

**AMERICANS WITH DISABILITIES ACT
ACCESS AUDIT AND TRANSITION PLAN**

REPORT TO BENSENVILLE PARK DISTRICT

**FINAL REPORT: SUMMARY
AND RECOMMENDATIONS**

NOVEMBER 23, 2020

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 2**

PARK DISTRICT BOARD OF COMMISSIONERS

Rick Johnson, President

Valerie Karg, Vice-President

Greg Linder, Treasurer

Jim Geils, Secretary

Nancy Gibbs, Commissioner



PARK DISTRICT STAFF PROJECT TEAM

Joseph C. Vallez, Executive Director

Phyllis Schmidt, CPRP, Manager of Special Services



**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 3**

WT GROUP ACCESSIBILITY PRACTICE PROJECT TEAM

John N. McGovern, JD
Principal-in-Charge

Shelley A. Zuniga, CASp, CTRS, Certified ADA Coordinator
Principal

Heidi Lapin, RAS
Project Manager

Tanya R. Scheibe, RAS
Project Manager



TABLE OF CONTENTS

Introduction and the ADA Mandates	page 5
Guide to this Report	page 12
Common Issues	page 13
Program Access Test	page 20
<input type="checkbox"/> Playgrounds	page 21
<input type="checkbox"/> Tennis Courts	page 22
<input type="checkbox"/> Basketball Courts	page 23
<input type="checkbox"/> Ball Fields	page 23
<input type="checkbox"/> Athletic Fields	page 24
<input type="checkbox"/> Picnic Areas and Picnic Shelters	page 24
<input type="checkbox"/> Trails	page 25
Transition Plan	page 25
Community Engagement	page 26
Funding Access Retrofits	page 27
Coordination with NEDSRA	page 29
Conclusion	page 29

INTRODUCTION AND THE ADA MANDATES

The accessibility of Bensenville Park District sites is mandated by federal requirements. This report is a summary of our findings and recommendations to make Bensenville Park District parks and trails more accessible to people with disabilities. The detail, and recommendations, are in the site reports. This report also includes recommendations which meet the federal and state requirements and incorporate smart practices.

For efficiency, the District should integrate its ADA initiatives. One integrated plan should be adopted and implemented. The District cannot implement all of our recommendations at once; no local government can do so. We suggest a phased approach to retrofits. It is important that Bensenville Park District staffs gain a good understanding of the findings and recommendations. We suggest a step-by-step approach, as described in the following pages.

We start though with a review of the requirements of the Americans with Disabilities Act (ADA), and how those apply to District facilities and parks. This portion also identifies some tasks that remain to be completed by the District.

What are the Americans with Disabilities Act (ADA) General Mandates?

The [Americans with Disabilities Act](#) (ADA) is a comprehensive federal civil rights law. It prohibits discrimination on the basis of disability. It became effective on January 26, 1992, and has been amended by Congress only once, by a statute adopted in 2008. The ADA has three principal chapters or titles. Title II applies to the Bensenville Park District and the approximately 89,000 other units of state and local government across the country, and it requires the District to make parks, facilities, policies, communications, and programs, accessible to and usable by people with disabilities. Other portions of the ADA prohibit discrimination by employers, businesses, and nonprofits.

The subject of this report is Bensenville Park District parks and facilities. As with any statute, there is some overlap. A space used principally by District employees that might be visited by a member of the public is not solely an employee space, and must have a level of accessibility for that visitor if he or she has a disability. The District may also have relationships with nonprofits, and when a nonprofit uses or benefits from the use of District property or resources, the nonprofit is strictly prohibited from discrimination on the basis of disability.

The ADA is to be broadly interpreted. In this section of the final report, we will define terms as they are defined by the ADA. In the remainder of this section, we will review:

- the ADA administrative requirements for the District
- the ways in which the ADA applies to new design and construction
- the ADA requirements for existing facilities
- the ADA Transition Plan requirement
- the ADA requirements for District public facing policies
- the ADA requirements for Bensenville Park District programs, and
- the ADA requirements for Bensenville Park District communications.

Finally, this section concludes with a review of the limitations on the accessibility requirements, including technical infeasibility and the concepts of undue burden.

What Are the ADA Administrative Requirements?

The US Department of Justice (DOJ) published the title II implementing regulation in 1991, and it became effective on January 26, 1992. It has been amended once, and those changes became effective March 15, 2011. The DOJ title II regulation is [here](#).

The Bensenville Park District faces many administrative requirements under title II of the ADA. In this section of the report, we will describe and review five key administrative requirements.

35.106 Notice Requirement: The District must make its citizens aware of the "...protections against discrimination assured them..." by the ADA. In doing so, the District must provide information about how parks, facilities, programs, policies, and communications are affected by the ADA. We recommend the District do so in a way that is inviting and appealing, and consistent with the way in which the District communicates with members of other protected classes.

35.107(a) Designation of Responsible Employee: The District must appoint at least one employee "...to coordinate its efforts to comply with and carry out..." its obligations under the ADA. Known as the ADA Coordinator, this role is responsible for investigating complaints regarding noncompliance, as well as coordination of overall ADA implementation. The recent naming of Phyllis Schmidt as Manager of Special Services and ADA Coordinator meets this obligation.

35.107(b) Complaint Procedure: The District must have a process by which disputes regarding accessibility at sites, effective communications, and inclusion in programs and services can result in "...prompt and effective resolution...". DOJ refers to this as a "grievance procedure". We do recommend that the District change the way it refers to this process. Naming it a complaint process or grievance process gives it the appearance of an adversarial process. It need not be, and in fact, many believe that a more positive approach yields "prompt and effective resolution" in a much more customer-friendly way. We suggest the District consider renaming the process to Access and Inclusion Solutions Process, or some other appropriate name that is inviting, not adversarial.

35.130(b)(7) Make Reasonable Modifications: The District must make reasonable modifications itself or through NEDSRA that enable access to programs and facilities, when so requested by a person with a disability, unless doing so creates an undue burden. The statute and the DOJ regulation identify many actions or devices that are a reasonable modification. In addition, court decisions and DOJ settlement agreements help further define the term and the limits on the concept of reasonable modification. The DOJ ADA website is a good source of information on this subject at www.ada.gov.

35.150(a)(3) Writing Requirement: The District, whenever it denies a request for a reasonable modification, must create a writing. This is a mandate once it is determined by District staff that a request would create an undue burden (see page 11 of this report). Importantly, the writing is to be signed by "...the head of the entity or his or her designee...". In making this decision, the entity is to consider "...all resources available for use in the funding and operation of the service, program, or activity...". We recommend that the Board of Commissioners delegate this authority to the Executive Director or the Manager of Special Services. We also recommend that these writings produced by the District be kept

together for ease of access and analysis. These will have great risk management value and will help greatly in forecasting the types of requests the District will receive.

What Are the ADA Requirements for New Design and Construction?

Many of the ADA requirements are open to some interpretation regarding compliance. There is, however, one set of requirements that is clear: for facilities and parks, all Bensenville Park District new design and construction must comply with the federal [2010 Standards for Accessible Design](#) and any State of Illinois requirements that are more stringent from an access perspective. The [2018 Illinois Accessibility Code](#) includes a broader range of assets and is therefore to guide District plans. The DOJ regulation at section 35.151 establishes this requirement, and permits a variance only when it is “structurally impracticable” to fully comply with the Standards.

Experts estimate that design and construction for ADA compliance adds not more than 1% to the facility cost. For the District, it is critical that all designers and contractors understand this mandate and comply with this mandate. Plan review and effective project management by District staff assure that plans and ongoing construction are compliant. The investment of human resources towards this goal is much less costly than removing barriers after a park or facility has been constructed.

New design and construction includes alterations and additions, therefore alterations and additions must adhere to the 2010 Standards. The DOJ title II regulation, at 35.151(b)(4), establishes a requirement that when alterations or additions occur at an existing Bensenville Park District facility, that a “path of travel” is required to connect the accessible elements of the existing facility with accessible elements in the altered area or addition. In preparing the regulation, DOJ recognized the inequity of a result whereby the accessibility portion of an alteration or addition, the path of travel, could require more fiscal resources than the alteration or addition. The regulation therefore introduces the concept of disproportionality, which permits the District to limit path of travel costs to 20% of the cost of a project

Three clarifications are necessary regarding the concept of disproportionality.

First, the District may elect to apply the concept of disproportionality; it is not required to do so. If the District wishes to make the cap 30% of the cost of the alteration or addition, it may do so. The ADA sets the floor, not the ceiling.

Second, the path of travel must be applied when the alteration or addition is to a primary function area. A primary function area is “...a major activity for which the facility is intended.” Examples in the title II regulation include “...the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public entity using the facility are carried out.” We would add other examples, pertinent to Bensenville Park District facilities. These include:

- Fitness facilities and locker rooms at District facilities;
- Playground surfaces and playground components at District playgrounds; and
- Spectator seating and player seating at District softball and baseball fields.

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 8**

Third, some work at an alteration or addition is simply maintenance and the cost of that work may be deducted from the determination of the cost of the alteration or addition, thereby affecting the amount necessary to meet the 20% disproportionality test. At most sites these non-alteration costs are very small. In a world where every Bensenville Park District penny counts, it is appropriate to properly apply the concept of disproportionality.

Access requirements for new design and construction are important in the context of the Bensenville Park District Capital Improvement Plan (CIP). It is critical that CIP project designers and contractors meet or exceed federal and state requirements.

What Are the ADA Requirements for Existing Facilities?

The title II requirements for existing facilities begin with a requirement that the **programs** within those facilities and sites are what is to be made accessible. DOJ title II at 35.149 clearly states that "...no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."

The term "program" is to be broadly interpreted. For the Bensenville Park District, a program is the opportunity made available to the public. Golf is a program. A wedding at White Pines is a program. Making public comment at a Board of Commissioners meeting is a program. Sports fields are a program. Playgrounds are a program. Having picnic tables in a park is a program. Staffing and conducting recreation activities during the summer or afterschool is a program. Think broadly here, and understand that a program is not just an organized activity for which one registers and participates. In applying 35.149, it is a violation of the ADA if a District program cannot be accessed by a person with a disability because the facility in which the program is located is inaccessible.

Title II at 35.150 discusses the parameters for making existing facilities accessible. It requires the District to view that program "...in its entirety..." at 35.150(a). This is interpreted to mean that all of the locations of a program, e.g., every Bensenville Park District playground, must be viewed before determining which will be made accessible and which will be left as is until next altered or replaced. This latter statement is made clear at 35.150(a)(1), where the District is told by DOJ that these requirements do not "...necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities..."

Making a program accessible does not always require making a facility accessible. This is explained by DOJ at title II 35.150(b), where it reviews some of the methods to make a program accessible. The non-structural methods, include, but are not limited to:

- Relocating a program from an inaccessible site to a site that is accessible;
- Providing a program at two or more sites, one of which is not accessible and at least one of which is accessible;
- Redesign or acquisition of equipment to make program participation possible;
- Bringing the program to the person with a disability by making home visits;

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 9

- Construction of new accessible facilities to house the program; and
- Providing extra staff to facilitate interaction by program beneficiaries.

Elsewhere in title II, the District is required to make changes to rules and policies as well. These nonstructural alternatives may be effective in making a program accessible. However, when nonstructural alternatives are not effective in making the program accessible, 35.150(b) requires the District to make alterations to existing parks, facilities, and assets, and when doing so, to treat the alteration as new work and comply with title II 35.151. The District must also give the highest priority "...to those methods that offer services, programs, and activities...in the most integrated setting appropriate". This mandate is discussed elsewhere in this report. Additionally, the District must disperse the accessible programs that are to be retrofit. For example, all accessible playgrounds cannot be located in one quadrant of the District.

The 2011 title II regulation amendments introduced the concept of safe harbor for the Bensenville Park District and other states and local governments at 35.150(b)(2). In essence, if the District in designing and constructing an asset, prior to March 15, 2012, complied with the 1991 Standards for Accessible Design, it cannot be penalized if the Standards change at a later date. An example of safe harbor is the reach range requirement. In the 1991 Standards, reach range could be as high as 54" above the finished floor (aff) if a side approach was used, and only 48" aff if a forward approach was used. In the 2010 Standards, because of confusion about forward reach and side reach, the maximum reach range was simply reduced to 48" aff. The safe harbor concept applies here, and at Bensenville Park District facilities designed and constructed before March 15, 2012, where a proper side reach can be used, an operating mechanism can be as high as 54" aff. However, if that hypothetical operating mechanism is at 55" aff, it failed to meet the 1991 Standards and must be retrofit to meet the 2010 Standards maximum of 48" aff.

It is important to note that many District assets were not addressed by the 1991 Standards, and were only addressed later in the 2010 Standards. That includes District playgrounds, sports fields, sports courts, and fitness facilities, to name a few. As such, the concept of safe harbor cannot apply to these assets, and the program access test reviewed earlier in this section applies. As an example, playgrounds, but not necessarily all playgrounds, must be accessible. See our discussion regarding the transition plan for more detail.

What is the ADA Transition Plan Requirement?

The title II regulation, at 35.150(c) and 35.150(d), make clear the Transition Plan requirements. A transition plan is a phased order of retrofit for all existing parks and facilities. At 35.150(d), the requirements are:

- Describe the deficits at every District asset;
- Describe a solution for each deficit, or if it is to be left as is, describe why (see page 8 of this report);
- Specify the year or by what date in which the retrofit will occur; and
- Name the District official responsible for assuring compliance.

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 10

No Bensenville Park District plan can be effective, however, without cost references or estimates. In developing the Transition Plan, the District has received cost references to enable effective planning for the retrofits that will occur.

A key issue for the Bensenville Park District is understanding guidance as to by what date all retrofits must be completed. The title II regulation, at 35.150(c), discussing the time period for compliance, offers this guidance:

“Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made within three years of January 26, 1992, but in any event as expeditiously as possible.”

To suggest that this is not helpful guidance to the District is an understatement, for several reasons. First, it would be literally impossible for the District to have, in 1992, made all of the necessary retrofits by January 26, 1995. In fact, it would be literally impossible for the District to make all retrofits that are necessary during any three-year period. Second, when the title II regulation was amended by DOJ and made effective March 15, 2011, this language was not updated with a new compliance date. Third, when the 2010 Standards were published and included for the first time certain types of recreation assets, there was no change to the completion date of 1995.

The District can draw guidance from the statement above by acknowledging that retrofits will occur as soon as is possible. This requires a balancing of District resources, integration of Transition Plan retrofits with CIP activity, and making Transition Plan work a higher priority than discretionary development and acquisition.

Regarding parks and facilities, there is other guidance by DOJ. If there is only one of a type of asset it must be made accessible. This would apply in Bensenville to White Pines and other one-of-a-kind facilities that serve the public. If there are numerous assets of the same or similar type, such as playgrounds and sports fields, not necessarily all must be made accessible (see page 8 of this report). When this recurring asset issue arises, DOJ does not specify a ratio or percentage that must be accessible. Our work in preparing transition plan recommendations relies on making a minimum of one of every three recurring assets accessible, and dispersing accessible assets throughout the District. This assures that no matter where a resident is, some District assets are near him or her and are accessible.

Lastly, title II at 35.150(d)(a) requires the District to provide an opportunity for the public to participate in the development of the transition plan. The District conducted a well-attended feedback session on October 22. This is discussed in more detail later in this report.

What Are the ADA Requirements for Bensenville Park District Communications?

The title II regulation, at 35.160, requires that Bensenville Park District communications to the public with disabilities must be “as effective” as communications to those without disabilities. People with certain health conditions such as deafness or impaired vision may not be able to ascertain the message within the communication. People with a cognitive impairment may not understand the message. People with physical disabilities that limit their ability to use a mouse may not be able to get the cursor to the content on the website.

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 11

More and more local governments were using their websites for communication with the public as well as with employees. Certainly today, in a Covid-19 era, that reliance has only grown.

The broad requirements apply to the District website, letters, contracts, aural communication that might occur at a District Council meeting, emails, phone calls, and more.

What Are the ADA Limitations? Technical Infeasibility and Undue Burden...

Title II does impose some restraint on the making of reasonable modifications, removal of architectural barriers, and making communications accessible. DOJ expects that these restraints will be implemented as an exception, rather than the rule.

In the 2010 Standards, technical infeasibility is defined within section 106.5 regarding Defined Terms. The District need not make retrofits when doing so is technically infeasible. Again, recognizing that the ADA sets a floor and not the ceiling, the District can choose to make the retrofit. A retrofit to an existing facility may be deemed as technically infeasible when it meets the condition described below:

“With respect to an alteration of a building or a facility, something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.”

Title II also defines undue burden. The concept of undue burden typically includes three elements: undue administrative burden, undue economic burden, and fundamental alteration. DOJ requires at 35.130(a)(3) that the District bear the burden of demonstrating that denial of a request by a person with a disability rises to the level of one of these three conditions. Each is cited and discussed below.

35.150(a)(3) Undue Administrative Burden: DOJ and the US Congress recognized that there may be circumstances in which a small local government, will find it difficult to administratively obtain the personnel, devices, and processes by which it can make reasonable modifications, or remove barriers. This circumstance will be hard to show in Bensenville. In a densely populated metropolitan area like the Chicago suburbs, some jurisdiction, nonprofit, or business will have addressed and resolved the request related to disability being faced by the Bensenville Park District.

35.150(a)(3) Undue Financial Burden: DOJ and the US Congress recognized that there may be circumstances in which a local government will find it difficult to provide the fiscal resources to make a modification or to remove barriers. This circumstance will be hard to show for the District. No other state has a property tax levy usable to fund programs for people with disabilities and site retrofits at existing facilities. DOJ guidance requires that the entire District budget be considered before claiming Undue Financial Burden. For example, if a modification for a child with a physical disability will require the creation of a firm and stable accessible route to sports fields, the District must consider operating and capital budget unexpended resources in determining whether it can grant this request for modification. With the levy authority, it will be difficult to show Undue Financial Burden.

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 12

As an important note, District staff must understand this approach. Often, staff will consider only the budget they control, in making decisions about Undue Financial Burden. That is not the correct approach. If a Park District employee takes a job at another agency, and there are \$10,000 in salary savings due to that departure, it is the burden of the District to show why that \$10,000 could not be allocated to the accessible route example above.

35.130(b)(7) Fundamental Alteration in Nature of the Service, Program, or Activity:

DOJ and the Congress recognized that a circumstance may arise where a local government will find it difficult to provide the requested modification based on disability because in doing so the fundamental nature of the service, program, or activity will be changed. As an example, beach volleyball is very popular. However, a person using a wheelchair will be unable to negotiate the sand surface in a beach volleyball court. If he or she requests a modification such as replacing the sand with a hard surface court (wood, asphalt, concrete, etc.), the District could do so, as the engineering is not complex. Were that to happen however, the very nature of sand volleyball would be changed.

These same three concepts apply to Bensenville Park District communications. These must be as effective for people with communication impairments as the District communications for people without disabilities are effective. Language identical to 35.150(a)(3) and 35.130(b)(7) is found at title II 35.164.

A GUIDE TO THIS REPORT

There are approximately 1,000 access deficits identified in the 27 site reports. The ADA requires that the access audit identify every access deficit at every site. For each deficit, a solution must be identified.

As discussed later in more detail, the District does **not necessarily have to make every site accessible**. It **does** have to make every program it conducts within its sites accessible.

In this report, we identify some broad solutions, such as refreshing all accessible parking, as a way to address issues identified in the site reports, and as a way for the District to better manage compliance. This gives the District 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. The District will determine how to proceed, and many local governments apply a hybrid of a systemic and site-by-site approach.

The scope of our work does not include the design of a solution. Our recommendations are performance based. For example, if a parking stall at the Senior center needs to be made accessible by having the proper striping and signage, we will make that recommendation, and will note the dimensions and sign type. The design of a solution is a task for District staff or contractors.

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 Report. It provides a “big picture” review of the issues and solutions.

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

Fourth, use your knowledge of the sites and the expertise of District staff. District staff know District sites better than we do, and District staff know the staff better than we do. Blend in what you know with what we recommend in the report. There are many ways to solve access problems, and the successful alternative may well be one you define.

COMMON ISSUES

In our work, some common big picture issues arose that complement the recommendations in the specific site reports. One of these is that ways in which maintenance affects accessibility to playground surfaces and other assets.

Maintenance

The District uses a conscientious staff to maintain its parks and facilities. However, over time, every 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. **Add door closer checks** to park maintenance staff checklists, and record observations on a regular basis. When too much force is required to open a door, adjust the closer.
3. **Purchase some new tools.** The District needs battery-powered 2' digital levels, and tools to measure pounds of force that are designed for this purpose. Do not use 4' digital levels. These tools can be assigned to staff for scheduled spot-checks at doors.

Changes in Level and Gaps

The routes and sidewalks that make up the District'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 visitors 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 District 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 2021. 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 2021.** 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 2024. 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 a grinder.***
7. **Adopt** a policy about the use of Other Power-Driven Mobility Devices (OPDMD) at District sites, and promote that policy to the general public. Every day, people with limited physical mobility start to use a Segway or similar machines. We have included a sample policy in our deliverables.

Per the new ADA title II regulation published September 14, 2010, District policies or processes permitting the use of OPDMDs were required as of March 15, 2011.

These assistive devices provide great benefits to people with disabilities and the sooner the District 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 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

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

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.

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 15

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 District 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 District sites.

9. **Address accessibility in the District personnel policies**, and note that, upon request by an employee, the District 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 and the 2018 IAC.

Accessible Parking

The District maintains more than 840 standard parking spaces at sites, and 39 more that are designated as accessible parking stalls. The test for the ratio of accessible stalls to all stalls is per parking lot. See our site reports for details. As an alternative to a site-by-site approach, the District could address all of them at once to eliminate inconsistencies.

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 access aisle can be shared by two accessible stalls.

The collection of signs must include the US District of Transportation R7-8 standard sign (the blue icon in a wheelchair). Below that must be the statewide fine sign. Unless Bensenville 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 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 2018 IAC 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.

- 12.** In 2020 **implement a plan to correct or refresh every accessible stall** at every District facility. Incorporate this task into other plans that require parking lot repair, restriping, or resurfacing.

Running Slope and Cross Slope

There are many sites with 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. **Revise standard specifications and details** so 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. **Revise standard specifications and details** so 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. **Revise standard specifications and details** so 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 1990's, for several years. It was restored in 2002. However, it is not required in the 2010 Standards. **As a smart practice, WT Group recommends the use of detectable warnings.**

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 17**

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 District 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

Buildings within parks have 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 2021 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 2022 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 2024 or as soon as is possible.
23. **Consider acquiring, installing, and maintaining** power assisted door openers for District facilities with heavy consumer traffic.

Signage

District signs serve several purposes. First, signs assist wayfinding in large sites such as the Deer Grove Leisure Center. Second, signs identify important permanent elements of facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations.

The 2018 IAC 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 District.

24. **Create a sign template for use by the District** in 2021, and describe 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, District information (name of facility? phone number? main office number?), and more.

25. **Implement signage template and refresh** District signs in 2022.

Bathrooms

Bathrooms are an essential part of a visit to a Bensenville Park District 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.

26. **Develop a bathroom template in 2021.** Confirm it with the State of Illinois. This is a list of criterion for restrooms, not a design template. 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.
27. **Include bathroom renovations** at facilities in the Bensenville Park District Capital Improvement Plan.
28. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.
29. **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.
30. **Make at least one portable toilet,** where 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 District has sites with portable toilets; this must be addressed. Use our single-user toilet checklist, and require compliance by District 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.

31. **Determine in 2021** if systems have been upgraded or replaced since 1992.
32. **Develop a plan in 2021** for the installation of aural and visual alarms in renovations.
33. **Retrofit construction that has occurred since 1992** to include aural and visual alarms by the end of 2024.

Publications and Online Information

The use of a site grid in the Bensenville Park District print materials (see page 64 of the Fall Brochure) is an important tool for residents and can now be used to communicate about accessibility. Create one to incorporate the access work the District staff completes and indicate in your grid the location of accessible picnic areas and accessible playgrounds.

34. **Update print material parks and facilities** information to reflect District plans regarding access, and to note which sites are accessible or will be made accessible.

The same concepts apply to the District website. The website is an important tool for residents and should also be used to communicate about accessibility projects that are planned by the District.

35. **Update website** information to reflect District plans regarding access, and to note which sites are accessible or will be made accessible.

Maintenance Buildings

Maintenance areas are addressed in specific site reports, and employee areas are addressed earlier in this report. We note earlier that the District can apply a different standard to employee work areas, but employee work areas are not exempted from access requirements. District maintenance staff should receive training in regard to applying the **approach, enter, and exit** strategy so that they understand the reason for the various requirements.

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

Unique Sites

The District has two very unique sites, the Railroad Museum and Fischer Farm. In addition, there is only one leisure center, one water park, and one golf course. This raises the bar on the expectation of access, as there is no “alternate” site to which the District can direct patrons with disabilities to, so they can enjoy the “programs” at the Railroad Museum or Fischer Farm.

For the Leisure Center, Water Park, and Golf Course, efforts must be made annually towards the correction of access deficiencies. This can be done through existing capital plans, or by following our recommendations in the site reports for specific retrofit work.

The two other sites – the Railroad Museum and Fischer Farm, are more complicated as they may have historic value or be on the historic register. If these are on an historic register, any planned retrofits must be reviewed by the State Historic Preservation Officer to determine if any work would “threaten or destroy” the historic significance of these assets. We do note that if these sites are not on a register, the “threaten or destroy” test does not apply.

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 20

The site reports outline steps to create access at those sites, but the actual completion of that work may be technically infeasible because it requires the removal of load bearing elements. In the case of the train, alternate means of creating this experience should be considered. These could include the creation of a virtual experience allowing persons with disabilities to “be inside” the train, allowing the train to remain open. This virtual experience could be available at other Park District sites that are accessible, or on the District’s website (if on the website, remember that the website too must be accessible). If there is no virtual experience, it may be necessary to discontinue the use of the train for events.

For Fischer Farm, a similar virtual tour could be created for patrons unable to access the main house and outlying buildings.

PROGRAM ACCESS TEST

The US DOJ test for existing facilities is known as the “program access test”. A “program” is an opportunity made available by the District. It can be as diverse as eating a sandwich at a picnic table in a park, enjoying a playground at a park, enjoying a walk at Sunrise Park, and attending a meeting and making public comment. A program is not just an activity for which a person registers and pays a fee.

We note early in this section that the program access test does not apply to new construction or alterations and additions. New construction and alterations and additions must be designed and constructed to comply with the 2010 Standards for Accessible Design and 2018 IAC.

In the title II regulation, section 35.150(b) describes the methods an entity can use to make programs accessible. They include:

- Redesign or acquisition of equipment;
- Reassignment of services to accessible buildings;
- Assignment of aides to program beneficiaries;
- Delivery of services at alternate accessible sites;
- Alteration of existing facilities and construction of new facilities;
- Use of accessible rolling stock or other conveyances; and
- Any other methods that result in making its services, programs, and activities readily accessible to and usable by individuals with disabilities.

Importantly, this section notes that a “...public entity is not required to make structural changes in existing facilities...” when any other method, such as those noted above, are effective. An element of the program access test is dispersion. For example, the Park District parks has 13 playgrounds. Those to be made accessible shall be dispersed throughout the District.

What is the right number, or ratio of accessible to inaccessible, for recurring assets? That is an unknown today. US DOJ has not, and likely never will, established a ratio or percentage. We

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 21

do know that DOJ guidance indicates that unique or infrequently occurring assets are more likely to require alteration than frequently occurring assets. We recommend the District adopt an approach requiring that a minimum of one of three recurring sites be made accessible. Additionally, unique sites shall be made accessible.

The program access test for the Bensenville Park District and other units of state and local government is radically different than the approach to existing facilities that a business or nonprofit may take.

Our approach of one-of-three has been accepted by Federal District Courts, the US DOJ, the Department of Interior, state courts, and state enforcement agencies. We know it is an effective approach that allows local entities to optimize resources and make sites accessible to residents.

The concept of technical infeasibility is an important exception. The US DOJ 2010 Standards for Accessible Design and 2018 IAC note that when meeting the technical requirements, if the movement of a load bearing wall or element is required, technical infeasibility may arise. The Park District need not make alterations at a site when it is technically infeasible to do so.

In the subsequent discussions regarding playgrounds, trails, and other park assets, we apply our interpretation of the program access test. We note that this is a summary; for the detailed retrofit recommendations, see the individual site reports. For each category of asset, we will note whether we believe the asset is accessible; whether the asset should be retrofit for access; or whether the asset should be left as is and inaccessible, because the asset category satisfies the program access test. We take no position as to whether the District has a number of assets in a category, such as tennis courts, that is adequate to the demand for tennis in the District. That is not within our scope.

Playgrounds

The **minimum required** of the District 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 2 to 5 playgrounds must be accessible. Treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

Our evaluation included 17 playgrounds. Of these, ten are accessible. We recommend minor corrections to 4 more. Any playgrounds to be replaced at any time in the future, or designed and built where one did not exist, must comply with the 2010 Standards and will therefore be accessible.

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

38. Continue to maintain surfaces and components, per the site reports, so that the playgrounds at the sites below **remain** accessible:

- **Breiter-Palm Park**
- **Di Orio Park (5-12)**

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 22**

- **Kremples Park (2-5, 5-12)**
 - **Lions Park (5-12)**
 - **Pines Park (2-5, 5-12)**
 - **Sunrise Park (2-5, 5-12)**
 - **Sunset Park (5-12)**
- 39. Continue to maintain surfaces and make minor corrections**, per the site reports, so that the playgrounds at the sites below **become** accessible:
- **Di Orio Park (2-5)**
 - **Poplar Park (2-5, 5-12)**
 - **Leisure Center**
- 40. Leave as is** the playgrounds at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.
- **Lions Park (2-5)**
 - **Rose Park**
 - **Sunset Park (2-5)**
- 41. Advertise the accessible playgrounds** in the District 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.
- 42. Gradually eliminate the use of engineered wood fiber as an impact attenuating playground surface.**

For this surface to remain accessible, District 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.

In the alternative, it is our belief that the 5-8 levy can be used for the added human resources to properly maintain playground surfaces.

Tennis

The **minimum required** of the District 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 three courts and all are accessible. **We recommend no new access.**

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

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 23**

43. **Make corrections** cited in report so the tennis courts at the site below **remain** accessible:
- **Sunrise Park**
 - **Sunset Park (2)**
44. **Advertise the accessible tennis courts** in District website and publications.

Basketball

The **minimum required** of the District 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 a minimum of one court of every three be accessible. We saw five basketball courts and four are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the Bensenville Park District Basketball Map, illustrates areas where work is recommended so every resident is close to an accessible court. [[Bensenville Park District Basketball Map](#)]

45. **Make corrections** cited in the reports so the court below **becomes** accessible:
- **Kremple Park**
 - **Poplar Park**
 - **Rose Park**
 - **Sunset Park**
46. **Leave as is** the courts at the following sites until next resurfaced or altered:
- **Sunrise Park**
47. **Advertise the accessible basketball courts** in District website and publications.

Ball Fields

The **minimum required** of the District by title II of the ADA is that the “program” of ball 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 fields should be accessible. We recommend that a minimum of one field of every three be accessible. We saw nine ball fields and one is accessible. **We recommend access to three more.**

The Program Access Chart at the end of this section, along with the Bensenville Park District Ball Field Map, illustrates the areas where work is recommended so that every resident is close to an accessible field. [[Bensenville Park District Ball Field Map](#)]

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 24**

48. **Make corrections** cited in the reports so the field below **remains** accessible:

- **Sunrise Park**

49. **Make corrections** cited in the reports so the fields below **become** accessible:

- **Di Orio Park (2 of 6)**
- **Sunset Park**

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

- **Di Orio Park (4 of 6)**
- **Veterans Park**

51. **Advertise the accessible ball fields** in District website and publications.

Athletic Fields

The **minimum required** of the District 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). Because there is only one athletic field in the district, we recommend that the field at Varble be made accessible.

The Program Access Chart at the end of this section, along with the Bensenville Park District Athletic Fields Map, illustrates the areas where work is recommended so that every resident is close to an accessible field. [[Bensenville Park District Athletic Fields Map](#)]

1. **Make corrections** cited in the reports so the field below **becomes** accessible:

- **Varble Park**

2. **Advertise the accessible fields** in District website and publications.

Picnic Areas and Picnic Shelters

The **minimum required** of the District 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 or picnic areas should be accessible. There are eight picnic areas and picnic shelters and one is accessible. **We recommend access to five more. Many of these sites need tables or minor corrections.**

The Program Access Chart at the end of this section, with the Bensenville Park District Picnic Areas/Shelters Map, illustrates the areas where work is recommended so that every resident of the District is close to an accessible picnic area/shelter. [[Bensenville Park District Picnic Areas Map](#)]

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 25**

52. **Make corrections** needed to **maintain access**, including adding tables, to shelters at:
- **Breiter-Palm (1 of 2)**
53. **Make corrections** needed to **create access**, including adding tables, to shelters at:
- **Lions Park**
 - **Poplar Park**
 - **Sunrise Park**
 - **Sunset Park**
 - **Varble Park (Kiwanis)**
54. **Leave as is** the shelters at the following sites, until next altered:
- **Breiter-Palm (1 of 2)**
 - **Pines Park**
55. **Advertise accessible shelters** in the District website and publications.

Trails

The **minimum required** of the District 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 trail of every three be accessible. We saw two trails. Both are accessible. **We recommend no new access.**

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

56. **Make corrections** cited in the reports so the trails below **remain** accessible:
- **Breiter-Palm Park**
 - **Varble Park**
57. **Advertise the accessible trails** in District website and publications.

TRANSITION PLAN

The District 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 Bensenville Park District. We

Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 26

recognize that each phase requires a different number of years for implementation. The District should determine the annual activity within its fiscal years.

In the view of DOJ, the recreation design requirements were available to the District 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 we believe need **not** occur in a category titled District Option. Should District plans change, or should other resources become available, the corrective work needed at these sites is known.

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.

Our total of all cost references is \$1,658,057.53. We have balanced work through all three phases, and the District can certainly choose to reorder those recommendations. Our phasing is described below.

- In Phase One, we recommend work in two categories: easy to do with existing staff and fiscal resources (low-hanging fruit), and work at recently built sites that is not compliant (such as parking). We suggest that completion of this phase requires three fiscal years. Cost references for Phase One are \$738,776.68.
- In Phase Two, we recommend work in areas that are new to the 2010 Standards. This typically includes sports fields and courts, playgrounds surfaces, playground components, and other park assets. We suggest that completion of this phase requires three fiscal years. Cost references for Phase Two are \$635,705.60.
- In Phase Three, we recommend work in areas in two categories: elements not yet addressed by a final Standard, such as trails, and elements where correction is complex or costly. We suggest that completion of this phase requires two fiscal years. Cost references for Phase Three are \$188,007.00.
- We identify corrections that are not currently subject to standards, but we refer to as “smart practices in the column labeled “SP”. These corrections, we believe, make your services and assets more accessible and usable by individuals with disabilities. Cost references for smart practices are \$4,680.00.
- We do phase some work as District Option. This is work at a site or element with access deficits where we believe the District already meets the program access test and need not make these sites accessible, until later altered for another purpose. Cost references for District Option are \$90,888.25.

COMMUNITY ENGAGEMENT

The ADA does require the District to provide an opportunity for public feedback in the shaping of transition plan priorities. The public feedback session was held the evening of October 22 at

White Pines. A mix of residents, staff, and Commissioners attended. The purpose was to seek community preferences for the order of retrofit.

Many comments related to program expansion, and are not the scope of this report. Regarding sites and site assets, two factors drew a consensus of support: the frequency of use and the need for an inclusive playground. We have addressed frequency of use in the Transition Plan.

FUNDING ACCESS RETROFITS

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

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. Federal funding is unpredictable.

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, the current Administration has revived discussions regarding the use of earmarks. We offer no prediction about the view of the new administration on earmarks.

Whether the perspective regarding earmarks changes remains to be seen.

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 is important to establish accessibility as a priority for CDBG applications.

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 cities 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. These can be a viable option for a District with good relationships with state legislators.

Special Accessibility Legislation

The District is well aware of the legislation that allows municipalities and 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, Illinois park districts and villages levy an estimated \$50,000,000 annually for this purpose. No other state has adopted this model.

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 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.

In our experience, corporate giving works best when an agency 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 many other methods, some of which are crafted by a community to meet a unique set of circumstances. These include:

- 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.
- 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 local government purposes.

Risk Management

Investing in safety saves money by avoiding legal expenses related to injuries on District properties. The same concept applies here. Investing in retrofits saves the Park District 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 Bensenville Park District be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities. Relief under the ADA is intended to be injunctive in nature, but the time consumed and cost of litigation can be a great drain on human and fiscal resources.

The General Fund

By far the oldest method is to fund retrofits through the General Fund, Corporate Fund, or CIP. Some of the methods discussed earlier in this section help to reduce General Fund reliance, but typically are not a substitute for General Fund support.

COORDINATION WITH NEDSRA

The District is one of the founding partners of the Northeast DuPage Special Recreation Association (NEDSRA), formed in 1976. It is due to this partnership that the District can levy funds in the 5-8 levy, which can only be used by park districts and cities in a special recreation joint agreement. NEDSRA has for decades provided high-quality recreation opportunities for Bensenville Park District residents with disabilities. The Park District has a seat on the NEDSRA Board of Trustees as well.

The therapeutic recreation and parks and recreation professionals at NEDSRA can be a great asset to the District. The intergovernmental cooperation model has served park districts well since 1970. There may be ways to create greater efficiency by working on access projects with other NEDSRA partner districts and cities. That might include staff and board training, joint purchasing, sharing access tools such as concrete grinders or a rotational penetrometer for the evaluation of playground surface accessibility, and more. While we encourage the exploration of this approach, we acknowledge that ADA compliance is a responsibility of the District.

58. **We recommend that the District** explore ways to gain efficiencies through greater cooperation with NEDSRA and its partners.

CONCLUSION

Bensenville Park District 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 parks and recreation infrastructure, and some that are unique to the District. The District takes steps towards accessibility every year and that undoubtedly helps. That said, access work should occur every year during the transition plan.

While no one can say with certainty how long the District can stretch these projects, the District should make access retrofits an ongoing part of its annual plans and budgets. US District of Justice officials have said work must be completed as soon as is possible. **Be certain to**

**Bensenville Park District Final Report
Access Audit and Transition Plan Summary and Recommendations
November 23, 2020 page 30**

understand that the District could be forced to accelerate its pace. Making access work a high priority is critical.

A handwritten signature in black ink, appearing to read 'JN McGovern', is positioned above the printed name.

Submitted by:

**John N. McGovern, JD
Partner, Principal-in-Charge
WT Group Accessibility Practice**

JNM/BENSENVILLE PARK DISTRICT FINAL REPORT 202001