

# FINAL REPORT TO THE CITY OF SCOTTS VALLEY

## Access Audit and Transition Plan Recommendations

March 3, 2016

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

### **Introduction and Scope of Work**

In 2015, the City of Scotts Valley retained our firm for an access audit of facilities and parks owned and operated by the City. This work addressed the more typical infrastructure such as the City Hall and other City facilities as well as unique sites such as the Scotts Valley Dog Park. We developed a transition for those sites, which phases the retrofit work and includes cost references. Each audit resulted in a site report.

Additionally, at some point in the future the City should evaluate policies and programs it makes available to the public.

We recommend a step-by-step approach to help the City understand and address the deficits in the 12 individual site reports. We suggest the following steps to accomplish the goal of making opportunities in City sites more accessible to people with disabilities.

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

There are approximately 1,300 access deficits identified in the 12 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 13,000 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 12 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 conservation site 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, referrals are needed we can certainly help.

***This is also about accountability.*** The elimination of changes in level, filling gaps, and other recommendations are ineffective if not regularly maintained by City employees. We recommend the following steps to facilitate review:

**First, read the final report cover letter to Kristin Ard.** 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 12 site reports.** Use your computer and you'll have instant access to the report for that site, the photos, and the checklists. We caution City staff to avoid the site reports until the Conclusion has been digested, as there is simply too much detail in the site reports. We'd prefer that City staff see the forest before the trees.

**Fourth, use your knowledge of the sites and of your staffs' expertise.** You know the City of Scotts Valley 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. **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 City's network of accessible routes are in fair condition. However, 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 residents 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.

3. **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.
4. **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.
5. **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.**
6. **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 US DOJ has published a technical assistance piece on [this subject](#). Additionally, we have some thoughts on the needed elements of a policy, and they are described 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:** City of Scotts Valley 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 City officials may request proof of disability;
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 (the speed at which a typical person walks);
  - 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 conservation site 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 to a City facility or site, 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

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

### Employee Work Areas

The City of Scotts Valley employs well-qualified full time staff, making parks and recreation and other services available to residents. The City employs many more on a part-time or seasonal basis. The City likely 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. Title II does so at section 35.140. 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.

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 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.

8. **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.
9. **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 City maintains approximately 500 standard parking spaces at sites, and 25 more that are designated as accessible parking stalls. In correcting its accessible stalls, the City may choose efficiencies, such as addressing all of them at once. This can be less expensive, can eliminate inconsistencies, and make this key site element compliant.

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

### Parking Stall Dimensions

Stalls are a minimum of 9' wide and 18' long. An adjacent access aisle must also be a minimum of 5' wide and can be shared with another accessible stall. The access aisle must be diagonally striped with **high quality blue paint**. The stall must be marked with a 36" X 36" symbol of access centered in the stall.

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 of \$250.00. Unless the City 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 12' wide with a 5' 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 when in a location that does not obstruct the route (such as being mounted on a building).

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.

11. In 2018 or 2019 **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.

12. **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.
13. **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.
14. **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 at intersections, and transportation locations such as a bus stop or train stop. However, it is not required in a site such as a park.



***We still, however, as a smart practice, recommend the use of detectable warnings.*** We believe the safety value is important. 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.

15. As with parking, ***develop a template for detectable warnings.***
16. 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 225 doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for exterior and interior doors). However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

17. ***Evaluate and determine the age of door closers.***
18. ***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.
19. ***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.
20. ***Purchase and install*** new door closers for all remaining interior doors (with closers 20 years old or more) in 2019 or as soon as is possible.

### Signage

City signs serve several purposes. First, signs assist wayfinding in sites, such as the City Hall 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 consistent 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.

21. **Develop a sign template** in 2016 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.
22. **Implement signage template and refresh** City site signage in 2017.

### Bathrooms

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

23. **Develop a bathroom template in 2016.** Confirm it with the State of California. 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.
24. **Include bathroom renovations** at facilities in the City Capital Acquisition and Replacement Plan.
25. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.
26. **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.

27. **Make one portable toilet,** if one is provided at a park or outdoor 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 if the alarm system has been upgraded since that same date.

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

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

### Brochures

The use of a matrix or park grid in the City brochures and the website 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.

31. **Update the parks and facilities** information in print materials and 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.

32. **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 maintenance areas. As noted earlier, the City can apply a different standard to spaces used only as employee work areas. City staffs 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.

33. **Train maintenance staff supervisors** in accessibility concepts that are applicable to the maintenance building.
34. **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 six playgrounds. Of that number, two are accessible.**

**We recommend no new access.** Any existing playgrounds to be replaced in the future must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with the City of Scotts Valley 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 Scotts Valley Playground Map](#)]

35. **Make the corrections** so the playgrounds at the sites below **remain** accessible:
  - **Hocus Pocus Park (2-5)**
  - **Skypark (2-, 5-12)**
36. **Leave as is** the playgrounds at the parks named below, and when future alterations or renovations occur at those sites, make them accessible.
  - **Hocus Pocus Park (5-12)**
  - **MacDorsa Park**
  - **Siltanen Park**
37. **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.

## Horseshoes

The **minimum required** of the City 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 pitches should be accessible. We recommend that a minimum of one area of every three be accessible. We saw three pitches and none are accessible. **We recommend access to one.**

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

38. **Make corrections** cited in the reports so the pitch below **becomes** accessible:

- **MacDorsa Park**

39. **Leave as is** the pitches at the following sites:

- **Siltanen Park (2)**

40. **Advertise the accessible horseshoes** in City website and publications.

## 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” described in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar sites, no guidance is given as to how many existing tennis courts should be accessible. We saw four and all are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, with the City of Scotts Valley Tennis Map, illustrates accessible tennis courts so that every resident of the City is close to an accessible court. [[City of Scotts Valley Tennis Map](#)]

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

- **Skypark (4)**

42. **Advertise accessible tennis courts** in the 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” described in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar sites, no guidance is given



as to how many existing basketball courts should be accessible. We saw three and two were accessible. **We recommend access to the third as the corrections are minimal.**

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

43. **Make corrections** cited in report so the courts below **remain or become** accessible:

- **Hocus Pocus Park**
- **Skypark (2)**

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

### Ballfields

The **minimum required** of the City by title II of the ADA is that the “program” of ballfields 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 sites, no guidance is given as to how many existing ballfields should be accessible. We saw five and none are accessible. **We recommend access to two.**

The Program Access Chart at the end of this section, with the City of Scotts Valley Ballfield Map, illustrates where work is recommended so that every resident of the City is close to an accessible ballfield. [[City of Scotts Valley Ballfield Map](#)]

45. **Make corrections** cited in report so the fields below **become** accessible:

- **Siltanen Park (2 of 5)**

46. **Leave as is** the ballfields at the following sites:

- **Siltanen Park (3 of 5)**

47. **Advertise accessible ballfields** in the 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” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For recurring sites, no guidance is given as to how many existing fields should be accessible. We saw seven and none are accessible. **We recommend access to three.**

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

48. **Make corrections** needed to **maintain access** to fields at:

- **Siltanen Park**
- **Skypark (2 of 6)**

49. **Leave as is** the fields at the following sites:

- **Skypark (4 of 6)**

50. **Advertise accessible fields** in the City website and publications

### **Grill Stations**

The **minimum required** of the City by title II of the ADA is that the “program” of grill stations 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 recurring sites, no guidance is given as to how many existing grills should be accessible. We saw four and two are accessible. **We recommend access to one more.**

The Program Access Chart at the end of this section, with the City of Scotts Valley Grill Stations Map, illustrates accessible grills so that every resident of the City is close to an accessible grill station. [[City of Scotts Valley Grill Station Map](#)]

51. **Make corrections** needed to **maintain or create access** to grills at:

- **MacDorsa Park**
- **Scotts Valley Community Center**
- **Siltanen Park**

52. **Leave as is** the grill at the following site:

- **Skypark**

53. **Advertise accessible grills** in the 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. We saw nine picnic areas and five are accessible. **We recommend no new access. Many of these sites need tables or 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 lacks the authority to establish a Standard, which is the step above the **final guideline** that exists today. We recommend the 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 Scotts Valley Picnic Areas Map, illustrates accessible picnic areas so that every resident of the City is close to an accessible picnic area. [[City of Scotts Valley Picnic Areas Map](#)]

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

- **Hocus Pocus Park (2 of 3)**
- **Skypark (3 of 4)**

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

- **Hocus Pocus Park (1 of 3)**
- **MacDorsa Park**
- **Siltanen Park**
- **Skypark Park (1 of 4)**

56. **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. A public forum should be conducted for this purpose. We would be happy to return to assist with this process.

These can be very positive events. The community typically appreciates what steps have been taken by the City and provide valuable feedback regarding 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 City of Scotts Valley.

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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 work that we believe 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 two or three fiscal years for completion. The City should match the mandate with its resources and develop a schedule for each phase.

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 \$1,051,082.50. We believe the retrofit work can be implemented over an eight-year period.

In Phase One, we recommend work in the amount of \$389,946. Generally, the work in this Phase falls into three categories: easy to do with existing staff and resources (low-hanging fruit), unique sites, 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 \$437,110.50. Generally, the work in this Phase includes changes to recreation amenities, such as playground surfaces and picnic areas. The City should decide how many years are required to complete a phase. ***Here we would suggest that Phase Two is a three-year process.***

In Phase Three, we recommend work in the amount of \$224,026. Generally, the work in this Phase falls into two categories: elements not yet addressed by a final Standard, such as trails, employee areas such as maintenance facilities, 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 two-year process.***

We identified work in the amount of \$97,692.50 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.

It can also include work that is technically infeasible to complete.

### **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 should serve as food for thought on this subject.

### ***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. We look to the Land and Water Conservation Fund as an example, and that LWCF resource, even with a dedicated funding source, is typically underfunded.

### ***Earmarks***

Some of our clients have pursued Congressional earmarks for accessibility work. Earmarks are increasingly unpopular, and difficult to obtain. However, the Congressional practice of adding grant earmarks to bills proceeding through the US Congress still exists. We would suggest that this is a viable option for City of Scotts Valley.

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

Several of our clients have acquired federal Community Development Block Grant (CDBG) funds for accessibility renovations at existing sites. Administered through local entities, CDBG funds often have a priority. It would be important to establish accessibility as a priority for CDBG applications, which are 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 recreation 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 the real estate transfer tax.

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

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

Every state legislature provides 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 park districts or municipalities 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 on 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 departments such as those in City of Scotts Valley have 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 City of Scotts Valley 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 departments within the City 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 in City of Scotts Valley.

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

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

Several communities have successfully sought budget increases to address accessibility backlogs, just as they have with maintenance backlogs.

### ***Risk Management***

Investing in playground safety saves money for a city by avoiding legal expenses related to playground injuries. The same concept applies here. Investing in accessibility retrofits saves the City of Scotts Valley 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 the City be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities.

## **Conclusion**

The City of Scotts Valley 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 City infrastructure. The City takes steps towards accessibility every year and that undoubtedly is helpful.

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. 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 Scotts Valley should be commended for undertaking this task. Both the access audit and the transition plan are mandated tasks, but more importantly, taking these steps is the right thing to do for City of Scotts Valley residents.

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. Kristin was particularly helpful.

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

### **Submitted by**

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