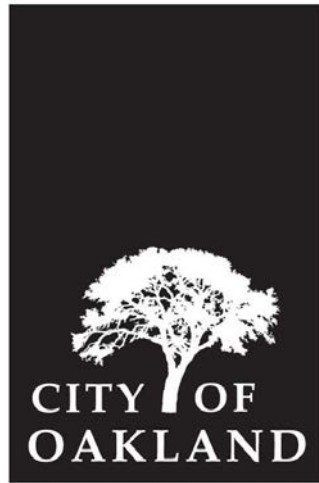


CITY OF OAKLAND, CALIFORNIA ADA CURB RAMP TRANSITION PLAN



ADA PROGRAMS DIVISION

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April 1, 2009

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ACKNOWLEDGEMENTS

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ADA Advisory Group

The Mayor's Commission on Persons with Disabilities (MCPD) acts as the City's designated advisory body for ADA compliance. April 2009 Roster:

Commissioner Petrina Alexander	Commissioner Tamar Raine
Commissioner Eugenie Marie Barton	Commissioner Lorraine Rosenblatt
Commissioner Lynne Cutler	Commissioner Safi wa Nairobi
Commissioner Lori Ann Dotson	
Commissioner Chris Finn (Chair)	
Commissioner Lateef McLeod	
Commissioner Laura Martell	
Commissioner Michal C. Moore	
Commissioner Merlin Nw	
Commissioner Bill Pelter	

CREDITS

The City of Oakland acknowledges the City of Sacramento, California, for its pioneering efforts in developing a comprehensive transition plan for curb ramps. Sacramento's curb ramp plan provided a strong basis for Oakland to work from when developing this plan and certain of Sacramento's curb ramp policies are adopted herein.

ADOPTION OF PLAN

On May 5, 2009, the City of Oakland City Council passed a resolution adopting the City of Oakland Americans with Disabilities Act (ADA) Curb Ramp Transition Plan dated April 1, 2009. City Council Resolution Number 81954.

CITY OF OAKLAND
ADA Curb Ramp Transition Plan



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APPENDICIES

1. ADA - Final Rules, Title II, July 26, 1991 (incorporated by reference)
2. City Curb Ramp Database (incorporated by reference)

ATTACHMENTS (Available Upon Request)

1. Contact List (of interested parties consulted during the public comment period)
2. ADA Curb Ramp Grievance Procedure
3. On-Call Curb Ramp Policy
4. City of Oakland Curb Ramp Prioritization Map

1.1 INTRODUCTION TO THE ADA

The Americans with Disabilities Act (ADA), the world's first comprehensive civil rights law for people with disabilities, was enacted on July 26, 1990. The ADA is a companion civil rights legislation to the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. The ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.

To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. The ADA does not specifically name all of the impairments that are covered.

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

Title I: EMPLOYMENT

Title I requires employers with 15 or more employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. For example, it prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment. It restricts questions that can be asked about an applicant's disability before a job offer is made, and it requires that employers make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

Title II: STATE AND LOCAL GOVERNMENT (PUBLIC SERVICES)

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities, such as public meetings, employment, recreation programs, aging, health and human services programs, libraries, museums, and special events.

State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings and facilities. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that

1.1 INTRODUCTION TO THE ADA

doing so would fundamentally alter the nature of the service, program, or activity being provided. 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 the Curb Ramp Transition Plan is prepared.

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 UNDER TITLE II OF THE ADA

Title II mandates that a public entity such as the City of Oakland 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. 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 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.

As described in Title 28 of the Code of Federal Regulations, Section 35.150(a) (also referred to as the ADA Rules), a public entity is not necessarily required 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.

1.3 THE ADA TRANSITION PLAN REQUIREMENT

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; and indicate the official responsible for implementation of the plan. In January 1996, the City prepared its transition plan with respect to buildings and facilities.

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 ADA, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas [28 C.F.R. § 35.150(d)(2)].

The City's ADA Curb Ramp Transition Plan addresses these latter requirements for curb ramps, or other sloped areas, limited to public sidewalks within the City's control. The Plan complements the City's ADA Transition Plan for Buildings and Facilities (1996) and supersedes Section 3.9 therein pertaining to priorities for curb ramp installation at existing street corners. The Plan incorporates by reference the City Curb Ramp Database.

The ADA does not designate a specific code or standard for curb ramps to be provided or modified pursuant to 35.150 (d)(2). Title II gives government agencies a choice between the Uniform Federal Access Standards (UFAS) and the American with Disabilities Act Accessibility Guidelines (ADAAG) as a standard for renovations. For the purpose of the Curb Ramp Transition Plan, each curb ramp or curb ramp site is evaluated based on the requirements of ADAAG.

1.4 ADA COMPLIANCE COORDINATORS

The Community and Economic Development Agency (CEDA), Design and Construction Services Division (DCSD), currently administers City curb ramp improvement programs. The City ADA Coordinator and Mayor's Commission on Persons with Disabilities (MCPD) provide oversight and guidance for City ADA compliance activities, including curb ramp improvement programs.

The official responsible for implementation of the City's ADA Transition Plan with respect to curb ramps, is the Right of Way Access Coordinator, located in DCSD. The CEDA Deputy Director shall designate the Right of Way Access Coordinator. The current designee is:

Mr. Marcel Uzegbu
Supervising Civil Engineer
Engineering, Design and Right-of-Way Management
250 Frank H. Ogawa Plaza, 4th Floor
Oakland, CA 94612
510-238-6257
muzegbu@oaklandnet.com

The official responsible for citywide compliance with ADA Title II requirements is the City ADA Coordinator, located in the City Administrator's Office. The City ADA Coordinator staffs the MCPD and is responsible to draft the City's ADA Transition Plans. The City Administrator designates the City ADA Coordinator. The current designee is:

Ms. Christine Calabrese
City ADA Coordinator
City Administrator / ADA Programs
One Frank H. Ogawa Plaza, 3rd Floor
Oakland, CA 94612
510-238-4754
ccalabrese@oaklandnet.com

1.5 PUBLIC COMMENT AND GRIEVANCE PROCEDURES

The City has provided opportunities for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the ADA Curb Ramp Transition Plan by submitting comments and making specific recommendations.

On October 13, 2008, the Mayor's Commission on Persons with Disabilities (MCPD) approved a draft of the Plan by a motion of the full commission. A draft copy of the Plan was available for public inspection from December 1, 2008 through January 5, 2009. A list of interested parties consulted during the public comment period is contained in Attachment 1. The City will maintain on file a list of persons consulted with respect to the Plan, the surveys, and a description of modifications made, for a minimum period of 3 years beyond the formal adoption of this document.

The City has adopted and published grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II. The City's ADA Curb Ramp Grievance Procedure and related forms are contained in Attachment 2.

Complaints of alleged noncompliance and grievances concerning curb ramps should be directed to the Right of Way Access Coordinator in the Community and Economic Development Agency (see Section 1.4).

1.6 MONITORING AND TRACKING

The Right of Way Access Coordinator shall:

- Coordinate inspection of 8-10% of curb ramp installations to ensure that curb ramps are constructed or reconstructed properly and within acceptable tolerances;
- Prepare a quarterly curb ramp activities report for the Mayor's Commission on Persons with Disabilities (MCPD) in conjunction with the City ADA Coordinator, who staffs the MCPD. Quarterly reports shall be published in January, April, July and October of each year, for a minimum period of 3 years beyond the formal adoption of this document;
- Prepare an annual curb ramp program report for a neutral monitor selected by the City for a minimum period of 3 years beyond the formal adoption of this document; and
- Ensure that all curb ramps installed by the City or by others (under permit) are logged in the City Curb Ramp Database.

2.0 OTHER CITY TRANSITION PLAN PARTS

This transition plan relates solely to curb ramps. (ADA Rules, Section 35.150 (d)(2).)

2.1. Buildings and Facilities Transition Plan

The City previously prepared and implemented a transition plan with respect to City buildings and facilities in 1996. (ADA Rules, Section 35.150 (d)(3).) The transition plan for buildings and facilities lists curb ramp needs at off-street facilities. A copy of the ADA Transition Plan for Buildings and Facilities may be obtained from the City ADA Coordinator (see Section 1.4).

2.2. Sidewalk Transition Plan

In 2002, the United States Court of Appeals for the Ninth Circuit, whose jurisdiction includes California, held for the first time that sidewalks constitute a service, program or activity of a city and sidewalks are therefore subject to the ADA title II program accessibility regulations. *Barden v. Sacramento*, 292 F.3d 1073 (9th Cir.2002). Before this ruling it was unclear if local government transition plans should address barrier removal from sidewalks, other than missing or unsafe curb ramps.

The City is drafting a ADA transition plan that catalogs, prioritizes, and schedules improvements necessary to remove sidewalk access barriers. The Citywide Sidewalk Condition and ADA Survey (2006) inventoried access barriers including sidewalk damage, tree-related barriers (low wells, hanging limbs), obstructions, excessive travel direction and cross slopes, and sudden drop-offs. A land use was attributed to each survey segment (city block). This Geographic Information System (GIS) based inventory provides a detailed picture of non-compliance and allows for targeted use of funds earmarked for sidewalk improvements.

The City has had in place for many years a sidewalk repair program, which utilizes specific criteria for determining whether or not a sidewalk requires repair, including the condition of the sidewalk. City inspectors are available to inspect sidewalks to determine if repairs are necessary, either upon request by a property owner or any concerned citizen. Persons with disabilities may contact the City's Right of Way Access Coordinator with any questions or to schedule a sidewalk inspection (see Section 1.4).

3.0 CURB RAMP PLAN

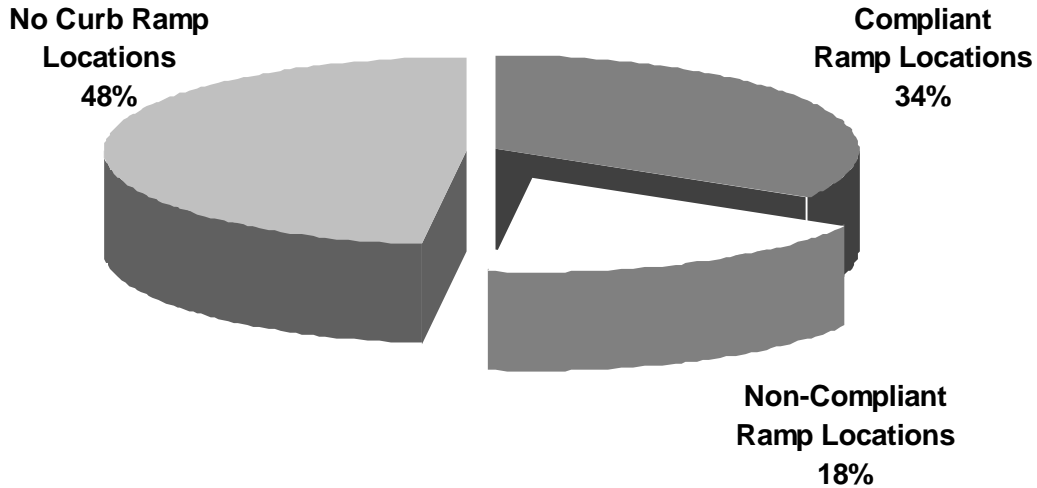
3.5. Annual Schedule for Curb Ramp Construction and Reconstruction

The City of Oakland has committed itself to the following schedule and methods for the annual construction or reconstruction of curb ramps:

1. The City of Oakland will construct or reconstruct, on average, 500 or more curb ramps annually until the City is ADA compliant.
 - Approximately 100 of these curb ramps will be at locations requested by persons with disabilities (on-call program).
 - At least 50 of these curb ramps will be at locations where streets have been overlayed between 1992 and 2008, until all required curb ramps have been constructed or reconstructed at those locations. To the extent practicable, the City will follow the priorities set forth above when installing curb ramps along streets that have been overlayed during this time period, and all other curb ramps will be installed according to those priorities.
 - Curb ramps will be installed on an infill basis (Citywide Curb Ramp Program) as funding allows.
 - Curb ramps must be installed where streets are overlayed with new asphalt surfacing.
 - Curb ramps will be installed or reconstructed as required under other City street improvement projects.
 - Curb ramps located adjacent to City facilities will be constructed or reconstructed as part of projects to improve these facilities, where applicable.
2. Additionally, the City anticipates that an average of 150 curb ramps per year will be constructed or reconstructed in the public right of way by others:
 - Curb ramps will be constructed or reconstructed as a condition of private development.
 - The State of California has installed curb ramps along the portions of state highways that have recently been repaved. More curb ramps may be installed along state highways in the City in conjunction with future improvement of these facilities.
 - Utility companies are required to install new curb ramps at corners where they excavate.

3.0 CURB RAMP PLAN

3.6. Status and Cost Estimate for Curb Ramp Plan as of August 2008



As of August 2008, the curb ramp database showed that about 5972 (34%) of a total of approximately 17,776 possible locations (street corners) have ADA compliant curb ramps. About 8,535 (48%) of possible locations have no curb ramp(s) and about 3,269 (18%) have non-compliant ramps.

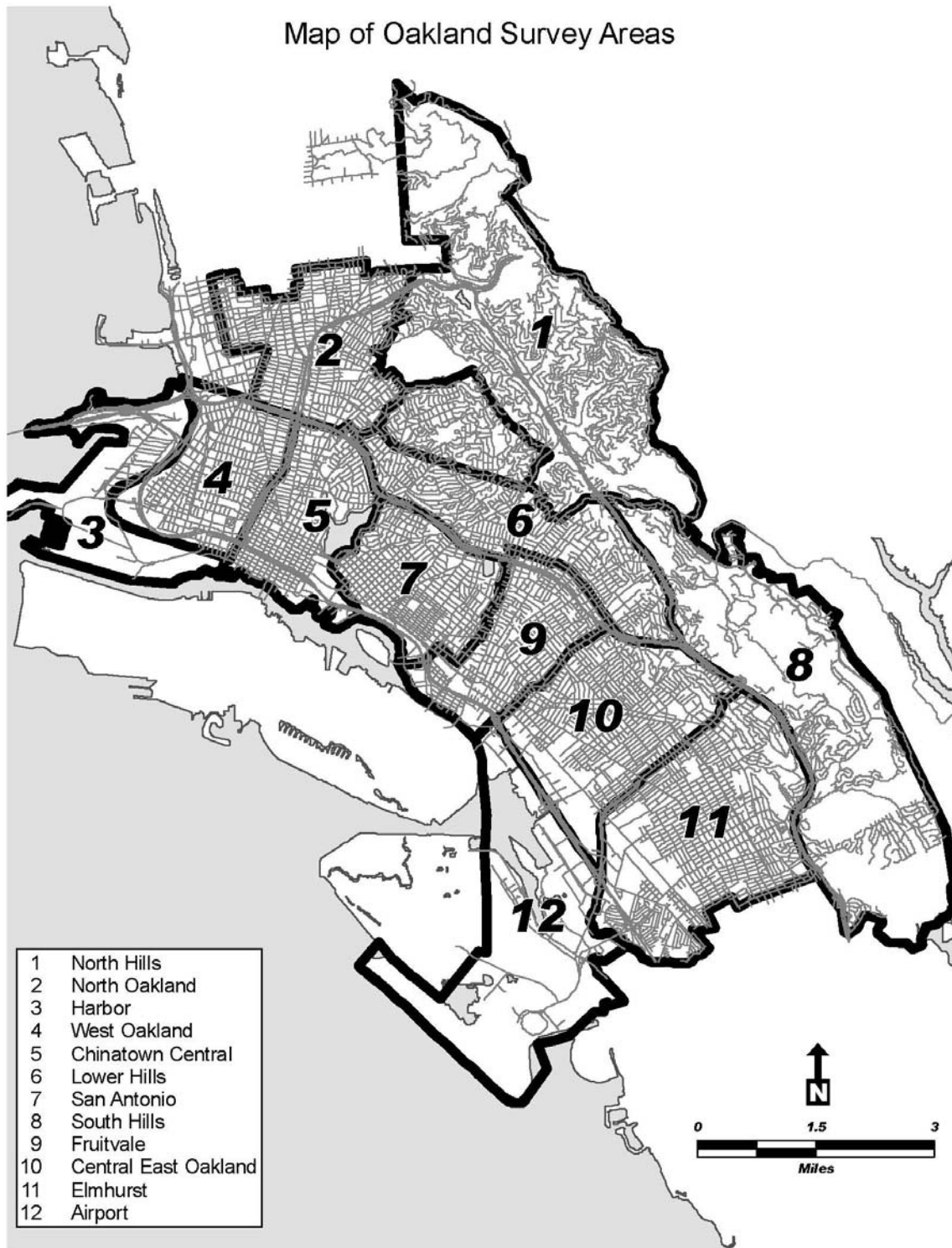
Number of Ramps Needed and Cost Estimate as of August 2008

	<u>Total Locations</u>	<u>Dual Ramp Multiplier</u>	<u>Total Ramps Needed</u>	<u>Cost Per Ramp</u>	<u>Cost Estimate</u>
New Construction (No Ramp)	8,535	1.5	12,803	\$2,500	\$32 million
Reconstruction (Non-compliant)	3,269	1.8	5,884	\$2,500	\$15 million
TOTALS	11,804		18,687		\$47 million

At the planned rate of 650 new or reconstructed ramps per year, it would take 29 years to complete the curb ramp plan.

3.0 CURB RAMP PLAN

3.7. Statistical Summaries from the City Curb Ramp Database



3.0 CURB RAMP PLAN

Curb Ramp Summary by Survey Area as of August 2008

Survey Area	Possible Locations ¹	Compliant Ramp ²	No Ramp ³	Non-compliant Ramp ⁴
1. North Hills	606	61	515	30
2. N Oakland	2292	992	800	500
3. Harbor	65	17	26	22
4. W Oakland	1524	638	349	537
5. Downtown*	1627	618	314	695
6. Lower Hills	1808	552	1158	98
7. San Antonio	2082	545	1190	347
8. South Hills	795	144	584	67
9. Fruitvale	1586	565	707	314
10. E Oakland	2153	553	1282	318
11. Elmhurst	2846	958	1556	332
12. Airport	147	85	54	8
13. Not Assigned	<u>245</u>	<u>244</u>	<u>0</u>	<u>1</u>
Totals	17776	5972	8535	3269

*Chinatown/Central

Notes:

1. Number of Possible Locations by Survey Area
2. Number of ADA Compliant Ramp Locations (Curb Ramps to be Retained by the City) by Survey Area
3. Number of No Curb Ramp Locations (Where New Curb Ramps Will be Constructed) by Survey Area
4. Number of Non-Compliant Ramp Locations (Where Existing Curb Ramps Will Be Replaced) by Survey Area

3.0 CURB RAMP PLAN

Curb Ramp Status by Land Use Area as of August 2008

Land Use Area	Possible Locations ¹	Compliant Ramp ²	No Ramp ³	Non-Compliant Ramp ⁴
Tier 1: Transit Facilities	3633	2026	575	1031
Tier 2: Public Facilities	1657	535	765	359
Tier 3: Public Accommodations	6275	1931	3017	1327
Tier 4: Other	<u>6211</u>	<u>1480</u>	<u>4178</u>	<u>552</u>
Totals	17776	5972	8535	3269

Notes:

1. Number of Possible Locations by Land Use (Tiers 1-4)
2. Number of ADA Compliant Ramp Locations (Curb Ramps to be Retained by the City) by Land Use (Tiers 1-4)
3. Number of No Curb Ramp Locations (Where New Curb Ramps Will be Constructed) by Land Use (Tiers 1-4)
4. Number of Non-Compliant Ramp Locations (Where Existing Curb Ramps Will Be Replaced) by Land Use (Tiers 1-4)