

# CHAVES COUNTY GOVERNMENT



## **Americans with Disabilities Act**

## **Transition Plan**



**CHAVES COUNTY**

**#1 ST. MARY'S PLACE**

**ROSWELL NEW MEXICO**

ADA Transition Plan Adopted: 17 September 2015

**GOVERNING BODY**

**CHAVES COUNTY COMMISSIONERS:**

DISTRICT 1:	James W. Duffey, Commission Chairman
DISTRICT 2:	Kim Chesser
DISTRICT 3:	Kyle D. "Smiley" Wooton
DISTRICT 4:	Robert Corn, Commission Vice-Chairman
DISTRICT 5:	William E. Cavin

**COUNTY MANAGER:** Stanton L. Riggs, Esq.

**ADA COORDINATOR:** Bill Williams  
Public Services Director  
Chaves County  
1 Saint Mary's Place  
Roswell, NM 88203  
575.624.6600  
bwilliams@co.chaves.nm.us

## TRANSITION PLAN

### I. Background

The Americans with Disabilities Act (ADA) of 1990 is a Federal Civil Rights Legislation which mandates non-discrimination to persons with disabilities. The ADA, Title II prohibits discrimination by public entities on the basis of disability. Therefore, it is important that Chaves County and its funding recipients comply with all applicable laws and regulations, including those protecting persons with disabilities.

In order to accomplish this, Chaves County developed a Transition Plan by conducting a self-evaluation of the accessibility by persons with disabilities on its facilities; identifying issues of accessibility that need to be addressed; upgrading its program for improvement of those facilities and to comply with ADA mandated standards. Chaves County will progressively remove physical barriers to accessibility when facilities adjacent to and interior of facilities cannot be accessed.

Realizing that removing physical barriers will take time and money to upgrade the existing facilities, Chaves County's Transition Plan includes provisions to include specifications on all upcoming design projects, to comply with ADA requirements.

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

- A list of physical barriers in the public entity's facilities that limit accessibility of its programs, services, or activities to individuals with disabilities;
- A detail 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

Chaves County currently has standards that conform to ADA laws. These standards include ADA/ANSI Standards, as adopted by the State of New Mexico.

Chaves County encourages the development and construction of these facilities among its funding recipients and local governments to comply with all applicable laws and regulations, including those protecting persons with disabilities. Provide technical assistance and training to those entities, and offers supplemental resources that explain how accessibility can be integrated into local government projects.

In 2012, the Disability Rights Section of the Department of Justice's Civil Rights Division conducted a review of Chaves County's compliance with the following Title II requirements:

- To conduct a self-evaluation of its services, policies, and practices by 26 July 1992, and make modifications necessary to comply with the Department of Justice's Title II regulations, 28 C.F.R. § 35.105;

- To notify applicants, participants, beneficiaries, and other interested people of their rights and the County's obligations under Title II and the Department of Justice's regulation 28 C.F.R. § 35.106; (attached as Exhibit 'A')
- To designate a responsible employee to coordinate its efforts to comply with and carry out the County's ADA responsibilities, 28 C.F.R. §35.107(a);
- To establish a grievance procedure for resolving complaints of violations of Title II, 28 C.F.R. § 35.107(b); (attached as Exhibit 'B')
- To operate each program, service, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities, 28 C.F.R. §§ 35.149-.150, by:
  - Delivering of services, programs, or activities in alternate ways, including, for example, redesign of equipment, reassignment of services, assignment of aides, home visits, or other methods of compliance and/or;
  - Making physical changes to buildings (required to have been made by 26 January 1995), in accordance with the Department of Justice's Title II regulation, 28 C.F.R. §§ 35.150-.151, and the 1991 ADA Standards for Accessible Design (1991 ADA Standards), 28 C.F.R. Part 36, App. D (2011) or the Uniform Federal Accessibility Standards (UFAS), 41 C.F.R. §101-19.6, App. A, and the 2010 ADA Standards for Accessible Design (2010 Standards), 28 C.F.R. § 35.104;
  - To ensure that facilities for which construction or alteration was begun after 26 January 1992, are readily accessible to and usable by people with disabilities, in accordance with 1) the Department of Justice's Title II regulation and 2)the 1991 ADA Standards or UFAS, or the 2010 ADA Standards, as applicable, 28 C.F.R. § 35.151;
  - To ensure that communications with people with disabilities, including applicants, participants, and members of the public, are as effective as communications with others, including furnishing auxiliary aids and services when necessary, 28 C.F.R. § 35.160;
  - To provide access via TTY (text telephone) or computer-to-telephone emergency services, including 911 services, 28 C.F.R. § 35.162;
  - To provide information for interested people with disabilities concerning the existence and location of the County's accessible services, activities, and facilities, 28 C.F.R. § 35.163(b).

On 12 May 2015, Chaves County entered into a Settlement Agreement between The United States of America under the Americans with Disabilities Act.

## II. ADA Program

### A. Responsible Official

An ADA Coordinator has been designated by Chaves County as the person responsible for the development and implementation of the NMDOT ADA Transition Plan.

### B. Internal Review

In 2010, Chaves County conducted an inventory of its facilities. Chaves County's commitment to upgrade and implement ADA regulations is what makes the program work. Chaves County biannually reviews the fiscal allocation for ADA improvements, and assists local entities to improve facilities that present physical barriers, or to implement ADA regulations in new projects.

### C. Self-Evaluation

As required by ADA legislation, Chaves County has conducted a self-evaluation survey of all facilities within its jurisdiction in 2010; identifying any physical barriers to ensure their accessibility to persons with disabilities.

An Action Plan was subsequently completed by Chaves County, listing specific upcoming projects and/or facilities modifications needed. The target dates by which Chaves County will make the necessary changes will be consistent to those projects listed in the Infrastructure Capital Improvement Program.

## II. Transition Plan

### A. Prioritization

Chaves County strives to ensure all facilities providing County programs, services or other activities are easily accessible by all persons, regardless of ability. Prioritization criteria for removal of barriers that compromise access to County programs, services and other activities is as follows:

1. General public access and safety hazard conditions
2. Access to programs, services and other areas of activity
3. Access to public common areas that support County programs, services and other activities

### B. Facility Classification

Access to and utilization of the Chaves County facilities by individuals with disabilities is not compromised at this time. In general, the Local Public Agency (LPA) Road and Highway system provide traveling routes in which local and traveling public visit public buildings and other services. Sidewalks are the pedestrian travel way and are frequently obstructed by protruding barriers. Therefore, pedestrian destination from transportation

facilities is interrupted, and sometimes it is not accessible. Accessible ramps are absent or do not meet the current requirements. The following facility classifications were notorious during the District’s field survey:

1. Parking facilities and street parking lack accessible areas where a disabled person can merge into and out of the pedestrian facilities. Signage is missing or non-existing;
2. Stairs and handrails do not meet the shape and height requirements. Visual warnings are not provided at tread nosing;
3. Trees were found on the middle of the sidewalk. Prior to landscaping, pedestrian facilities were in compliance. Although landscaping projects provide beautification to the area, the tree planting location provided an obstruction to persons with disabilities.

C. Inventory

1. Chaves County maintains approximately 1,425 miles of rural roads, some of which are located within rural subdivisions. Chaves County rural subdivision regulations do not require curbs, gutters nor sidewalks, therefore, no physical barriers are identified regarding Chaves County roads.
2. Table 1, identifies Chaves County facilities that provide services, programs and other activities accessible to all persons regardless of ability.

**Table 1**

BUILDING NAME	ADDRESS			
CHAVES COUNTY COURTHOUSE AND JUVI	401 NORTH MAIN	ROSWELL	NM	88201
ROAD MAINTENANCE OFFICE AND SHOP	1505 EAST BRASHER ROAD	ROSWELL	NM	88201
COUNTY HEALTH CENTER/NMSU EXTENSION	200 EAST CHISUM	ROSWELL	NM	88201
BERRENDO FIRE STATION #1	2004 EAST COLLEGE	ROSWELL	NM	88201
BERRENDO FIRE STATION #2	908 WIGGINS ROAD	ROSWELL	NM	88201
DUNKEN FIRE STATION #2	500 PINON DUNKEN ROAD	PINON	NM	88201
EAST GRAND PLAINS FIRE STATION 1	3748 E. GRAND PLAINS ROAD	ROSWELL	NM	88201
PENASCO FIRE STATION #1	4821 RIO PENASCO ROAD	HOPE	NM	88201
PENASCO FIRE STATION #1	4821 RIO PENASCO ROAD	HOPE	NM	88201
PENASCO FIRE STATION #1	4821 RIO PENASCO ROAD	HOPE	NM	88201
PENASCO FIRE STATION #2	5678 RIO PENASCO ROAD	HOPE	NM	88201
SIERRA FIRE STATION #1	604 SOUTH BROWN ROAD	ROSWELL	NM	88203
SIERRA FIRE STATION #1	604 SOUTH BROWN ROAD	ROSWELL	NM	88203
SIERRA FIRE STATION #2	5108 SOUTH LEA	ROSWELL	NM	88201
MIDWAY FIRE STATION	6477 TEMPLETON ROAD	DEXTER	NM	88230
ADULT DETENTION CENTER	3701 SOUTH ATKINSON	ROSWELL	NM	88201
MIDWAY FIRE STATION #2	62 HONALULU ROAD	DEXTER	NM	88230
DUNKEN ROAD SHOP	500 PINON DUNKEN ROAD	DUNKEN	NM	88201

BUILDING NAME	ADDRESS			
RIO FELIX FIRE STATION	2194 FELIX CANYON ROAD	FLYING H	NM	88322
FLOOD CONTROL BUILDING	4230 WEST SECOND	ROSWELL	NM	88201
TRES AMIGOS MEDICAL COMPLEX	1600 SE MAIN STREET	ROSWELL	NM	88201
PECOS VALLEY MEDICAL COMPLEX	1602 SE MAIN STREET	ROSWELL	NM	88201
SHERIFF'S HAGERMAN SUBSTATION	7690 WICHITA ROAD	HAGERMAN	NM	88232
DUNKEN MOBILE HOME	500 PINON DUNKEN ROAD	DUNKEN	NM	88201
BERRENDO FIRE STATION #3	4603 NAVAJO ROAD	ROSWELL	NM	88201
ADMINISTRATION BUILDING	1 SAINT MARY'S PLACE	ROSWELL	NM	88201
EAST GRAND PLAINS FIRE STATION 2	6269 BAKER ROAD	ROSWELL	NM	88201
DISTRICT 8 FIRE DEPARTMENT	578 CHICKASAW ROAD	ROSWELL	NM	88201
MAINTENANCE SHOP	205 EAST HOBBS	ROSWELL	NM	88201
SHERIFF'S OFFICE STORAGE	207 EAST HOBBS	ROSWELL	NM	88201
DUNKEN FIRE STATION #1	496 PINON DUNKEN HIGHWAY	PINON	NM	88201

#### D. Targeted Barrier Removal Projects

Upon funding availability, Chaves County will implement a barrier removal program within the Local Public Agency (LPA) Right-of-Way facilities where the Statewide Transportation Improvement Program (STIP) changes cannot be made to effectively meet ADA requirements.

The top priority of the Chaves County Transition Plan is to make the County's existing facilities accessible. All Local government recipients to any funding will have to comply with all applicable laws and regulations, including those protecting persons with disabilities. When appropriate, the Local Public Agency (LPA) will replace existing facilities by reconstructing new ones, bringing them into compliance.

#### III. Construction Projects Schedule

Table 2 lists those projects that will be considered to enhance the ADA compliance within Chaves County.

**Table 2**

Project Name	Completion Date	Funding Source				
		FY	LGRANTS	FGRANTS	LFUNDS	LBONDS
CCADC – Remodel/Addition		2012				
<i>Phase 1</i>	2015				X	
<i>Phase 2</i>	1 Nov 2015				X	
CCCH- Sidewalk Replacement	2014	2013	X		X	
ADA Accessibility as per Settlement Agreement between the United States of America and Chaves County, New Mexico (see attachments G, H, I, J, K, L, and M)		2015 2016	X	X	X	

**SETTLEMENT AGREEMENT BETWEEN**  
**THE UNITED STATES OF AMERICA**  
**AND**  
**CHAVES COUNTY, NEW MEXICO**  
**UNDER THE AMERICANS WITH DISABILITIES ACT**

**DJ# 204-49-85**

---

**I. BACKGROUND**

**A. SCOPE OF THE INVESTIGATION**

The United States initiated this matter as a compliance review of Chaves County, New Mexico (County), under title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12134, and the United States Department of Justice's implementing regulation, 28 C.F.R. Part 35. Because Chaves County receives financial assistance from the Department of Justice, the review was also conducted under the authority of section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and the Department of Justice's implementing regulation, 28 C.F.R. Part 42, Subpart G.

The Disability Rights Section of the Department of Justice's Civil Rights Division conducted this review of Chaves County's compliance with the following title II requirements:

- to conduct a self-evaluation of its services, policies, and practices by July 26, 1992, and make modifications necessary to comply with the Department of Justice's title II regulation, 28 C.F.R. § 35.105;
- to notify applicants, participants, beneficiaries, and other interested people of their rights and the County's obligations under title II and the Department of Justice's regulation, 28 C.F.R. § 35.106;



## EXHIBIT "A"

- to designate a responsible employee to coordinate its efforts to comply with and carry out the County's ADA responsibilities, 28 C.F.R. § 35.107(a);
- to establish a grievance procedure for resolving complaints of violations of title II, 28 C.F.R. § 35.107(b);
- to operate each program, service, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities, 28 C.F.R. §§ 35.149-.150, by:
  - delivering of services, programs, or activities in alternate ways, including, for example, redesign of equipment, reassignment of services, assignment of aides, home visits, or other methods of compliance and/or;
  - making physical changes to buildings (required to have been made by January 26, 1995), in accordance with the Department of Justice's title II regulation, 28 C.F.R. §§ 35.150-.151, and the 1991 ADA Standards for Accessible Design (1991 ADA Standards), 28 C.F.R. Part 36, App. D (2011) or the Uniform Federal Accessibility Standards (UFAS), 41 C.F.R. § 101-19.6, App. A, and the 2010 ADA Standards for Accessible Design (2010 Standards), 28 C.F.R. § 35.104;<sup>1</sup>
- to ensure that facilities for which construction or alteration was begun after January 26, 1992, are readily accessible to and usable by people with disabilities, in accordance with 1) the Department of Justice's title II regulation and 2) the 1991 ADA Standards or UFAS, or the 2010 ADA Standards, as applicable, 28 C.F.R. § 35.151;
- to ensure that communications with people with disabilities, including applicants, participants, and members of the public, are as effective as communications with others, including furnishing auxiliary aids and services when necessary, 28 C.F.R. § 35.160;
- to provide direct access via TTY (text telephone) or computer-to-telephone emergency services, including 911 services, 28 C.F.R. § 35.162;
- to provide information for interested people with disabilities concerning the existence and

location of the County's accessible services, activities, and facilities, 28 C.F.R.

§ 35.163(a); and

- to provide signage at all inaccessible entrances to any facility, directing users to an accessible entrance or to information about accessible facilities, 28 C.F.R. § 35.163(b).

The United States reviewed compliance with the ADA's new construction and alterations requirements at the following facilities constructed or altered after January 26, 1992:

Administration Building

La Casa Community Health Center

Counseling Associates Building

Chaves County Joy Center

Chaves County Detention Center

Chaves County Courthouse

The program access review covered those of Chaves County's programs, services, and activities that operate in the following facilities that were constructed prior to January 26, 1992:

Juvenile Detention Center

Chaves County Road Department

FISK Building

Midway Joy Center

Chaves County Health Center

Tres Amigo Medical Complex

Pecos Valley Medical Complex

The Department conducted a program access review of the following polling places:

Grace Community Church

Berrendo Middle School

Girl Scouts Service Center

Roswell Sertoma Club

Central Nazarene Church  
Missouri Avenue Elementary School  
Berrendo Elementary School  
Roswell Baptist Temple  
Lake Arthur Community Center  
Dexter School Central Office  
St. Peter Church  
Goddard High School  
Hagerman Town Hall

This review was limited to the areas of the facilities used by the voting public: parking, the route from the parking area to the area used for voting, and the area used for voting.

The United States reviewed the Chaves County's emergency management and disaster prevention policies and the County's sidewalk maintenance policies to evaluate whether people with disabilities have an equal opportunity to utilize these programs.

The United States reviewed the County's Sheriff Department's policies and procedures regarding providing effective communication to people who are deaf or hard of hearing.

## **B. JURISDICTION**

1. The ADA applies to Chaves County because it is a “public entity” as defined by title II. 42 U.S.C. § 12131(1).
2. The United States is authorized under 28 C.F.R. Part 35, Subpart F, to determine the compliance of Chaves County with title II of the ADA and the Department of Justice's title II implementing regulation, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized, under 42 U.S.C. § 12133, to bring a civil action enforcing title II of the ADA.
3. The United States is authorized under 28 C.F.R. Part 42, Subpart G, to determine Chaves County's compliance with section 504 of the Rehabilitation Act of 1973, to issue findings,

and, where appropriate, to negotiate and secure voluntary compliance agreements.

Furthermore, the Attorney General is authorized, under 29 U.S.C. § 794 and 28 C.F.R.

§§ 42.530 and 42.108-.110, to suspend or terminate financial assistance to Chaves County provided by the Department of Justice should the United States fail to secure voluntary compliance pursuant to Subpart G or should the United States bring a civil suit to enforce the rights of the United States under applicable federal, state, or local law.

4. The parties to this Agreement are the United States of America and Chaves County.
5. Based on its review of Chaves County's programs, services, activities, and facilities, the United States has concluded that qualified individuals with disabilities, by reason of such disabilities, may be excluded from participation in or denied the benefits of many of Chaves County's programs, services, or activities or subjected to discrimination in violation of the ADA or section 504 of the Rehabilitation Act of 1973. The agreed upon remedial actions, below, are intended to remedy those violations.
6. In order to avoid the burdens and expenses of a further investigation and possible litigation, the parties enter into this Agreement.
7. In consideration of, and consistent with, the terms of this Agreement, the Attorney General agrees to refrain from filing a civil suit in this matter regarding paragraphs 9 through 78, except as provided in the section entitled "Implementation and Enforcement."

## **II. ACTIONS TAKEN BY CHAVES COUNTY**

8. Chaves County represents that it has taken actions to comply with the ADA and the Rehabilitation Act, including but not limited to the following:
  - a. The County has designated an ADA Coordinator;
  - b. The County has adopted a Notice of ADA Rights;
  - c. The County has adopted an ADA grievance procedure for persons with disabilities to bring issues to the attention of the ADA Coordinator or his designee, and to

appeal decisions to the County Manager or his designee; and

- d. The County prepared a Self Evaluation Survey in 2010 and Facility Transition Plan in 2011.

### **III. REMEDIAL ACTION**

#### **A. NOTIFICATION**

9. Within two (2) months of the effective date of this Agreement, Chaves County will adopt the attached Notice under the ADA, [Attachment A](#) (Notice); distribute it to all its agency heads; publish the Notice in a local newspaper of general circulation serving Chaves County; post the Notice on its Internet Home Page; and post the Notice in conspicuous locations in its public buildings. It will refresh each posted Notice, and update the contact information contained on each Notice, as necessary, during the term of this Agreement. Chaves County will provide the Notice to any person upon request.
10. Within three (3) months of the effective date of this Agreement, and annually thereafter, Chaves County will implement and send the United States its written procedures to inform interested people with disabilities of the existence and location of Chaves County's accessible programs, services, and activities.

#### **B. INDEPENDENT LICENSED ARCHITECT**

11. Within three (3) months of the effective date of this Agreement, Chaves County will retain an Independent Licensed Architect (ILA), approved by the United States, who is knowledgeable about the architectural accessibility requirements of the ADA and Section 504. The ILA must act independently to certify whether any alterations, additions, or modifications made by Chaves County during the term of this Agreement comply with the applicable standard pursuant to 28 C.F.R. § 35.151(c) and the Appendix to 28 C.F.R. § 35.151(c). Chaves County will bear all costs and expenses of retaining and utilizing the ILA, including the costs and expenses of any consultants and staff. Chaves County will compensate this ILA without regard to the outcome.

12. In issuing certifications pursuant to this Agreement, the ILA will impartially prepare reports with photographs identifying that the violation has been remediated and will use the certification form at [Attachment O](#). The ILA will be considered a neutral inspector for purposes of issuing certifications of compliance and will be reasonably available to the United States to discuss findings in the reports, photographs, and certifications. The United States may also, in its discretion, provide technical assistance to the ILA throughout the term of this Agreement. Upon request by the United States, Chaves County will provide prior notice to the United States of inspections by the ILA to allow representatives of the United States to be present.
13. Chaves County will submit ILA certifications along with its reporting requirements as set forth in this Agreement.

### **C. GRIEVANCE PROCEDURE**

14. Within three (3) months of the effective date of this Agreement, Chaves County will adopt the attached ADA Grievance Procedure, [Attachment B](#), distribute it to all of its agencies, and post copies of it in conspicuous locations in each of its public buildings. It will refresh each posted copy, and update the contact information contained on it, as necessary, for the term of the Agreement. Chaves County will provide copies to any person upon request.

### **D. GENERAL EFFECTIVE COMMUNICATION PROVISIONS**

15. Within three (3) months of the effective date of this Agreement, Chaves County will identify sources of qualified sign language and oral interpreters, qualified readers, real-time transcription services, and vendors able to put documents in Braille. Within this time Chaves County will implement and report to the United States its written procedures, with time frames, for fulfilling requests for sign language or oral interpreters, qualified readers, real-time transcription services, and documents in alternate formats, including Braille, large print, cassette tapes, and accessible electronic format (*e.g.*, HTML).
16. Chaves County will ensure that all appropriate employees are trained and practiced in

using the New Mexico Relay Service to make and receive calls, and report to the United States the details of the trainings and employees trained.

## **E. LAW ENFORCEMENT AND EFFECTIVE COMMUNICATION**

17. Within three (3) months of the effective date of this Agreement, the County will implement Chaves County Sheriff Office's *Policy Statement on Effective Communication with People Who are Deaf or Hard of Hearing*, [Attachment C](#), and distribute to all sheriff department officers the *Guide for Law Enforcement Officers When in Contact with People Who are Deaf or Hard of Hearing*, [Attachment D](#).
18. Within three (3) months of the effective date of this Agreement, Chaves County will hire or contract with local qualified oral and sign language interpreters to be available twenty-four hours every day to its sheriff department.
19. Within three (3) months of the effective date of this Agreement, Chaves County will equip each sheriff's station and each detention facility with a sufficient number of working TTYs and videophones, but no fewer than one (1) of each, to enable people who are deaf, hard of hearing, or who have speech impairments to make telephone calls of the same frequency and with the same availability as those people who do not use TTYs or videophones. Where telephone calls are time-limited, Chaves County will adopt policies permitting a longer period of time for individuals using a TTY, videophone, or relay service due to the slower nature of these communications as compared to voice communications. If any person who is deaf, hard of hearing, or who has speech impairment prefers a different method of communication, such as a captioned telephone or computer, Chaves County will make reasonable efforts to provide the communication device requested.

## **F. POLLING PLACES**

20. Some Chaves County polling places may be owned or operated by other public entities subject to title II or by public accommodations subject to title III and therefore they must provide program access or remove barriers to accessibility under the ADA. This

Agreement does not limit future enforcement action against the owners or operators of these polling places.

21. Before designating any new polling place, Chaves County will survey the polling place using the survey instrument at [Attachment F](#) to determine whether it has barriers to access by people with disabilities in the parking, exterior route to the entrance, entrance, interior route to the voting area, or voting area. If Chaves County finds any barriers, the County will not use the polling place until all barriers have been remedied.
22. The United States surveyed some of Chaves County's polling places. Barriers to access at polling places owned by Chaves County and the dates by which the County will remove barriers are listed in Attachments [I](#), [J](#), and [K](#).
23. Barriers to access at surveyed polling places not owned by Chaves County are listed in [Attachment E](#). The County is in the process of reducing the number of polling places designated for elections and may no longer use some of the polling places listed in Attachment E. For any polling place listed in Attachment E that will continue to be designated as a polling place, Chaves County will request in writing within one (1) month of the determination, that each of the remaining polling place owners and operators listed in Attachment E remove the listed barriers to access for people with disabilities within twelve (12) months of the effective date of this Agreement. Chaves County will provide a copy of the Department of Justice's *ADA Checklist for Polling Places* ([www.ada.gov/votingck.htm](http://www.ada.gov/votingck.htm)) with its written requests. Chaves County will simultaneously send courtesy copies of the requests to the United States.
24. Within fifteen (15) months of the effective date of this Agreement, the ILA hired by Chaves County will survey the facilities listed in Attachment E that are still designated as polling places to determine whether the listed barriers have been removed. If each listed barrier has not been removed, then, for that polling place, Chaves County will identify within eighteen (18) months of the effective date of this Agreement an alternate fully accessible polling place; and comply with paragraph 25 in doing so. Chaves County will immediately change its polling place to the alternative location. Chaves County will



remove barriers at each polling place identified in Attachment E or substitute an alternative accessible polling place before the next election occurring eighteen (18) months or later after the effective date of this Agreement.

25. Within six (6) months of the effective date of this Agreement, using the survey instrument at [Attachment F](#), the ILA hired by Chaves County will survey all polling places not surveyed by the United States to identify barriers to access by people with disabilities in the parking, exterior route to the entrance, entrance, interior route to the voting area, and voting area. For each surveyed polling place, Chaves County will then either (1) remove all barriers to access by people with disabilities and have the ILA confirm this to the United States or (2) identify an alternate polling place with no barriers to access by people with disabilities and comply with paragraph 25 in doing so. Chaves County will then take immediate steps to change each new inaccessible polling place to an alternative accessible location. Chaves County will remove barriers at each polling place the United States did not survey and have the ILA confirm this or substitute an alternative accessible polling place before the next election occurring nine (9) months or later after the effective date of this Agreement.

26. Until all polling places in each precinct or voting district have accessible parking, accessible routes to the accessible entrance, accessible entrances, accessible interior routes to the voting area, and an accessible voting area, prior to each election, Chaves County will identify and widely publicize to the public, people with disabilities, and organizations serving people with disabilities the most accessible polling place(s) in each precinct and voting district.

27. Within three (3) months of the effective date of this Agreement, Chaves County will provide Election Day balloting for voters with disabilities whose assigned polling place has accessibility barriers. The method for providing these opportunities may include implementing temporary remedies to make the polling place accessible on election day, allowing the individual to vote at another nearby accessible polling place, to vote by an absentee ballot that is accepted if postmarked on the day of the election (or picked up by

election officials at the home of the voter on the same day as the election), to vote curbside at the inaccessible polling place, or to vote by any other method that affords the same degree of information when casting their ballots as is available to others.

28. Within six (6) months of the effective date of this Agreement, the ILA hired by Chaves County will survey the County's voter registration locations for accessibility using the form at [Attachment F](#). The ILA will report the results of this survey to the United States. If the ILA identifies barriers to access, then the County will remove the barriers and have the ILA confirm the same to the United States or report to the United States its plan to provide program access that may include allowing people to register to vote through alternative means or at alternative locations verified to be accessible by the ILA. This provision does not modify, alter, or change the County's obligations under the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-5(a), (b).
29. Within three (3) months of the effective date of this Agreement, Chaves County will make all voter registration materials available in alternate formats, including Braille, large print, audio tape, and accessible electronic format (*e.g.*, HTML).
30. Within the month prior to the next election and annually thereafter during the term of this Agreement, Chaves County will train poll workers on the rights of people with disabilities and the practical aspects of assuring those rights. The training will cover, at a minimum, the need to maintain the physical accessibility of polling locations, how to assist people with disabilities, as necessary, and how to operate any non-standard voting equipment, including accessible voting systems, or accessible features of standard equipment. This provision does not modify, alter, or change the County's obligations under the Help America Vote Act, 42 U.S.C. § 15301.

## **G. EMERGENCY MANAGEMENT PROCEDURES AND POLICIES**

31. Chaves County's Emergency Operations Plan (EOP) must comply with the ADA. Chaves County will use Chapter 7 of the Department of Justice's *ADA Best Practices Tool Kit for State and Local Government (ADA Tool Kit)* to address ADA obligations of emergency

management, including planning, preparedness, evacuation, shelters, medical and social services, lodging and housing programs, recovery, and rebuilding.

32. Within six (6) months of the effective date of this Agreement, Chaves County will incorporate the provisions of Chapter 7 of the *ADA Tool Kit* into its EOP and provide a copy (including supporting documents) to the United States.
33. Chaves County's EOP will include the following:
  - a. Procedures to solicit, receive, and use input from people with a variety of disabilities on its emergency management plan (preparation, notification, response, and clean-up);
  - b. Community evacuation plans to enable people who have mobility disabilities, are blind or have low vision, are deaf or hard of hearing, have cognitive disabilities, mental illness, or other disabilities to safely self-evacuate or be evacuated by others;
  - c. If the County's emergency warning system uses sirens or other audible alerts, procedures to effectively inform people who are deaf or hard of hearing of an impending disaster;
  - d. A requirement that emergency shelters have a back-up generator and a way to keep medications refrigerated (such as a refrigerator or a cooler with ice). Access to back-up power and refrigeration at such shelters will be made available to people whose disabilities require access to electricity and refrigeration, for example, for using life-sustaining medical devices, providing power to motorized wheelchairs, and preserving certain medications, such as insulin, that require refrigeration. The written procedures will include a plan for notifying people of the location of such shelters;
  - e. Procedures ensuring that people who use service animals are not separated from their service animals when sheltering during an emergency, even if pets are normally prohibited in shelters. The procedures will not segregate people who use service

EXHIBIT "A"

animals from others but may take into account the potential presence of people who, for safety or health reasons, should not be in contact with certain types of animals; and

- f. Plans for providing equivalent opportunities for accessible post-emergency temporary housing to people with disabilities. Chaves County will ensure that information it makes available regarding temporary housing includes information on accessible housing (such as accessible hotel rooms within the community or in nearby communities) that could be used if people with disabilities cannot immediately return home after a disaster if, for instance, necessary accessible features such as ramps or electrical systems have been compromised.

## **H. WEB-BASED SERVICES AND PROGRAMS**

34. Within one (1) month of the effective date of this Agreement, Chaves County will:

- a. Designate an employee as the web accessibility coordinator for Chaves County who will be responsible for coordinating the County's compliance with the requirements of Section M of this Agreement. The web accessibility coordinator shall have experience with the requirements of title II of the ADA, the Web Content Accessibility Guidelines (WCAG) version 2.0, and website accessibility generally; and
- b. Retain an independent consultant, approved by the United States, who is knowledgeable about accessible website development, title II of the ADA, and WCAG 2.0 to evaluate Chaves County's website and any proposed online services for compliance with the ADA and, at minimum, WCAG 2.0 Level A and Level AA Success Criteria and other Conformance Requirements (WCAG 2.0 AA), and who shall be responsible for the annual website accessibility evaluation. Chaves County will bear all costs and expenses of retaining and utilizing this independent consultant, including the costs and expenses of any staff. Chaves County will compensate this independent consultant without regard to the outcome.

35. Within two (2) months of the effective date of this Agreement, and annually thereafter, Chaves County will:
- a. Adopt, implement, and post online a policy that its web pages will comply with WCAG 2.0 AA, published by the World Wide Web Consortium (W3C), Web Accessibility Initiative (WAI), available at [www.w3.org/TR/WCAG](http://www.w3.org/TR/WCAG);
  - b. Distribute the policy to all employees and contractors who design, develop, maintain, or otherwise have responsibility for its websites, or provide website content, technical support, or customer service;
  - c. Provide training to website content personnel on how to conform all web content and services with, at minimum, WCAG 2.0 AA, title II of the ADA, and the terms of this Agreement;
  - d. Incorporate provisions ensuring that all of Chaves County's webpages comply with WCAG 2.0 AA into the performance evaluations of the web accessibility coordinator and all employees and contractors who design, develop, maintain, or otherwise have responsibility for its websites, or provide website content, technical support, or customer service;
  - e. Assess all existing web content and online services for conformance with, at minimum, WCAG 2.0 AA, by: (1) performing automated accessibility tests of its website and all online services, using an automated tool approved by the United States, to identify any accessibility barriers; and (2) enlisting individuals with different disabilities, including at a minimum individuals who are blind, deaf, and have physical disabilities (such as those limiting the ability to use a mouse), to test its pages for ease of use and accessibility barriers;
  - f. Provide a notice, prominently and directly linked from its homepage, instructing visitors to its websites on how to request accessible information. The link shall provide several methods to request accessible information, including an accessible form to submit feedback, an email address, and a toll-free phone number (with TTY)

- to contact personnel knowledgeable about the accessibility of the website; and
- g. Provide a notice, prominently and directly linked from its homepage, soliciting feedback from visitors to its websites on how to improve website accessibility. The link shall provide several methods to provide feedback, including an accessible form to submit feedback, an email address, and a toll-free phone number (with TTY) to contact personnel knowledgeable about the accessibility of the website.
36. Within three (3) months of the effective date of this Agreement, Chaves County will:
- a. Ensure that its websites and all online services, including those websites or online services provided by third parties upon which Chaves County relies to provide services or content, comply with, at minimum, WCAG 2.0 AA; and
  - b. Assess all proposed online services before they are made available to the public for conformance with, at minimum, WCAG 2.0 AA, by: (1) performing automated accessibility tests, using an automated tool approved by the United States, to identify any accessibility barriers; and (2) enlisting individuals with different disabilities, including at a minimum individuals who are blind, deaf, and have physical disabilities (such as those limiting the ability to use a mouse), to test its pages for ease of use and accessibility barriers.

## **I. NEW CONSTRUCTION, ALTERATIONS, AND PHYSICAL CHANGES TO FACILITIES**

37. Any construction or alterations to Chaves County buildings and facilities by it or on its behalf will fully comply with the requirements of 28 C.F.R. § 35.151, including applicable architectural standards.
38. The parts of a County facility that do not comply with the 2010 ADA Standards (or the 1991 ADA Standards, as applicable), as listed in Attachments I, J, K, and [L](#), prevent people with disabilities from fully and equally enjoying the County services, programs, or activities and constitute discrimination on the basis of disability within the meaning of 42

U.S.C. § 12132 and 28 C.F.R. §§ 35.149-.151.

39. All architectural changes by Chaves County or on its behalf made on or after March 15, 2012, must comply with the 2010 ADA Standards.
40. In the event that Chaves County has already undertaken an alteration, addition, or other modification to any element identified in Attachments or otherwise after January 26, 1992, and prior to the Effective Date of this Agreement, the County will submit, within six (6) months, a written report to the ILA and the United States pursuant to paragraph 50 below summarizing the actions taken and providing evidence establishing each individual element's compliance with the applicable architectural standard as permitted by 28 C.F.R. § 35.151(c) and its Appendix, copied below:

Date of Construction or Alteration	Applicable Standards
<b>Before September 15, 2010</b>	1991 ADA Standards or UFAS
<b>On or after September 15, 2010, and before March 15, 2012</b>	1991 ADA Standards, UFAS, or 2010 ADA Standards
<b>On or after March 15, 2012</b>	2010 ADA Standards

41. Within six (6) months of the effective date of this Agreement, Chaves County will have the ILA survey all facilities that are the subject of this Agreement for the purpose of

identifying those that have multiple entrances not all of which are accessible. Also within six (6) months of the effective date of this Agreement, Chaves County will install directional signage at all inaccessible entrances to each of its facilities and will place the international symbol for accessibility at each accessible entrance to a facility, in accordance with 28 C.F.R. § 35.163(b).

42. Newly Constructed Facilities: Chaves County will take the actions listed in Attachments I and M to make the newly constructed parts of County facilities for which construction was commenced after January 26, 1992, readily accessible to and usable by people with disabilities.
43. Altered Facilities: Chaves County will take the actions listed in Attachments J and M to make the altered parts of County facilities for which alterations commenced after January 26, 1992, readily accessible to and usable by people with disabilities.
44. Program Access in Existing Facilities: Chaves County will take the actions listed in Attachments K and M to make each of the County's programs, services, and activities operating at a facility that is the subject of this Agreement, when viewed in its entirety, readily accessible to and usable by people with disabilities.
45. Facilities and Programs that the United States Did Not Survey: Chaves County will review compliance with the requirements of title II of the ADA for those County facilities and programs that the United States did not survey or review. The ILA will survey all Chaves County's facilities for compliance with title II of the ADA that the United States did not survey. Within one (1) year of the effective date of this Agreement, Chaves County will submit to the United States a detailed report from the ILA listing the access issues identified during the ILA's review together with the corrective actions and completion dates proposed to resolve such issues. The proposed completion dates may be no later than six (6) months prior to the termination of this Agreement. The survey conducted by the ILA, the access issues identified, and the corrective actions and completion dates proposed will be consistent with the requirements of title II of the ADA; the review of Chaves County facilities and programs conducted by the United States for



purposes of this Agreement; and the access issues, corrective actions, and completion dates reflected in Attachments I, J, K, and M.

## **J. PROGRAMS FOR VICTIMS OF DOMESTIC VIOLENCE AND ABUSE**

46. If Chaves County owns or operates any programs that provide shelter, counseling, or other assistance or supportive services to victims of domestic violence or abuse and their families (hereafter referred to as Domestic Violence Programs), within six (6) months of the effective date of this Agreement, it will do the following:

- a. Whatever written information is provided regarding its Domestic Violence Programs will also be provided in alternate formats, including Braille, large print, audio recording, and electronic formats (e.g., HTML), upon request.
- b. The County shall enter into contracts or make other arrangements with qualified sign language and oral interpreters to ensure their availability when required for effective communication with people who are deaf or hard of hearing. The type of aid that will be required for effective communication will depend on the individual's usual method of communication, and the nature, importance, and duration of the communication at issue. In many circumstances, oral communication supplemented by gestures and visual aids, an exchange of written notes, use of a computer, or use of an assistive listening device may be effective. In other circumstances, qualified sign language or oral interpreters are needed to communicate effectively with people who are deaf or hard of hearing. The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter will be required for effective communication with a person whose primary means of communication is sign language or speech reading.
- c. If Chaves County's Domestic Violence Programs operate a hotline to take telephone calls of an emergency nature, the County shall ensure that it provides equivalent service for people who use TTYs, including providing direct-connection service for

EXHIBIT "A"

TTY users with hotline operators, without requiring TTY users to call through a third party operator, such as through the state or local Telecommunication Relay Services. Chaves County will obtain the necessary equipment, establish the written procedures, and provide the training necessary to ensure effective communication by hotline staff with direct-connection callers using TTYs, as well as the training necessary to respond to callers who use the Telecommunication Relay Services.

- d. The County shall have the ILA survey all facilities used as shelters or designated as potential shelters or for counseling, job training, education, clothing or household provisioning, or other aspects of Domestic Violence Programs to ensure that adequate arrangements are available for potential clients and family members with disabilities, including adults and children who have mobility impairments, who are blind or have low vision, and who are deaf or hard of hearing. Within one (1) year of the effective date of this Agreement, the County shall modify each such facility to remove the barriers or, alternatively, procure another, fully accessible facility to ensure that potential clients and family members with disabilities have integrated options when participating in a sheltering or other Domestic Violence Program. Nothing in this Agreement requires any modifications that would compromise the confidentiality of a shelter or counseling center. Until there is a sufficient stock of accessible housing and other facilities within the sheltering program, Chaves County will implement written procedures ensuring that it has identified temporary accessible housing (such as accessible hotel rooms within the community or in nearby communities) and other facilities that could be used if people with disabilities need sheltering or in service access to a Domestic Violence Program. The cost to potential clients of being housed or otherwise served in alternate accessible facilities shall not exceed any costs normally attributed to clients of the County's Domestic Violence Programs.
- e. The County shall implement written procedures and modify, as appropriate, eligibility criteria, to ensure that no person with a disability is turned away from a shelter or otherwise denied the opportunity to benefit from the services of the

County's Domestic Violence Programs on the basis of disability.

- f. Chaves County shall implement written procedures to ensure that people with disabilities who use service animals are not denied or discouraged from participating in Domestic Violence Programs, are able to be housed and served in an integrated environment, and are not separated from their service animals while participating in the County's Domestic Violence Programs even if pets are normally not permitted in the facilities where such programs are conducted. The procedures will not unnecessarily segregate people who use service animals from others but may take into account the potential presence of people who, for safety or health reasons, should not be in contact with certain types of animals. If the County's Domestic Violence Programs require clients to make any payments for shelter or other services they provide, clients shall not be required to make additional payments because they or their family members use service animals.
- g. The County shall implement written procedures to ensure that reasonable modifications are made to the County's Domestic Violence Programs when necessary for a client or family member with a disability to participate in such programs, unless doing so would fundamentally alter the nature of the program.
- h. The County shall implement written policies to ensure that despite any "drug-free" policy of the County's Domestic Violence Programs, people with disabilities who use medication prescribed for their use are able to continue using such medication while participating in such programs or being housed in a shelter.
47. If Chaves County contracts with another entity to provide Domestic Violence Programs, it will ensure that the other entity complies with the preceding provisions on its behalf. If that entity will not comply with the preceding provisions, the County will nonetheless take all necessary steps to ensure that its program is accessible to people with disabilities.
48. Some of the County's shelters may be owned or operated by other public entities subject to title II or by public accommodations subject to title III and, as such, would be subject to

the obligation to provide program access or remove barriers to accessibility under the ADA. This Agreement does not limit such future enforcement action against the owners or operators of these facilities by any person or entity, including the Department.

49. This Agreement shall not be construed to require Chaves County to divulge confidential information relating to the location or existence of any Domestic Violence Programs, beyond what is otherwise required by applicable law or what is necessary for the Department to effectively enforce this Agreement.

#### **IV. MISCELLANEOUS PROVISIONS**

50. Except as otherwise specified in this Agreement, six (6) months after the effective date of this Agreement and annually thereafter until it expires, Chaves County will submit written reports to the United States summarizing its actions pursuant to this Agreement. Reports will include reports with certifications from the ILA, photographs showing measurements, architectural plans, notices published in the newspaper, and copies of adopted policies, among other things.
51. Throughout the term of this Agreement, consistent with 28 C.F.R. § 35.133(a), Chaves County will maintain the accessibility of its programs, activities, services, facilities, and equipment, including routinely testing accessibility equipment and routinely auditing the accessibility of its programs and facilities. This provision, however, does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. 28 C.F.R. § 35.133(b).
52. Within six (6) months of the effective date of this Agreement, Chaves County will submit for pre-approval by the United States a proposed training program, lasting at least half a day, on the requirements of the ADA and appropriate ways of serving people with disabilities. The submission will include a description of the training, the agenda, any handouts, and the name, title, and address of the trainer.
53. Within one (1) year of the effective date of this Agreement and annually thereafter, after approval of the training program by the United States, all County employees who have

direct contact with members of the public will be trained for at least a half day on the requirements of the ADA and appropriate ways of serving people with disabilities. Within thirty (30) days after each training Chaves County will submit to the United States the list of employees trained by position.

## **V. IMPLEMENTATION AND ENFORCEMENT**

54. Chaves County may seek to modify this Agreement because of changed conditions making performance impossible by notifying the United States in writing, setting forth the modification and the facts to support it. Until the United States agrees to the modification in writing, no modification will take effect. The United States' agreement will not be unreasonably withheld.
55. The United States may review compliance with this Agreement at any time. Chaves County will cooperate with the United States. If the United States believes that Chaves County has failed to comply with this Agreement, then the United States will notify the County in writing. If, after 30 days of providing Chaves County with written notice of non-compliance, the United States determines that the County has failed to come into compliance, the United States may institute a civil action in federal district court to enforce the terms of this Agreement and may take appropriate steps to enforce title II and section 504 of the Rehabilitation Act.
56. It is a violation of this Agreement for Chaves County to fail to comply in a timely manner with any of the requirements of this Agreement.
57. Failure by the United States to enforce any provision of this Agreement is not a waiver of the United States' right to enforce any provisions of this Agreement.
58. This Agreement is a public document. Chaves County will provide a copy of this Agreement to any person, upon request.
59. This Agreement (including its Attachments) is the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

EXHIBIT "A"

oral, made by either party will be enforceable. This Agreement does not remedy any other potential violations of the ADA or other federal law. This Agreement does not relieve Chaves County of its continuing obligation to comply with all aspects of the ADA and section 504 of the Rehabilitation Act.

60. This Agreement will remain in effect for three (3) years.

61. The person signing for Chaves County represents that he or she is authorized to bind Chaves County to this Agreement.

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

For Chaves County:

For the United States:

VANITA GUPTA

Principal Deputy Assistant Attorney  
General

EVE L. HILL,

Deputy Assistant Attorney General

REBECCA B. BOND, Chief

AMANDA MAISELS, Deputy Chief

By: /s/ Stanton L. Riggs

Stanton L. Riggs, County Manager

Chaves County

#1 St. Mary's Place

Roswell, New Mexico 88203

575-624-6602

575-624-6631 (fax)

Date: 2/19/15

By: /s/ Dov Lutzker

Dov Lutzker, Trial Attorney

Disability Rights Section - NYA

Civil Rights Division

U.S. Department of Justice

950 Pennsylvania Avenue, N.W. - NYA

Washington, DC 20530

(202) 307-0663

(202) 514-7821 (fax)

Date: 5/12/15

---

<sup>1</sup> Section 35.104 defines the 2010 ADA Standards as the requirements set forth in

EXHIBIT "A"

appendices B and D to 36 C.F.R. part 1191 and the requirements contained in subpart D of 28 C.F.R. part 36.

---

---

[Project Civic Access](#) | [ADA Home Page](#)