

SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
THE CITY OF TUCSON, ARIZONA
UNDER THE AMERICANS WITH DISABILITIES ACT
DJ 204-8-205

BACKGROUND

SCOPE OF THE INVESTIGATION

The United States Department of Justice (Department) initiated this matter as a compliance review of the City of Tucson, Arizona under title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12134, and the Department's implementing regulation, 28 C.F.R. Part 35. Because the City receives financial assistance from the Department of Justice, the review was also conducted under the authority of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Department's implementing regulation, 28 C.F.R. Part 42, Subpart G.

The review was conducted by the Disability Rights Section of the Department's Civil Rights Division and focused on the City's compliance with the following title II requirements:

- C to conduct a self-evaluation of its services, policies, and practices by July 26, 1992, and make modifications necessary to comply with the Department's title II regulation, 28 C.F.R. § 35.105;
- C to notify applicants, participants, beneficiaries, and other interested persons of their rights and the City's obligations under title II and the Department's regulation, 28 C.F.R. § 35.106;
- C to designate a responsible employee to coordinate its efforts to comply with and carry out the City's ADA responsibilities, 28 C.F.R. § 35.107(a);
- C to establish a grievance procedure for resolving complaints of violations of title II, 28 C.F.R. § 35.107(b);

- C to operate each program, service, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities, 28 C.F.R. § 35.150, by:
 - C delivery of services, programs, or activities in alternate ways, including, for example, redesign of equipment, reassignment of services, assignment of aides, home visits, or other methods of compliance or, if these methods are not effective in making the programs accessible,
 - C physical changes to buildings (required to have been made by January 26, 1995), in accordance with the Department's title II regulation, 28 C.F.R. § 35.151, and the ADA Standards for Accessible Design (Standards), 28 C.F.R. pt. 36, App. A, or the Uniform Federal Accessibility Standards (UFAS), 41 C.F.R. § 101-19.6, App. A.
- C to ensure that facilities for which construction or alteration was begun after January 26, 1992, are readily accessible to and usable by people with disabilities, in accordance with 1) the Department's title II regulation and 2) the Standards or UFAS, 28 C.F.R. § 35.151;
- C to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others, including furnishing auxiliary aids and services when necessary, 28 C.F.R. § 35.160;
- C to provide direct access via TTY (text telephone) or computer-to-telephone emergency services, including 9-1-1 services, for persons who use TTY's and computer modems, 28 C.F.R. § 35.162;
- C to provide information for interested persons with disabilities concerning the existence and location of the City's accessible services, activities, and facilities, 28 C.F.R. § 35.163(a); and
- C to provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to information about accessible facilities, 28 C.F.R. § 35.163(b).

As part of its compliance review, the Department reviewed the following facilities, which – because construction or alterations commenced after January 26, 1992 – must comply with the ADA's new construction or alterations requirements:

New:

Community Resources - Santa Rita
 Community Resources - Sentinel
 Edith Ball Adaptive Recreation Center
 El Pueblo Library
 El Pueblo Neighborhood Center
 Fire Station 19 (*note: due to time limitations, only the public spaces were reviewed*)
 Miller - Golf Links Library
 Patrick K. Hardesty Midtown Multi-Service Center
 Public Safety Training Academy
 Quincie Douglas Center
 Rincon Police Substation
 Santa Rosa Learning Center
 Santa Rosa Neighborhood Center
 Ward 4 Council Office

Altered:

City Court
 City Hall
 Fire Department Headquarters
 Mission Library Branch
 Police Department Headquarters

Reid Park Zoo
Santa Cruz Substation
Temple of Music and Art
Tucson Children's Museum
Udall Regional Park and Senior Center
Valencia Library Branch
Ward 6 Midtown Council Office
Wilmot Library Branch

The Department's program access review covered those of the City's programs, services, and activities that operate in the following facilities:

Owned and Operated by City:

Columbus Library Branch
Golf Links Complex
Joel D. Valdez Main Library
Randolph Community Center
Randolph Golf Complex
Tucson Convention Center
Water Department Headquarters
Ward 5 Council Office
William Clements Center

Owned and Operated by Others:

Desert Willow Elementary School
Employment Center and Human Resources
Henry Elementary School
MacArthur Building
Mesquite Elementary School
Pioneer Building

The Department conducted a limited review of the following facility which is operated by the City for the purposes of polling only:

Catalina United Methodist Church

The Department reviewed the City's policies and procedures regarding voting, emergency management and disaster prevention, and sidewalk maintenance to evaluate whether people with disabilities have an equal opportunity to utilize these programs.

Finally, the Department reviewed the City Police Department's policies and procedures regarding providing effective communication to persons who are deaf or hard-of-hearing.

JURISDICTION

1. The ADA applies to the City because it is a "public entity" as defined by title II. 42 U.S.C. § 12131(1).
2. The Department is authorized under 28 C.F.R. Part 35, Subpart F, to determine the compliance of the City with title II of the ADA and the Department's title II implementing regulation, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized, under 42 U.S.C. § 12133, to bring a civil action enforcing title II of the ADA should the Department fail to secure voluntary compliance pursuant to Subpart F.

3. The Department is authorized under 28 C.F.R. Part 42, Subpart G, to determine the City's compliance with section 504 of the Rehabilitation Act of 1973, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized, under 29 U.S.C. § 794 and 28 C.F.R. §§ 42.530 and 42.108-110, to suspend or terminate financial assistance to the City provided by the Department of Justice should the Department fail to secure voluntary compliance pursuant to Subpart G or to bring a civil suit to enforce the rights of the United States under applicable federal, state, or local law.
4. The parties to this Agreement are the United States of America and the City of Tucson, Arizona.
5. In order to avoid the burdens and expenses of an investigation and possible litigation, the parties enter into this Agreement.
6. In consideration of, and consistent with, the terms of this Agreement, the Attorney General agrees to refrain from filing a civil suit in this matter regarding all matters contained within this Agreement, except as provided in the section entitled "Implementation and Enforcement."

ACTIONS TAKEN BY CITY

7. The City reports that it has taken the following actions to comply with the ADA:
 - a. At all times since the effective date of title II of the ADA, the City has provided the function of an ADA Coordinator.
 - b. In the early 1990's, as required by the ADA, the City of Tucson conducted a Self-Evaluation of its programs, services, and facilities. The Self-Evaluation was completed in 1992. Based on the findings of that Self-Evaluation, the City implemented a Transition Plan. City codes were rewritten to assure that no person with a disability was denied access to programs and services. Eligibility criteria were reviewed and changed when necessary to assure equal access. Language was added to all City contracts regarding ADA compliance. An ADA complaint procedure was established. Contracts for sign language interpreters were developed and Braille transcription services were provided to departments, as needed. Persons with various types of disabilities volunteered to provide sensitivity training to City staff.

The Tucson Commission on Disability Issues was consulted about each aspect of City programs and services. Persons with hearing and visual impairments met with program directors to demonstrate the need to provide auxiliary aids and services. Assistive listening devices were purchased and provided to departments; reading machines and other equipment were purchased for libraries. Training on the use of this equipment was provided to City staff by volunteers from the disability community. TTY's (or TDD's – telecommunication devices for deaf persons) were installed in some City facilities. Signs with Braille and raised lettering were installed on some restroom doors and emergency exits.

A contract architect was hired by the City to assist the ADA Coordinator in identifying barriers to programs and services. A budget for renovating City facilities was developed and presented to the Tucson Commission on Disability Issues, as well as the members of the disability community. The members of the Commission prioritized which facilities were more important to be renovated first. From this information, the ADA Transition Plan was developed.

Funding for implementing the Plan was sought and approved by the Mayor and City Council, who allocated \$8.1 million over a five-year period.

- c. The City has acquired a system that enables each 9-1-1 operator to have computerized TTY capability at his or her call station. Each such computerized call station has pre-programmed TTY

messages for operator use, such as the standard greeting, "9-1-1, what is ur emergency q ga" and standard messages, such as "We r sending ambulance." Each 9-1-1 operator has been trained in appropriate TTY etiquette. Each 9-1-1 operator has been trained to TTY-query all silent or "open" calls and respond appropriately.

- d. The City has published and widely distributed a notice of its obligations under the ADA.
- e. The City has established and widely distributed ADA grievance procedures for both employees and members of the public with disabilities.
- f. The City's "On-Call Sidewalk Construction Program" and the STAR system are available for members of the public to request that curb cuts be installed in particular locations. For instance, in FY99, 45 curb cuts or ramps were installed; in FY00, approximately 30 curb cuts or ramps were installed; and in FY01, 45 were installed. Additionally, curb cuts have been installed on some of the City's arterial streets, including portions of 22nd Street, Irvington Road, Swan Road, and Broadway. Curb cuts are also installed on some "overlay" projects.

The City has identified and reported to the Department all streets, roads, highways, and street level pedestrian walkways that have been constructed or altered since January 26, 1992, and has assessed them for compliance with the Standards. The City provides curb ramps or other sloped areas complying with the Standards or UFAS at all intersection having curbs or other barriers to entry from a street level pedestrian walkway, whenever a new street, road, or highway is constructed or altered. Similarly, the City provides curb ramps or other sloped areas complying with the Standards or UFAS at all newly constructed or altered pedestrian walkways where they intersect a street, road, or highway.

- g. Every polling place has been surveyed by the City for ADA compliance. Where a facility can be retrofitted for polling purposes by the use of mobile ramps for persons with disabilities or by placing additional disabled parking signs and temporary election day disabled parking, the City Clerk supplies the necessary ramps and signs for the polling place. Poll workers are provided schematics and photos to assist them in proper placement of signs and ramps.

The City has updated its polling place questionnaire and information form to include a comprehensive review of polling place accessibility and utilizes the Department's ADA Checklist for Polling Places.

Every polling place is supplied with a voting booth to accommodate voters who use wheelchairs. Magnifiers are available at every polling place. In addition, curbside voting is provided.

The City Clerk makes available an audio tape of the Sample Ballot/ Publicity Pamphlet for visually impaired voters and these documents are also printed in Braille and are made available in any other alternate format requested.

The City provides opportunities for same-day balloting for voters with disabilities whose assigned polling place does not have accessible parking, exterior route, entrance, and interior route to the voting area.

The City trains poll workers on the rights of people with disabilities and the practical aspects of assuring those rights. The training covers, at minimum, the need to maintain the physical accessibility of polling locations; how to assist people with disabilities, as necessary; and how to operate any non-standard voting equipment or accessible features of standard equipment (particularly new, accessible equipment).

In response to the Department's survey of the polling place listed in [Attachment E](#), the City has written to the facility's owner and operator and indicated the results of that survey. The City is

currently taking steps to meet its program access obligation for polling at this facility.

- h. The City's employment policies and regulations have been re-written to ensure compliance with the U.S. Equal Employment Opportunity Commission's regulations implementing Title I of the ADA, including the following. The City:

C will not discriminate on the basis of disability in its hiring or employment practices.

C will not ask a job applicant about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions. Medical examinations or inquiries may be made, but only after a conditional offer of employment is made and only if required of all applicants for the position.

C will make reasonable accommodations for the known physical or mental limitations of a qualified applicant or employee with a disability upon request unless the accommodation would cause an undue hardship on the operation of the City's business. If an applicant or an employee requests a reasonable accommodation and the individual's disability and need for the accommodation are not readily apparent or otherwise known, the City may ask the individual for information necessary to determine if the individual has a disability-related need for the accommodation.

C will maintain any employee's medical records separate from personnel files and keep them confidential.

C will make an individualized assessment of whether a qualified individual with a disability meets selection criteria for employment decisions. To the extent the City's selection criteria have the effect of disqualifying an individual because of disability, those criteria will be job-related and consistent with business necessity.

- i. At Randolph Golf Club, the City provides accessible golf carts for use by persons with disabilities.
- j. The City makes reasonable modifications of policies, practices, and procedures for persons with disabilities who apply for Tucson Water and City of Tucson Environmental Services' Low Income Assistance Program. Customers with disabilities may arrange for a home visit by Pima County's Community Action Agency (PCCAA), the administrator of the program, or they may arrange for City Van Tran to take them from home to the PCCAA office.
- k. To ensure effective communication with individuals with disabilities, the City has identified and contracted with qualified sign language and oral interpreters, real-time transcription services, and vendors that can put documents in Braille. The City has established written procedures for fulfilling requests from the public for sign language or oral interpreters, real-time transcription services, and documents in alternate formats (Braille, large print, cassette tapes, etc.)

REMEDIAL ACTION

GENERAL EFFECTIVE COMMUNICATION PROVISIONS

- 8. The City will take steps to ensure that all appropriate employees are trained and practiced in using the Relay Service to make and receive calls.

LAW ENFORCEMENT AND EFFECTIVE COMMUNICATION

9. Within three months of the effective date of this Agreement, the City will adapt for its own use and implement the City of Tucson Police Department's Policy Statement on Effective Communication with People Who are Deaf or Hard of Hearing [[Attachment C](#)] and distribute to all officers the *Guide for Law Enforcement Officers When in Contact with People Who are Deaf or Hard of Hearing* [[Attachment D](#)].
10. Within three months of the effective date of this Agreement, the City will contract with one or more local qualified oral/sign language interpreter agencies to ensure that the interpreting services will be available on a priority basis, twenty-four hours per day, seven days a week, to its police or make other appropriate arrangements (such as contracting directly with or hiring qualified interpreters).
11. Within three months of the effective date of this Agreement, the City will ensure that each police station or substation and each detention facility housing City inmates is equipped with a working TTY to enable persons who are deaf, hard of hearing, or who have speech impairments to make outgoing telephone calls. Where inmate telephone calls are time-limited, the City will adopt policies permitting inmates who use TTY's a longer period of time to make those calls, due to the slower nature of TTY communications compared with voice communications.
12. The City's agreement to the terms of these provisions resolves investigation DJ 204-8-136, where a deaf complainant alleged that Tucson's Police Department had failed to provide her with effective communication when serving papers upon her.

VOTING

13. Some of the City polling places may be owned or operated by other public entities subject to title II or by public accommodations subject to title III and, as such, would be subject to the obligation to provide program access or to remove barriers to accessibility under the ADA. This Agreement does not limit future enforcement action against the owners or operators of these polling places by any person or entity, including the Department.
14. No later than March 30, 2006, the City will survey the polling locations owned by the City for accessibility to persons with disabilities by using the City of Tucson's Polling Place Questionnaire and Information Form, which includes the Department's ADA Checklist for Polling Places (www.ada.gov/votingck.htm) ([Attachment F](#) to this Agreement), and will report the results of this survey to the Department. If barriers to access are identified, the City shall remove these barriers no later than May 1, 2007.
15. No later than March 30, 2006, the City will survey its polling locations owned or operated by entities other than the City for accessibility to persons with disabilities by using the City of Tucson's Polling Place Questionnaire and Information Form, which includes the Department's ADA Checklist for Polling Places (www.ada.gov/votingck.htm) ([Attachment F](#) to this Agreement), and will report the results of this survey to the Department. If barriers to access are identified, the City shall notify in writing each of the owners and operators of these polling places of the barriers to access, and invite the owners and operators to remove the cited barriers no later than May 1, 2007. Such notification shall include a summary of the City's obligations under Title II, and shall include citation to the ADA Standards for Accessible Design (Standards). The City will simultaneously send a courtesy copy of the request to the Department.
16. No later than May 1, 2007, the City will survey all polling places not owned by the City to determine whether identified barriers have been removed. If not, for each of these polling places that still contains inaccessible elements, the City will timely identify an alternate location where the parking, exterior route, entrance, and interior route to voting are accessible. That identification will utilize the survey instrument that appears as [Attachment F](#) to this Agreement. The City will then take immediate steps to change its inaccessible polling places to the new locations. Alternatively, the City will comply with its program access obligations at locations not owned or operated by the City through the provision of temporary signage, temporary ramps, propped-open doors, and other temporary measures, as needed, that would provide full access to persons with disabilities during polling.

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EMERGENCY MANAGEMENT PROCEDURES AND POLICIES

17. If the City contracts with another entity, such as the American Red Cross or another local government, to provide its emergency preparedness plans and emergency response services, the City will ensure that the other entity complies with the following provisions on its behalf.
18. Within six months of the effective date of this Agreement, the City will implement and report to the Department its written procedures that ensure that it regularly solicits and incorporates input from persons with a variety of disabilities and those who serve them regarding all phases of its emergency management plan (preparation, notification, response, and clean up).
19. Within six months of the effective date of this Agreement, the City will implement and report to the Department its written procedures that ensure that its community evacuation plans enable those who have mobility impairments, vision impairments, hearing impairments, cognitive disabilities, mental illness, or other disabilities to safely self-evacuate or be evacuated by others. Some communities are instituting voluntary, confidential registries of persons with disabilities who may need individualized evacuation assistance or notification. If the City adopts or maintains such a registry, its report to the Department will discuss its procedures for ensuring voluntariness, appropriate confidentiality controls, and how the registry will be kept updated, as well as its outreach plan to inform persons with disabilities of its availability. Whether or not a registry is used, the City plan should address accessible transportation needs for persons with disabilities.
20. Within six months of the effective date of this Agreement, the City will implement and report to the Department its written procedures that ensure that if its emergency warning systems use sirens or other audible alerts, it will also provide ways to inform persons with hearing impairments of an impending disaster. The use of auto-dialed TTY messages to pre-registered individuals who are deaf or hard of hearing, text messaging, e-mails, open-captioning on local TV stations and other innovative uses of technology may be incorporated into such procedures, as well as lower-tech options such as dispatching qualified sign language interpreters to assist with emergency TV broadcasts.
21. Within six months of the effective date of this Agreement, the City will implement and report to the Department its written procedures that ensure that at least one emergency shelter has a back-up generator and a way to keep medications refrigerated (such as a refrigerator or a cooler with ice). Such shelter(s) will be made available to persons whose disabilities require access to electricity and refrigeration, for example, for using life-sustaining medical devices, providing power to motorized wheelchairs, and preserving certain medications, such as insulin, that require refrigeration. The written procedures will include a plan for notifying persons of the location of such shelter(s).
22. Within six months of the effective date of this Agreement, the City will implement and report to the Department its written procedures that ensure that persons who use service animals are not separated from their service animals when sheltering during an emergency, even if pets are normally prohibited in shelters. The procedures will not unnecessarily segregate persons who use service animals from others but may take into account the potential presence of persons who, for safety or health reasons, should not be in contact with certain types of animals.
23. Some of the of the City's emergency shelters may be owned or operated by other public entities subject to title II or by public accommodations subject to title III and, as such, are subject to the obligation to provide program access or remove barriers to accessibility under the ADA. This Agreement does not limit such future enforcement action against the owners or operators of these facilities by any person or entity, including the Department.

24. Within six month of the effective date of this Agreement, the City will request in writing that each of the owners and operators of its emergency shelters will identify and remove barriers to access for persons with disabilities. The request will specify that the remediation be completed within one year of the effective date of this Agreement. The City will simultaneously send a courtesy copy of the request to the Department.
25. Within 14 months of the effective date of this Agreement, the City will survey its shelters to determine whether the noted barriers have been removed. If not all barriers have been removed, the City will identify within 18 months of the effective date of this Agreement an appropriate number of alternate shelters where the parking, exterior routes, entrances, interior routes to the shelter area, and toilet rooms to the shelter area comply with the Standards.
26. Within six months of the effective date of this Agreement and until all emergency shelters have accessible parking, exterior routes, entrances, interior routes to the shelter area, and toilet rooms serving the shelter area, the City will identify and widely publicize to the public and to persons with disabilities and the organizations that serve them the most accessible emergency shelters.
27. To the extent that the City provides opportunities for post-emergency temporary housing to its residents, within six months of the effective date of this Agreement, it will develop, implement, and report to the Department its plans for providing equivalent opportunities for accessible post-emergency temporary housing to persons with disabilities. Within one year of the effective date of this Agreement, the City will ensure that information it makes available regarding temporary housing includes information on accessible housing (such as accessible hotel rooms within the community or in nearby communities) that could be used if people with disabilities cannot immediately return home after a disaster if, for instance, necessary accessible features such as ramps or electrical systems have been compromised.

SIDEWALKS

28. Within three years of the effective date of this Agreement, the City will provide curb ramps or other sloped areas complying with the Standards or UFAS at all intersections of the streets, roads, and highways identified under this paragraph having curbs or other barriers to entry from a street level pedestrian walkway.
29. Within three years of the effective date of this Agreement, the City will provide curb ramps or other sloped areas complying with the Standards or UFAS at all places where a street level pedestrian walkway identified under this paragraph intersects with a street, road, or highway.

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WEB-BASED SERVICES AND PROGRAMS

30. Within 1 month of the effective date of this Agreement, and on subsequent anniversaries of the effective date of this Agreement, the City will distribute to all persons – employees and contractors – who design, develop, maintain, or otherwise have responsibility for content and format of its website(s) or third party websites used by the City (Internet Personnel) the technical assistance document, "Accessibility of State and Local Government Websites to People with Disabilities," which is [Attachment H](#) to this Agreement (it is also available at www.ada.gov/websites2.htm).
31. Within three months of the effective date of this Agreement, and throughout the life of the Agreement, the City will do the following:
 1. Establish, implement, and post online a policy that its web pages will be accessible and create a process for implementation;
 2. Ensure that all new and modified web pages and content are accessible;

3. Develop and implement a plan for making existing web content more accessible;
4. Provide a way for online visitors to request accessible information or services by posting a telephone number or e-mail address on its home page; and
5. Periodically (at least annually) enlist people with disabilities to test its pages for ease of use.

PHYSICAL CHANGES TO FACILITIES

32. The City will submit to the Department for prior approval all construction documents including all plans and specifications, and significant change orders affecting accessibility, for the following facilities, the construction or alteration of which is anticipated during the life of this Settlement Agreement:
 1. City Court Parking Structure
 2. Quincie Douglas Pool
 3. West Side Police Substation
33. As soon as the initial construction of the following facilities is complete, or within 3 months of the effective date of the Agreement (whichever is later) the City will submit to the Department a complete set of "as built" drawings for the Department's review:
 1. Clements Center Addition
 2. El Pueblo Senior Center
 3. Fire Station # 20
 4. Fire Station # 21
 5. Pennington Street Garage
 6. Quincie Douglas Library
34. For each of the facilities listed in the preceding paragraph, the City will incorporate all modifications requested by the Department to ensure that these facilities comply fully with the ADA Standards for Accessible Design (Standards). These modifications will be made before the facilities are open for use or, if already open for use by the time the Department's comments are received, within 3 months of that date.
35. The elements or features of the City's facilities that do not comply with the Standards, including those listed in Attachments I, J, K, and L, prevent persons with disabilities from fully and equally enjoying the City's services, programs, or activities and constitute discrimination on the basis of disability within the meaning of 42 U.S.C. § 12132 and 28 C.F.R. §§ 35.149 and 35.150.
36. The City will comply with the cited provisions of the Standards when taking the actions required by this Agreement.
37. Within three months of the effective date of this Agreement, the City will install signage as necessary to comply with 28 C.F.R. § 35.163(b), after having surveyed all facilities that are the subject of this Agreement for the purpose of identifying those that have multiple entrances not all of which are accessible.
38. Newly Constructed Facilities: In order to ensure that the following spaces and elements in City facilities, for which construction was commenced after January 26, 1992, are readily accessible to and usable by persons with disabilities, the City will take the actions listed in [Attachment I](#).
39. Altered Facilities: In order to ensure that the following spaces and elements in City facilities, for which alterations commenced after January 26, 1992, are readily accessible to and usable by persons with disabilities, the City will take the actions listed in [Attachment J](#).

40. Program Access in City Existing Facilities: In order to ensure that each of the City's programs, services, and activities operating at a facility that is the subject of this Agreement, when viewed in its entirety, is readily accessible to and usable by persons with mobility impairments, the City will take the actions listed in [Attachment K](#).

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PROGRAM MODIFICATIONS

41. Access to City Programs Housed in Others' Facilities: In order to ensure that the City's programs, services, and activities that are the subject of this Agreement and that are operated by the City at facilities owned or controlled by other entities, when viewed in its entirety, are readily accessible to and usable by persons with mobility impairments, the City will take the actions listed in [Attachment L](#).

MISCELLANEOUS PROVISIONS

42. Except as otherwise specified in this Agreement, at yearly anniversaries of the effective date of this Agreement until it expires, the City will submit written reports to the Department summarizing the actions the City has taken pursuant to this Agreement. Reports will include detailed photographs showing measurements, architectural plans, work orders, notices published in the newspaper, copies of adopted policies, and proof of efforts to secure funding/assistance for structural renovations or equipment.
43. Throughout the life of this Agreement, consistent with 28 C.F.R. § 35.133(a), the City will maintain the accessibility of its programs, activities, services, facilities, and equipment, and will take whatever actions are necessary (such as routine testing of accessibility equipment and routine accessibility audits of its programs and facilities) to do so. This provision does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. 28 C.F.R. § 35.133(b).
44. Within six months of the effective date of this Agreement, the City will develop or procure a two-hour training program on the requirements of the ADA and appropriate ways of serving persons with disabilities. The City will use the ADA technical assistance materials developed by the Department and will consult with interested persons, including individuals with disabilities, in developing or procuring the ADA training program.
45. Within 18 months of the effective date of this Agreement, the City will deliver its training program to all City employees who have direct contact with members of the public. At the end of that period, the City will submit a copy of its training curriculum and materials to the Department, along with a list of employees trained and the name, title, and address of the trainer.

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IMPLEMENTATION AND ENFORCEMENT

46. If at any time the City desires to modify any portion of this Agreement because of changed conditions making performance impossible or impractical or for any other reason, it will promptly notify the Department in writing, setting forth the facts and circumstances thought to justify modification and the substance of the proposed modification. Until there is written Agreement by the Department to the proposed modification, the proposed modification will not take effect. These actions must receive the prior written approval of the Department, which approval will not be unreasonably withheld or delayed.
47. The Department may review compliance with this Agreement at any time. If the Department believes that the City has failed to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written agreement with the Department for a modification of the relevant terms, the Department will so notify the City in writing and it will attempt to resolve the issue or issues in good faith. If the Department is unable to reach a satisfactory resolution of the issue or issues raised

within 30 days of the date it provides notice to the City, it may institute a civil action in federal district court to enforce the terms of this Agreement, or it may initiate appropriate steps to enforce title II and section 504 of the Rehabilitation Act.

- 48. For purposes of the immediately preceding paragraph, it is a violation of this Agreement for the City to fail to comply in a timely manner with any of its requirements without obtaining sufficient advance written agreement with the Department for an extension of the relevant time frame imposed by the Agreement.
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- 49. Failure by the Department to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein will not be construed as a waiver of the Department's right to enforce other deadlines and provisions of this Agreement.
- 50. This Agreement is a public document. A copy of this document or any information contained in it will be made available to any person by the City or the Department on request.
- 51. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement (including its Attachments, which are hereby incorporated by reference), will be enforceable. This Agreement does not purport to remedy any other potential violations of the ADA or any other federal law. This Agreement does not affect the City's continuing responsibility to comply with all aspects of the ADA and section 504 of the Rehabilitation Act.
- 52. Nothing in this Agreement limits in any way the United States' efforts in conjunction with Preston v. City of Tucson, No. 02-278 (D. AZ) (DJ 204-8-200), regarding the City's alleged violations of title II of the ADA, 42 U.S.C. §§ 12131 et seq., section 504 of the Rehabilitation Act of 1973, 28 U.S.C. § 794, and their implementing regulations, 49 C.F.R. parts 27 and 37 and 28 C.F.R. part 35, in the operation of its paratransit system.
- 53. This Agreement will remain in effect for four years.
- 54. The person signing for the City represents that he or she is authorized to bind the City to this Agreement.
- 55. The effective date of this Agreement is the date of the last signature below.

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For the City:

For the United States:

BRADLEY J. SCHLOZMAN,
Acting Assistant Attorney General
for Civil Rights

By: _____
ROBERT L. WALKUP, Mayor

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-
-
By: _____
JOHN L. WODATCH, Chief
JEANINE WORDEN, Deputy Chief
MARY LOU MOBLEY, Senior Counsel
JOSH MENDELSON, Supervisory Attorney
LAURA M. WELP, Esq., Investigator - Contractor
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYA

Date: _____

Washington, DC 20530

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Date: _____

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