

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

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**ATTENTION: ALL PERSONS (INCLUDING RESIDENTS OF AND/OR VISITORS TO THE CITY OF COLORADO SPRINGS) WITH ANY MOBILITY DISABILITY: If you have used or will use the City of Colorado Springs' pedestrian right-of-way, you may be a member of the proposed Settlement Class affected by this lawsuit.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

A "Mobility Disability" means any impairment or medical condition, as defined by the Americans with Disabilities Act, which limits a person's ability to walk, ambulate, maneuver around objects, or ascend or descend steps or slopes. A person with a Mobility Disability may or may not use a wheelchair, scooter, electric personal assisted mobility device, crutches, walker, cane, brace, orthopedic device, or similar equipment or device to assist their navigation along a pedestrian walkway or may be semi-ambulatory.

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS  
MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS CASE.**

### **PURPOSE OF NOTICE**

The purpose of this Notice is to inform you of a proposed settlement ("Settlement" or "Settlement Agreement") in a pending class action lawsuit brought on behalf of all persons with Mobility Disabilities against the City of Colorado Springs. The proposed Settlement must be approved by the United States District Court ("Court").

### **BASIC INFORMATION**

The lawsuit alleges that the City of Colorado Springs ("City") violated federal and state disability access laws by failing to ensure that its pedestrian right of way contains curb ramps that are necessary to ensure that the pedestrian right-of-way is accessible to individuals with Mobility Disabilities. The City denies these allegations and disputes that it has any liability or committed any wrongdoing.

This is a class action. In a class action, one or more people or organizations, called "Class Representatives" (in this case, Sharon King and Paul Spotts ["Plaintiffs"]), sue on behalf of people who have similar legal claims. All of these people are a "Class" or "Class Members." One court resolves the issues for all Class Members. United States District Judge John L. Kane is in charge of this class action.

The Court did not decide in favor of either Plaintiffs or the City in this case. Instead, both sides agreed to a settlement. That way, they avoid the cost, delay, and uncertainty of a trial, and settlement benefits go to the Class Members. The Class Representatives and Class Counsel (the attorneys appointed by the Court to represent the Class) think the proposed Settlement is in the best interests of the Class Members, taking into account the benefits of the Settlement, the risks of continued litigation, and the delay in obtaining relief for the Class if the litigation continues.

### **THE SETTLEMENT CLASS**

The Class includes all persons (including residents of and/or visitors to the City of Colorado Springs) with any Mobility Disability, who, at any time prior to court judgment granting Final Approval to this Consent Decree have been denied full and equal access to the City's pedestrian right of way due to the lack of a curb ramp or a curb ramp that was damaged, in need of repair, or otherwise in a condition not suitable or sufficient for use.

## **SUMMARY OF THE PROPOSED SETTLEMENT**

**The following is a summary of certain provisions of the Settlement Agreement. The complete Settlement Agreement is available as set forth below.**

The Settlement Agreement requires the City of Colorado Springs to make widespread accessibility improvements by installing and remediating non-compliant curb ramps beginning in 2018 and continuing for 14 years or until the City installs or remediates at least 15,400 curb ramps.

The Settlement Agreement commits the City to ensure the installation or remediation of at least 1,100 compliant curb ramps each calendar year, including those curb ramps requested by persons with Mobility Disabilities. Under the Settlement Agreement, the City will survey all corners in the pedestrian right-of-way to determine where curb ramps are missing or are inaccessible and need to be installed or remediated. The City will also implement a training program for employees responsible for the City's pedestrian right-of-way highlighting accessible curb ramp requirements.

The Settlement Agreement also commits the City to continue to maintain a system through which people with Mobility Disabilities may submit requests for installation of accessible curb ramps and remediation of inaccessible curb ramps. The City will prioritize at least 400 ramps per year at locations requested through the City's request procedure or where ramps are missing. Requested curb ramps will be installed or remediated within 12 months of the request, except in limited circumstances.

The Settlement Agreement also includes provisions for the Class Representatives and Class Counsel (identified below) to monitor the City's compliance with the terms of the Settlement Agreement and requires the City to issue annual reports documenting the installation and remediation of curb ramps under the Settlement Agreement.

## **RELEASE OF CLAIMS**

In exchange for the injunctive relief proposed in the Settlement Agreement, Plaintiffs have agreed to release any claims for injunctive relief, declaratory relief, and attendant costs and attorneys' fees against the City that were brought, could have been brought, or could be brought now or in the future by the Settlement Class arising out of the subject matter of the Lawsuit at any time prior to the effective date of the Settlement Agreement through the end of the Term. Fox Decl. ¶ 39; Ex. 1 at ¶ X. Except as to Named Plaintiffs as described below, the release does not apply to claims related to monetary damages, personal injuries, or property damage with respect to unnamed Class Members. It also does not apply to components of the City's sidewalk system other than curb ramps, street segments that do not contain sidewalks but do contain bus stops, curb ramps adjacent to roads that comprise the State Highway System as defined in Colo. Rev. Stat. § 43-2-101 and -102, or curb ramps adjacent to roads that comprise any private, county, or other non-City roadway system.

## **REASONABLE ATTORNEYS' FEES, EXPENSES, AND COSTS**

The Class is represented by the Civil Rights Education and Enforcement Center and Campins Benham-Baker, PC ("Class Counsel"). The City will pay Class Counsel reasonable attorneys' fees, expenses, and costs of \$145,000 subject to the Court's approval. The City will also pay Class Counsel reasonable attorneys' fees, expenses, and costs for monitoring the City's compliance with the Settlement Agreement as set forth in the Settlement Agreement. Class Counsel's fees, expenses, and costs for monitoring will be capped at \$665,000 for the entire term of the Agreement, and Plaintiffs will not request reimbursement and the City will not be required to pay more than \$100,000 annually for legal work performed in any single year of the Agreement, except in limited and specified circumstances. Notwithstanding the fee provisions of the Settlement Agreement, all fees awarded to Class Counsel must be first approved by the Court.

## **MONETARY AWARDS TO THE CLASS REPRESENTATIVES**

The Settlement requires the City to pay each of the two Class Representatives, Sharon King and Paul Spotts, \$5000 for their release of claims, which unlike the Class includes monetary relief, and in recognition of the services they rendered to the Class in the lawsuit. These monetary awards must be first approved by the Court.

## **FAIRNESS OF SETTLEMENT**

The Class Representatives and Class Counsel have concluded that the terms and conditions of the proposed Settlement Agreement are fair, reasonable, adequate, and in the best interests of the Class. In reaching this conclusion, the Class Representatives and Class Counsel have considered the benefits of the Settlement, the possible outcomes of litigation of these issues, the expense and length of litigation, and actual and possible appeals.

## **THE COURT'S FINAL APPROVAL/FAIRNESS HEARING**

The Court has preliminarily approved the Settlement Agreement and has scheduled a hearing for **Friday, September 27, 2019, at 10:30 AM in Courtroom A802 of the United States Courthouse at 901 19th Street Denver, CO 80294** ("Final Approval Hearing") to decide whether the proposed Settlement is fair, reasonable, and adequate and should be finally approved. Although you are not required to attend, as a member of the Settlement Class, you have the right to attend and be heard at this hearing, as specified in the next section below. At the hearing, the Court will consider any objections to the Settlement. Judge Kane will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement. The Court will also evaluate the agreed upon amount to award Class Counsel as reasonable attorneys' fees, expenses, and costs. We do not know how long this decision will take.

This hearing date is subject to change without further notice. If you wish to be informed of any changes to the schedule, please notify Class Counsel at the addresses listed in the next section below. You may also check [www.creeclaw.org](http://www.creeclaw.org) or the public court records on file in this action at <https://www.pacer.gov/> for any updates.

## **OBJECTIONS TO THE SETTLEMENT**

Any Class Member may object to the terms of the proposed Settlement by submitting a written or oral objection to Class Counsel via regular or electronic mail or by leaving a message with their objection via telephone. If you submit an objection, you do not have to come to the Final Approval Hearing to talk about it. If you plan on speaking at the Final Approval Hearing, please indicate in your objection that you plan to do so. If you do not submit an objection prior to the deadline, you might not be provided an opportunity to speak to the District Court about your objection at the Final Approval Hearing.

If you submit an objection, it should include the following information: (a) your name, address, and, if available, your telephone number and e-mail address; (b) if you are being represented by counsel, the name, address, telephone number and e-mail address of your attorney; (c) a statement of your objections; and (d) a statement of whether you are a Class Member.

Please note that the Court can only approve or deny the Settlement. The Court cannot change the terms of the Settlement.

**All objections must be submitted or postmarked on or before September 6, 2019.**

All email objections must be sent to the following email address: [info@creeclaw.org](mailto:info@creeclaw.org).

All oral objections must be made by leaving a message at the following toll-free number: 1-888-461-9191.

All regular mail objections must be sent to the following address:

Timothy P. Fox  
Civil Rights Education and Enforcement Center  
104 Broadway, Suite 400  
Denver, CO 80203

You may, but are not required to, appear at the Final Approval Hearing scheduled for **Friday, September 27, 2019, at 10:30 AM in Courtroom A802 of the United States Courthouse at 901 19th Street Denver, CO 80294** to have your objection heard by the Court.

**Any Class Member who does not object at or before the Final Approval Hearing will be deemed to have approved the Settlement and to have waived such objections and shall not be able to make any objections (by appeal or otherwise) to the Settlement.**

**IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU DO NOT NEED TO APPEAR OR FILE ANYTHING IN WRITING.**

#### **BINDING EFFECT**

The proposed Settlement Agreement, if given final approval by the Court, will bind all members of the Class. This will bar any person who is a member of the Class from prosecuting or maintaining any claim or action released under the terms of the Settlement Agreement.

#### **FURTHER INFORMATION**

You can obtain more detailed information about the Settlement from Class Counsel at any of the following addresses:

Timothy P. Fox  
Civil Rights Education and Enforcement Center  
104 Broadway, Suite 400  
Denver, CO 80203  
(303) 757-7901  
[tfox@creeclaw.org](mailto:tfox@creeclaw.org)  
[www.creeclaw.org](http://www.creeclaw.org)

Julia Campins  
Campins Benham-Baker, PC  
935 Moraga Road, Suite 200  
Lafayette, CA 94549  
(415) 373-5333  
[julia@campinsbenhambaker.com](mailto:julia@campinsbenhambaker.com)  
[www.campinsbenhambaker.com](http://www.campinsbenhambaker.com)

Class Members may also contact Class Counsel toll-free at 1-888-461-9191 to obtain further information about the Settlement or settlement documents.

**Please do not direct questions to the District Court.**

To obtain copies of this Notice or the Settlement Agreement in alternative accessible formats, please contact Class Counsel listed above.