

CITY OF BIG SPRING, TEXAS



**ADA TRANSITION PLAN
FOR CURB RAMP INSTALLATION AND REPAIR**

October 14, 2008

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PART 1 – INTRODUCTION AND PURPOSE

1.1 Overview of the ADA

The landmark Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. The ADA is a companion civil rights legislation to the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This legislation mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides disabled employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees.

The ADA is divided into five parts, covering the following areas:

Title I: EMPLOYMENT

Under this Title, employers, including governmental agencies, must ensure that their practices do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, or discharge of an employee, or in other terms, conditions, and rights of employment.

Title II: PUBLIC SERVICES

This Title prohibits state and local governments from discriminating against persons with disabilities or from excluding participation in or denying benefits of programs, services, or activities to persons with disabilities. A transition plan is intended to outline the methods by which physical or structural changes will be made to effect the non-discrimination policies described in Title II. It is under this Title that this Transition Plan is prepared.

Title II dictates that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination requirements of the ADA. The regulations detailing compliance requirements were issued in July 1991. A self-evaluation is required and intended to examine activities and services, to identify and correct any that are not consistent with the ADA. The entity must then proceed to make the necessary changes resulting from the self-evaluation. The ADA also requires that a transition plan be prepared, to describe any structural or physical changes required to make programs accessible.

Title III: PUBLIC ACCOMMODATIONS

Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. The term “public accommodation” as used in the definition is often misinterpreted as applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility serving the public.

Title IV: TELECOMMUNICATIONS

This Title covers regulations regarding private telephone companies and requires common carriers offering telephone services to the public, to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments.

Title V: MISCELLANEOUS PROVISIONS

This title contains several miscellaneous regulations, including construction standards and practices, provisions for attorney's fees, and technical assistance provisions.

1.2 City Responsibilities Pursuant to the ADA.

The City of Big Spring has various responsibilities under Title II of the ADA. Title II of the ADA is similar to Section 504 of the Rehabilitation Act of 1973, but differs in that Section 504 applies only to government agencies that receive federal financial assistance.

Title II mandates that a public entity, such as the City of Big Spring must operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to, and usable by, individuals with disabilities. **However, as described in Title 28 of the Code of Federal Regulations, Section 35.150(a) (hereafter referred to as the ADA Rules), this does not necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities. Nor does it require a public entity to take any action that would threaten or destroy the historical significance of an historic property. If the public entity can demonstrate that a modification would fundamentally alter the nature of its service, program, or activity, or cause undue financial and administrative burdens, it is not required to make that particular modification.**

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

In addition to those requirements set forth above, in the event a public entity has responsibility or authority over streets, roads, or walkways, the transition plan is to include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act. This Curb Ramp Transition Plan is Phase I of the City of Big Spring ADA Transition Plan.

This portion of the Transition Plan addresses these latter requirements for curb ramps, and is being prepared first (before the Facilities Transition Plan) in order to identify the ways in which the City of Big Spring has been, and is continuing to address the construction and replacement of curb ramps in specific areas of immediate concern that are the subject of recommendations made to the City from the Federal Highway Administration.

This Transition Plan incorporates by reference a partial survey of City intersections in the areas where current year budgeted bond projects are in progress. An additional survey of intersections adjacent to and near city facilities is being undertaken in conjunction with citizen input regarding this Preliminary Transition plan, and its completion will provide information sufficient to prioritize the construction of new curb ramps and repair of existing curb ramps. The City will pursue the construction and/or repair of curb ramps according to the priorities set forth in this document.

For the purpose of this Transition Plan, each curb ramp or curb ramp site is or shall be evaluated based on the requirements in the ADA Accessibility Guidelines.

Responsible Official. The official responsible for implementation of the City of Big Spring's ADA Transition Plan with respect to curb ramps, is Johnny Womack, Director of Public Works, 310 Nolan Street, Big Spring, TX 79720, telephone (432) 264-2500.

1.3 Availability of Transition Plan to Public.

The City will make available to applicants, participants, residents, and other interested parties, information regarding this Transition Plan. Upon adoption of this Initial Phase of the Transition Plan, covering the areas of immediate concern, the City will provide opportunities for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the continuing refining and expansion of the Transition Plan by submitting comments and making specific recommendations. A copy of this initial phase Transition Plan was made available for public inspection during a formal citizen review period, from May 28, 2008 to July 31, 2008. See Schedule 1 attached hereto which contains a list of interested parties who commented during the public comment period. The City will also maintain on file a list of persons who were consulted or commented with respect to this Plan, the surveys, and a description of modifications made, for a minimum period of 3 years beyond the formal adoption of this Transition Plan.

1.4 Grievance Procedures.

The City has adopted and published the grievance procedures included in this Transition Plan, which provide for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II. The City's grievance procedure and related forms for this Transition Plan, are described below.

Complaints of alleged noncompliance and grievances concerning curb ramps, should be directed to Johnny Womack, Director of Public Works, 310 Nolan, Big Spring, TX 79720; (432) 264-2500; jwomack@mybigspring.com.

PART 2 – TRANSITION PLAN FOR FACILITIES

This Initial Transition Plan relates solely to curb ramps. (ADA Rules, Section 35.150 (d)(2).) It is being developed and adopted prior to the Transition Plan for City Facilities in order to address immediate concerns regarding curb ramps and to comply with recommendations from the Federal Highway Administration. While the City is gathering information regarding curb ramp needs through citizen input, it will also be seeking information to assist in updating its facilities inventory and needs regarding access to services in order to quickly prepare and implemented a Transition Plan with respect to City facilities. (ADA Rules, Section 35.150 (d)(3).)

PART 3 – TRANSITION PLAN FOR CURB RAMPS

3.1 Curb Ramp Survey

During the public comment period, no specific recommendations were made regarding intersections that need curb ramps. Therefore, the ADA Compliance Committee has created the list of priorities for the 2008/2009 fiscal year which is attached hereto as Schedule 2. An additional schedule of curb ramps will be added each year showing the proposed allocation for the curb ramp construction fund.

3.2 Introduction to Curb Ramp Transition Plan.

The purpose of this section is to summarize curb ramp needs in the City of Big Spring and to outline the recommended procedures for the implementation and scheduling of remedial work to provide ADA compliant curb ramps and sloped areas within the City.

The ADA requires that a public entity include in its transition plan a schedule for the installation of curb ramps or other sloped areas at locations where walkways cross curbs.

3.3 Sidewalks.

There is no requirement under Title II of the ADA for the City to provide sidewalks. However, there is a requirement in Section 35.150 (d)(2) to provide curb ramps or other sloped areas where pedestrian walks that provide actual access to facilities, businesses or residences cross curbs. The City of Big Spring contains numerous sidewalks throughout the city with extensive variations in sidewalk design due to age, topography, location and natural condition. Changes occur to the City's sidewalks on a daily basis as a result of tree roots, weather, soil condition and other factors.

3.4 Curb Ramp Needs.

Wherever feasible based on existing topography, the City shall install curb ramps at all locations within those rights of way that are under the City's control where they are missing and necessary

for access to sidewalks. Although the ADA does not specifically mandate replacement of all existing curb ramps that may not reflect new construction standards (as described in Federal Register, Volume 56, No. 144, ADA Rules and Regulations, Section 35.150), some of these curb ramps may present a higher degree of difficulty due to steep slopes, narrow widths, high gutter lips, and offset locations.

3.4.1 Currently Budgeted Curb Ramp replacements and additions. The City has identified 86 curb ramps that will be added or replaced as part of the street repair projects budgeted to begin this year in the Downtown and Lancaster Street areas as part of the Street Improvement Bond Project approved by voters in 2006. The locations of those ramps are shown in the attached appendix.

3.4.2 The City of Big Spring will conduct additional surveys and gather information regarding curb ramp needs within the City over the next five months and will then complete a schedule of curb ramp needs throughout the City by September 30, 2008. The compilation of curb ramp needs shall be completed in the following order:

- Areas currently included in bond projects
- Area adjacent to and in the immediate vicinity of City Facilities and services
- Commercially zoned areas of the City
- Specific intersections or areas identified through citizen input at Town Hall meetings held for that purpose and through outside contacts.

The schedule of curb ramp needs resulting from the above surveys, will when completed, be added to this Transition Plan and made available for public inspection at the office of the City Secretary, 310 Nolan Street, Big Spring, TX 79720, with a 72- hour notice requested. The priorities for curb ramp construction and replacement set forth in this Transition Plan shall apply to all curb ramps identified in the full survey as requiring construction or replacement.

3.5 Curb Ramp Standards.

The City will use its current curb ramp design standards to construct or reconstruct curb ramps. These standards are contained in the City of Big Spring Design and Construction Standards and are incorporated by reference. The standards are available from the Public Works Department or through the City Secretary at 310 Nolan, Big Spring, TX 79720. As the ADA standards, or, where applicable, Title 24 standards, are modified or changed, the City will update its standards to meet any new additions or changes. This will be accomplished, among other methods, through a review by committees, including the City of Big Spring ADA Advisory Group.

3.6 Funding and Priorities for Curb Ramp Construction and Replacement.

The City of Big Spring will annually appropriate funds for curb ramp requests as further described in Section 3.7. Such funds will be used to construct, repair or replace curb ramps according to the priorities set forth in this section.

In creating priorities, it is the City's intent to evaluate all areas of potential deficiency, and to make structural changes where necessary. The assignment of priorities is intended to facilitate

public review and to address specific concerns of the local disabled community. It must be emphasized that it is the City's intent that all individuals with disabilities be reasonably accommodated. The priorities established are based upon two tiers of prioritization. The first tier evaluates the specific intersection or curb ramp with respect to its physical location within the city and to the predominant land uses adjacent to the curb ramp. The second tier evaluates the curb ramp with respect to its quality of design, construction, and physical condition.

3.6.1 Tier One: Curb Ramp Location Priorities.

Construction of curb ramps within the those rights of way that are under the City's control will be completed as quickly as possible using the available funding discussed in Section 3.7 in accordance with the following priorities.

Group A: Curb Ramps Recommended by the FHWA.

Those areas where specific complaints were addressed by the Federal Highway Administration Recommendations to the City received in October and November 2007, and any future areas that may be the subject of recommendations from the Federal Highway Administration or any other ADA oversight agency shall receive the first priority under any funding set aside for curb ramp construction or repair.

Group B: Citizen Requests.

Generally, these requests come from citizens with disabilities who wish to get to shopping areas, medical facilities, bus stops, transportation, and other facilities or areas to accommodate their activities of daily living. Such requests that are within those rights of way that are under the City's control shall have the highest priority following those required in Group A. When individuals or groups make such requests to the Public Works Director, he will determine if the location is within a right of way under the City's control, and if so, will add them to the Curb Ramp Need Schedule noting the date and time received. The request will then be included in the City's curb ramp construction program. When a curb ramp is requested, the Public Works Director shall make an evaluation for construction or reconstruction of the specific curb ramp. This will include evaluating the requested curb ramp as well as the entire intersection where the curb ramp is located. The existing or proposed curb ramp will be evaluated for usability and safety in order to determine the path of travel through that intersection.

Group C: Other Public Locations.

The third level of priority for inclusion in the Curb Ramp Need Schedule shall consist of areas within the rights of way controlled by the City that will provide access to public locations such as the following. This list is not inclusive and is not limited to just those buildings and facilities listed below:

1. State, county and local government buildings;
2. Public hospitals, health clinics, medical clinics, mental health clinics and therapy centers;
3. Public housing projects and public homeless shelters;

4. Law Enforcement service centers;
5. Parks;
6. Schools, including in the following order, but not limited to: community colleges, high school, junior high and elementary school programs with magnet programs for children with disabilities; and all other schools;
7. State and local district offices with high public traffic, beginning with, but not limited to: transportation hubs and major corridors and routes; Department of Motor Vehicles offices; state parks, jails and prisons.

Group D: Privately Owned Public Areas.

The fourth level of priority for inclusion in the Curb Ramp Need Schedule shall consist of areas within the rights of way controlled by the City that provide access to areas of public accommodation which are privately owned, including but not limited to:

1. Private medical and mental health offices;
2. Senior facilities;
3. Major shopping malls;
4. Large housing complexes;
5. Major employment sites;
6. Supermarkets;
7. Retail strip centers;
8. Small apartment facilities, duplexes;
9. Service sites of disability organizations;
10. Rehabilitation facilities;
11. Restaurants;
12. Hotels and motels.

Group E:

Residential areas.

Group F:

Intersections not included in any of the above groups.

3.6.2 Tier Two: Curb Ramp Quality Priorities

In conjunction with the tier one prioritization, the City will also use the following tier for the construction/reconstruction prioritization system. This second tier uses a numbering priority to look at the quality of existing curb ramps and how they will be prioritized, with one being the top priority, and five being the lowest priority.

1. The highest priority is to reconstruct curb ramps at locations where existing curb ramps have a condition that may impede a path of travel to a City program or activity. Examples are vertical displacement of the curb ramp, broken or cracked concrete, deteriorated conditions, etc.

2. A new curb ramp will be installed at locations where there is no curb ramp, where required in order to provide access to a sidewalk. (This priority may be used in place of priority number 1 to provide a continuous path of travel.)
3. When utility conflicts, physical barriers or other constraints exist at a location, a curb ramp will be reconstructed where required in order to provide access to a sidewalk.
4. An existing curb ramp will be reconstructed when it does not meet current federal or state standards (e.g., scoring lines, detectable warnings, slope, etc.).

3.7 Annual Schedule for Installation, Repair and Replacement.

3.7.1 City Installation. The City of Big Spring has committed itself to an aggressive schedule to bring the city into ADA compliance. This includes installation, repair and replacement of curb ramps to the greatest extent possible given the overall budgetary needs of the City. In addition to the bond plans already committed for the Downtown and Lancaster Street project, the City is committed to designating minimum annual amount of \$25,000.00 for the purpose of curb ramp installation, repair and replacement according to the priorities listed in this Transition Plan.

The exact number of curb ramps that can be repaired or installed using such budgetary appropriations cannot be discerned due to the varying condition of curb ramps to be replaced, differences in topography throughout the city, as well as the uncertain nature of costs of materials and labor. In this small community, we are experiencing extremely volatile costs of materials and labor due to current oil prices as well as the extreme shortage of labor in the City and vicinity at the time of adoption of this Transition Plan. Several factors are currently affecting the availability of labor for completing road and curb construction, including; the explosion and fire at the local refinery which has resulted in an extraordinary need for laborers to rebuild, new windmill farm construction industry and the increase in need for oilfield labor. The City will endeavor to replace or construct as many curb ramps as possible based on the budgeted amount each year, taking each intersection in the order that meets the priority criteria.

3.7.2 Utility Companies shall be required to install new curb ramps at corners where they excavate.

3.7.3 Subdivision developers are and will continue to be required to install ADA compliant curb ramps and sidewalks as part of plat approval and permitting.

3.8 Map of Curb Ramp Installation Priorities.*

To be included at a later date

- Current budgeted curb ramp installations in bond projects
- TXDOT's planned construction areas
- Commercially zoned areas

Curb Ramp Grievance Procedure

Who May File:

Any person with a disability who believes that they have been the subject of disability-related discrimination on the basis of denial of access where sidewalks cross curbs. The Grievance Form is on the back of this page.

Procedure

Step 1. Grievance Procedure & Form

Fill out the grievance form attached to this sheet with all the information requested. The grievance form shall be filed with the City Secretary within 60 working days of the alleged disability-related discrimination. Upon request, reasonable accommodations will be provided in completing this form. Contact the City Secretary at (432) 264- 2513. The grievance procedure and form may be obtained from the City's web page and at City Hall, 310 Nolan Street, Big Spring, TX 79720.

Step 2. Investigation

The complainant will be notified within 5 working days of the receipt of the grievance, and the Public Works Director or other authorized representative will commence an investigation into the merits of the complaint, within 30 days. If necessary, the Public Works Director or his authorized representative, will contact the complainant directly to obtain additional facts or documentation relevant to the grievance.

Step 3. A Written Decision is Prepared and Forwarded to the Complainant

The Public Works Director or other authorized representative shall prepare a written decision, after full consideration of the merits of the grievance, no later than 60 days following the receipt of the grievance. A copy of the written decision shall be mailed to the complainant no later than five working days after preparation of the written decision.

Step 4. Appeal to the City Manager

If the complainant is dissatisfied with the written decision, he or she may file a written appeal with the City Manager 310 Nolan Street, Big Spring, TX 79720 no later than 15 days of the date of the mailing of the decision. The appeal must contain a statement of the reasons why the complainant is dissatisfied with the written decision, and must be signed by the complainant or

by someone authorized to do so on the complainant's behalf. The City Manager will act upon the appeal no later than 30 days after receipt, and a copy of the City Manager's written decision shall be forwarded to the complainant no later than five working days after preparation of the decision.

The Public Works Director shall maintain the confidentiality of all files and records relating to grievances filed, unless disclosure is authorized or required by law. Any retaliation, coercion, intimidation, threat, interference, or harassment for the filing of a grievance, or used to restrain a complainant from filing, is prohibited and should be reported immediately to the Public Works Director or the City Attorney at 310 Nolan Street, Big Spring, TX 79720.

**City of Big Spring
ADA Curb Ramp Grievance Form**

Name:

Address:

City: _____ State: _____ Zip: _____

Phone: (_____) _____

Email: _____

Please provide a complete description of your grievance:

Please specify the location of the intersection that is the basis of your grievance:

Please state what you think should be done to resolve the grievance:

Please attach additional pages as needed.

Signature: _____ Date: _____

Please return to: Public Works Director c/o the City Secretary, 310 Nolan, Big Spring, TX 79720.

Upon request, reasonable accommodation will be provided in completing this form. Contact the Public Works Director at (432) 264-2500.

Form adopted 5/27/08

The City of Big Spring is also open to input from non-disabled individuals who may notice or be aware of curb ramp needs throughout the City. Please use the following form for that purpose.

City of Big Spring ADA Curb Ramp Necessity Form

Name:

Address:

City: _____ State: _____ Zip: _____

Phone: (_____) _____

Email: _____

Please specify the location of the intersection that you believe needs to be made accessible:

Please attach additional pages as needed.

Signature: _____ Date: _____

Please return to: Public Works Director c/o the City Secretary, 310 Nolan, Big Spring, TX 79720.

Upon request, reasonable accommodation will be provided in completing this form. Contact the Public Works Director at (432) 264-2500.

Form adopted 10/14/08

SCHEDULE 1

List of interested parties who submitted comments regarding the transition plan during the public review period:

Wesley Waite
Judy Durham
Aubrey Weaver Jr.
Jim Stevens
Susan Dawes
Steve Campbell
Rita Brown
Paul Prior
Pat Simmons

List of Consultants on the Transition Plan and Associated Projects

Bill P. Noonan, AIA, RAS
Corporate Associate

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Lubbock, Texas 79423
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Fax 806-473-3500

SCHEDULE 2

City of Big Spring Curb Ramp Construction Fund Allocation 2008 – 2009

The ADA Compliance Committee has determined that the following intersections best meet the Tier One criteria for curb ramp reconstruction fund allocation under the City's Curb Ramp Transition Plan for 2008/2009. If there are additional funds remaining after construction of these intersections, additional intersections will be added to the list. The City of Big Spring will continue to construct or repair intersections within the city until the \$25,000 construction/repair fund for the fiscal year is depleted.

These construction areas are in addition to those already provided for in the City's Lancaster Street Bond project, the City's downtown street repair project, and the Texas Department of Transportation repair project for 3rd and 4th Streets.

E 5th Street and Runnels Street

N.E. 6th Street and N. Main Street

Birdwell Lane and Kentucky Way

Birdwell Lane and E 11th Place

N. Main Street and N.E. 8th Street

N. Runnels Street and N.E. 8th Street