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Attorney for Plaintiff NEVA LEMA

8 U.S. DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10 GENEVA LEMA,
 11 Plaintiff,

CASE NO. 1:10-CV-00362-SMS

12 v.

CASE NO. 1:10-CV-01131-SMS

13 COMFORT INN, MERCED; COMFORT
 14 INN MERCED PARTNERSHIP;
 15 COMFORT INN MERCED
 16 HOSPITALITY; KASTURI LAL; EDWIN
 17 K. ANTHONY; MAX'S PARTNERSHIP,
 18 LLC; MAX'S PARTNERSHIP; DOES 1
 19 THROUGH 50, Inclusive,

**INJUNCTIVE ORDER REQUIRING
 AMELIORATION OF THE CITED
 ACCESS VIOLATIONS AT THE SUBJECT
 COMFORT INN AND COURTYARD
 MARRIOTT**

Defendants.

18 _____
 19 GENEVA LEMA,

Plaintiff,

20 v.

21 COURTYARD MARRIOTT MERCED;
 22 COURTYARD MERCED INC.;
 23 KASTURI LAL; EDWIN K. ANTHONY;
 24 MAX'S PARTNERSHIP, LLC; and
 25 MAX'S PARTNERSHIP; and DOES 1
 26 THROUGH 50, Inclusive,

Defendants.

26 _____ /

27 PURSUANT TO findings of law and fact in the Order of April 2, 2013 Granting
 28 Plaintiff's Motion for Summary Judgment (CD 89), the Court hereby orders Defendants to

1 conduct the following ameliorative work at the two subject hotels to accommodate the needs of
2 Plaintiff Geneva Lema and other similarly situated guests with disabilities whose physical
3 condition requires the use of a wheelchair (hereafter “wheelchair users”):^{1/}
4

5 **COMFORT INN:**

6
7 1. **Path of Travel from the Public Sidewalk.** Defendants shall provide a path of
8 travel from the public right of way that fully complies with the requirements of the 1989-CBC
9 §§ 110A(b)11B(4), 110A(b)11A(5) and 3325 and ADAAG 4.3.2, making sure that no portion
10 of this route exceeds 5% in slope except for areas where a fully compliant ramp has been
11 provided. [*Danz Comfort Inn Report (hereafter “CI Report”) at §1.001.*] No part of this
12 remediated route shall require wheelchair users to travel directly behind parked vehicles.
13 (1989-CBC §7102(d); and 2010-CBC §1109A.7(5).)

14 2. **Access to Main Entrance.** Defendants shall provide wheelchair users with
15 accessible entrances at all portals serving the facility in full compliance with the requirements
16 of 1989-CBC §3103A(i)3 and 3104A(a) and ADAAG §4.13. (*CI Report §1.002.*)

17 3. **Landing at Main Entrance.** At the registration lobby’s front entrance,
18 Defendants shall provide wheelchair users with a fully compliant level landing on both sides of
19 the door that has no slope greater than 2.0% in any direction, extends 24 inches beyond the
20 strike edge of the door, projects 60 inches out from the face of the closed door on the swing
21 side, projects 48 inches from the face of the door on the push side, and complies with all other
22 requirements for an accessible entrance, as specified by 1989-CBC §§ 3304(i)2B and

23
24 ¹ **Note:** All paragraphs herein are marked to reference the specific violations cited within the
25 two Danz Reports that accompanied Plaintiff’s Motion for Summary Judgment filed on August
26 3, 2012. (See Danz Reports at CD 78-4). However, the regulatory code sections referenced in
27 the Danz Reports have been corrected herein to reference the earlier codes that were actually in
28 effect during the year of each hotel’s original construction. Plaintiff’s Motion for Summary
Judgment advised that the original Danz Reports cited to the incorrect code years, and that this
fact was revealed during the course of discovery. Therefore Plaintiff’s motion supplied the
additional Declaration of Barry Atwood (CD 78-4), which provided the corrected code
references. (See Atwood Decl. at ¶ 7, and its reference to updated code sections at supporting

1 3304(i)2C and ADAAG §4.13.6. (*CI Report §1.003*; See *Deukmejian v. CHE, Inc.* (1983) 150
2 Cal.App.3d 123, 135 (*In newly constructed building, the “primary entrance” must be made*
3 *accessible*).

4 4. **Mat at Main Entrance.** At the registration lobby’s front entrance, Defendants
5 shall firmly attach the mat to the concrete in compliance with 1989-CBC §33301(f)3 and
6 ADAAG §§ 4.5.1 and 4.5.3, so that the mat stays affixed when a wheelchair user moves across
7 or turns upon it. (*CI Report §1.004*.)

8 5. **Signage.** Along all routes on site leading to the main entrance, Defendants shall
9 provide directional signage designating for wheelchair users the location of the accessible
10 entrance and the location of the accessible route used or needed to arrive at an accessible
11 location. (*Independent Resources v. Oregon Arena Corporation*, 1 F.Supp.2d 1124, 1150 (D.C.
12 Oregon 1998) (noting the importance of signage as an accessibility feature to avoid searching.)
13 Such signage shall fully comply with 1989-CBC §522(b)7 and ADAAG §§ 4.1.6(1)h and
14 4.30.7. (*CI Report §1.005*.)

15 6. **Parking.** The declarations and supporting photographs submitted to the Court
16 in support of Plaintiff’s Motion for Summary Judgment demonstrate that Defendants recently
17 installed three new designated accessible parking spaces in small lot on the north side of the
18 building, thus mooted the various separate parking conditions Danz had noted within the
19 western lot. (*See CI Report at §§ 4.001 thru 4.025*; and Supplemental Declaration of Barry
20 Atwood at CD 84, p. 3, ¶4, and supporting photographs at Exhibit C, images 00222 through
21 00229.) However, Atwood further testified that the newly created path of travel from two of
22 the new parking spaces requires wheelchair users to proceed behind parked vehicles other than
23 their own. (*Id.*) This is in direct violation of current Title 24 code requirements. (See CBC
24 §129B.3.3.) To correct the potential hazards created by this condition, Defendants shall
25 reconfigure the parking lot as necessary to ensure that no wheelchair users are required to pass
26 behind any vehicle other than their own in order to access the main entrances.

27 7. **Unisex Restroom.** At the public unisex restroom located within open-air
28

Exhibits 24 (Courtyard) and 25 (Comfort Inn).

**Injunctive Order Requiring Amelioration of the Cited Access Violations at Subject Comfort Inn and
Courtyard Marriott: Case Nos. 1:10-CV-00362-SMS & 1:10-CV-01131-OWW-SMS**

1 hallway on the first floor, Defendants shall perform the following work to make their facilities
2 accessible to guests with disabilities who use a wheelchair:

3 a. Relocate the soda vending machine to provide wheelchair users with a
4 24 inch minimum strike side clearance for the entry door to the restroom, as required by 1989-
5 CBC §3304(i.1)2c and ADAAG 4.13.6. (*CI Report at §2.001.*)

6 b. Provide compliant ADAAG signage at the strike side of the door per
7 ADAAG §4.30.6 to advise wheelchair users that the facility is accessible for their use.
8 (*CI Report at §2.003.*)

9 c. Provide compliant Title 24 signage on the face of the door per 1989-
10 CBC §511.1(a)6 to advise wheelchair users that the facility is accessible for their use.
11 (*CI Report at §2.004.*)

12 d. Adjust the door closer so that it requires no more than 5 lbs. to operate as
13 required by 1989-CBC §3304(i.2) and ADAAG 4.19.2. (*CI Report at §2.005.*)

14 e. Install a lavatory so that it provides knee space of a minimum height of
15 29 inches above the finished floor at the front face, and 27 inches above the finished floor at the
16 distance of 8 inches back from the front face, as required by 1989-CBC §1504(a) and ADAAG
17 §4.19.2. (*CI Report at §2.006.*)

18 f. Provide insulation on the hot water supply line and the P-Trap under the
19 lavatory to protect wheelchair users from contact with sharp and hot objects under the sink, in
20 compliance with 1989-CBC 1504(b) and ADAAG §4.19.4. (*CI Report at §2.007.*)

21 g. To accommodate the lowered viewing height of wheelchair users,
22 remount the mirror so that it is set no higher than 40” above the finished floor to the bottom of
23 its reflective edge. This is required by 1989-CBC §3105A(b)4A(ii) and ADAAG §4.19.6.
24 (*CI Report at §2.008.*)

25 h. To accommodate the limited reach range of wheelchair users, relocate
26 the soap dispenser so that the centerline of its operating mechanism is mounted no higher than
27 40 inches above the finished floor, as required by 1989-CBC §511.1(b)1B and ADAAG
28 §4.23.7. (*CI Report at §2.009.*)

1 i. To accommodate the limited reach range of wheelchair users, relocate
2 the sanitary seat cover dispenser so that the centerline of its dispensing portion is mounted no
3 higher than 40 inches above the finished floor, as required by 1989-CBC §511.1(b)2 and
4 ADAAG §4.23.7. (*CI Report at §2.010.*)

5 j. To accommodate the limited reach range of wheelchair users, relocate
6 the tissue dispenser so that the centerline of its dispensing portion is mounted no higher than 40
7 inches above the finished floor, as required by 1989-CBC §511.1(b)3 and ADAAG §4.23.7.
8 (*CI Report at §2.011.*)

9 k. To accommodate the limited reach range of wheelchair users, relocate
10 the sanitary napkin dispenser so that the centerline of the highest operable mechanism is
11 mounted no higher than 40 inches above the finished floor, as required by 1989-CBC
12 §511.1(b)2 and ADAAG §4.23.7. (*CI Report at §2.012.*)

13 l. To accommodate the limited reach range of wheelchair users, remount
14 the sanitary napkin disposal box so that it is located under the grab at a minimum height of 19
15 inches above the finished floor, and is positioned so that the centerline of the fixture is
16 positioned within 12 inches from the front face of the toilet, as required by 1989-CBC
17 §511.1(b)3 and ADAAG §§4.16.6 and 4.26.2. (*CI Report at §2.013.*)

18 m. To accommodate the limited reach range of wheelchair users, relocate
19 the paper towel dispenser so that the centerline of the dispensing portion is mounted no higher
20 than 40 inches above the finished floor, as required by 1989-CBC §3105(b)4.B and ADAAG
21 §4.23.7. (*CI Report at §2.010.*)

22 n. To accommodate the limited reach range of wheelchair users, relocate
23 the trash bin so that the top edge of its receiving portion is mounted no higher than 40 inches
24 above the finished floor, as required by 1989-CBC §511.1(b)2 and ADAAG §4.23.7.
25 (*CI Report at §2.015.*)

26 o. To ensure the safety of wheelchair users, provide a minimum of 28
27 inches of clear transfer space from the side of the toilet to the nearest wall hung fixture, or 32
28 inches at the side of the toilet to the adjacent wall, partition or other obstruction. This work

1 shall be conducted in full compliance with 1989-CBC §511.1(a)8 and ADAAG §4.16.2.
2 (*CI Report §2.016.*)

3 p. To ensure the safety of wheelchair users, provide a compliant transfer
4 space in front of the toilet that is level and clear and is a minimum dimension of 48 inches deep
5 by 30 inches wide, as required by 1989-CBC §511.1(a)8 and ADAAG 3.16.2. (*CI Report*
6 *§2.017.*)

7 q. To ensure the safety, and accommodate the limited reach range of
8 wheelchair users, remount the toilet paper dispenser to a fully compliant position under the
9 grab bar that is a minimum of 19 above the finished floor and within 12 inches of the front face
10 of the toilet fixture, as required by 1989-CBC §511.1(b)3 and ADAAG §§ 4.16.6 and 4.26.2.
11 (*CI Report §2.018.*)

12 8. **Number and Range of Accommodation for Guestrooms.** To ensure that the
13 persons using wheelchairs have an adequate number of fully compliant designated-accessible
14 guestrooms at the subject hotel that reasonably match the existing range of choice and
15 accommodation already available to the general public, Defendants shall reconfigure a
16 minimum total of three (3) guestrooms so that they are fully compliant with the accessibility
17 requirements of the code. One of the three rooms shall be standard designated accessible room
18 equipped with a queen bed. The second shall be standard designated accessible guestroom
19 equipped with two double-sized beds. The third shall be a designated accessible suite. This is
20 required by 1989-CBC §1214.1(a)1 and ADAAG §9.1.4(1). (*CI Report at §3.101.*)

21 9. **Accessibility of Designated Guestrooms.** In all current hotel guestrooms on
22 the site that are designated as accessible for wheelchair using guests (or that shall be so
23 designated and configured after conducting the ameliorative work required herein), Defendants
24 shall perform the following corrective work as necessary:

25 a. To assist wheelchair users to get through the doors provide a compliant
26 door landing on the push side of the doors that includes a clear space beside all of the strike
27 edges of the doors that extend 18” beyond the swing of all doors in each accessible unit, as
28 required by 1989-CBC §3304(i.1)2C and ADAAG §4.13.6. (*CI Report at §3.002 regarding*

1 existing condition in typical designated accessible guestroom No. 101 (hereafter “Re GR101”).

2 b. To provide enough room for a wheelchair user to get through door,
3 reconfigure the interior space, or remove any obstructions that are located within 60” from the
4 face of the closed door on the pull side, as necessary to provide a fully compliant landing on
5 this side of door in all designated accessible guestrooms, as required by 1989-CBC
6 §3304(i.1)2B and ADAAG §4.13.6. (*CI Report §3.003 Re GR101.*)

7 c. To accommodate the limited reach range of wheelchair users, relocate
8 the thermostat so it is adjacent to a 30” by 48” clear floor space, and so that is mounted at a
9 maximum height of 48” above the finished floor to the centerline of the highest operable part,
10 as required by 1989-CBC §522(c)3 and ADAAG §4.27.2. (*CI Report at §3.004 Re GR101.*)

11 d. To ensure that wheelchair users are able to maneuver through the room
12 to the clear floor space required beside the bed, reconfigure the room layout as necessary to
13 ensure the minimum distance between the end of the bed and the refrigerator is 36 inches, as
14 required by 1989-CBC §3315.1(b) and ADAAG §9.2.2(2). (*CI Report at §3.005 Re GR101.*)

15 e. To ensure that a wheelchair user is able to approach the telephone and
16 lamp on the table beside the bed, reconfigure the furniture and room footprint as necessary to
17 provide a path of travel between the bed and the desk that is a minimum of 36 inches clear, as
18 required by 1989-CBC §§ 3315.1(b), and ADAAG §§ 9.2.2 and 4.2.1. (*CI Report at §3.006 Re*
19 *GR101.*)

20 f. To provide ensure that wheelchair users can open and close the drapes,
21 replace the pull line with a compliant baton or other mechanism that does not require grasping,
22 pinching or twisting of the wrist to operate, as required by ADAAG §2.27.4. (*CI Report at*
23 *§3.007 Re GR101.*)

24 g. To ensure that a wheelchair user has the clear floor space required to
25 open the bathroom door, reconfigure the layout of the room to provide a landing on the pull
26 side of the door that has a 60 inch minimum clear space between the face of the closed door
27 and the nearest obstruction, as required by 1989-CBC §3304(i.1)2B and ADAAG §4.13.6.
28 (*CI Report at §3.008 Re GR101.*)

1 h. To ensure that an individual using a wheelchair has the necessary space
2 in front of the sink to approach and use it, provide a clear floor space in front of the fixture that
3 has a minimum dimension of 48 inches (measured perpendicular to the face of the sink) by 30
4 inches wide, as required by 1989-CBC §511.1(b)1A and ADAAG §4.19.3. (*CI Report at*
5 *§3.009 Re GR101.*)

6 i. To ensure that wheelchair users do not jam their knees into the bottom of
7 the sink, raise the fixture to provide a clear floor space underneath that is a minimum of 29
8 inches above the finished floor at the front face of the fixture, and 27 inches above the finished
9 floor at a distance of 8 inches back from the front face of the fixture, as required by 1989-CBC
10 §1504A and ADAAG §4.19.2. (*CI Report at §3.010 Re GR101.*)

11 j. To ensure that an individual using a wheelchair can actually reach in and
12 use the sink, provide a new fixture that has the top set at a maximum height of 34 inches above
13 the finished floor, as required by 1989-CBC §1504A and ADAAG §4.19.2. (*CI Report at*
14 *§3.011 Re GR101.*)

15 k. To accommodate the limited reach range of individuals who use
16 wheelchairs, lower the towel rack to a maximum height of 40 inches above the finished floor,
17 as required by 1989-CBC §511.1(b)2 and ADAAG §§ 4.2.5 and 4.2.6. ((*CI Report at §3.012*
18 *Re GR101.*)

19 l. To optimize the usability and safety of wheelchair users during transfer
20 to the toilet, move the fixture so that it is exactly 18 inches on center from the closest adjacent
21 wall, as required by ADAAG §4.16.2. (*CI Report at §3.013 Re GR101.*)

22 m. To provide the space needed for a wheelchair user to make a front
23 transfer onto the fixture, provide a clear floor space in front of the toilet that has a minimum
24 length of 48 inches measured perpendicular to the face of fixture by 30 inches wide, as required
25 by 1989-CBC §511.1(a)7B and ADAAG §4.16.2. (*CI Report at §3.014 Re GR101.*)

26 n. To provide the clear floor space needed for a wheelchair user to make a
27 side transfer onto the toilet, provide a clear floor space beside the fixture that has a minimum
28 width of 28 inches between the edge of the toilet and the edge of a wall-hung sink mounted on

1 the same wall, or 32 inches from the side of the toilet to the closest wall or obstruction of any
2 kind, as required by 1989-CBC §511.1(a)7B and ADAAG §4.16.2. (*CI Report at §3.015 Re*
3 *GR101.*)

4 o. To optimize the usability and safety of the side grab bar for wheelchair
5 users, lower the element to a height of 33 inches on center above the finished floor, as required
6 by 1989-CBC §511.1(a)9A and ADAAG §4.16.4. (*CI Report at §3.016 Re GR101.*)

7 p. To optimize the usability and safety of the side grab bar for individuals
8 using wheelchairs, remove the towel rack currently located above, and obstructing the use of
9 the grab bar, and relocate it so it is beside a 30 by 48 inch clear floor space, and set a maximum
10 height of 40 inches above the finished floor, as required by 1989-CBC §§ 511.1(a)9A and
11 511.1(b)2, and ADAAG §4.26.2. (*CI Report at §3.017 Re GR101.*)

12 q. To optimize the usability and safety of the rear grab for wheelchair users
13 making a transfer, replace the existing element with a 36 inch grab bar mounted on the wall
14 behind the toilet at a height of 33 inches on center above the finished floor, as required by
15 1989-CBC §511.1(a)9A and ADAAG §4.16.4. (*CI Report at §3.018 Re GR101.*)

16 r. To accommodate the lower strength of individuals with disabilities using
17 wheelchairs, replace the slide control on the shower wand so that the force required to operate
18 the adjustment lever is no more than 5 lbs. of pressure, as specified by 1989-CBC §1505(a) and
19 ADAAG §4.27.4. (*CI Report at §3.019 Re GR101.*)

20 s. To optimize the safety and ability of wheelchair users to transfer onto the
21 shower bench, replace the existing L-shaped bench so that the short leg of the L is located
22 adjacent to the rear wall of the shower compartment, as required by 1989-CBC
23 §511.1(a)10A(4) and ADAAG §4.21.3. (*CI Report at §3.020 Re GR101.*)

24 t. To protect wheelchair users from overhanging obstructions during use of
25 the shower, replace the towel rack in the back of the shower stall with a model that projects no
26 more than 4 inches off the face of the wall, as required by 1989-CBC § 522(f)1 and ADAAG
27 §4.4.1. (*CI Report at §3.022 Re GR101.*)

28 u. To ensure that circulation in the shower compartment, and transfer onto

1 and off the bench, is safe for wheelchair users, alter the floor as necessary to eliminate any
2 slope that is greater than 2% in any direction, as required by 1989-CBC §3015A(b)2B(iii).
3 (*CI Report at §3.023 Re GR101.*)

4 **10. Continental Dining Area.**

5 a. To accommodate the reduced strength of wheelchair users, adjust the
6 push force required open the door to the dining area to the 90 degree open position so that it is a
7 maximum of 5 lbs. of pressure, as specified by 2010-CBC §1133B.2.5. (*CI Report at §5.001.*)

8 b. To facilitate entry into the room by individuals using wheelchairs,
9 replace the existing threshold with a unit that has a maximum vertical rise of ¼ inch above the
10 finished floor, or ½ inch beveled, on either side of the threshold, as required by 1989-CBC
11 §3301(i.1)1 and ADAAG §4.13.8. (*CI Report at §5.002.*)

12 **11. Pool and Spa.**

13 a. To facilitate entry into the pool by wheelchair users, provide a fully
14 compliant pool lift that is self-operable, and has a rigid seatback, which is capable of rotating
15 and lowering and raising disabled individuals with mobility impairments to and from the water,
16 as required by 1989-CBC § 611(c)3C; and 2010-CBC §1141A.2. (*CI Report at §5.101.*)

17 b. To ensure that the safety equipment is available to individuals who use
18 wheelchairs, remount these items so that they are set no higher than 54 inches above the
19 finished deck for a side approach, or 48 inches above the finished deck for a front approach, as
20 required by 1989-CBC §522(c)4. (*CI Report at §5.102.*)

21 c. To ensure entry into and exit from the pool area by individuals using
22 wheelchairs, reconfigure the slopes within the required level landings at the gate so there is no
23 slope greater than 2% in any direction within these areas, as required by 1989-CBC §3304(i.1)
24 and ADAAG §§ 4.13.3 and 4.13.6. (*CI Report at §5.103.*)

25 d. To facilitate entry into the pool area by individuals using wheelchairs,
26 replace the existing threshold at the gate with a unit that has a maximum vertical rise of ¼ inch
27 above the finished floor, or ½ inch beveled, on either side of the threshold, as required by 1989-
28 CBC §3301(i.1)1 and ADAAG §4.13.8. (*CI Report at §5.104.*)

1 e. To facilitate a safe path of travel around the pool for individuals using
2 wheelchairs, reconfigure the surface so that there is no opening along the entire path of travel
3 that is wider than ½ inch, and ensure that the long dimension of the opening runs perpendicular
4 to the dominate direction of travel, as required by 1989-CBC §3325(b) and ADAAG §4.5.4.
5 (*CI Report at §5.105.*)

6 f. To facilitate a usable path of travel around the pool for wheelchair users,
7 reconfigure the surface so the cross-slopes perpendicular to the dominant direction of travel are
8 no greater than 2%, as required by 1989-CBC §3325(a)3 and ADAAG §4.3.7. (*CI Report at*
9 *§5.106.*)

10 g. To ensure that the safety hook for the pool is available to wheelchair
11 users in an emergency, lower the height of the hook to a maximum of 54 inches above the
12 finished surface for a side approach, or 48 inches for a front approach, as required by 1989-
13 CBC § 522(c)4. (*CI Report at §5.107.*)

14 h. To ensure that the table is usable by an individual using a wheelchair,
15 replace the existing fixture with a model that has knee space underneath it that is a minimum of
16 27 inches high, 30 inches wide, and projects under the table a minimum of 19 inches, as
17 required by ADAAG §4.32.3. (*CI Report at §5.108.*)

18 i. To ensure that there is a usable path of travel around the spa, reconfigure
19 the surface so that the cross-slope has a maximum pitch of 2% measured perpendicular to the
20 dominant direction of travel, as required by 1989-CBC §3325(a)3 and ADAAG §4.3.7.
21 (*CI Report at §5.109.*)

22 12. **Vending/Ice Machine Area.** To ensure safe passage for individuals using
23 wheelchairs in vending area, reconfigure the slope of the surface into, through and out of the
24 area, so that that there is no slope within it greater than 5% in the direction of travel, as required
25 by 1989-CBC §3325(c) and ADAAG §§ 4.5.2 and 4.8. (*CI Report at §5.201 thru 5.203.*)

26 13. **Sauna.**

27 a. To ensure that an individual using a wheelchair can get into, turn around
28 and leave the sauna, reconfigure the space so there is 60 inch diameter circle, or a compliant

1 T-shaped turn around space, within the room, as required by 1989-CBC §511.1(a)7A and
2 ADAAG §4.2.3. (*CI Report at §5.301.*)

3 b. To ensure that an individual using a wheelchair can use the footrest on
4 the chair to push the door open, provide a smooth uninterrupted surface along the entire bottom
5 edge of the push side of the door, which extends a minimum of 10 inches above the finished
6 floor, as required by 1989-CBC §3304(i.3). (*CI Report at §5.302.*)

7 c. To ensure that an individual using a wheelchair can reach the controls of
8 the sauna, lower the height of the timing and temperature-setting switches, so that the highest
9 operable part of both elements is set a maximum height of 48 inches above the finished surface,
10 as required by 1989-CBC §522(c)3 and ADAAG §4.2.5. (*CI Report at §5.303.*)

11 d. To accommodate the limited ability of wheelchair users to reach,
12 leverage, grasp, pinch and turn objects from the seated position, replace the existing timer
13 control with a device that does not require the actions of grasping, pinching or twisting of the
14 wrist, as required by ADAAG §4.27.4. (*CI Report at §5.304.*)

15 e. To ensure safe passage for individuals using wheelchairs approaching
16 the spa entrance, reconfigure the slope of the surface into, through and out of this area, so that
17 that there is no slope within it greater than 5% in the direction of travel, as required by 1989-
18 CBC §3307(a) and ADAAG §4.5.2 and 4.8. (*CI Report at §5.305.*)

19
20 **COURTYARD MARRIOTT:**

21 **14. Lobby Area.**

22 a. To accommodate the reduced strength of wheelchair users, adjust the
23 door from the lobby to the gazebo area so that the force required push it to the 90 degree open
24 position is a maximum of 5 lbs. of pressure, as specified by 2010-CBC §1133B.2.5. [*Danz*
25 *Courtyard Marriott Report (“CY Report”) at §1.001.*]

26 b. To facilitate passage through the door by a wheelchair user, reconfigure
27 the space so that the available clear floor space on the pull side of the door extends a minimum
28 of 24 inches beyond the strike edge of the door, as required by 2002-CBC §1133B.2.4.2 and

1 Figures 11B-26A and 11B-26B and ADAAG §4.13.6. (*CY Report at §1.002.*)

2 **15. Women’s Public Restroom.**

3 a. Provide compliant ADAAG signage at the strike side of the door per
4 ADAAG §4.30.6 to advise wheelchair users that the facility is accessible for their use.
5 (*CY Report at §2.001.*)

6 b. To accommodate the reduced strength of wheelchair users, adjust the
7 door from the lobby to the gazebo area so that the force required push it to the 90 degree open
8 position is a maximum of 5 lbs. of pressure, as specified by 2010-CBC §1133B.2.5.3.
9 (*CY Report at §2.002.*)

10 c. To accommodate the limited reach range of wheelchair users, relocate
11 the sanitary napkin dispenser so that the centerline of the highest operable mechanism is
12 mounted no higher than 40 inches above the finished floor, as required by 2001-CBC
13 §1115B.9.2 and ADAAG §4.23.7. (*CY Report at §2.003.*)

14 d. Remount the lavatory so that it provides knee space of a minimum
15 dimension of 29 inches above the finished floor at the front face and 27 inches above the
16 finished floor at the distance of 8 inches back from the front face, as required by 2002-CBC
17 §1117B.6.4 and ADAAG §4.19.2. (*CY Report at §2.004.*)

18 e. To optimize the usability and safety of wheelchair users during transfer
19 to the toilet, move the fixture so that it is exactly 18 inches on center from the closest adjacent
20 wall, as required by 2002-CBC §1115B.7.1.3 and ADAAG §4.16.2. (*CY Report at §2.005.*)

21 f. To optimize the usability and safety of the side grab bar for wheelchair
22 users, lower the element to a height of 33 inches on center above the finished floor, as required
23 by 2002-CBC §1115B.8.1 and ADAAG §4.16.4. (*CY Report at §2.007.*)

24 g. To accommodate the limited reach range of wheelchair users, relocate
25 the sanitary seat cover dispenser (which is currently mounted above grab bar so as to obstruct
26 it’s usable length), so it is adjacent to a clear ground floor space of 30 inches by 48 inches,
27 ensuring that it does not obstruct any portion of the rear and side grab bars, and while ensuring
28 that the centerline of the element’s dispensing portion is set no higher than 40 inches above the

1 finished floor, as required by 2002-CBC §§ 1115B.9.2, 1118B.4.1, 1115B.8.2 and ADAAG
2 §§ 4.23.7, 4.2.4.1 and 4.26.2. (*CY Report at 2.008 thru 2.009.*)

3 h. To accommodate the limited reach range of wheelchair users, lower the
4 coat hook to a maximum height of 48 inches above the finished floor, as required by 2002-CBC
5 §1118B.5 and ADAAG §4.23.7. (*CY Report §2.010.*)

6 i. To ensure that an individual using a wheelchair can safely enter, turn
7 around and leave the restroom, reconfigure the room so that the swing of the door does not
8 overlap the required 60 inch turning space, and remains safe and clear, as required by 2002-
9 CBC §1115B.7.1.1 and ADAAG §§ 4.22.3 and 4.17.5. (*CY Report §2.011.*)

10 j. To accommodate the limited reach range of wheelchair users, lower the
11 paper towel dispenser to a maximum height of 40 inches above the finished floor to the
12 centerline of the dispensing portion, as required by 2002-CBC §1115B.9.2 and ADAAG
13 §4.23.7. (*CY Report §2.012.*)

14 k. To accommodate the limited reach range of wheelchair users, lower the
15 trash receptacle box to a maximum height of 40 inches above the finished floor to its top edge,
16 as required by 2002-CBC §1115B.9.2 and ADAAG §4.23.7. (*CY Report §2.013.*)

17 l. To accommodate the limited reach range of wheelchair users, lower the
18 GFI outlet to a maximum height of 40 inches above the finished floor to the centerline of its top
19 receptacle, as required by 2002-CBC §1115B.9.2 and ADAAG §4.23.7. (*CY Report §2.014.*)

20 16. **Standard Guestrooms – Push Pressure.** To facilitate the safe passage into the
21 standard (non-designated) guestrooms by wheelchair users, adjust the push pressure required to
22 open all doors to the 90 degree open position to a maximum force of 5 lbs. of pressure, as
23 specified by 2002-CBC §1133B.2.5 and ADAAG §4.13.11. (*CY Report at §3.102 Re Typical*
24 *Standard Guestroom 105.*)

25 17. **Designated Accessible Guestrooms 104 and/or 220.**

26 a. To facilitate easy passage through the main entry door for a wheelchair
27 user, provide a clear floor space on the pull side of the door that extends a minimum of 18
28 inches beyond the strike edge of the door, as required by 2002-CBC §1133B.2.4.3 and

1 ADAAG §4.13.6. (*CY Report at §3.002 Re Guestroom 104.*)

2 b. To facilitate the safe passage into this room by wheelchair users, adjust
3 the push pressure required to open the door to guestroom 220 to the 90 degree open position is
4 a maximum force of 5 lbs. of pressure, as specified by 2002-CBC §1133B.2.5 and ADAAG
5 §4.13.11. (*CY Report at §3.302 Re Guestroom 220.*)

6 c. To accommodate the limited reach range of wheelchair users, lower the
7 security lock on the door to a maximum height of 48 inches above the finished floor, as
8 required by 2002-CBC §1118B.5 and ADAAG §4.13.9. (*CY Report at §3.003 Re GR104.*)

9 d. To facilitate the unobstructed use of the closet, remove the closet doors
10 to bring the interior elements within the required reach ranges, as required by 2002-CBC
11 §1125B.2 and ADAAG §4.25.2. (*CY Report at §3.004 Re GR104.*)

12 e. To facilitate safe and easy passage through the bathroom door for a
13 wheelchair user, provide a clear floor space on the pull side of the door that extends a minimum
14 of 18 inches beyond the strike edge of the door, as required by 2002-CBC §1133B.2.4.3 and
15 ADAAG §4.13.6. (*CY Report at §3.005 Re GR104.*)

16 f. To protect wheelchair users from burning or abrading their knees or legs
17 on the drain pipe or the hot water feed under the sink in the bathroom, provide insulation on
18 these two elements, as required by 2002-CBC §1504.2.2 and ADAAG §4.19.4. (*CY Report at*
19 *§3.006 Re GR104 and §3.304 Re GR220.*)

20 g. To allow wheelchair users to approach and get under the sink,
21 reconfigure the interior of the bathroom to provide a clear floor space in front of the sink that
22 has a minimum length of 48 inches (measured perpendicular to the front face of the sink) by 30
23 inches, as required by 2002-CBC §1115B.9.1.1 and ADAAG §4.19.3. (*CY Report at §3.007 Re*
24 *GR104 and §3.303 Re GR220.*)

25 h. To ensure that wheelchair users are able to move their chair adjacent to
26 each of the fixtures in the restroom, reconfigure the space to provide a 36 inch minimum path
27 of travel from the edge of the sink and edge of the shower seat in the folded down position, as
28 required by 2002-CBC §1118B.1 and ADAAG §4.3.3. (*CY Report at §3.008 Re GR104.*)

1 i. To optimize the usability and safety of wheelchair users during transfer
2 to the toilet in guestroom 220, move the fixture so that it is exactly 18 inches on center from the
3 closest adjacent wall, as required by 2002-CBC §1115B.7.2 and ADAAG §4.16.2. (*CY Report*
4 *at §3.005 Re GR220.*)

5 j. To accommodate the lower viewing height of an individual using a
6 wheelchair, lower the height of the mirror so that the bottom edge of the reflective surface is a
7 maximum height of 40 inches above the finished floor, as required by 2002-CBC §1115B.9.1.2
8 and ADAAG §4.19.6. (*CY Report at §3.009 Re GR104.*)

9 k. To ensure that an individual using a wheelchair can safely enter, turn
10 around and leave the bathroom, reconfigure the space to provide a turning space within the
11 room that is 60 inches in diameter, or is a fully compliant T-Shaped turn around, that remains
12 safe and clear, as required by 2002-CBC §4.22.3 and ADAAG §4.17.5. (*CY Report §3.010 Re*
13 *GR104.*)

14 l. To facilitate a safe side transfer onto the toilet by an individual using a
15 wheelchair, provide a clear floor space adjacent to the side of the toilet that extends a minimum
16 of 28 inches between the edge of the toilet and the edge of the wall-hung sink (if hung on the
17 same wall as the toilet), or 32 inches from the edge of the toilet to any other obstruction, as
18 required by 2002-CBC §1115B.7.2 and ADAAG §4.16.2. (*CY Report §3.011 Re GR104.*)

19 m. To facilitate safe transfer onto and off of the toilet fixture, replace this
20 element with a model that has a seat height within the range of 17 to 19 inches above the
21 finished floor, as required by 2002-CBC §1502.0 and ADAAG §4.16.3. (*CY Report at §3.012*
22 *Re GR104.*)

23 n. To facilitate the reduced reach range of an individual using a wheelchair,
24 and to eliminate the necessity of reaching across a full toilet fixture to flush, replace this fixture
25 with a model that has the flush valve located on the wide side of the toilet tank, as required by
26 2002-CBC §1115B.2.1.2 and ADAAG §4.16.5. (*CY Report at §3.013 Re GR104.*)

27 o. To facilitate the safe circulation within the space, and transfer onto the
28 shower bench, reconfigure the slope of the shower floor so it has no slope within it that exceeds

1 2% in any direction, as required by 2002-CBC §1115B.6.2.4.4. (*CY Report at §3.014 Re*
2 *GR104.*)

3 p. To facilitate the reduced reach range of a seated wheelchair user, relocate
4 the soap dish in the shower so that it is set at a maximum height of 40 inches above the finished
5 floor, as required by 2002-CBC §1115B.6.2.4.6 and ADAAG §4.2.5 (*CY Report at §3.015 Re*
6 *GR104.*)

7 q. In designated guestroom 220, facilitate the provision of a compliant clear
8 floor space for wheelchair users in front of the cabinet and refrigerator door in the bedroom by
9 removing the cabinet door, or reconfiguring the space, so that the doors which now swing in
10 opposite direction of one another do not obstruct the required clear ground floor space, as
11 specified by 2002-CBC §1118B.4 and ADAAG §4.2.5. (*CY Report at §3.306.*)

12 r. To facilitate passage through the balcony door onto the balcony and back
13 for wheelchair users, replace the threshold with an element that has a maximum vertical rise ¼
14 inch, or ½ inch beveled, as required by 2002-CBC §1133B.2.4.1 and ADAAG §4.13.8.
15 (*CY Report at §3.016 Re GR104.*)

16 s. To provide reliable and safe passage through the balcony door for
17 wheelchair users, replace the existing door with a model that provides a minimum 32 inch clear
18 opening in the fully open position, as required by 2002-CBC §§ 1133B.2.2 and 1003.3.1.3a,
19 and ADAAG §4.13.5. (*CY Report at §3.017 Re GR104.*)

20 t. To facilitate a clear path of travel for wheelchair users, reconfigure the
21 room to provide a minimum 36 inch wide route to the light fixture, as required by 2002-CBC
22 §1117B.6 and ADAAG §4.2.4.1. (*CY Report at §3.018 Re GR104.*)

23 u. To provide an accessible tub fixture for individuals who use wheelchairs,
24 replace the Jacuzzi-style corner tub within the sleeping area with one that fully complies with
25 the code, or provide a compliant lift access, as required by 2002-CBC §1115B.6.1 and ADAAG
26 §4.20. (*CY Report at §3.019 Re GR104.*)

27 v. To provide the required clear floor space adjacent to the Jacuzzi-style
28 corner tub, remove the step adjacent to the fixture, and ensure that there is a 30X48 inch clear

1 floor space adjacent to the edge of the tub, as required by 2002-CBC §1115B.6.1.1 and Figure
2 11B-8 and ADAAG §4.20.2. (*CY Report at §3.020 Re GR104.*)

3 w. To facilitate transfer into and use of the tub by a wheelchair user, provide
4 an in-tub seat or a fixed seat at the head of the tub, as required by 2002-CBC §1115B.6.1.2 and
5 ADAAG §4.20.3. (*CY Report at §3.021 Re GR104.*)

6 x. To facilitate transfer into, use and transfer out of the tub for wheelchair
7 users, provide fully compliant grab bars as specified by the code at 2002-CBC §1115B.6.1.3
8 and ADAAG §4.20.4. (*CY Report at §3.022 Re GR104.*)

9 y. To facilitate safe use of the tub, and accommodate the reduced reach
10 range of a seated wheelchair user, relocate the faucet controls to the location specified by the
11 code specified at 2002-CBC §1115B.6.1.4 and ADAAG §4.20.5. (*CY Report at §3.023 Re*
12 *GR104.*)

13 **18. Designated Accessible Guestroom 100.**

14 a. To facilitate ease of passage through the door for wheelchair users,
15 provide a clear floor space on the push side of the door that extends a minimum of 12 inches
16 beyond the strike edge of the door on the push side, as required by ADAAG §4.13.6.
17 (*CY Report at §3.201.*)

18 b. To facilitate the safe passage into this room by wheelchair users, adjust
19 the push pressure required to open the door to the 90 degree open position so that the maximum
20 force required is 5 lbs. of pressure, as specified by 2002-CBC §1133B.2.5 and ADAAG
21 §4.13.11. (*CY Report at §3.202.*)

22 c. To facilitate easy passage through the main entry door for a wheelchair
23 user, provide a clear floor space on the pull side of the door that extends a minimum of 18
24 inches beyond the strike edge of the door, as required by 2002-CBC §1133B.2.4.3 and
25 ADAAG §4.13.6. (*CY Report at §3.203.*)

26 d. To provide the required clear floor space adjacent to the bar sink, and
27 make this fixture usable by wheelchair users, remove the cabinet or reconfigure the space so the
28 bar sink is adjacent to a compliant clear-floor ground space, as required by 2002-CBC

1 §1111B.4.4 and ADAAG §4.19.3. (*CY Report at §3.204.*)

2 e. To facilitate a wheelchair user's passage through the door that connects
3 this room to the adjacent one, and to accommodate their reduced ability to pinch, grasp and
4 twist operable mechanisms from a seated position, replace the existing door hardware with
5 locks that do not require grasping, pinching or twisting of the wrist to operate, as required by
6 2002-CBC §1117B.6.4 and ADAAG §4.27.2. (*CY Report at §3.205.*)

7 f. To facilitate access to the HVAC controls for individuals who use
8 wheelchairs, remove the table in front of the controls, or otherwise reconfigure the space to put
9 these controls adjacent to a 30 by 48 inch clear floor space, as required by 2002-CBC
10 §1117B.6.2 and ADAAG §4.27.3. (*CY Report at §3.206.*)

11 g. To facilitate the use of the deep closet by wheelchair users, reconfigure
12 the entry doors to provide a clear opening of 32 inches minimum, and a compliant door landing
13 on the outside of the closet if the doors remain on this facility, as required by 2002-CBC
14 §1125B.2 and ADAAG §4.25.2. (*CY Report at §§ 3.207 and 3.209.*)

15 h. To accommodate the lower reach range of seated wheelchair users, lower
16 the closet shelf to a maximum height of 48 inches above the finished floor, as required by
17 2002-CBC §1125B.3 and ADAAG §4.25.3. (*CY Report at §3.208.*)

18 i. To facilitate use of the HVAC controls in the bedroom, reconfigure the
19 space to provide a compliant 30 X 48 inch clear floor space adjacent to the controls, as required
20 by 2002-CBC §1117B.6.2 and ADAAG §4.27.2. (*CY Report at §3.210.*)

21 j. To facilitate safe transfer onto the bed by wheelchair users, provide a
22 clear floor space on each side of the bed that has a minimum width of 36 inches clear, as
23 required by 2002-CBC §1111B.4.3 and ADAAG §9.2.2.1. (*CY Report at §§ 3.211 and 3.212.*)

24 k. To facilitate access to the telephone by wheelchair users, provide a 36
25 inch wide minimum path of travel from the entry door to the telephone, as required by 2002-
26 CBC §1117B.6 and ADAAG §9.2.2(2). (*CY Report at §3.213.*)

27 l. To ensure that wheelchair users are not burned or receive abrasions from
28 the drain pipe and the hot water feed under the sink, completely wrap these two elements with

1 insulation, as required by 2002-CBC §1115B.9.1.1 and 1504.2.2 and ADAAG §4.19.4.
2 (*CY Report at §3.214.*)

3 m. To accommodate the lower viewing height of a seated wheelchair user,
4 lower the mirror in the bathroom so that the bottom edge of the reflective surface is no higher
5 than 40 inches above the finished floor, as required by 2002-CBC §1115B.9.1.2 and ADAAG
6 §4.19.6. (*CY Report at §3.215.*)

7 n. To facilitate a safe side transfer onto the toilet by an individual using a
8 wheelchair, provide a clear floor space adjacent to the side of the toilet that extends a minimum
9 of 28 inches between the edge of the toilet and the edge of the wall-hung sink (if hung on the
10 same wall as the toilet), or 32 inches from the edge of the toilet to any other obstruction, as
11 required by 2002-CBC §1115B.7.2 and ADAAG §4.16.2. (*CY Report §3.216.*)

12 o. To facilitate the reduced reach range of an individual using a wheelchair,
13 and to eliminate the necessity of reaching across a full toilet fixture to flush it, replace this
14 fixture with a model that has the flush valve located on the wide side of the toilet tank, as
15 required by 2002-CBC §1115.9.1 and 1502.2.1 and ADAAG §4.16.5. (*CY Report at §3.217.*)

16 p. To facilitate safe transfer onto and off of the toilet fixture, replace this
17 element with a toilet that has a seat height within the range of 17 to 19 inches above the
18 finished floor, as required by 2002-CBC §§ 1115B.2.1.1 and 1502.2.1, and ADAAG §4.16.3.
19 (*CY Report at §3.218.*)

20 q. To ensure that an individual using a wheelchair can safely enter, turn
21 around and leave the bathroom, reconfigure the space to provide a turning space within the
22 room that is 60 inches in diameter, or is a fully compliant T-shaped turn around, that remains
23 safe and clear, as required by 2002-CBC §1115B.7.2 and ADAAG §4.22.3. (*CY Report*
24 *§3.219.*)

25 r. To facilitate transfer into and use of the tub by a wheelchair user, provide
26 an in-tub seat or a fixed seat at the head of the tub, as required by 2002-CBC §1115B.6.1.1 and
27 Figure 11B-8, and ADAAG §4.20.2. (*CY Report at §3.220.*)

28 s. To facilitate ease and safety of use by wheelchair users, reconfigure the

1 door to the back patio so the clear opening for this passage is a minimum of 32 inches wide
2 with the door fully open, as required by 2002-CBC §1133B.2.2 and ADAAG §4.13.5.
3 (*CY Report at §3.221.*)

4 t. To facilitate entry into, and exit from, the room by individuals using
5 wheelchairs, replace the existing threshold to the patio door with a unit that has a maximum
6 vertical rise of ¼ inch above the finished floor, or ½ inch beveled, on either side of the
7 threshold, as required by 2002-CBC §1113B.2.4.1 and ADAAG §4.13.8. (*CI Report at §3.222.*)

8 **19. Designated Guestroom 204.**

9 a. To accommodate the reduced strength of wheelchair users, adjust the
10 push force required to open the entry door to the 90 degree open position so that it is a
11 maximum of 5 lbs. of pressure, as specified by 2010-CBC §1133B.2.5. (*CY Report at §3.401.*)

12 b. To facilitate easy passage through the main entry door for a wheelchair
13 user, provide a clear floor space on the pull side of the door that extends a minimum of 18
14 inches beyond the strike edge of the door, as required by 2002-CBC §1133B.2.4.3 and
15 ADAAG §4.13.6. (*CY Report at §3.402.*)

16 c. To provide an accessible route to the two queen beds for wheelchair
17 users, provide a clear floor space between the two beds that has a minimum width of 36 inches,
18 as required by 2002-CBC §1111B.4.3 and ADAAG §9.2.2.1. (*CY Report at §3.403.*)

19 d. To ensure that a wheelchair user is able to approach the floor lamp,
20 reconfigure the furniture and room footprint as necessary to provide a path of travel to the lamp
21 that has a minimum width of 36 inches clear, as required by 1989-CBC §1117B.6, and
22 ADAAG §§ 9.2.2(2) and 4.2.1. (*CI Report at §3.404.*)

23 e. To ensure that a wheelchair user is able to approach the telephone,
24 reconfigure the furniture and room footprint as necessary to provide a path of travel to the
25 telephone that has a minimum width of 36 inches clear, as required by 1989-CBC §1117B.6,
26 and ADAAG §§ 9.2.2 and 4.2.1. (*CI Report at §3.405.*)

27 f. To accommodate the reduced ability of a wheelchair user to reach across
28 the obstruction of the counter, and use the sink in the bathroom, lower the height of the fixture

1 so the top is set at a maximum height of 34 inches above the finished floor, as required by
2 2002-CBC §§ 1115.9.1 and 1504.1.1, and ADAAG §4.19.2. (*CY Report at §3.406.*)

3 g. To protect wheelchair users from burning knees or legs on the drain pipe
4 or the hot water feed under the sink in the bathroom, provide insulation on these two elements,
5 as required by 2002-CBC §§ 1115B.9.1.1 and 1504.2.2, and ADAAG §4.19.4. (*CY Report at*
6 *§3.407.*)

7 h. To accommodate the lower viewing height of a seated wheelchair user,
8 lower the mirror in the bathroom so that the bottom edge of the reflective surface is no higher
9 than 40 inches above the finished floor, as required by 2002-CBC §1115B.9.1.2 and ADAAG
10 §4.19.6. (*CY Report at §3.408.*)

11 i. To accommodate the limited reach range of wheelchair users, lower the
12 hairdryer outlet to a maximum height of 40 inches above the finished floor to the centerline of
13 its top receptacle, as required by 2002-CBC §1118B.5 and ADAAG §4.23.7. (*CY Report*
14 *§2.409.*)

15 j. To accommodate the limited reach range of wheelchair users, lower the
16 GFI outlet to a maximum height of 40 inches above the finished floor to the centerline of its top
17 receptacle, as required by 2002-CBC §1118B.5 and ADAAG §4.23.7. (*CY Report §2.410.*)

18 k. To facilitate a wheelchair user's safe transfer onto and off of the toilet
19 fixture, replace this element with a model that has a seat height within the range of 17 to 19
20 inches above the finished floor, as required by 2002-CBC §1502.0 and ADAAG §4.16.3.
21 (*CY Report at §3.411.*)

22 l. To provide the clear floor space needed for a wheelchair user to make a
23 side transfer onto the toilet, provide a clear floor space beside the fixture that has a minimum
24 width of 28 inches between the edge of the toilet and the edge of a wall-hung sink mounted on
25 the same wall, or 32 inches from the side of the toilet to the closest wall or obstruction of any
26 kind, as required by 2002-CBC §1115B.7.2 and ADAAG §4.16.2. (*CY Report at §3.412.*)

27 m. To facilitate the reduced reach range of an individual using a wheelchair,
28 and to eliminate the necessity of reaching across a used fixture to flush, replace this fixture with

1 a model that has the flush valve located on the wide side of the toilet tank, as required by 2002-
2 CBC §1502.0 and ADAAG §4.16.5. (*CY Report at §3.413.*)

3 n. To facilitate use of the shower within the bathtub by wheelchair users,
4 provide a compliant shower wand, and reconfigure the location of the shower water outlet as
5 necessary, to locate the shower wand and mounting bracket in a compliant location, as required
6 by 2002-CBC §1115B/6.1.5 and ADAAG §4.20.6. (*CY Report at §3.414.*)

7 o. To facilitate the unobstructed use of the closet, remove the closet doors
8 to bring the interior elements within the required reach ranges, as required by 2002-CBC
9 §1125B.2 and ADAAG §4.25.2. (*CY Report at §3.415.*)

10 p. To accommodate the limited reach range of wheelchair users, remount
11 the thermostat at a height of 48” above the finished floor to the centerline of the highest
12 operable part, as required by 1989-CBC §1117B.6.3 and ADAAG §4.27.3. (*CY Report at*
13 *§3.416.*)

14 q. To provide an accessible route to the two queen beds for wheelchair
15 users, provide a clear floor space between the two beds that has a minimum width of 36 inches,
16 as required by 2002-CBC §1111B.4.3 and ADAAG §9.2.2.1. (*CY Report at §3.417.*)

17 **20. Pool and Spa.**

18 a. To accommodate the reduced strength of wheelchair users, adjust the
19 push force required to open the door to the 90 degree open position so that it is a maximum of 5
20 lbs. of pressure, as specified by 2010-CBC §1133B.2.5. (*CY Report at §5.101.*)

21 b. To accommodate the reduced reach ranges for an individual using a
22 wheelchair, lower the height of the telephone so that the highest operable mechanism is no
23 higher than 48 inches above the finished floor, as required by 2002-CBC §1117B.2.6 and
24 ADAAG §4.31.3. (*CY Report at §5.102.*)

25 c. To facilitate use of the area in front of the telephone, provide a compliant
26 30 X 48 inch clear floor space adjacent to the fixture, as required by 2002-CBC §1117B.2.2
27 and ADAAG §4.27.2. (*CY Report at §5.103.*)

28 d. To accommodate the reduced reach ranges for an individual using a

1 wheelchair, lower the height of the spa controls so that the highest operable mechanism is no
2 higher than 48 inches above the finished floor, as required by 2002-CBC §1118B.5 and
3 ADAAG §4.31.3. (*CY Report at §5.104.*)

4 e. To ensure that the table in the pool area is usable by an individual using
5 a wheelchair, replace the existing fixture with a model that has knee space underneath it that is
6 a minimum of 27 inches high, 30 inches wide, and projects under the table a minimum of 19
7 inches, as required by 2002-CBC §1122.B.3 and ADAAG §4.32.3. (*CY Report at §5.106.*)

8 **21. Fitness Center.**

9 a. To facilitate use of the area in front of the emergency telephone, relocate
10 the element, or rearrange the equipment, to provide a compliant 30 X 48 inch clear floor space
11 adjacent to this element, as required by 2002-CBC §1117B.2.2 and ADAAG §4.27.2.
12 (*CY Report at §5.201.*)

13 b. To accommodate the reduced strength of wheelchair users, adjust the
14 push force required to open the entry door to the 90 degree open position so that it is a
15 maximum of 5 lbs. of pressure, as specified by 2010-CBC §1133B.2.5. (*CY Report at §5.203.*)

16 c. To facilitate easy passage through the entry door for a wheelchair user,
17 provide a clear floor space on the pull side of the door that extends a minimum of 18 inches
18 beyond the strike edge of the door, as required by 2002-CBC §1133B.2.4.3 and ADAAG
19 §4.13.6. (*CY Report at §5.204.*)

20 **22. Guest Laundry.** To accommodate the reduced strength of wheelchair users,
21 adjust the push force required to open the entry door to the 90 degree open position so that it is
22 a maximum of 5 lbs. of pressure, as specified by 2010-CBC §1133B.2.5. (*CY Report at*
23 *§5.301.*)

24 **23. Drinking Fountain.** To facilitate use of the drinking fountain by wheelchair
25 users, raise the height of the drinking fountain so the height of the knee space underneath the
26 fixture measures 27 inches minimum above the finished floor, as required by 2002-CBC
27 §§ 1117B.1.1 and 1507.3.1, and ADAAG §4.15.5(1). (*CY Report at §5.401.*)

28 **24. Conference Rooms.**

1 a. To ensure that the tables are usable by an individual using a wheelchair,
2 replace the existing fixtures with models that have knee space underneath them that is a
3 minimum of 27 inches high, 30 inches wide, and projects under the table a minimum of 19
4 inches, as required by 2002-CBC §1122B.3 and ADAAG §4.32.3. (*CY Report at §5.501.*)

5 b. To make the patio usable by wheelchair users, provide a fully compliant
6 path of travel from the interior of the room to the patio door that has a minimum width of 36
7 inches clear, as required by 2002-CBC §§ 1133B.2.4.2 and 1133B.6.2, and ADAAG §4.13.6.
8 (*CY Report at §5.502.*)

9 c. To facilitate use of the area in front of the alarm pull by wheelchair
10 users, relocate the element, or rearrange the furniture, to provide a compliant 30 X 48 inch clear
11 floor space adjacent to this element, as required by 2002-CBC §1117B.6.2 and ADAAG
12 §4.27.2. (*CY Report at §5.503.*)

13 d. To facilitate use of the curtains by person using wheelchairs, provide a
14 fully compliant minimum 36-inch path of travel to the batons that open and close this element,
15 as required by 2002-CBC §1133B.6.2 and ADAAG §9.2.2(2). (*CY Report at §5.504.*)
16

17 **COMPLIANCE:**

18 25. **Performance Standards.** All of the foregoing facilities at both hotels shall be
19 brought into full and strict compliance with the literal performance standards for altered
20 facilities under the Americans with Disabilities Act Accessibility Guidelines, effective January
21 26, 1992, and under California's CBC, Title 24 (2010), whichever, for any particular element,
22 provides the strongest level of protection to persons with disabilities.

23 26. **Confirmation of Completion of Work.** Upon full completion of all
24 ameliorative work called for in at paragraphs 1-24, supra, Defendants shall provide the Court
25 with a Declaration from a bonded and licensed CASp consultant certifying the completion of
26 all work, and on an item-by-item basis.

27 27. **Option to Close Facilities.** In lieu of making modification to any particular
28 facility or amenity called for by this decree, the subject Defendants may choose to permanently

1 close/remove such facility, element or amenity from public use. Such facility, element or
2 amenity shall not be reopened or re-provided for public use without provision of full disabled
3 access pursuant to the terms of this Order.

4 **28. Time for Compliance.** As to all other work, Defendant shall submit plans and
5 apply for any necessary permits for this work within 60 days of the entry of this Order on the
6 docket of the court, and complete all such work within 180 days of receiving permits, allowing
7 for good faith interruptions due to inclement weather, contractor unavailability, and other
8 causes under the Doctrine of Force Majeure. These plans shall be submitted to Plaintiff’s
9 counsel for approval before submission to the Building Department. Permits from the building
10 department shall be secured for all work. Defendant will provide written notice to the Court
11 and Plaintiff’s counsel regarding the status of completion within 270 days after entry of this
12 Order. Defendant shall then provide Plaintiffs, her attorneys and consultants with physical
13 access to inspect, measure and photograph the facilities to verify that the completed work
14 complies with the terms herein.

15 **29. Enforcement.** Should Plaintiff in the future become aware of any facts or
16 conditions relating to the subject public accommodation that may give rise to a claim that
17 Defendants have failed to comply with any of the injunctive relief requirements set forth
18 herein, Plaintiff shall make a good faith attempt to resolve the issue through written notice
19 mailed directly to Defendants and separately to their current counsel of record. If these good
20 faith efforts fail to reach a resolution, Plaintiff shall be permitted to file a noticed motion under
21 the current case number of this action seeking enforcement of this Consent Decree, as well as
22 for contempt of court. The “prevailing party” in such motion proceedings, whether in full or in
23 part, may be entitled to an award of reasonable attorney fees, litigation expenses and costs for
24 such motion, i.e., the fee recovery shall be pursuant to the normal prevailing party standards
25 that applied under the subject statutes before entry of this decree, i.e., under the subject fee
26 shifting statutes named in the complaint and under Christiansburg Garment Co. v. EEOC, 434

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1 U.S. 412 (1978). Thus, Defendants may be entitled to recovery of attorney's fees in such
2 proceeding only upon proof that Plaintiff's motion is frivolous or brought in bad faith.

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4 IT IS SO ORDERED.

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6 DATED: 7/8/2013

/s/ SANDRA M. SNYDER
UNITED STATES MAGISTRATE JUDGE

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