. (See Figures 1 and 2 on the next page.)

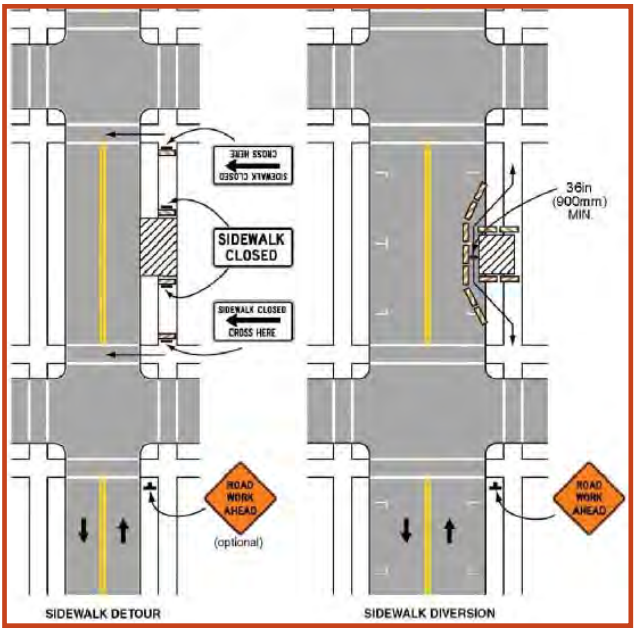


Figure 1 Sidewalk Detour or Diversion

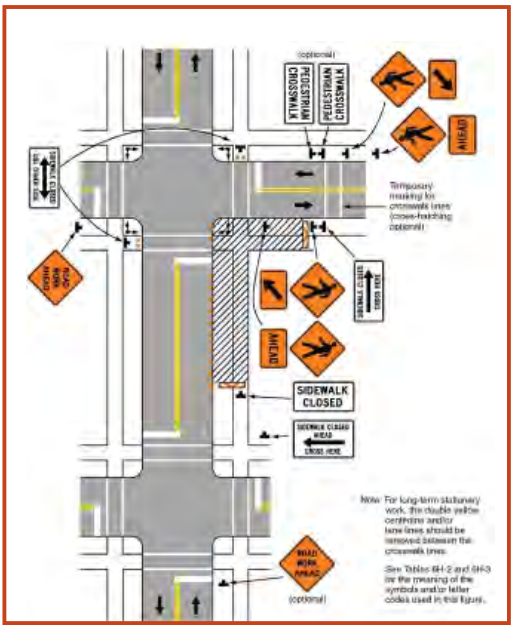


Figure 2 Crosswalk Closures and Pedestrian Detours

Consider separating pedestrian movements from both work site activity and vehicular traffic. When pedestrians are routed adjacent to live traffic, provide barrier protection to prevent vehicles from entering the pedestrian facility.

Do not use tape, rope, or plastic chain strung between devices as controls for pedestrian movements. They are not readily detectable.

Where barricades channel pedestrians, use continuous detectable bottom and top rails with no gaps between individual barricades for users of long canes. The bottom of the bottom rail must be no higher than six inches above the ground surface. The top of the top rail must be at least 36 inches above the ground. Refer to Part 6, Sections 6F.58 and 6F.63 of the California MUTCD.

If drums, cones, or tubular markers channel pedestrians, locate them so no gaps exist between the bases of the devices to create a continuous bottom. The height of each drum, cone, or tubular marker must be no less than 36 inches to be detectable to users of long canes. Refer to Part 6, Sections 6F.58, 6F.59, 6F.60, and 6F.62 of the California MUTCD.

Whenever feasible, temporary pedestrian facilities should follow the ADA checklist later in this handbook. Document the reasons why an item does not.

Permanent Facilities

Construct permanent new facilities and alterations to existing facilities according to the contract plans and specifications.

Additional resources for consideration:

- Caltrans Design Information Bulletin 82-04, “Pedestrian Accessibility Guidelines for Highway Projects,” which addresses requirements for new construction and alterations of existing facilities.
- Standard Plans A88A, A88B, A90A, A90B, ES-4C, ES-5C, and ES-7A
- Contact the district design unit to develop plans for any permanent facility to be added by contract change order.

During the inspection process, check that all contractor-installed finished elements comply with dimensions and installation requirements. Check all slopes using a smart level at least two feet long.

Do not exceed any of the maximums shown in the requirements. They are absolute.

ADA Checklist

Whenever feasible, temporary pedestrian facilities should follow this ADA checklist. Document the reasons why item does not.

Accessible Route Basics

- ☐ The path must be stable, firm, and slip resistant. Pedestrian facilities must be surfaced with asphalt concrete, portland cement concrete or timber. Dirt is not an acceptable surface.

- ☐ The surface should be smooth and continuously hard throughout the entire length of the temporary pedestrian facility. No curbs or abrupt changes should exist in grade or terrain that could cause tripping or be a barrier to wheelchair use.

- ☐ Surface discontinuities must not exceed a ½ inch maximum. Vertical discontinuities between ¼-inch to ½ inch should be beveled at a maximum of 2:1 or flatter, and bevels should be constant across the entire level change. New surfaces must not have vertical surface discontinuities. Curb ramps, landings, and gutter areas must not have surface discontinuities. (See Figure 3 below.)

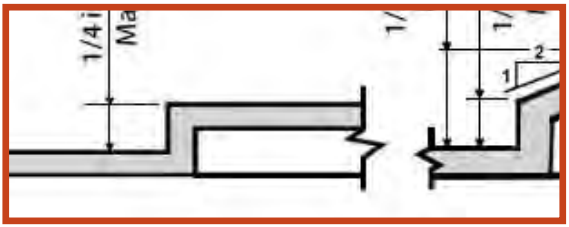


Figure 3 Surface Discontinuities

- ☐ On pedestrian access route joints and gratings, surface openings must not permit passage of a sphere more than 1/2 inch. Place horizontal surface openings so that the long dimension is perpendicular to the dominant direction of wheelchair travel.

- ☐ The cross slope must be no greater than 1:50 (2 percent).

- ☐ The running slope must be no greater than 1:20 (5 percent). Otherwise, meet the ramp requirements discussed below.

- Maintain a width of 60 inches throughout the pedestrian pathway. (See Figure 4 below.)

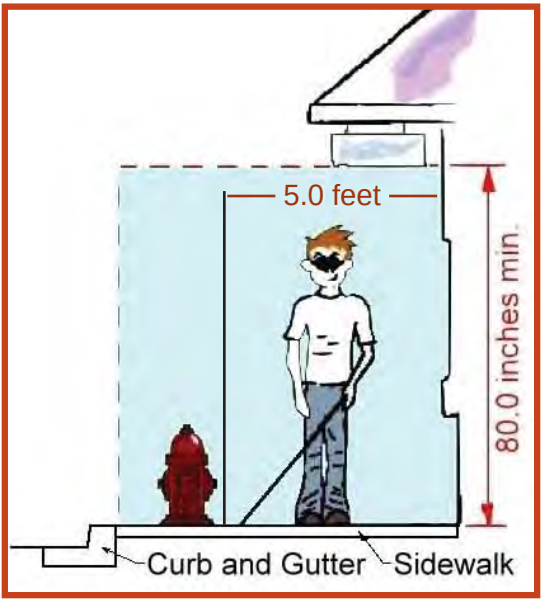


Figure 4 Pedestrian Path Width

- When it is not possible to maintain a width of five feet, provide a 60 x 60-inch passing space at least every 200 feet to allow individuals in wheelchairs to pass. (See Figure 5 below.)

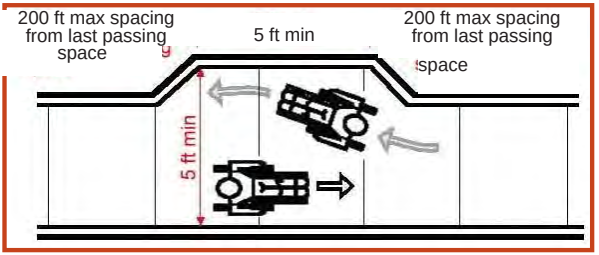


Figure 5 Passing Space

- The path must have a clear width of no less than 48 inches. Verify that no fixed objects (cabinets, poles, and so forth) will reduce the path width at any point. (See Figure 6 below.)

Figure 6 Minimum Path Width

- Objects must not protrude into the path. Check with the project engineer for exceptions.
- Signs and other devices mounted lower than seven feet above the temporary pedestrian pathway should not project more than four inches into accessible pedestrian facilities Refer to Part 6, Section 6D.02 of the California MUTCD. (See Figure 7 below.)

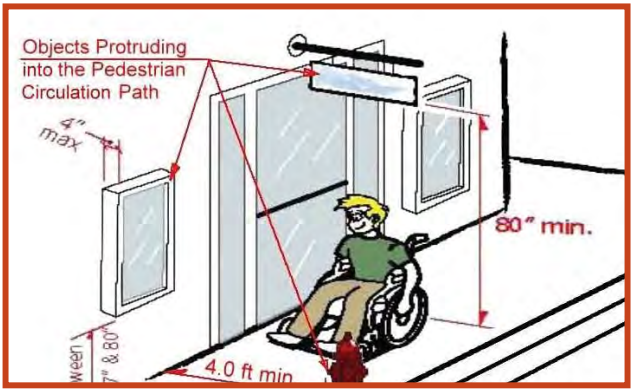


Figure 7 Protruding Objects

- Vertical clearance must be 80 inches.

- If the path requires a 180-degree turn, the turning pad must be at least 60 inches deep. (See Figure 8 below)

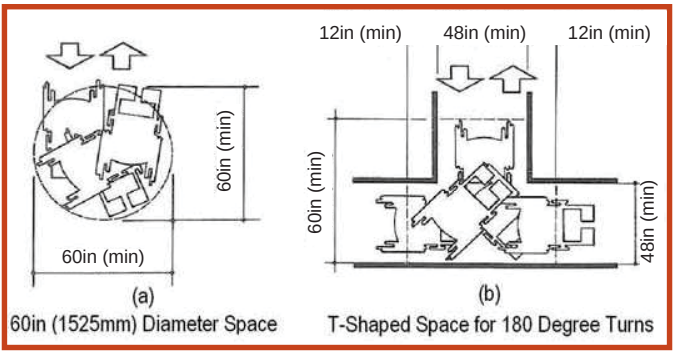
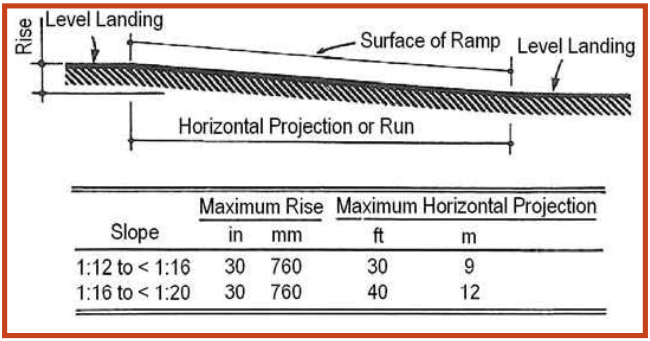


Figure 8 (ADAAG) Wheelchair Turning Space

- Provide access to nearby temporary transit stops.
- Pedestrians with disabilities may need temporary nighttime lighting. Refer to contract plans and specifications for requirements.

Ramps

- The cross slope must be no greater than 1:50 (2 percent).
- The running slope must be no greater than 1:12 (8.33 percent).
- Each ramp must have level landings at the bottom and top. A landing must be as wide as the run leading to it and have a minimum length of 60 inches. (See Figure 9 below.)



Slope	Maximum Rise in	Maximum Rise mm	Maximum Horizontal Projection ft	Maximum Horizontal Projection m
1:12 to < 1:16	30	760	30	9
1:16 to < 1:20	30	760	40	12

Figure 9 (ADAAG)
Components of a Single Ramp
and Sample Ramp Dimensions

- Ramps must have hand railings, and edge protection.

Curb ramps to be constructed on sites or facilities where space limitations prohibit the use of a 1:12 slope or less may have slopes and rises as follows:

- A slope between 1:10 and 1:12 is allowed for a maximum rise of 6 inches.
- A slope between 1:8 and 1:10 is allowed for a maximum rise of 3 inches.

A slope steeper than 1:8 is not allowed.

Scaffolding

- Keep pedestrian facilities clear of obstructions. Traffic control devices, equipment, and other construction materials and features must not intrude into the usable width of the sidewalk, temporary pathway, or other pedestrian facility. Signs and other devices mounted lower than seven feet above the temporary pedestrian pathway should not project more than four inches into accessible pedestrian facilities.
- In addition to required openings through falsework, provide accessible pedestrian facilities during pile driving, footing, and wall and other bridge construction operations where an accessible route was available before construction began.
- Provide hand railings on each side of pedestrian walkways as necessary to protect pedestrian traffic from construction operations hazards. Maintain railings and walkways in good condition.
- Provide necessary protective overhead covering to ensure protection from falling objects and dripping from overhead structures.

Pedestrian Signal Buttons

- The pedestrian signal button must have an unobstructed forward reach. For the height of the button, refer to the Standard Plans. (See Figure 10 below.)

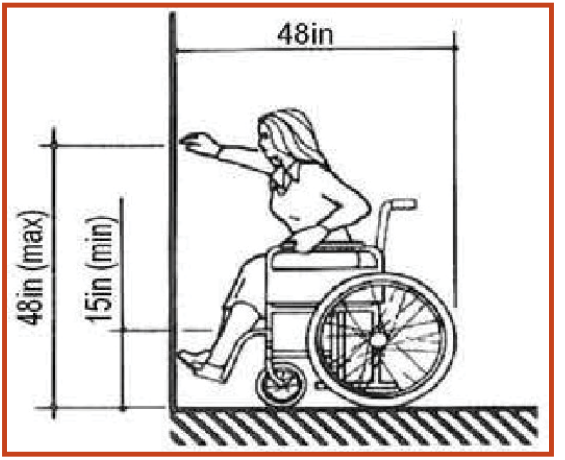


Figure 10 (ADAAG) High Forward Reach

- If the pedestrian button requires a side reach, obstructions at bottom cannot extend more than 24 inches from base. For the height of button, refer to the standard plans (See Figure 11 below.)

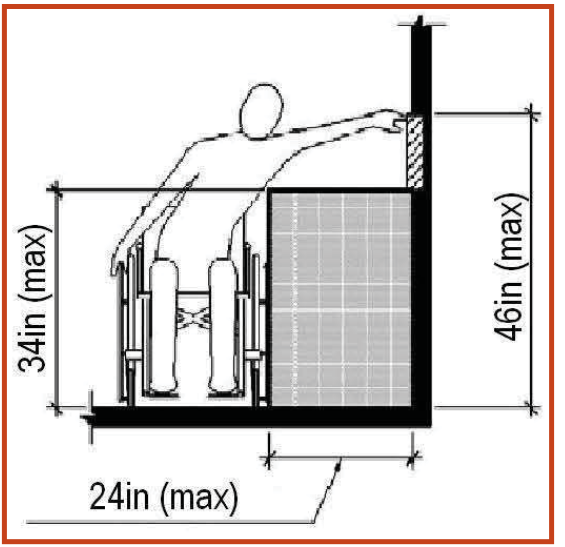


Figure 11 (ADAAG) High Side Reach

Audible Alerts

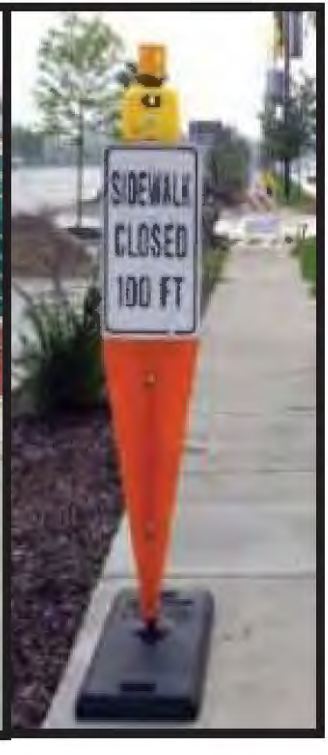
A wide range of pedestrians might be affected by temporary traffic control (TTC) zones, including the young, elderly, and people with disabilities such as hearing, visual, or mobility. These pedestrians need a clearly delineated and usable travel path.

- A speech message by an audible information device is the most desirable way to provide information equivalent to visual signage for notification of sidewalk closures to pedestrians with visual disabilities.

Devices that provide speech messages in response to passive pedestrian actuation are the most desirable. Other devices that continuously emit a message or a message in response to use of a pushbutton are also acceptable. Signage information can also be transmitted to personal receivers, but currently pedestrians with visual disabilities are not likely to carry or use such receivers in TTC zones.

- Audible information devices might not be needed if detectable channelizing devices make an alternate route of travel evident to pedestrians with visual disabilities.

- A pushbutton used to provide equivalent TTC information to pedestrians with visual disabilities should be equipped with a locator tone to notify them that a special accommodation is available and help them locate the pushbutton.


SIDEWALK
CLOSED
100 FT

APPENDIX D

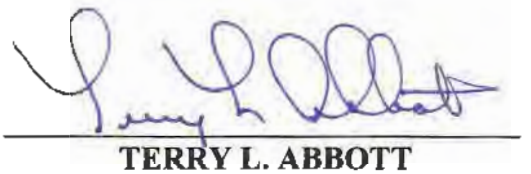
DESIGN INFORMATION BULLETIN 82-04
"PEDESTRIAN ACCESSIBILITY GUIDELINES FOR HIGHWAY PROJECTS"
AUGUST 18, 2011

DESIGN INFORMATION BULLETIN NUMBER 82-04

Department of Transportation
Division of Design
Office of Geometric Design Standards

PEDESTRIAN ACCESSIBILITY GUIDELINES FOR HIGHWAY PROJECTS

APPROVED BY:



TERRY L. ABBOTT
DIVISION CHIEF
DIVISION OF DESIGN

August 18, 2010

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1.0 BACKGROUND

The Americans with Disabilities Act (ADA) of 1990, along with its implementing regulations, and the California Government Code Sections 4450 et seq. prescribe that facilities shall be made accessible to persons with disabilities. To comply with the ADA, the Federal Highway Administration (FHWA) has recommended that the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) shall apply to the design of the California Department of Transportation (Department) facilities. Although the current ADAAG is not specifically written for public rights-of-way projects, some of the ADAAG provisions can apply to the highway environment and are included in this Design Information Bulletin (DIB).

In addition to ADAAG, other Federal documents on designing accessible pedestrian facilities in public rights-of-way were used to develop this DIB. For example, the publication Designing Sidewalks and Trails for Access is referred to several times and is available on the Internet at: www.fhwa.dot.gov/environment/bikeped/tranmemo.htm. Also, certain portions of the Draft Guidelines for Public Rights-of-Way (DGPROW) released by the US Access Board are used in this DIB.

Title 24 of the California Code of Regulations (Title 24) is similar to the ADAAG in that it prescribes accessibility design standards for the State of California; in Part 2, the California Building Code. The Department of General Services - Division of the State Architect (DSA) oversees California Building Code compliance; however, for transportation facilities on the State highway system, the Department (in addition to DSA) is authorized to certify, on a project-by-project basis, that a project complies with State pedestrian accessibility design standards. Rail and transit stations are the exception. Rail and transit stations are to be reviewed and require an approval from DSA that they comply with the State pedestrian accessibility code.

Please note, this DIB has been written to provide general design guidance on how to comply with the various Federal laws and State codes on pedestrian accessibility. The accessibility "requirements" typically associated with projects constructed in public rights-of-way have been presented in this DIB as "accessibility design standards" only to facilitate the creation of Departmental processes and procedures. It is not the intent of this DIB to discuss all of the various Federal laws and State codes that apply to making buildings and public facilities accessible; nor is it the intent of this DIB to diminish the importance of and the requirement to comply with those accessibility standards not specifically mentioned in this DIB and as may be required on a project-by-project basis. See Section 3.1 of this DIB for further guidance on the review process for projects.

2.0 DEFINITIONS

The following words and phrases that are shown in bold text are used in this DIB and are defined as shown. As appropriate, reference documents are mentioned within the brackets to indicate the source of the definition.

Accessible Route: A continuous, unobstructed path connecting all accessible elements and spaces of a building or facility [ADAAG].

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

Facility: All or any portion of buildings, structures, improvements, elements, and pedestrian or vehicular routes located in a public right-of-way [DGPROW].

Historic Property/Historical Resources: Under Federal law [36 CFR 800.16(l)] the term used is "Historic Property" and includes any building, structure, site, object or district that is listed in or eligible for listing in the National Register of Historic Places.

Under State law [CEQA Guidelines 15064.5 and California Public Resources Code 5020] the term used is "Historical Resources" and includes any building, structure, site, object or district that meets one of the following:

- Listed in or eligible for listing in the National Register of Historic Places,
- Listed in or eligible for listing in the California Register of Historical Resources,
- Has been identified as significant for purposes of the California Environmental Quality Act (CEQA) by the lead agency because it meets the eligibility criteria of the California Register,
- Is listed in a local register of historical resources or has been identified as significant in an historical resource survey meeting the California Office of Historic Preservation's standards.

Path or Pathway: A track or route along which people are intended to travel [*Designing Sidewalks and Trails for Access*].

Pedestrian: A person who travels on foot or who uses assistive devices, such as a wheelchair, for mobility [*Designing Sidewalks and Trails for Access*]. This includes a person with a disability.

Person with Disability: An individual who has a physical impairment, including impaired sensory, manual or speaking abilities, that results in a functional limitation in gaining access to and using a building or facility [California Code of Regulations Title 24].

Public Right-of-Way: Public land or property, usually in interconnected corridors, that is acquired for or devoted to transportation purposes [DGPROW].

Sidewalk: A surfaced pedestrian way contiguous to a street used by the public [California Code of Regulations Title 24]. Also, see the discussion in Section 4.3.1, "Surface" of this DIB.

State Highway: A traversable highway adopted as or designated in the Streets and Highways Code as a state highway.

Structurally Impracticable: Rare circumstances when the unique characteristics of terrain or the potential of removing or altering a load-bearing structure prevent the incorporation of accessibility features [ADAAG].

Technically Infeasible: An alteration that has little likelihood of being accomplished because existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility [ADAAG].

Transition Plan: The Department's written commitment to accomplish ADA compliance in its services, programs, and activities. Modifications to the State highway infrastructure is part of the commitment.

Vehicular Way: A route intended for vehicular traffic, such as a street, driveway, or parking lot [ADAAG].

Walk or Walkway: An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts [ADAAG].

3.0 PROCEDURES

3.1 Applicability and Review Process

Every highway project (Capital and Maintenance; including all Encroachment Permit projects) within the State highway right-of-way, regardless of the project sponsor, that proposes to construct pedestrian facilities [See Section 4.1], must be designed in accordance with the policies and standards of this DIB. Documentation of project compliance with this DIB will be at Ready-to-List (RTL) Certification (by checking the appropriate box on Section 4c of the RTL Certification Form), or at encroachment permit issuance, whichever is applicable. If it is found that an accessibility design standard cannot be fully incorporated in a design, an accessibility design exception will be required. For an accessibility design exception to be approved, it will be necessary to document that, in the case of alterations to existing facilities, it is technically infeasible to do so because existing physical structural conditions would require removing or altering a load-bearing member which is an essential part of an existing structure; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility. For new construction, the accessibility design standard must be structurally impracticable and only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of the accessibility standard. Approval of accessibility design exceptions shall occur prior to approval of the project initiation document or as soon as the recommended alternative is identified. Accessibility design exceptions shall be submitted, using the Exception to Accessibility Design Standards document format [See Attachment], to the Design Reviewer for comments and are ultimately approved by the Design Coordinator. The Division of Engineering Services – Office of Transportation Architecture (OTA) will determine the compliance with accessibility design standards related to building projects. Please note, the external site work not part of the building PS&E will be subject to the procedures in this DIB. OTA will provide ADA site design assistance for the Districts on building projects that they are responsible for designing.

3.2 Rail and Transit Stations

Approval authority for accessibility design of rail and transit stations rests with DSA and must occur by RTL or encroachment permit issuance. The appropriate filing fees [See Section 3.2.1] and a completed application form [See www.documents.dgs.ca.gov/dsa/forms/DSA-1_08-23-04.pdf] need to be transmitted to DSA along with the title sheet and pertinent project plans that show the details of the rail or transit station facilities being altered or newly constructed. DSA's office locations are listed on their website at www. dsa.dgs.ca.gov/ContactDSA/default.htm. An Exception to Accessibility Design Standards document [See Attachment] must also be submitted as supplemental information when an exception is being requested to the accessibility design standards listed in Section 4.3 of this DIB. The DSA Regional Office will need to be contacted to discuss these details and confirm their specific requirements. Early submittal to DSA is recommended once enough design information, such as layouts, cross sections, profiles, construction details, etc. are developed and it is certain that the pedestrian facility design will not change. In the event of disagreement with the DSA Regional Office, DSA has an appeal process, which may invoke the involvement with their Headquarters DSA Office; the Headquarters Division of Design ADA Technical Specialist should be contacted immediately to assist with the negotiations and to contact the FHWA California Division Office for their assistance in resolving the issue(s). The DSA Regional Office review process is expected to take between 30 and 60 days from application submittal until receipt of their approval letter. Approval letters will be sent by DSA to the Project Engineer for incorporation into the project history files. DSA will stamp copies of the plan sheets that have been sent to them for their use during the project review and will retain them for their records.

3.2.1 Filing Fees for Rail and Transit Station Projects

Filing fees are to be calculated according to the fee schedule as prescribed in Part 1, Title 24, Chapter 5, Article 1, Section 5-104 of the *California Building Code* - -

> "The filing fee for project applications is 0.2 percent of the first $500,000 of estimated construction cost, plus 0.1 percent of the estimated cost between $500,000 to $2,000,000, plus 0.01 percent of the estimated cost over $2,000,000. The minimum fee in any case is $200.00."

The DSA website provides a fee calculator to determine the filing fee. The Internet site address for the DSA fee calculator is: www.applications.dgs.ca.gov/dsa/eTrackerWeb/Calinput.asp. The fees to be paid by the Department can be authorized by completing the "Request for Revolving Fund Check" form (FA-0017). This form should indicate that the "Vendor" is DSA and that the expenditure is to be charged against the Project EA and the appropriate Agency Object Code. The check can be mailed directly to the DSA Regional Office, if requested on the form. On the form, under "Purpose," indicate that this payment is for the DSA filing fee and reference the District and EA. The District and EA will then be referenced on the check for identification purposes. The completed form FA-0017 should then be mailed to Mail Station 25 (MS 25) or faxed (916-227-8766) to the Division of Accounting, Service Payables Branch, Alpha G. The completed DSA application form for the project must be sent with this form to substantiate payment. It is anticipated that it should not take more than 5 working days to obtain this check.

4.0 DESIGN GUIDANCE AND BEST PRACTICES FOR PEDESTRIAN FACILITIES

4.1 Pedestrian Accessibility

All pedestrian facilities on all projects are to be accessible in accordance with State and Federal laws. The following guidance and best practices are an attempt to capture the lessons learned through the years since the passage of the ADA and to document the Federal and State regulatory standards that apply. Early consultation with the Design Reviewer or Design Coordinator is recommended to discuss pedestrian accessibility issues and their resolution. In addition, for safety roadside rest facilities, vista points, and park and ride facilities, early consultation is recommended with the Landscape Architecture Program District Coordinator.

4.1.1 New Construction

Federal regulations require that each facility or part of a facility constructed on State right-of-way shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities.

4.1.2 Alterations

Federal regulations require that each facility or part of a facility altered in the State right-of-way in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities.

Where existing elements or spaces are altered, each altered element or space within the limits or scope of the project shall comply with the applicable requirements for new construction to the maximum extent feasible. The limits of the project refers to the work that will physically impact a pedestrian feature and the scope of the project refers to the work on a pedestrian feature identified in the project initiation document or the project report.

The following types of highway work are considered to be alterations of existing facilities:

1. Pavement focused (2R) and resurfacing, restoration, and rehabilitation (3R) work needs to be evaluated for pedestrian accessibility and comply with the guidance in Section 4.1.3 of this DIB. When determining the scope of a 2R and 3R project, the curb ramps immediately adjacent to the 2R and 3R pavement work are assumed to be within the scope of the project. For additional guidance see DIB 79 – "Design Guidance and Standards for Roadway Rehabilitation Projects [Pavement Focused (2R) and Resurfacing, Restoration, and Rehabilitation (3R) Projects] . . .".
2. Traffic signalization work that will physically impact or is scoped to address sidewalks, curb ramps and crosswalks are to comply with the pedestrian accessibility guidance in this DIB.
3. Any other work that will physically impact or is scoped to address a pedestrian facility requires that the pedestrian facilities comply with the pedestrian accessibility guidance in this DIB.

Preventive maintenance and routine maintenance work are not considered alterations. Preventive maintenance and routine maintenance projects may be designed following the guidance in this DIB, but they are not required to unless the work physically affects a pedestrian facility. However, Capital Preventive Maintenance (CAPM) projects [see DIB 81 – "Capital Preventive Maintenance (CAPM) Guidelines"] must be evaluated for pedestrian accessibility and comply with the guidance in Section 4.1.3 of this DIB.

4.1.3 Accessibility Requirements on 2R, 3R, and CAPM Projects

The accessibility needs of the communities and highway users, in particular the needs of users with disabilities, need to be considered on each 2R, 3R, and CAPM project. Early stakeholder participation, as appropriate, to identify accessibility deficiencies is recommended.

2R and 3R projects require reconstructing the affected existing pedestrian facilities to the accessibility design standards discussed in this DIB (see Section 4.3) to the maximum extent feasible, unless doing so is shown to be "technically infeasible" (see Section 2.0 "Definitions"). The Design Coordinator must agree with the finding that the work is technically infeasible and then approve a supporting Exception to Accessibility Design Standards document. Cost cannot be a consideration in justifying technically infeasible. On CAPM projects that are adjacent to existing sidewalks within the State highway right-of-way where curb ramps do not currently exist (at any intersection having curbs from a street level pedestrian walkway) new curb ramps shall be installed. On CAPM projects that are adjacent to existing sidewalks within the State highway right-of-way with existing curb ramps, the curb ramps must be evaluated and upgraded where necessary to meet the accessibility design standards discussed in this DIB (see Section 4.3).

Any pedestrian facility work that needs to be completed outside of the scope of a 2R, 3R, or CAPM project should be added to the Transition Plan through the following process. The pedestrian facility needing accessibility improvements must be specifically identified and documented by memorandum to the project history file. The District ADA Coordinator needs to be contacted and involved in submitting this information to the Headquarters Division of Civil Rights. The District ADA Coordinators (Liaisons) are identified on the Department's Intranet site at: http://onramp.dot.ca.gov/eo/eo_ada.htm. Externally sponsored work that is not being designed by the Department is not exempt from this requirement. The Department representative that is working with the external sponsor for the work is required to contact the District ADA Coordinator and assist them in submitting any work to the Headquarters Division of Civil Rights for inclusion in the Department's Transition Plan.

4.1.4 Minimum Accessibility

Newly constructed or altered (see Section 4.1.2) streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

To the maximum extent feasible, at least one accessible route must be provided from one facility to another. If a more direct route exists that is not an accessible route, the accessible route must be in the same vicinity as the other route.

Whether the project is for new construction, for an alteration of an existing facility, or a CAPM project, full compliance with the design standards contained herein are not required where it can be demonstrated that it is structurally impracticable (for new construction) or technically infeasible (for alterations and CAPM projects) to meet the requirements. Any portion of the new facility that can be made accessible to persons with disabilities shall comply to the extent that it is not structurally impracticable. Also, any elements or features of the facility that are being altered and can be made accessible shall be made accessible within the scope of the alteration.

4.1.5 Historic Preservation

In meeting the aforementioned requirements of "Minimum Accessibility," a design that would alter or destroy the historic significance of a historic property/historical resource should not be constructed. Historic property/historical resource is any property listed or eligible for listing in the National Register of Historic Places, or properties designated as historic under State or local law. In order to comply with Public Resources Code 5024 and CEQA, the District Heritage Resources Coordinator should be contacted as early as possible in the planning process in order to initiate the required consultation. Non-construction strategies may be an option. See Section 4.1.6, "Program Accessibility" of this DIB.

The fourth item under Section 4.3.7 in this DIB may be used to maintain historic preservation of a historic property/historical resource based on the California State Historic Building Code, which is the mandatory code for State-owned historical resources. An approved accessibility design exception must be obtained to use this standard. Additionally, consultation with the State Historical Building Safety Board is required

4.1.6 Program Accessibility

In some situations, an operational solution may achieve accessibility without the need for construction. Existing facilities do not have to be made accessible if other methods of providing access are effective. Non-construction approaches may include alternate accessible routings, relocating services or activities to accessible locations, or taking the service or benefit directly to the individual. Coordination with local agencies, transit agencies, or other affected entities may be required to achieve these strategies.

4.2 Placement of Pedestrian Facilities

Vehicular lanes and shoulders are not required to be designed as accessible pedestrian routes just because it is legal for a pedestrian to traverse along a highway. Where vehicular lanes and shoulders are intended by the Department for pedestrian use, thus rendering them walkways, they shall be made accessible.

Deciding to construct pedestrian facilities and elements where none exist is an important consideration. In built-up urban areas with pedestrians present, pedestrian facilities should be constructed. In rural areas where few or no pedestrians exist, it would not be reasonable or cost effective to construct pedestrian facilities. For situations between these two extremes the designer should consult with the affected local agency, and special interest groups. Any decision made should be clearly documented in the project files.

All pedestrian facilities proposed within the State highway right of way shall follow the guidance in Chapter 31 "Non-motorized Transportation Facilities" in the *Project Development Procedures Manual*. Pedestrian facilities proposed by non-Departmental entities within State highway access controlled right-of-way shall also comply with Chapter 17 "Encroachments in Caltrans' Right of Way," also in the *Project Development Procedures Manual*.

4.3 Accessibility Design Standards

The most current version of the *Standard Plans* for Curbs and Driveways A87A, Curb Ramp Details A88A, Curb Ramp and Island Passageway Details A88B, Accessible Parking Off-Street A90A, and Accessible Parking On-Street A90B should be used for designing accessible facilities. Modifying the features shown on the *Standard Plans* or designing pedestrian facilities not covered by the *Standard Plans* shall be in accordance with the following standards and best practices. Following each accessibility design standard is a reference to the applicable Federal and/or State regulation.

4.3.1 Surface

(1) All surfaces on an accessible route shall be stable, firm, and slip resistant.
[ADAAG 4.5.1 and Title 24 1124B.1]

(2) Changes in level up to ¼ inch may be vertical and without edge treatment.
[ADAAG 4.5.2 and Title 24 1124B.2]

(3) Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2 (50%).
[ADAAG 4.5.2 and Title 24 1124B.2]

(4) Changes in level greater than ½ inch shall be accomplished by means of a ramp.
[ADAAG 4.5.2 and Title 24 1124B.2]

Surface types on State right of way can vary due to the type of facility served. Normally, sidewalks are made of Portland cement concrete, or in some situations asphalt concrete. Surface type selection is a decision made by the designer. Design factors to consider for surface materials are discussed in *Designing Sidewalks and Trails for Access* published by the United States Department of Transportation.

The use of paving units, stamped concrete, or stamped asphalt concrete, although within the surface uniformity requirements of an accessible route, could lead to a vibration effect causing repeated jarring to a wheelchair user. No roughness index exists for walkways, as it does for roadway surfaces. Until such guidance becomes available, engineering judgment must be used; the Design Reviewer or Traffic Operations Liaison can be consulted for further assistance. As a general rule, cobblestone or similar treatments should not be used.

If paving units are used, they must meet the specification requirements of the American Society for Testing and Materials (ASTM) C936.

All walkway surfaces shall have a broom finish texture or an equivalent. A broom finish surface is described in Section 73 of the current *Standard Specifications*. Regardless of surface type, if the walkway encroaches onto a roadway, as in the case of a crosswalk, the surface must have a coefficient of friction not less than 0.35 as determined by using California Test Method 342.

At present, no particular color requirement is prescribed in Federal guidelines. However, material used to provide contrast on detectable warnings on walkway surfaces should have a contrast by at least 70%. This is intended to assist the visually impaired pedestrian. This contrast is calculated by [(B1-B2)/B1] x 100, where B1=light reflectance value (LRV) of the lighter area, and B2=light reflectance value (LRV) of the

darker area. Visual contrast can be quantified with a luminance meter that measures the amount of light reflected by each subject (where zero is total darkness and 100 is theoretical complete light reflection). This contrast may be used to distinguish elements of a walkway, such as to differentiate a curb ramp from the sidewalk, or the crosswalk from the rest of the pavement. Also, crosswalk or sidewalk surfacing shall not cause glare to the user. Colored pavement or paving units are not to be used in lieu of striping for marked crosswalks.

4.3.2 Vertical Clearance

(1) Walks shall have 80 inches minimum clear headroom.
[ADAAG 4.4.2 and Title 24 1133B.8.6.2]

It should be noted that the *Manual on Uniform Traffic Control Devices (MUTCD)* requires a vertical clearance at pedestrian pathways to the bottom of signs to be at least 7 feet. This will cover most pedestrian vertical clearance needs. Pedestrian pathways that are part of a shared facility, i.e., bicyclists and equestrians, shall follow the appropriate guidance in the *Highway Design Manual*. See Section 4.4, "Shared Facilities" of this DIB for further information.

4.3.3 Clear Width

Highway Design Manual (HDM) Index 105.1 states, as an Advisory Design Standard, that "the minimum width of a sidewalk should be 5 feet." In many locations, local agency sidewalk standards will require greater widths; which can provide even greater accessibility than the minimum standard stated in the *HDM*. If for a specific project this is the case, the local agency standard should be used. Street furniture, signs, above ground utilities and poles, business frontage needs, street landscaping, etc. should all be placed outside of the "clear width zone" of a sidewalk.

In addition to the standards referenced above, the following Accessibility Design Standards are to be followed:

(1) If an accessible route has less than 60 inches clear width, then passing spaces at least 60 inches by 60 inches shall be located at reasonable intervals not to exceed 200 feet.
[ADAAG 4.3.4 and Title 24 1133B.7.1]

(2) The typical walkway minimum width of an accessible route shall be at least 48 inches.
[Title 24 1133B.7.1]

(3) When, because of right-of-way restrictions, natural barriers or other existing conditions, the enforcing agency determines that compliance with the 48-inch clear sidewalk width would create an unreasonable hardship, the clear width may be reduced to 36 inches.
[Title 24 1133B.7.1 Exception Statement]

Regarding (3) above, an unreasonable hardship must be concurred with by the Design Coordinator and documented using the Exception to Accessibility Design Standards format (see attached). In the exception document under Reason for Exception, the following factors for an unreasonable hardship are to be discussed for each location: 1) the cost of providing access, 2) the impact of proposed improvements on financial feasibility of the project, 3) the nature of the accessibility which be gained or lost, and 4) the nature of the use of the facility under construction and its availability to persons with disabilities.

4.3.4 Grade

(1) All walks with continuous gradients shall have level areas at least 5 feet in length at intervals of at least every 400 feet.
[Title 24 1133B.7.6]

(2) Where the walkway of a pedestrian access route is contained within a street or highway border, its grade shall not exceed the general grade established for the adjacent street or highway.
[DGPROW R301.4.2]

The accessibility standard in (1) above does not apply to sidewalks, but (2) does. The grade or slope of an accessible route should be as flat as possible. Since exterior facilities must drain, a walkway can be at 2% and still be considered level. The practical use of the accessibility standard in (1) above is thus applied for grades exceeding 2%. Any part of an accessible route with a slope greater than 1:20 (5%) shall be considered a ramp, and must comply with the standards of a ramp. See Section 4.3.7 of this DIB, "Ramps," for further information.

A profile of the pedestrian pathway should be developed to ensure compliance with grade and other design parameters.

4.3.5 Cross Slope

(1) No more than a 1:50 (2%) cross slope shall be constructed on a walkway that is an accessible route.
[ADAAG 4.3.7 and Title 24 1133B.7.1.3]

Drainage is always a design consideration for exterior facilities. Walkways shall be designed so that water will not accumulate on the surface.

4.3.6 Grates and Railroad Tracks

(1) If gratings are located in walks, then they shall have spaces no greater than ½ inch in one direction. If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel.
[ADAAG 4.5.4 and Title 24 1133B.7.2]

(2) Where a path crosses tracks, the opening for wheel flanges shall be permitted to be 2-½ inches maximum.
[ADAAG 10.3.1(13) and Title 24 1121B.3.1.13]

Walks shall be free of grating whenever possible.

4.3.7 Ramps

(1) Slopes that are greater than 1:20 will be considered ramps and must not exceed a 30-inch rise without landings.
[ADAAG 4.8.1, 4.8.2 and Title 24 1133B.5.1, 1133B.5.4.1]

(2) The maximum slope of a ramp shall not exceed 1:12 (8.33%).
[ADAAG 4.8.2 and Title 24 1133B.5.3]

(3) The cross slope of ramp surfaces shall be no greater than 1:50 (2%).
[ADAAG 4.8.6 and Title 24 1133B.5.3.1]

(4) In the case of a historic property/historical resource, ramps no greater than 1:10, cannot exceed a horizontal distance of 5 feet. Or, ramps of 1:6 slope cannot exceed a horizontal distance of 13 inches. Signs shall be posted at upper and lower levels

to indicate steepness of the slope.
[Title 24 8-603.6]

This standard should only be used with an approved exception.

It should be noted that a sidewalk is not bound by the requirements of a ramp. Curved (or helical) ramps shall be subject to the same design standards as straight ramps. However, because of the complexity, curved ramps should not be constructed if a straight ramp can accomplish the same accessibility. If a curved ramp is sloped at the maximum 1:12 (8.33%), then the minimum radius needed is 50 feet; otherwise, a smaller radius will provide a path that exceeds the maximum 2% cross slope. Table 4.3.7 shows the minimum radius required for a given ramp slope:

TABLE 4.3.7 – HELICAL RADIUS REQUIREMENTS

Slope	Minimum Radius Required to Inner Side of Ramp
5%	30 feet
8.33%	50 feet

4.3.8 Curb Ramps

(1) Curb ramps shall be a minimum of 4 feet in width and shall lie, generally, in a single sloped plane, with a minimum of surface warping and cross slope.
[Title 24 1127B.5.2]

(2) Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20 (5%) within 4 feet of the top and bottom of the curb ramp.
[ADAAG 4.7.2 and Title 24 1127B.5.3]

(3) In general, for the flare, a maximum slope of 1:10 (10%) parallel to curb is used. However, if the level landing at the top of the curb ramp is less than 4 feet, the slope of the flares shall not exceed 1:12 (8.33%).
[ADAAG 4.7.5 and Title 24 1127B.5.3, 1127B.5.4]

(4) In the case of a single (diagonal) curb ramp with flared sides, it shall have at least a 24 inch long segment of straight curb located on each side of the curb ramp and within the marked crossing, if the crosswalk is marked.
[ADAAG 4.7.10 and Title 24 1127B.5.9]

(5) In the case of a marked crosswalk, the bottom of diagonal curb ramps shall have a clearance to the crosswalk marking of 48 inches minimum.
[ADAAG 4.7.10 and Title 24 1127B.5.9]

Regarding (4) above, this standard applies only on flared sides; the Caltrans Case C curb ramp and others without flares are not subject to this standard. Curb ramps are the most common type of ramp. Different types of curb ramps have been approved and are contained in the *Standard Plans*. Standard Plan A88A shows the illustration of curb ramps that may apply to curved alignments on a corner or on a tangent. The ramp width shall be consistent with the width of an accessible route. Flares are needed if the curb ramp is located where pedestrians may traverse across the ramp.

Curb ramps placed within crosswalk markings do not have to be aligned in the direction of the crosswalk marking. The Federal recommendation found in Part II of *Designing Sidewalks and Trails for Access* is for curb ramps to be aligned perpendicular to curb face.

In addition to the curb ramp slope, the cross slope of a sidewalk will determine the horizontal length of the curb ramp run, since anything more than a flat surface (no slope) will require more length to intercept the sidewalk surface. Table 4.3.8 can be used as a design aide when the sidewalk has a 2% cross slope.

TABLE 4.3.8 – Curb Ramp Runs for Sidewalks with 2% Cross Slopes

Height of Curb Face	**Curb Ramp Run** (Horizontal Length)
4 inches	63 inches
5 inches	78 inches
6 inches	95 inches
7 inches	111 inches
7-½ inches	118-½ inches
8 inches	126 inches

4.3.9 Medians and Islands

(1) Raised medians or islands in street crossing paths shall be either cut through level with the street or have curb ramps and a level area at least 48 inches long between curb ramps.
[ADAAG 4.7.11]

The width of the cut through raised medians or islands should be consistent with the widths required in Section 4.3.3 in this DIB. Since the cut for the path through the raised median or island is adjacent to traffic and without a "barrier," it must have a detectable warning surface as described in Section 4.3.14 in this DIB. The detectable warning surface width and placement shall follow the details in Standard Plan A88B.

4.3.10 Handrails

Handrails are not required on curb ramps or along sidewalks. In all other situations, the following applies:

(1) If a ramp run has a rise greater than 6 inches or a horizontal projection greater than 72 inches, then it shall have handrails on both sides.
[ADAAG 4.8.5 and Title 24 1133B.5.5.1]

(2) Handrails shall be provided along both sides of ramp segments. Handrails shall be continuous within the full length of each stair flight or ramp run.
[ADAAG 4.8.5(1) and Title 24 1133B.5.5.1]

(3) The clear space between the handrail and the wall (if any) shall be 1-½ inches.
[ADAAG 4.8.5(3) and Title 24 1133B.5.5.1]

(4) Gripping surfaces shall be continuous.
[ADAAG 4.8.5(4) and Title 24 1133B.5.5.1]

(5) Top of handrail gripping surfaces shall be mounted between 34 inches and 38 inches above ramp surface.
[ADAAG 4.8.5(5) and Title 24 1133B.5.5.1]

(6) Handrails shall not rotate within their fittings.
[ADAAG 4.8.5(7) and Title 24 1133B.5.5.1]

(7) The grip portion shall not be less than 1-¼ inches nor more than 1-½ inches, or the shape shall provide an equivalent gripping surface and all surfaces shall be smooth with no sharp corners.
[Title 24 1133B.5.5.1]

4.3.11 Warning Curb and Guardrail

Guardrail or Guard as used in this section is defined from the *California Building Code* [Title 241002.1] as a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

(1) Abrupt changes in level, except between a walk or sidewalk and an adjacent street or driveway, exceeding 4 inches in a vertical dimension, such as at planters or fountains located in or adjacent to walks, sidewalks or other pedestrian ways, shall be identified by curbs projecting at least 6 inches in height above the walk or sidewalk surface to warn the blind of a potential drop off.
[Title 24 1133B.8.1]

(2) When a guard or handrail is provided, no curb is required when a guide rail is provided centered 3 inches plus or minus 1 inch above the surface of the walk or sidewalk, the walk is 5 percent or less gradient or no adjacent hazard exists.
[Title 24 1133B.8.1]

(3) Where the edge of a pedestrian path, including ramps, has a drop off of more than 30 inches, the path shall be protected by a guard.
[Title 24 1013.1, 1133B.5.7]

(4) Guards shall form a protective barrier not less than 42 inches high, measured vertically above the leading edge of the tread, adjacent walking surface or adjacent seatboard.
[Title 24 1013.2]

(5) Open guards shall have balusters or ornamental patterns such that a 4-inch diameter sphere cannot pass through any opening.
[Title 24 1133B.5.7.4]

Chain link fence Type CL-4 satisfies the requirements of a guardrail, see the *Standard Plans* for details. As a good practice, if the above-mentioned 4 inches and 30 inches drop off occurs within a horizontal distance of 24 inches from the edge of the pedestrian path, this path should still require the warning curb/guardrail.

4.3.12 Wheel Guides

Where the ramp surface is not bounded by a wall, the ramp shall comply with one of the following requirements:

(1) A guide curb a minimum of 2 inches in height shall be provided at each side of the ramp
[ADAAG 4.8.7 and Title 24 1133B.5.6.1]; or,

(2) A wheel guide rail shall be provided, centered 3 inches plus or minus 1 inch above the surface of the ramp.
[Title 24 1133B.5.6.2]

These requirements are not applicable to sidewalks or on curb ramps.

4.3.13 Landings

A level landing is allowed to be sloped up to 2% to accommodate drainage. For curb ramp landing guidance, see Section 4.3.8 of this DIB. This DIB does not discuss the situation where a door opens onto a landing at a building entrance. For this situation, as well as with any building egress design, refer to the Office of Transportation Architecture in the Division of Engineering Services.

Landings shall be designed as following:

(1) Ramps shall have level landings at bottom and top of each ramp and each ramp run.
[ADAAG 4.8.4 and Title 24 1133B.5.4.1]

(2) The bottom and intermediate landings shall be at least as wide as the ramp run leading to it.
[ADAAG 4.8.4(1) and Title 24 1133B.5.4.5]

(3) The landing length shall be at least 60 inches. However, the bottom landing length shall be not less than 72 inches.
[ADAAG 4.8.4(2) and Title 24 1133B.5.4.2, 1133B.5.4.7]

(4) Top landings shall be not less than 60 inches wide.
[Title 24 1133B.5.4.2]

(5) If ramps change direction at a landing, the landing shall be at least 60 inches by 60 inches. [ADAAG 4.8.4(3)]

(6) Intermediate and bottom landings at a change of direction in excess of 30 degrees shall have a dimension in the direction of the ramp run of not less than 72 inches to accommodate the handrail extension.
[Title 24 1133B.5.4.6]

4.3.14 Detectable Warning Surface

(1) If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous detectable warning which is 36 inches wide.
[ADAAG 4.29.5 and Title 24 1133B.8.5]

Detectable warnings shall consist of raised truncated domes as shown on Standard Plans A88A, A88B, A90A, and A90B. Curb ramps shall contain detectable warning surfaces according to these *Standard Plans*.

4.3.15 Grooves

(1) Grooves shall consist of indentations at the top of a curb ramp as shown on Standard Plan A88A. The grooves shall form a 12-inch border at the level surface of the sidewalk.
[Title 24 1127B.5.6]

4.3.16 Bus Stops

(1) Where new bus stop pads are constructed at bus stops, bays or other areas where a lift or ramp is to be deployed, they shall have a firm, stable surface; a minimum clear length of 96 inches (measured from the curb or vehicle roadway edge) and a minimum clear width of 60 inches (measured parallel to the vehicle roadway) to the

maximum extent allowed by legal or site constraints.
[ADAAG 10.2.1(1) and Title 24 1121B.2.1]

(2) Where provided, new or replaced bus shelters shall be installed or positioned so as to permit a wheelchair or mobility aid user to enter from the public way and to reach a location, having a minimum clear floor area of 30 inches by 48 inches, entirely within the perimeter of the shelter.
[(ADAAG 10.2.1(2) and Title 24 1121B.2.1]

(3) Newly constructed bus stop pads must provide a square curb surface between the pad and road or other detectable warning.
[Title 24 1121B.2.1]

Caltrans Type A or B curb, will satisfy the square curb requirement.

(4) Bus stop pads shall be at same slope as the roadway in direction parallel to roadway profile grade, and maximum of 2 percent slope perpendicular to roadway.
[ADAAG 10.2.1(1) and Title 24 1121B.2.1]

4.3.17 Parking

(1) For off street parking, Table 4.3.17 establishes the number of accessible parking spaces required.
[ADAAG 4.1.2(5)(a) and Title 24 1129B.1]

(2) Where single spaces are provided, they shall consist of a 9-foot wide parking area and a 5-foot loading and unloading access aisle on the passenger side of the vehicle. When more than one space is provided, a 9 foot wide parking area on each side of a 5 foot loading and unloading access aisle in the center may be allowed. The minimum length of each parking space shall be 18 feet.
[Title 24 1129B.3.1]

(3) One in every eight accessible spaces, but not less than one, shall be served by an access aisle that is, at a minimum, 96 inches wide and placed on the side opposite the driver's side of the vehicle when the vehicle is driven forward into the parking space; the space shall be designated van accessible.
[ADAAG 4.1.2(5)(b) and Title 24 1129B.3.2]

(4) Surface slopes of accessible parking spaces and access aisles shall be the minimum possible and shall not exceed 1 unit vertical to 50 units horizontal (2% slope) in any direction.
[ADAAG 4.6.3 and Title 24 1129B.3.4]

Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

In each parking area, a bumper or curb shall be provided and located to prevent encroachment of cars over the required width of walkways. Also, the space shall be so located that persons with disabilities are not compelled to wheel or walk behind parked cars other than their own. Pedestrian ways which are accessible to persons with disabilities shall be provided from each such parking space to related facilities, including curb cuts or ramps as needed. Ramps shall not encroach into any accessible parking space or the adjacent access aisle.

TABLE 4.3.17 – OFF STREET ACCESSIBLE PARKING SPACE REQUIREMENTS

Total Number of Parking Spaces in Lot or Garage	Minimum Number of Spaces Required
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	See Note 1
1,001 and over	See Note 2

Notes:
1. Two percent of total.
2. Twenty plus one for each 100, or fraction over 1,000.

Signing and striping for on and off street parking shall conform to the design details shown on Standard Plans A90A and A90B. Consult with the Headquarters Traffic Liaison regarding proposed signing and striping changes.

4.3.18 Trails

Trails within the State Highway right of way are considered to be pedestrian facilities if pedestrians may traverse the path, either for their exclusive use or shared with other users. Trails that are intended for nonpedestrian use only, e.g., equestrian or for mountain bikes, are not subject to the guidance in this section.

(1) This DIB adopts the trail guidance provided in Section 16 and in Sections 16.1 through 16.4.10 of the Federal Guide on "Outdoor Developed Areas" as found on the US Access Board website: www.access-board.gov/outdoor/outdoor-rec-rpt.htm. The provisions found on this website shall be regarded as enforceable design standards.
[Draft ADAAG 16]

Any proposed exception to the design standards in the "Outdoor Developed Areas Guide" must make reference to those applicable sections in the exception request. The conditions described in Section 16.1.1 "Extent of Application" may be used, as specified in the provisions, to support an exception.

The sign referenced in Section 16.2.10, "Signs," of the "Outdoor Developed Areas Guide" shall be the disabled persons sign, MUTCD Code RM-080.

4.3.19 Protruding Objects

(1) Objects protruding from walls (for example, telephones) with their leading edges between 27 inches and 80 inches above the finished floor shall protrude no more than 4 inches into the walk.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

(2) Objects mounted with their leading edges at or below 27 inches above the finished floor may protrude any amount.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

(3) Free-standing objects mounted on posts or pylons may overhang 12 inches maximum from 27 inches to 80 inches above the ground or finished floor.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

(4) Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.
[ADAAG 4.4.1 and Title 24 1133B.8.6.1]

In general, street furniture or any item placed within the pedestrian environment must be cane detectable. Objects that protrude over a pedestrian pathway above a height of 27 inches are not considered detectable by cane. A critical zone, which is not considered detectable, is between 27 inches and 80 inches above the pedestrian pathway surface. Many transportation elements within the pedestrian pathway are cane detectable, such as electrical systems hardware, and these are specified in the Caltrans *Standard Plans*.

Where it is decided to prohibit pedestrian crossings at an intersection or ramp crossing, a pedestrian barricade per Standard Plan ES-7P should be used. Consult with your Traffic Operations Liaison for further guidance.

4.4 Shared Facilities

Pedestrian facilities that are part of nonmotorized transportation facilities must be designed in accordance with the *Highway Design Manual* for the appropriate bikeway classification, and the *Designing Sidewalks and Trails for Access* for best practice equestrian design.

Designers of pedestrian-shared facilities must consider the geometric requirements that are most critical for the intended users. In some cases designing for pedestrians may govern the geometric features. For example, a designated Class 1 bikeway may legally be used by pedestrians and bicycles. But, it may not be practical to design for both users at certain segments of the path. In such cases, a design exception will either be needed for a bicycle standard in Chapter 1000 of the *Highway Design Manual* or for a pedestrian accessibility standard in this DIB.

4.5 Alternate Standards

Federal regulations allow the use of other accessibility standards, if they provide substantially equivalent or greater access to the facility system, as the minimum Federal accessibility standards. Similarly, the *California Building Code* allows the enforcing agency to make design judgments as to equivalent designs. Local Agency standards that provide equivalent or greater accessibility than the Federal ADAAG and the *California Building Code* may be used in lieu of the minimum standards in this DIB. Those standards not in this DIB should be discussed with the Design Coordinator and the justification documented in the project files. In the case of a historic property/historical resource, use of the California State Historical Building Code is mandatory for State-owned facilities as well as consultation with the State Historical Building Safety Board.

4.6 Temporary Traffic Control

Temporary traffic control zones can impact a wide range of State highway users, including persons with disabilities. During the design phase, a decision must be made whether or not to include plans to accommodate pedestrians and/or special provisions consistent with the California Manual on Uniform

Traffic Control Devices (MUTCD). If plans and/or special provisions are provided for this purpose, the Transportation Management Plan Guidelines must be followed. If it is elected to close any sidewalk(s) due to construction and if it is elected to provide a temporary route for use by the public, the various provisions for pedestrian accommodation as set forth in the California MUTCD Part 6 must be followed. For projects under construction, the Resident Engineer must discuss the provisions of the California MUTCD with the contractor prior to the beginning of work during the preconstruction meeting, as required in the Construction Manual.

4.7 Exhibits

Pedestrian facilities that are part of nonmotorized transportation facilities may include vertical exhibit panels, wayside exhibits panels, and touchable exhibits. The following information is taken from the Programmatic Accessibility Guidelines for National Park Service Interpretive Media. This publication is available at www.nps.gov/hfc/accessibility/index.htm.

The smallest type in a vertical exhibit panel should be placed within a zone containing the range of eye level for a person in a wheelchair to a standing adult for a panel that must be approachable, with no physical barriers. This eye-level zone is approximately 40 inches to 60 inches from the finished grade. Adjustments would have to be made based on lighting conditions, colors, contrasts, layouts, and other design considerations. This typically applies to the body copy and photo caption type. If type cannot be placed at the appropriate eye level, increase readability with a larger type size, more leading, smaller line length, and/or more contrasting color and background.

Wayside exhibit panels shall be installed at heights and angles favorable for viewing by all visitors, including wheelchair users. For low-profile exhibits (angled at 30 or 45 degrees) the recommended height is 32 inches from the bottom of the exhibit frame to finished grade; for upright exhibits and bulletin boards the height is 24-36 inches from the bottom of the exhibit frame to finished grade, depending on panel.

The following reach ranges refer to items briefly touched with one hand, such as a push button or small tactile exhibit or display:

- Reach Ranges: See Architectural Barriers Act Accessibility Standards 308 for more information, including children's reach ranges, obstructed/unobstructed reaches, and exceptions.
- Forward Reach (unobstructed): For touchable exhibits positioned unobstructed on a vertical surface, the high forward reach will be 44 inches maximum, and the low forward reach will be 16 inches minimum above the finished grade. These are common measurements for adults and children ages 9 and above.
- Side Reach (unobstructed): Where a clear floor space allows a parallel approach to a touchable exhibit and the side reach is unobstructed, the high side reach will be 44 inches maximum, and the low side reach shall be 16 inches minimum above the finished grade. These are common measurements for adults and children ages 9 and above.

Dist – Co – Rte
PM
Project EA or Encroachment Permit Number

EXCEPTION TO ACCESSIBILITY DESIGN STANDARDS

Prepared by:

_____
(Name), Registered Civil Engineer [3]

Submitted by: _____ Date: _____
(Name), Design Engineer

Recommended by: _____ Date: _____
(Name), Project Manager

Concurrence [1] by: _____ Date: _____
(Name), Office Chief
Or District/Region Division Chief of Design

Approved [2] by: _____ Date: _____
(Name), Design Coordinator

Notes:

1. Must be a Supervising Transportation Engineer or higher Civil Service Engineering Classification.
2. Delete this signature line for Rail or Transit Station projects (DSA is the approving entity).
3. A Licensed Architect or Licensed Landscape Architect may prepare this document and sign and seal it in lieu of a Registered Civil Engineer, provided the same Licensed Architect or Licensed Landscape Architect designed the on-site improvements. Use the seal of the appropriate licensed person in responsible charge.

Dist – Co – Rte
PM
Project EA or Encroachment Permit Number

This documentation shall be filed in the district project history files. A copy shall be sent to Headquarters Division of Design, attention Design Report Routing. Attach, as necessary, the information discussed in Item Number 3. At a minimum, the Exception to Accessibility Design Standards should contain the following sections:

1. Project Description

Describe the overall project scope and the proposed pedestrian facility design portion. Provide geographic project limits and lengths. Also, describe the existing highway facility as well as the existing pedestrian facilities.

If using an accessibility standard not listed in DIB 82-04, describe the accessibility standard and its reference of origin.

2. Project Costs

Provide the total capital cost estimate of the project. Also, provide an estimate of the capital cost of the proposed pedestrian features.

3. Nonstandard Features

Describe the nonstandard accessibility feature(s) to be constructed or to be maintained in an alteration. Provide sufficient information in written and graphic (layouts, cross sections, profiles, details, etc.) format to convey the extent of noncompliance with accessibility standards.

4. Standards From Which an Exception is Requested

State the accessibility standard from DIB 82-04.

5. Reason for Exception

The request for exception to accessibility design standards must state the reason why the facility or element is in whole or in part structurally impracticable (for new construction) or technically infeasible (for alterations) to comply with DIB 82-04 standards. Exceptions must be based on factors which may include historical significance, existing terrain, environmental issues, right of way constraints, conflicts with other design standards, and/or other significant considerations. Excessive cost may be supplemental information but cannot be used to support an exception related to a structural impracticability or technical infeasibility.

The four (4) factors for unreasonable hardships related to Clear Width, discussed in Section 4.3.3 of DIB 82-04, are to be documented in this section.

6. Work Required to Make Standard

Provide a description of the additional work in excess of the proposed project work required to meet the subject accessibility standard.

7. Reviews and Concurrence

As appropriate, provide the names of the Headquarters Design and District personnel who have discussed and concurred with this document; plus, the date of their concurrence.

APPENDIX E

STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010–2011

STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010-2011

Initial Contact Date	District Case #	New Case #	Location	City	County	Route	Complaint (Facility Issue)	Milestone Reached (Status)	Date
10/11/2010		0052-001	Route 238 (Mission Blvd)	Fremont	Alameda	Route 238	Missing Sidealk	The consultants are re-evalulating this case and have added it into the data base.	10/31/2011
5/31/2011		0090-001	Hwy 88 and Hwy 49	Jackson	Amador	Hwy 88 and Hwy 49	No crosswalk and no curb ramp	This complaint is satisified, The location is on the Transition Plan that is estimated for completion on February 2014 to bring locatio to complaince.	5/31/2011
4/8/2011	D3-2011-0001		Skyway	Chico	Butte	SR 32	Wheel chair acess was blocked due to construction	Complaint resolved, City RE was contacted and contractor was notified and he removed all barriers from the pathway.	5/10/2011
4/8/2011	D3-2011-0003		Feather River Park	Chico	Butte	CR	Fence needed repair and path being used was not intended for pedestrian or bycycles access.	Complaint resolved, CT Mtce Supervicor in Chico stated fence was fixed, all access compliant.	6/7/2011
6/28/11		0038-001	Route 4 and Teakwood Drive	Oakley	Contra Costa	Route 4	Accessible pedestrian Intersection	Validated as Cal Trans/ ADA	12/2/11
6/3/2011	D4-2011-0002		Olympic Blvd.	Walnut Creek	Contra Costa	I-680	Pedestrian button	Improvements have been made. Resolved.	7/8/2011
5/6/11	D-3 2011-0001	0058-001	I-5 & SR-32	Orland	Glenn	I-5 & SR-32	Curbramps	Staff has contacted complainant and he is pleased that the curb ramps are being built. Also will remain in Transition Plan	12/3/11

STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010-2011

Initial Contact Date	District Case #	New Case #	Location	City	County	Route	Complaint (Facility Issue)	Milestone Reached (Status)	Date
12/5/11		0058-002	SR-32	Orland	Glenn	SR-32	Curbramps / ped path	Staff has contacted complainant and he is pleased that the curb ramps are being built. Also will remain in Transition Plan	12/5/11
12/5/11		0058-003	SR-32	Orland	Glenn	SR-32	Curbramps / ped path	Staff has contacted complainant and he is pleased that the curb ramps are being built. Also will remain in Transition Plan	12/5/11
12/5/11		0058-004	SR-32	Orland	Glenn	SR-32	Curbramps / ped path	Staff has contacted complainant and he is pleased that the curb ramps are being built. Also will remain in Transition Plan	12/5/11
10/11/2010		0070-001	The City of Big Pin/	Big Pine	Inyo	NA	Denial of Caltrans Relocation Program	Waiting on Cal Trans Legal	10/11/2010
3/22/2011		0004-001	Ohio Ave	West Los Angeles	Los Angeles	NA	Contruction Obstruction	This complaint was resolved. The fence causing the obstruction of pathway was moved back, and created a total width of 55 inches (140 cm)	5/27/2011
4/28/11		0065-001	Shady Lane	Ross	Marin	NA	Non accessible route	The consultants are re-evalulating this case and have added it into the data base.	10/31/11
4/28/11		0065-002	4th Street	San Rafael	Marin	NA	Curb Ramps	The consultants are re-evalulating this case and have added it into the data base.	10/31/2011
9/7/10		0065-003	Shore Line HWY	Mill Valley	Marin	Route 1	Access Brriers	All pedestrian push buttons and curb ramps correction/relocation have been conceptually approved for improvement project year 2016-17	9/7/10
4/28/11		0065-007	4th Street and E St	Kentfield	MARIN	NA	Curb ramp missing detectable warning	The consultants are re-evalulating this case and have added it into the data base.	10/31/11

STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010-2011

Initial Contact Date	District Case #	New Case #	Location	City	County	Route	Complaint (Facility Issue)	Milestone Reached (Status)	Date
4/28/11		0065-009	Near Manzanita Park and Ride	San Rafael	MARIN	Hwy 101and the park and ride	Curb Ramps	All corrections have been made exept: 1) The curb ramp, NE corner, Larkspur Hotel driveway will be relocated. Improvement project year 2016-17. 2) Yellow stripes on ped buttons not required per CT Standards.	10/31/11
4/28/11		0065-011	4th Street and Linclon Avet	San Rafael	MARIN	NA	Curb ramp missing detectable warning	The consultants are re-evalulating this case and have added it into the data base.	10/31/11
1/1/2011		0002-001	Tinloy St./ Clark St	Grass Valley	Nevada	Colfax Hwy SR - 174	APS Button Height/ Asphalt Transition	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011	D-3 2011-0001	0002-002	Colfax Hwy SR -174	Grass Valley	Nevada	Colfax Hwy SR - 174	Clear width/ Light Pole	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-003	Colfax Ave and Clark Street (SE Corner)	Grass Valley	Nevada	Colfax Hwy SR - 174	Asphalt /Concrete Transition	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-004	Colfax Ave and Henderson Street (NW Corner)	Grass Valley	Nevada	Colfax Hwy SR - 174	Abrupt change of level/ Bump	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-005	Colfax Ave between Henderson Street and Orphir Street central address 411 driveway (E Bound Side)	Grass Valley	Nevada	Colfax Hwy SR - 174	Slope of Driveway	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011

STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010-2011

Initial Contact Date	District Case #	New Case #	Location	City	County	Route	Complaint (Facility Issue)	Milestone Reached (Status)	Date
1/1/2011		0002-006	Colfax Ave and Goomba's north driveway near Colfax east (E Bound Side)	Grass Valley	Nevada	Colfax Hwy SR - 174	Surface condition/ Driveway	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-007	Colfax Ave and Colfax east (E Bound Side)	Grass Valley	Nevada	Colfax Hwy SR - 174	No curb ramp	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-008	Colfax Ave and Orphir east corner and west corner (NE-NW Corner)	Grass Valley	Nevada	Colfax Hwy SR - 174	Clear width/ Light Pole and abrupt change of level	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-009	Colfax Ave and Henderson Street (SW Corner)	Grass Valley	Nevada	Colfax Hwy SR - 174	Surface condition	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-010	Colfax Ave between Henderson Street and Clark Street (W Bound Side)	Grass Valley	Nevada	Colfax Hwy SR - 174	Surface condition/ telephone pole, directional signage	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
1/1/2011		0002-011	Colfax Ave and South Auburn Street (NE Corner)	Grass Valley	Nevada	Colfax Hwy SR - 174	Clear width/ telephone pole/ no curb ramp	The consultants have re-evaluated this case and scheduled an investigation for 2012. The complaint was also added into the data base.	12/2/2011
5/31/2011		0006-001	SE Garden Grove & Fairview	Garden Grove	Orange	Garden Grove	APS vandalised	The APS at E/B 22 @ Fairview /Garden Grove was repaired on that same day 10/26/2011. Recently did a preventative maintenance and APS was still in tact.	12/5/2011
12/30/2010	D3-2010-0007		Elm/Fulweller	Auburn	Placer	CR	APS needs to be installed	Complaint resolved, APS was installed February 10, 2011	2/11/2011

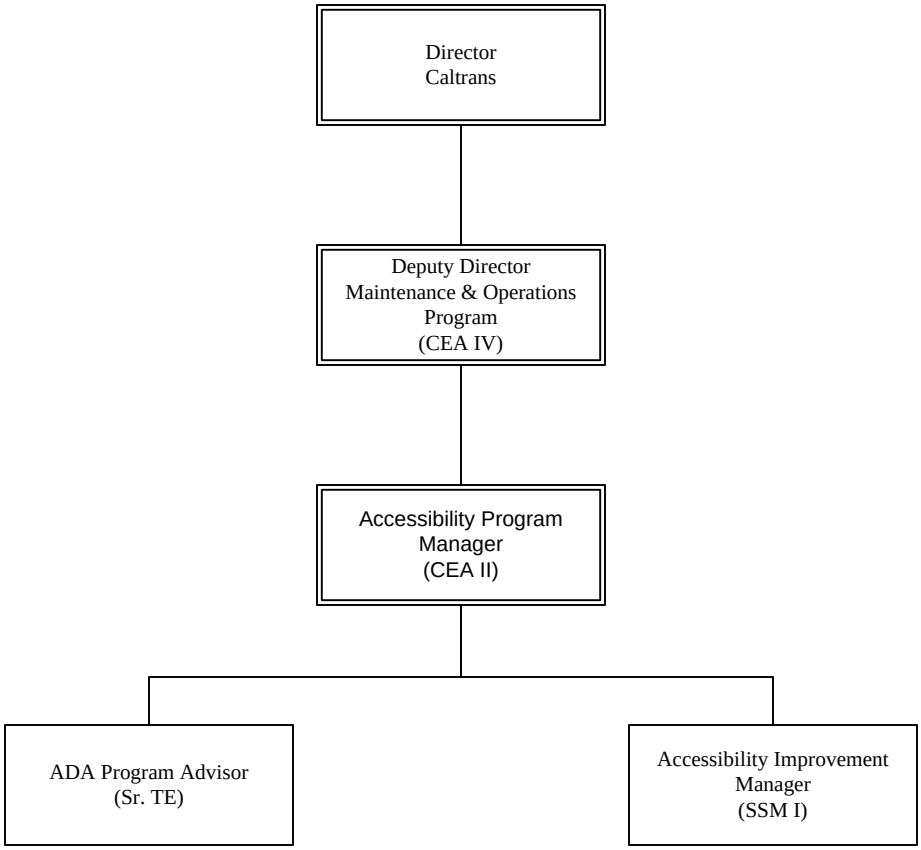
STATUS OF THE RESOLUTION OF ACCESSIBILITY GRIEVANCES FY 2010-2011

Initial Contact Date	District Case #	New Case #	Location	City	County	Route	Complaint (Facility Issue)	Milestone Reached (Status)	Date
10/14/2010		0037-001	West Bound on-ramp/ Pigeon Pass Rd Interchange	Moreno Valley	Riverside	Route 60	Not enough time for a motorized scooter to pass safely	Complaint was resolved. Installed Pedestrian signs at "free" right turn w/b on ramp.	10/14/2010
7/30/2010		0069-001	I-80 & Exposition Blvd NB	Sacramento	Sacramento	I-80	curb ramp	The consultants are re-evalulating this case and have added it into the data base.	10/31/2011

APPENDIX F

ADA INFRASTRUCTURE PROGRAM ORGANIZATIONAL CHART FY 2010–2011

Caltrans ADA Infrastructure Program

Organizational Chart

FY 2010–2011