

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CONRAD REYNOLDSON, STUART
PIXLEY, and DAVID WHEDBEE, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

CITY OF SEATTLE, a public entity,

Defendant.

No. 2:15-cv-01608 - BJR

[PROPOSED]
CONSENT DECREE

CLASS ACTION

I. PRELIMINARY MATTERS

A. Plaintiffs in this matter are Conrad Reynoldson, Stuart Pixley, and David Whedbee (collectively the “Plaintiffs”) and a class of persons similarly situated (the “Settlement Class,” as defined below). Defendant in this matter is the City of Seattle (“the City”), a public entity. The City and the Plaintiffs shall be referred to in this Consent Decree individually as a “Party” and collectively as the “Parties.”

B. Each of the Plaintiffs is a resident of or frequent visitor to the City of Seattle (“the City”) and is a person with a mobility disability who uses a wheelchair for mobility. Each of the Plaintiffs is an individual with a disability within the meaning of Section 3(2) of the Americans

1 with Disabilities Act of 1990, 42 U.S.C. §§ 12101, 12102(2) (“ADA”), Section 504 of the
2 Rehabilitation Act of 1973, 29 U.S.C. §§ 705(20), 794(a) (“Section 504”), and Washington anti-
3 discrimination law, Wash. Rev. Code Ann. § 49.60.040(7)(a) (“WLAD”).

4 C. Plaintiffs’ Complaint (ECF No. 1) alleges that the City has systemically failed to
5 ensure that its pedestrian right of way contains curb ramps that are necessary to make its
6 pedestrian right of way accessible to individuals with mobility disabilities, in violation of the
7 ADA, Section 504, and WLAD. Specifically, Plaintiffs allege that the City has failed and
8 continues to fail to install and maintain curb ramps that are necessary to make its pedestrian right
9 of way readily accessible to individuals with mobility disabilities, and to comply with its
10 obligation to install and/or remediate curb ramps when it engages in alterations or new
11 construction of streets, bus stops, and sidewalks. Plaintiffs further allege that a substantial
12 number of the street crossings within the City’s pedestrian right of way do not comply with
13 applicable state and federal regulations addressing accessibility for people with disabilities
14 because, for example, they lack curb ramps entirely, have curb ramps on only one side of a
15 corner, have curb ramps that are too narrow, too steep, or too cracked, broken, or uplifted to be
16 used by individuals with mobility disabilities.

17 D. On January 12, 2016, the City filed Defendant’s Answer and Affirmative
18 Defenses to Complaint (ECF No. 22), which alleges that the City has complied with and is
19 continuing to comply with its obligations under the ADA, Section 504 and all other similar
20 statutes or laws by providing program access to people with disabilities; that the City has
21 complied with its planning obligations under Section 504 and the ADA via its continuously
22 updated Pedestrian Master Plan; that the City was engaged in an ADA Self-Evaluation survey of
23 curb ramps in the City at the time the Plaintiffs filed this action as a component of its
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1 longstanding work to improve accessibility; and that the City's services, programs and activities,
2 when viewed in their entirety are accessible to persons with disabilities.

3 E. Pursuant to the Parties' stipulation, on May 2, 2016, the District Court certified
4 this case as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2), finding
5 that "The class is so numerous that joinder of all members is impracticable; there are questions of
6 law and fact common to the class; the claims of the Named Plaintiffs are typical of the claims of
7 the class; the Named Plaintiffs and their counsel will fairly and adequately protect the interests of
8 the Class"; and "Plaintiffs allege that the City has acted or refused to act on grounds that apply
9 generally to the Class, and this action seeks final injunctive relief and declaratory relief on behalf
10 of the Class as a whole." Order Granting Stipulated Motion Regarding Class Certification
11 Pursuant to Federal Rule of Civil Procedure 23(b)(2) (ECF No. 30), May 2, 2016. The Court
12 certified the following class of persons for declaratory and injunctive relief only: "All persons
13 (including residents of and/or visitors to the City of Seattle) with any mobility disability, who, at
14 any time prior to judgment in this action, have been denied full and equal access to the City of
15 Seattle's pedestrian right of way due to the lack of a curb ramp or a curb ramp that was damaged,
16 in need of repair, or otherwise in a condition not suitable or sufficient for use." *Id.* at 2. The
17 Court appointed Plaintiffs Conrad Reynoldson, Stuart Pixley, and David Whedbee as Class
18 Representatives, and Goldstein, Borgen, Dardarian & Ho, the Civil Rights Education and
19 Enforcement Center, and Disability Rights Washington as Class Counsel. *Id.*

20 F. During the pendency of negotiations between the Parties' and the course of this
21 Action, the City, Plaintiffs and Class Counsel (as defined below) undertook informal and formal
22 discovery and engaged in extensive discussions regarding a potential resolution and settlement of
23 the alleged claims, including in mediation before a private mediator. As a result of such
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1 discussions, the Parties now wish to effect a complete resolution and settlement of the claims
2 alleged in Plaintiffs' Complaint, and to resolve their differences and disputes by settling such
3 claims, disputes and controversies under the terms set forth in this Consent Decree.

4 G. In entering into this settlement, the Parties intend to resolve any and all claims
5 that either were or could have been asserted in this Action on behalf of individuals with Mobility
6 Disabilities for declaratory and injunctive relief with respect to curb ramps in the City's
7 pedestrian right of way, subject to the Release of Claims set forth in Section VII below. Said
8 settlement is expressly intended to assure that no further lawsuits for these claims for declaratory
9 and injunctive relief may be maintained at any time during the Term of this Consent Decree, and
10 that the City will not be subject to conflicting judgments regarding compliance with Access
11 standards regarding curb ramps in the City's pedestrian right of way throughout the Term of this
12 Decree.
13

14 H. In entering into this Consent Decree, the City does not admit that it has violated or
15 failed to comply with or has any liability to Plaintiffs or the Settlement Class under any
16 provisions of the ADA, Section 504, or any applicable laws of the State of Washington relating
17 to accessibility for persons with mobility disabilities to the pedestrian right of way, any
18 regulations or guidelines promulgated pursuant to those statutes, or any other applicable laws,
19 regulations, or legal requirements. In fact, the City expressly denies and disputes, and continues
20 to deny and dispute, the claims and contentions by Plaintiffs, and does not admit any liability to
21 Plaintiffs or the Settlement Class. Neither this Consent Decree nor any of its terms or provisions,
22 nor any of the negotiations connected with it, shall be construed as an admission or concession
23 by the City of any such violation or failure to comply with any applicable law. This Consent
24 Decree and its terms and provisions shall not be offered or received as evidence for any purpose
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1 whatsoever against the City in any action or proceeding, other than a proceeding to enforce the
2 terms of this Consent Decree.

3 I. This Consent Decree, and the releases contained herein, only apply to curb ramps
4 on the City's street segments with Pedestrian Walkways, and do not apply to components of the
5 City's sidewalk system other than curb ramps.

6 J. Section titles and other headings contained in this Consent Decree included only
7 for ease of reference and shall have no substantive effect.

8
9 **II. DEFINITIONS**

10 For purposes of this Consent Decree, the following terms have the following definitions:

11 A. "Access" or "Accessible," unless otherwise indicated, means conditions that
12 comply with the standards set forth in the 2010 Americans with Disabilities Act ("ADA")
13 Standards for Accessible Design, codified at 28 C.F.R. § 35.151 and 36 C.F.R. part 1191, and
14 Appendices B and D (hereafter "2010 ADA Standards"). Access work performed pursuant to
15 this Consent Decree shall be performed in compliance with the 2010 ADA Standards. If during
16 the term of this Consent Decree any new federal disability access design standards that apply to
17 the pedestrian right of way become effective, or as applicable federal precedent is established,
18 those standards shall then become the standard for accessibility under this Consent Decree. Curb
19 ramps, raised crosswalks or other accessible crossings that meet the 2010 ADA Standards or any
20 subsequently applicable standards are referred to herein as "Accessible Curb Ramps."
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22 B. "Altered," when used in reference to work performed as part of street, roadway,
23 or highway resurfacing, means those alterations identified in the Department of
24 Justice/Department of Transportation Joint Technical Assistance on the Title II of the Americans
25 with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways
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1 are Altered through Resurfacing,” found at www.ada.gov/doj-fhwa-ta.htm. Specified alterations
2 include but are not limited to the addition of a new layer of asphalt, reconstruction, concrete
3 pavement rehabilitation and reconstruction, open-graded surface course, microsurfacing and thin
4 lift overlays, cape seals, and in-place asphalt recycling when the work on a street or roadway
5 spans from one intersection to another, and includes overlays of additional material to the road
6 surface. Treatments that serve solely to seal and protect the road surface, improve friction, and
7 control splash and spray are considered to be maintenance, not alterations, because they do not
8 significantly affect the public’s access to or usability of the road. Some examples of the types of
9 treatments that would normally be considered maintenance are: painting or striping lanes, crack
10 filling and sealing, surface sealing, chip seals, slurry seals, fog seals, scrub sealing, joint crack
11 seals, joint repairs, dowel bar retrofit, spot high-friction treatments, diamond grinding, and
12 pavement patching.
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15 C. “Americans with Disabilities Act” or “ADA” means the Americans with
16 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the 2010 ADA Standards.

17 D. “Best Efforts” means the efforts a reasonable entity in the City’s position would
18 use to perform that obligation in good faith.

19 E. “Class Counsel” means collectively Disability Rights Washington, Civil Rights
20 Education and Enforcement Center, and the law firm of Goldstein Borgen Dardarian & Ho.

21 F. “Compliant Curb Ramp” means any curb ramp designed prior to the Effective
22 Date and built in compliance with either the 2010 ADA Standards or, if built or altered prior to
23 March 15, 2012, the 1991 Americans with Disabilities Act Standards for Accessible Design
24 (“ADAAG”), codified at 28 C.F.R., Part 36, including Appendix A, or other federal design
25 standards in effect at the time of design and construction.
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1 G. “Compliance Period” means the period of time that commences on the Effective
2 Date and continues until July 1, 2035, or as extended by agreement of the Parties as detailed in
3 Section IV below. .

4 H. “Effective Date” means the date upon which the Consent Decree becomes a Final
5 Judgment of the District Court presiding over this Action.

6 I. “Existing Pedestrian Facilities,” for purposes of this Consent Decree, means any
7 Pedestrian Facilities, or portions thereof, where construction was commenced prior to the
8 Effective Date of this Consent Decree.

9 J. “Fairness Hearing” means the hearing to be held by the District Court, pursuant to
10 Rule 23(e) of the Federal Rules of Civil Procedure, to determine whether the settlement set forth
11 in this Consent Decree should be approved.

12 K. “Final,” as applied to the term “Judgment” (as defined below), means that (i) the
13 time for appeal or writ has expired and no appeal or petition for review has been taken, or (ii) if
14 an appeal or petition for review is taken and the settlement set forth in this Consent Decree has
15 been affirmed in full, the time period during which any further appeal or review can be sought
16 (including through any appeal, petition for review, writ of certiorari or otherwise) has expired
17 and no such further appeal or review has been sought. In the event that no objections to this
18 Consent Decree are raised prior to or at the Fairness Hearing, that any objections that have been
19 raised have been fully and formally withdrawn, or that no viable objections otherwise exist at the
20 time of the Fairness Hearing, the Judgment shall become “Final” as of the District Court’s
21 issuance of the Judgment. If the Judgment is set aside, materially modified, disapproved or
22 overturned by any court, and is not fully reinstated on further appeal or review, the Judgment
23 shall not become or be “Final.”
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1 L. “Final Approval” means the order by the District Court, after notice and the
2 holding of the Fairness Hearing, granting approval of this Consent Decree Agreement under Rule
3 23(a) of the Federal Rules of Civil Procedure.

4 M. “Judgment” means a judgment entered by the District Court in this Action,
5 substantially in the form attached to this Consent Decree as Exhibit “D”, which, among other
6 things, fully approves this Consent Decree and retains the District Court’s jurisdiction to enforce
7 the Consent Decree throughout its term.

8 N. “Marginally Longer Route” means an additional distance of no more than 200 feet
9 that a person with a Mobility Disability may need to travel from a non-compliant curb ramp to
10 reach a Compliant Curb Ramp or Accessible Curb Ramp.

11 O. “Mobility Disability” or “Mobility Disabilities” means any impairment or medical
12 condition that limits a person’s ability to walk, ambulate, maneuver around objects, or to ascend
13 or descend steps or slopes. A person with a Mobility Disability may or may not use a
14 wheelchair, scooter, electric personal assisted mobility device, crutches, walker, cane, brace,
15 orthopedic device, or similar equipment or device to assist her or his navigation along a
16 pedestrian walkway, or may be semi-ambulatory.

17 P. “New Construction and Alterations” means all work required to be performed,
18 pursuant to 28 C.F.R. § 35.151, in connection with newly-constructed or Altered intersections,
19 streets, roads, and highways in the City during the Term of the Consent Decree.

20 Q. “Notice of Settlement” means the notice substantially in the form attached to this
21 Consent Decree as Exhibit “B”, to be provided to the Settlement Class as set forth in Section VII
22 below.

23 R. “Pedestrian Facility” or “Pedestrian Facilities” means any intersection, street,
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1 Pedestrian Walkway, crosswalk, curb, curb ramp, walkway, pedestrian right of way, pedestrian
2 undercrossing, pedestrian overcrossing, or other pedestrian pathway or walk of any kind that is,
3 in whole or in part, owned, controlled or maintained by or otherwise within the responsibility of
4 the City of Seattle.

5 S. “Pedestrian Walkway” means a sidewalk or other prepared exterior surface
6 provided for pedestrian travel in the public right of way that is, in whole or in part, owned,
7 controlled or maintained by or otherwise within the responsibility of the City of Seattle.

8 T. “Preliminary Approval” means the preliminary approval of this Consent Decree
9 by the District Court as described in Section VII below.

10 U. “SDOT ADA Coordinator” means the access specialist previously hired by the
11 Seattle Department of Transportation (SDOT) pursuant to and in accordance with the terms of
12 Section V.1, below.

13 V. “Section 504” means Section 504 of the Rehabilitation Act of 1973, codified at
14 29 U.S.C. § 794, et seq.

15 W. “Settlement Class” means the class of all persons (including residents of and/or
16 visitors to the City of Seattle) with any Mobility Disability, who, at any time prior to judgment
17 and/or through the Term of this Consent Decree, have been denied full and equal access to the
18 City of Seattle’s pedestrian right of way due to the lack of a curb ramp or a curb ramp that was
19 damaged, in need of repair, or otherwise in a condition not suitable or sufficient for use.

20 Members of the “Settlement Class” are referred to as “Class Members” throughout this Decree.

21 X. “Structural Impracticability” means the rare circumstances when an Accessible
22 Curb Ramp cannot be installed during construction of new Pedestrian Facilities because the
23 unique characteristics of terrain prevent incorporation of Accessible Curb Ramps. *See* 28 C.F.R.

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1 § 35.151(a)(2)(i).

2 Y. “Technical Infeasibility” or “Technically Infeasible” means the instances when
3 an Accessible Curb Ramp cannot be installed during alterations to Existing Pedestrian Facilities
4 because of physical or site constraints. *See* 2010 ADAAG 106.5.

5 Z. “WCAG” means version 2.0 Level AA of the “Web Content Accessibility
6 Guidelines” published by the Web Accessibility Initiative (WAI) of the World Wide Web
7 Consortium (W3C), or any subsequent version(s) that are published during the Term of the
8 Consent Decree.
9

10 **III. JURISDICTION**

11 The United States District Court for the Western District of Washington has jurisdiction
12 over the Parties and the subject matter of this Action. The Complaint asserts claims that, if
13 proven, would authorize the Court to grant the relief set forth in this Consent Decree. Venue is
14 proper in this Court. All claims resolved by this Consent Decree shall be dismissed with
15 prejudice upon the Effective Date of this Consent Decree. This Court shall retain jurisdiction of
16 the Action during the Term of the Consent Decree, as set forth in Section IV.2, below, for the
17 purpose of entering all orders that may be necessary to implement the relief provided for and
18 enforce any obligations herein.
19

20 **IV. EFFECTIVE DATE AND DURATION OF THE CONSENT DECREE**

21 This Consent Decree and the agreements contained herein shall become effective on the
22 Effective Date and shall remain in effect until the latter of either the completion of the
23 Compliance Period or, if applicable, the conclusion of any dispute resolution proceedings or
24 action to enforce the Consent Decree (“Term of the Consent Decree”). The Consent Decree shall
25 thereupon expire except insofar as claims are released, as set forth in Section VIII.
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1 At least 60 days prior to the conclusion of the Compliance Period, the City, at its sole
2 discretion, may elect to extend the Term of this Consent Decree. If it chooses to do so, all of the
3 terms of the Consent Decree shall continue to apply, and the Parties will jointly move the court
4 to approve the extension.

5
6 **V. INJUNCTIVE RELIEF**

7 **1. SDOT ADA Coordinator**

8 1.1. As of the Effective Date and during the course of the Parties' negotiations,
9 the City has hired, consistent with applicable City contracting requirements, an ADA
10 Coordinator for the Seattle Department of Transportation ("SDOT ADA Coordinator").

11 1.2. Throughout the Term of the Consent Decree, the SDOT ADA Coordinator
12 position shall be filled with an individual who has qualifications comparable to the following: (i)
13 experience in evaluating or assisting public entities in evaluating the accessibility of facilities
14 under Title II of the ADA and Section 504; (ii) knowledge of current federal and state
15 accessibility standards; (iii) a minimum of five (5) years' experience in providing ADA
16 consulting services related to accessible facilities; and (iv) a degree in civil engineering, urban
17 planning, or architecture. The City retains sole discretion on the selection of the ADA
18 Coordinator, provided that the candidate selected substantially satisfies these criteria.

19 1.3. The SDOT ADA Coordinator shall be retained and directed by the City
20 throughout the Term of the Consent Decree and will assist in developing and implementing the
21 work set forth below.

22 1.4. In addition to the SDOT ADA Coordinator, the City may, at its sole
23 discretion, continue to retain Karen Braitmayer or another consultant for technical assistance
24 throughout the Term of the Consent Decree. In selecting the consultant, the City will give

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1 priority consideration to candidates who have Mobility Disabilities, where otherwise equally
2 qualified.

3 2. **New Construction and Alterations**

4 2.1 Throughout the Term of the Consent Decree, the City shall continue to
5 ensure that all Pedestrian Facilities, as well as highways, roadways, and streets that include
6 Pedestrian Walkways, which are newly constructed by or on its behalf on or after the Effective
7 Date, include the installation of Accessible Curb Ramps, as required by 28 C.F.R. § 35.151(a),
8 except where the City can demonstrate that installation of Accessible Curb Ramps is Structurally
9 Impracticable. In any such circumstance where installation of an Accessible Curb Ramp would
10 be Structurally Impracticable, the portion of the subject curb ramp that can be made Accessible
11 shall be made Accessible to the extent it is not Structurally Impracticable.
12

13 2.2 Throughout the Term of the Decree, whenever the City (or any third-party
14 acting with the City's authority and on the City's behalf) Alters the City's Pedestrian Facilities,
15 roadways, highways, and crossings, it will upgrade existing but non-Compliant Curb Ramps
16 and/or install new Accessible Curb Ramps, as required by 28 C.F.R. § 35.151(b), except where
17 the City can demonstrate that the installation of Accessible Curb Ramps is Technically
18 Infeasible. In any such circumstance where the installation of an Accessible Curb Ramp is
19 Technically Infeasible, the subject curb ramp shall be addressed with alternative curb ramp
20 designs. Such curb ramp installation or remediation shall be performed at the same time period
21 that the Alteration project is being performed or reasonably thereafter. This time period for
22 installing or remediating a curb ramp may be extended up to one year following completion of
23 the Alteration project in two circumstances: (1) where the Alteration to the City's Pedestrian
24 Facility was unplanned due to an emergency or not previously identified in the Transition Plan;
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1 or (2) where the subject curb ramp is scheduled to be constructed in the course of another project
2 within one year of the completion of the Alteration.

3 2.3 Throughout the Term of the Decree, whenever the City (or any third-party
4 acting with the City's authority and on the City's behalf) performs New Construction and
5 Alterations in the pedestrian right of way the City shall ensure that accessible temporary routes
6 are provided and have appropriate signage directing persons with Mobility Disabilities to such
7 accessible temporary routes.
8

9 2.4 Throughout the Term of the Decree, the City shall use Best Efforts to
10 ensure that all third-party construction, alteration, and development projects that include New
11 Construction of Pedestrian Facilities or Alterations to the pedestrian right of way within the City
12 are performed in compliance with the terms of this Section, with the exception of curb ramps
13 installed or remediated by the Washington State Department of Transportation for which the City
14 lacks oversight responsibility.
15

16 2.5 Within 30 days of the Effective Date, the City will provide Plaintiffs with
17 the City's protocols governing the permitting and architectural plan review and approval process
18 for ensuring that all third-party construction, alteration and development projects that include
19 installation or remediation of curb ramps comply with Section 4.4. Such protocols will require
20 SDOT's approval of plans prior to curb ramp installation or remediation, on-site inspection of
21 installed or remediated curb ramps by trained SDOT inspectors, and training of all inspectors
22 upon hiring and annually thereafter.
23

24 3. **Installation of Accessible Curb Ramps During the Term of the Decree**

25 3.1 **Annual Accessible Curb Ramp Commitment**

26 Commencing on July 1, 2017 and continuing for 18 years, the City shall ensure the
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1 installation and/or remediation of a certain number of Accessible Curb Ramps in the City each
2 calendar year. This number shall be known as the “Annual Commitment.” For the period
3 commencing July 1, 2017 and ending on December 31, 2017, the Annual Commitment shall be
4 625 ramps. For the period commencing January 1, 2035 and ending on July 1, 2035, the Annual
5 Commitment shall be 625 ramps. For all calendar years in between January 1, 2018 and
6 December 31, 2034, the Annual Commitment shall be 1250 ramps. For purposes of the Decree,
7 the Annual Commitment includes the installation of new Accessible Curb Ramps and
8 remediation of existing non-Compliant curb ramps anywhere within the City by the City or by
9 any third-party, and includes curb ramps that are remediated or installed pursuant to the Curb
10 Ramp Request System. The City will ensure that curb ramps installed or remediated by third
11 parties acting within the City’s authority or on its behalf, or pursuant to a permit issued by the
12 City, are Accessible Curb Ramps. Where installation or remediation of a curb ramp by a third
13 party is Structurally Impracticable or Technically Infeasible, such ramp shall be Accessible to the
14 extent not Structurally Impracticable, or to the maximum extent feasible, as set forth in Sections
15 2.1 and 2.2, above.

18 3.2 If in any annual period other than 2017 or 2035, more Accessible Curb
19 Ramps are installed within the City than the applicable Annual Commitment, the City may bank
20 up to a total of 625 Accessible Curb Ramps that may be credited to any year in which less than
21 the applicable Annual Commitment of Accessible Curb Ramps are installed to bring the total to
22 the required number for that year. This excess shall be referred to as the “credit bank.” The
23 credit bank may be replenished and drawn down in the City’s discretion but in no event can the
24 bank exceed 625. If in any such annual period, the City experiences unexpected delays in major
25 capital improvement projects based on factors outside of the City’s control, then the applicable

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1 Annual Commitment may be reduced in an amount not to exceed 225 Accessible Curb Ramps.
2 This reduced amount shall be referred to as the “deficit bank.” No ramps will be added to the
3 deficit bank until the deficit bank is reduced to zero. The deficit bank shall be reduced to zero
4 within two years, during which time the deficit ramps shall be installed in addition to the
5 applicable Annual Commitment. During any year in which there are ramps in the deficit bank,
6 the City may not reduce its Annual Commitment based on ramps in the credit bank.
7

8 3.3 The City may use any and all revenue sources available to it to fund its
9 Annual Commitment. The Parties agree that, throughout the Term of the Decree, the City shall
10 have sole and absolute discretion to determine the revenue sources it will use to fulfill the
11 Annual Commitment.

12 3.4 Accessible Curb Ramps installed pursuant to the Curb Ramp Request
13 System set forth in Section V.5, below, shall count toward the City’s Annual Ramp
14 Commitment.
15

16 3.5 **Prioritization of Accessible Curb Ramps for Existing Pedestrian**
17 **Facilities**

18 To the extent not otherwise covered by planned New Construction or Alterations,
19 Accessible Curb Ramps that the City installs at Existing Pedestrian Facilities throughout the
20 Term of the Decree shall be selected in compliance with 28 C.F.R. § 35.150, in the order below:
21

- 22 a. Government offices, facilities, and schools (including the pedestrian rights
23 of way adjacent to facilities owned or operated by the City, and the paths
24 of travel leading from such adjacent pedestrian rights of way to the
25 primary entrances to such facilities);
26 b. Transportation corridors;

- 1 c. Hospitals, medical facilities, assisted living facilities and other similar
- 2 facilities;
- 3 d. Places of public accommodation such as commercial and business zones;
- 4 e. Facilities containing employers; and
- 5 f. Residential neighborhoods.
- 6

7 3.6 The City will create a Transition Plan that is consistent with Section V.3.5.

8 The Transition Plan will identify, over a time period to be determined by the City but in no event
9 less than one year in advance, specific projects and specific curb ramps to be installed and
10 remediated in fulfillment of the Annual Commitment, exclusive of Accessible Curb Ramps
11 installed by third parties. The Transition Plan will also plan for and prioritize curb ramps
12 identified through the Curb Ramp Request System as set forth in Section V.5 below. The
13 Transition Plan will be updated periodically to specifically identify additional projects and curb
14 ramps to fulfill the Annual Commitment, including additional Curb Ramp Requests submitted
15 pursuant to the Curb Ramp Request System. These Transition Plan updates shall be consistent
16 with the prioritization factors set forth in Section V.3.5, while incorporating input from Class
17 Members and government agencies. The City will consult with Plaintiffs regarding the City's
18 solicitation of community and class member input regarding prioritization to ensure compliance
19 with Section V.3.5 including, but not limited to, providing Plaintiffs with a draft of any surveys
20 and a meaningful opportunity to comment on such draft(s) prior to dissemination, giving good
21 faith consideration to Plaintiffs' comments, and providing Plaintiffs with advance notice of
22 meetings with Class Members at which the City will seek such input into prioritization. The City
23 will provide Plaintiffs with a draft of the Transition Plan and all subsequent updates for their
24 review and comment. Plaintiffs will provide the City with feedback on the draft Transition Plan
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27

1 and draft updates within thirty (30) days of receipt. The City in good faith will consider and
2 address Plaintiffs' comments. The City will provide Plaintiffs with a final version of the
3 Transition Plan and all subsequent updates. If Plaintiffs believe the Transition Plan or any
4 subsequent update does not comport with the terms of this agreement, Plaintiffs may utilize the
5 dispute resolution process set forth in Section V.9 below.

6
7 3.7 In instances where installation of any Accessible Curb Ramp that falls
8 within the prioritization criteria set forth in Section V.3.5, above, or requested pursuant to the
9 Curb Ramp Request System set forth in Section V.5, below, would be Technically Infeasible, the
10 City shall conduct such installation or repair to be Accessible to the maximum extent feasible,
11 and shall consider the extent to which physical or site constraints can be addressed by an
12 alternative curb ramp design or a raised crosswalk that meets the 2010 ADA Standards or any
13 subsequently applicable standards.

14
15 3.8 The obligations of the City with respect to installing Accessible Curb
16 Ramps at a particular location may also be postponed if the postponement is caused by or
17 attributable to a force majeure (that is, due to acts of God, war, government regulations (other
18 than regulations by the City), terrorism, disaster (including power outages), strikes, civil
19 disorder, government declared fiscal emergency, or an emergency beyond the City's control that
20 makes it illegal or impossible for the City to perform construction, alteration, or repair work).
21 Under this provision, the City's obligations may be tolled for the period of the force majeure's
22 effect.

23
24 3.9 To the extent any Existing curb ramp is technically non-Compliant, but
25 otherwise reasonably accessible to and navigable by individuals with Mobility Disabilities, the
26 City may defer any potential repairs or reconstruction activities at said location(s) in favor of

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1 installing Accessible Curb Ramps elsewhere through the City in an effort to provide the greatest
2 access possible given the resources available throughout the Term of the Decree.

3 3.10 Subject to the foregoing provisions of this Section, the City shall retain
4 discretion to determine the means and methods of implementing the Annual Commitment set
5 forth herein.

6
7 4. **Further Updates to Curb Ramp Inventory**

8 4.1. The City shall use its Best Efforts to complete a virtual review of curb
9 ramp locations currently designated as “unknown” in the City’s Hansen database before July 1,
10 2017 to determine the presence or absence of a curb ramp. Such evaluation shall take place
11 primarily by use of virtual mapping software (i.e., Google Maps) and shall consist of
12 determining whether or not ramps exist at the specified locations, not technical compliance. A
13 determination that a ramp is not present does not necessarily mean that a ramp is appropriate or
14 required for a particular location. SDOT’s Asset & Performance Management Group will retain
15 sole discretion over the process by which evaluation of “unknown” locations shall proceed. In
16 addition, where the City determines that a curb ramp location designated as unknown does or
17 does not have a curb ramp, that information will be added to the Hansen database, although
18 SDOT’s Asset & Performance Management Group will retain sole discretion about how such
19 designations will be entered into the Hansen database.

20
21 4.2. As soon as possible after the City completes the virtual evaluation of the
22 “unknown” curb ramp locations, SDOT inspectors and/or staff shall conduct on-site
23 measurements of curb ramps identified through the virtual evaluation. Such measurements shall
24 include, at a minimum, whether the curb ramps are consistent with the 2010 ADA Standards
25 regarding the slope, cross slope, counter slope, width, and length of a curb ramp; the amount of
26

1 space at the curb ramp’s lower landing, and whether it is flush with the street and within
2 crosswalk striping; the amount of clear space and slope of the curb ramp’s upper landing; and the
3 existence and condition of a detectable warning on the curb ramp’s surface. Documentation of
4 these measurements will be attached to the record for the subject ramp in the Hansen database.
5 The City will establish a schedule for completion of the on-site measurements once the virtual
6 review is complete.
7

8 4.3. The City shall put in place recordkeeping requirements applicable to the
9 installation or alteration of any curb ramps within the City, whether installed by the City or third-
10 parties. Said requirements will mandate entry of relevant documentation, including maximum
11 extent feasible determinations and supporting documentation, into the Hansen database within 30
12 days of project completion.
13

14 5. **Curb Ramp Request System**

15 5.1. Throughout the Term of the Decree, the City shall continue to maintain a
16 system through which people with disabilities may submit requests for installation, remediation,
17 and maintenance of Accessible Curb Ramps (“Curb Ramp Request System”). Within thirty (30)
18 days of the Effective Date, the Parties will agree upon both the form for submitting requests, and
19 the method(s) for submitting requests, including through an easily locatable and accessible form
20 on the City’s website that complies with WCAG, a toll-free telephone number, electronic mail,
21 standard mail, and/or other non-onerous methods for making requests. The request form may
22 require the following information: (i) the requestor’s name, address and other contact
23 information; (ii) a statement that the requestor is a person with a disability or is making the
24 request on behalf of a person with a disability; (iii) the location of the curb ramp requested to be
25 installed, remediated, or repaired; and (v) the method preferred by the requestor to receive the
26

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1 City's response to the Curb Ramp Request (e.g., by telephone, by electronic mail or by standard
2 mail). The Plaintiffs and Class Members shall not be restricted from using the Curb Ramp
3 Request System.

4 5.2. The City shall document receipt of each Curb Ramp Request, assign each
5 request a specific identification number (or other identifying information), and log the request
6 into a software program or other electronic system that records the requestor's name and contact
7 information, the date of the request, and the location of the requested curb ramp installation or
8 repair. Within fifteen (15) days of receipt, the City shall notify the requestor that his or her
9 request has been received and provide the requestor with the identification number or other
10 identifying information assigned to the request.

11
12 5.3. The City will use Best Efforts to investigate each request within 30 days
13 of its receipt. Requests will be reviewed and investigated in the order received. Upon
14 completion of the investigation, the City shall provide the requestor with an estimated date by
15 which the City expects the Accessible Curb Ramp to be installed or repaired, if applicable, or the
16 reasons why a curb ramp installation at the requested location is Structurally Impracticable or
17 Technically Infeasible. If the City determines that a requested curb ramp installation is
18 Structurally Impracticable, the City's response shall also notify the requestor that any portion of
19 the requested curb ramp that can be made Accessible will be made Accessible to the extent that it
20 is not Structurally Impracticable. If the City determines that a requested curb ramp installation is
21 Technically Infeasible, the City's response shall notify the requestor that the subject ramp shall
22 be made Accessible to the maximum extent feasible, and any physical and site constraints will be
23 addressed with an alternative curb ramp design.
24
25
26
27

1 5.4. The City shall use Best Efforts to install or repair each requested
2 Accessible Curb Ramp within 12 months of the submission of the request. This requirement
3 includes all requests for Accessible Curb Ramps pending on the Effective Date. This time period
4 will be extended if (a) the City has already fulfilled its Annual Commitment (625 ramps for 2017
5 and 2035, and 1250 ramps for all other calendar years during the Term of the Decree), in which
6 case the requested Accessible Curb Ramp will be installed or repaired as soon as practicable in
7 the next Annual Commitment period; or (b) the curb ramp is targeted in the Transition Plan for
8 installation or remediation within 18 months of the request, and the nature of that construction
9 project would cause the curb ramp, were it to be remediated or installed prior to such
10 construction, to be demolished. Where installing or remediating a curb ramp in response to a
11 request would be Structurally Impracticable or Technically Infeasible, the City will install or
12 remediate the ramp to the extent not structurally impracticable, or to the maximum extent
13 feasible. Curb Ramp Requests shall be fulfilled in the order received, unless otherwise
14 previously scheduled as part of planned capital improvement or street resurfacing projects.

17 5.5. To assist the City in planning to respond to Curb Ramp Requests
18 submitted throughout each calendar year of the Decree, prior to the beginning of that year, the
19 City will budget the Curb Ramp Request program to install 150 Accessible Curb Ramps per
20 year. In the event the City receives insufficient requests in a given year, additional Accessible
21 Curb Ramps will be installed under Section V.3 with the budgeted funds. SDOT will institute a
22 quarterly review of the Curb Ramp Requests in order to reprogram the funds to the installation of
23 other Accessible Curb Ramps if insufficient requests are being received, and to determine
24 whether increased funding should be allocated for installing more than 150 requested Accessible
25 Curb Ramps in the following year.

1 5.6. By no later than 30 days from the Effective Date, the City shall update its
2 current website (http://www.seattle.gov/transportation/ada_request.htm) to describe the methods
3 for making Curb Ramp Requests and the process and timeline for fulfilling those Requests. The
4 City shall also continue to provide outreach and education to the public about its efforts to
5 comply with the ADA, including as outlined within the provisions of this Decree.
6

7 6. **Maintenance**

8 6.1. Throughout the Term of the Decree, the City shall maintain all Accessible
9 Curb Ramps over which it has responsibility, ownership or control so that those facilities are
10 readily accessible to and usable by persons with Mobility Disabilities, except for isolated or
11 temporary interruptions in access due to maintenance or repairs.
12

13 6.2. In circumstances where Accessible Curb Ramps are not available due to
14 construction, maintenance or repairs, the City shall provide an accessible alternative route, which
15 may be a Marginally Longer route, and shall identify that alternative route on signage at the
16 subject location as well as on SDOT's website during the period of maintenance or repair.
17

18 7. **Reporting and Monitoring**

19 7.1. On an annual basis during the first quarter of each year of the Decree, the
20 ADA Coordinator will report to the Parties, in writing, regarding the status of the City's
21 compliance with the terms of the Decree. As a component of its annual report, the City shall
22 provide access to the following information, including remote access to the City's databases and
23 data management programs, if applicable to the reporting period: (a) a list that identifies the
24 Accessible Curb Ramps that will be installed or remediated pursuant to Section V.3-V.5 for the
25 coming year, and those that were installed or remediated pursuant to Section V.3-V.5 during the
26 past year, including a description of each curb ramp's location, direction of the curb ramp, the
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1 party responsible for installing or remediating the curb ramp, and the priority or Curb Ramp
2 Request that it addresses; (b) access to documentation detailing Structural Impracticality,
3 Technical Infeasibility and maximum extent feasible determinations made with respect to ramps
4 installed via New Construction or Alterations; (c) a description of all Curb Ramp Requests
5 made the past year, their status of completion, and the status of any other Curb Ramp Requests
6 from earlier years that are still pending; (d) access to photographs of all curb ramps that were
7 installed or remediated over the previous year, including a photograph showing the running
8 slope, and attached documentation identifying the cross slope, counter slope, width and length
9 of the ramp, and amount of space at the top and lower landings; (e) photographs of all Curb
10 Ramp locations that the City contends were subject to Structural Impracticability or Technical
11 Infeasibility defenses; and (f) all complaints and grievances received by SDOT or the City ADA
12 Coordinator related to curb ramps.
13
14

15 7.2. Upon completion of the updates to the Hansen Database as set forth above
16 in Section V.4, and thereafter in the first quarter of each year of the Decree, the City will
17 provide Plaintiffs with access to the Hansen database and related mapping applications. The
18 Hansen database will identify all curb ramps that the City determined were subject to the
19 Structural Impracticability or Technical Infeasibility defenses, and the reasons for those
20 determinations. Such documentation must include an image of the pre-installation permit
21 stamped with City approval and documentation of post-installation on-site review by a trained
22 SDOT inspector. Additionally, the City shall ensure that Plaintiffs have access to the Hansen
23 Database upon Plaintiffs' reasonable request throughout the term of the Decree.
24

25 7.3. Throughout the Term of the Decree and if needed, Plaintiffs, on an annual
26 basis, may request to meet with the City to discuss the City's efforts to implement the Decree
27

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1 and to attempt to resolve any disputes regarding its implementation or enforcement. Such a
2 meeting can concern any and all aspects of the Decree.

3 7.4. Throughout the Term of the Decree, the Plaintiffs and their Counsel may
4 conduct periodic inspections of the City's drawings and/or designs regarding Accessible Curb
5 Ramps, and copies of such drawings and/or designs will be provided to Plaintiffs and their
6 Counsel upon reasonable request. Plaintiffs and their Counsel may also inspect work being
7 done in the City's pedestrian rights of way to install Accessible Curb Ramps, or to remediate
8 and repair non-Compliant Curb Ramps in order to monitor compliance with the Decree. Any
9 review by Plaintiffs and/or their Counsel shall be undertaken in a manner to assure it will not
10 unreasonably interfere with the City's operations.
11

12 8. **Outreach to Class Members**

13 Plaintiffs' Counsel and the City shall coordinate to provide information to Class
14 Members regarding the scope and purpose of this Consent Decree, including information
15 regarding the Curb Ramp Request System, Class Members' role in providing input into the
16 Transition Plan on an ongoing basis, Class Members' input into the Accessible Route Planner,
17 and notice of the settlement.
18

19 9. **Dispute Resolution**

20 9.1. **Meet and Confer Obligation**

21 If any Party believes that a dispute exists relating to any violation of or failure to
22 perform any of the provisions of the Consent Decree ("Dispute"), it shall notify the other Party in
23 writing and describe the alleged violation or failure to perform with particularity. The Party
24 alleged to have committed the violation or failure to perform shall provide a written response
25 within fifteen (15) business days of receipt of such notice, and shall have a period of forty-five
26

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1 (45) days, from receipt of notice from the other Party that they have violated or failed to perform,
2 to cure the alleged violation or failure to perform. If the Party alleging a violation or failure to
3 perform maintains that the violation or failure to perform has not been cured, the Parties shall
4 meet and confer, in person or by telephone, and attempt to resolve the dispute on an informal
5 basis for a period of no more than thirty (30) days following the expiration of the time to cure the
6 alleged violation, unless the parties mutually agree to an extension.
7

8 **9.2. Mediation Obligation**

9 If the Parties are unable to resolve a Dispute through the meet and confer process
10 described in Section 9.1 above, the Parties shall mediate in an effort to resolve the matter. The
11 Parties shall have thirty (30) days to jointly select a mediator. The mediation shall be conducted
12 in the manner determined by the mediator, and the Parties shall engage in good faith efforts to
13 resolve the Dispute through such mediation.
14

15 **9.3. Decree Enforcement Following Mediation**

16 If the Parties are unable to resolve a Dispute regarding either Party's performance
17 under the Consent Decree through the mediation process described in Section V.9.2 above, either
18 Party may provide the other with written notice of its intent to enforce the Decree. Thereafter,
19 either Party may file a motion with the District Court to enforce the Decree.
20

21 **9.4. Governing Law**

22 The terms of this Consent Decree shall be construed pursuant to the laws of the
23 State of Washington with respect to principles of common law contract interpretation, and in
24 accordance with the substantive law of ADA and Section 504, as applicable.
25

26 **VI. MONETARY RELIEF**

27 **1. Named Plaintiff Payments**

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1 In exchange for the Release of Claims set forth in Section VIII.1, below, and for
2 all services they rendered to the Class, and conditioned upon the District Court granting Final
3 Approval of this Consent Decree as well as Plaintiffs' application for service awards to the
4 named Plaintiffs in the amounts set forth in this Section, within thirty (30) days of the Effective
5 Date, the City will pay each Named Plaintiff \$5,000. These payments shall be in full and final
6 settlement of Named Plaintiffs' claims that are being released in Section VIII.1.
7

8 **2. Attorneys' Fees, Expenses and Costs**

9 2.1 The City agrees that Plaintiffs are the prevailing parties entitled to recover
10 reasonable attorneys' fees, expenses and costs for purposes of this petition, and the parties have
11 negotiated in good faith the amount in payment of Plaintiffs' Counsel's reasonable attorneys'
12 fees, costs and expenses in connection with this matter up to the Effective Date. Plaintiffs shall
13 move or apply for the Court's approval of reasonable attorneys' fees, expenses, and costs in the
14 amount of \$1,400,000, pursuant to Rule 23(h) of the Federal Rules of Civil Procedure. The City
15 shall not oppose such motion or application. The City shall deliver payment in such agreed to
16 amount within ten (10) business days of the Effective Date, conditioned upon this Court granting
17 Final Approval of this Consent Decree and Plaintiffs' application for an award of attorneys' fees,
18 expenses and costs.
19

20 2.2 The City shall pay Plaintiffs' Counsel reasonable attorneys' fees,
21 expenses, and costs incurred between the Effective Date and the expiration date of the Consent
22 Decree for performing all work reasonably necessary to monitor, implement, and administer the
23 Decree, subject to the following amounts: for the first year ending December 31, 2018, up to a
24 cap of \$40,000; for the second year ending December 31, 2019, up to a cap of \$40,000; for years
25 3 to 18 including January 1, 2020 through the end of the Compliance Period, up to a cap of
26

1 \$20,000 per year.

2 2.3 By no later than January 15, 2019, and annually thereafter during the Term
3 of the Decree, Plaintiffs' Counsel shall submit to the City a statement of reasonable attorneys'
4 fees, expenses and costs incurred during the prior annual monitoring period for the work
5 described above. Each statement submitted to the City pursuant to this Agreement shall be
6 supported by a description of services by date and by biller.
7

8 2.4 The City shall review each statement submitted, and shall pay those
9 amounts it determines in good faith were reasonably incurred by Plaintiffs' Counsel up to the
10 annual maximum, within 30 days of the date the City receives each such statement. Any
11 objections or disputes regarding the statement shall be handled pursuant to the Dispute
12 Resolution procedure set forth in Section V.9, above.
13

14 2.5 Subject to the following terms, the City shall pay Plaintiffs' Counsel their
15 reasonable attorneys' fees, expenses, and costs incurred between the Effective Date and the
16 expiration date of the Consent Decree for performing all work reasonably necessary to resolve
17 Disputes under Sections V.9.1 and V.9.2 of this Decree, subject to a cap of \$50,000 per dispute.
18 Should the Parties mediate a dispute, they shall evenly split any fees paid to the mediator.
19 Plaintiffs' Counsel shall provide the City with a statement of reasonable attorneys' fees,
20 expenses and costs incurred for each dispute, supported by a description of services by date and
21 by biller. The City shall review each statement and pay the amounts in compliance with Section
22 VI.2.4 above.
23

24 2.6 In the event either Party finds that it is necessary to seek resolution of a
25 dispute through a motion for enforcement before the District Court, the prevailing party shall be
26 entitled to reasonable attorneys' fees, costs, and expenses in accordance with the standards of the
27

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1 ADA and *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421-22 (1978).

2 **VII. SETTLEMENT APPROVAL PROCESS**

3 1. **Court Approval**

4 This Consent Decree will be subject to approval by the District Court. However, nothing
5 in this Consent Decree will be deemed to authorize the District Court to change or modify any of
6 its terms. Any change, modification or rejection of any of the provisions of this Consent Decree
7 by the District Court or any other court will constitute a material modification of this Consent
8 Decree, will prevent the Judgment from becoming Final, and will give any Party the right to
9 terminate this Consent Decree in its entirety.
10

11 2. **Preliminary Approval by the District Court**

12 Within fifteen (15) days of circulating the fully executed Consent Decree, the Plaintiffs
13 and the City will jointly submit a request to the District Court for Preliminary Approval of this
14 Consent Decree, along with a request for an order from the District Court (substantially in the
15 form attached to this Consent Decree as Exhibit “A”) (the “Preliminary Approval Order”): (i)
16 preliminarily approving this Consent Decree; (ii) conditionally certifying the Settlement Class;
17 (iii) appointing the Plaintiffs as class representatives for the Settlement Class; (iv) appointing
18 Class Counsel to represent the Settlement Class; (v) directing notice to the Settlement Class as
19 provided in this Consent Decree; (vi) setting forth procedures and deadlines for comments and
20 objections as provided in this Consent Decree; (vii) scheduling a Fairness Hearing; and (viii)
21 enjoining Settlement Class members from asserting or maintaining any claims to be released by
22 this Consent Decree pending the Fairness Hearing.
23
24

25 3. **Conditional Certification of the Settlement Class**

26
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1 The Parties acknowledge and agree that the Court has certified a class in this case, and
2 agree that the Settlement Class is materially identical to the class previously certified by the
3 Court. The Parties further agree that the Settlement Class will be conditionally certified, in
4 accordance with the terms of this Consent Decree, for purposes of effectuating the settlement
5 embodied in this Consent Decree.

6
7 **4. No Opt-Out**

8 The Parties agree that the Settlement Class will be certified in accordance with the
9 standards applicable under Rule 23(b)(2) of the Federal Rules of Civil Procedure and that,
10 accordingly, no Settlement Class member may opt out of any of the provisions of this Consent
11 Decree.

12
13 **5. Notice to the Settlement Class**

14 The Parties will jointly request approval by the District Court of notice to the Settlement
15 Class as set forth in this Section VII.5. Following the District Court's issuance of the
16 Preliminary Approval Order, the Parties will provide notice of the proposed Consent Decree,
17 advising the members of the Settlement Class of the terms of the proposed Consent Decree and
18 their right to object to the proposed Consent Decree. This notice will be published as follows:

19 5.1. Within thirty (30) days after the District Court has issued the Preliminary
20 Approval Order, the City will cause notice of the settlement to be published for four (4)
21 consecutive weeks in the following papers of general circulation: *The Seattle Times* in English,
22 *El Mundo* in Spanish, *Seattle Chinese Post* in Chinese, and *Northwest Vietnamese News* in
23 Vietnamese. Such notice will include the terms required by the District Court, which are
24 anticipated to be as follows: (i) a brief statement of the *Reynoldson* Action, the settlement
25 embodied in this Consent Decree, and the claims released by the Settlement Class; (ii) the date
26

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1 and time of the Fairness Hearing and/or Final Approval Hearing of the proposed Consent
2 Decree; (iii) the deadline for submitting objections to the proposed Consent Decree; and (iv) the
3 web page, address, and telephone and fax numbers that may be used to obtain a copy of the
4 Notice of Settlement (substantially in the form attached to this Consent Decree as Exhibit “B”) in
5 English, Spanish, Chinese and Vietnamese, or alternative accessible formats for individuals with
6 visual impairments. The City will pay the costs for the publication of the notice described in this
7 Section VII.5.1.

8
9 5.2. Within twenty (20) days after the District Court has issued the Preliminary
10 Approval Order, the City will cause a copy of the Notice of Settlement to be posted and remain
11 posted on the City’s official website (www.seattle.gov) for four (4) consecutive weeks. The
12 website will also make a copy of the Notice of Settlement available in English, Spanish, Chinese
13 and Vietnamese, and in an accessible electronic format that can be recognized and read by
14 software commonly used by individuals with visual impairments to read web pages. All pages or
15 content on these websites that are part of the process for accessing the information in the Notice
16 of Settlement will comply with WCAG. The City will pay the costs for the publication of the
17 notice described in this Section VII.5.2.

18
19 5.3. Within ten (10) days after the District Court has issued the Preliminary
20 Approval Order, the Class Counsel will cause a copy of the Notice of Settlement to be provided
21 to the organizations listed on Exhibit “C” to this Consent Decree.

22
23 5.4. Within twenty (20) days after the District Court has issued the Preliminary
24 Approval Order, each firm making up Class Counsel will post on its website a copy of the Notice
25 of Settlement in English, Spanish, Chinese and Vietnamese, and in an accessible electronic
26 format that can be recognized and read by software commonly used by individuals with visual

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1 impairments to read web pages. In addition, the websites will provide information about how
2 Settlement Class Members may obtain a copy of the Consent Decree in English, Spanish,
3 Chinese or Vietnamese. All pages or content on the websites that are part of the process for
4 accessing the information in the notice will comply with WCAG.

5
6 **6. Media Communications Regarding Settlement**

7 The Parties agree that after the full execution of this Consent Decree, they and their
8 respective counsel may issue a press release and discuss the settlement set forth in this Consent
9 Decree with the media but will use their best efforts to refrain from disparaging the other Parties
10 or their counsel in connection with the settlement and the matters set forth in this Consent
11 Decree.

12
13 **7. Fairness Hearing**

14 The Parties will jointly request that the District Court schedule and conduct a Fairness
15 Hearing to decide whether Final Approval of the Consent Decree will be granted. At the
16 Fairness Hearing, the Parties will jointly move for entry of the Judgment (substantially in the
17 form as attached to this Consent Decree as Exhibit "D"), providing for: (i) Final Approval of
18 this Consent Decree as fair, adequate, and reasonable; (ii) final certification of the Settlement
19 Class for settlement purposes only; (iii) final approval of the form and method of notice of the
20 Judgment to the Settlement Class; (iv) final approval of the appointment of Class Counsel for the
21 Settlement Class; (v) final approval of the appointment of Plaintiffs as class representatives of
22 the Settlement Class; (vi) final approval of the release of the City from the Released Claims; (vii)
23 final approval of an order that the Settlement Class members will be enjoined and barred from
24 asserting any of the Released Claims against the City following entry of Judgment and up to and
25 including the completion of the Term; (viii) the Parties and all members of the Settlement Class
26

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SEATTLE, WASHINGTON 98101-3404
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FACSIMILE: (206) 245.17500

1 to be bound by the Judgment; and (ix) the District Court's retention of jurisdiction over the
2 Parties to enforce the terms of the Judgment throughout the Term of this Consent Decree.

3 **8. Objections to the Consent Decree**

4 Members of the Settlement Class will have an opportunity to object to the proposed
5 Consent Decree but may not opt-out. The Parties will request that the District Court order the
6 following procedures for assertion of objections, if any, to the Consent Decree:
7

8 8.1. Any Settlement Class member may object to this Consent Decree by
9 filing, within forty-five (45) days of the commencement of the issuance of the notice to the
10 Settlement Class required under Section VII.5, written objections with the District Court, with a
11 copy of such objections served concurrently on Class Counsel by messenger delivery, FedEx or
12 other overnight carrier delivery or by First Class U.S. Mail delivery and/or appearing at the
13 Court's Fairness Hearing and speaking to the Court.
14

15 8.2. With respect to any and all objections to this Consent Decree received by
16 Class Counsel, Class Counsel will provide a copy of each objection to counsel of record for the
17 City, by messenger delivery or electronic-mail delivery, within two (2) court days after receipt of
18 such objection.

19 8.3. Responses by Class Counsel and/or the City to any timely-filed objections
20 will be filed with the District Court no less than five (5) days before the Fairness Hearing, or as
21 otherwise ordered by the Court.
22

23 **9. Additional Steps**

24 The Parties will take all procedural steps regarding the Fairness Hearing that may be
25 requested by the District Court and will otherwise use their respective best efforts to consummate
26

1 the settlement embodied in this Consent Decree, and to obtain approval of this Consent Decree,
2 and entry of the Judgment.

3 10. **Final Approval**

4 10.1. The Parties agree that, upon Final Approval the District Court will enter
5 the Judgment under Rule 54(b) of the Federal Rules of Civil Procedure (substantially in the form
6 attached to this Consent Decree as Exhibit “D”) dismissing the *Reynoldson* Action with
7 prejudice, subject to the District Court retaining jurisdiction to resolve any Dispute regarding
8 compliance with this Consent Decree that cannot be resolved through the Dispute Resolution
9 Process set forth in Section V, and to rule on Plaintiffs’ motion for reasonable attorneys’ fees and
10 costs, as set forth in Section VI.2.

11 10.2. The City will not assert, after the Judgment has become Final, that the
12 District Court lacks jurisdiction to enforce the terms of this Consent Decree, or raise any
13 jurisdictional defense to any enforcement proceedings permitted under the terms of this Consent
14 Decree.

15 10.3. Should the District Court deny the Parties’ request to enter the Judgment,
16 should this Consent Decree not receive Final Approval by the District Court for any reason, or
17 should this Consent Decree not become Final for any reason in accordance with its terms: (i)
18 this Consent Decree will be null and void and of no force and effect; (ii) nothing in this Consent
19 Decree will be deemed to prejudice the position of any of the Parties with respect to any matter;
20 and (iii) neither the existence of this Consent Decree, nor its contents, will be admissible in
21 evidence, referred to for any purpose in any litigation or proceeding, or be deemed an admission
22 by the City of any fault, wrongdoing or liability.

23 10.4. **Effect of Final Approval Order.**

1 This Consent Decree, upon Final Approval, will be binding upon the City, Plaintiffs, and all
2 Settlement Class members and, to the extent specifically set forth in this Consent Decree, upon
3 Class Counsel; will extinguish all Released Claims and will constitute the final and complete
4 resolution of all issues addressed herein. This Consent Decree is the complete and final
5 disposition and settlement of any and all Released Claims, as detailed in Section VIII.
6

7 VIII. RELEASE OF CLAIMS

8 1. Release of Claims for Equitable, Non-Monetary Relief

9 Effective upon entry of judgment on Final Approval of the Consent Decree by the District Court
10 and in consideration for the City's commitments set forth in the Decree, each of the Plaintiffs
11 and Class Members, on behalf of themselves and their respective heirs, assigns, successors,
12 executors, administrators, agents, and representatives, ("Releasing Parties") will, upon the
13 Effective Date, fully and finally release, acquit and discharge the City from any and all claims,
14 allegations, demands, charges, complaints, actions, lawsuits, rights, liabilities, losses, injuries,
15 obligations, disputes and causes of action of any kind, and whether known or unknown,
16 suspected or unsuspected, asserted or unasserted, or actual or contingent, for injunctive,
17 declaratory, or other non-monetary relief, however described, that were brought, could have
18 been brought, or could be brought now or in the future by the Releasing Parties relating to or
19 arising from any of the City's alleged actions, omissions, incidents, or conduct related to the
20 installation, remediation, repair or maintenance of curb ramps in the City's pedestrian right of
21 way at any time prior to the Effective Date and through the end of the Compliance Period (the
22 "Released Claims"). Such Released Claims, however, shall not include any claims to enforce
23 the terms of the Consent Decree, any claims for relief arising from the City's violation of any
24 term of the Consent Decree, or any claims related to monetary damages, personal injuries, or
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1 property damage except as set forth in Section VIII.2 below. Such Released Claims also shall
2 not include any claims based on or arising from missing or non-Complaint curb ramps that
3 remain in existence after the expiration of the Term of the Decree.

4 **2. Release of Claims Excludes Sidewalks**

5 The releases set forth in this Consent Decree only cover curb ramps on the City's street segments
6 with Pedestrian Walkways and do not apply to components of the City's sidewalk system other
7 than curb ramps. Plaintiffs and the Settlement Class do not release any claims relating to
8 components of the City's sidewalk system other than curb ramps.
9

10 **3. Release of Named Plaintiffs' Damages Claims**

11 In addition to the Released Claims set forth in Section VIII.1, the Named Plaintiffs also
12 release the City from any and all claims arising at any time prior to the Effective Date for
13 monetary relief relating to or arising from any of the City's alleged actions, omissions, incidents,
14 or conduct related to the installation, remediation, repair or maintenance of curb ramps in the
15 City's pedestrian right of way.
16

17 **IX. NOTICES PURSUANT TO DECREE**

18 All notices, demands, or other communications to be provided pursuant to this Consent
19 Decree shall be in writing and delivered by registered or overnight mail to the following persons
20 and addresses (or such other persons and addresses as any Party may designate in writing from
21 time to time):
22

23 **For the City:**

24 Lorraine Lewis Phillips
25 Seattle City Attorney's Office
26 701 5th Avenue, #2050
27 Seattle, WA 98104
(206) 684-8200

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1 Paul J. Lawrence
2 Kymberly K. Evanson
3 Pacifica Law Group LLP
4 1191 Second Avenue, Suite 2000
5 Seattle, WA 98101
6 (206) 245-1700

7 For the Plaintiffs:

8 Emily Cooper
9 Staff Attorney
10 Disability Rights Washington
11 315 5th Avenue South
12 Suite 850
13 Seattle, WA 98104
14 (206) 324-1521

15 Linda M. Dardarian
16 Goldstein, Borgen, Dardarian & Ho
17 300 Lakeside Drive, Suite 1000
18 Oakland, CA 94612
19 (510) 763-9800

20 Timothy P. Fox
21 Civil Rights Education and Enforcement Center
22 104 Broadway, Suite 400
23 Denver, CO 80203
24 (303) 757-7901

25 **X. MISCELLANEOUS PROVISIONS**

26 1. **Authority**

27 Each of the Parties represents, warrants, and agrees that he, she or it has the full right and authority to enter into this Consent Decree, and that the person executing this Decree has the full right and authority to commit and bind such Party.

28 2. **Execution by Facsimile and in Counterparts**

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

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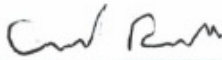
1 IN WITNESS WHEREOF, the Parties hereto have approved and executed this Consent
2 Decree on the dates set forth opposite their respective signatures.

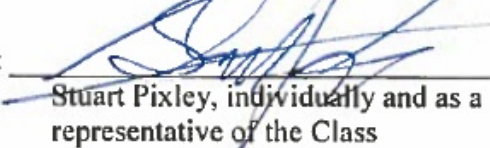
3 EXECUTED by the Parties as follows:

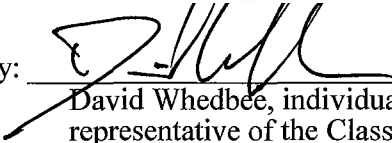
4
5 DATED: _____, 2017 THE CITY OF SEATTLE

6
7 PETER S. HOLMES
8 Seattle City Attorney

9 By: _____
10 Lorraine Lewis Phillips
11 Assistant City Attorney

12 DATED: 6/27, 2017 By: 
13 Conrad Reynoldson, individually and as a
14 representative of the Class

15 DATED: June 27, 2017 By: 
16 Stuart Pixley, individually and as a
17 representative of the Class

18 DATED: 6/27, 2017 By: 
19 David Whedbee, individually and as a
20 representative of the Class

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IN WITNESS WHEREOF, the Parties hereto have approved and executed this Consent Decree on the dates set forth opposite their respective signatures.

EXECUTED by the Parties as follows:

DATED: JUNE 27, 2017 THE CITY OF SEATTLE

PETER S. HOLMES
Seattle City Attorney

By: Lorraine Lewis Phillips
Lorraine Lewis Phillips
Assistant City Attorney

DATED: _____, 2017 By: _____
Conrad Reynoldson, individually and as a representative of the Class


DATED: _____, 2017 By: _____
Stuart Pixley, individually and as a representative of the Class

DATED: _____, 2017 By: _____
David Whedbee, individually and as a representative of the Class

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APPROVED AS TO FORM:

DATED: July 12, 2017 PACIFICA LAW GROUP LLP

By: 
Paul J. Lawrence

Attorneys for the City of Seattle

DATED: _____, 2017 DISABILITY RIGHTS WASHINGTON

By: 
Emily Cooper

Attorneys for Plaintiffs/Class

DATED: June 27, 2017 CIVIL RIGHTS EDUCATION AND ENFORCEMENT CENTER

By: 
Timothy Fox

Attorneys for Plaintiffs/Class

DATED: June 23, 2017 GOLDSTEIN BORGEN DARDARIAN & HO

By: 
Linda M. Dardarian

Attorneys for Plaintiffs/Class