

CITY OF LEMOORE
AMERICAN WITH DISABILITIES ACT
TRANSITION PLAN – DRAFT



August 20, 2013

1.0 Introduction

1.1 Summary

The American with Disabilities Act (ADA) is a comprehensive civil rights law for persons with disabilities in both employment and the provision of goods and services. The ADA states that its purpose is to provide a "clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." Congress emphasized that the ADA seeks to dispel stereotypes and assumptions about disabilities and to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for people with disabilities. This ADA Transition Plan is being prepared to partially fulfill the requirements set forth in Title II of the Americans with Disabilities Act. The ADA states that a public entity must reasonably modify its policies, practices, or procedures to avoid discrimination against people with disabilities. This report will assist the City of Lemoore to identifying physical barriers to accessibility and to develop barrier removal solutions that will facilitate the opportunity of access to all individuals. This plan provides recommendations to ensure compliance. This section provides an overview of the requirements for developing the Transition Plan and outlines the plan development process. Subsequent sections will describe physical barriers to accessibility.

1.2 Legislative Mandate

The development of a Transition Plan is a requirement of the federal regulations implementing the Rehabilitation Act of 1973, which requires that all organizations receiving federal funds

make their programs available without discrimination toward people with disabilities. The Act, which has become known as the "civil rights act" of persons with disabilities, states that:

No otherwise qualified handicapped individual in the United States shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (Section 504)

Subsequent to the enactment of the Rehabilitation Act, Congress passed the Americans with Disabilities Act on July 26, 1990. Title II of the ADA covers programs, activities, and services of public entities. The Department of Justice's Title II regulation adopts the general prohibitions of discrimination established under Section 504 and incorporates specific prohibitions of discrimination for the ADA. Title II provides protections to individuals with disabilities that are at least equal to those provided by the nondiscrimination provisions of Title V of the Rehabilitation Act. Specifically, the City may not, either directly or through contractual arrangements, do any of the following:

- Deny persons with disabilities the opportunity to participate as members of advisory boards and commissions.
- Deny persons with disabilities the opportunity to participate in services, programs, or activities that are not separate or different from those offered others, even

if the City offers permissibly separate or different activities.

- In determining the location of facilities, make selections that have the effect of excluding or discriminating against persons with disabilities. Title II of the ADA provides that public entities must identify and evaluate all programs, activities and services and review all policies, practices, and procedures that govern administration of the entity's program's activities, and services. This report and certain documents incorporated by reference, establishes the City's ADA Transition Plan.

1.3 ADA Transition Plan Requirements and Process

The ADA sets forth specific requirements for preparation of an acceptable Transition Plan. This plan includes:

- A list of the physical barriers in the County's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities;
- A detailed outline of the methods to be used to remove these barriers and make the facilities accessible;
- A schedule for taking the steps necessary to achieve compliance with the ADA, Title II; and the name of the individual responsible for the plan's implementation.

1.4 Discrimination and Accessibility

There are two kinds of accessibility:

- 1) Program accessibility; and
- 2) Physical accessibility

Absence of discrimination requires that both types of accessibility be provided. Programmatic accessibility includes physical accessibility, but also entails all of the policies,

practices, and procedures that permit people with disabilities to participate in programs and to access important information. Physical accessibility requires that a facility be barrier-free. Barriers include any obstacles that prevent or restrict the entrance to or use of a facility. Program accessibility requires that individuals with disabilities be provided an equally effective opportunity to participate in or benefit from a public entity's programs and services. Program accessibility may be achieved by either structural or non-structural methods. Non-structural methods include acquisition or redesign of equipment, assignment of aides to beneficiaries, and provision of services at alternate sites.

Programs offered by the City to the public must be accessible. Accessibility includes advertisement, orientation, eligibility, participation, testing or evaluation, physical access, provision of auxiliary aids, transportation, policies, and communication.

The City may achieve program accessibility by a number of methods:

- Structural methods such as altering an existing facility;
- Acquisition or redesign of equipment;
- Assignment of aides; and
- Providing services at alternate accessible sites.

When choosing a method of providing program access, the City will give priority to the one that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities. In compliance with the requirements of the ADA, the City must provide equality of opportunity.

1.5 Undue Burden

The City is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity, would create a hazardous condition resulting in a direct threat to the participant or others, or would represent an undue financial and administrative burden.

The determination that an undue burden would result must be based on an evaluation of all resources available for use in the City. For example, if a barrier removal action is judged unduly burdensome, the City must consider other options for providing access to the benefits and services of the program or activity by individuals with disabilities.

1.6 Facility Survey

In 2009, the City conducted a physical audit of City facilities to identify facility barriers and identify recommendations and alterations in order to meet state and federal accessibility standards. The list of facilities surveyed included:

- City-owned parks
- City-owned buildings
- City-maintained pedestrian facilities (representative sample only)

1.8 Public Outreach

Two public meetings (July 2, 2013 and August 20, 2013) were held to encourage the public to share their comments regarding the Draft Transition Plan. Public participation included persons with disabilities. A third meeting to review the Final Draft is scheduled for September XXXX, 2013.

1.9 City of Lemoore Accessibility Advisory Committee

An ad hoc committee of City residents was formed at the initiation of this Transition Plan process to represent the City of Lemoore disabled community and advise the City on the development of the City of Lemoore Transition Plan. The Accessibility Advisory Committee assisted the City in gaining perspective and plan acceptance for the project, as well as, assisting in setting priorities for future corrective action.

It is a recommendation of this Transition Plan that a similar group of City residents be formed on an ongoing basis to assist the City in developing and maintaining accessible programs, services and facilities.

2.0 Mitigations for Accessibility Barriers in Public Facilities

The majority of services provided to the public by the City of Lemoore occur primarily within public facilities, i.e. public buildings and parks. As such, mitigations to public facilities and their associated paths of travel will be addressed before mitigations to any barriers found in the public right of way, except as outlined in Chapter 3.

2.1 Criteria for Prioritization

In determining the priority assigned to each barrier to determine order of mitigation, four criteria are used - Safety, Actual Need, Frequency of Use, and Requests from the Public. Each of these criteria are assigned point values as defined below. These categories are summarized below:

SAFETY

50

Points

If someone with a disability encounters this barrier, can it result in injury?

The greatest concern in addressing all barriers is whether they constitute a danger to either the disabled or non-disabled public. Many of the barriers in themselves constitute trip hazards, or failure to provide adequate warning of potential danger. For example, inadequate handrails on stairs, doors requiring too much pressure to open, and too-steep cross-slopes pose risks of trips/falls. Missing detectable warnings at vehicle right of ways pose risks from traffic to those with vision disabilities.

These points are assigned all-or-nothing: 50 points if it is found to be Unsafe, 0 points if found to be Safe.

ACTUAL NEED

30

Points

Does this barrier completely prevent use, or does it only slightly deviate from accessibility standards while allowing significant use?

Some barriers prevent the use of the facility entirely, others can often be overcome. For example, sinks that are too high can prevent those in wheelchairs from reaching faucets entirely, lack of ramps can prevent entry into a building. As an example of a compliance-only barrier: sidewalk cross-slopes of 2.1% (instead of 2.0%) would likely not impair the use of a pathway significantly (if at all).

These points are assigned all-or-nothing: 30 points if it is found to Prevent Use, 0 points if found to be marginal Compliance-Only issues.

FREQUENCY OF USE

15

Points

In relation to other City facilities, how many citizens make use of the facility where the barrier is found?

Gauging the number of people with disabilities that may encounter a particular barrier is problematic and highly subject to speculation. However, it is possible to estimate the number of citizens that receive services at the location on a weekly basis.

These points are assigned as a ratio: Weekly Use Of The Site/Highest Weekly Use For A City Facility. Where park might see more than 1,000 visits, the Fire Department Building usually will not see more than 5 visits, resulting in weighted scores close to 15 for the park, and less than 1 for Planning/Fire.

REQUESTS FROM THE PUBLIC

5

Points

How can the City address requests from the public to increase the priority for a given mitigation?

By assigning 1 point per request (max 5) received to address a particular mitigation, responsiveness to the public is given weight. It should be noted as well that a request from the public could cause a more significant change should the barrier become reclassified by another criteria. For example, if a citizen brings it to the attention of the City that a barrier classified as a Compliance-Only barrier is actually found to Prevent Use, an additional 31 points (30+1 for the request) would be assigned.

2.2 Use of Subcategories and the Priority Score

While Priority Score is an ideal tool to in determining order to mitigate between individual barriers, there are entire classes that should be addressed before others, regardless of Priority Score. Safety and Actual Need, critical components of the priority score, represent those areas that will be addressed before all others. Mitigation should be addressed in the following order:

1. Safety

2. Actual Need

3. Priority Score: (Highest Score First)

4. Cost: Lowest cost mitigations among those with same
Priority corrected first

3.0 Mitigations for Accessibility Barriers in Public Right of Way

The City of Lemoore maintains approximately 90 miles of public roads. Along most of these roads, there are sidewalks that are considered transportation facilities serving the needs of the entire community. The provision of this service by way of public right of way makes all public right of way (streets, sidewalks, intersections, etc.) subject to the requirement of the Americans with Disabilities Act.

As public right of way has been built throughout the history of the City of Lemoore, it has been done according the building standards in place at the time, in most cases preceding the ADA and other laws governing that the right of way be built in light of the needs of the disabled community. Consequently, needs for mitigation vary wildly throughout the City.

3.1 Criteria For Score

While the provision of transportation service through the maintenance of public right of way is an important service provided by the City of Lemoore, it is considered an ancillary service in light of all services provided by the City. As such, mitigations to barriers found in the public right of way will be prioritized behind mitigations to barriers found in public facilities such as public buildings and parks).

First and foremost, public right of way will be updated as repairs occur to adjacent roadways. The ADA requires that barriers be removed during any type of renovation to a facility. For public right of way, this requirement has been found to

extend to all associated barriers whenever major repairs take place to adjacent roadways. In other words, if a street or intersection is subject to a major repair, all adjacent barriers must be mitigated. For example, when a road is resurfaced, all adjacent sidewalks, curb-cuts, driveways, etc, must be made compliant with ADA requirements.

The City of Lemoore currently makes accessibility-related improvements through various means, including the following:

1. Ongoing capital improvements related to the City's pavement management programs
2. Maintenance efforts to repair cracked or heaved sidewalks and/or sidewalk improvements based on citizen requests or needs at specific locations as budget allows.
3. Grant-funded street improvements usually require and allow for funding to repair adjacent accessibility barriers

Once all accessibility barriers within public facilities are mitigated, the City will dedicate funds previously used for that purpose to pro-actively mitigate barriers found in the public right of way. Prioritization will be based on the underlying zoning where the barrier is found, and whether certain types of public facilities are adjacent to the barriers. Barriers will be mitigated in the following order:

1. Barriers adjacent to City of Lemoore facilities (buildings and parks)
2. Barriers within Commercial and Professional zones
3. Barriers adjacent to schools
4. Barriers within Residential zones

5. Barriers within Industrial zones

4.0 Implementation of Mitigations for Accessibility

Barriers in Public Facilities and Public Right of Way

As part of yearly budget process, the City shall dedicate a percentage of the City budget to the mitigation of accessibility barriers (see definition of Undue Burden in section 1.5).

Following the allocation of funds, the Accessibility Advisory Committee will reconvene to review the mitigations that can be addressed through the approved funding. Based on cost estimates for barrier removal totaling the funding dedicated for mitigation, and in priority order as outlined in sections 2.0 and 3.0 above, specific mitigations shall be listed in either the Maintenance and Operations Budget or Capital Improvement Budget as appropriate. All mitigations will be assigned to appropriate staff members to implement (typically the Maintenance Superintendent, in accordance with how the City is currently organized).

Throughout the fiscal year, mitigations will be implemented by the responsible party or parties, and the responsible party shall make a yearly report regarding the completion or variance from the existing plan. (For example, costs may end up less than budgeted, allowing for additional mitigations to be accomplished; or certain mitigations may be found to greatly exceed the budget, requiring delay to the following year.)

APPENDIX A

Prioritized List of Public Facility Barriers