

**INFORMAL SETTLEMENT AGREEMENT
(ADA/Section 504 Complaint)**

**FEDERAL HIGHWAY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION**

██████████
Complainant

Case Number: DOT#2017-0364

City of Ashland
Respondent

INFORMAL SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between ██████████, hereinafter referred to as the Complainant, and the City of Ashland, NE, herein after referred to as the Respondent, as follows:

Section One: Purpose

This agreement is made between the parties for the complete and final settlement of their claims, differences, and actions with respect to the matters described below.

Section Two: Description of Allegation:

The Complainant initiated a formal complaint, filed under the provisions of the Americans with Disability Act (ADA) on November 17, 2017. Prior to initiation of the formal complaint, she had verbally complained to the Federal Highway Administration (FHWA) Nebraska division office and electronically communicated in September 2017; however, the formal complaint was not received by the FHWA Nebraska division until November 17, 2017.

The Complainant maintains on the routes she walks, there is extensive sidewalk deterioration and degradation; a lack of sidewalk maintenance; and a lack of curb ramps at pedestrian crossings in the City of Ashland, Nebraska. Moreover, she alleges the sidewalk inaccessibility problems preclude her from walking and traversing various segments of the sidewalks on multiple streets. She walks the following routes:

- Clay Street between 14th and 18th Streets;
- 17th & Clay Street traveling north on 17th Street to St. Mary's Catholic Church located at 1625 Adams Street;
- 18th Street and Furnas Street (Senior & Junior High School) traveling Furnas to 14th Street;
- 18th Street and Furnas Street (Senior & Junior High School) to 14th street and traveling 14th to Silver Street;
- 16th Street & Clay Street traveling East toward 14th Street; and crossing 14th Street and continuing to the Elementary School located at 1200 Boyd Street.

Complainant acknowledges she does not walk the following route but has complained about its accessibility because of school-age children she alleges walk the routes to the schools:

- Highway 6 between Birch Street to Sixth Street on both sides of Highway 6;
- The sidewalks from Highway 6 & Silver Street to the opening of the pedestrian tunnel located on Silver Street and continuing past the BNSF railyard to the back of the elementary school on Boyd Street.

Respondent does not dispute the allegation(s) that the sidewalks are inaccessible and in need of repair and curb ramps in various locations throughout the City on routes the complainant walks. However, the Respondent maintains some of the identified locations have sidewalks and some areas have no existing sidewalks.

Both Respondent and Complainant acknowledge that pursuant to 28 CFR 35.149 -151, the ADA does not require public agencies to provide pedestrian facilities where none exist, or where the public entity does not have jurisdiction. However, where pedestrian facilities are provided; they must be accessible to persons with disabilities.

Section Three: Terms of Settlement:

The Complainant and Respondent concur in this agreement without any finding of discrimination having been determined. The parties agree to the following which will resolve and settle all claims and issues arising from the above-mentioned allegation,

1. Respondent agrees to update and expand on its existing ADA Self-Evaluation plan (Program Access Plan) dated September 2014 to ensure that their programs and services comply with ADA requirements 28CFR 35.150 (a)(d) **within one year from date of full-execution of this Agreement.** A Program Access Plan is based on a public's self-evaluation of all its facilities, including sidewalks and pedestrian right- of-way to identify facilities that do not meet ADA standards and identify steps to bring them into compliance. Respondents current Self-Evaluation Plan does not include an evaluation of its sidewalks and pedestrian rights-of-way which will need to be included in the updated expanded version.

This Plan shall include an inventory of the curb ramps and sidewalks throughout the City in need of repair and specify the plans and process to make the sidewalks accessible. The ADA Self-Evaluation (Access Plan) will also include a schedule for correcting the sidewalk deficiencies and curb ramps and should describe in detail the methods that will be used to make the facilities accessible.

The ADA Self-Evaluation (Program Access) Plan shall be posted to the City's website and copies delivered to the FHWA Nebraska division after completion of the updated expanded version of the Plan.

2. Specific to the Complainant's routes of concern, they will be repaired based on the following order of priority.
 - a) Clay Street between 12th and 18th Streets;

- b) 17th Street traveling south to 1625 Adams Street; and
- c) Furnas Street between 14th and 18th streets.

These specific street locations will be prioritized in the order indicated and repaired with all noted deficiencies corrected **no later than four years from date of full-execution of this Agreement**. All other routes and sidewalk accessibility issues will be repaired in the timeframe identified in the Self-Evaluation Plan.

3. Respondent agrees to develop a process for enforcing Article 2 of its sidewalk ordinance. **Article 2 §8-203 Repair** indicates that the City can enforce the repair of a sidewalk by a property owner and/or the City can order repair of the sidewalk and provide the property owner with a bill for the repair. The City has acknowledged that it has not been enforcing their own sidewalk maintenance provisions as stipulated in Article 2 of the City ordinance and agrees to provide a process for enforcement and notification to the public about the article provisions. Both Respondent and Complainant agree that the notification process shall occur **no later than one year from the effective date of this agreement**.
 - A. The parties agree that this settlement shall not constitute an admission of discrimination or violation of any provision of law on the part of the Respondent.
 - B. It is understood that if the Respondent fails to fulfill or rescinds any provision of this Agreement, the Federal Highway Administration (FHWA) shall be entitled to reinstate the matter for further processing from the point in which the complaint processing ceased.
 - C. It is understood that if the complainant fails to comply with the responsibilities under the terms of the Agreement, the Agreement may be terminated and any subsequent complaint based on the same issues will be rejected or cancelled.
 - D. The parties agree that this Agreement constitutes the sole and complete understanding between them. No other promises or agreements shall be binding unless signed by the parties of this agreement.
 - E. The parties agree that this settlement shall become **effective on the date of full-execution of this agreement**.

Complainant - [REDACTED]	Date
Respondent - City of Ashland, NE	Date

**signed by both the complainant and the Mayor of the City of Ashland on 12/12/2018*