

RESOLUTION NO. 18/2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE
MADERA ADOPTING A BARRIER REMOVAL IMPLEMENTATION PLAN
FOR DISABLED ACCESS WITHIN TOWN RIGHTS-OF-WAY

WHEREAS, on July 22, 2010, the Town of Corte Madera entered into a Consent Decree and Order with the plaintiff which was approved by the Court in the action of Richard Skaff v. City of Corte Madera, United States District Court, N.D. California Case Number C-08-05407 SBA (“Action”); and

WHEREAS, the Consent Decree and Order contains several terms and provisions which are divided by phases in planning, funding, and implementing disabled access improvements within the Town rights-of-way (i.e., streets, sidewalks, walkways, etc.) which is the subject matter of the Action; and

WHEREAS, the Consent Decree and Order included specific work to improve disabled accessibility to be performed by June 30, 2011 as Phase One work which has been completed or is in the process of being completed by this date; and

WHEREAS, Phase Two of the Consent Decree commenced on July 1, 2011 and requires that the Town do a comprehensive review of: 1) certain stipulated items identified by the consultant’s report produced during the Action; 2) all of the items identified in the 2002 Corte Madera ADA Sidewalks and Street Crossing Survey at Volumes 1-4 (excluding residential driveways serving four or fewer units, with the priority set forth in Chapter 4 of the 2003 Corte Madera ADA Transition Plan to the extent reasonably practicable; and 3) all on street parking items for Tamalpais Avenue, Corte Madera Avenue, and First Street as set forth in Volume 6 of the Revised 2002 Survey prepared by Gilda Puente Peters Architects; and

WHEREAS, the comprehensive review was to be performed by a disabled access consultant or architect which may also be a certified CASp (Certified Access Specialist as defined by California Civil Code Section 55.52) selected by the Town in its sole discretion and considered and adopted by the Town Council through a public meeting process allowing members of the public to provide comments on the review during its consideration before the Accessibility Advisory Commission and the Town Council; and

WHEREAS, the document to be created by the consultant, subject to review through the public meeting process, and ultimately adopted by the Town Council is referred to throughout the Consent Decree and Order as a Barrier Removal Implementation Plan (referred to as the “BRIP hereafter”); and

WHEREAS, the BRIP is to contain physical modifications, improvements, alteration and/or work in conformance with standards included in the Consent Decree and Order, and subject to any other terms of the stipulated Consent Decree and Order, may otherwise be prepared in the Town’s sole discretion; and

WHEREAS, the Consent Decree and Order provides that the BRIP be provided to the plaintiff's counsel in the Action for a 60-day period in which the plaintiff's counsel and consultants may comment on the terms of the BRIP prior to recommendation by the Accessibility Advisory Commission to the Town Council; and

WHEREAS, the Consent Decree and Order requires the Town to adopt the BRIP by no later than June 30, 2013; and

WHEREAS, the work included in the BRIP is to be commenced by the Town upon its adoption throughout Phases Two and Three of the Consent Decree with funding sources specified within the Consent Decree and Order; and

WHEREAS, the Town retained Coastland Civil Engineering ("Coastland") following the entry of the Consent Decree and Order to prepare the Barrier Removal Implementation Plan in consultation and conference with the Accessibility Advisory Commission (AAC) through the meetings of the AAC; and

WHEREAS, through September 2011, Coastland performed a preliminary review of categorization of the items to be included in the BRIP, field investigation of uncertain items, and a field review, analysis, and verification by Coastland's CASp to evaluate sites which may have conditions too impractical to make improvements, and periodically received input from the AAC on its priorities; and

WHEREAS, Coastland Civil Engineering met with the AAC from August 15, 2011 through May 21, 2012, which meetings were publicly noticed and open to public participation in accordance with the Brown Act (hereafter referred to as "open and public"); and

WHEREAS, during the open and public meetings of the AAC from August 15, 2011 through May 21, 2012, the AAC was provided with the analysis of Coastland Civil Engineering of the items to be included in the BRIP and performed prioritizing and focusing of items to be included in the BRIP based upon the policy objectives, judgment and concerns of the AAC in order to promote the most significant measure of disabled access within the Town rights-of-way through implementation of the BRIP; and

WHEREAS, during the period from July 1, 2011 through June 30, 2012, Coastland performed mapping and coding to integrate AAC's priorities into the BRIP and performed further field investigation, site evaluation and analysis for impractical site constraints or with regard to sites where work was not required under the disabled access standards applicable under the Consent Decree and Order.

WHEREAS, preliminary drafts of the BRIP prepared by Coastland were reviewed and considered by the AAC during its open and public meetings on April 16 and May 12, 2012; and

WHEREAS, Coastland consulted with Town staff and counsel in performing additional analysis, evaluation, and revisions to preliminary drafts and the AAC discussed the BRIP approval process and preparation of the BRIP at their open and public meetings on August 20, and November 19, 2012, and January 30, 2013; and

WHEREAS, a revised draft of the BRIP dated March 15, 2013, was discussed and considered by the AAC at its open and public meeting on March 21, 2013; and

WHEREAS, on March 20, 2013, the Town's counsel forwarded the plaintiff's counsel the March 15 draft of the BRIP for the plaintiff's 60-day comment period; and

WHEREAS, on May 16, 2013, the Town received correspondence with an attached letter dated May 14, 2013 from Margen + Associates giving the comments made by the plaintiff's consultant to the March 15 draft of the BRIP; and

WHEREAS, following that date Coastland prepared a revised draft which made mostly minor alterations to the prior draft of the BRIP to address the plaintiff's counsel and consultant comments; and

WHEREAS, on June 17, 2013, the AAC discussed and considered the newly revised version of the BRIP (with Appendices 1-5), found that it was sufficient to meet the requirements of the Consent Decree and Order, and by unanimous vote took action to recommend approval and adoption of the latest version of the BRIP by the Town Council, which is now being submitted with this resolution; and

WHEREAS, Appendix 6 is excluded from the BRIP because it is merely a Master List of all items included in the portions of the Transition Plan and street surveys cited by the Consent Decree in order to ensure that all of the items to be covered under the Consent Decree have in fact been covered by the BRIP; and

WHEREAS, a notice inviting all interested persons to attend a public hearing to be held on the approval and adoption of the BRIP on June 26, 2013 at 1:30 P.M. at Council Chambers in Town Hall, 300 Tamalpais Drive, Corte Madera, was posted and published by the Twin Cities Times and the Marin Independent Journal on June 19, 2013; and

WHEREAS, on June 26, 2013, at 1:30 P.M. a public hearing was held at the Town Council Chambers on the approval and adoption of the BRIP (with appendices 1-5 but excluding appendix 6), at which time testimony was received by the public and the matter was discussed and fully considered by the Town Council; and

WHEREAS, the Town Council finds that the BRIP meets all of the requirements set forth by the Consent Decree and Order and can and should be adopted in satisfaction of the Town's obligation to adopt a Barrier Removal Implementation Plan under Section II(B) of the Consent Decree and Order; and

WHEREAS, the Town Council finds that the Consent Decree and Order establish sufficient timelines, proceedings, and enforcement procedures for the implementation of the BRIP and does not intend to create a mandatory duty upon the Town to comply with any of the BRIP provisions through the adoption of this resolution;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA HEREBY RESOLVES AS FOLLOWS:

1. The above recitals are true and correct.
2. The Barrier Removal Implementation Plan dated June 26, 2013 (including Appendices 1-5 only) is hereby adopted and approved as the Town of Corte Madera Barrier Removal Implementation Plan to be adopted and implemented by the Town pursuant to the Consent Decree and Order.
3. The Town may, but is not required to, make amendments, changes or modifications to the Barrier Removal Implementation Plan throughout its implementation to update the Plan for changes in the law, changes in site conditions, changes in analysis, evaluations or recommendations applicable to sites listed therein, or for other reasons, without seeking or obtaining Town Council approval, subject at all times to the terms and provisions of the Consent Decree and Order for as long as the Consent Decree and Order may remain in effect.

This Resolution was duly passed and adopted by the Town Council of the Town of Corte Madera, California, at a meeting therefore held on the 26th day of June, 2013 by the following vote:

AYES: Council Members: Condon, Ravasio and Lappert

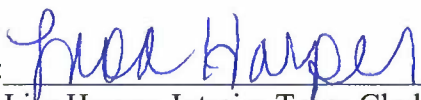
NOES: Council Members: None

ABSENT: Council Members: Mayor Furst

ABSTAIN: Council Members: None



Michael Lappert, Vice Mayor

ATTEST: 

Lisa Harper, Interim Town Clerk