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ADA Programs Division

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Date: September 30, 2009
To: Mayor's Commission on Persons with Disabilities
Attn: Chris Finn, Chairperson
From: Christine Calabrese, City ADA Coordinator
Marcel Uzegbu, Supervising Civil Engineer, Community and Economic Development Agency (CEDA), Right-of-Way Management
CC: Dan Lindheim, City Administrator
Michael J. Neary, CEDA Deputy Director
Gus Amirzehni, Principle Civil Engineer, CEDA
Vicki Laden, Supervising Deputy City Attorney
Re: Quarterly Curb Ramp Activities Report

INTRODUCTION

This report provides detailed information about City of Oakland curb ramp activities for the period beginning April 1, 2009 and ending June 30, 2009. The report includes the status of: 1) *Fairfield v. Oakland* (curb ramp lawsuit); 2) the ADA Curb Ramp Transition Plan; and 3) curb ramp capital improvement programs. The Community and Economic Development Agency (CEDA), Right-of-Way Management Department, currently administers City curb ramp programs. The City ADA Coordinator and Mayor's Commission on Persons with Disabilities (MCPD) provide oversight and guidance for City ADA compliance activities, including curb ramp programs.

BACKGROUND

ADA Title II regulations stipulate that when structural changes to facilities are necessary to achieve program accessibility, a public entity that employs 50 or more persons must develop, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. That plan is to identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities; describe in detail the methods that will be used to make the facilities accessible; specify the schedule for taking the steps necessary to achieve compliance; and indicate the official responsible for implementation of the plan. In January 1996, the City prepared its transition plan with respect to buildings and facilities.

If a public entity has responsibility or authority over streets, roads, or walkways, then its ADA transition plan must include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the ADA, including State and local government offices and facilities, transportation, places of public

accommodation, and employers, followed by walkways serving other areas [28 C.F.R. § 35.150(d)(2)].

The 1996 Buildings and Facilities Transition Plan included curb ramp needs for off-street facilities and priorities for curb ramp installation at existing street corners. The Buildings and Facilities Transition Plan incorporated by reference a citywide curb ramp survey completed in 1994. Another citywide curb ramp survey was completed in 2002. The City operated robust curb ramp programs from 1996 to 2007 but no formal changes were made to the 1996 Plan. Pursuant to *Fairfield v. Oakland* (2007), the ADA Programs Division developed a separate ADA Curb Ramp Transition Plan to formalize long-standing curb ramp policies, practices and procedures and to adopt new ones as necessary to substantially comply with federal mandates.

Soon after passage of the ADA, the City recognized that it would take some time to complete a curb ramp transition plan, which requires construction of ramps at over 17,500 locations (street corners). In Fiscal Year 1990-91, the City launched the On-Call Curb Ramp Program to ensure access for people with disabilities living and working in Oakland during the lengthy transition period. The Program is currently funded by the City's ADA capital improvement program (general fund) and by Measure B gas tax revenues.

The On-Call Curb Ramp Program constructs curb ramps on an individual basis in response to requests from qualified persons with disabilities. Generally, requests come from residents with disabilities who wish to get to from their home or work place to transportation, school, medical facilities or other areas to accommodate their activities of daily living. This program installed over 900 curb ramps between 1991 and 2007.

Under the Curb Ramp Transition Plan, the City will establish a fund for curb ramp construction or reconstruction on an annual basis called the Citywide Curb Ramp Program. The following location (land use) priorities for curb ramp infill activities are based upon U.S. Department of Justice ADA Title II Regulations, the City of Oakland General Plan (1998), and best practices of other jurisdictions:

- Tier 1: Transit streets and centers
- Tier 2: Public facilities
- Tier 3: Privately-owned public accommodations
- Tier 4: Locations that do not fall into any of the above groups but are within 100 feet of a sidewalk route.
- Tier 5: Locations that do not fall into any of the above groups and are greater than 100 feet from a sidewalk route. These locations are neither counted as "possible locations" nor scheduled for improvement.

STATUS REPORTS

Curb Ramp Lawsuit (Fairfield et. al. v. Oakland)

The plaintiffs are all wheelchair users and have filed suits against Alameda County and cities therein, and against other cities and counties across California. Each of the plaintiffs alleges that in all or some of the municipalities, they were unable to traverse sidewalks at cross-streets because the cross-streets lacked any curb ramps or cutouts. In each case, the sidewalks are constructed, owned and maintained by the municipality. In total, the exhibits claim hundreds of violations because of the cities/county failure to comply with the laws requiring sidewalks to be accessible to persons with mobility impairments.

Oakland separated from the other defendants in Alameda County. After initially demanding \$100,000 to resolve the damages portion of this case, plaintiffs agreed to accept a total of \$33,000 including damages, attorneys' fees and costs. The City Council approved the settlement on September 21, 2009.

The court denied the City's request that it monitor the City's ADA Curb Ramp Transition Plan as a condition of the settlement. The court's rationale was that once the parties reached settlement, the court no longer had jurisdiction over the action and could only issue an advisory opinion. The court declined to issue an advisory opinion.

Curb Ramp Transition Plan Status

The City Council adopted the ADA Curb Ramp Transition Plan on April 28, 2009. The plan is available on the City's website: www.oaklandnet.com. Interested parties may contact the ADA Programs Division at adaprogram@oaklandnet.com, 510-238-5219 (voice) or 510-238-2007 (TTY) to request alternative format versions of the Plan.

The Right of Way Access Coordinator is developing curb ramp scoping, design and construction standards that will be applicable to all public right of way improvements under the City's jurisdiction, including work performed by the City and by others (private developers, utility companies, etc.).

The inventory of curb ramp improvements for Fiscal Year 2008-09 is show in Table 1 below. The Curb Ramp Plan states that the City will construct or reconstruct, on average, 500 or more curb ramps annually until the City is ADA compliant. For FY 2008-09, which began on July 1, 2008 and ended on June 30, 2009, the total number of ramps constructed or reconstructed by the City was 334.

Under the Curb Ramp Plan, the City anticipates that an average of 150 curb ramps per year will be constructed or reconstructed in the public right of way by others. For FY 2008-09, the total number of ramps constructed by others was 278.

Please note that a tracking system for curb ramp improvements (public and private) across City departments was instituted in January 2009 and not all FY 2008-09 improvements were necessarily captured. The Right of Way Access Coordinator is working on improving the City's curb ramp tracking system.

**Table 1
Inventory of Curb Ramps Improvements in Fiscal Year 2008-09**

Project Type	Number of Curb Ramp Locations
City On-Call Curb Ramp Projects	129
Other City Capital Projects	205
Private Development	278
Total Curb Ramps Improved	612

Also see attached map showing FY 2008-09 curb ramp construction activity.

Curb Ramp Capital Improvement Programs

Citywide Curb Ramp Program (Corridor Improvements)

Current and Future Contracts: Current and future City public right of way improvement contracts that include curb ramp construction as shown in Tables 2 and 3 below. These contracts include, but are not limited to street resurfacing projects, sidewalk repair projects, and streetscape projects. Primary funding sources are the City's General Fund, the State Gas Tax (Measure B), and the Federal Economic Stimulus program.

**Table 2
Current Contracts That Include Curb Ramp Construction**

Contract Number	Expected Number of Curb Ramps	Number of Curb Ramps Installed to Date	Unit Cost Dollars	Total Cost to Date	Percent of Project Complete	Contact Type
G212730	25	21	1800	54,600	100%	Sidewalk
C269110	32	32	1600	51,200	100%	Sidewalk
C269130	160	129	1600	206,400	85%	Sidewalk
C269160A	10	0	1600	0	74%	Sidewalk
C234910	143	143	1600	228,800	100%	Resurfacing
C269170	15	0	1600	0	2%	Sidewalk Repair
C194960	4	4	2000	8,000	100%	Streetscape
C318210	12	12	1600	19,200	100%	Streetscape
G339610	10	10	1800	18,000	100%	Resurfacing
TOTALS	411	351		\$586,200		

**Table 3:
Future Contracts That Include Curb Ramp Construction**

Project Number & Description	Expected Number of Ramps	Unit Cost Dollars	Total Cost	Schedule/Status
C316310-In Sidewalk Repair and Curb Ramps in Residential Areas and along Transit Corridors	260	1500	390,000	Summer 09- Curb Ramp Project; City Council Approval April 09
C317510 –Sidewalk Repair and Curb Ramps in Residential Areas	90	1800	162,000	Summer 09-Sidewalk/Curb Ramp Project; City Council Approval May 09
G376310-Stimulus for sidewalk and curb ramps in prioritized corridors	280	1500	420,000	Fall 09-Sidewalk and Curb Ramp Project; City Council Approval September 09
G339610-Five-year street resurfacing program	88	2000	176,000	Summer 09- Street Resurfacing
G376410-Stimulus for resurfacing / Five-year street resurfacing program	162	1500	243,000	Fall 09 Street Resurfacing; City Council Approval September 09
TOTALS	880		\$1,391,000	

On-Call Curb Ramp Program

Staff received and processed 145 on-call curb ramp requests between July 2008 and July 2009. Of the 145 curb ramp requests, 129 were constructed under contract number C269130 in Fiscal Year 2008-2009. Sixteen (16) of the 145 will be constructed at a later date. Staff is working to resolve the conflicts associated with the remaining 16 locations before construction of the curb ramps.