

[Seal of the Department of Justice]  
U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section, 950 Pennsylvania Ave. NW  
Washington, DC 20530

[date stamp] Jun 30 2003

DJ# 204-71-43

Karl Dean  
Director of Law  
Metropolitan Government  
Metropolitan Department of Law  
Room 204, Metropolitan Courthouse  
Nashville, TN 37201-5099

Re: Metropolitan Government of Nashville and Davidson County, Complaint Number 204-71-43

Dear Director Dean:

This letter is to inform you that the Settlement Agreement between Metropolitan Government of Nashville and Davidson County, Tennessee and the Department of Justice concerning title II of the Americans with Disabilities Act of 19990 (ADA) becomes effective as of the date of this letter. Enclosed is a copy of the fully-executed Settlement Agreement.

Based upon the assurances made by Metro in this Agreement, we are closing the file in this complaint as of the date of this letter. This letter and the enclosed Agreement are not intended, and should not be construed, to cover any other issues regarding compliance with title II, which may exist and which are not specifically discussed herein.

Paragraph 6 of the Settlement Agreement provides that we enter an additional interim agreement for the Metropolitan Board of Education, that would be followed by a final agreement. It is our understanding that we will enter the interim agreement within weeks.

Under the Freedom of Information Act, 5 U.S.C. § 522, we may be required to release this letter and other correspondence and records related to this complain in response to a request from a third party. Should we receive such a request, we will safe-guard, to the extent permitted by the Freedom of Information Act and the Privacy Act, the release of information which could constitute an unwarranted invasion of privacy.

We appreciate the cooperation of the Metropolitan Government and your staff during our investigation and settlement negotiations.

Sincerely,

[handwritten signature]

Robert J. Mather  
Attorney

Enclosure

(Text of Final Settlement Agreement and Final Transition Plan follow below.)

**FINAL SETTLEMENT AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA  
AND  
METROPOLITAN GOVERNMENT OF NASHVILLE AND  
DAVIDSON COUNTY, TENNESSEE  
FOR STRUCTURAL CHANGES  
TO PUBLIC BUILDINGS AND FACILITIES,  
EXCLUDING SCHOOLS  
DJ# 204-71-43**

1. Metropolitan Government of Nashville and Davidson County, Tennessee ("Metropolitan Government" or "Government") initiated contact with the United States Department of Justice ("Department of Justice" or "Department") in January 2000, to discuss its plans for achieving compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. sub-section 12101-12134, as implemented by regulations at 28 C.F.R. Part 35 ("Title II"), and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794, as implemented by regulations at 28 C.F.R. Part 42, Subpart G ("Section 504").
2. Title II of the ADA prohibits discrimination on the basis of disability in all of the services, programs, and activities provided or conducted by States and local governments, including employment, 42 U.S.C. subsection 12132. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in programs and activities that receive federal financial assistance. 29 U.S.C. section 794. Both statutes apply to Metropolitan Government because it is a public entity under the ADA, and a recipient of federal funds under Section 504. 42 U.S.C. section 12131(1); 29 U.S.C. section 794(b).
3. Pertinent to this Settlement Agreement, both Title II and Section 504 regulations require that Metropolitan Government operate each of its programs so that, when viewed in its entirety, the program is readily accessible to and usable by individuals with disabilities by:
  - a. Delivering services, programs, and activities in alternate ways. This includes, for example, redesigning equipment and reassigning services to accessible locations as well as through the use of aides, home visits, or other methods of compliance or, if these methods are not effective in making the programs accessible,
  - b. Making physical changes to buildings in accordance with the ADA Standards for Accessible Design.
4. In July 2000, the Department of Justice and Metropolitan Government entered an Interim Agreement. Under the Interim Agreement, the Government agreed to, inter alia, submit a transition plan if structural changes to existing facilities are necessary for achieving program accessibility. The Interim Agreement covers programs, activities, and services in over hundreds of government buildings, educational facilities, parks, rights of way, and school buildings.
5. Under the Interim Agreement, any structural modifications required for the following nine buildings -- the Metropolitan Courthouse; the Ben West Building; the Criminal Justice Center;

Howard School Administrative Complex; Lentz Public Health Center; 222 Building; the Centennial Sportsplex; the Planning Commission Building; and the Municipal Auditorium -- would be completed as expeditiously as possible, but in any event no later than December 31, 2003. For those structural modifications required in the remainder of the facilities owned or occupied by the Metropolitan Government, the Interim Agreement requires that the Government make a good faith effort to complete the modifications before December 31, 2003, but it complete all modifications by December 31, 2005.

6. The Interim Agreement provides that in cases of structural modifications required to achieve program access, the Department and Government would enter a Final Settlement Agreement to complete a transition plan for the modifications.

7. On March 4, 2003, the Department and Metropolitan Government agreed to amend the Interim Agreement by providing that the parties enter an additional interim agreement for the Metropolitan Board of Education, that would be followed by a final agreement.

8. Pursuant to the Interim Agreement, Metropolitan Government completed accessibility surveys of its general facilities and identified the following most common barriers to program access: inaccessible exterior routes, inaccessible parking, inaccessible building entrances, and inaccessible interior routes of travel. When possible, program access has been provided by use of non-structural methods. The Government also determined to make structural modifications to its facilities in order to achieve program access. It drafted a transition plan for facility rehabilitation, new construction, greenways, parks facilities, playgrounds and rights of way work. Metropolitan Government held five public hearings to receive comments from the public, including advocacy groups representing the Middle Tennessee area and other individuals. The Government has approved funding for these projects with a 2003 start date and anticipates an orderly flow of funds in accordance with the schedule to complete all projects. The Metropolitan Government agrees to complete modifications listed in the Plan and Exhibits attached hereto as expeditiously as possible, but no later than the dates set out in the Plan, subject to possible modification specified in Paragraph 14 of this Agreement.

9. The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, and 28 C.F.R. section 42.530, to determine the compliance of Metropolitan Government with Title II and Section 504, issue findings, and where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized to bring a civil action enforcing Title II and Section 504, and/or suspend or terminate Metropolitan Government's federal funding, should the Department fail to secure voluntary compliance. 42 U.S.C. section 12133; 29 U.S.C. section 794a(a)(2).

10. The parties to this Agreement are the United States of America and the Metropolitan Government of Nashville and Davidson County. In resolution of this matter, and in order to avoid the burdens and expenses of further investigations and possible litigation, the parties hereby agree to the following terms:

11. In consideration of the terms of this Final Agreement and Interim Agreement, the Department of Justice will not, during the term of this Agreement, seek to terminate, or support any action to terminate, the federal funding of Metropolitan Government for programs, services, and activities covered under this Agreement so long as Metropolitan Government is in compliance with the terms of this Agreement. In the event of a breach of the Agreement, Paragraphs 20 through 24 of the Agreement apply and the United States may take further action.

12. The scope of this Agreement is limited to Metropolitan Government's responsibility to comply

with the Title II and Section 504 requirements for structural changes in existing facilities owned or operated by Metropolitan Government (other than those facilities owned or occupied by the Metropolitan Board of Education) specifically identified in the Plan and its exhibits.

13. Within thirty (30) days of the effective date of the Final Agreement, Metropolitan Government agrees to submit a draft database table to provide a collection of information pertaining to construction/rehabilitation projects. This table will be entitled "Facility Prioritization Table". It will consist of multiple rows, each of which is designated for each facility, and has the same set of ten columns as follows:

| <b>Table Column Name</b>                         | <b>Table Column content</b>   |
|--|---|
| Facility Number:                                 | Indicates the identification number designated by the Government for the facility.  |
| Facility Name:                                   | Building.   |
| Department/Tenant:                               | This column identifies departments and agencies that occupy the facility, e.g., multi-tenant, health, parks, fire.  |
| Thomas Miller Estimated Cost for ADA Compliance: | Consultants' proposed dollar amount for ADA renovations.  |
| Proposed Construction Start Date:                | Refers to the proposed date the project will begin.   |
| Proposed Funding Date:                           | The date when funding is expected to be approved.   |
| Project Status:                                  | This column is to be used to indicate the status and next steps for the project (benchmarks), e.g., construction began or completed, works in progress.   |
| Explanation for Extension:                       | This column is to be used for providing a detailed explanation or reason for the need for an extension of the deadline as listed in the prioritization table. To be included is a description of the work to be done, e.g., total rehabilitation, partial, ADA upgrades only. |
| Alternate Program Access Information:            | To be used in as a locator when alternate locations for program access are necessary.   |
| Actual Completion Date:                          | When building renovation is completed.  |

The Government will complete, maintain, and update the Facility Prioritization Table, posting the current Table on the Nashville.gov website in accessible formats and available to any internet user.

14. Within sixty (60) days of the effective date of this Agreement, Metropolitan Government agrees to establish written procedures for the ADA Coordinator to change the Plan, should the Government find it necessary to do so. The procedures will include the following:

- a. If at any time the Government desires to modify any portion of the Plan because of changed conditions making performance impossible or impractical, the Government will promptly notify the Department in writing, setting forth the facts and circumstances to justify modification and the text putting for the substance of the proposed modification. A written notification is required for changes in the plan, including facilities, parks, and public rights-of-way.
- b. Until there is a written Agreement by the Department to the proposed schedule or substance of the modification, the proposed modification will not take effect. These actions must receive

the prior written approval of the Department, which approval shall not be unreasonably withheld or delayed, and

- c. Should the Government's proposed modification reasonably require an extension of the time for compliance, the Department's approval of such modification, if any, will include an appropriate extension of time.

15. The Government will not be held in violation of this Agreement, if the Government has notified the Department in writing of its request for a modification of any portion of the Plan at least sixty (60) days before the time for compliance with such portion of the Plan has expired, and the Government has not received a written response to its request for such modification from the Department.

16. The Government may prepare a pre-approved form for making a request for a substantial modification to the Plan. The form should identify the individual making request, list conditions for changing dates, and list non-structural modifications as alternatives for achieving program access. The form should also include a proposed timeframe for response and signature block for approval from the Department.

17. Except as otherwise specified in this Agreement, at ninety (90) and one hundred and eighty (180) days after the effective date of this Agreement, and thereafter at yearly anniversaries of the effective date of this Agreement, the Government will submit written compliance reports to the Department summarizing the actions the Government has taken pursuant to this Plan. Reports will include:

- a. A list of new construction and rehabilitation projects, including a list of what programs are currently located in the facility; an explanation of how program access will be achieved during the rehabilitation; and at completion, what programs are currently located in the facility;
- b. A copy of the current project construction management report (for general government facilities);
- c. A copy of the current project construction management report for Parks Department facilities; and
- d. A current report of construction completed on sidewalks, curb cuts, and the rights of way, to include third party work, new commercial construction, rehabilitation of existing ramps, and new construction of ramps.

18. Within sixty (60) days of the effective date of the Final Agreement, Metropolitan Government will establish a written procedure for providing program access to the public by utilizing the Nashville.gov website, including the following:

- a. Location of existing facilities, with condition of facility, i.e., symbol of accessibility if applicable, not accessible, under construction; and
- b. If under construction, temporary relocation of programs.

19. This Agreement will terminate when the parties agree that the Plan has been implemented, the expected results have been achieved, or there exists program accessibility to the programs, services, and activities of the Metropolitan Government other than the facilities that are controlled by the Metropolitan Board of Education, when the parties agree to supplant this Agreement with a subsequent agreement, or June 1, 2006, whichever comes first.

20. This Agreement is limited to the compliance activities identified herein and does not purport to remedy any other violations of the ADA, Section 504 or other Federal law, or to absolve

Metropolitan Government of liability for any past violations of these statutes. The Agreement does not affect Metropolitan Government's continuing responsibility to comply with all aspects of the ADA and Section 504, an obligation which remains separate from and independent of this Agreement. To the extent that the Government may fail to comply with any provision of the ADA or Section 504, it may not claim as a defense its good faith reliance on any act performed or statement made by the Department of Justice or any architect or consultant which it elects to employ pursuant to this Agreement.

21. By entering into this Agreement, Metropolitan Government does not thereby admit to any liability for violations of the ADA, Section 504, or any other federal law, and the Department of Justice does not admit to the merit of any defense that may be raised by Metropolitan Government with respect to its obligation to comply with the ADA, Section 504 or any other Federal law. The technical assistance provided to the Government by the Department pursuant to this Agreement will not be construed to bind the Department to any interpretation of the ADA or Section 504.

22. Failure by either party to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of the other party's right to enforce other deadlines and provisions of this Agreement.

23. The Department of Justice may review Metropolitan Government's compliance with this Agreement at any time.

24. If either party believes that the other party has violated the Agreement, that party will so notify the other party in writing. The parties will attempt to resolve informally any disputes that may occur under this Agreement for a period of sixty (60) days. If the parties are unable to reach agreement by the end of this period, either party may elect to institute a civil action in the United States District Court for Middle District of Tennessee seeking to enforce the terms of this agreement.

25. Notices to Metropolitan Government will be made in writing and sent by certified mail to:

Karl F. Dean, Director of Law  
Metropolitan Government of Nashville and Davidson County  
Department of Law  
204 Metro Courthouse  
Nashville, TN 37201

Notices to the Department of Justice will be made in writing and sent by certified mail to:

Robert J. Mather, Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Disability Rights Section  
950 Pennsylvania Ave NW  
NYA Building  
Washington, DC 20535

26. This Agreement is a public document. Upon request, the parties will may make available to any person a copy of this document.

27. The person signing this document for the Metropolitan Government represents that he or she is authorized to bind Metropolitan Government to this Agreement.

28. The effective date of this Agreement is the date of the last signature below.

For the Metropolitan Government of Nashville and Davidson County, Tennessee

By: [written signature and typed name] Bill Purcell, Mayor

Date: [written] June 14, 2003

By: [written signature and typed name] Karl Dean,

Director of Law

Metropolitan Government

Metropolitan Department of Law

Room 204, Metropolitan Courthouse

Nashville, TN 37201-5099

(615) 862-6341

Date: [written] June 17, 2003

Attachments: The Final Transition Plan Exhibits

For the United States:

Ralph F. Boyd, Jr.

Assistant Attorney General for Civil Rights By: [written signature and typed name] Robert J.

Mather

John L. Wodatch, Chief

Renee M. Wohlenhaus, Deputy Chief

Robert J. Mather, Trial Attorney

U.S. Department of Justice, Civil Rights Division

950 Pennsylvania Ave, NW

Disability Rights Section - NYA Building

Washington, DC 20530

(202 307-2236

Date: [written] June 24, 2003

(Text of Final Transition Plan follows below.)

**FINAL TRANSITION PLAN**  
**For Achieving Program Access as Required by**  
**the Americans with Disabilities Act, 1990,**  
**and Section 504 of the Rehabilitation Act, 1973, as amended**

**Section I: Interim Agreement**

1. Metropolitan Government of Nashville and Davidson County, Tennessee ("Metropolitan Government") initiated this matter in January 2000 when it voluntarily contacted the United States Department of Justice ("DOJ") to discuss its plans for achieving compliance with Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12101-12134, as implemented by regulations at 28 C.F.R. Part 35 ("Title II"), and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, as implemented by regulations at 28 C.F.R. Part 42, Subpart G ("Section 504".)

2. Title II of the ADA prohibits discrimination on the basis of disability in all of the services, programs, and activities provided or conducted by States and local governments, including employment 42 U.S.C. § 12132, Section 504 prohibits discrimination on the basis of disability in programs and activities in programs and activities that receive federal financial assistance, 29 U.S.C. § 794. Both statutes apply to Metropolitan Government because it is a public entity under the ADA, and a recipient of federal funds under Section 504, 42 U.S.C. § 12131 (1); 29 U.S.C. § 794(b).

3. The Department of Justice (DOJ) is authorized under 28 C.F.R. Part 35, Subpart F, and 28 C.F.R. § 42.530, to determine the compliance of Metropolitan Government with Title II and Section 504, issue findings, and where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized to bring a civil action enforcing Title II and Section 504, and/or suspend or terminate Metropolitan Government's federal funding, should the entity fail to secure voluntary compliance, 42 U.S.C. § 12133; 29 U.S.C. § 794a(a)(2).

4. On July 25, 2000, DOJ and the Metropolitan Government entered into the Interim Agreement regarding the Metropolitan Government's compliance with the ADA. Pursuant to the Interim Agreement, the Metropolitan Government agreed to take certain steps to come into compliance with the ADA and the Rehabilitation Act of 1973, as amended.

5. The scope of the Interim Agreement was limited to Metropolitan Government's responsibility to comply with the following specific provisions of the ADA and Section 504, in respect to Metropolitan Government's programs, services, and activities, specifically identified in this Agreement:

- a) Designation of **responsible employees** to coordinate its compliance (28 C.F.R. § 35.107(a); 28 C.F.R. § 42.505(d);
- b) Provision of **public notice** of the ADA and Section 504 requirements (28 C.F.R. § 35.106; 28 C.F.R. § 42.505(f));
- c) Establishment of a **grievance procedure** to resolve complaints arising under the ADA and Section 504 (28 C.F.R. § 35.107(b); 28 C.F.R. § 42.505(e));
- d) **Self-evaluation** of current services, policies, practices, and procedures to identify and correct any that are not consistent with the ADA and Section 504 (28 C.F.R. § 35.105; 28 C.F.R. § 42.505(c)) ; and
- e) Preparation of a **transition plan** if structural changes to existing facilities are necessary for achieving program accessibility (28 C.F.R. § 35.150(d); 28 C.F.R. § 42.521 (d)).

6. This Interim Agreement is intended to be followed by final agreements on Metropolitan Government's transition plans.

7. Pursuant to the Interim Agreement, the Metropolitan Government and DOJ have agreed upon this document as the Metropolitan Government's transition plan.

## **Section II: Background and Self-Assessment**

1. In order to fully integrate ADA Compliance into the operations of the Metropolitan Government the Mayor through an Executive Order created the ADA Implementation Committee. This committee consists of the following persons.

**Director, Department of Finance**  
**Director, Department of Law**  
**Director, General Services Administration**

**Director, Department of Public Works, and  
Executive Director and Secretary of the Metropolitan Planning Commission**

2. Duties of the Committee include:

Overseeing the implementation of changes required to bring these programs, services, and activities offered to the public by the Metropolitan Government into compliance with Title II of the Americans with Disabilities Act;

Manage construction of new facilities and additions, alterations, or renovations made to existing facilities, through a construction management system to be established by the Committee;

Make recommendations to the Mayor and the Metropolitan Council of modification of the Code or Law, or other regulations of the Metropolitan Government that may be needed to effectuate a more complete compliance with Title II;

Confer with and advise other departments, offices, agencies, boards, and commissions of the Metropolitan Government on issues affecting their departments' compliance with Title II;

Report, annually or more frequently if the Committee determines additional reporting to be in the best interest of the Metropolitan Government, to the Mayor and the Metropolitan Council on Metro's progress in implementing the changes required to bring those Metropolitan Government's programs, services, and activities offered to the public into a more complete compliance with Title II of the Americans with Disabilities Act.

3. The Interim Agreement required the Metropolitan Government to conduct a self-evaluation of the accessibility of its programs and services to determine whether issues of accessibility could be addressed through changes in the way such programs and services are provided. Furthermore, as the Metropolitan Government is obligated to remove physical barriers to accessibility when non-structural changes would not ensure access to services, programs, and activities in existing facilities, this Transition plan has been developed setting forth the steps to complete the necessary structural changes. A separate program and facility assessment has been completed through the completion of a Parks Department Master Plan. Additionally, as the Metropolitan Government is responsible and has authority over streets, roads, and walkways, a portion of the Transition Plan is dedicated to addressing compliance in the public right-of-way, giving priority to walkways serving as entities covered by the Act. A transition plan for the Board of Education will be completed as a separate document.

4. The ADA regulations require the Transition Plan to contain the following elements:

A list of physical barriers in the public entities facilities that limit accessibility of its programs, services, or activities to individuals with disabilities; a detailed description of the methods to be utilized to remove these barriers and make the facilities accessible;

The schedule for taking the necessary steps to achieve compliance with Title II;

The name of the official responsible for the plan's implementation;

The proposed funding source for improvements; and

The opportunity for the disability community and other interested parties to participate in the development of the Transition Plan.

5. The ADA Title Coordinator's specific responsibilities include, but are not limited to, drafting the notice and the grievance procedure, investigating grievances relating to Metropolitan Government's compliance with the statutes in its programs, services, and practices, facilitating effective communications, involving people with disabilities and other interested parties in the compliance process, conducting Metropolitan Government's self-evaluation, and preparing its transition plan. This position is also responsible for managing the day-to-day operations of the eleven person ADA Compliance Division of the Department of Finance. This Division is responsible for monitoring compliance in all Metro programs, services, activities, and facilities.

6. As required by the Interim Agreement, the Metropolitan Government prepared a report identifying the modifications to policies and practices it has implemented in accordance with paragraphs 14(9)(iii) and 17. This report identified as "Policy and Practice Modifications Report" and forwarded to the Department of Justice December 31, 2001.

7. The compliance work process was drafted by the ADA Title II Coordinator and forwarded to the DOJ for their review and comments. As required in the agreement, an accessibility consultant assisted in the program assessment.

8. As the Metropolitan Government continue its efforts to comply with the Interim Agreement, the following process was followed in order to complete the assessment of all Metropolitan Government programs, services, and activities.

a) Each Department ADA Coordinator was included in the assessment process. They serve as a liaison to the Metropolitan Government Title II Coordinator and were responsible for collecting information regarding his or her department's policies and practices, providing information to their department of ADA requirements., and serve as a contact person for the public within the department. Departmental Coordinators were trained to complete assessments using the "ADA Title II Action Guide", produced under contract to Barrier Free Environments, NIDRR grant # H133D10122. As required by the Interim Agreement, this information has been disseminated to the community by the "public notice" that was adopted by the Metropolitan Council and implemented in 2000.

b) An informational workshop was held April, 2001, to discuss the Metropolitan Government's plan for attaining compliance. Individuals with disabilities and other interested individuals or organizations were invited to this workshop. This effort was key to accomplishing the assessment process, as it provided department coordinators access to representatives of the community with the experience of the end-user. By involving people with disabilities in the assessment process, the Metropolitan Government has been able to strengthen the accountability of the process with the general public.

c) Within each department, all programs, services, and activities were assessed and findings documented through worksheets from the Action Guide. In addition to regular or ongoing programs, occasional or one-time activities were assessed. The self-evaluation covered three areas, per the Agreement:

**General non-discrimination provisions.**

**Communication.**

**Program and facility accessibility.**

d) The self-evaluation worksheets included a thorough review of both the formal written policies and the actual operating practices of each program, service, or activity. When and if discriminatory policies and practices were identified, the necessary changes were made, or are being made by the department(s). The worksheets prepared by the departments summarized the prohibitions against discrimination into six areas: four relating to program operation and two on external

relations.

**Program Operations:**

**Equal opportunity to participate is to be given to people with disabilities.**

**Programs are to be operated in a way that supports integration.**

**There are to be no additional charges or burdens required of people with a disability.**

**Programs are to reasonably modify their policies, practices, and procedures to afford people with disabilities equal opportunity to participate and benefit.**

**External Relations:**

**Contractors performing functions of a public entity are not to discriminate against people with disabilities.**

**Public entities are not to discriminate in awarding procurement contracts, licenses, or certifications.**

**Section III: Self-Assessment Outcome**

1. Program Operations

**Equal opportunity to participate is to be given to people with disabilities.**

**Programs are to be operated in a way that supports integration.**

**There are to be no subcharges or burdens required of people with a disability.**

**Programs are to reasonably modify their policies, practices, and procedures to afford people with disabilities equal opportunity participate and benefit.**

Every effort has been and is being made to ensure that the programs, services, and activities are open to all people. The public notice is being included in the announcement of programs by departments. Alternative formats are available upon request in the form of audiotape, ASCII computer diskettes, large print, and Braille. This notice includes the name and telephone number of the Departmental Coordinators.

Departmental Coordinators continue to be trained in disability awareness. During the year 2002, employees began receiving disability awareness training through the Department of Human Resources. Some departments, such as the Sheriff's Department and Police Department, are already providing their employees with disability awareness training through their annual in-service training.

A formal process for responding to requests for accommodation has been established and institutionalized by the Metropolitan Government.

A formal grievance procedure has been written, adopted, and implemented by the Metropolitan Government.

In order to determine whether a policy or practice modification would fundamentally alter the nature of a program, a review committee has been established. The committee has representation from the following organizations:

**Metro ADA Consultant**

**ARC of Davidson County**

**Center for Independent Living of Middle Tennessee**

**Tennessee Disability Coalition  
League for the Deaf and Hard of Hearing  
The American Council for the Blind**

**2. Effective Communication Assessment and Action Plan**

A policy for effective communication with individuals having disabilities was developed based on a sample that Metro received from the Department of Justice. All Metro departments have adopted this policy.

A steering committee was established to direct Metro's assessment of its current ability to provide equally effective communication with individuals with disabilities. The committee consists of:

**Bonnie Funk - Director of Interpreting Services, The League for the Deaf and Hard of Hearing**

**Cynthia Weitzel - Director of Youth Services, The League for the Deaf and Hard of Hearing**

**Kevin Wright - Executive Director, The Technology Access Project**

**Trisha Griggs - ADA Coordinator, Metro Election Commission, Tennessee Protection and Advocacy, Inc., and an individual who is blind**

**Vernon Philips - An individual who is blind**

**Gina Fox - ADA Coordinator, General Sessions Court**

**Karla Crocker - ADA Coordinator, Sheriff's Department, Public Information Representative**

**David Friedlander - ADA Coordinator, Information Systems**

**Mitzie Curtis - Technical Specialist, ADA Compliance Division**

**Kevin Whitson - Technical Specialist, ADA Compliance Division**

**Chuck Yancey - Technical Specialist, ADA Compliance Division**

The steering committee made the decision to provide awareness training to all Metro Department ADA Coordinators and uses Worksheet 3 (from the "ADA Title II Action Guide" produced by Barrier Free Environments as an assessment tool). All Metro Department ADA Coordinators attended one of three awareness trainings presented by Bonnie Funk, Cynthia Weitzel, and Trisha Griggs at the League for the Deaf and Hard of Haring. At these trainings, the Worksheet 3s were distributed to all department coordinators and their completion was discussed.

Follow-up meetings were held individually with department coordinators and staff of the ADA Compliance Division. The completed worksheet 3s have been returned to the ADA Compliance Division and are being reviewed. A sub-committee was established to develop a policy concerning which Metro Departments should have TTYs and where they should be located. This sub-committee continues to meet to discuss areas of improvement and is continuing to develop a communication plan. The League for the Deaf and Hard of Hearing has agreed to provide training to Metro Departments on the use of TTYs and the Tennessee Relay System (TRS).

**3. External Relations**

**Contractors performing functions of a public entity are not to discriminate against people with disabilities.**

**Public entities are not to discriminate in awarding procurement contracts, licenses, or certifications.**

After completing the program assessment for the Division of Purchasing, it was determined that existing procedures were adequate to meet the requirements of the Americans with Disabilities Act.

Additional efforts have been made to ensure that the following language binds any contractor completing work performed for the city:

"No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in the admission or access to, or be discriminated against in the treatment or employment in Metro's contracted programs or activities, on the grounds of age, color, disability, national origin, race, religion, sex, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with Metro or in the employment practices of Metro's Contractors. Accordingly, all Proposers entering into contracts with Metro shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of discrimination."

Furthermore, beginning July 1, 2001, the ADA Compliance Division, formerly identified as the "Mayor's Office on Disability", became a sister agency of the Purchasing Department in the Support Services Division of Finance. With this move, procedures have been implemented requiring the ADA Title II Coordinator to review all Intents to Bid, Requests for Proposals, and contracts for the appropriate language. The following language is included in all contracts:

"The successful Proposer shall certify to Metro that design services, as well as any construction, repair, or other infrastructure improvements made through this contract, if an award is made, shall be completed in full compliance with the Americans with Disabilities Act ("ADA") and Architectural and Transportation Barriers Compliance Board, Federal Register 36CFR Pats 1190 and 1991, Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines; proposed rule, November 16, 1999, as has been adopted by Metro."

In addition, "Regulations to the 1992 Procurement Code" were adopted by the Procurement Standards Board, through April 2001, and a Revised Document Prepared, May 16, 2001.

#### 4. Public Review Process

Programs, Services, and Activities Surveys were presented to several agencies throughout the Metropolitan Nashville area, as well as advocacy groups representing the Middle Tennessee area. Individuals and agency representatives that continue to assist in reviewing policies are as follows:

**Allison, Cody - Center for Independent Living (CIL)**  
**Arriola, John - Center for Independent Living**  
**Babbitt, Robert - Metro Transit Authority (MTA)**  
**Barnes, Bill - Metro Transit Authority Board, Tying Nashville Together**  
**Beyer, Eric - Regional Transportation Authority**  
**Claiborne, Deana - United Cerebral Palsy, Mayor's Advisory Committee (MAC)**  
**Clark, Rhonda - Consumer**  
**Coleman, Hazel - Nashville Career Advancement Center**  
**Cooper, Andrea - Center for Independent Living, Council for Developmental Disability, MAC**  
**Garrett, Gary - Greater Nashville regional Council's Area Agency on Aging**

**Garrett, Page - Tennessee Protection and Advocacy**  
**Griggs, Tricia - Center for Independent Living**  
**Hopton, Tom - Center for Independent Living**  
**Howell, Bill - Tying Nashville Together**  
**Huber, Julie - IAM CARES**  
**Hunt, Denine - Mid-TN Supported Living**  
**Israel, Tiffany - Nashville United Way**  
**Jakobik, Jack - Special Transportation Services**  
**Jernigan, Darren - One Stop, Center for Independent Living, MAC**  
**Jones, Jim - Center for Independent Living**  
**Maneschi, Sofia - Center for Independent Living**  
**McGrath, Martin - Mayor's Advisory Committee**  
**Page, Jackie - Metro Social Services**  
**Pollan, Lynn - United Way / Willis**  
**Reeves, Harold - Consumer**  
**Roder, Kathleen - Easter Seals TN**  
**Sanderson, Tim - MTA, Dir. Operations**  
**Stewart, Floyd H. - Center for Independent Living**  
**Walter, Ernett - Hands On Nashville**  
**Willis, Wanda - Tennessee Council on DD**  
**Wright, Kevin - Tennessee Tech Access Project**  
**Zapolla, Ann Marie - Consumer**  
**Zdanowicz, Michael - Access Ride Policy & Advisory Committee**  
**Zerfoss, Kym - MTA**  
**Dillon, Brenda - President, American Council of the Blind**  
**Norm Tennebaum - Association of Retarded Citizens**

#### **Mayor's Advisory Committee for People with Disabilities**

**John Hendel**  
**Kathleen Schneider**  
**Michael Sells**  
**George Dooley**  
**Rick Slaughter**  
**Ralph Brewer, Tennessee School for the Blind**  
**Carole Moore-Slater**  
**Martin McGrath**  
**Brenda Dillon**  
**Michael Adanowicz**  
**Frank Garrison**  
**Brian Hill**  
**Ralph Kennedy**  
**Ann Nesbitt**  
**Wanda Owen**  
**John Page**  
**Lynne Shaw**

#### **Section IV: Barrier Removal / General Government Facilities**

It was the responsibility of the ADA Title II Coordinator to use the program assessments and the facility surveys to develop the Transition Plan. The building inventory of the General Government included approximately 250 facilities. The Real Property Services Division of the Department of Finance was responsible for completing the prioritization for the rehabilitation of these facilities, in conjunction with the findings of the ADA surveys and program evaluations. Upon completion of the draft Transition Plan, five public hearings were held so as to receive feedback from the disability community. The plan has been well received by the public. Comments from the community have been incorporated into the report, which will be presented to the ADA Implementation Committee and the Mayor. Furthermore, the ADA Implementation Committee, Real Property Services and the ADA Title II Coordinator will continue to advise Administration annually on the selection of facilities that are proposed for rehabilitation for the upcoming fiscal year.

## **Common Barriers**

It has been found through the facility surveys that access to and usability of Metro facilities by individuals with disabilities is frequently compromised by the barriers listed below. This list is not exhaustive or necessarily complete, but represents typical barriers identified by the consultant in the access survey and needing to be addressed during the transition process. Individual barrier summary reports and recommendations for compliance have been completed on each facility.

**Site:** Exterior routes of travel are interrupted by stairs, curbs, and other changes in level; or obstructions or protruding objects. Routes of travel from transportation stops are not accessible. Curb ramps were absent, or did not meet the current standards. Accessible routes were not clearly indicated through signage.

**Parking:** The number of accessible spaces were not proportionate with the total number of spaces, by current standards. Van accessible spaces were not provided. Accessible spaces did not completely conform to the current requirements for size, location, slope, marking, and signage. Curb ramps did not meet current requirements. Lots are not properly signed for towing. Drop-off areas are not accessible.

**Building Entrances:** Entrances were not ramped, or ramps did not meet the requirements for width, slope, cross slope, landings, and/or handrail shape and height. Level landings were not provided or were not sufficient width or depth. Doors required excessive effort to open, and closed too quickly to allow safe passage. Doors were not of sufficient width or had knob-type handles.

**Interior Signage:** Accessibility information is not provided in building directories posted at entrances. Accessible facilities were not marked as accessible, and information is not posted at inaccessible facilities indicating the location of the closest accessible facility. Tactile and Braille permanent room signs are not provided.

**Interior Routes of Travel:** Lobbies, corridors, and other passages had obstructions or protruding objects such as drinking fountains, telephone, and projecting signs, which, when not properly located, may be hazardous to individuals with vision disabilities. Interior routes of travel are interrupted by level changes that are not ramped, or ramps do not meet current requirements for width, slope, cross slope, landings, and/or handrail shape and height.

**Stairs:** Handrails do not meet the requirement for shape and height. Visual warnings are not provided at tread nosings. Risers and treads do not meet the requirements for shape or risers open, presenting a potential tripping hazard.

**Interior Doors:** Doors openings do not provide an accessible width. Maneuvering clearance for

individuals using wheelchairs is not provided. Doors require excessive effort to open and close too quickly to allow safe passage. Doors have knob-type hardware.

**Elevators:** Timing on elevators requires adjustments. Call buttons and control buttons are too high. No audible signal is provided. The emergency phones that are provided are not accessible. Braille indicators are not provided; cab size is inadequate.

**Restrooms:** Doors do not meet current requirements. Signage does not meet current requirements. Maneuvering clearances are inadequate. Mounting heights of plumbing fixtures and accessories are too high. If an accessible compartment is provided, clearances and grab bars do not meet current requirements. Faucets are twist-type. Insulation is not provided on pipes under sinks.

**Telephones:** Mounting heights are too high. Telephones project into accessible route, and are hazards to persons with vision disabilities. Text telephones are not provided where they are required. Signage indicating the location of the nearest text telephone is not provided.

**Alarms:** Visual alarms are not provided in restroom facilities and meeting rooms.

**Assembly Areas:** Dais and lectern podiums are not accessible to individuals who are wheelchair users. Assistive listening systems are not provided. Wheelchair seating not provided.

## **Section V: Compliance Strategies / General Government Facilities**

The Metropolitan Government has developed the proposed compliance strategies for removing access barriers in each surveyed facility, included as Exhibit A. The proposed prioritization schedule for General government facilities is found in Exhibit B.

The ADA Compliance Division is involved in all construction projects involving properties owned by, leased by, or leased to Metro Government or leased facilities. Such projects include facility rehabilitation, new construction, greenways, parks facilities, playgrounds, and right-of-way work.

**New Construction:** All new construction will be designed and built in conformance with the requirements of the applicable accessibility standards and shall follow the procedures that have been implemented to ensure compliance.

**Alterations:** When a rehabilitation project is scheduled for a Metro owned or leased facility, ADA Compliance upgrades are to be included in the project. In the event the facility is not made 100% accessible, program access will determine the required structural changes. The path of travel requirement will then be followed for the remainder of the facility, if found necessary. The path of travel requirement and disproportionality policy is as follows: **Primary Function Areas (4. 1.6(2))** If alterations are made to an area containing a primary function, an accessible "path of travel" is required which means a continuous route connecting the altered area to an entrance, including phones, restrooms, and drinking fountains, that where provided, serve the altered area. Since this may involve modifications outside the intended alteration, compliance is required to the extent it is not "disproportionate" to the cost of alterations to the primary function area; "disproportionality" is defined in the DOJ rule (section 36.403) as costing more than 20% of the cost of the alteration to the primary function area.

**Maintenance and Repair: If maintenance and repair is found to be a trigger for compliance, then the project will include the necessary upgrades.**

**Leased Facilities:** When a lease agreement is scheduled for a renewal, program access is to be considered at the time of the lease. The responsibility and cost for mandated changes are negotiated with the lessee.

## **Section VI: Facility Construction and Rehabilitation Project Procedures for Integration of ADA Compliance Requirements**

In partnership with local design professionals, Metro agency representatives, and representatives of the disability community, procedures were developed to ensure that the requirements of the ADA are integrated in the business processes through the government, either for new construction or rehabilitation of existing facilities, including recreational areas. **This process will provide the detailed description of the methods to be utilized to remove structural barriers to program access required in the transition plan. The procedures are as follows:**

1. Funding requested for project(s) through the annual Capital Budget process. (Funding for projects may originate from various sources, including fund balance, bonds or notes, grants, federal funding, others.)

2. When initiating a project:

The Office of Management and Budget shall confirm the availability of project funding. The ADA Implementation Committee shall approve all new construction, renovation, or major maintenance projects before work can commence.

3. Request for Proposal (RFP) Process for Soliciting Design Professional(s):

A project "Scope of Work" is developed by the requesting department (requesting department may include the Board of Education, Parks, Public Works, and Real Property Services) and forwarded to the ADA Compliance Division for review and recommendations.

The requesting department works with the Purchasing Division to finalize the RFP, which is then published/advertised.

A pre-proposal conference is scheduled with:

**Prospective proposers**  
**Purchasing Division Buyer**  
**Requesting department**  
**ADA Compliance Division**  
**Small and Minority Business**

If required, amendments to original documents are completed by the requesting department and the Purchasing Division and forwarded to all offerors.

Upon receipt by the Purchasing Division, proposals are evaluated by a committee that may be comprised of the following members:

**Purchasing Division representative (non-voting)**  
**Requesting department**  
**ADA representative**

4. Contract Process

The standard template for contracts includes:

**Affidavit of assurance/ADA.**

**Applicable ADA Guidelines to be followed in design.**

**Design and construction procedures.**

**All other applicable documents.**

5. Pre-Design Meeting

The pre-design meeting is an informational session to further clarify design requirements for the project. Requesting department, ADA Compliance Division, and the design professional(s) discuss the scope of work. Design professional to furnish meeting notes.

6. Schematic Design Meeting

The schematic design meeting is a working session to review in-progress design requirements and 95% schematic design plans for the project which includes ADA requirements. The requesting department, and the design professional(s) will review the programming needs of the user agency(ies). Design professional or program manager to furnish meeting notes.

7. Final Construction Document Review

Final construction documents are distributed to requesting departments for review and comment to assure that the project scope of work has been completely addressed.

The ADA Compliance Division receives two sets of the same documents for review and recommendations for compliance on the following: Excavation Plans; Construction Plans

The project design shall meet all current and applicable ADA. Plans shall be revised, as necessary, to resolve deficiencies.

Project addendums or change orders will follow the same review process to assure that recommended changes meet the requirements of ADA. Design professional or project manager to furnish meeting notes.

8. Construction Process

The construction process follows the procurement procedures outlined in steps 3 and 4 above.

9. Pre-Construction Meeting

Requesting department, ADA staff, and the design professionals meet with the selected contractor for a detailed discussion of the project scope of work and required inspections during the course of construction.

10. Construction Inspections

**Phase I - Site Excavation Phase II - Plumbing rough-in/floors/wall audit Phase III - Site forms audit prior to concrete pours Phase IV - Substantial completion/Use and Occupancy Phase V - Final Inspection**

Contractor(s) shall adhere to all current ADA requirements. After final inspections have been completed and approvals received, final project payment to be released.

**Section VII: Barrier Removal and Compliance Strategies/Parks**

Nashville marked the 100th anniversary of its park system in 2001. In recognition of this milestone, and to guide the system well into the future, the Metropolitan Government commissioned the parks and greenways Master Plan (Exhibit C). A consultant team was hired to value existing parks and greenways, through extensive public input, an assessment of existing conditions and a review of demographic projections as well as recreational trends. The Master Plan is designed to guide the maintenance of existing resources, as well as plan for the development of new parks, greenways, athletic activities, cultural activities, and recreational programs within the community for the next 20 years. Compliance with the Americans with Disabilities Act was integrated fully in the assessment, development, and will be included in the implementation. Existing playgrounds were included in the assessment and new playgrounds are recommended both in the Parks and on Board of Education property, in addition to existing parks facilities, golf courses, athletic fields, pedestrian routes, and greenways. Figures presented below represent the deferred and ongoing maintenance cost:

| <b>Recommendation</b>                          | <b>Cost Estimate</b>    | <b>*Phasing</b> | <b>Total, Years 1 &amp; 2</b> | <b>Total, Years 3-5</b> | <b>Total, Years 6-10</b> |
|--|-------------------------|-----------------|-------------------------------|-------------------------|--------------------------|
| <b>Community Centers:</b>                      |                         |                 |                               |                         |                          |
| <b>Maintenance</b>                             | <b>\$ 186,550</b>       | <b>1</b>        | <b>\$ 186,550</b>             | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>West</b>                                    | <b>86,432</b>           | <b>1</b>        | <b>86,432</b>                 | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Elizabeth</b>                               | <b>300,610</b>          | <b>1</b>        | <b>300,610</b>                | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Rose</b>                                    | <b>307,500</b>          | <b>1</b>        | <b>307,500</b>                | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Cleveland</b>                               | <b>127,798</b>          | <b>1</b>        | <b>127,798</b>                | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Green Hills (Phase Out)</b>                 | <b>329,200</b>          | <b>1</b>        | <b>329,200</b>                | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Napier</b>                                  | <b>22,000</b>           | <b>1</b>        | <b>22,000</b>                 | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Shelby (Entrance Existing)**</b>            | <b><u>130,000</u></b>   | <b>1</b>        | <b><u>130,000</u></b>         | <b><u>\$ --</u></b>     | <b><u>\$ --</u></b>      |
| <b>General Maintenance to Existing Centers</b> | <b>1,490,090</b>        |                 | <b>1,490,090</b>              | <b>\$ --</b>            | <b>\$ --</b>             |
| <b>Total</b>                                   |                         |                 |                               |                         |                          |
| <b>Architectural Improvements</b>              | <b>\$</b>               | <b>all</b>      | <b>\$ 667,182</b>             | <b>\$</b>               | <b>\$ --</b>             |
| <b>ADA Architectural Compliance</b>            | <b>1,667,954</b>        | <b>all</b>      | <b>20,000</b>                 | <b>1,000,772</b>        | <b>50,000</b>            |
| <b>Improvements***</b>                         | <b>100,000</b>          | <b>all</b>      | <b>60,957</b>                 | <b>30,000</b>           | <b>--</b>                |
| <b>ADA Compliant Pool Lifts (14 Pools)</b>     | <b>152,393</b>          | <b>all</b>      | <b>47,696</b>                 | <b>91,436</b>           | <b>--</b>                |
| <b>Concessions/Booths</b>                      | <b>119,240</b>          | <b>all</b>      | <b>264,732</b>                | <b>71,544</b>           | <b>--</b>                |
| <b>Equestrian Center</b>                       | <b>661,831</b>          | <b>all</b>      | <b>9,046</b>                  | <b>397,099</b>          | <b>--</b>                |
| <b>Maintenance Building</b>                    | <b>22,616</b>           | <b>all</b>      | <b>92,125</b>                 | <b>13,570</b>           | <b>--</b>                |
| <b>Improvements</b>                            | <b>230,312</b>          | <b>all</b>      | <b>155,972</b>                | <b>138,187</b>          | <b>--</b>                |
| <b>Golf Maintenance</b>                        | <b>389,930</b>          | <b>all</b>      | <b>14,097</b>                 | <b>233,958</b>          | <b>--</b>                |
| <b>Picnic and Other</b>                        | <b>35,243</b>           | <b>all</b>      | <b>324,873</b>                | <b>21,146</b>           | <b>--</b>                |
| <b>Shelters</b>                                | <b>812,182</b>          | <b>all</b>      | <b>43,824</b>                 | <b>487,309</b>          | <b>--</b>                |
| <b>Pool Houses</b>                             | <b>109,560</b>          | <b>all</b>      | <b><u>300,000</u></b>         | <b>65,736</b>           | <b><u>1,500,000</u></b>  |
| <b>Restrooms</b>                               | <b><u>2,100,000</u></b> |                 | <b>\$</b>                     | <b><u>300,000</u></b>   | <b>\$</b>                |
| <b>Special Features</b>                        | <b>\$6,401,261</b>      |                 | <b>2,000,504</b>              | <b>\$ 2,850,757</b>     | <b>1,550,000</b>         |

|  |                  |     |               |                 |                  |
|--|------------------|-----|---------------|-----------------|------------------|
| <b>Storage Buildings<br/>Recurring General<br/>Architectural<br/>Maintenance<br/>Total</b> |                  |     |               |                 |                  |
| <b>General Park<br/>Improvements</b>   | \$               | all | \$ 772,400    | \$              | \$ --            |
| <b>Active Recreation:</b>  | 1,931,000        | all | 1,214,000     | 1,158,600       | --               |
| <b>Courts</b>  | 3,035,000        | all | 3,126,634     | 1,821,000       | --               |
| <b>Active Recreation:</b>  | 7,816,585        | all | 167,828       | 4,689,951       | --               |
| <b>Fields</b>  | 419,570          | all | 119,400       | 251,742         | --               |
| <b>Passive Recreation</b>  | 298,500          | all | 1,323,622     | 179,100         | --               |
| <b>Pedestrian General<br/>Condition</b>  | 3,309,055        | all | <u>300,00</u> | 1,985,433       | <u>1,500,000</u> |
| <b>Signage: General</b>  | <u>2,100,000</u> |     | \$ 7,023,84   | <u>3,000,00</u> | \$               |
| <b>Vehicular: General<br/>Condition</b>  | \$               |     |               | \$              | 1,500,000        |
| <b>Recurring General Park<br/>Maintenance<br/>Total</b>                                    | 18,909,710       |     |               | 10,385,826      |                  |
| <b>Specific Facility<br/>Improvements</b>  | \$ 250,000       | 1   | \$ 250,000    | \$ --           |                  |
| <b>BMX Track Renovation<br/>at Hamilton Creek</b>  | 5,616,000        | all | 2,246,400     | 3,369,600       |                  |
| <b>ADA Compliant Golf<br/>Court Renovation</b>   | <u>100,000</u>   | all | <u>50,000</u> | <u>50,000</u>   |                  |
| <b>City Cemetery<br/>Renovations<br/>Total</b>   | \$               |     | \$            | \$              | \$ --            |
|  | 5,966,000        |     | 2,546,400     | 3,419,600       |                  |
| <b>Total</b>   | \$               |     | \$            | \$              | \$               |
|  | 32,767,061       |     | 13,060,878    | 16,656,183      | 3,050,000        |
| <b>Average Annual<br/>Expenditure</b>  |                  |     | or            | or              | or               |
|  |                  |     | \$            | \$              | \$ 610,000       |
|  |                  |     | 6,530,439     | 5,552,061       | per year         |
|  |                  |     | per year      | per year        |                  |

\* Phasing: 1 = Expenditures in Years 1 to 2; 2 = Expenditures in Years 3 to 5; all = Expenditures through all years.

\*\* This investment may not be needed if new investment at East Park covers demand.

\*\*\* ADA Compliance improvements derived from March 15, 2002, facility survey prepared by the Department of Law, Metropolitan Government of Nashville and Davidson County.

### Section VIII: Barrier Removal and Compliance Strategies for Public Rights of Way

In July of 1999, each department of the Metropolitan Government of Nashville and Davidson

County completed an additional evaluation of its services, programs, activities, and facilities offered to the public to insure continuing accessibility in compliance with Title II of the Americans with Disabilities Act, 1990 (ADA). Because of this most recent evaluation, the Department of Public Works has revised its transition plan. Please note that this updated plan was designed to implement improvements using the Justice Department's Standards for Accessible Design, 28 CFS Part 36, App. A (JDSAD). The management of the Department of Public Works has prepared the following.

A list of physical barriers in the public entity's facilities (improved pedestrian circulation route system) that limit the accessibility of its programs or activities to individuals with disabilities:

Many transportation activities, including walking, bicycling, transit, freight movement, and automobile travel occur within the public right-of-way. The public right-of-way harbors hardware, such as traffic signals and streetlights that supports those activities. In many cases the right-of-way also contains public utilities. Each activity occurring in the public right-of-way has specific design needs and constraints, and are administered by multiple agencies including but not limited to the Department of Public Works. In the past, conflicts between competing right-of-way activities controlled by agencies other than the Department of Public Works have produced conditions that discourage pedestrian travel. The Department of Public Works has developed a Strategic Sidewalk and Pedestrian Plan which will integrate the wide range of right-of-way design criteria and practices into a coherent set of comprehensive standards that, over time, will promote an environment conducive to pedestrian travel.

A consultant representing Metropolitan Government completed an inventory of all sidewalks located in Davidson County. Information gathered in the assessment was then incorporated into a complete sidewalk and pedestrian strategic plan for Davidson County. The inventory has identified the locations of sidewalks requiring maintenance and curb ramps that will need to be upgraded. The inventory also located the areas where there are no curb ramps.

As of January 1, 2000, the Department of Public Works began certifying that new construction of public curb ramps under the control of the Department of Public Works will be in compliance with the Americans with Disabilities Act. Additionally, improvements to existing curb ramps will comply with these standards. Curb ramp construction is to conform to Department of Public Works under standard drawings and the Justice Department's Standards for Accessible Design, 28 CFR Part 36, App. A (JDSAD). Work that is completed, whether by Department of Public Works personnel or outside contractors, is inspected for compliance. A record of each inspection is then maintained by the Department of Public Works. The ADA Compliance Division of the Department of Finance completes inspections of work completed in the right-of-way. (See Exhibit D for inspection documents.)

The Department of Public Works will continue to work with the County ADA Compliance Division to review internal policies to ensure the integration of ADA requirements. Updates will be written in conjunction with current and future policies of the Metropolitan Planning Commission and the Metropolitan Codes Department, and are to be enforced on Metropolitan Government construction projects. Strict measures will be taken to assure that roads or sidewalks built in conjunction with private development of new subdivisions meet the standards of these departmental policies. Every effort is being made to assure ADA compliance before the Department of Public Works accepts control over and responsibility for new subdivisions.

A description of the methods that will be used to make the public rights-of-way facilities accessible:

Curb ramps provide critical access between the sidewalk and the street for all pedestrians. Title II of the ADA requires curb ramps to be installed where existing pedestrian walkways cross a curb or other barrier so people with disabilities are not excluded from the public benefits provided by sidewalks. It is a policy requirement that curb ramps be included in new construction and alterations. It is a priority of the Department of Public Works to repair, construct, and maintain curb ramps in accordance with the guidelines set forth in the ADA. In order to assure that the Department of Public Works maintains ADA compliance, the Department has completed an inventory of all sidealks in the area maintained by the Metropolitan Government of Nashville and Davidson County. Information included in the inventory is as follows:

- A comprehensive inventory of curb ramps that includes the ramp's location.
- Obstacles in the sidewalk.
- Type of obstacle in the sidewalk.

#### Sidewalk Design and Construction - Bid

Rehabilitation of existing curb ramps will be constructed using the design/build process. The use of this process allows the curb ramp to be designed in the field, which provides a better product for the community and the Department of Public Works. The intent of this design-build process is that curb ramps will be designed and constructed in accordance with current Public Works standard drawings and specifications for new construction to the maximum extent feasible.

A specific schedule identifying steps that will be taken each year of the transition plan period:

A construction schedule for curb ramp improvements has been adopted to assure that the Metropolitan Government's public rights-of-way will reach and maintain compliance with the latest ADA standards. This schedule includes curb ramp maintenance, repair, and replacement, beginning in the calendar year 2000. Accordingly priority will be given to any areas that have been modified, altered, or constructed from 1992 continuing to the present date.

The county has been divided into five (5) zones with the boundaries being Interstate 65 separating the east from the west, Interstate 40 separating the north from the south, and the inner loop surrounding the Central Business District (CBD) Exhibit E. Zone 1 encompasses the northwest area of the county; zone 2 the northeast area of the county; zone 3, the CBD; zone 4, the southwest area of the county, and zone 5, the southeast area of the county. Currently the area in zone 4 is scheduled for the replacement of curb ramps in December 2002. Zones will be scheduled for construction based on the following criteria:

**a. Input from other Metro Departments. b. Schedule with proposed Public Works projects. c. Schedule with Public Works paving program. d. Available funding.**

In the past, the Department did not recognize certain milling and paving as an "alteration" as defined in the ADA; "alteration" being defined as, "Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in such a manner that affects or could affect the accessibility of the facility or part of the facility shall, or the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992." Beginning January 1, 2000, the Department began including an inspection of curb ramps located on the streets included in the annual paving project. If it is found that new curb ramps should be installed, or maintenance is necessary on existing curb ramps, in order to maintain compliance under the ADA, funding is requested to complete the necessary work.

## Sidewalk Prioritization - Bid

Accessibility of rights-of way activities is governed by the Department of Justice's implementation of Title II of the ADA, 28 C.F.R., Part 35. It is understood that when the Metropolitan Government builds new facilities or alters existing rights-of-way, including sidewalks and streets, the Title II regulation requires that the newly constructed or altered areas be made accessible to individuals with disabilities. The Department of Public Works has prioritized the construction of sidewalks as follows:

- a. Reasonable requests for accommodation and any necessary improvements to provide program access.**
- b. Completion of the curb ramps constructed after 1992. (Work completed.)**

The Department of Public Works has funds appropriated to accomplish work for years 2002 and 2003. Additional funding for years after 2003 will have to be appropriated by the Metropolitan Government of Nashville and Davidson County.

As the Americans with Disabilities Act of 1990 was a landmark civil rights law that identifies and prohibits discrimination against people with disabilities, the Department of Public Works continues to make a commitment to reach and maintain complete compliance as mandated under the ADA with regard to accessibility. While the Department of Public Works has committed the sidewalk program to constructing curb ramps in accordance with the ADA, specific language set out in the DOJ standards has been recently interpreted and brought some clarification to the construction requirements of the ADA, such as:

- **New construction shall be accessible according to the standards of the ADA standards.**
- **New construction is held to the highest standard of accessibility because the cost of providing accessible features is minimal compared to the overall cost of construction.**
- **Alterations and new additions must meet new construction standards unless technically infeasible. In cases of technical infeasibility, compliance shall be to the maximum extent feasible.**
- **Modifications that affect usability are considered alterations under the ADA. For example, according to the US DOJ Technical Assistance Manual, resurfacing of a roadway beyond normal maintenance is an alteration; however, construction limited in scope to a spot repair such as repainting markings or patching potholes is considered routine maintenance and does not trigger additional access retrofit requirements.**

Additionally, the Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Because of this, the Department has designated a departmental ADA Coordinator and will investigate individuals requests for accommodation that are made in regard to curb ramps. Individual requests for accommodation will be reviewed as a priority and, if approved, accommodations will be completed, subject to funding appropriate for such projects.

## Section IX: Closing

In closing, the Americans with Disabilities Act extends to people with disabilities rights and responsibilities that are not more and not less than those already extended to other citizens.

Compliance with this civil rights law is a constant and on-going process. The Metropolitan Government of Nashville and Davidson County continues to be committed to accomplishing the task of compliance with the Americans with Disabilities Act through the development of model best practices. Program Access will continue to be provided through the commitment from entity leaders, continued coordination of compliance activities by the ADA Compliance Division, and the Title II Coordinator and the involvement of people with disabilities.

**End of document.**