

# FINAL REPORT TO THE City of Helena

## Conclusions and Recommendations

December 15, 2015

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

### **Background**

A step-by-step approach will help the City of Helena understand and address the deficits in the individual site reports. We recommend the following steps to accomplish the goal of making opportunities in City sites more accessible to people with disabilities.

### **Our Process**

Our work included an access audit of 49 specific City sites and facilities. Our two person teams used checklists in the evaluation process. Additionally, our staff trained two City facilities staff and two Parks staffs, and they conducted audits of an additional 26 sites and facilities.

As we did, the City staff wrote site reports. We did review these for consistency and the appropriate application of the checklists. However, we did not see the sites that were audited by City staffs.

### **A Guide to this Section**

There are approximately 5,300 access deficits identified in the 75 site reports. That is what is required by the ADA, the identification of every access deficit at every site and facility. And, for every deficit, a solution must be identified. Another way to consider this though is that for every deficit we found, we observed 10 elements that complied with the access requirements. In other words, we saw approximately 53,000 access features that complied.

***This section is all about the big picture.*** As discussed in the cover letter with this report, the City 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 nine site reports, and as a way for the City to better manage compliance. This approach also gives the City flexibility within its compliance efforts to move resources so that they are applied with optimal impact. Consider these systemic changes as a complement to a site-by-site approach.

However, the scope of our work does not include the design of a solution. Rather, it is 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 City staff or contractors.

We know of qualified and capable designers. If, once you are considering implementation, need references we can certainly help with that.

***This is also about accountability.*** The adjustments to door closers, eliminating changes in level, and other recommended actions are ineffective if not maintained over time by City employees. We recommend the following to facilitate review:

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

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

***Third, read the 75 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 the City of Helena 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 used. The common issues are also "big picture" items for the City and incorporate many of the specific site recommendations.

### **Maintenance**

The City 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. ***Provide training*** to recreation staffs regarding the features of an accessible route and how to ensure that it remains unobstructed.
3. ***Purchase some new tools.*** The City should have enough battery-powered digital levels, and tools to measure pounds of force for doors, to equip some staff for occasional spot-checks. A great website for gauges is:

<http://www.technologylk.com/crl-door-pressure-gauge-lk-HMC035.htm?src=froogle>.

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

The routes and sidewalks that make up the Cities 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 City 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 2016. 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. **Eliminate changes in level** by the end of 2018. 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.
6. **Add inspections for gaps** of greater than .5" **to park maintenance safety checklists** in 2016. Identify and fill these gaps before they expand. **In the alternative, consider resurfacing segments of deteriorated asphalt routes.**
7. **Adopt** a policy about the use of other Other Power Driven Mobility Devices in City facilities and at City 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 City 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 City 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:** The City of Helena authorizes persons with mobility impairments to use OPDMDs and EPAMDs in City 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 City 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, City employees, or City 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, City employees, or City participants.

5. The City accepts no responsibility for storage of the device.
6. The City accepts no liability for damage to the device, or injury to the operator, whether caused by the operator, another visitor, or any other circumstance.
7. The City 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 City reserves the right to suspend the use of facilities or sites by the operator if doing so is in the best interests of the City and its participants.
9. The City reserves the right to change, modify, or amend this policy at any time, as it would any other policy.

### 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 City facilities.

### Employee Work Areas

The City of Helena employs many qualified and skilled full time staff, making City services available to residents. The City employs many more on a part-time or seasonal basis. The City likely already has employees with disabilities and in the future, will have **more** employees with disabilities, in all categories...full time, seasonal, and regular part time.

It is important to address access to work areas, and both the title II regulation and the 2010 Standards do so. In section 203.9 of the 2010 Standards, 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. Other factors are 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.

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 City 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 City sites.

9. **Address accessibility in the City personnel policies**, and note that, upon request by an employee, the City 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.

### Accessible Parking

The City maintains approximately 1,200 standard parking spaces at sites, and 55 more that are designated as accessible parking stalls. In correcting or refreshing its accessible stalls, the City should address all of them at once to eliminate inconsistencies in compliance.

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

### Parking Stall Dimensions

Stalls are a minimum of 8' wide. An adjacent access aisle must also be a minimum of 5' wide. The access aisle must be diagonally striped with **high quality paint**.

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 the City of Helena has adopted a higher fine by ordinance, the sign must note the statewide fine of \$100.00.

Federal settlement agreements require a third sign, on at least one stall, that says VAN ACCESSIBLE. This stall must be 11' wide with a 5' access aisle. An acceptable alternate is 8' 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 limits 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 2017 **implement a plan to correct or refresh every accessible stall** at every City 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 a period of 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 cross-cut of concrete, or a grid laid on wet concrete to create a diamond-shaped 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 City facilities. If necessary, phase this out over a two or three year period.

### Door Opening Force Requirements

In City buildings and facilities, there are approximately 800 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.

18. **Evaluate and determine the age of door closers.**
19. **Add door closer maintenance checks** to safety checklists in 2016 and for closers with 10 years of service or less, aggressively maintain them for effectiveness.
20. **Purchase and install new door closers** for all exterior doors (with closers 20 years old or more) and 50% of interior doors in 2017 or as soon as is possible.
21. **Purchase and install** new door closers for all remaining interior doors (with closers 20 years old or more) in 2018 or as soon as is possible.

### Signage

City signs serve several purposes. First, signs assist wayfinding in buildings, such as the City-County Admin Building. 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 City.

22. **Develop a sign template** in 2015 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, City information in the signs (name of facility? phone number? main office number?), and more.
23. **Implement signage template and refresh** City site signage in 2016.

### Bathrooms

Bathrooms are an essential part of a visit to a City of Helena 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**.

24. **Develop a bathroom template in 2016.** Confirm it with the State of Montana. 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.
25. **Include bathroom renovations** at facilities in the City Capital Acquisition and Replacement Plan.
26. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.
27. **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.
28. **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 sports fields. These must be accessible and must be served by **an accessible route**.

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

29. **Determine in 2016** if systems have been upgraded or replaced since 1992.
30. **Develop a plan in 2016** for the installation of aural and visual alarms in renovations.
31. **Retrofit construction that has occurred since 1992** to include aural and visual alarms by the end of 2018.

### Brochures

The use of a park grid in the City brochures is an important tool for residents and can now be used to communicate about accessibility. Create one to incorporate the access work the City

staff completes and indicate in your grid where, for example, the accessible picnic areas are, or where the accessible playgrounds are.

32. **Update the parks and facilities and city services** information on the website to reflect City plans regarding our recommendations, and to note which sites are accessible or will be made accessible.

### Website

The title II regulation requires that all public communication used by the City be available to people with disabilities. Many people with vision impairments use websites every day with the aid of technical equipment.

The City is required to evaluate its website and make necessary changes so that the website can be read by that type of equipment.

A link at the US Department of Justice website offers guidance on this. The City IT staff should become familiar with this issue. Go to <http://www.ada.gov/websites2.htm>. The City can also check the accessibility of its website at a free service. Link to Cynthia Says at [http://www.icdri.org/test\\_your\\_site\\_now.htm](http://www.icdri.org/test_your_site_now.htm) and test your website.

33. **Evaluate the City website** and make changes so that the information on the site is accessible to people with disabilities.

### Maintenance Buildings

In individual site reports, we address the maintenance areas. As noted earlier, the City can apply a different standard to spaces used only as employee work areas. City 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.

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

### Playgrounds

The **minimum required** of the City 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 20 playgrounds. Of these, two are accessible and one is being replaced, and the new model will be accessible as new playgrounds at any time in the future must comply with the 2010 Standards. We recommend access to four more.

The Program Access Chart, along with City of Helena Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the City is close to an accessible playground. [[City of Helena Playgrounds Map](#)]

36. **Make the corrections** so the playground at the site below **remains** accessible:

- **Barney Park (new play area)**
- **Centennial-Bausch Park**
- **Mountain View Park**

37. **Make the corrections** so the playground at the site below **becomes** accessible:

- **Lockey Park**
- **Selma Held Park**
- **Waukesha Park**

38. **Leave as is** the playgrounds at the parks named below, and when future alterations or renovations occur at those sites, make them accessible.

- **Batch Softball Fields**
- **Cherry Park**
- **Clinton Park**
- **Cunningham Park**
- **Heritage Pioneer Park**
- **Jaycee Park**
- **Kay McKenna Park**
- **Leo Pocha Park**
- **Memorial Park (2)**
- **Northwest Park**
- **Ramey Park**
- **Skelton Park**
- **Wesleyan Park**

39. **Advertise the accessible playgrounds** in the City 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.

### Tennis

The **minimum required** of the City by title II of the ADA is that the “program” of tennis 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 tennis courts should be accessible. We recommend that at least one of every three be accessible.

There are 13 courts and eight are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the City of Helena Tennis Map, illustrates the areas where work is recommended so that every resident of the City is close to an accessible tennis court. [[City of Helena Tennis Map](#)]

40. **Make corrections** cited in reports so the tennis courts below **remain** accessible:

- **Barney Park (4)**
- **Kay McKenna Park (4)**

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

- **Lockey Park (4)**
- **Mountain View Park**

42. **Advertise the accessible tennis courts** in City website and publications.

### Volleyball

The **minimum required** of the City by title II of the ADA is that the “program” of volleyball 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 volleyball courts should be accessible. We recommend that at least one of every three be accessible.

There are three courts and one is accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the City of Helena Volleyball Map, illustrates the areas where work is recommended so that every resident of the City is close to an accessible volleyball court. [[City of Helena Volleyball Map](#)]

43. **Make corrections** cited in reports so the volleyball court below **remains** accessible:

- **Mountain View Park**

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

- **Centennial-Bausch Park (2)**

45. **Advertise the accessible volleyball courts** in City website and publications.

## Basketball

The *minimum required* of the City by title II of the ADA is that the “program” of basketball 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 basketball courts should be accessible. We recommend that at least one of every three be accessible.

There are 11 courts and five are accessible. ***We recommend access no new access.***

The Program Access Chart at the end of this section, along with the City of Helena Basketball Map, illustrates accessible ball fields so that every resident of the City is close to an accessible basketball court. [[City of Helena Basketball Map](#)]

46. ***Make corrections*** cited in report so the courts below ***remain*** accessible:

- ***Barney Park***
- ***Cherry Park***
- ***Heritage-Pioneer Park***
- ***Mountain View Park***
- ***Ramey Park***

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

- ***Clinton Park***
- ***Cunningham Park***
- ***Lincoln Park (3)***
- ***Lockey Park***

48. ***Advertise the accessible basketball courts*** in City website and publications.

## Baseball

The *minimum required* of the City by title II of the ADA is that the “program” of baseball 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 baseball fields should be accessible. We recommend that at least one of every three be accessible.

There are 16 fields and three are accessible. ***We recommend access to four more fields.***

The Program Access Chart at the end of this section, along with the City of Helena Baseball Map, illustrates accessible ball fields so that every resident of the City is close to an accessible ball field. [[City of Helena Baseball Map](#)]

49. **Make corrections** cited in report so the ball fields below **remain** accessible:
- **Centennial-Bausch Park (3 of 4)**
50. **Make corrections** cited in report so the ball fields below **become** accessible:
- **Kindrick-Legion Field**
  - **Lockey Park**
  - **Ramey Park (2)**
51. **Leave as is** the ball fields at the following sites:
- **Barney Park**
  - **Batch Softball Fields (4)**
  - **Centennial-Bausch Park (1 of 4)**
  - **Lincoln Park**
  - **Northwest Park (2)**
52. **Advertise the accessible ball fields** in City website and publications.

### Athletic Fields

The **minimum required** of the City by title II of the ADA is that the “program” of athletic fields 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 athletic fields should be accessible. We recommend that at least one of every three be accessible.

There are three fields and none are accessible. **We recommend access to one field.**

The Program Access Chart at the end of this section, along with the City of Helena Athletic Fields Map, illustrates accessible fields so that every resident of the City is close to an accessible athletic field. [[City of Helena Athletic Field Map](#)]

53. **Make corrections** cited in report so the athletic field below **becomes** accessible:
- **Centennial-Bausch Park**
54. **Leave as is** the athletic fields at the following sites:
- **Northwest Park (2)**
55. **Advertise the accessible athletic fields** in City website and publications.

## Trails

The **minimum required** of the City 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 10 trails and two are accessible. **We recommend access to two more.**

**The issue of trail access is not yet settled as a final and enforceable standard.** There is significant guidance from the US Access Board, and we have applied it here to City 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 City 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, along with the City of Helena Trail Map, illustrates the areas where work is recommended so that every resident is close to an accessible trail. [[City of Helena Trail Map](#)]

56. **Make corrections** cited in the reports so the trails below remain accessible:

- **Centennial-Bausch Park**
- **Nature Park**

57. **Make corrections** cited in the reports so the trails below become accessible:

- **Donaldson Park**
- **Janet Park**

58. **Leave as is** the trails at the following sites:

- **Dale Harris Park**
- **Meatloaf Hill**
- **Mt. Helena Park**
- **Nob Hill Open Space**
- **Northwest Park**
- **Reber Park**

59. **Advertise the accessible trails** in City website and publications

## Picnic Areas

The **minimum required** of the City 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 picnic sites should be accessible. There 13 picnic areas and six are accessible.

***We recommend no new access. Many of these sites need accessible tables or other minor corrections.***

***The issue of picnic area access is not yet settled as a final and enforceable standard.*** There is significant guidance from the US Access Board, and we have applied it here to City 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 City 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 City of Helena Picnic Areas Map, illustrates accessible picnic areas so that every resident of the City is close to an accessible picnic area. [[City of Helena Picnic Areas Map](#)]

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

- ***Barney Park***
- ***Centennial-Bausch Park (1 of 2)***
- ***Cherry Park***
- ***Kindrick-Legion Field***
- ***Lockey Park***
- ***Mountain View Park***

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

- ***Centennial-Bausch Park (1 of 2)***
- ***Cunningham Park***
- ***Dale Harris Park***
- ***Meatloaf Hill***
- ***Nob Hill Open Space***
- ***Reber Park***
- ***Robinson Park***

62. ***Advertise accessible picnic areas*** in the City website and publications

### **Public Feedback**

An integral part of the self-evaluation of sites and facilities, and the development of a transition plan, is the involvement of the public. This is tentatively scheduled for February 17, 2016. RAC President John McGovern will facilitate this meeting.

The purpose of the meeting is to briefly review our findings and to seek public feedback. The community can provide valuable feedback regarding accessibility priorities and preferences.

### Transition Plan

The City 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 the City of Helena.

In the view of DOJ, the recreation design requirements were available to the City 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 City Option. Should the City 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 retrofit work we recommend is \$3,355,622.75. We believe it can be implemented over a period of 11 years.

In Phase One, we recommend work in the amount of \$901,438.75. 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 City should decide how many years are required to complete a phase. ***Here we would suggest that Phase One is a three-year process.***

In Phase Two, we recommend work in the amount of \$1,065,371.00. Generally, the work in this Phase includes changes to recreation amenities, such as playground surfaces, ball fields and athletic fields. The City should decide how many years are required to complete a phase. ***Here we would suggest that Phase Two is a four-year process.***

In Phase Three, we recommend work in the amount of \$1,388,813.00. 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 City should decide how many years are required to complete a phase. ***Here we would suggest that Phase Three is a four-year process.***

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We identified work in the amount of \$1,335,105,25 in City Option. This is work at a site or element with access deficits where we believe the City already meets the program access test and need not make these sites accessible, until later altered for another purpose.

**Conclusion**

The City of Helena has a variety of recreation facilities and sites, and other municipal facilities. The skilled staff operates facilities and sites the community wants and enjoys. This report identifies some issues that are typical in every municipal infrastructure. The City takes steps towards accessibility every year and that undoubtedly helped.

The City 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 City can stretch these projects, the City should make access retrofits an ongoing part of its annual plans and budgets. The US Department of Justice officials have said work must be completed as soon as is possible.

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

Your strategy should definitely address the common issues identified in this report.

The City of Helena 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 City for their cooperation and spirit. All of the team at our firm enjoyed working with them. We acknowledged you, Elroy, for your assistance earlier, and we do so again here.

Call me at Recreation Accessibility Consultants at 224/293-6451 if there are any questions. Thanks again for inviting us to work with the City of Helena.

**Submitted by**

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**John N. McGovern, J.D., President**  
**Recreation Accessibility Consultants LLC**

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