



# **Appendix D: Conclusions and Recommendations Report**

By the W-T Group

Appendix to the Metro Parks and Nature Americans with Disabilities Act Transition Plan

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# **REPORT TO Metro Parks and Nature**

## **Final Conclusions and Recommendations**

**August 15, 2018**

## ***Site Conclusions and Recommendations***

### **Introduction**

The accessibility of Metro Parks and Nature sites is mandated by federal and state requirements. This conclusion report is a summary of our findings at Parks and Nature sites. It also includes our recommendations, which meet the federal and state requirements and incorporate smart practices. We have also included influences by stakeholders in the community and in Metro leadership.

Metro cannot implement all of our recommendations at once; no local government can do so. We suggest a phased approach to retrofits. An important step in this effort is that Metro Parks and Nature staffs gain a complete understanding of our findings and recommendations. A step-by-step approach will help Metro Parks and Nature do so.

We note at the beginning of this report that our scope did not include all Parks and Nature sites. ***It is imperative that all sites be evaluated.*** We also note that there are other Metro sites and facilities. Our firm just completed an audit of the Metro Regional Center. For a more efficient approach, the transition plan for Parks and Nature, the Regional Center, and other Metro facilities should be integrated.

In this report however, we will focus on Parks and Nature sites. We recommend the following steps to accomplish the goal of making opportunities in Department sites more accessible to people with disabilities.

### **A Guide to this Report**

There are approximately 4,000 access deficits identified in the 27 site reports. That is what is required by the ADA, the identification of every access deficit at every site and facility. For each deficit, a solution must be identified. Another way to consider this is that for every deficit we found, we observed 10 elements of Parks and Nature assets that did comply with the access requirements. In other words, we saw approximately 40,000 compliant features.

***This section is all about the big picture.*** As discussed in the cover letter with this report, the Department does ***not necessarily have to make every site accessible***. It ***does*** have to make every program it conducts within its sites accessible.

We have attempted to identify some broad solutions, such as the refreshing of all accessible parking, as a way to address issues identified in the earlier site reports, and as a way for the Department to better manage compliance. This approach also gives the Department flexibility within its compliance efforts to move resources so that they are applied with optimal impact. We offer these systemic changes as a complement to a site-by-site approach. Parks and Nature will determine how to proceed.

The scope of our work does not include the design of a solution. Our recommendations are performance based. For example, if a park restroom needs to be made accessible we'll make that recommendation. We will not design a solution that includes walls to be removed or plumbing solutions. Those are tasks for Department staff or contractors.

We do know of qualified and capable designers, credentialed in Oregon. Once Metro is considering implementation, if a need for references arises, we can help.

***This is also about accountability.*** The maintenance of playground surfaces, eliminating changes in level, and other recommended actions are ineffective if not maintained over time by Department employees. We recommend the following to facilitate review:

***First, read the final report cover letter.*** It describes the concepts and requirements invoked throughout the report.

***Second, read this Conclusion Report.*** As mentioned above, this is a big picture review of the issues and solutions we recommend.

***Third, read the 27 site reports.*** Use your computer and you'll have instant access to the report for that site, the photos, and the checklists.

***Fourth, use your knowledge of the sites and of your staffs' expertise.*** You know Metro sites better than we do, and you certainly know the staff better than we do. Blend in what you know with what we recommend in the report. There is always another way to solve an access problem...perhaps you'll be the one to see that solution.

### **Common Issues**

In our evaluation, some common issues arose. These included the way maintenance affects accessibility to playground surfaces and trail surfaces. The common issues are also "big picture" items for the Department and incorporate many of the specific site recommendations. Please consider the following as complements to a site-by-site retrofit approach. We recognize that Metro has other plans in place, and blending access retrofits with existing plans can be more efficient than treating access as a stand-alone plan.

### **Maintenance**

The Department uses a conscientious staff to maintain its facilities and sites. However, over time, every facility and site yields to wear and tear. The recommendations below describe ways in which attention to maintenance can specifically address some access deficits.

1. ***Provide training*** to maintenance staffs regarding the features of an accessible route and how to ensure that it remains unobstructed so that park amenities, e.g., garbage cans or signs, are placed adjacent to the accessible route.
2. ***Purchase some new tools.*** The Department needs battery-powered digital levels, and tools to measure pounds of force for doors, for staff use. A great website for gauges is: <http://www.technologylk.com/crl-door-pressure-gauge-lk-HMC035.htm?src=froogle>.
3. ***Do use 2' digital levels***, not 4' digital levels. When and if a complaint is filed, the enforcement agencies or experts will use a 2' digital level as it is more accurate. Using the same tool you will be measured against is just good risk management. A 2' digital level is commercially available at home repair stores such as Home Depot.

### **Changes in Level and Gaps**

The routes and sidewalks that make up the Department's network of accessible routes are in fair condition. Wear and tear, settling, weather, and other factors combine to cause changes in level and gaps along portions of those accessible routes, making that portion noncompliant and a barrier to many customers with physical and sensory disabilities.

Removing changes in level and gaps has a significant universal design benefit too, as more people with all types of conditions can more easily use Department routes, such as staff pushing carts of supplies, parents with kids in strollers, and people using an assistive device such as a wheelchair, Segway, or walker.

4. **Add** change in level of more than .25" **to park maintenance safety checklists** in 2018. This will help identify and correct these problems before they expand. Make or buy pre-measured shims and distribute to employees for their use and ease of measurement.
5. **Add inspections for gaps** of greater than .5" **to park maintenance safety checklists** in 2018. Identify and fill these gaps before they expand. **In the alternative, consider resurfacing segments of deteriorated asphalt routes.**
6. **Eliminate changes in level** by the end of 2020. Using the rationale that the most severe changes in level are the greatest barriers to access, make changes in level of greater than .75" the highest priority. Make changes in level of between .5" and .75" the second priority. Make beveling of changes in level of .25" to .5" the third priority. Consider acquiring or contracting for the use of a grinder.
7. **Adopt** a policy about the use of Other Power Driven Mobility Devices at Metro sites, and promote that policy to the general public. Every day, more people with limited physical mobility start to use a Segway or similar machines.

***Pursuant to the new ADA title II regulation published September 14, 2010, this policy was to have been in place by March 15, 2011.***

These assistive devices provide great benefits to people with disabilities and the sooner the Department has a policy in regard to their use the better. The policy could, at a minimum, address times of allowed use (dawn to dusk), speed limits, off-limits areas, status of the user as a person with a disability, and minimum age.

It is important to note that a power driven mobility device is not a wheelchair. That device has a separate definition and is already allowed in facilities and parks.

The components of a policy are noted below. ***The Department is welcome to use some, all, or none of this, but a policy must be in place. We recommend at least the following statements:***

**Definition:** *Other power-driven mobility device* (OPDMD) means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal

assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this policy.

**Definition:** *An electronic personal assistive mobility device (EPAMD) is a device used by a person with a mobility impairment for ambulation. This definition does **not** include gasoline powered devices, golf cars, or riding lawn mowers.*

**Permission:** Metro Parks and Nature authorizes persons with mobility impairments to use OPDMDs and EPAMDs in Department facilities and sites subject to the following restrictions:

1. The operator of the device must be a person with a mobility impairment, and upon request by Department officials, shall produce proof of such within 72 hours;
2. The device, if used in a facility or in a park, is allowed in any area of the facility or park in which the general public is allowed, with the exception of employee only spaces, stairways, and identified hazardous areas;
3. The device, if used in a facility, must be controlled by the operator. It:
  - A. may not exceed 4 mph;
  - B. shall be driven on the right side of the circulation route;
  - C. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and
  - D. must not be operated in a dangerous or reckless manner that jeopardizes the safety of the operator, Department employees, or Department participants.
4. The device, if used in a park or outside, must be controlled by the operator. It:
  - A. may not be operated between dusk and dawn unless equipped with headlights that are visible at 300’;
  - B. may not exceed 6 mph;
  - C. shall not be driven into wet or ecologically sensitive areas which are posted as such;
  - D. shall be driven on the right side of the circulation route;
  - E. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and

- F. must not be operated in a dangerous or reckless manner that jeopardizes operator safety, Department employees, or Department participants.
5. The Department accepts no responsibility for storage of the device.
6. The Department accepts no liability for damage to the device, or injury to the operator, whether caused by the operator, another visitor to a Department facility or site, or any other circumstance.
7. The Department accepts no liability for damage caused by the operator of the device, or injury to others caused by the operator of the device.
8. The Department reserves the right to suspend the use of facilities or sites by the operator if doing so is in the best interests of the Department and its participants.
9. The Department reserves the right to change, modify, or amend this policy at any time, as it would any other policy.

The Department of Justice has a good advisory on this topic. It is [here](#).

### **Obstructed Accessible Routes**

Employees *may* see an accessible route as an empty 36" wide space in which a potted plant or garbage can is a perfect fit. However, that blocks or obstructs the accessible route.

8. ***Provide training to park maintenance, recreation, and administration staffs*** regarding maintenance of accessible routes in parks and in recreation facilities.

### **Employee Work Areas**

Metro Parks and Nature employs many qualified and skilled full time staff, making parks and recreation services available to residents. The Department employs more on a part-time or seasonal basis. The Department likely has employees with disabilities and in the future, will have *more* employees with disabilities, in all categories.

It is important to address access to work areas, and both the title II regulation and the work of the Access Board do so. In section 203.9 of the 2010 Standards for Accessible Design, the treatment of employee areas is made clear. Generally, a person with a disability should be able to ***approach, enter, and exit*** the work area. This is addressed by requirements for accessible routes and accessible means of egress, door width, and threshold changes in level.

Excluded from this exception are several types of common spaces in employee areas. Spaces such as the ones below must meet the access guidelines as they are excluded from the definition of employee-only areas:

- corridors;
- toilet rooms;
- kitchenettes for employee dining use, and
- break rooms.

In short, the key issues are the accessible route, changes in level, doors and entries, and maneuvering space once within the work area. This approach is effective so long as when the Department hires an employee with a disability, or a current employee acquires a disability, it will remove architectural barriers in work areas or make other accommodations. The two recommendations below are important for all employees at all Department sites.

9. ***Address accessibility in the Department personnel policies***, and note that, upon request by an employee, the Department will make reasonable accommodations, which ***may*** include the removal of architectural barriers in work spaces.
10. ***Require new construction, and alterations or additions*** that include employee work areas to be designed and constructed so they are compliant with the 2010 Standards for Accessible Design.

### **Accessible Parking**

The Department maintains approximately 875 standard parking spaces at sites, and 64 more that are designated as accessible parking stalls. In correcting or refreshing its accessible stalls, the Department should address all of them at once to eliminate inconsistencies and come into compliance.

11. ***Create a parking stall template***. A suggested template is below.

### **Parking Stall Dimensions**

Stalls are a minimum of 9' wide. An adjacent access aisle must also be a minimum of 6' wide. The access aisle must be diagonally striped with ***high quality paint***, and the access aisle can be shared by two accessible stalls, one on either side.

The collection of signs must include the US Department of Transportation R7-8 standard sign (the blue icon in a wheelchair). Below that must be the statewide fine sign. Unless Metro has adopted a higher fine by ordinance, the sign must note the statewide fine. Federal settlement agreements require a third sign, on at least one stall, that says VAN ACCESSIBLE. This stall must be 11' wide with a 6' access aisle. An acceptable alternate is 9' and 8'.

Finally, the bottom edge of the R7-8 sign is a minimum of 60" above the finished grade. We suggest that the signpost be centered at the head of the accessible stall and we suggest that the curb cut and detectable warning run the distance of the access aisle.

***The most common deficit*** in accessible parking stalls and access aisles is the slope. The 2010 Standards limit the slope to ***not more than 2.08% in any direction***. ***This is a challenging requirement that can take considerable effort to meet.***

### **Connection to the Accessible Route**

The access aisles should connect to an accessible route. The maximum running slope for the accessible route is 5%, and to account for heaving and settling, we recommend 4%. The maximum cross slope is 2%.

### Passenger Loading Zone

The loading zone must have an access aisle adjacent and parallel to vehicle pull-up space. The loading zone access aisle must be a minimum of 60" wide and 20' long.

Confirm this template to ensure compliant stalls.

12. In 2018 **implement a plan to correct or refresh every accessible stall** at every Department facility. Incorporate this task into other plans that require parking lot repair, restriping, or resurfacing.

### Running Slope and Cross Slope

We saw running slopes steeper than permitted. At some sites this was a minimal issue, but at other sites it was a significant variance. This condition naturally occurs when concrete settles, or when connections between new and old routes are off by fractions of an inch. Cross slope is equally important, as it serves drainage as well as access purposes.

13. **Adopt a policy** that in new construction and alterations the slope of the AR shall not exceed 1:21, or 4.7%, as opposed to 1:20, or 5%. This allows room for field error.
14. **Adopt a policy** that in new construction and alterations the ramp slope shall not exceed 1:13, or 7.7%, as opposed to 1:12, or 8.33%. This allows room for field error. It also makes ramps easier to use for everyone, not just people with disabilities. This universal design approach is also a risk management tool.
15. **Adopt a policy** that in new construction or alterations the cross slope shall be an integral part of the project and shall not exceed 2% or 1:50.

### Detectable Warnings

The US Access Board suspended the detectable warning requirement in the late 90's, for several years. It was restored in 2002. However, it is not required in the 2010 Standards.

**We still, however, as a smart practice, recommend the use of detectable warnings.** It is typical to see noncompliant detectable warnings in every community.

The detectable warnings at curbs **that are not compliant** are often a concrete cross-cut, or a grid laid on wet concrete to create a diamond indentation. Over time these should be replaced.

16. As with parking, **develop a template for detectable warnings.**
17. In the same year that parking is refreshed, **implement a plan to correct or refresh every detectable warning** at every curb or crossing at Department facilities. If necessary, phase this out over a two or three-year period.
18. Weather greatly affects the life of detectable warnings. We recommend the use of durable, metal plates as opposed to plastic plates.

### **Door Opening Force Requirements**

In Metro's buildings and facilities, there are approximately 200 doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for interior doors and 8.5 lbf for exterior doors). However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

19. ***Evaluate and determine the age of door closers.***
20. ***Add door closer maintenance checks*** to safety checklists in 2018 and for closers with 10 years of service or less, aggressively maintain them for effectiveness.
21. ***Purchase and install new door closers*** for all exterior doors (with closers 20 years old or more) and 50% of interior doors in 2020 or as soon as is possible.
22. ***Purchase and install*** new door closers for all remaining interior doors (with closers 20 years old or more) in 2021 or as soon as is possible.

### **Signage**

Department signs serve several purposes. First, signs assist wayfinding in buildings, such as the Glendoveer Golf and Tennis Center.

Second, signs identify important permanent elements of facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations. We did not note a signage template at the sites we evaluated.

The 2010 Standards treats two types of signs differently. Signs for permanent spaces, such as a bathroom, must be in both Grade 2 Braille and raised lettering. Signs that are directional or informational only require visual lettering of a certain size. Be certain to incorporate these approaches into signs in buildings and sites operated by the Department.

23. ***Develop a sign template*** in 2018 that describes where and in what facilities signs will be used. The template could include size of sign, mounting height, mounting location, size of characters, space between characters, contrast between characters and background, icons or symbols used in the signs, Department information in the signs (name of facility? phone number? main office number?), and more.
24. ***Implement signage template and refresh*** Department site signage in 2018.

### **Bathrooms**

Bathrooms are an essential part of a visit to a Metro Parks and Nature site. Exercise, food and beverage, social activities, and more all rely on one of the oldest designs known to us. Making those facilities accessible is tremendously important.

Additionally, ***portable toilets*** placed temporarily at sports fields and event venues ***must*** be accessible and ***must be served by an accessible route.***

25. ***Develop a bathroom template in 2018.*** Confirm it with the State of Oregon. Be sure to include temporary facilities such as portable toilets in the template. The template should address the toilet, grab bars, items in the stall such as toilet paper and hooks, the stall, operating mechanisms, mirrors, sinks, hand towels, and more.
26. ***Include bathroom renovations*** at facilities in the Metro Parks and Nature's Capital Improvement Plan.
27. ***Consider the use of automatic flush controls.*** These have environmental benefits and are also a great way to eliminate some accessibility problems.
28. ***In the interim, implement non-structural modifications recommended in each section of this report,*** such as lowering mirrors, remounting grab bars, changing the height of toilets and urinals, installing compliant stall hardware, and so forth. These less costly changes on a site-by-site basis will serve your customers well until resources are available to renovate restrooms on a comprehensive scale.
29. ***Make one portable toilet,*** if one is provided at a site, accessible. This includes a portable toilet placed at a picnic shelter or adjacent to other park assets. These must be accessible and must be served by ***an accessible route.***

***The Department has sites with portable toilets; this must be addressed. Use our single-user toilet checklist, and require compliance by Department vendors.***

### Alarms

In existing facilities where an aural or audible fire alarm system is provided, a visual alarm is not required unless the building was constructed after January 26, 1992 or has been upgraded since that same date.

If an alarm in an existing facility is audible only, it need not be modified to include a visual alarm unless it is replaced or upgraded in the future.

30. ***Determine in 2018*** if systems have been upgraded or replaced since 1992.
31. ***Develop a plan in 2018*** for the installation of aural and visual alarms in renovations.
32. ***Retrofit construction that has occurred since 1992*** to include aural and visual alarms by the end of 2019.

### Online or Print Material

The use of a site grid in the Metro Parks and Nature brochures is an important tool for residents and can now be used to communicate about accessibility. Create one to incorporate the access work the Department staff completes and indicate in your grid where, for example, the accessible picnic areas are, or where the accessible playgrounds are.

33. **Update the parks and facilities** information on the website and in print material to reflect Department plans regarding our recommendations, and to note which sites are accessible or will be made accessible.

### **Planning**

Metro is a regional government that includes Clackamas County, Multnomah County, and Washington County. One of the key roles of Metro is planning. On display on a wall at Metro is a map titled 2040 Growth Concept Map. It is an excellent tool for forecasting population. We suggest that Metro planners apply themselves similarly to the issue of disability, creating a map that shows how the incidence of disability will rise over time.

34. Using Census and other data, **create a reference map** of how the incidence of disability will rise by the year 2040.

### **Website Enhancements**

As a part of the Metro Regional Campus project, the website was evaluated for accessibility and Metro staffs are addressing those needed retrofits. In community engagement discussions regarding Parks and Nature sites, it was suggested that more robust information about trails and other assets be included. The type of information could include but is not limited to trail length, average trail slope, average trail cross slope, trail surface characteristics (paved, planked, crushed stone, dirt, grass, etc.), and the availability of assets such as water, benches, and more. Much of this information is a requirement of the US Access Board Final Guideline for Outdoor Developed Areas.

It was also suggested that GoPro videos of trails be included. This is an excellent idea as well, but does pose some accessibility challenges. Alt-text must be provided for the posted videos, and if the videos have aural content, captioning must be provided.

35. **Provide more information about the accessibility characteristics** of trails and other assets on the Metro website.

### **Transit Stops at Sites**

At both community engagement meetings, transit, or lack thereof, was discussed. Several suggestions were made by those participating. Across the United States, regarding access to recreation sites, the lack of transportation is a key barrier.

36. **Metro should request that TriMet locate transit stops at heavily used Metro sites.**

### **Seating**

Several attendees at community engagement sessions raised the issue of the frequency of seats and the need for a diverse type of seats, in Metro sites and facilities. More seats at parks, and seats with a variety of features, such as some with armrests, and some without, and some with larger dimensions to accommodate persons of all sizes, were important issues. We saw this in the community engagement meetings, and when meeting at Metro in the Council room, all of the chairs were of exactly the same type. This issue appears to be low-hanging fruit.

37. **Acquire and locate in parks more seats along trails and at other assets.**
38. **Assure that sites, including the Metro Regional Center, have a variety of types of seats.**

### Maintenance Buildings

In individual site reports, we address the maintenance areas. As noted earlier, the Department can apply a different standard to spaces used only as employee work areas. Department maintenance staff should receive training in regard to the application of the **approach, enter, and exit** strategy so that they understand the reason for the various requirements.

39. **Train maintenance staff supervisors** in accessibility concepts that are applicable to the maintenance building.
40. **Implement recommendations regarding parking, accessible route, changes in level, gaps, doors, and alarm systems** at the maintenance areas.

### Playgrounds

The **minimum required** of the Department by title II of the ADA is that the “program” of playgrounds be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing playgrounds should be made accessible. Again, a good practice is to treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

Our evaluation included five playgrounds. Of these, one was accessible. We recommend access to two more. Any new playgrounds to be replaced at any time in the future must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with Metro Parks and Nature 2 to 5 Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the Department is close to an accessible 2 to 5 playground. [[Metro Parks and Nature Playground Map](#)]

41. **Make the corrections** so the 2 to 5 playgrounds at the sites below **remain** accessible:
  - **Cooper Mountain Nature Park**
42. **Make the corrections** so the playground at the sites below **become** accessible:
  - **Blue Lake Regional Park (1 of 3)**
  - **Oxbow Regional Park**
43. **Leave as is** the playgrounds at the park named below, and if future alterations or renovations occur at those sites, make them accessible.
  - **Blue Lake Regional Park (2 of 3)**

44. **Advertise the accessible playgrounds** in the Department website and publications. This is an important way to make the public aware of opportunities, and complies with the section 35.106 notice requirement in the title II regulation.
45. **Gradually eliminate the use of engineered wood fiber as an impact attenuating playground surface.** This was a consensus of both community engagement meetings.

For this surface to remain accessible, Metro staffs must more frequently inspect and maintain the surface. Unitary surfaces such as poured-in-place rubber or interlocking rubber tiles, and the artificial turf surface, are much easier to use for persons with mobility impairments and also meet the required standard for impact attenuation.

### **Fishing**

The **minimum required** of the Department by title II of the ADA is that the “program” of fishing be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing fishing areas should be accessible. We recommend that at least one of every three be accessible. There are two fishing areas and one is accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the Metro Parks and Nature Fishing Map, illustrates the areas where work is recommended so that every resident of the Department is close to an accessible fishing area. [[Metro Parks and Nature Fishing Map](#)]

46. **Make corrections** cited in reports so the fishing area below **remains** accessible:
  - **Blue Lake Regional Park**
47. **Leave as is** the fishing at the following sites:
  - **Oxbow Regional Park**
48. **Advertise the accessible fishing areas** in Department website and publications.

### **Beach Access**

The **minimum required** of the Department by title II of the ADA is that the “program” of the beach be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing beach routes should be accessible. We recommend that at least one of every three be accessible. There are three beach areas and none are accessible. **We recommend access to one.**

The Program Access Chart at the end of this section, along with the Metro Parks and Nature Beach Map, illustrates the areas where work is recommended so that every resident of the Department is close to an accessible beach. [[Metro Parks and Nature Beach Map](#)]

49. **Make corrections** cited in reports so the beach below **becomes** accessible:
  - **Broughton Beach**
50. **Leave as is** the beach at the following sites:
  - **Blue Lake Regional Park**
  - **Oxbow Regional Park**
51. **Advertise the accessible beaches** in Department website and publications.
52. **Acquire and use on an experimental basis some of the artificial beach access routes** ([Mobi-Mat](#) or [AccessMat](#)). Evaluate ease of use, customer comments, staff comments, and economic issues.

### Softball

The **minimum required** of the Department by title II of the ADA is that the “program” of softball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing ball fields should be accessible. We recommend that at least one of every three be accessible.

There are seven fields and none are accessible. **We recommend access to two.**

The Program Access Chart at the end of this section, along with the Metro Parks and Nature Ball Fields Map, illustrates accessible ball fields so that every resident of the Department is close to an accessible ball field. [[Metro Parks and Nature Ball fields Map](#)]

53. **Make corrections** cited in reports so the ball fields **become** accessible:
  - **Blue Lake Regional Park (2 of 6)**
54. **Leave as is** the ball fields at the following sites:
  - **Blue Lake Regional Park (4 of 6)**
  - **Oxbow Regional Park (1)**
55. **Advertise the accessible ball fields** in Department website and publications.

### Horseshoes

The **minimum required** of the Department by title II of the ADA is that the “program” of horseshoes be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing horseshoe courts must be accessible. We recommend that at least one of every three be accessible.

There are 11 courts and none are accessible. **We recommend access to four.**

The Program Access Chart at the end of this section, along with the Metro Parks and Nature Horseshoe Map, illustrates accessible athletic fields so that every resident of the Department is close to an accessible horseshoe court. [[Metro Parks and Nature Horseshoe Map](#)]

56. **Make corrections** cited in reports so the courts below **become** accessible:

- **Blue Lake Regional Park (1 of 4)**
- **Oxbow Regional Park (3 of 7)**

57. **Leave as is** the courts at the following sites:

- **Blue Lake Regional Park (3 of 4)**
- **Oxbow Regional Park (4 of 7)**

58. **Advertise the accessible horseshoe courts** in Department website and publications.

#### **Water/Boat Access**

The **minimum required** of the Department by title II of the ADA is that the “program” of boating be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing boat access areas should be accessible.

We recommend that a minimum of one area of every three be accessible. We saw 10 boat access areas and five are accessible. **We recommend access to three more.**

The Program Access Chart at the end of this section, along with the Metro Parks and Nature Boat Access Map, illustrates the areas where work is recommended so that every resident is close to an accessible boat area. [[Metro Parks and Nature Boat Access Map](#)]

59. **Make corrections** cited in the reports so the boat area below **remains** accessible:

- **Blue Lake Regional Park (1 of 2)**
- **Chinook Landing Marine Facility (4)**

60. **Make corrections** cited in the reports so the boat areas below **become** accessible:

- **Blue Lake Regional Park (1 of 2)**
- **Gleason Boat Ramp**
- **Sauvie Island Boat Ramp**

61. **Leave as is** the areas at the following sites:

- **Farmington Paddle Launch**
- **Oxbow Regional Park**

62. **Advertise the accessible boat areas** in Department website and publications.

## Trails

The **minimum required** of the Department by title II of the ADA is that the “program” of trails be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing trails should be accessible.

We recommend that a minimum of one area of every three be accessible. We saw nine sites and reviewed 23 trails and two trails are fully accessible. **We recommend access corrections to 12 additional sites.**

**Trail access guidance is not yet in the form of a final and enforceable standard.** The US Access Board does offer significant guidance, and we have applied it here to Department trails.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the **final guideline** that exists today. That said, we recommend Department continue as a smart practice to adhere to the Access Board guidance on this matter.

In community engagement, we heard that some were reluctant to “change” trails too much. We encourage Metro to consider a variety of trail surfaces. It is clear that dirt and grass are not accessible. It is clear that paved trails and planked trails are accessible. There is a middle ground and it includes crushed stone surfaces. These, with proper installation and continued maintenance, also are viewed as being accessible surfaces.

We note that our scope did not include the audit of all Parks and Nature trails. That is required by the ADA. Doing so may cause the Department to view the trails we audited in a different way. We urge the Department to complete this work and integrate that project with this project.

The Program Access Chart at the end of this section, along with the Metro Parks and Nature Trail Map, illustrates the areas where work is recommended so that every resident is close to an accessible trail. [[Metro Parks and Nature Trail Map](#)]

63. **Make corrections** cited in the reports so the trail below **remains** accessible:

- **Graham Oaks Nature Park (2 of 8)**

64. **Make the corrections** so the trails at the sites below **become** accessible:

- **Blue Lake Regional Park (2)**
- **Cooper Mountain Nature Park (2)**
- **Graham Oaks Nature Park (4 of 8)**
- **Mt. Talbert Nature Park (1 of 2)**
- **Scouters Mountain Nature Park (2 of 3)**
- **Smith & Bybee Wetlands**

65. **Leave as is** the trails at the parks named below:

- **Canemah Bluff Nature Area (3)**
- **Glendoveer Golf and Tennis Center**

- **Graham Oaks Nature Park (2 of 8)**
- **Mt. Talbert Nature Park (1 of 2)**
- **Oxbow Regional Park**
- **Scouters Mountain Nature Park (1 of 3)**

66. **Advertise the accessible trails** in Department website and publications
67. **Create an accessibility working group for the purpose of discussing trail accessibility.** The cost of retrofitting trails is close to \$4,000,000, or about 67% of the total retrofit costs for this project. Task the group with two charges, described below.
- First, identify and test trail surfaces other than dirt and grass (these are always noncompliant) and asphalt and planking (these are usually fully compliant if the technical requirements for slope, etc. are met).
  - Second, discuss how trails could be classified so that the public has a good understanding of the accessibility of the trail. This is not unlike the approach used to classify ski runs. Most outdoor recreation advocates understand the meaning of a green run, a blue run, and a black run.
  - Third, discuss the advantages and disadvantages of developing new trails that will be accessible, and leaving existing trails as is and inaccessible. This could allow Metro to apply fiscal and human resources to new development, instead of retrofits. It could also increase the Metro trail inventory.

### Shelters

The **minimum required** of the Department by title II of the ADA is that the “program” of picnicking be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing shelters should be accessible. There 24 shelters and 10 are accessible. **We recommend access to four more. Many of these sites need tables or other minor corrections.**

**Picnic area access guidance is not yet in the form of a final and enforceable standard.**

The US Access Board does offer significant guidance, and we have applied it here to Department shelters.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the **final guideline** that exists today. That said, we recommend Department continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, with the Metro Parks and Nature Shelters Map, illustrates accessible picnic areas so that every resident of the Department is close to an accessible shelter. [[Metro Parks and Nature Shelters Map](#)]

68. **Make corrections** needed to **maintain access**, including adding tables, to shelters at:

- **Blue Lake Regional Park (2 of 12)**
  - **Cooper Mountain Nature Park**
  - **Graham Oaks Nature Park**
  - **Mt. Talbert Nature Park**
  - **Oxbow Regional Park (3 of 6)**
  - **Scouters Mountain Nature Park**
  - **Smith & Bybee Wetlands**
69. **Make corrections** needed to **create access**, including adding tables, to shelters at:
- **Blue Lake Regional Park (4 of 12)**
70. **Leave as is** the shelters at the following sites:
- **Blue Lake Regional Park (6 of 12)**
  - **Mason Hill Park**
  - **Oxbow Regional Park (3 of 6)**
71. **Advertise accessible shelters** in the Department website and publications.
72. **Leave electrical outlets on for use by persons with disabilities visiting Metro facilities.**

### Picnic Areas

The **minimum required** of the Department by title II of the ADA is that the “program” of picnicking be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing shelters should be accessible. There 43+ picnic areas and none are accessible.

**We recommend access to 23 areas. Many of these sites need tables or other minor route corrections.**

**Picnic area access guidance is not yet in the form of a final and enforceable standard.**

The US Access Board does offer significant guidance, and we have applied it here to Department picnic areas.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the **final guideline** that exists today. That said, we recommend Department continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, with the Metro Parks and Nature Picnic Areas Map, illustrates accessible picnic areas so that every resident of the Department is close to an accessible picnic area. [[Metro Parks and Nature Picnic areas Map](#)]

73. **Make corrections** needed to **create access**, including adding tables, to picnic areas at:

- **Blue Lake Regional Park (21 of 38)**
- **Howell Territorial Park (1 of 2)**
- **Sauvie Island Boat Ramp (1 of 2)**

74. **Leave as is** the picnic areas at the following sites:

- **Blue Lake Regional Park (17 of 38)**
- **Chinook Landing Marine Facility**
- **Howell Territorial Park (1 of 2)**
- **Oxbow Regional Park (various)**
- **Sauvie Island Boat Ramp (1 of 2)**

75. **Advertise accessible picnic areas** in the Department website and publications

### **Transition Plan**

The Department must have a transition plan per 35.150(d) of the DOJ title II regulation. The plan should identify the barrier, the corrective work, the date by which the work will occur (in our reports, the Phase), and the person responsible for barrier removal.

Barriers should be removed as soon as is possible. Phasing the work to be done allows for access to occur and makes the best use of the resources of Metro Parks and Nature.

In the view of DOJ, the recreation design requirements were available to the Department since 2004, if not earlier. Enforcement staff has said at meetings and in conversations that work should have already been underway to identify and remedy access deficits.

We recommend work in three phases. We also note the work we recommend need not occur in a category titled Department Option. Should the Department plans change, or should other resources become available, the corrective work needed at these sites is known. We acknowledge that each phase likely requires three or more fiscal years for completion.

We have made cost **references** for the corrective work recommended. We note that these are not estimates and should be used only for planning purposes. The final design, the year in which the work will occur, the relationship with the contractor, and many other factors must be considered before a cost estimate is made.

The total of corrective work we recommend is \$5,910,261.65 and we believe it can be implemented over a ten-year period.

In Phase One, we recommend work in the amount of \$841,369.25. Generally, the work in this Phase falls into two categories: easy to do with existing staff and resources (low-hanging fruit), and old requirements (such as parking) at sites otherwise accessible. The Department should decide how many years are required to complete this phase. **Here we would suggest that Phase One is a three-year process.**

In Phase Two, we recommend work in the amount of \$481,328.35. Generally, the work in this Phase includes changes to recreation amenities, such as playground surfaces, ball fields and

athletic fields. The Department should decide how many years are required to complete this phase. ***Here we would suggest that Phase Two is a two-year process.***

In Phase Three, we recommend work in the amount of \$4,587,564.05. Generally, the work in this Phase falls into two categories: elements not yet addressed by a final Standard, such as trails, and elements where correction is complex or costly. The Department should decide how many years are required to complete this phase. ***Here we would suggest that Phase Three is a seven-year process.***

We identified work in the amount of \$3,593,821.15 in Department Option. This is work at a site or element with access deficits where we believe the Department already meets the program access test and need not make these sites accessible, until later altered for another purpose.

### **Funding Access Retrofits**

We have developed this section to discuss some of the funding sources other counties, cities, park districts, and governmental entities have used for accessibility compliance. This is not intended as a comprehensive list, but is a good primer on this topic.

#### ***No Dedicated Federal Source***

There is no dedicated source of federal funds for accessibility renovations to existing sites. This will not likely change in the future. As an example of the unpredictability of federal funding, we look to the Land and Water Conservation Fund (LAWCON). The LAWCON stateside portion, even with a dedicated funding source, is typically underfunded by as much as 80%.

#### ***Earmarks***

Some of our clients have pursued Congressional earmarks for access work. Earmarks are unpopular, and difficult to obtain. While Congressional earmarks are not in use today, discussions about reviving the practice have occurred. We would suggest that this is a viable option communities of influence such as Metro.

#### ***Community Development Block Grant Funds***

Several of our clients have acquired federal Community Development Block Grant (CDBG) funds for accessibility renovations at existing sites. CDBG funds often have a scale of priority. It would be important to establish accessibility as a priority for CDBG applications, which tend to be very competitive.

#### ***State Grants Programs***

Several states, and several of our clients, have successfully pursued state legislation to set aside dedicated state funds that can be used for specific purposes, including access retrofits. To name a few, Illinois, New Jersey, Colorado, Ohio, Florida, and Texas all have sources of revenue funded in various ways, such as a real estate transfer tax.

While the various states have all at times not fully funded these grant programs, they remain an effective tool for counties regarding site acquisition and development.

### ***State Discretionary Funds***

Most state legislatures provide some type of discretionary funding for members of the legislature. In some states, these are relatively small grants of under \$50,000. In other states, it is common to see legislative grants of \$500,000 or more.

As with Congressional earmarks these have become less popular in recent years, but still exist in most states.

### ***Special Accessibility Legislation***

At least one state (Illinois) has adopted legislation that allows municipalities and special purpose park districts to levy a tax that can be used only for recreation for people with disabilities. The funds can be used for access retrofits at existing sites and facilities.

Statewide, local entities in Illinois levy and expend an estimated \$50,000,000 annually for this purpose.

### ***Private Giving***

Some of our clients have successfully sought private gifts for accessibility purposes. The private giving area is subject to fluctuations depending on the economy, political issues, and related fiscal impacts. In our experience, private giving works best when an agency such as Metro has an employee dedicated to this purpose.

### ***Corporate Giving***

Some of our clients have successfully sought grants from corporations. These may, for corporate purposes, come from marketing (such as naming rights to a facility) or from community giving. Also, many corporations have a related foundation that manages corporate giving. A good example here is the Mitsubishi Foundation. In our experience, corporate giving works best when an agency such as Metro has an employee dedicated to this purpose.

### ***Community Foundations and Other Foundations***

Community foundations, which operate on a regional basis, have also been involved in accessibility giving. Perhaps the greatest example here is the multi-million dollar Kellogg Foundation project that improved accessibility in Michigan, Ohio, Indiana, Illinois, and other states that bordered the Kellogg headquarters in Michigan.

### ***Other Methods***

There are other methods. Each works in that community and may not work at Metro.

A New Jersey community takes 100% of accessible parking fines and applies those towards recreation for people with disabilities.

Several Illinois park districts have added a \$1 to \$10 surcharge to every registration, with the fees generated being earmarked for access and inclusion expenses.

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Several communities have successfully sought budget increases to address accessibility backlogs, just as they have with maintenance backlogs. Those increases may be general fund allocations, proceeds from successful referenda, or reallocations of under expended funds originally budgeted for other municipal purposes.

***Risk Management***

Investing in safety saves money by avoiding legal expenses related to injuries on Metro properties. The same concept applies here. Investing in accessibility retrofits saves Metro Parks and Nature the cost of staff time and attorneys to defend against ADA lawsuits or administrative complaints.

While we do not believe a decision about access should hinge solely on risk management factors, we do recommend that Metro Parks and Nature be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities.

**Public Participation**

With Metro staffs Cassie Salinas and Nicole Lewis, we facilitated two robust public feedback sessions. One was held during the afternoon of Thursday, May 3 and the other was held the morning of Saturday, May 5. The sessions were well attended, with more than 20 at each meeting. Other Metro staffs were involved as well, facilitating focused discussion by attendees interacting in small groups.

The focus of both sessions was on Parks and Nature sites, as well as the Metro Regional Center that is a part of another Metro project. One of the important influences out of the public participation was a preference to start with the basics regarding accessibility. If parking is not accessible, and doors are not accessible, and restrooms are not accessible, it makes it very difficult to enter a Metro park and use the park assets.

A more complete community engagement report is in the hands of Metro staffs.

**Other Matters**

We note the importance of an integrated approach to the transition plan. Metro owns and operates other sites, such as the Metro Regional Center, Oregon Convention Center, Oregon Zoo, Portland Expo Center, and P'5. Other than the Regional Center, if those sites have not been audited, they must.

An integrated transition plan that combines the retrofits at the Metro Parks and Nature Sites with retrofits necessary at those other sites will be more efficient than five different plans with varying sets of priorities and schedules. We note again the need to audit all other Parks and Nature sites. That work should also be integrated into existing plans, such as CIP, parking lot replacement, and so forth.

Occurring at the same time as this project is an access audit and transition plan for the Metro Campus. The benefit of an integrated approach is efficiency and a harmonization of priorities. The Campus assets are addressed in a separate report.

**Conclusion**

Metro Parks and Nature has a variety of facilities and sites. The skilled staff operates facilities and sites the community wants and enjoys. This report identifies some issues that are typical in a Department infrastructure. The Department takes steps towards accessibility every year and that undoubtedly helped.

The Department should determine to what extent it will act on our recommendations and any staff recommendations. Access work should occur every year during the transition plan. While no one can say with certainty how long the Department can stretch these projects, the Department should make access retrofits an ongoing part of its annual plans and budgets. US Department of Justice officials have said work must be completed as soon as is possible.

***Be certain to understand that the Department could be forced to accelerate its pace. Making access work a high priority is critical.***

Metro Parks and Nature should be commended for undertaking this task. Although this access audit and the transition plan are both mandated tasks, many of your neighbors have not completed these steps.

In closing, thanks again to the staff at the Department for their cooperation and spirit. All of the team at our firm enjoyed working with them. We acknowledged Nicole Lewis for her assistance throughout the project.

Call me at WT Group at 224-293-6451 if there are any questions. Thanks again for inviting us to work with Metro Parks and Nature.



**Submitted by:**

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