

# ***CITY & COUNTY OF HONOLULU***

## ***General Accessibility Design Guidelines and Policies and Procedures***

### ***Curb Ramps within Public Rights-of-Way***



June 2017

## **PREFACE**

This Accessibility Design Guidelines and General Policies and Procedures document was developed by the City & County of Honolulu, to assist engineers in the design and construction of accessibility elements for curb ramps and the abutting sidewalk facilities within the public rights-of-way for projects under the purview of the City & County of Honolulu. The recommendations of this publication are intended for the use of engineers and others who design pedestrian facilities to provide accessibility for individuals who are physically impaired. Engineers who use the document should employ the fundamental principles of engineering and good engineering judgment in the development of the construction plans and specifications.

This document consists of two parts –

Part 1, **GENERAL REQUIREMENTS**, contains general accessibility and scoping requirements for curb ramp and sidewalk projects.

Part 2, **DESIGN PROCEDURES AND TECHNICAL CONSIDERATIONS**, contains design procedures to be used by the engineer to design the accessibility elements.

The Appendices provide a Curb Ramp Request Form and sample Site Assessment Checklist.

These design guidelines and policies are not intended to be an all-encompassing document to consider the various situations unique to all agencies, and therefore, other agencies may deem it appropriate to modify the principles set forth in this document to suit their individual agency requirements for their particular facility improvements. The engineers should coordinate with their respective client agencies to confirm the applicable guidelines and policies to follow for their respective projects.

## **CONTENTS**

### **1. GENERAL REQUIREMENTS**

#### **1.1 CURB RAMP IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY**

- 1.1.1 "You Touch It/You Fix It" Trigger
- 1.1.2 Alterations Trigger
- 1.1.3 Relationship To The Transition Plan
- 1.1.4 Orphan Curb Ramps
- 1.1.5 Private Developers and Utilities

#### **1.2 SIDEWALKS WITHIN THE PUBLIC RIGHT-OF-WAY**

- 1.2.1 "You Touch It/You Fix It" Trigger
- 1.2.2 Private Developers

#### **1.3 DETECTABLE WARNINGS**

- 1.3.1 Projects With Only City & County Funds
- 1.3.2 Projects With Federal Funds

#### **1.4 PEDESTRIAN SIGNALS**

#### **1.5 BUS STOP AND SHELTERS**

#### **1.6 DISABILITY COMMUNICATION ACCESS BOARD (DCAB)**

#### **1.7 ADA COORDINATOR'S ROLE**

#### **1.8 REQUEST PROCEDURES**

### **2. DESIGN PROCEDURES AND TECHNICAL CONSIDERATIONS**

#### **2.1 SITE INVESTIGATION**

- 2.1.1 Locations Without Existing Curb Ramps
- 2.1.2 Locations With Existing Curb Ramps
- 2.1.3 Locations With Existing Traffic Signal Systems

#### **2.2 CURB RAMP TECHNICAL REQUIREMENTS**

- 2.2.1 General Design Principles
- 2.2.2 Fundamental Curb Ramp Requirements

- 2.3 SIDEWALK TECHNICAL REQUIREMENTS
  - 2.3.1 Fundamental Sidewalk Requirements
- 2.4 PEDESTRIAN SIGNALS - TECHNICAL REQUIREMENTS
- 2.5 MEASUREMENTS

## **LIST OF FIGURES**

- Figure 1 Curb Ramp Area (For Marked and Unmarked Crossings)
- Figure 2 Accessible Curb Ramp Required (No Existing Ramps)
- Figure 3 Apex or Perpendicular Curb Ramp
- Figure 4 Pedestrian Signals
- Figure 5 Width of the Sidewalk
- Figure 6 Sidewalk Passing Space
- Figure 7 Driveway Apron
- Figure 8 Vertical and Horizontal Clearance
- Figure 9 Transition from Existing to New Sidewalk

## **APPENDIX**

- Curb Ramp Request Form
- Sample Site Assessment Checklist
- Concent Decree Stipulated Agreements

## **1. GENERAL REQUIREMENTS**

The Americans with Disabilities Act (ADA) is a broad and inclusive civil rights law protecting those with physical, sensory or mental impairments. It requires all newly constructed improvements in the City's public right-of-way to be "readily accessible to and usable by" persons with disabilities, but there are no public rights-of-way standards published at this time to define exactly what that means in terms of ADA compliance.

The United States Architectural and Transportation Barriers Compliance Board (the Access Board) is an independent Federal agency responsible for developing accessibility guidelines under the ADA. The Access Board convened a Public Rights-of-Way Access Advisory Committee (PROWAAC) to address access to public rights-of-way for people with disabilities. PROWAAC has issued proposed guidelines and closed the comment period but has not yet issued final guidelines. The Proposed Guidelines for Public Rights-of-Way (PROWAG) was issued in the *Federal Register* July 26, 2011 (36 CFR Part 1190) for public comment.

This document is consistent with the Court Orders in *McConnell v. City & County of Honolulu* ADA settlement, design provisions of the Americans with Disabilities Act Standards for Accessible Design (2010 ADA Standards-28 CFR Part 36, Appendix A revised Sept. 15, 2010), PROWAG, and ADA technical assistance documents published by the DOJ and FHWA. The Stipulated Agreements associated with the aforementioned Court Orders are provided in the Appendix.

### **1.1 CURB RAMP IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY**

This document is a guide for determining when sidewalk or roadway projects trigger the need to modify existing curb ramps or to construct curb ramps where none currently exist. Such curb ramps shall be designed to provide ADA compliance to the maximum extent feasible. The appropriate Technical Infeasibility or Structural Impracticability statements, if necessary, should be filed with DCAB.

#### **1.1.1 "You Touch It/You Fix It" Trigger**

If a project/work touches an existing curb ramp or the area in which an accessible curb ramp is required but does not currently exist, then appropriate curb ramp modification or construction must be addressed. (See Figures 1 and 2).

Projects/work shall not gap or avoid the curb ramp area for the purpose of avoiding this trigger.

**EXCEPTION:**

Maintenance and repair work performed by the Department of Facilities Maintenance (DFM) to correct a safety hazard for pedestrians DO NOT TRIGGER a requirement to install a new or to modify an existing curb ramp based on Court Ordered provisions.

**1.1.2 Alterations Trigger**

If a roadway or sidewalk undergoes an alteration that affects usability for pedestrians, then appropriate curb ramp modifications or construction must be addressed at the applicable intersection(s). Alterations to roadways and sidewalks are defined as follows:

- Sidewalk Improvements – reconstruction, widening or alterations (other than maintenance) of concrete or asphalt concrete sidewalks which exceed 50% of the City block between the nearest curb returns of the intersecting streets.
- Roadway Widening Projects – construction of road improvements which alter the pavement width and provide for concrete and/or asphalt concrete sidewalk improvements.
- Major improvement projects – projects which modify the sidewalk at pedestrian crossing locations (e.g. intersection reconstruction, traffic signal installation/relocation).
- Installation of new crosswalk marking where crosswalk did not currently exist.

**EXCEPTIONS:**

The following are NOT considered alterations and DO NOT TRIGGER a requirement to install a new or to modify an existing curb ramp based on Court Ordered provisions.

- (1) Installation and alteration of street lights poles/fixtures or traffic cameras
- (2) Maintenance re-striping or modification of existing pavement markings, including new bikeways/bike lanes, but excluding crosswalk modifications
- (3) Installation of fixed street furnishings
- (4) Installation of water main connection laterals

- (5) Curb ramp modifications/installations under the transition plan or as part of the “needs based” request process
- (6) Installation of new pedestrian signal controls
- (7) Installation of new signage
- (8) Installation of parking meters or marked stalls
- (9) Installation of newspaper and tourist brochure dispensers
- (10) Installation of landscaping within the right-of-way
- (11) Resurfacing and rehabilitation of streets which is maintenance required to extend the useful life of the roadway and do not alter the basic configuration of the existing roadway width
- (12) Patching potholes and other minor maintenance within the road or sidewalk
- (13) Micro-tunneling or other "trenchless" construction method
- (14) Trenching in Roadway
- (15) Maintenance and repair work performed by DFM

Projects exempt from the **curb ramp** requirements must still ensure that the other elements worked on are made accessible to the maximum extent feasible. Any otherwise exempt project which encroaches into the curb ramp area falls under the “You Touch It/You Fix It” Trigger and triggers the curb ramp requirement (i.e. “You Touch It/You Fix It” takes precedence).

### **1.1.3 Relationship To Transition Plan**

The City and County of Honolulu is responsible for the implementation of curb ramps to provide program accessibility in accordance with the Americans with Disabilities Act, Final Transition Plan Related to Curb Ramps, January 7, 1999. This document is used as a basis for the design of the Curb Ramp Transition Plan. The Department of Design and Construction (DDC) took the lead for such implementation. The Transition Plan curb ramps are maintained in a database and the City anticipates incorporating these ramps into the City’s GIS.

### **1.1.4 Orphan Curb Ramps**

Where an alteration project triggers the requirement to install a new curb ramp or to modify an existing curb ramp based on Court Ordered provisions, the

project shall also provide for compliant curb ramps at the other street crossing(s), including crossings to unimproved streets to provide a safe haven for people in wheelchairs.

#### **1.1.5 Private Developers and Utilities**

The Department of Planning and Permitting shall be responsible for enforcing these policies on private developers, utilities and property owners requesting permits to build, construct, alter, or modify a curb ramp area within the City rights-of-way.

### **1.2 SIDEWALKS WITHIN THE PUBLIC RIGHT-OF-WAY**

#### **1.2.1 “You Touch It/You Fix It” Trigger**

Any sidewalk within the public right-of-way that affects pedestrian usability which is being altered shall, to the maximum extent feasible, meet the new construction requirements of the 2010 ADA Standards, PROWAG recommendations, and this document

The trigger for Curb Ramps is addressed in Section 1.1.

#### ***EXCEPTIONS:***

Where elements are altered or added to existing facilities, but the sidewalk is not altered, the sidewalk is not required to be modified. However, features that are added shall be made accessible to the maximum extent feasible.

Sidewalk maintenance and repair work performed DFM are not considered alterations under these guidelines and do not trigger any additional work in the surrounding vicinity.

#### **1.2.2 Private Developers and Utilities**

The Department of Planning and Permitting shall be responsible for enforcing these policies on private developers, utilities and property owners requesting permits to build, construct, alter, or modify a sidewalk within the City rights-of-way.

### **1.3 DETECTABLE WARNINGS**

#### **1.3.1 Projects Funded With Only City & County of Honolulu Funds**

City funded projects within the public rights-of-way will be deferring the incorporation of the detectable warning elements until an acceptable design of the detectable warnings has been finalized in future public rights-of-way sections of the ADA Standards for Accessible Design.

### **1.3.2 Projects Funded With Federal Funds**

New federally funded projects which provide improvements to the roadway/sidewalk facilities will incorporate detectable warning elements into the curb ramp designs as required by that federal agency.

## **1.4 PEDESTRIAN SIGNALS**

Installation of pedestrian signals is primarily the responsibility of the Department of Transportation Services (DTS). Individual requests for accessible (i.e., audible) pedestrian signals are handled through the DTS.

## **1.5 BUS STOPS AND SHELTERS**

Installation of bus stops and shelters is primarily the responsibility of the Department of Transportation Services. New and altered bus stops and shelters are required to comply with the US Department of Transportation's 2006 ADA Standards for Accessible Design and ADA regulations at 49 CFR Part 37.

## **1.6 DISABILITY COMMUNICATION ACCESS BOARD (DCAB)**

All plans and specifications for the construction of state and county buildings, facilities, and sites must be reviewed by State of Hawaii - Disability and Communication Access Board (DCAB), under §103 Hawaii Revised Statutes. A document review is required for all projects with plans and specifications as noted in 1.1 through 1.3.

Several forms are relevant to alteration projects in the public right of way:

- Technical Infeasibility Form – DCAB review needed for alteration projects claiming technical infeasibility when the 2010 ADA Standards are not being met.
- Structural Impracticability Form - DCAB review needed for new construction projects claiming structural impracticability when the 2010 ADA Standards are not being met.
- Historic Preservation – DCAB review needed for alteration to a qualified historic facility when the 2010 ADA Standards are not being met.

DCAB forms can be found on their website at:

<http://health.hawaii.gov/dcab/facility-access/forms/>

Deviation from the guidelines will be documented on the appropriate DCAB forms. For City & County of Honolulu projects, the Director of the respective Department or his/her designee is authorized to approve deviations of curb ramp standards on the Technical Infeasibility (TI) statement forms. Supporting documentation will include

plan drawings of location, drawing of curb ramp detail, elevations and existing conditions (e.g. slope of adjacent roadway), and color photo of the existing condition.

For new construction of pedestrian facilities, a Structural Impracticability (SI) statement form will be prepared with the appropriate supporting documentation as necessary. Signature and necessary approvals of the SI statement shall be determined by the respective agencies. Supporting documentation will include plan drawings of location, drawing of curb ramp detail, elevations and existing conditions (e.g. slope of adjacent roadway), and color photo of the existing condition.

### **1.7 ADA COORDINATOR'S ROLE**

Title II of the ADA requires all state or local government entities with 50 or more employees to appoint a responsible person to coordinate the administrative requirements of ADA compliance and to respond to complaints filed by the public. The name and contact information for the responsible person is required to be publicly advertised.

The current City and County of Honolulu ADA Coordinator is:

Denise Tsukayama  
Equal Opportunity Officer  
City & County of Honolulu  
925 Dillingham Blvd., Suite 180  
Honolulu, HI 96817  
dtsukayama@honolulu.gov  
768-8505 (v)  
768-8490 (fax)

The City and County of Honolulu ADA Coordinator is responsible for overseeing the development and maintenance of these guidelines, coordinating efforts to ensure that the policies are integrated into the daily operation of the City, and receiving, assigning, resolving, where appropriate, and investigating complaints related to discrimination on the basis of disability, as applicable.

### **1.8 REQUEST PROCEDURES**

Requests for the installation of new curb ramps within the City and County of Honolulu rights-of-way shall be made through the City and County of Honolulu ADA Coordinator. These requests shall be made by qualified persons with disabilities or a designated representative. Requests for new curb ramps shall be reviewed and processed by the appropriate City and County of Honolulu department as determined by the City's ADA Coordinator.

Requests may be submitted through the City and County of Honolulu's Curb Ramp Request Form (See Appendix).

## **2. DESIGN PROCEDURES AND TECHNICAL CONSIDERATIONS**

The purpose of this section is to provide appropriate guidance necessary to address common and unique conditions in the public rights-of-way. Various constraints posed by space limitations at sidewalks, roadway design, slope, and terrain require unique designs of curb ramps and pedestrian facilities.

### **2.1 SITE INVESTIGATION**

A site assessment will be conducted by all design consultants. The site assessment should include an overall plan identifying each location assessed, a color photo, site assessment checklist (see Appendix), and conceptual plan of the proposed curb ramp location, applicable walkways leading to and from the proposed curb ramp location, and corridor accessibility, as applicable.

#### **2.1.1 Locations Without Existing Curb Ramps**

The following additional detailed information shall be provided for locations without existing curb ramps:

- (1) Verify if there are existing concrete or asphalt concrete sidewalk facilities adjoining the proposed curb ramp; note if there is special surface texture/pattern of the sidewalk facility.
- (2) Identify major physical infrastructure elements within the proposed curb ramp area that may significantly impact the curb ramp design (pullboxes, drain inlets, traffic signal standards, pedestrian pushbuttons, traffic signal controller cabinet, HECO vaults, street light standards, etc.).
- (3) Identify the presence of existing trees (by species, if possible) within vicinity (15 feet min.) of the proposed curb ramp area; note approximate caliper and canopy dimensions; protruding surface roots; photo; any noted root damage to sidewalks, curbs, etc.
- (4). Note physical obstructions or barriers (utility pole, tree, narrow sidewalk, etc.) along the improved paths leading to the proposed curb ramp area.
- (5) Identify orphan curb ramp conditions (i.e., a curb ramp on only one side of a pedestrian crossing).
- (6) Note presence of relatively level area (1:50 max. slopes) behind sidewalk at intersection corner that appears to be used as an access to the adjacent property such as doorway, gate, walkway, etc.
- (7) Identify the presence of an existing concrete gutter at the intersection corner. Determine the thickness of asphalt concrete overlay, if applicable, over the

existing concrete gutter at the gutter invert and at the gutter lip where the gutter meets the roadway. Note the dimension of the curb reveal.

### **2.1.2 Locations With Existing Curb Ramps**

The following additional detailed information shall be provided for locations with existing curb ramps:

- (1) See items in Section 2.1.1.
- (2) Develop sketch of existing curb ramp(s) and provide measurements of the existing curb ramp slopes and critical widths.

### **2.1.3 Locations With Existing Traffic Signal Systems or Other Utilities**

The following additional detailed information shall be provided for locations with existing traffic signal systems:

- (1) See items in Section 2.1.1 and 2.1.2.
- (2) Note location of existing traffic signal standards, pullboxes, traffic signal controller cabinets (identify mounting of controller cabinet if on pedestal or flush on concrete foundation). Note location and type of existing pedestrian pushbuttons.
- (3) Identify any fiber optic facilities.

## **2.2 CURB RAMP TECHNICAL REQUIREMENTS**

### **2.2.1 General Design Principles**

- (1) **Best Design Practice.** The simplest way to avoid problems with construction tolerances related to surface accessibility and other accessible elements is to design for slopes and dimensions that are slightly less than maximums and slightly more than minimums. If possible, design curb ramps with a running slope of 7.1% (1:14) and a cross slope of 1.5% (1:67). Design landing areas and sidewalks with a slope of 1.5% (1:67). Planning for these lower slopes allows for construction inaccuracies while still not exceeding the maximums.
- (2) **Orphan Curb Ramps.** Avoid and/or eliminate orphan conditions. Orphan conditions occur when there is only one curb ramp serving a given pedestrian crossing, and a person with a disability enters the roadway without noticing the lack of an accessible curb ramp on the opposite side. This can place the disabled user in the unsafe position of having to “back track” across active lanes after the walk light for the individual has changed or having to traverse additional crossing distances at unsignalized crossings. Curb ramps and island cuts should be designed as though the pedestrian crossing were a single

element, only accessible if all the pieces that make up the island cuts are accessible. In areas where there are curbs but no accessible sidewalks on the opposite side, designers shall consider providing a curb ramp and adjacent landing to serve as a safe haven on the opposite side for disabled users to move out of the way of oncoming traffic.

- (3) **Tripping Hazards.** Overall safety shall be a consideration in designing curb ramps; avoid tripping hazards such as raised curbs within pedestrian routes. Abrupt level changes greater than 1/4" constitute tripping hazards and may cause wheelchairs to stop abruptly and unexpectedly, throwing the user out of the chair.
- (4) **Crossings and Sidewalks to Nowhere.** Curb ramps should be constructed at locations where adjoining sidewalks service places or public accommodations at adjacent properties and are part of an overall public pedestrian facility. These conditions will be evaluated with the City on a case-by-case basis. Alteration projects must include curb ramps if there is an existing sidewalk or a new sidewalk is proposed. A curb ramp or sloped transition must be provided at the end of a stretch of newly constructed or altered sidewalk for which there is no opposite sidewalk to allow wheelchair users access to the roadway.
- (5) **Curb Ramp Details.** Curb Ramp Details shall be included in project plans to indicate curb ramp compliant slopes and linear dimensions. Site-specific plan sheet designs shall reflect calculated slopes. The Typical Details shall comply with the 2010 ADA Standards, PROWAG, and technical assistance documents from the DOJ and FHWA.
- (6) **Ponding Issues.** Positive drainage flow of the roadway runoff will be provided in the curb ramp design; surface water ponding in the curb ramp area will be avoided. If the roadway slope is relatively flat (less than 1:50), a Type B curb ramp is not recommended; consideration will be given to the design of a Type A or Type B (Truncated) curb ramp that limits the potential for ponding.
- (7) **No Step at Adjoining Property Accesses.** Avoid Type "B" curb ramps adjacent to pedestrian walkways/pathways to private property. Accessible paths should be maintained and potential hazards should be avoided.
- (8) **Roadway Transitions at Bottom of Curb Ramps.** A typical 2-foot asphalt concrete pavement transition shall be identified in the required Curb Ramp Details. The pavement transition shall also be drawn on the plans, and will be limited to not more than one travel lane.
- (9) **Technical Infeasibility and Structural Impracticability Forms.** In cases where maximum slopes and minimum linear dimensions are exceeded, submit a signed Technical Infeasibility (TI) Statement or Structural Impracticability Form (SI) as described in Section 1.6.

- (10) **Warping Not Permitted.** Transition warps in the gutters, ramps, and landings are not permitted; ramps and/or landings shall conform to the adjacent roadway slope (road grade) if the existing roadway slope exceeds 1:50.
- (11) **Counter Slope Limitation.** The algebraic sum of intersecting plane slopes at plane breaks is limited to 13% with each plane slope not to exceed 1:12 unless conditions apply to “technical infeasibility” limitations.
- (12) **Apex or Perpendicular Curb Ramp Designs.** A 4-foot minimum bottom landing shall be provided within striped crosswalk markings or within the tangent curb line extensions for unmarked crosswalks of Type A and Type B Truncated curb ramps placed at the apex of the corner to serve two crossing directions. Ensure that a minimum 24" section of curbing is included within the marked crosswalk for Type A curb ramps serving two crossing directions to accommodate blind pedestrians using a cane. (See Appendix T-1).
- (13) **Crosswalk Markings.** Re-stripe entire crosswalks with international markings if a significant portion of the existing crosswalk markings is required to be re-striped in construction.
- (14) **Arborist Required.** If a tree is located within the vicinity of a curb ramp
  - i. (15 feet min.), consult with the appropriate City agencies/Departments after preparation of the site assessment or consult with an arborist authorized by the City to determine if special considerations need to be taken in the design or identified in the project plans for the contractor.
- (15) **Private Property Encroachments.** Curb ramp design shall be within the City’s right-of-way, to the extent possible. The project may seek an easement to ensure that any curb ramp in private property remains fully accessible.
- (16) **Matching Adjoining Paving Finishes.** Special texture or finish of existing sidewalks will be matched with the curb ramp design, to the extent possible.
- (17) **Pull Boxes, Catch Basins, Vaults, Etc.** Special attention should be given to avoid relocation of existing traffic signal poles, pull boxes, and traffic signal controller boxes, drainage catch basins, and HECO vaults within the curb ramp areas. Relocate traffic signal and street lighting pull boxes outside of the curb ramp; approval by DTS/DDC-MEDE is necessary to leave the pull box in the curb ramp area.
- (18) **Pedestrian Signal Pedestals at Parallel Curb Ramps.** Traffic signal push button poles, located at the back of the landing, will require the modification to the width of the grade adjustment curb to 12”; the height of the pushbutton will be as shown on Figure 4.

- (19) **Relocation of Signal Poles.** If the relocation of a traffic signal pole will impact the orientation of the traffic signal head, the designer will provide for replacement heads and brackets unless an assessment has been done/concurred by DTS allowing existing traffic signal head and brackets to remain.
- (20) **Existing Gutter with A.C. Overlay.** Coordination should be made with DDC to determine if special considerations need to be taken in the design of the curb ramp which may include designing the new curb ramp and concrete gutter to match the grade of the A.C. overlay.
- (21) **Rolled Curbs.** Type A or Type B (Truncated)” curb ramps at sidewalks with existing rolled curbs shall extend to the gutter invert of the rolled curb. For Type B curb ramps, rolled curb transitions conforming to the City and County of Honolulu’s Standard Detail R-6 “Rolled Curb Transition to Curbs and Catch Basins”, as amended; shall be constructed.
- (22) **Horizontal Control Points.** Curb ramp designs will have a minimum of two horizontal control points (azimuth and distance).

## **2.2.2 Fundamental Curb Ramp Requirements**

**The following applicable items are identified in the corresponding diagrams of the various curb ramp types:**

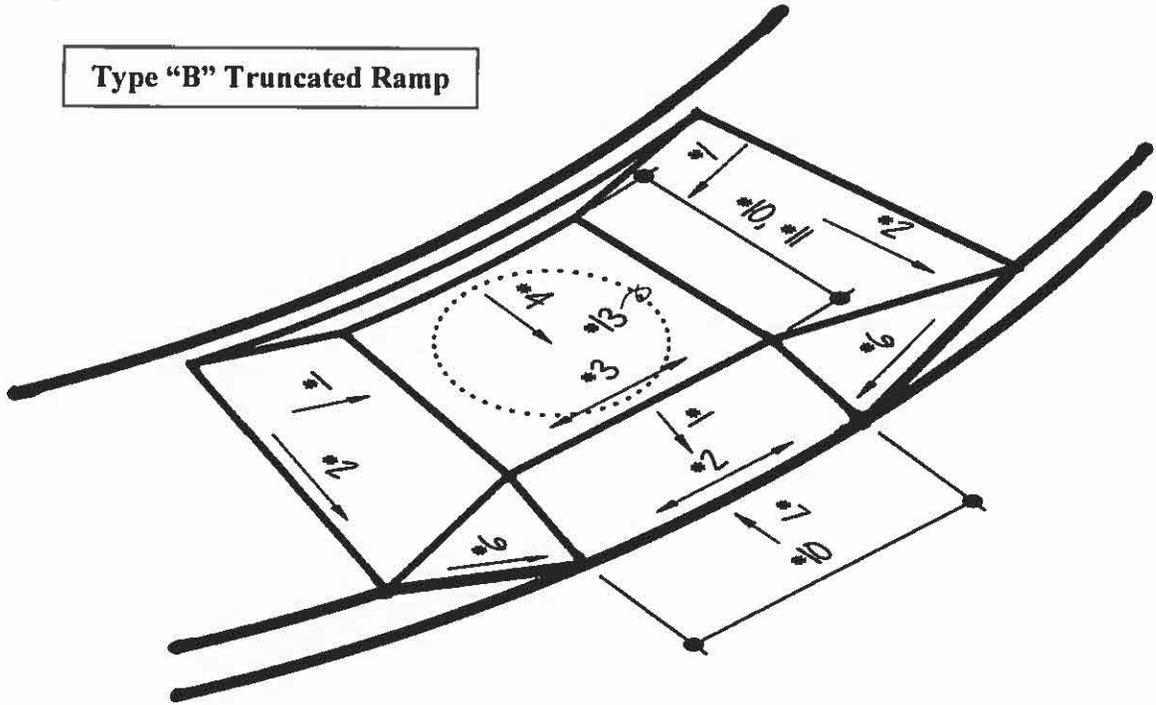
1. 1:12 maximum curb ramp slope.
2. 1:50 maximum curb ramp cross-slope (match street grade when roadway slopes exceed 1:50).
3. 1:50 maximum landing running slope.
4. 1:50 maximum landing cross-slope.
5. 1:12 maximum flare slopes (Type A) when full 48" deep top landing area (Item #11) is not provided, as in TI situations where no other curb ramp design is possible.
6. 1:10 maximum desired flare slope (Type A) when top landing is provided. (Use 1:10 relative flare slope regardless of existing sidewalk slope)
7. 1:20 maximum gutter counter-slopes fronting Type A curb ramp.
8. 1:12 maximum gutter counter-slope fronting Type B curb ramp.
9. 36" minimum pedestrian path (48" minimum desirable. 32" minimum is adequate if horizontal constriction is equal to or less than 24").
10. 48" minimum ramp width.
11. 48" minimum top landing depth for Type A curb ramps with no obstruction at rear.
12. 48" minimum bottom landing within striped markings or within the tangent curb line extensions for unmarked crossings (landing slope requirements are not applicable for bottom landings for Type A curb ramps since landing is within road pavement area).
13. Landing areas for Type B curb ramps shall be large enough to fit an imaginary 5-foot diameter circle (4-foot for ramps without a back curb greater than 3 inches in height or other constraint at the back of the sidewalk).
14. Ramp lengths for Type B curb ramps shall be limited to a maximum of 15 feet to accommodate slope of roadways.
15. Design of transitional warps in the gutter and/or curb ramps shall not be permitted in the design of curb ramps.
16. 36" long minimum transition when matching curb ramp to existing sidewalks/walkways with cross slopes exceeding 1:50 (additional transition length may be required when matching curb ramp to existing sidewalks/walkways with severe cross-slopes).
17. A single curb ramp designed at the apex of the curb return is acceptable for transition plan ramps, new construction and alteration projects shall have a ramp for each crossing direction provided, unless infeasible.
18. Align curb ramp with sidewalk and crosswalk if possible to aid visually impaired users.

19. 60" minimum wide median opening (72" minimum desirable) for two-way pedestrian traffic aligned with crossing.
20. 1:20 maximum running slope for median cuts. For running slopes greater than 1:30, provided 4-foot top level landing. In cases with pedestrian pushbuttons in the median, provide a minimum level area (maximum 1:50 slope) of 30" x 48" adjacent to the pushbutton regardless of median cut running slope.
21. 1:50 maximum cross slope for median cuts. (Match the street grade when roadway slopes exceed 1:50).
22. Locate pedestrian signal pushbuttons adjacent to clear level area of 30" x 48" if no maneuvering is required to activate pushbuttons. If maneuvering is required, locate pushbuttons adjacent to clear level area of 60" x 60". Provide ADA-compliant pushbutton.
23. Place control face of pushbutton parallel to direction of marked crosswalk and no more than 10" outside of the long side of the adjacent 30" x 48" clear level area.
24. Provide 10 feet minimum separation between pushbuttons for different crossing signals, if feasible.
25. If two curb ramps are provided on a corner, provide 4-foot level (1:50 maximum slope in all directions) separation between curb ramps.

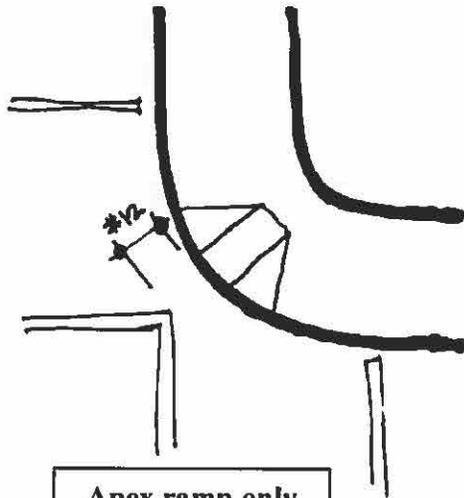


**Numbering applies to Section 2.2.2 Fundamental Curb Ramp Requirements**

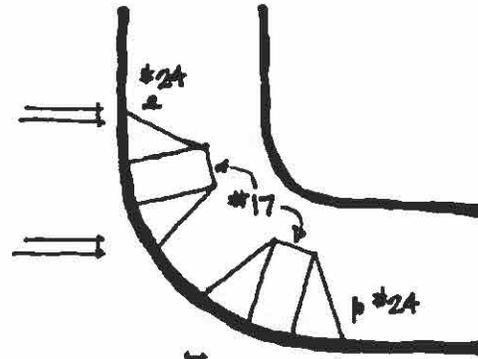
Type "B" Truncated Ramp



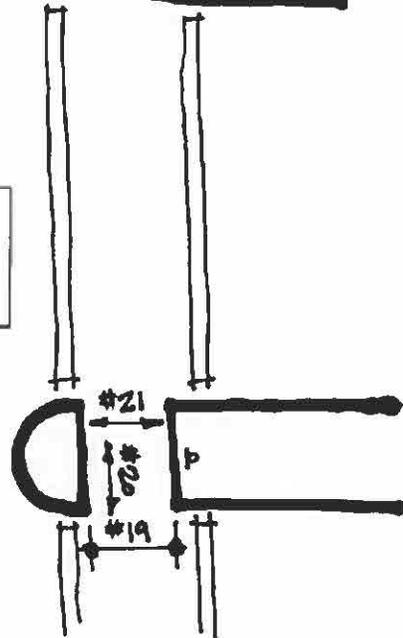
**Numbering applies to Section 2.2.2 Fundamental Curb Ramp Requirements**



**Apex ramp only  
for transition  
plan projects!**



**Island cut and  
two ramps per  
corner design**



## **2.3 SIDEWALK TECHNICAL REQUIREMENTS**

### **2.3.1 Fundamental Sidewalk Requirements**

- (1) **ADAAG 4.3.** New sidewalks shall, in general, conform to the requirements for an accessible route, 2010 ADA Standards 403, as amended, with the following exceptions based on Court Ordered provisions.

#### ***EXCEPTIONS:***

**Exception #1: Cross Slopes.** The cross slope requirements shall not apply where the connection of a curb ramp, curb ramp landing, or other portion of the accessible pedestrian route intersects a roadway and/or gutter having a longitudinal slope greater than 1:50. In these cases the bottom portion of the curb ramp, the curb ramp landing or a portion of the gutter at the bottom of these elements shall be constructed parallel to the adjacent road grade.

**Exception #2: No Ramp Features in Right-of-Way.** The maximum 1:20 running slope allowance for walkways in 2010 ADA Standards will be disregarded when the adjacent road grade exceeds 1:20 and these steep portions of sidewalks shall not be considered ramps, nor will the 2010 ADA Standards requirements for ramp landings, edge protection, handrails, etc. be mandated.

**Exception #3: Sidewalks on Short Radius Corners.** The slope and cross slope requirements shall not apply where the roadway ascends or descends at a tight turn – the sidewalk on the inner radius of the turn may have a steeper slope and/or cross slope than 1:50, but must be the least feasible slope and/or cross slope consistent with the slopes established for the adjacent roadway.

- (2) **Accessible Pedestrian Path.** Provide preferred 48-inch (minimum 36-inch) width of accessible pedestrian path; width may be reduced to 32 inches if the constricted area is no longer than 24 inches. Maximum 1:50 cross slope preferred (See Figure 5)
- (3) **Turning Area.** If the pedestrian is required to make a 180-degree turn around an object within the accessible route that is less than 48 inches wide, the minimum clear width of the pedestrian path is 42 inches on the approach and departure, and 48 inches at the turn maneuvering area. (See Figure 5)
- (4) **Minimum Clear Area.** A minimum clear area of 60 inches by 60 inches must be provided at a maximum of 200-foot intervals along the pedestrian route. (See Figure 6)
- (5) **Driveway Design.** New and/or modified existing driveways along existing sidewalk or new sidewalk alignments will conform to the City and County of Honolulu's Standard Detail R-29A, as amended; design of the driveway apron

will consider the potential for vehicles “bottoming-out” due to the slope differentials of the driveway. (See Figure 7)

- (6) **Protruding Objects.** Vertical and horizontal clearances along the pedestrian path will conform to Figure 8.
- (7) **Sidewalk Additions.** New sidewalk additions must be constructed to comply with new construction requirements, except for the transition segment between new and existing sidewalks. (See Figure 9)

## **2.4 PEDESTRIAN SIGNALS – TECHNICAL REQUIREMENTS**

When altered as part of a City and County of Honolulu project, pedestrian signals will conform to Figure 4 to the extent feasible. Coordination should be made with DTS as to the location of the traffic signals at the specific site.

## **2.5 MEASUREMENTS**

The slope and cross slope tolerances should be measured with a 24” long digital level set on the surface of the ramp or landing in the following way:

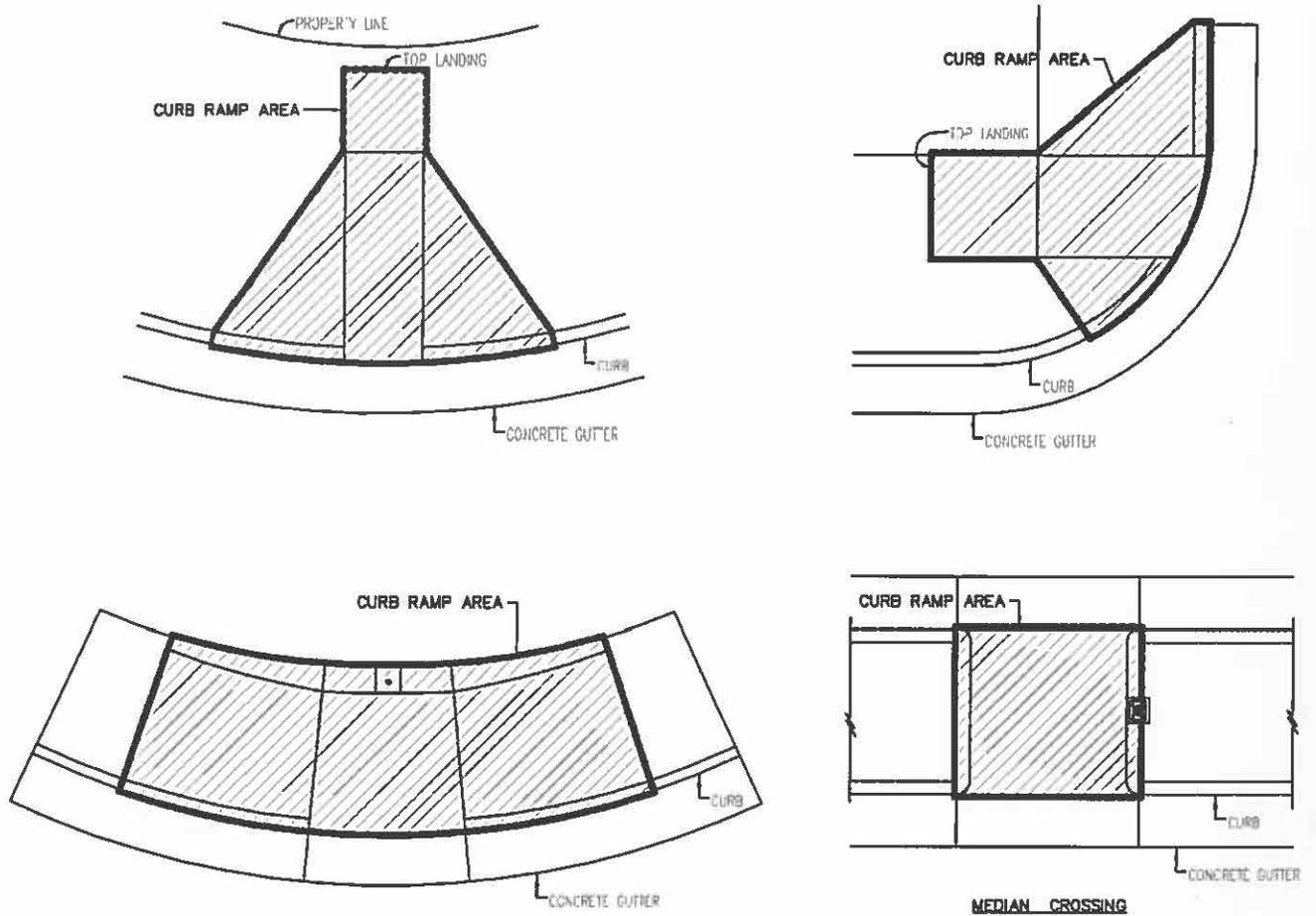
- A. For ramps, check cross slope every 24” along the ramp run at the top, middle and bottom then check running slope every 24” along the ramp at the top, middle and bottom – this basically provides a 24” grid survey of slopes and cross slopes on the ramp;
- B. Since ramp landings have to be level (1:50 maximum slope) in all directions, check the slope every 24” with the level parallel to each edge of the landing, then place the level at the center of the landing and measure every 24” in both directions of traffic – this basically provides a 24” grid survey of slopes and cross slopes on the landing.

If the finish of the concrete ramp or landing appears to have visible troughs or ridges, be sure to measure the slope by placing the level so it reads the steepest slopes on the surface. To measure whether the surface plane meets tolerance, place the level so it is centered over a trough to measure the maximum gap, or balanced on a ridge with an equal gap at both ends of the level.

## **CURB RAMP AREA** (FOR MARKED AND UNMARKED CROSSINGS)

**FIGURE 1**

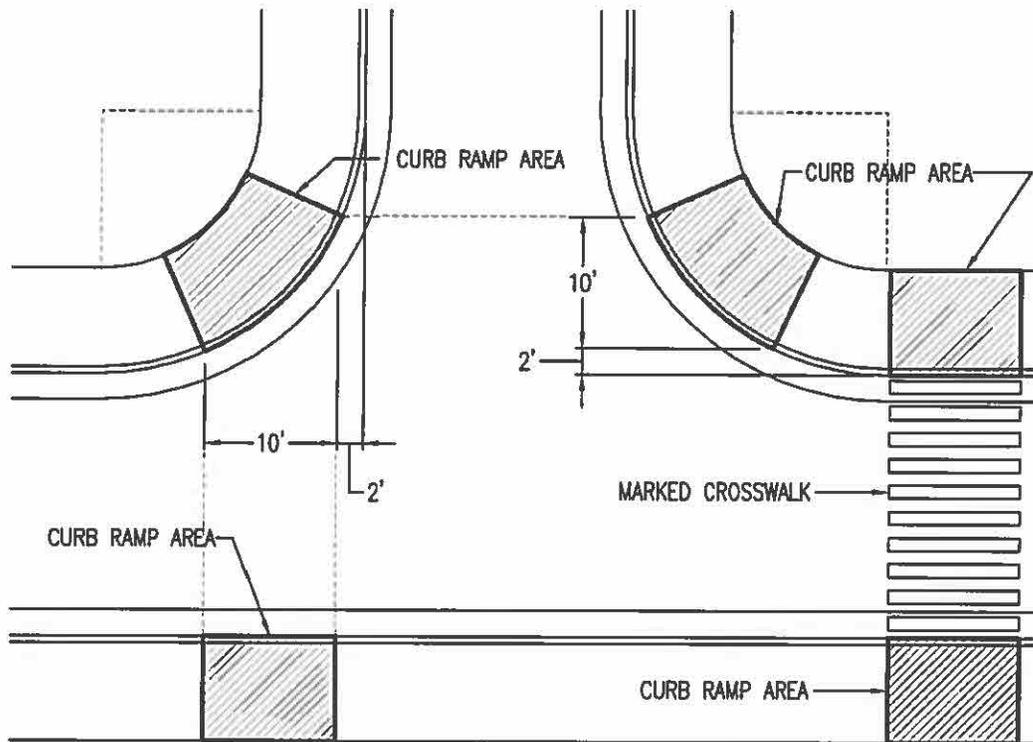
**"YOU TOUCH IT/YOU FIX IT" TRIGGER**



**ACCESSIBLE CURB RAMP REQUIRED  
(NO EXISTING RAMPS)**

**FIGURE 2**

"YOU TOUCH IT/YOU FIX IT" TRIGGER

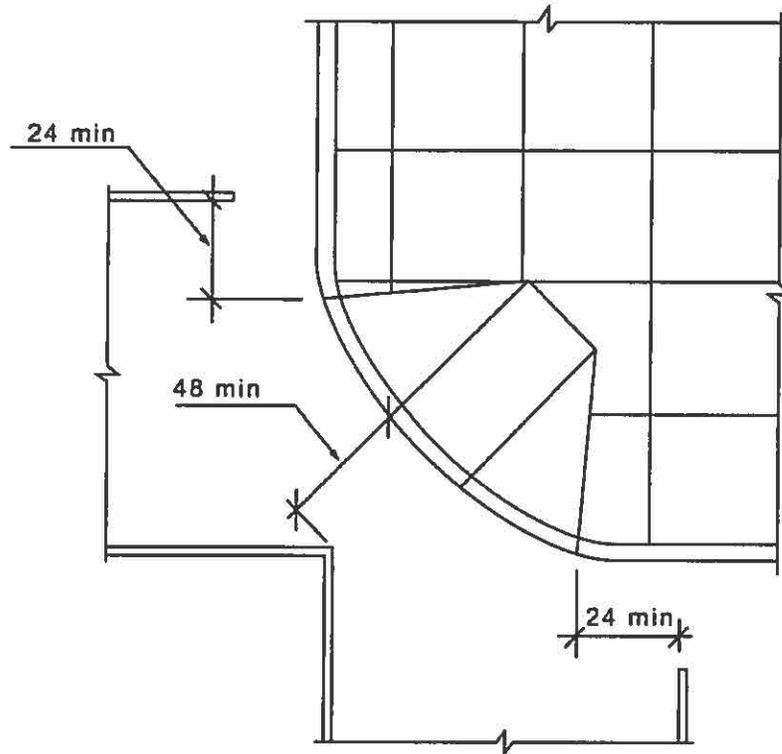


Note:

At intersections and crossings controlled by traffic signals, curb ramps are required within marked crosswalks only.

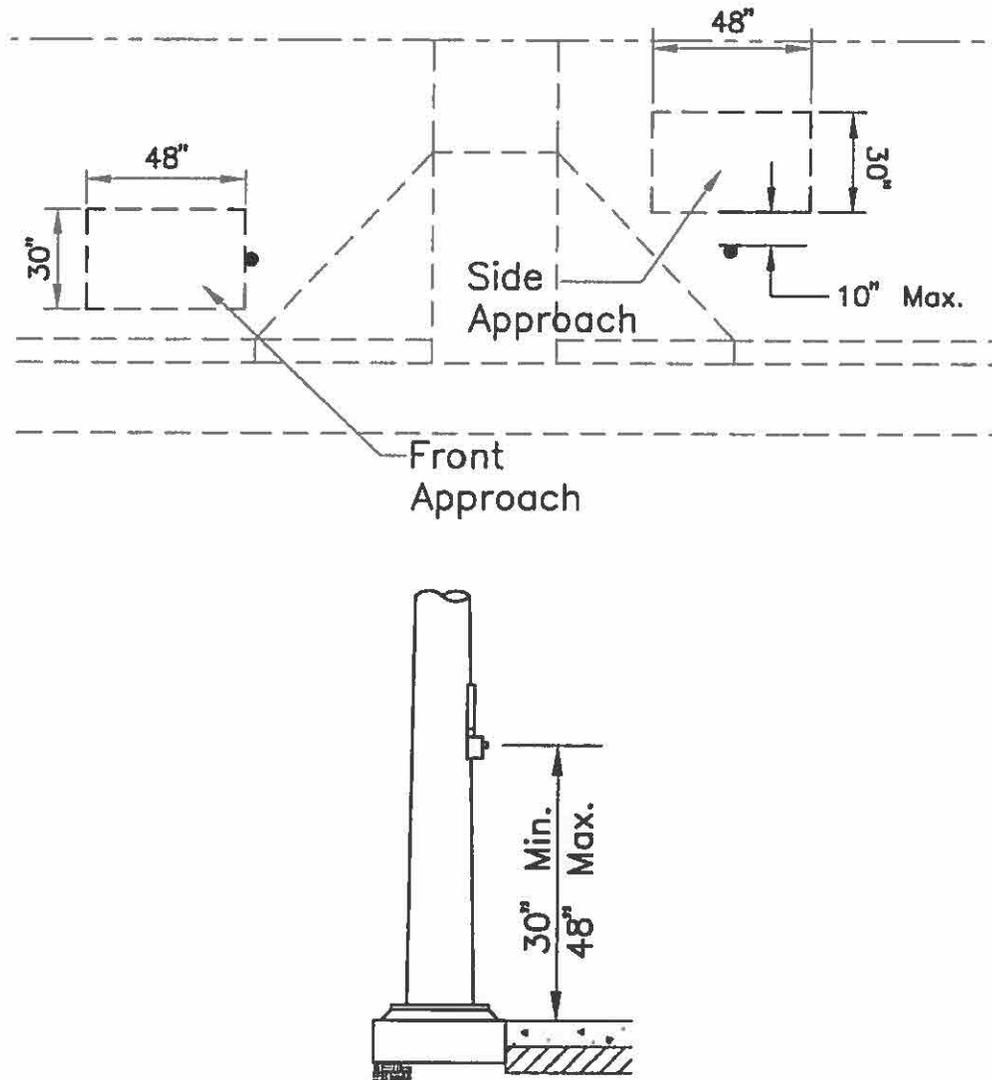
## APEX OR PERPENDICULAR CURB RAMP

**FIGURE 3**



## PEDESTRIAN SIGNALS

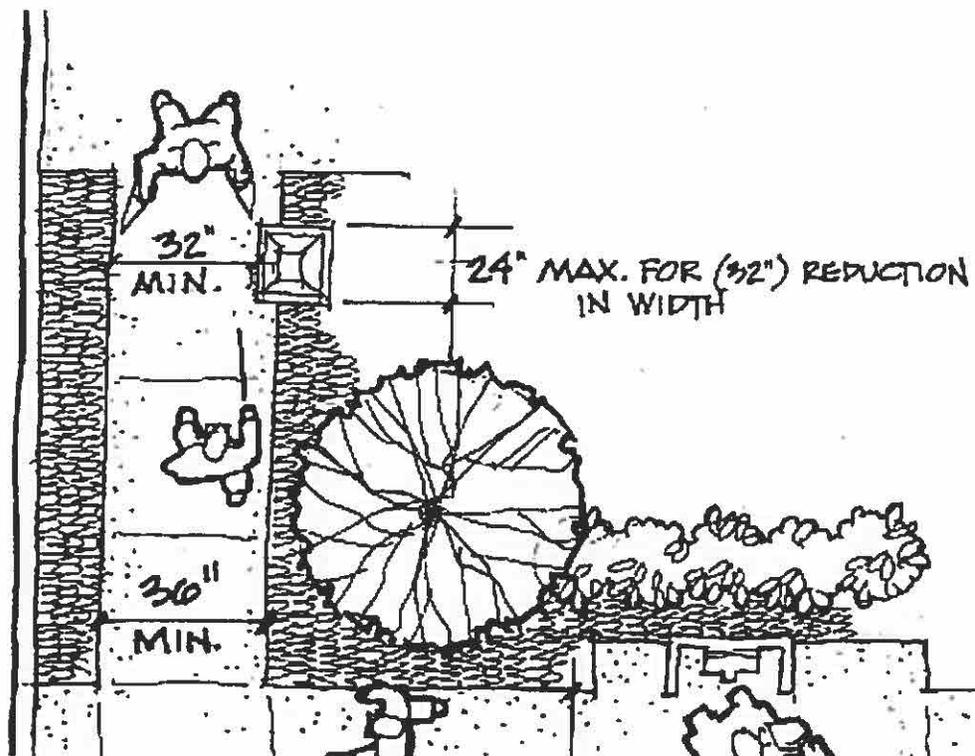
FIGURE 4



Note: 48" maximum dimension measured to top of pedestrian pushbutton control or other similar acceptable pedestrian activation device.

## WIDTH OF SIDEWALK

FIGURE 5

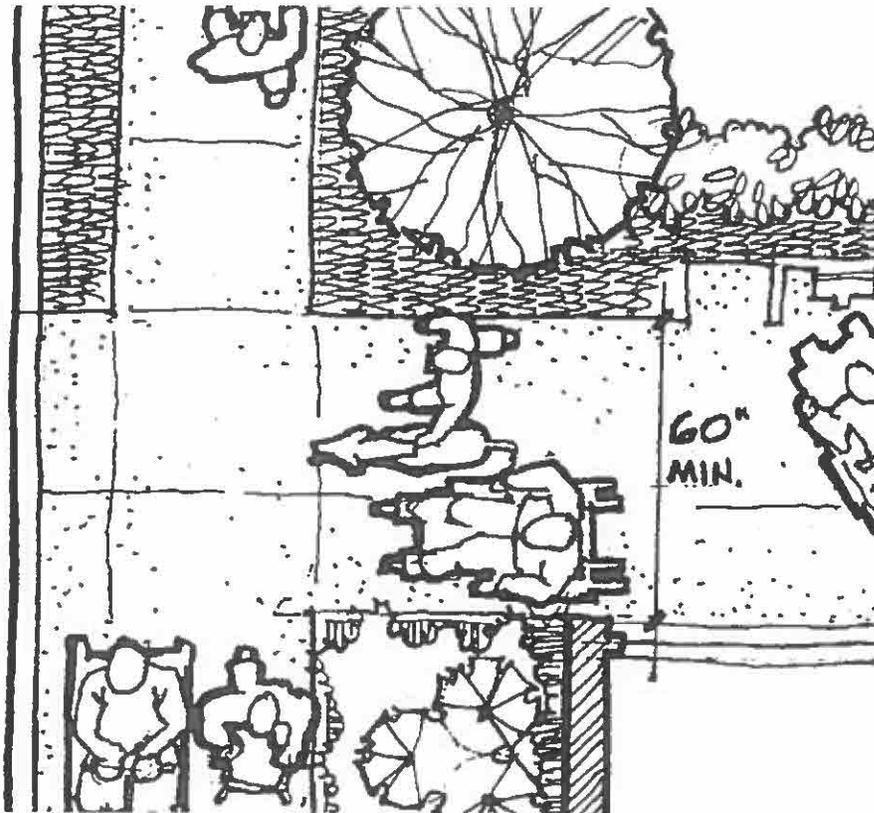


Notes:

1. The preferred minimum route width is 48 inches.
2. The route may be reduced to 32" if the constricted space is no longer than 24".
3. If the pedestrian route makes a 180-degree turn around an object which is less than 48" wide, clear width of the pedestrian route shall be 42" on the approach and exit of the turn and 48" at the turn.
4. The preferred cross slope is 1:50.

## SIDEWALK PASSING SPACE

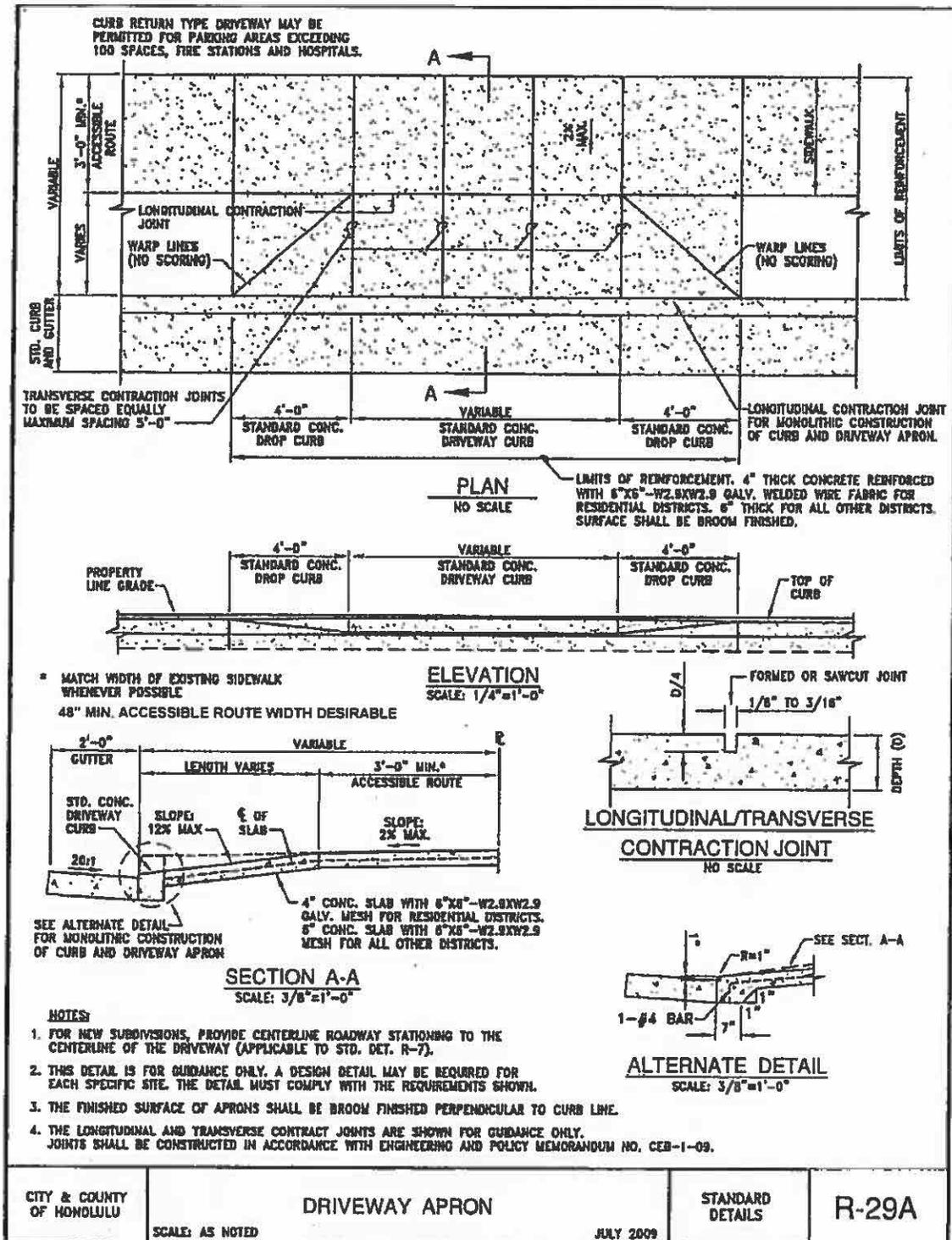
**FIGURE 6**



Notes:

1. A minimum 60"x 60" clear space must be provided at intervals along an accessible pedestrian route not to exceed 200 feet.

## DRIVEWAY APRON FIGURE 7

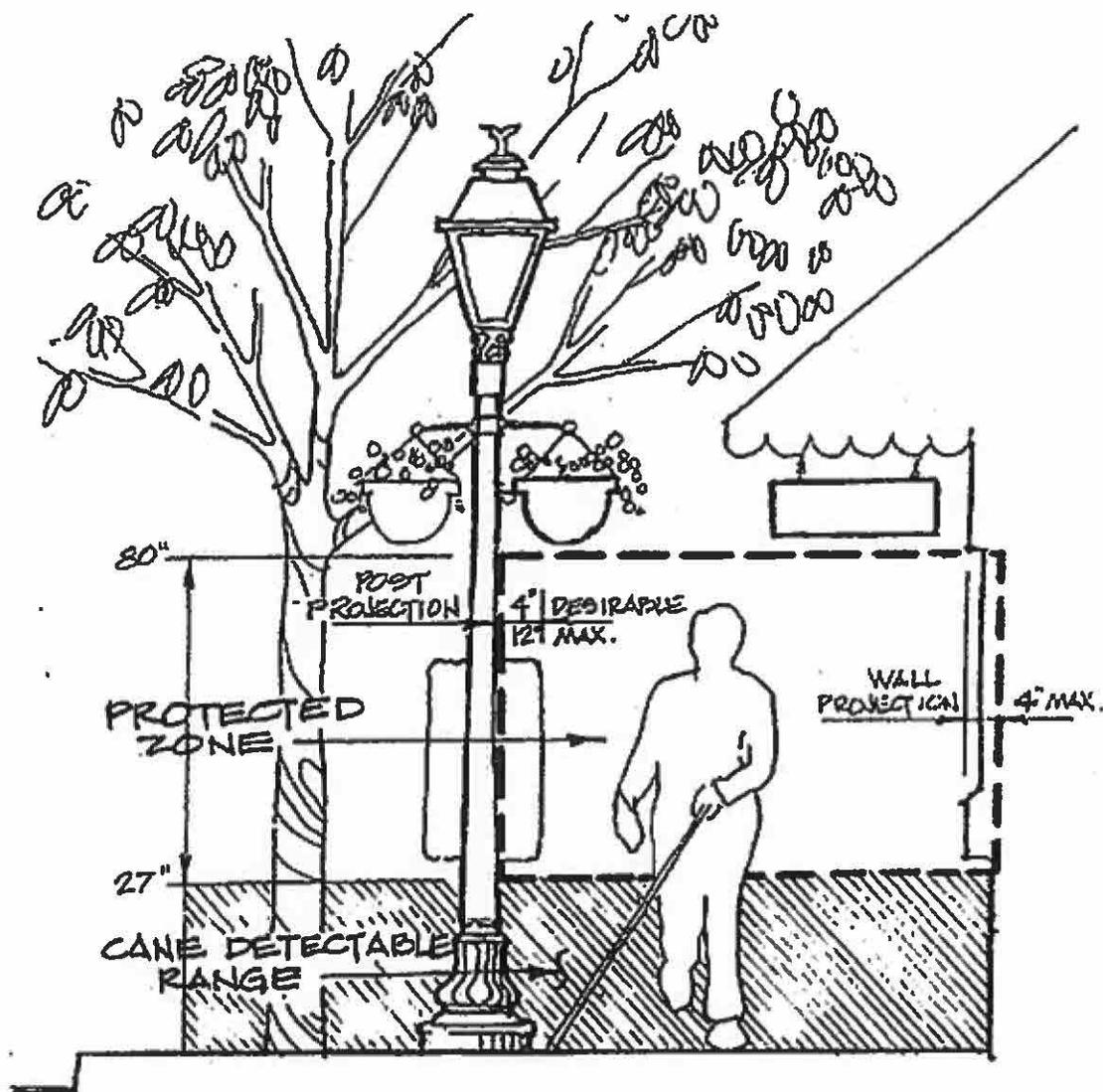


**Notes:**

- The desired accessible route width is 48 inches.
- Design of the apron will consider the potential for vehicles "bottoming out."

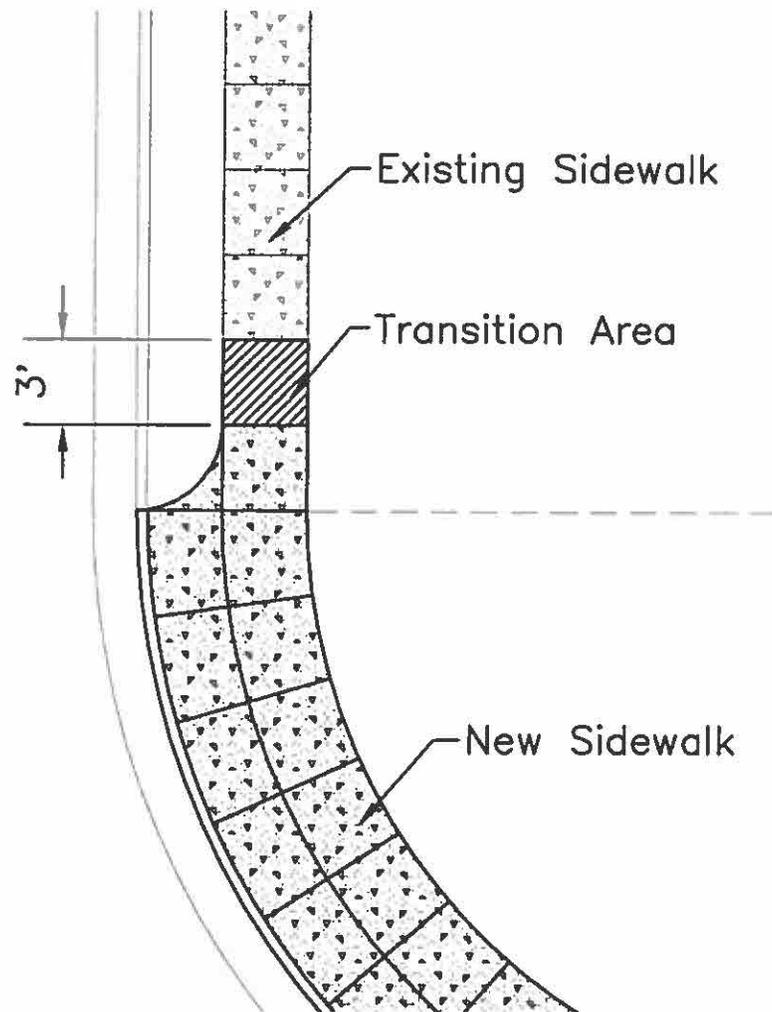
## VERTICAL AND HORIZONTAL CLEARANCE

FIGURE 8



## TRANSITION FROM EXISTING TO NEW SIDEWALK

FIGURE 9



Note: If existing sidewalk is replaced with new, transition area should be replaced to match cross-slope of previous sidewalk retrofit.

---

**APPENDIX**

---

# CURB RAMP REQUEST FORM

CITY AND COUNTY OF HONOLULU  
DEPARTMENT OF DESIGN AND CONSTRUCTION

This form is to be filled out by or on behalf of a person with a disability who requires the installation/ modification of curb ramps or the modification of existing accessible paths leading to curb ramps within public rights-of-way.

Fill out this form as completely as possible or call 768-8801 (Voice) for assistance. Provide a written description or sketch of the location(s) where curb ramps are needed for programmatic access to City services and/or facilities.

Within two (2) weeks of receiving a request, a representative of the City's Department of Design and Construction will contact the person making the request. A staff person will arrange to meet with the person making the request and the person needing the modification either at the location(s) noted or at an alternate site, if the location(s) are not accessible. Meetings will be held during the hours of 8:30 a.m. to 3:30 p.m., Monday to Friday.

LOCATION: NE NW SE SW ALL  
(Please circle appropriate location(s))

STREETS:

\_\_\_\_\_

\_\_\_\_\_

COMMENTS OR SUGGESTIONS:

\_\_\_\_\_

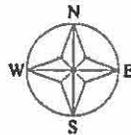
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Address \_\_\_\_\_

Address \_\_\_\_\_

Street Name \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

Street Name

Please mark intersection corner with an "X".

Please provide a brief statement of why the ramp is needed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Person Needing Curb Ramp Modification: \_\_\_\_\_

Contact (if different than above): \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_ Date: \_\_\_\_\_

Return to: Civil Division  
Department of Design and Construction  
City and County of Honolulu  
650 South King Street, 15th Floor  
Honolulu, HI 96813

or FAX to: 768-6103

## SITE ASSESSMENT CHECKLIST

INT NO. \_\_\_\_\_ ELEMENT \_\_\_\_\_ LOCATION \_\_\_\_\_

			Yes	No	Completed by/Date	Remarks
<b>1.</b>	<b>P h o t o s</b>	All corners of intersection				
		Approaches to corners				
<b>2. Verify approaches:</b>						
	Existing finish/ texture	a. Concrete				
		b. Asphalt				
	Physical obstructions along path leading to curb ramp	a. Utility pole				
		b. Tree				
		c. Narrow sidewalk				
		d. Other				
	e. Uneven sidewalks					
<b>3. Existing features:</b>						
	Any walkway or doorway access at corner					
	Any paved lot adjacent to corner					
	Existing abutting feature	Wall (type)				
		Landscaping				
	Any tree at corner within 15' of curb return at corner Species, caliper, canopy					
	Existing gutter Type					
	Exposed					
	Covered with a.c. Depth of a.c. at invert Depth of a.c. at gutter lip					
	Roadway Slope					
	Major utilities that may impact design of curb ramp					
	Pull boxes					
	Traffic control box					
	Street lights					
	Catch basin/drain inlets					
	HECO vaults					
<b>4. Existing ramp(s):</b>						

INT NO. \_\_\_\_\_ ELEMENT \_\_\_\_\_ LOCATION \_\_\_\_\_

		Yes	No	Completed by/Date	Remarks
	29" Bypass space				
	48" Bottom Landing within curb line extensions				
	36" Crosswalk width fronting ramp in direction of travel				
	Measure slopes (%):				
	Ramp (running)				
	Ramp (cross)				
	Landing (running)				
	Landing (cross)				
	Flare (at curb face)				
	Flare (29" from back of sidewalk)				
	Gutter (running)				
	Gutter (cross)				
	Measure critical width dimensions				
	Vertical Change ramp to gutter (in.)				
	Vertical Change gutter to pavement (in.)				
	Traffic Islands:				
	36" min. opening in curb				
	48" between top of ramps				
<b>5.</b>	<b>Existing traffic signals</b>				
	Note approximate location of traffic signal poles				
	Note pushbutton locations				
	Type of pushbuttons				
	Traffic controller box At grade Pedestal				
	Traffic signal pull box locations				
<b>6.</b>	<b>Sketch</b>				
	Intersection				
	Ramp				

# **Stipulated Agreements**

DAVID E. ARAKAWA, 2908  
Corporation Counsel  
GREGORY J. SWARTZ, 4856  
Deputy Corporation Counsel  
City and County of Honolulu  
Honolulu, Hawaii 96813  
Telephone: 523-4629

Attorneys for Defendant

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

NOV 02 2001

at 11 o'clock and 15 minutes  
WALTER A. Y. H. CHAN, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JIM MCCONNELL AND MARK EDWARDS,	)	CIVIL NO. 96-01111 DAB/KSC
	)	(CIVIL RIGHTS)
Plaintiffs,	)	
vs.	)	STIPULATION REGARDING COURT
	)	APPOINTED MONITOR AND ORDER;
	)	EXHIBIT "A"
CITY AND COUNTY OF HONOLULU,	)	
	)	
Defendant.	)	
_____	)	

STIPULATION REGARDING COURT APPOINTED MONITOR AND ORDER

WHEREAS, the parties having conferred on the issue of this Court appointing a monitor as to the Defendant's compliance and implementation of the Consent Decree and Order filed herein on May 5, 1997 and the revised Transition Plan of September 17, 2001 attached hereto as Exhibit "A";

IT IS HEREBY STIPULATED AND AGREED TO, by and between the parties herein, through their respective counsel, that:

1. The court appointed monitor shall be Paul Sheriff of Honolulu, Hawaii (hereinafter referred to as "Monitor"). The City shall enter into a contract with Paul Sheriff at \$100 per

hour (all inclusive) to pay for his services as Monitor consistent with this Stipulation. Any procurement laws, ordinances, or rules inconsistent with this Stipulation are hereby waived.

2. The Monitor shall:

- a. Be responsible for reporting on, evaluating and monitoring the Defendant's compliance with and efforts toward implementing the Consent Decree and Order filed herein on May 5, 1997 and the revised Transition Plan of September 17, 2001;
- b. Have access to all necessary information and documentation in the possession of or available to Defendant in fulfilling its responsibilities under this Stipulation;
- c. Have the ability to meet and confer freely with any and all parties herein; however, in doing so the Monitor shall disclose all communications conducted to all parties;
- d. Be responsible for creating and issuing quarterly reports to the Court and parties;
- e. Respond as appropriate to written inquiries received from either of the parties hereto in writing and disclose the same to the other party;
- f. Make recommendations concerning any modifications, changes and improvements to the process of constructing the curb ramps and the enforcement of compliance; and
- g. Submit invoices to the Magistrate Judge for review and approval prior to their submittal to the City.

3. Any party who disagrees with any action or recommendation made by the Monitor may appeal the same to the United States District Court, for the District of Hawaii, pursuant to 28 U.S.C. § 626.

4. The Monitor may be dismissed or replaced as it may become necessary, by either (a) stipulated agreement by the parties hereto with approval of the Court, or (2) by order of the Court upon the petition of any party hereto, when exceptional circumstances are shown.

DATED: Honolulu, Hawaii, OCT 31 2001

  
STANLEY E. LEVIN  
Attorney for Plaintiffs

  
GREGORY J. SWARTZ  
Attorney for Defendant

APPROVED AND SO ORDERED:

KEVIN S.C. CHANG

JUDGE OF THE ABOVE-ENTITLED COURT

5-13-MONITOR.DOC

McConnell, et al. v. City and County of Honolulu; Civil No.  
96-31111 DAE/KSC; STIPULATION REGARDING COURT APPOINTED MONITOR  
AND ORDER.

TABLE 1  
ADA TRANSITION PLAN SCHEDULE

6-YEAR TRANSITION PLAN SCHEDULE

FY	No. of Int.	No. of Elements*	Est. Cost
	362		\$ 8,758,500
2001	405	1185	\$ 8,792,000
2002	597	1496	\$ 8,785,000
2003	521	1401	\$ 8,760,000
2004	443	1113	\$ 8,795,500
2005	461	1137	\$ 6,707,000
Totals	2889	6342	\$ 50,586,000

\*No. of elements (curb ramps) associated with the intersections identified in the Transition Plan.

PROPOSED REVISED TRANSITION PLAN SCHEDULE

PI

FY	No. of Elements (Curb Ramps)						Total
	A	B	C	D	E	F	
2002	660	254	59	237	8	5	1223
2003	457	182	-	817	-	-	1456
2004	24	400	-	393	481	-	1078
2005	-	-	174	-	205	455	834
2006	-	-	-	-	-	-	0
2007	-	-	-	-	-	-	0
Totals	1141	836	233	1247	674	450	4591

PII

FY	No. of Elements (Curb Ramps)						Total
	A	B	C	D	E	F	
2002	62	30	-	21	3	1	117
2003	-	-	-	-	-	-	0
2004	-	-	-	-	-	-	0
2005	8	-	-	-	-	-	8
2006	851	-	-	936	-	-	1787
2007	8	518	63	249	192	70	1100
Totals	929	549	63	1205	195	71	3012

Notes:

- In conjunction with previously implemented or on-going rehabilitation and resurfacing of streets alteration projects, about 737 curb ramps from FY 2002 to FY 2007 are expected to be implemented by the end of 2002. Another 269 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the City's BRT project.
- 58 additional request curb ramps will be implemented as part of the FY 2002 program and are not reflected in the above schedule.

EXHIBIT "A"

**TABLE 2  
PROPOSED REVISED ADA TRANSITION PLAN COST**

	1995	2000	2001	2002	2003*	2004*	2005*	2006*	2007*	Total
Des		202	1065	1456	1078	842	1787	1100		7330
Con		95	202	1156	1456	1079	642	1767	100	7756
\$Des	\$2.4M	\$2.7M	\$3.7M	\$3.9M	\$3.5M	\$2.7M	\$4.7M	\$3.7M		\$27.3M
\$Con/Insp			\$1.1M	\$11.5M	\$10.3M	\$11.7M	\$10.7M	\$11.0M	\$10.7M	\$67.0M
	\$2.4M	\$2.7M	\$4.8M	\$15.4M	\$13.8M	\$14.4M	\$15.4M	\$14.7M	\$10.7M	\$94.3M

\*In conjunction with previously implemented or on-going rehabilitation and resurfacing of streets alteration projects, about 737 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the end of 2002. Another 267 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the City's BRT project.

date

DAVID Z. ARAKAWA, 2908  
Corporation Counsel  
GREGORY J. SWARTZ, 4856  
Deputy Corporation Counsel  
City and County of Honolulu  
Honolulu, Hawaii 96813  
Telephone: 523-4629

Attorneys for Defendant

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

LOGGED

MAY 28 2002

MAY 16 2002

at 3 o'clock and 30 min. P.M.  
WALTER A.Y.H. CHINN, CLERK

CLERK, U.S. DISTRICT COURT  
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JIM McCONNELL and MARR EDWARDS,	)	CIVIL NO. 96-01111 DAE/KSC
	)	
Plaintiffs,	)	SECOND STIPULATION REGARDING
	)	CONSENT DECREE AND ORDER FILED
vs.	)	MAY 5, 1997 AND ORDER;
	)	ATTACHMENT "1"
CITY AND COUNTY OF HONOLULU,	)	
	)	
Defendant.	)	

SECOND STIPULATION REGARDING CONSENT DECREE  
AND ORDER FILED MAY 5, 1997 AND ORDER

WHEREAS, on April 10, 2002, the Court Monitor issued an  
Interim Report; and

WHEREAS, on May 6, 2002, the Court Monitor made certain  
revisions to the Interim Report, which Interim Report as revised  
(hereinafter "Interim Report") is attached hereto and  
incorporated herein as Attachment "1"; and

WHEREAS, the parties have agreed to accept the recommendations set forth in the Court Monitor's revised Interim Report; now, therefore,

IT IS HEREBY STIPULATED AND AGREED TO, by and between the parties herein, through their respective counsel, that:

1. The construction tolerances set forth in Exhibit "A" to the Interim Report are hereby adopted for purposes of determining whether existing or new curb ramps and sidewalks are in compliance with applicable design guidelines.

2. For purposes of 28 C.F.R. Section 35.151(b) and (e), the City and County of Honolulu (hereinafter "City") shall be required to modify or replace an existing curb ramp which does not meet new construction design guidelines (after taking into account the adopted construction tolerances) or install a new curb ramp where none existed, when the alteration project directly affects the existing curb ramp or the area of the sidewalk where a new curb ramp would be required under the "you touch it, you fix it" policy set forth in Exhibit "B" to the Interim Report. Resurfacing and rehabilitation of roadways shall not per se trigger the requirements to modify or replace existing curb ramps or install new curb ramps.

3. Consistent with Paragraph 3 of the Interim Report, blending, where feasible, shall be the preferred method for

making an existing curb ramp usable without being fully compliant.

4. For purposes of federally funded highway improvements, the City will design for detectable warnings on curb ramps that are modified, replaced, or newly constructed. For non-federally funded projects, the City will defer detectable warnings until final design guidelines are adopted.

5. Curb ramps that were modified or constructed between January 26, 1992 and December 31, 2001, but which do not meet the applicable design guidelines (after taking into account the adopted construction guidelines), do not have to be remodified or reconstructed unless the curb ramps are not usable by individuals with mobility disabilities.

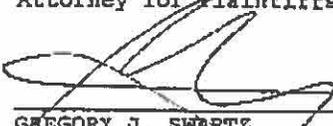
8. The Court Monitor's recommendations set forth in Paragraphs 5, 7, 9, 10, and 11 of the Interim Report are adopted in toto.

9. Quarterly status reports on the City's Self-Evaluation Plan, as previously required by Section 5(a) of the Consent Decree and Order filed May 5, 1997, shall no longer be required.

10. Except as otherwise provided for herein, all the provisions of the Consent Decree and Order filed May 5, 1997 shall remain in full force and effect.

DATE: Honolulu, Hawaii, MAY 16 2002

  
\_\_\_\_\_  
STANLEY E. LEVIN  
Attorney for Plaintiffs

  
\_\_\_\_\_  
GREGORY J. SWARTZ  
Attorney for Defendant

APPROVED AND SO ORDER:

DAVID ALAN EZRA

JUDGE OF THE ABOVE-ENTITLED COURT

McConnell, et al. v. City and County of Honolulu; Civil No.  
96-01111 DAE/KSC - SECOND STIPULATION REGARDING CONSENT DECREE  
AND ORDER FILED MAY 5, 1997 AND ORDER

**ATTACHMENT 1**

April 10, 2002  
(Revised May 6, 2002)

Court Monitor's Interim Report

1. Construction Tolerances

Upon meeting with David Capozzi, the Executive Director of the United States Architectural Transportation Compliance Board, in Portland, Oregon, in informal discussions, David Capozzi has stated that the Board would issue recommendations for construction tolerances taken from the Construction Specifications Institute. I recommend that due to the fact the Board is going to use construction tolerances, we use the tolerances provided in the table below and incorporate them into the stipulation. These tolerances are identical to the conclusions of independent studies performed by Peter Axelson for agencies of the federal government. Engineers, contractors and designers feel that, yes, you usually can provide a perfectly compliant ramp design on paper, but when you get into the actual field, you must allow for some construction tolerances. (EXHIBIT A)

2. Alteration Projects and Definition of What Constitutes an Alteration

In an informal conversation the C&C of Honolulu's consultant, Mr. Bill Hoeker, was told by a Representative of the Department of Justice (DOJ), who was also an attendee at the PROWAAC committee meeting in Portland, that the DOJ would not create any regulations and rule making regarding the definition of, or what constitutes an alteration project. In other words, the DOJ is not going to directly address in rule making or provide in any regulations the definition of an alteration project or the magnitude of such projects, which would trigger mandatory curb ramp implementation in relationship to alteration projects.

The court monitor recommends that we enter into the stipulation that mandatory curb ramp removal and replacement be triggered only when a major alteration project which directly affects the curb ramp as in the "you touch it, you fix it" policy, be the mandating driving force of the definition of an alteration project and 28 CFR 35.151. (EXHIBIT B & C)

3. Warping vs. Blending

At the PROWAAC committee meeting, there has been much discussion including case studies to determine the recommendations for blending vs. warping. The definition of blending is a form of "blending" the landing and the ramp slopes to make a ramp be usable without being fully compliant. The blending is generally triggered and dictated by the slope of the roadway grade. Warping is a procedure, which is done in the runoff gutter and also in the landing area. The gutter and/or ramp contain(s) a "cricket" to provide for a more level landing in the ramp area. General policies and thinking are leaning towards accepting the blending procedure, which would be more easily created in the curb ramp due to the existing slope of the roadway surface.

- a. Blending the ramp is a safer procedure for wheelchair users than warping.

ATTACHMENT "1"

- b. Warping can cause the wheelchair to "tweak" which can cause one of the four wheels to come out of contact with the surface of the ramp.
- c. Warping also creates problems in the runoff gutter for other issues such as runoff, snow removal, etc.
- d. Warping is more difficult to design and construct and may result in higher costs (EXHIBIT D).

4. Existing and New Ramps Which Meet the New Construction Tolerances (see case studies)

There are approximately 600 to 700 curb ramps, which meet in one form or another, new construction tolerances (EXHIBIT A) - all parties have agreed that ramps, which meet this criteria, can be deleted from being required to be removed and replaced.

NOTE: there is an issue, which has been omitted or neglected to be addressed concerning this subject, which is an element included in the current consent decree.

- a. The current consent decree requires that any curb ramp which is not currently compliant that are affected by an alteration project must be removed and replaced to be fully compliant; however, the plaintiff's party has expressed an opinion which would fall in line with the policy for alteration projects and that is, if those ramps along an alteration project fall within the new construction tolerances (EXHIBIT A), they would not be required to be removed and replaced. Three (3) items must be addressed pertaining to this issue before a decision can be made:

- 1) what the final definition of an alteration project will be,
- 2) if all parties agree that those ramps that meet those percentages do not have to be removed and replaced, and
- 3) what these percentages will be.

NOTE: it is the court monitor's opinion that any ramp, which is not fully compliant, that is affected by an alteration project should be removed and replaced (this is why it is extremely important that the parties address the definition of an alteration project) (EXHIBIT E)

5. Newly Constructed Ramps

There are a number of ramps in the C&C Public Rights-of-Way that were constructed by others that were/were not reflected in the Transition Plan. The ramps could have been constructed by:

- a. Private Enterprise
- b. Public Works
- c. State Projects
- d. Other miscellaneous projects which the consultants do not track and record

There are a number of newly constructed curb ramps, which have not been counted and entered into the total count of curb ramps. It is the monitor's recommendation that all curb ramps be counted which serve the public in the C&C's Public Rights-of-Way. Previous discussions have concluded that it is not only ramps that are constructed by the C&C be counted, but all ramps that affect the public good be counted.

NOTE: the court monitor recommends two (2) additional actions:

- 1) that the C&C address these ramps constructed by others and provide a report summarizing which of these ramps are included in the transition plan and ramps not included in the transition plan. All ramps should be counted; and
- 2) that since all curb ramps that affect the C&C must be processed for a building permit, the C&C will track and document all ramps identified in the approved building permits. (EXHIBIT F).

6. Detectable Warnings

Detectable warnings will be required, however, the concise figuration and actual implementation has not been determined. Lois Thibault of the Access Board has expressed concern regarding the impact detectable warnings have on wheelchair users. Lois also stated that she had problems getting technical data and statistics and numbers from wheelchair manufacturers to create a matrix and graph, which would allow the PROWAAC committee to determine average widths of wheelchairs. So in regards to this dilemma, the court monitor pulled volumes of information and made telephone calls as to the average wheelchair widths sold and the highest percentage and numbers of wheelchairs and widths sold. The court monitor then proceeded to forward information to the City's consultant, Bill Hecker, and created a drawing and configuration of curb ramps with detectable warnings and wheelchair runways in which those runways were minus the detectable warnings. The wheelchair runways and widths were based upon the averages and highest percentage of all

wheelchairs sold to help solve the issue. Mr. Hecker then forwarded the concept to members representing the blind community on the PROWAAC committee and will send the documentation to Francine Wai for a preliminary determination of equivalent facilitation. (EXHIBIT G)

7. Cross Walk Controls

From discussion at the PROWAAC committee the proposed location of the pedestrian crossing signal button has made much progress. In relationship to the C&C, the C&C is exceeding the PROWAAC recommendations at this time for location and numbers. The cross walk controls in the newly constructed resurfacing and maintenance programs on King Street and downtown, Honolulu have two (2) control buttons in each direction. In accordance with ADAAG, a pedestrian signal control button for each direction of crossing be placed within 10' of the approach. The court monitor recommends this configuration until a final design conclusion by the PROWAAC committee due to the fact that it will be more accessible than the PROWAAC committee's direction and heading.

8. Learning Curve

Grandfather clause - the court monitor had drafted some preliminary language for the learning curve grandfather clause, which would allow the City to not remove any curb cuts that were built from the time of ADAAG guidelines to December 31, 2001. These ramps would be exempt as a learning curve process for purposes of good will between all parties and accessibility for the disabled. The learning curve grandfather clause is in the hands of the City's Corporation Counsel at this moment.

9. Lewers Street Project - Outrigger

The entire Lewers Street/Outrigger project is still on-line according to David Carey of Outrigger Hotels and Resorts. There are several curb ramps that are scheduled to be removed and replaced in this area including a "problem child" ramp at the corner of Helemanoa Road and Lewers. I've recommended to the City that we extract these specific curb ramps that will be subject and involved in the Lewers Street super block renovation from this year's time frame to the last year of the transition plan. If the Lewers Street project is not complete at the time of the end of the seven (7) year transition plan then the C&C shall remove and replace those curb ramps at that time.

**10. Quarterly Report**

The quarterly report was late. The plaintiff's parties were not pleased about not having the quarterly report delivered on time. The court monitor will do some investigation to see what the course of action is in developing the quarterly report to see how we can stream-line the quarterly report so that it is entered on time in each quarter.

If there is a continuing problem to produce a quarterly report on time, the plaintiffs have suggested the creation of a sanctioning mechanism with a daily penalty to help urge the defendants to produce a quarterly report on a timely basis. Many factors have created the quarterly report to be late, such as 1) that the quarterly report that was originally submitted did not include all the activities, ramp designs, and construction that it could have contained.

One thought the court monitor has is that a summary of ramps existing and those constructed by others be provided to the Court Monitor in a separate report.

**11. Current Designs**

Warping vs blending – there is a significant additional cost to warping the gutter and/or ramp as opposed to blending the ramp. The C&C has entered into cleaning the data base for those ramps, which were warped in the gutter to alleviate it and to reconstitute the designs into blending only. This will create a significant savings to the City as far as construction costs are concerned. It is the court monitor's recommendation that the City "glean" out those ramps that involve gutter warping (this includes approximately 40 ramps) and re-design for the blending. (EXHIBIT D)

**12. Disabled and Plaintiff's Activity**

Bruce Clark expressed his concern on the Tamarind Park ramps that were removed in that he felt it was a waste of money and that Mark Yaboi had complained to Mr. Clark that those ramps were usable and that the ramps at Bishop and Heretania were not. Mark Yaboi asked the question on why the ramps were removed at Tamarind Park when they were usable and the ramps at Heretania were not removed and replaced since they were not usable. The court monitor subsequently expressed to Mr. Clark the fact that the Tamarind Park ramps were not 100% compliant so their removal was automatically triggered by the original consent decree and the current definition of an alteration project.

**13. Lunsford Dole Phillips**

Lunsford Dole Phillips expressed the same concern on the issue of "tearing up perfectly usable ramps and replacing them when other ramps are not usable". The court monitor again stated to Mr. Phillips that the issue was not of transition plan ramps, but the fact that this was an alteration project on King Street had triggered this activity. Lunsford Dole Phillips has also expressed concern about "detectable warnings". He is inquiring why new ramps have been installed with out the "required" detectable warnings. The court monitor subsequently gave him a complete history of the issue and what the PROWAAC recommendations are concerning detectable warnings and the fact that we are trying to create wheelchair "runways" in the ramps, which have no detectable warnings included inside the "runway". Lunsford Dole Phillips is concerned about blind individuals filing a separate and individual suit for new ramps, which are not constructed with detectable warnings for non-compliance to the new construction guidelines. However, there is a question of law in this matter.

**14. General Public**

Since becoming the court monitor, the court monitor has been required to provide a continuous program of community awareness and community education on the issue of curb ramps, transition plan, costs, needs, and requirements, etc.

The court monitor is not sure that this type of "social education" is within the scope of his work, however, it is a good educational tool to alleviate "hysteria" and misconceptions within the general and tax paying public.

**15. Construction**

The contractors, which have been selected, and specifically Royal Contracting, have been providing excellent workmanship and extremely well built curb ramps. Their work quality is acceptable. The monitor is pleased to see the quality of the ramps, which are being produced.

- a. Design – the quality of the construction is a direct result of excellent design by the architects, engineers and the review process of Wilson Okamoto
- b. Comparative quality – the comparative quality of the curb ramps being built in Honolulu exceed those of any other municipality which the court monitor has visited in the Country. There are several reasons for this and some of the reasons are a direct result of the cost of the ramps themselves, such as:

- 1) the process for Barrier identification is thorough;
- 2) the ramps which are involved in the transition plan have topographical survey's performed on each and every ramp;
- 3) each and every ramp is then designed to be compliant to the maximum extent feasible under the new construction guidelines;
- 4) this would account for the significant design cost; however, this process enables the ramps to be designed individually and therefore the result is that the ramps are of excellent design quality and of excellent accessibility levels; and
- 5) furthermore, each one of these ramps is designed to include the removal of the gutter, which provides for a much greater, higher quality, design and construction, of compliant, usable ramps. This methodology of individual designs is creating a greater level of accessibility than any other municipality due to the fact that most of the municipalities provide "cookie cutter" designs that don't take slopes, grades, warpage, etc. into consideration. Most municipalities do not replace the gutter line, which creates a degree of lesser accessibility when the gutter line is removed and replaced. (EXHIBIT H)

**16. Construction of Ramp Cost**

Due to the fact that each one of these designs is individual and the ramps themselves are not the only element being altered (e.g. the gutter line is also being reconstructed) is one of the major reasons why each one of these curb ramps in the alteration projects and transition plan is more expensive than the averages across the Country. It is the court monitor's opinion that this procedure, process and approach is the most prudent and responsible approach that any municipality could take and that the present methodology not be altered.

**EXHIBIT A**

In response to your request for my recommendation for curb ramp construction tolerances, I propose the following – slope and cross slope tolerances should be measured with a 24" long digital level set on the surface of the ramp or landing in the following way:

i. For ramps, check cross slope every 24" along the ramp run at the top, middle and bottom then check running slope every 24" along the ramp at the top, middle and bottom – this basically provides a 24" grid survey of slope and cross slopes on the ramp;

ii. Since ramp landings have to be level (i.e., 1:48 max) in all directions, check the slope every 24" with the level parallel to each edge of the landing, then place the level at the center of the landing and measure every 24" in both directions of traffic – this basically provides a 24" grid survey of slopes and cross slopes on the landings.

If the finish of the concrete ramp or landing appears to have visible troughs or ridges, be sure to measure the slope by placing the level so it reads the steepest slopes on the surface. To measure whether the surface plane meets tolerance, place the level so it is centered over a trough to measure the maximum gap, or balanced on a ridge with an equal gap at both ends of the level. These gaps and the surface slope measurements must fall within the tolerances listed in the following table:

Surface Slope Requirements	Allowable Slope Tolerance	Allowable Flatness Tolerance
Less than 5%	+0.9% max	1/4" max. gap
5% - 8.3%	+1.2% max.	3/8" max. gap
Greater than 8.3% - 10.0%	+1.5% max.	1/2" max. gap
Greater than 10.0%	Engineer's Discretion	1/2" max. gap

EXHIBIT A

**EXHIBIT B**

1.2.2 - "You Touch/You Fix"  
Rule. Any elements or features within the public right-of-way that affect pedestrian usability and are being altered in such a way to allow them to be made accessible shall, to the maximum extent feasible, meet the new construction requirements.

EXHIBIT B

**EXHIBIT C**

28 CFR 35.151 New Construction and Alterations

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.

(b) *Alteration.* Each facility or part of a facility altered by, on behalf of, or for the use of a public entity 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, if the alteration was commenced after January 26, 1992.

(c) *Accessibility standards.* Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR Part 101-19.6) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to the Department of Justice's final rule implementing title III of the ADA, \_\_\_\_\_ F.R. \_\_\_\_\_) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at (4.1.3(5) and (4.1.6(1)(j)) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties.* (1) Alterations to historic properties shall comply, to the maximum extent feasible, with (4.1.7 of UFAS or (4.1.7 of ADAAG. (2) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of (35.150).

(e) *Curb ramps.* (1) Newly constructed or altered 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. (2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

EXHIBIT C 1

Alteration projects within the public rights of way are defined as improvement projects falling into 3 general categories:

1. Sidewalk improvements (excluding maintenance repairs) – construction of concrete or asphalt concrete sidewalks
2. Roadway widening projects – construction of road improvements which alter the pavement width and provide for concrete and/or asphalt concrete sidewalk improvements
3. Major improvement projects which touch the sidewalk at pedestrian crossing locations (e.g. traffic signal installation/relocation of traffic signals)

Maintenance resurfacing and rehabilitation of streets to extend the useful life of the roadway and do not alter the basic configuration of the existing roadway width are not considered alteration projects.

**EXHIBIT D**

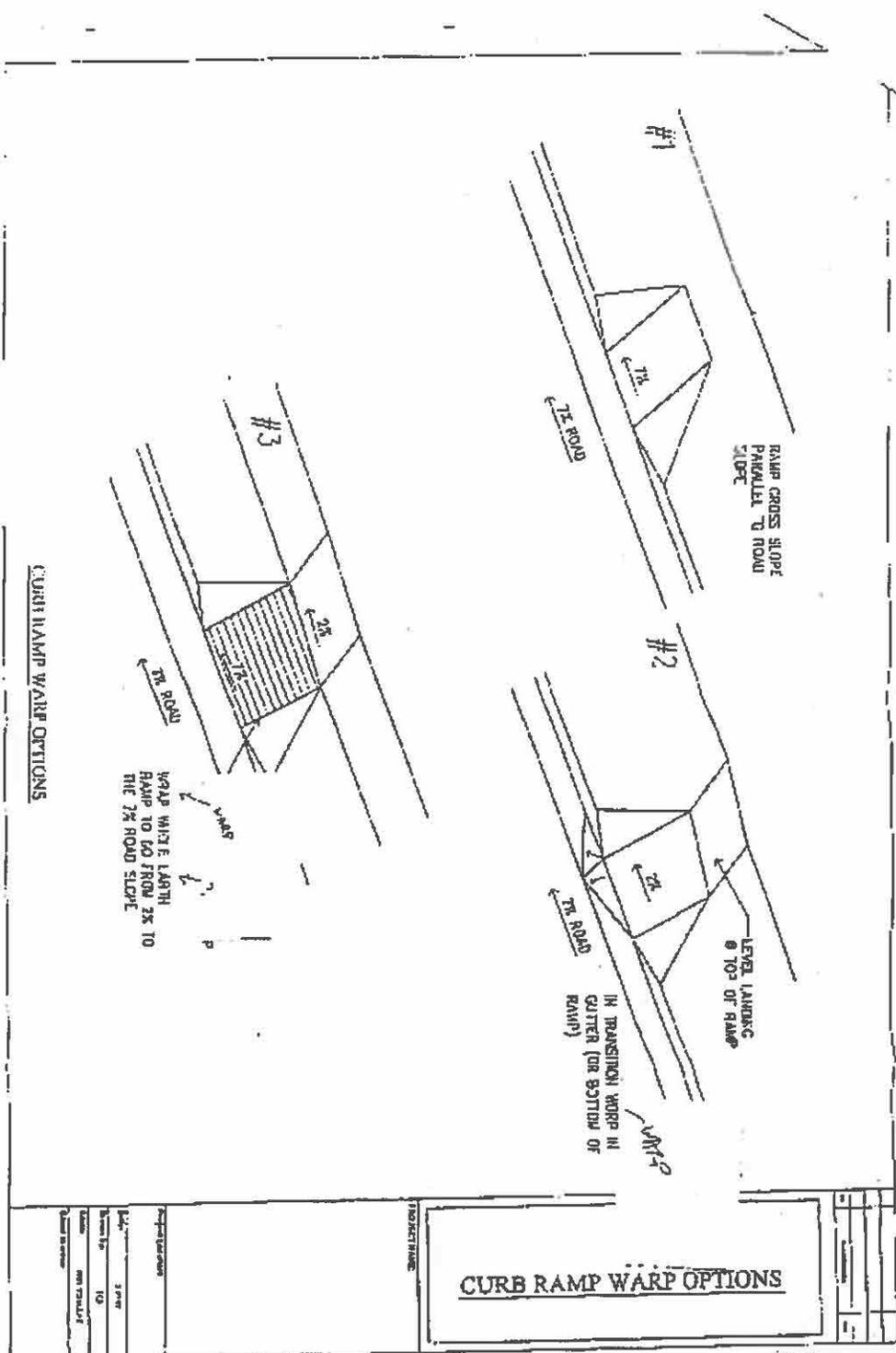
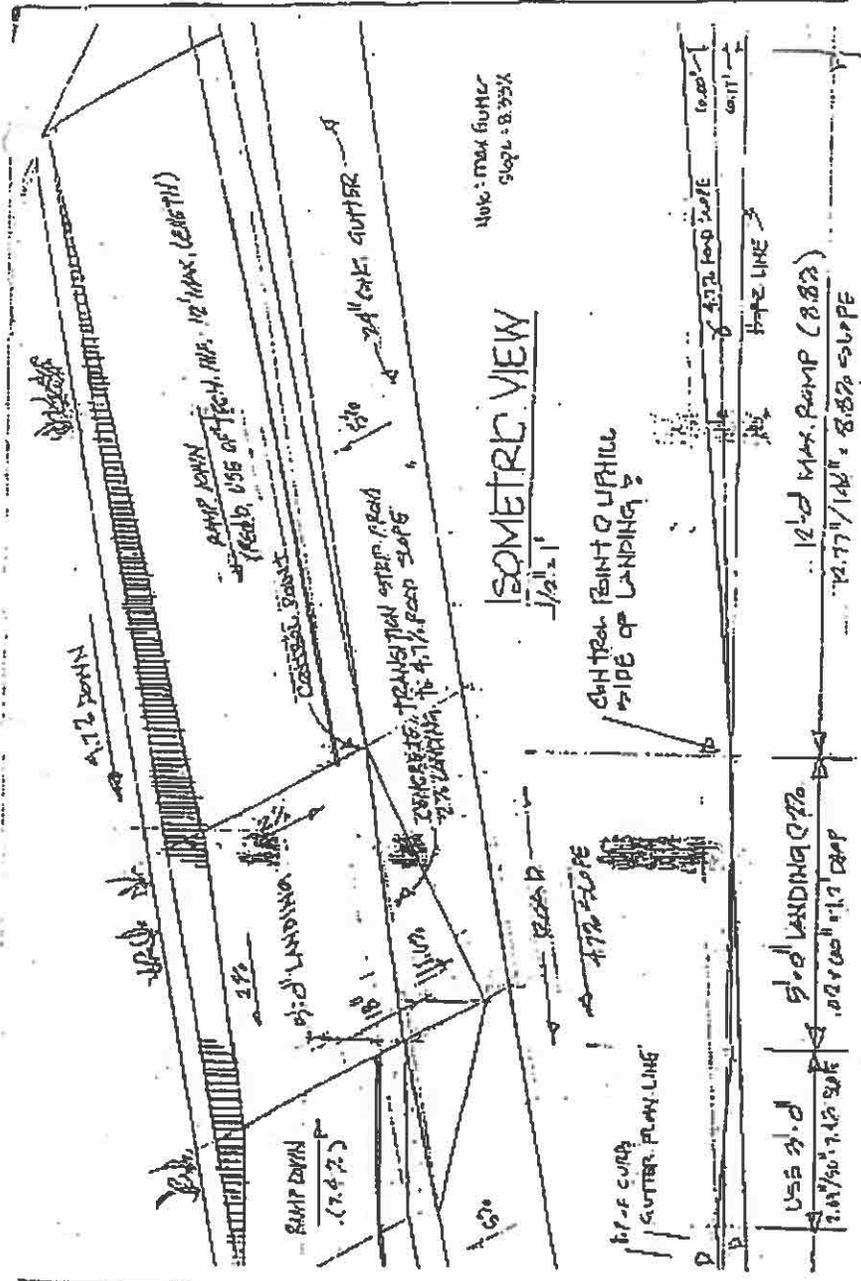


EXHIBIT D





NOTE: MAX GUTTER  
SLOPE = 8.33%

ISOMETRIC VIEW

12" MAX. RAMP (8.33%)  
4.77" / 14" = 8.33% SLOPE

SECTION & GUTTER FLOW

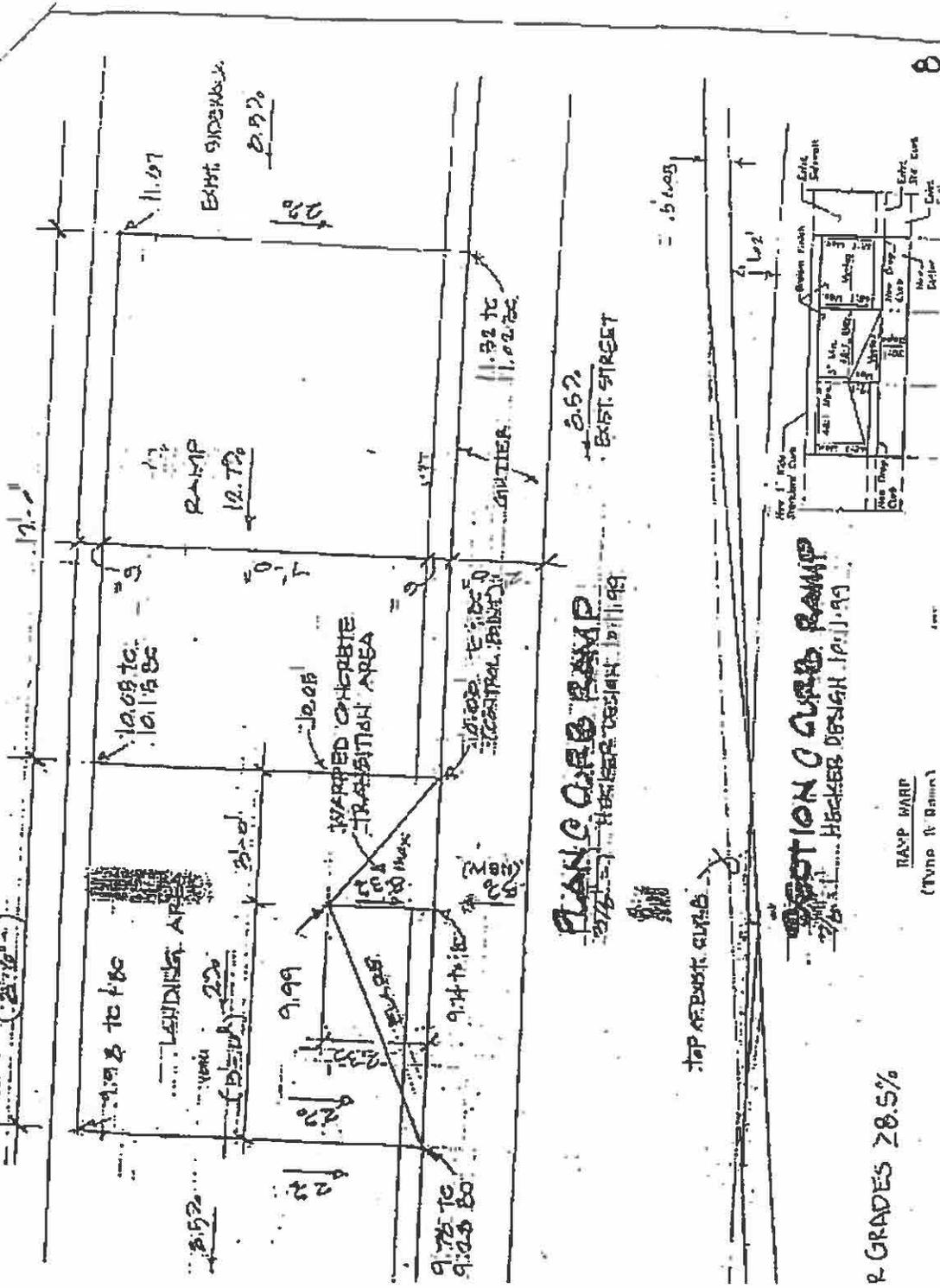
16" x 11" SHEET 9.11.97 7

|| MAY TO INSERT A PARALLEL ||  
|| CURB RAMP INTO ROAD SLOPE ||  
FOR CEMENT CURB

GUTTER WARP  
(Type 3 Ramp)

vanes, to meet exist. sidewalk

(2.16.1)



**EXHIBIT E**

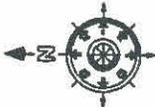
practices and that the consultant's fees and costs will be subject to the provisions of the contract executed between the City and the consultant; provided, however, that nothing contained in this contract shall be inconsistent with this Consent Decree and Order.

(c) The Self-Evaluation and Transition Plan shall be prepared in accordance with the requirements of ADA Title II and the Department of Justice implementing regulations at 28 C.F.R. Sections 35.105 and 35.150(d), including the requirements regarding public input. In accordance with the provisions of ADA Title II and the Department of Justice implementing regulations at 28 C.F.R. Section 35.150(d)(2), the Transition Plan shall state that the City shall first install curb cuts at priority locations as set by federal law. *delegated*

(d) It is understood and agreed that the Self-Evaluation shall include an evaluation of all the City's policies and practices with respect to accessible streets and sidewalks, particularly with respect to the installation of curb cuts in connection with the reconstruction and resurfacing of streets to ascertain and/or ensure the compliance of these policies and practices with federal law.

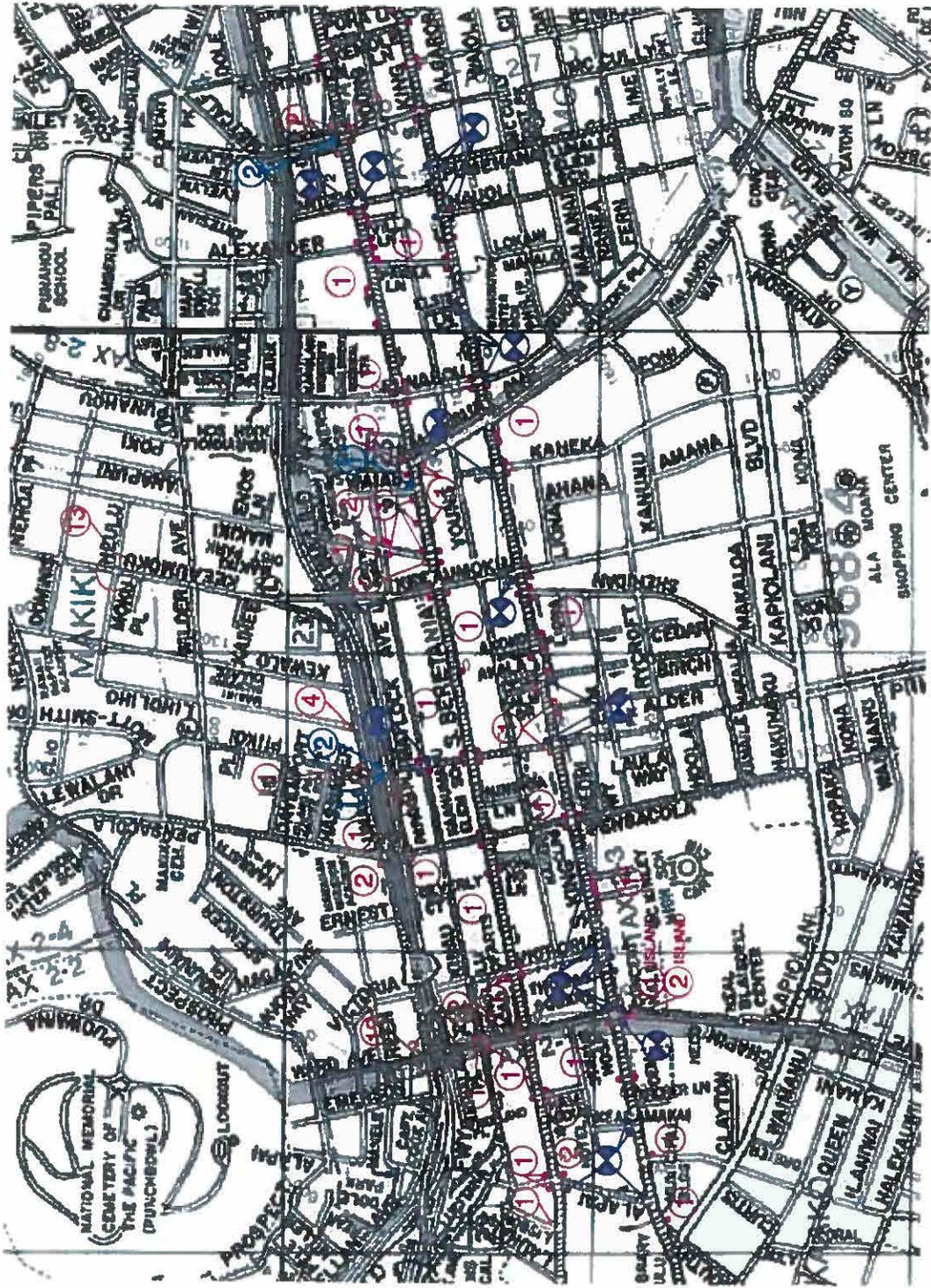
(e) It is understood and agreed that the City intends to extend the Self-Evaluation and Transition Plan effort to address the needs of all individuals with disabilities with respect to accessible streets and sidewalks, including access to bus stops. Nothing contained herein shall be construed as prohibiting the

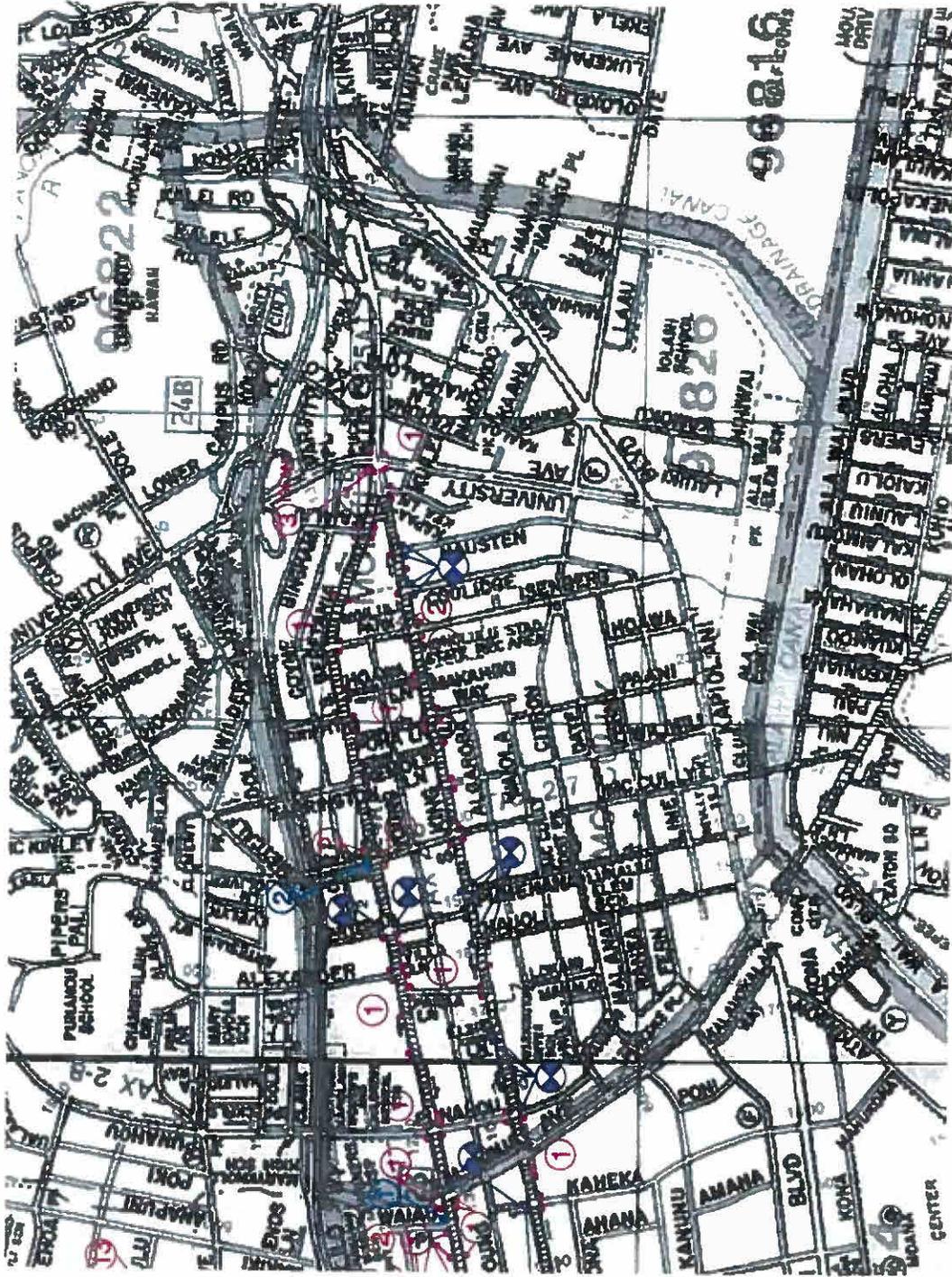
**EXHIBIT F**



**LEGEND**

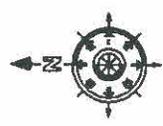
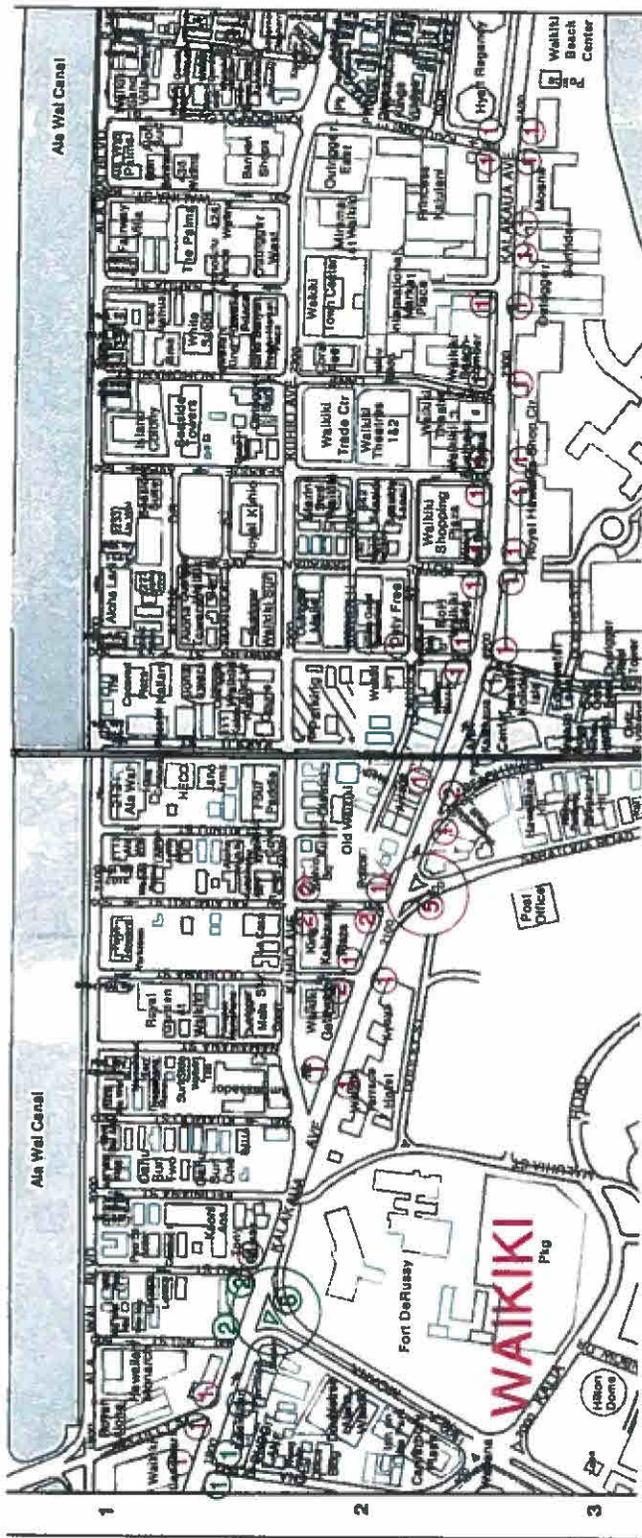
- ① NUMBER OF NEWLY EXISTING CURB CUTS
- ① NUMBER OF NEW CURB CUTS
- ① NUMBER OF EXISTING (Useable) CURB CUTS
- ① NUMBER OF CURB CUTS TO CONSTRUCT (Indicates 1 curb cut unless otherwise noted)
- ⊗ NUMBER OF CURB CUTS TO BE VERIFIED USEABLE





**LEGEND**

- ① NUMBER OF NEWLY EXISTING CURB CUTS
- ① NUMBER OF NEW CURB CUTS
- ① NUMBER OF EXISTING (Useable) CURB CUTS
- ① • NUMBER OF CURB CUTS TO CONSTRUCT (Indicates 1 curb cut unless otherwise noted)
- ⊗ NUMBER OF CURB CUTS TO BE VERIFIED USEABLE

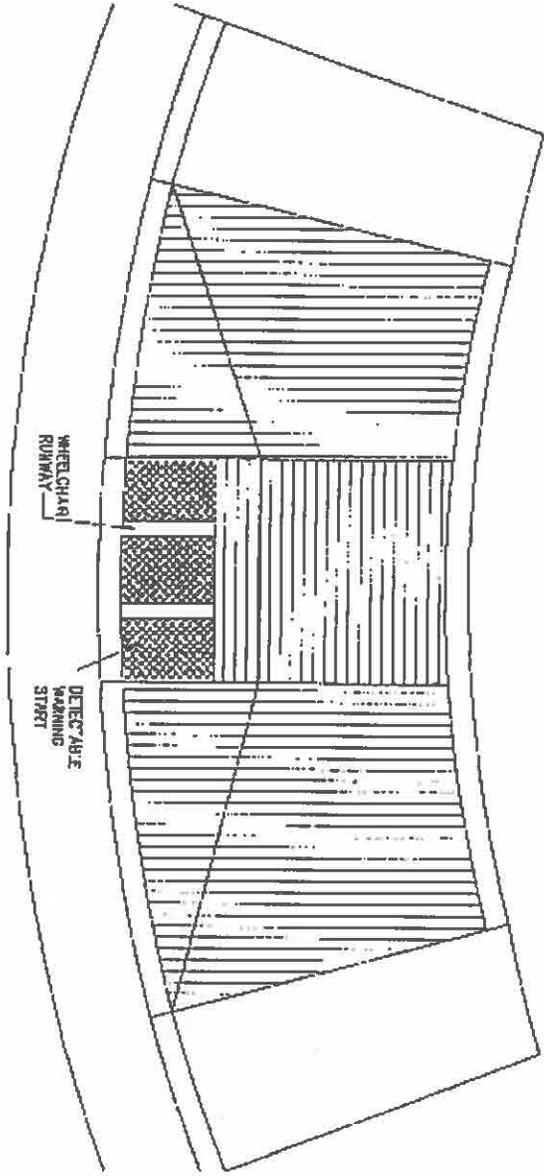


**LEGEND**

- ① NUMBER OF NEWLY EXISTING CURB CUTS
- ① NUMBER OF NEW CURB CUTS
- ① NUMBER OF EXISTING (Useable) CURB CUTS

**EXHIBIT G**

TYPICAL CURB RAMP WITH  
WHEELCHAIR RUNWAY

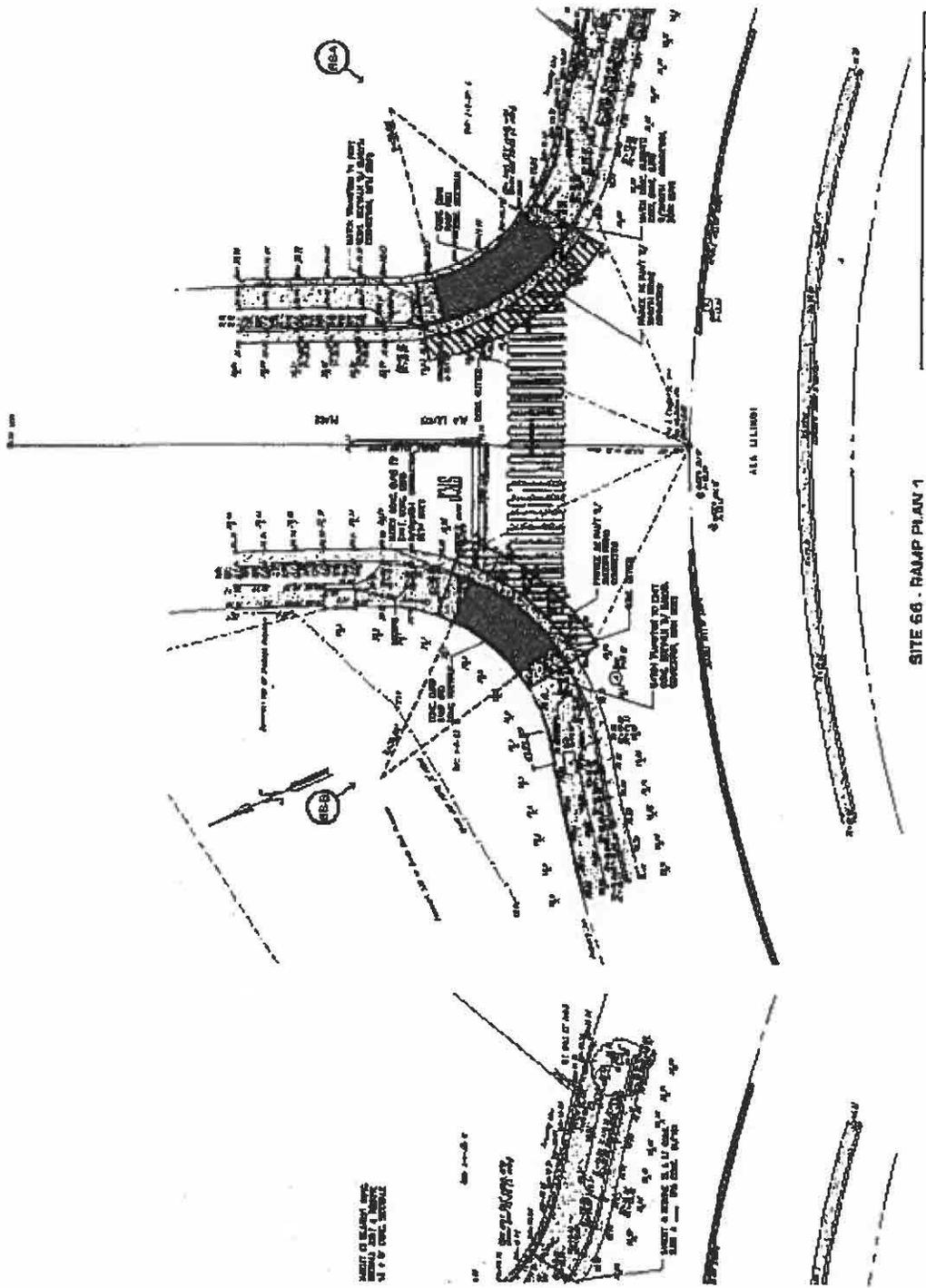


WHEELCHAIR RUNWAY

Project Number:	
Date:	3/2/03
System No.:	100
Drawn by:	101 (10/20/03)
Checked by:	
Approved by:	

EXHIBIT G

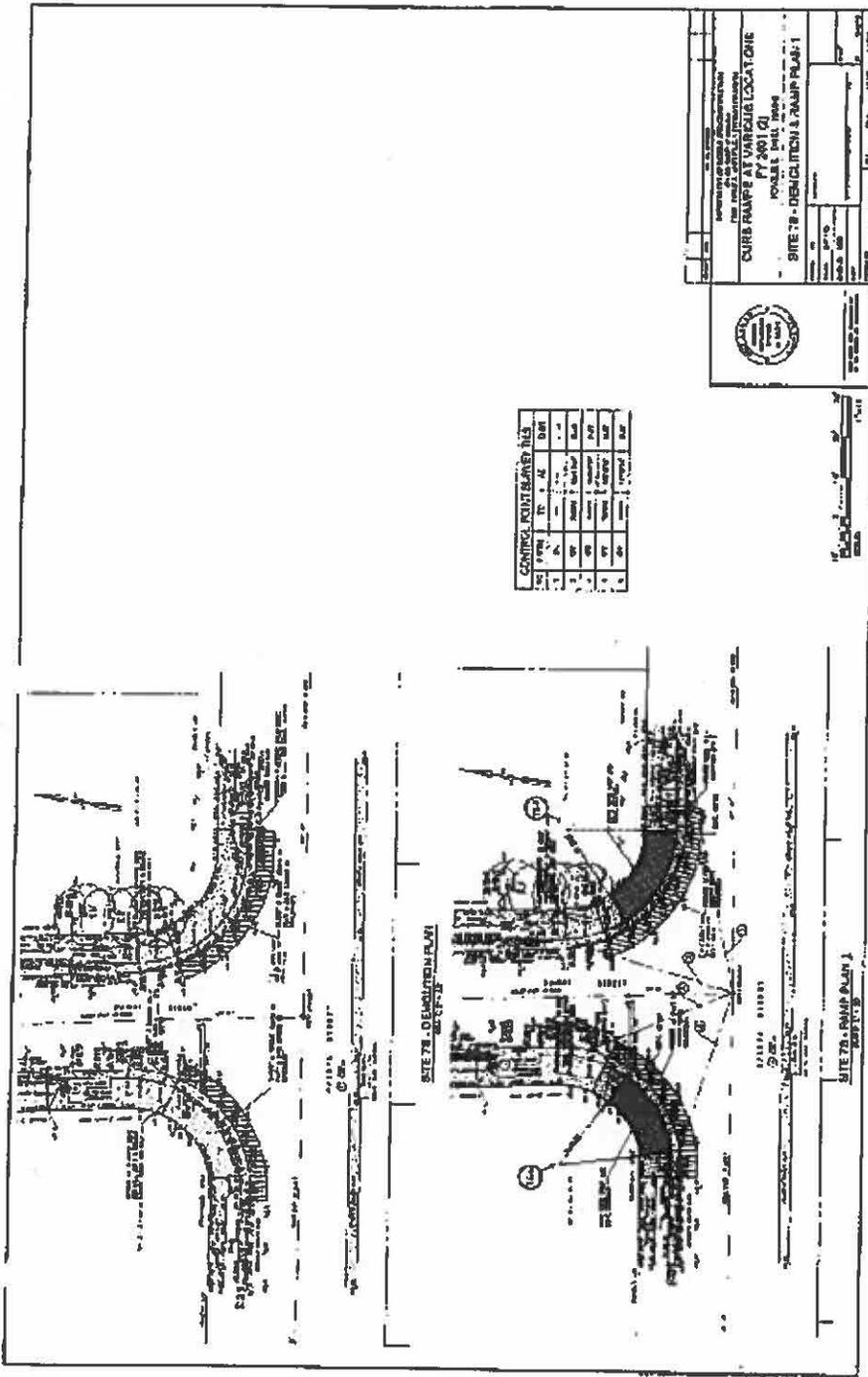
**EXHIBIT H**



SITE 66 - RAMP PLAN 1

EXHIBIT H





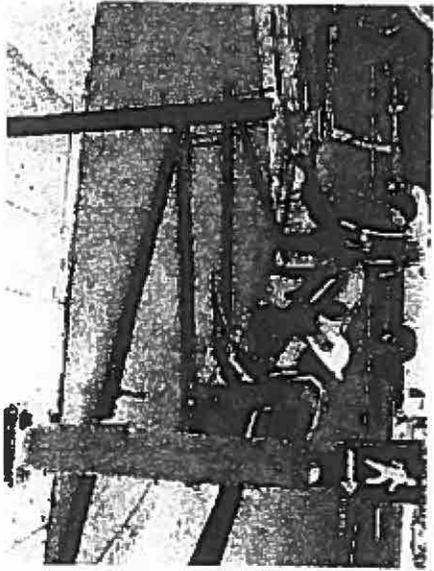
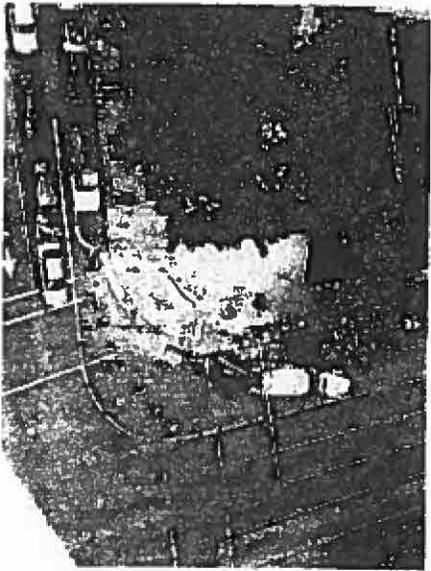
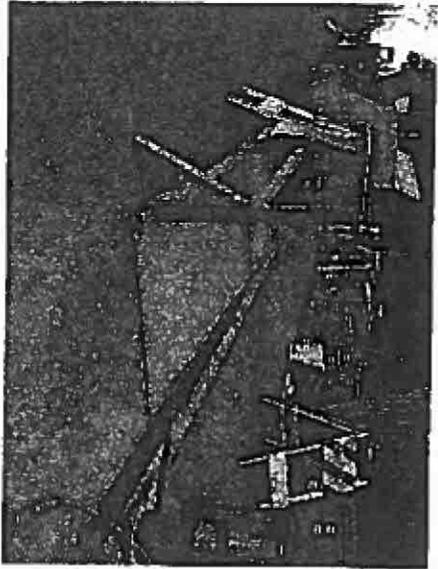
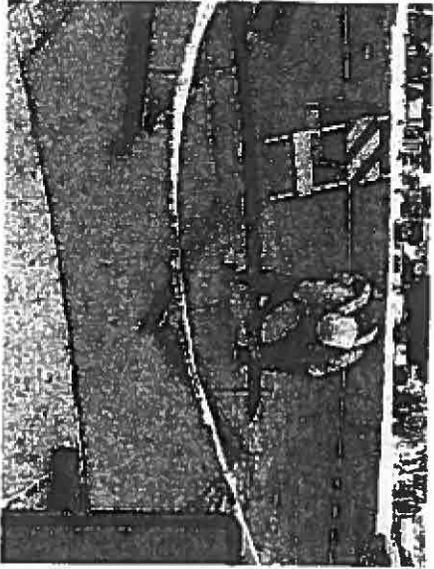
CONTROL POINT BLANKET INDEX

NO.	SYMBOL	TYPE	DATE
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
8	8	8	8
9	9	9	9
10	10	10	10

CAMP PALAU AT VARELIA LOCAL ONE  
 FORT 2001 (1)  
 FORT 2001 (1)  
 SITE 78 - DEMOLITION PLAZA  
 SITE 79 - CAMP PALAU J



1:1000  
 1:1000  
 1:1000  
 1:1000



**MCCONNELL VS. CITY & COUNTY**

**SPECIAL COURT MONITOR'S INTERIM  
REPORT**

**FEDERAL MAGISTRATE  
JUDGE KEVIN S.C. CHANG PRESIDING**

**PREPARED BY: PAUL STANLEY SHERIFF**

**DATE: OCTOBER 3, 2002**

MCCONNELL VS CITY & COUNTY TRANSITION PLAN  
COURT MONITOR'S INTERIM REPORT

Bruce  
Clarke

1. **Trenching** is not considered an alteration under the definition; therefore, it will not trigger mandatory implementation of curb ramps. (Exhibit A).
2. **P2 ramps** – non-implementation of 2,800 P2 Transition Plan ramps can be addressed by 3 methods: 1) request basis, programmatic access, 2) “you touch it you fix it” and 3) alterations -- Exhibit B.
3. **Sidewalk Compliance Plan** -- access to sidewalks to be addressed as follows (Exhibit C):
  - (a-1) Programmatic access in all areas will be provided – priority 1 and 2 upon a request basis.
  - (a-2) The alteration requirements will apply. The “you touch it you fix it” will apply.
  - (b) Self-Evaluation surveys of sidewalks for the Sidewalk Compliance Plan will not be conducted.
  - (c) PROWAAAC recommendations for Public Rights-of-Way are not yet final. Until such time, the only criteria for an accessible route currently applicable are: width (36" or 32" around an obstacle), cross slope (2% maximum) and change in elevation (1/2" maximum).
  - (d) Alterations will continue to be reviewed by the State of Hawaii Disability and Communication Access Board under state law, H.R.S. 103-50. However, sidewalk alterations are not ‘pre-screened’ by Wilson Okamoto Associates.
4. **Integration** -- The curb ramp transition plan should be integrated with the bus stop transition plan. The same triggers must apply – programmatic access request deals, “you touch it you fix it” and alterations. Alteration projects must be reviewed by HRS 103-50. (Exhibit D).
5. **Current Requirements** – The Court Monitor’s position is that there are no final design guidelines for public rights-of-way. There are currently draft guidelines by the U.S. Access Board but they are neither final, nor enforceable by the Department of Justice under the ADA. However, applicable final design guidelines for the built environment that are transferable to the public right-of-way should be used until such time as final design guidelines are issued.

With respect to the existing (pre-ADA) curb ramps, it is the Court Monitor’s position that the Department of Justice places an emphasis on corrective action in areas where there are (a) vertical curbs with no curb ramps and/or (b) slopes that are not usable or safe. Factored

into the equation is the location of the intersection/curb ramp (e.g. proximity to government buildings or public transit stops) or the residence/place of employment of a specific person with a disability. Other curb ramps/intersections, The City's approach to prioritize the identified Transition Plan curb ramps with the above considerations is appropriate. (Also see Exhibit D).

6. **Coordination** -- Curb ramps by different agencies there are a number of curb ramps being installed through projects other than those funded solely as Transition Plan Projects (e.g. in an intersection re-alignment project). If those curb ramps are identified in the Transition Plan, they should be corrected accordingly at that time (and not deferred to the Transition Plan) and then removed from the Transition Plan timetable. If those curb ramps are not identified in the Transition Plan, they should be designed in accordance with the Alteration design guidelines. The Court Monitor recommends a comprehensive approach and coordination City wide.

7. **Re-evaluation** requested by Stan Levin is being modified to be termed a Usability Assessment, regarding ramps or other sloped areas that are usable or not usable to/by the disabled.

The City will contract directly with Accessible Planning and Consulting under a DF 71 contract for a specified amount not to exceed \$24,999 to perform the usability assessment.

The Usability Assessment is ready to commence and proceed. (Exhibit E).

8. **Policies** -- The Court monitor has directed the City to finish the policies and procedures for the City and County. The policies and procedures should include not only curb ramps, but all modifications in the public right-of-way. The policies and procedures should include not only Transition Plan modifications, but also Alterations and New Construction. Upon completion these should be reviewed and entered as a court document.
9. **Consultant** -- The Court monitor has recommended that Bill Hecker, AIA, the City's consultant, be in Hawaii for a site visit for compliance of ramps and application of correct implementation of ramp design in the Transition Plan Projects, once every 4-6 weeks at a minimum. The Court Monitor also has recommends continued "pre-screening and review" by Wilson Okamoto Associates, the engineering firm performing duties as required by the Consent Decree and Order. (Exhibit F)
10. **Smart levels** - a 4' smart level will be required for the running slope and a 2' smart level shall be required for the cross slope to evaluate the running and cross slopes of all ramps which are under dispute and the measuring procedure must be uniform (e.g. where flared side slope measurement are taken from)

OF COUNSEL:  
DAVIS LEVIN LIVINGSTON GRANDE

STANLEY E. LEVIN 1152-0  
400 Davis Levin Livingston Grande Place  
851 Fort Street  
Honolulu, Hawaii 96813  
Telephone: (808) 524-7500  
Fax: (808) 545-7802  
E-mail: slevin@davislevin.com

Attorney for Plaintiffs

FILED BY THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

MAR 19 2003

at 4 o'clock and 55 min. a.m.  
WALTER A. Y. H. CHUNG, CLERK

**LOGGED**

MAR 13 2003

CLERK, U. S. DISTRICT COURT  
DISTRICT OF HAWAII

MAR 19 12:09

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JIM McCONNELL and MARK  
EDWARDS,

Plaintiff,

vs.

CITY AND COUNTY OF HONOLULU,

Defendant.

) CIVIL NO. 96-01111 DAE/KSC  
) (Other Civil Action)  
)

) THIRD STIPULATION REGARDING  
) CONSENT DECREE AND ORDER  
) FILED MAY 5, 1997 AND ORDER,  
) EXHIBIT A  
)

THIRD STIPULATION REGARDING CONSENT DECREE  
AND ORDER FILED MAY 5, 1997 AND ORDER

IT IS HEREBY STIPULATED AND AGREED TO, by and between the parties  
herein, through their respective counsel, that:

1. The Court Monitor's Interim Report dated October 3, 2002 is approved,  
except that, with respect to Paragraph 9, the frequency of Bill Hecker's visits shall be  
every two to three months. See Exhibit A attached.

2. The City shall provide for the publication of the process by which ADA-qualified mobility-impaired persons can request the installation and/or modification of a curb ramp. The City's Customer Services Department, the Neighborhood Boards, and the Satellite City Halls will be informed of the availability of the process and request forms on the City's website at: [www.co.honolulu.hi.us/ddc/index.htm](http://www.co.honolulu.hi.us/ddc/index.htm). The City shall also issue a press release regarding the availability of the process and request forms on the City's website. The website will provide information on the process of initiating requests and will clarify that this request process also applies to accessibility repairs/modifications to existing accessible paths in public rights-of-way leading to curb ramps. The request process shall be administered by the Department of Design and Construction. Information on the request process will be included in reports filed with the Court under the provisions of the Consent Decree and Order.

3. Pursuant to Section 9 of the Consent Decree and Order, the City agrees to pay Plaintiffs \$90,966.41 in attorney's fees and costs through August, 2002 as well as attorney's fees and costs in the amount of \$3,293.73 (which will be reduced to \$3,000.00) from September, 2002 to the date of this stipulation. Plaintiffs' Motion for a Determination of Attorney's Fees and Costs filed on August 30, 2002 is hereby dismissed with prejudice. The parties agree that prior to Plaintiffs' incurring fees and costs for experts or other consultants in the future, the parties shall schedule a status conference with the Magistrate Judge to discuss the propriety of incurring such fees and costs. Otherwise, the parties agree that plaintiffs' counsel will bill the City and County twice

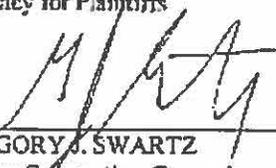
per year (i.e. once every six months) for the routine, reasonable fees and costs incurred.

Disputes regarding the routine matters can also be brought to the court.

4. Except as otherwise provided for herein or in prior stipulations, all the provisions of the Consent Decree and Order filed May 5, 1997 shall remain in full force and effect.

DATED: Honolulu, Hawaii, MAR 12 2003

  
\_\_\_\_\_  
STANLEY E. LEVIN  
Attorney for Plaintiffs

  
\_\_\_\_\_  
GREGORY J. SWARTZ  
Deputy Corporation Counsel  
Attorney for Defendant

APPROVED AND SO ORDERED:

**KEVIN S.C. CHANG**

\_\_\_\_\_  
JUDGE OF THE ABOVE-ENTITLED COURT

McConnell, et al. v. City and County of Honolulu, Civil No. 96-01111 DAE/KSC;  
THIRD STIPULATION REGARDING CONSENT DECREE AND ORDER FILED  
MAY 5, 1997 AND ORDER

**MCCONNELL VS. CITY & COUNTY**

**SPECIAL COURT MONITOR'S INTERIM  
REPORT**

**FEDERAL MAGISTRATE  
JUDGE KEVIN S.C. CHANG PRESIDING**

**PREPARED BY: PAUL STANLEY SHERIFF**

**DATE: OCTOBER 3, 2002**

MCCONNELL VS CITY & COUNTY TRANSITION PLAN  
COURT MONITOR'S INTERIM REPORT

Bruce  
Clarke

1. Trenching is not considered an alteration under the definition; therefore, it will not trigger mandatory implementation of curb ramps. (Exhibit A).
2. P2 ramps – non-implementation of 2,800 P2 Transition Plan ramps can be addressed by 3 methods: 1) request basis, programmatic access; 2) “you touch it you fix it” and 3) alterations – Exhibit B.
3. Sidewalk Compliance Plan – access to sidewalks to be addressed as follows (Exhibit C):
  - (a-1) Programmatic access in all areas will be provided – priority 1 and 2 upon a request basis.
  - (a-2) The alteration requirements will apply. The “you touch it you fix it” will apply.
  - (b) Self-Evaluation surveys of sidewalks for the Sidewalk Compliance Plan will not be conducted.
  - (c) PROWAAC recommendations for Public Rights-of-Way are not yet final. Until such time, the only criteria for an accessible route currently applicable are: width (36” or 32” around an obstacle), cross slope (2% maximum) and change in elevation (1/2” maximum).
  - (d) Alterations will continue to be reviewed by the State of Hawaii Disability and Communication Access Board under state law, H.R.S. 103-50. However, sidewalk alterations are not ‘pre-screened’ by Wilson Okamoto Associates.
4. Integration – The curb ramp transition plan should be integrated with the bus stop transition plan. The same triggers must apply – programmatic access request basis, “you touch it you fix it” and alterations. Alteration projects must be reviewed by HRS 103-50. (Exhibit D).
5. Current Requirements – The Court Monitor’s position is that there are no final design guidelines for public rights-of-way. There are currently draft guidelines by the U.S. Access Board but they are neither final, nor enforceable by the Department of Justice under the ADA. However, applicable final design guidelines for the built environment that are transferable to the public right-of-way should be used until such time as final design guidelines are issued.

With respect to the existing (pre-ADA) curb ramps, it is the Court Monitor’s position that the Department of Justice places an emphasis on corrective action in areas where there are (a) vertical curbs with no curb ramps and/or (b) slopes that are not usable or safe. Factored

into the equation is the location of the intersection/curb ramp (e.g. proximity to government buildings or public transit stops) or the residence/place of employment of a specific person with a disability. Other curb ramps/intersections, The City's approach to prioritize the identified Transition Plan curb ramps with the above considerations is appropriate. (Also see Exhibit D).

6. **Coordination** -- Curb ramps by different agencies there are a number of curb ramps being installed through projects other than those funded solely as Transition Plan Projects (e.g. in an intersection re-alignment project). If those curb ramps are identified in the Transition Plan, they should be corrected accordingly at that time (and not deferred to the Transition Plan) and then removed from the Transition Plan timetable. If those curb ramps are not identified in the Transition Plan, they should be designed in accordance with the Alteration design guidelines. The Court Monitor recommends a comprehensive approach and coordination City wide.

7. **Re-evaluation** requested by Stan Levin is being modified to be termed a Usability Assessment, regarding ramps or other sloped areas that are usable or not usable to/by the disabled.

The City will contract directly with Accessible Planning and Consulting under a DF 71 contract for a specified amount not to exceed \$24,999 to perform the usability assessment.

The Usability Assessment is ready to commence and proceed. (Exhibit E).

8. **Policies** -- The Court monitor has directed the City to finish the policies and procedures for the City and County. The policies and procedures should include not only curb ramps, but all modifications in the public right-of-way. The policies and procedures should include not only Transition Plan modifications, but also Alterations and New Construction. Upon completion these should be reviewed and entered as a court document.
9. **Consultant** -- The Court monitor has recommended that Bill Hecker, AIA, the City's consultant, be in Hawaii for a site visit for compliance of ramps and application of correct implementation of ramp design in the Transition Plan Projects, once every 4-6 weeks at a minimum. The Court Monitor also has recommends continued "pre-screening and review" by Wilson Okamoto Associates, the engineering firm performing duties as required by the Consent Decree and Order. (Exhibit F)
10. **Smart levels** - a 4' smart level will be required for the running slope and a 2' smart level shall be required for the cross slope to evaluate the running and cross slopes of all ramps which are under dispute and the measuring procedure must be uniform (e.g. where flared side slope measurement are taken from).

*Handwritten notes:*  
AU  
only  
C

CARRIE K. S. OKINAGA, 5958  
Corporation Counsel  
GREGORY J. SWARTZ, 4856  
Deputy Corporation Counsel  
City and County of Honolulu  
Honolulu, Hawaii 96813  
Telephone No.: (808) 523-4629  
Fax No.: (808) 523-4583  
E-mail address: gswartz@honolulu.gov

Attorneys for Defendant

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

FEB 04 2005

at 4 o'clock and 2 min. P.M.  
WALTER A.Y.H. CHINN, CLERK

**LODGED**

FEB 04 2005

*Handwritten:* 10:32k  
Etc

CLERK, U.S. DISTRICT COURT  
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JIM McCONNELL and MARK  
EDWARDS,

Plaintiffs,

vs.

CITY AND COUNTY OF  
HONOLULU,

Defendant.

) CIVIL NO. 96-01111 DAE/KSC  
) (Other Civil Action)  
)

) FOURTH STIPULATION  
) REGARDING CONSENT DECREE  
) AND ORDER FILED MAY 5, 1997  
) AND ORDER; EXHIBIT A  
)

FOURTH STIPULATION REGARDING CONSENT DECREE  
AND ORDER FILED MAY 5, 1997 AND ORDER

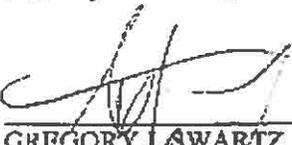
IT IS HEREBY STIPULATED AND AGREED TO, by and between the  
parties herein, through their respective counsel, that:

1. The Court Monitor's Interim Report dated January 11, 2005 is approved. See Exhibit A attached.

2. Except as otherwise provided for herein or in prior stipulations, all the provisions of the Consent Decree and Order filed May 5, 1997 shall remain in full force and effect.

DATED: Honolulu, Hawaii, FEB 3 2005.

  
\_\_\_\_\_  
STANLEY E. LEVIN  
Attorney for Plaintiffs

  
\_\_\_\_\_  
GREGORY J. SWARTZ  
Deputy Corporation Counsel  
Attorney for Defendant

APPROVED AND SO ORDERED:

**KEVIN S.C. CHANG**

\_\_\_\_\_  
JUDGE OF THE ABOVE-ENTITLED COURT

Civil No. 96-01111 DAE/KSC, McConnell, et al. v. City and County of Honolulu,  
Fourth Stipulation Regarding Consent Decree and Order Filed May 5, 1997 and  
Order

92

**MCCONNELL VS CITY & COUNTY TRANSITION PLAN  
COURT MONITOR'S INTERIM REPORT & STIPULATION**

**1. Current Requirements**

There are no final design guidelines for public rights-of-way. There are currently draft guidelines by the U.S. Access Board but they are neither final, nor enforceable by the Department of Justice under the ADA. However, applicable final design guidelines for the built environment that are transferable to the public right-of-way should be used until such time as final design guidelines are issued.

With respect to the existing (pre-ADA) curb ramps, it is the position that the Department of Justice places an emphasis on corrective action in areas where there are (a) vertical curbs with no curb ramps and/or (b) slopes that are not usable or safe. Factored into the equation is the location of the intersection/curb ramp (e.g. proximity to government buildings or public transit stops) or the residence/place of employment of a specific person with a disability. Other curb ramps/intersections, The City's approach to prioritize the identified Transition Plan curb ramps with the above considerations is appropriate. (Also see EXHIBIT A).

**2. Construction Tolerances**

Construction tolerances to be adopted as in Exhibit B. Until such time that the United States Architectural Transportation and Barrier Compliance Board or the Department of Justice issues a recommendation or guidelines for construction tolerances, the construction tolerances listed will be utilized and implemented.

**3. Alteration Projects and Definition of What Constitutes an Alteration**

Mandatory curb ramp removal and replacement be triggered only when a major alteration project which directly affects the curb ramp as in the "you touch it, you fix it" policy, be the mandating driving force of the definition of an alteration project and 28 CFR 35.151. (EXHIBIT C & D)

4. **Trenching** is not considered an alteration under the definition; therefore, it will not trigger mandatory implementation of curb ramps. (EXHIBIT E).

**5. Re-surfacing and Re-Paving**

Re-surfacing and re-paving shall be defined as maintenance and not as an alteration project. Re-emphasis shall be provided on this subject and shall be entered into perpetuity. EXHIBIT F

6. Sidewalk Compliance Plan

Maintenance to sidewalks is considered a program of a Title 2 entity.

Access to sidewalks to be addressed as follows (EXHIBIT G):

- (a-1) Programmatic access in all areas will be provided— priority 1 and 2 upon a request basis.
- (a-2) The alteration requirements will apply. The "you touch it you fix it" will apply.
- (b) Self-Evaluation surveys of sidewalks for the Sidewalk Compliance Plan will not be conducted.
- (c) PROW/AAC recommendations for Public Rights-of-Way are not yet final. Until such time, the only criteria for an accessible route currently applicable are: width (36" or 32" around an obstacle), cross slope (2% maximum) and change in elevation ( $\frac{1}{8}$ " maximum).
- (d) Alterations will continue to be reviewed by the State of Hawaii Disability and Communication Access Board under state law, H.R.S. 103-50. However, sidewalk alterations are not 'pre-screened' by Wilson Okamoto Associates.

7. Existing Ramp Deferment Criteria

Upon analysis of the transition plan and actual application of ramp implementation, it was discovered that ramps are being triggered to be implemented and changed that were technically compliant in other aspects except for the triggering element. Most notably, the flared sides on ramps that all other elements within the sloped requirements were triggering ramps to be re-done and/or implemented. In many cases, these ramps had level landings, which thus rendered the ramp compliant. Several trigger elements were analyzed in the transition plan and further deterrent of implementation of ramps were noted and categorized. All of the ramps have been documented and will be placed in deferment from implementation due to the changing criteria triggers in the transition plan. (See EXHIBIT H)

8. P2 ramps

Deferment and non-implementation of 2,800 P2 Transition Plan ramps can be addressed by 3 methods: 1) request basis, programmatic access, 2) "you touch it you fix it" and 3) alterations – EXHIBIT I

9. Court Ordered Deferment of Implementation of Usable Ramps

All ramps that have been found to be usable as a result of the usability assessment and the change in triggers criteria will be stipulated to and entered into the court stipulation. This will also contain a series of ramps that are included as a result of a change in the assessment criteria checklist due to the fact that some ramps have landings (see Part B of the existing transition plan curb ramp usability criteria below and Exhibit J).

10. Transition Plan Ramps and Design

There are approximately 500 ramp plans transition plan ramps currently in design to be implemented in the year 2005. These ramp contain all of the existing ramps, which are not in a current capital improvement project or proposed BRT (Bus Rapid Transit Project). The remainder of the curb ramps that have not been implemented and are addressed in the transition plan, numbers approximately 1,000, ramps contained in capital improvement projects and BRT projects. EXHIBIT K

11. Newly Constructed Ramps

Newly constructed ramps, by other entities, which serve the public in the C&C Public Rights-of-Way, shall be deemed as ramps that may be counted as they affect the public good. Also, these ramps, unless they are "non-usable", shall remain intact as is.

12. Existing and New Ramps Which Meet the New Construction Tolerances

Approximately 600 to 700 curb ramps, meet in one form or another, new construction tolerances (EXHIBIT L) - all parties have agreed that ramps, which meet this criteria, can be deferred from being required to be removed and replaced.

13. Learning Curve

Grandfather clause - The learning curve grandfather clause allows the City to not be required to remove and replace any curb cuts and/or ramps that were built from January 26, 1992 to December 31, 2001. These ramps are exempt from re-implementation as due to a learning curve process for purposes of good will between all parties and accessibility for the disabled.

14. Disabled and Plaintiff's Activity

The qualified persons with disabilities, under the programmatic access portion of the Title II guidelines of the Americans with Disabilities Act, may at any time request a ramp be assessed to see if greater accessibility can be provided. EXHIBIT M

15. Design Guidelines

The City has created a flexible working directional and design guidelines for the City and County. Design guidelines should include not only curb ramps, but all modifications in the public right-of-way. The design guidelines should include not only Transition Plan modifications, but also Alterations and New Construction. The current evolution of the design guidelines shall be reviewed and entered as a court document.

16. Programmatic Access

There is a re-emphasis on the programmatic access, personal request basis; you touch it you fix it and in alterations policies for the transition plan. These shall be re-addressed and entered into perpetuity. EXHIBIT M

17. Consultant

Bill Hecker, AIA, the City's consultant, shall be in Hawaii for a site visit for compliance of ramps and application of correct implementation of ramp design in the Transition Plan Projects, once every 6 months at a minimum, as requested by the City or by order of the Court Monitor, upon request, and at the conclusion of the implementation of the transition plan. A review by Wilson Okamoto Associates, shall continue the engineering firm performing duties as required by the Consent Decree and Order. (EXHIBIT N)

18. Current Designs

The current designs for the City and County must be reviewed under HRS 103.50. Current designs must be made accessible to the maximum extent feasible and if the current designs do not meet the requirements for accessibility laid out in the recommendations to the engineers and architects as set forth by the C&C, a technical infeasibility document shall be provided per ramp.

19. Design Criteria

The design criteria being used in the design of transition plan ramps has remained as a high standard of accessibility and the implementation of the type B truncated ramps is suggested over a type B flat ramp. EXHIBIT O

20. Warping vs. Blending

The definition of blending is a form of "blending" the landing and the ramp slopes to make the ramp be usable without being fully compliant. The blending is generally triggered and dictated by the slope of the roadway grade. The recommendation is that warping of ramps will not be used unless it is in extreme situations or circumstances.

21. Detectable Warnings

- a. The new ADAAG will eliminate the requirement for detectable warnings.
- b. Federal Highways Administration may still require the use of detectable warnings.
- c. NOTE: if Federal Highways requires the use of detectable warnings, any curb ramps installed with Federal Highway funds, shall include the detectable warnings (truncated domes) any other projects may delete the use of detectable warnings until such time that formal promulgated guidelines and requirements are implemented and enacted that require detectable warnings.

22. Cross Walk Controls

The crosswalk controls in the newly constructed Honolulu projects have two (2) control buttons in each direction. In accordance with ADAAG, a pedestrian signal control button for each direction of crossing be placed within 10" of the approach. The court monitor recommends this configuration and/or any equivalent facilitation be implemented until a final design conclusion by the PROWAAC committee is recommended due to the fact that the current design criteria is more accessible than the PROWAAC committee's current direction and heading.

23. Field Conditions T.I.'s

It is the Court Monitor's recommendation that the City's authorized representative shall have the authority to approve post construction "technical infeasibility" in the event that differing site conditions from the design plans require refinement of the curb ramp designs to ensure accessibility to the maximum extent possible.

24. Re-evaluation

As requested by Stan Levin, is termed a Usability Assessment, regarding ramps or other sloped areas that are usable or not usable to/by the disabled.

The City contracted directly with Accessible Planning and Consulting under a DF 71 contract for a specified amount not to exceed \$24,999 to perform the usability assessment.

The Usability Assessment is complete (EXHIBIT P).

25. Results of the Usability Assessment

Results of the usability assessment were analyzed after over 100 ramps had been assessed by wheelchair users. The disabled wheelchair using assessors concluded that ramps are usable with up to a 14.0% - 14.2% slope. The average usable slope criterion was determined to be 13.5%. The Plaintiff's consultant, Bruce Clark, who spearheaded the

project and was contracted to implement the usability assessment has agreed that the implementation triggers criteria for slopes to reconstruct ramps in specific areas under the transition plan may be increased to 13.5%; however, any requests for a change of a ramp that exceeds the City & County of Honolulu's adopted slope requirement will be addressed by the programmatic access policy, when a personal request is made this program will implement ramp reconstruction. Ramps will be addressed on a personal request basis to provide newly constructed ramp accessibility to the lowest slope possibly designed, constructed and provided. EXHIBIT Q

26. Smart levels

A 4' smart level will be required for the running slope and a 2' smart level shall be required for the cross slope to evaluate the running and cross slopes of all ramps which are under dispute and the measuring procedure must be uniform (e.g. where flared side slope measurement are taken from).

27. Capital Improvement and Privately Funded Projects

Capital improvement projects from the C&C and other large and privately funded project, such as the "Outrigger" Lewers Street project, shall be deferred until such time as knowledge of the project can be gained as to whether or not the project itself will be implemented or will be cancelled. At such time the project is cancelled, the ramps shall be folded into the next round of projects.

28. Coordination

Curb ramps by different agencies -- there are a number of curb ramps being installed through projects other than those funded solely as Transition Plan Projects (e.g. in an intersection re-alignment project). If those curb ramps are identified in the Transition Plan, they should be corrected accordingly at that time (and not deferred to the Transition Plan) and then removed from the Transition Plan timetable. If those curb ramps are not identified in the Transition Plan, they should be designed in accordance with the Alteration design guidelines. It is recommended that a comprehensive approach and coordination City wide be implemented.

29. Capital Improvement Projects Regarding Ramps

There are approximately 1000 ramps that were proposed in the transition plan to be modified but have not been included in the transition plan implementation. These are designated as deferred ramps, due to the fact these specific ramps are included in a proposed Capital Improvement Project or the Bus Rapid Transit Project (BRT). The theory is that the City will implement these ramps at the time of the alteration project, capital improvement project, or the BRT project. These ramps will remain deferred until such time as the alteration project occurs or until it is known that the project itself is not going to

be implemented. At that time, the ramps and sidewalk corners contained in these specific projects that are also required to be modified by the transition plan will be designed and implemented in the next available curb ramp transition plan design and implementation plan package. EXHIBIT R

30. Construction

The contractors, which have been selected, have been providing excellent workmanship and extremely well built curb ramps. Their work quality is acceptable.

- a. Design – the quality of the construction is a direct result of excellent design by the architects, engineers and the review process of Wilson Okamoto
- b. Comparative quality – the comparative quality of the curb ramps being built in Honolulu exceed those of any other municipality which the court monitor has visited in the Country. There are several reasons for this and some of the reasons are a direct result of the cost of the ramps themselves, such as:
  - i) The process for Barrier identification is thorough;
  - ii) The ramps which are involved in the transition plan have topographical survey's performed on each and every ramp;
  - iii) Each and every ramp is then designed to be compliant to the maximum extent feasible under the new construction guidelines;
  - iv) This would account for the significant design cost; however, this process enables the ramps to be designed individually and therefore the result is that the ramps are of excellent design quality and of excellent accessibility levels; and
  - v) Furthermore, each one of these ramps is designed to include the removal of the gutter, which provides for a much greater, higher quality, design and construction, of compliant, usable ramps. This methodology of individual designs is creating a greater level of accessibility than any other municipality due to the fact that most of the municipalities provide "cookie cutter" designs that don't take slopes, grades, warpage, etc. into consideration. Most municipalities do not replace the gutter line, which creates a degree of lesser accessibility when the gutter line is removed and replaced. (EXHIBIT O)

31. Annual Report

Upon the conclusion of the transition plan, the City shall further monitor the number of ramps implemented by request basis and alterations, you touch it, you fix it and new construction.

32. Semi-Annual Reporting

It is the Court Monitor's recommendation that the City provide annual reporting in lieu of quarterly reporting of the curb ramp transition plan statistical data until the end of the execution period for implementation of the transition plan or on an informal verbal update upon request.

33. Ramp Status

All transition plan ramps exclusive of capital improvement projects or bus rapid transit projects are under implementation.

34. Jurisdictional Transferability

When the City & County receives jurisdictions that include ramps, the City will address included ramps under the transition plan criteria.



1. The Court Monitor's Interim Report dated July 17, 2009, is approved. See Exhibit 1, attached.
2. Except as otherwise provided for herein or in prior stipulations, all the provisions of the Consent Decree and Order filed May 5, 1997, shall remain in full force and effect.

DATED: Honolulu, Hawaii, July 30, 2009.

/s/ Stanley E. Levin  
STANLEY E. LEVIN  
Attorney for Plaintiffs

/s/ Reid M. Yamashiro  
REID M. YAMASHIRO  
Deputy Corporation Counsel  
Attorney for Defendant

APPROVED AND SO ORDERED:



Kevin S.C. Chang  
Kevin S.C. Chang  
United States Magistrate Judge

Civil No. 96-01111 DAE/KSC, McConnell, et al. v. City and County of Honolulu, Fifth Stipulation Regarding Consent Decree and Order Filed May 5, 1997 and Order

96-01111-002

**MCCONNELL V. CITY AND COUNTY OF HONOLULU CURB RAMP  
TRANSITION PLAN  
COURT MONITOR'S INTERIM REPORT & STIPULATION**

**1. Request Program**

The ADA Title II regulations require that the city give priority to reasonable requests for accessibility modifications, i.e., request made by a qualified individual with a disability to provide access in areas that are not sloped or ramped, or ramped or sloped areas which are not usable by the qualified individual with a disability. The city, through the implementation of the Transition Plan has created a program by which qualified individuals with disabilities may request the alteration to, modification of existing ramps, or installation of a new ramp or ramps. The program is flawed in two respects: 1) the individual may request a ramp or series of ramps where the installation of the ramp is delayed by factors such as proximity to major alteration projects or capital improvement projects, and, 2) the request ramp may be delayed due to contract issues or other issues imposed by other city requirements. During the implementation and development of the evolving curb ramp transition plan the court monitor and project manager have discovered that the design and construction of personal request (program access required ramps) execution of construction have been delayed due to the procurement process. Due to this impediment to persons with disabilities, including those individuals who use wheelchairs civil rights, the court monitor recommends that the parties stipulate to language contained in the enclosed exhibit.

The court monitor recommends that these personal requests be put on an expedited timeline and taken out of any planned alteration projects or capital improvement projects. The request program and the installation of these personal requests ramps should not be subject to and should be exempt from procurement laws, ordinances and rules that would impede compliance with the ADA. All other non personal request based ramps and projects shall still be subject to the procurement laws, ordinances, and rules. See Exhibit A.

**2. Bus Stop Status**

The court monitor believes that the ADA Self Evaluation and Transition Plan requirements of the Consent Decree and Order in this case have been satisfied regarding access to bus stops. In paragraph 2(c) of the Consent Decree and Order in this case, it simply states "... that the Self-Evaluation and Transition Plan effort to address the needs of all individuals with disabilities with respect to accessible street and sidewalks, including access to bus stops." See Consent Decree and Order in Exhibit B and Document regarding elimination of bus stop issues relating to curb ramp transition plan Exhibit C.

**Curb Ramp Deferrals**

Further curb ramp deferrals are included in this stipulation due to the results of the usability assessment and reassessment process, and recent analysis of the implementation database and

EXHIBIT 1

field conditions for ramps which have been included in the Transition Plan as revised. Ramps which fall into this category will be addressed on a personal request basis. See Exhibit D.

**3. 2008 Annual Report**

The attached annual report describes the activities of the City & County related to the ADA Curb Ramp Transition Plan implementation. See Exhibit E.

**Exhibit A:**

**QUALIFIED PERSON WITH A DISABILITY PERSONAL  
REQUEST FOR RAMPED OR SLOPE AREAS IN THE PUBLIC  
RIGHTS-OF-WAY UNDER THE JURISDICTION OF THE  
CITY & COUNTY OF HONOLULU**

The process of installing/modifying curb ramps or modifying existing accessible paths leading to curb ramps by request of a qualified individual with a disability shall be exempt from any procurement laws, ordinances, or rules including, but not limited to, Chapter 103D of the Hawaii Revised Statutes and Chapters 3-122 and 3-126 of the Hawaii Administrative Rules, based on Section 103D-102(b)(2)(C) of the Hawaii Revised Statutes. The city's decision to contract out the design, construction, or inspection of curb ramps that are requested by qualified individuals with disabilities shall not be subject to protest under Chapter 103D of the Hawaii Revised Statutes of Chapter 3-126 of the Hawaii Administrative Rules.