

REVISED CITY COUNCIL STUDY SESSION AGENDA



MEDFORD
CITY COUNCIL

September 10, 2020

Immediately following the City Council Special Meeting

Prescott Room, Medford Police Station

219 South Ivy, Medford, Oregon

1. **ADA Transition Plan**
2. **City Attorney Reporting Structure**



MEMORANDUM

To: Mayor and Council
From: Eric B. Mitton, Deputy City Attorney
Study Session Date: September 10, 2020
Subject: ADA Self-Evaluation and Transition Plan

COUNCIL DIRECTION

Staff is providing Mayor and Council information on a draft ADA Self-Evaluation and Transition Plan (SETP) prior to submission to Council for potential approval.

PRESENTATION OUTLINE

- Presenter: Eric B. Mitton, Deputy City Attorney
- Available for questions: Bonnie Huard, ADA Coordinator; Deputy Director of Public Works; and Karl MacNair, Transportation Manager

PREVIOUS STUDY SESSIONS AND G-3 MEETINGS ON THE TOPIC

It is believed that there have not been previous study sessions or G-3 meetings on this topic. However, there have been prior Council actions, as follows:

- The City's first ADA Transition Plan was completed in July of 1992.
- On August 18, 2016, Council through Council Bill 2016-101 affirmed the City's intent to comply with the provisions of the Americans with Disabilities Act of 1990, as amended. (The objective of the resolution at that time was to affirm the City's continued commitment to the ADA and intent to comply with its provisions as a policy support for compliance updating projects then underway and anticipated.)
- On August 18, 2016, Council through Council Bill 2016-102 updated its efforts by adoption of a Transition Plan specific to outdoor spaces in City park facilities.
- On June 21, 2018, Council approved Council Bill 2018-67 approving a consulting agreement with MIG, Inc. for preparation of the SETP for the Public right-of-way. That document prepared with the assistance of MIG, Inc. is the document being discussed at this meeting.

BACKGROUND

The ADA prohibits discrimination on the basis of disability. The ADA requires Public Entities to conduct a self-evaluation to identify programs and services and potential barriers to their access for people with disabilities. Public Entities must reasonably modify their policies, practices, and procedures to ensure that people with disabilities have equal access to programs and services. Where removal of structural barriers is necessary to provide programmatic access, a transition plan is required to set forth the steps necessary to complete such structural changes. A Public Entity's facilities include both their existing buildings, public spaces such as parks, and all public right-of-way sidewalks and curb ramps in their jurisdiction.

The SETP project was originally specific to the Public right-of-way, but the scope was expanded to include all of the programs and services City-wide and to incorporate reference to all elements of the City's SETP. This was done to maximize the value provided by the public involvement effort associated with developing the SETP.

In 2018, the City, with MIG's assistance, evaluated its policies, programs, and procedures to determine current levels of service and the extent to which its policies and programs had barriers to accessibility for people with disabilities. The self-evaluation resulted in a set of actions and implementation strategies to improve access to City programs and services, which can be found in Section 2 of this SETP.

In 2019, MIG's subcontractor completed a physical audit of the City's public right-of-way facilities to locate accessibility barriers and identify recommendations and alterations needed to meet state and federal accessibility standards. A prioritization framework was developed to create the transition plan with a strategy for the City to progress toward compliance with the ADA Standards by removing those barriers over time. The City's transition plan for the right-of-way can be found in Section 3.1 of this SETP. Also in 2019, the City completed an internal audit of existing facility buildings, performing accessibility inspections. A transition plan update specific to the City's existing facility buildings is still in the development process, but preliminary information may be found in Section 3.2 of this SETP.

The SETP development process included public participation in multiple steps of the project and the opportunity for public comment on the resulting plan. The two parts—Self-Evaluation and Transition Plan—together in one document, the City of Medford's SETP, provides the framework for fulfilling the requirements for state and local governments set forth in the ADA Title II.

PROPOSAL SUMMARIZED

Several sections of the SETP are effectively summary of existing law and other applicable information. These include Section 4 (Barrier Removal Considerations), Section 5 (ADA Coordinator, Notice Policy, and Grievance Procedure), Section 6 (Definitions and Acronyms), and Section 7 (Resources). These sections within the SETP provide a one-stop-shop for City staff in finding this information and reaffirms the City's commitment to following these federal mandates.

Section 2 of the SETP, "Self-Evaluation," includes a 20-page list of "required actions" and "implementation strategies" highlighting improvements that City personnel can make, typically at a policy-and-practices standpoint. For example, the "Notice Requirements" section notes the need better to inform the public of their rights and protections provided by the ADA for access to City services, recommending that the City provide a public notice for interested people to obtain information about the existence and location of accessible services, programs, activities, and facilities. The "Training and Staffing" section notes the need to include staff training across multiple areas to cover interactions with people with disabilities and develop a comprehensive disability access training program. Furthermore, the "customer service" section notes that the City's municipal code and other City documents use outdated language such as "the disabled" instead of "people with disabilities" and recommends implementing person-first language in City documents. The "Printed Information" section notes that some documents on the City's website are not set up in an accessible way for screen-reader software for individuals with visual disabilities, and directed an update of those documents.

Section 3.1 of the SETP is the Transition Plan for the Public Right-of-Way and addresses matters of sidewalks, curb ramps, and accessible pedestrian signals. It reemphasizes situations in which curb ramps must be installed (i.e., explaining the "alteration and new construction" standard) and then addresses priorities for addressing barriers in the public right-of-way not already captured by those alteration-and-new-construction situations. Through a detailed prioritization system and related matrices, the plan sets forth an orderly and rational way of determining what right-of-way improvements should be installed and where, in what order, through funds designated for barrier removal in the next budget cycle and subsequent budget cycles. To emphasize, this document provides a framework for how budgeted funds for ADA barrier removal are prioritized, but does not commit a specific dollar amount at this time. Those dollar amounts would be determined through the City's normal budget process.

NEXT STEPS & DIRECTION SOUGHT

The next step would be Council's formal adoption of the SETP at a Council Meeting. Matters which do not require a specific funding source, such as updates to staff practices described in the self-evaluation section, could be implemented as soon as practicable. Matters which require a specific funding source, such as the barrier removal described in the transition plan, would result in a separate line item in the next budget process. The amount of funds to be allocated for those priorities would be vetted through the normal budget process each biennium.

EXHIBITS

The draft Self-Evaluation and Transition Plan is voluminous, and so is not included in the study session agenda packet itself. It is available upon request from staff. The following pages are included as illustrative samples.

- Ex 1 Pages 2-9 through 2-11, the Self-Evaluation's discussion of "Television and Audiovisual Information," "Website," and "Telephones and Communication Devices"
- Ex 2 Pages 3-3 through 3-5, the Transition Plan's discussion of "Phasing Schedule Strategies," "Public Right-of-Way Prioritization," and "Curb Ramp Priority Matrix"

Thank you,
Eric B. Mitton
Deputy City Attorney

Television and Audiovisual Information

Televised and audiovisual information is a means for disseminating public information through presentations produced by City departments. All televised and audiovisual information including PowerPoint presentations must be accessible to persons with disabilities. As more communication is being done remotely through the internet, it will be increasingly important that all communication tools maintain accessibility as technology changes.²⁵

Policy Review Summary

Videos, including live and archived recordings of meetings, are not accessible for some people with disabilities. PowerPoint presentations may also be inaccessible.

Alternative text (“alt-text”) describes visual elements when they convey information that is not described in text. In most cases, alt-text was not provided in City documents and audiovisual materials. This includes maps, photos, spatial drawings, and other visual elements like figures and tables.

Required Actions

1. Provide alternative formats to audiovisual presentations produced by the City, upon request, including transcripts, captions, or other options.²⁶
2. Provide or improve the alternative text for graphics.²⁶
3. Ensure that televised and audiovisual communications with people with disabilities is as effective as televised and audiovisual communications with others.^{26,26}

Implementation Strategies

- Review City presentations, videos, and recordings of meetings to identify potential barriers to accessibility and corresponding solutions.
- Encourage presenters to read the slides and describe the graphic content when presenting PowerPoint or other visual presentations.
- Include images of people with disabilities when images of people are included in City audiovisual materials.

²⁵ See <https://www.ada.gov/pcatoolkit/chap3toolkit.htm>

²⁶ DOJ, Title II Regulations Subpart E § 35.160 General

ADA Self-Evaluation and Transition Plan

Website

As people turn to the internet as their primary source of information regarding services, programs, activities, and facilities, the City's website at <http://www.ci.medford.or.us/> takes on increased importance as a communications tool. Providing public access to City publications online is an effective means of reaching persons with disabilities.²⁷ New accessibility standards for electronic and information technology covered by Section 508 of the Rehabilitation Act Amendments of 1998 have set forth the technical and functional performance criteria necessary for such technology to be accessible.²⁸ Since the adoption of Section 508, the Web Content Accessibility Guidelines (WCAG), including WCAG 2.0 and 2.1, are considered the best practice guidelines for web accessibility and provide the industry standards for web accessibility.²⁹

Policy Review Summary

Multiple pages of the City website have content, organization, and design elements that are not legible to screen readers. In some cases, content is organized in a complex manner. Additionally, the "accordion" style of webpage, including the FAQ and municipal code sections of the website, may be inaccessible. While accordions are commonly used to help avoid overwhelming users with content, they often require JavaScript to show or hide the content based on a user click or focus event.

Required Actions

1. Take appropriate steps to ensure that the City's online communication with people with disabilities is as effective as other communications with the public.³⁰

Implementation Strategies

- Review the City website for accessibility updates.
- Publish the Policy of Nondiscrimination, including on the Basis of Disability, on the City website.
- Provide information on the City website about the accessibility of City facilities.
- Conduct web accessibility analyses to periodically measure the accessibility of the City's websites. Consider adopting standards that meet or exceed Section 508 of the Rehabilitation Act guidelines for the accessibility of electronic information.

²⁷ See <https://www.ada.gov/websites2.htm> and <https://www.ada.gov/pcatoolkit/chap5toolkit.htm>.

²⁸ Section 508 of the Rehabilitation Act requires that Federal agencies' electronic and information technology is accessible to people with disabilities, including employees and members of the public. Many state and local public agencies have adopted these standards as best practices. See Title 29, Chapter 16, § 794d Electronic and information technology.

²⁹ <https://www.w3.org/WAI/standards-guidelines/wcag/>

³⁰ DOJ, Title II Regulations Subpart E § 35.160 General

ADA Self-Evaluation and Transition Plan

- Acquire the technological resources or staffing expertise to create accessible documents for posting on the City website.
- Assign one department the authority to provide standards and oversight for outside vendors who create webpages and for departments who post their own documents. This can support consistent and accessible web pages.

Telephones and Communication Devices

Even with technological advances such as cell phones, texting, and instant messaging, provision of alternative communication technologies such as teletypewriters (TTY), telecommunication display devices (TDDs), or relay services (TRS) are still required for communicating with the public.³¹

Policy Review Summary

Contact information is provided on many pages of the City's website, but TTY details are not provided. This includes the contact information for the ADA Coordinator, the police tip submission line, emergency resources, departments, and staff.

Required Actions

1. Ensure that staff members are proficient in the use of alternative communication technologies such as TTY, TDDs, or TRS, or are able to direct the public to knowledgeable staff.³²
2. Ensure that City publications that list phone numbers also include information on how people who are deaf or who have hearing loss or speech disorders can communicate with departments by phone.³³

Implementation Strategies

- Explore options for Video Remote Interpreting Services (VRI) for communicating with people who are deaf, have hearing loss, or speech disorders. There are many situations where a live interpreter is required, such as in medical situations, but VRI may be an alternative when a live interpreter is unavailable, if circumstances, equipment, and training allow for it to provide effective communication.

³¹ See <https://www.ada.gov/pcatoolkit/chap3toolkit.htm>.

³² DOJ, Title II Regulations Subpart E § 35.161 Telecommunications

³³ DOJ, Title II Regulations Subpart E § 35.161 Telecommunications; § 35.163 Information and signage

ADA Self-Evaluation and Transition Plan

Phasing Schedule Strategies

The City plans to address public right-of-way barriers through multiple strategies:

- The City will continue to take barrier removal requests and complete any low-cost upgrades that can be completed within the Public Works Department's normal operating budget.
- Barriers will be removed through the City's pavement management strategy that schedules roadway rehabilitation and maintenance on an annual basis. The City plans to review public right-of-way barriers during the implementation of the Plan and address those barriers that can be resolved as part of the ongoing pavement maintenance and rehabilitation program. The City plans to address between 75 and 150 ramps per year through this strategy alone.
- The City plans to provide a dedicated budget category for ADA barrier removal in the public right-of-way starting in the next biennial budget. This money will be used to address barriers that are not being resolved through the other strategies. Barrier removal addressed by this strategy will be prioritized based on the criteria in this transition plan. This money may also be used as match for grant requests that remove barriers.
- Barriers will be removed through the City's sidewalk maintenance and repair program. When unsafe sidewalk conditions are reported, the City inspects the location to determine if repairs are needed. City inspectors also look at the rest of the block where the complaint was received. If a sidewalk is found to be unsafe or in disrepair, the property owner is required to repair the sidewalk in accordance with Medford Municipal Code Section 3.010. If the barrier is deemed to be beyond the property owner's maintenance responsibility, then the City will plan for a capital project to address the barrier through the dedicated ADA barrier removal budget category.
- Any new capital construction projects will address barriers within the footprint of the project.
- The City will continue to implement policies that address ADA barriers when properties are developed or redeveloped and will consider developing new policies as needed.
- The City will link existing maximum extent feasible (MEF) documentation to the curb ramp inventory and develop a process of recording this MEF documentation with any alterations or new construction.
 - The City will review the locations within residential developments where the curb ramp inventory identifies the absence of a curb ramp at "T" intersections and evaluate the conditions for maximum extent feasible documentation.

As part of these activities, the City will revise the transition plan schedule for the removal of barriers.

ADA Self-Evaluation and Transition Plan

Public Right-of-Way Prioritization

Prioritization criteria for assigning the barrier removal phasing schedule were developed using title II regulation § 35.150(d)(2).

If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

The prioritization criteria include the following:

- locations serving government offices and public facilities,
- locations serving transportation,
- locations serving commercial districts and employers, and
- locations serving other areas.

In addition to the required criteria, the City has prioritized the following:

- location of citizen complaint/request (ADA title II program access), and
- locations serving medical and health facilities.

Priorities for Barrier Removal

Matrices on the following pages illustrate the prioritization criteria for curb ramp and pedestrian access routes.⁵⁴ Each facility evaluated was assigned a rank based on its barrier priority and category. The priority assigned is based on the information described above and the barrier category is based on the condition of the facility. The descriptions for each category are provided after each matrix.

The columns in the matrix indicate the assigned priority and are in order of importance from left to right, with the left column having the highest importance. The rows indicate the category of condition assigned to each facility during the evaluation process, with the top row having the highest importance. The table shading indicates the priority rank with the darkest shading indicating the highest priority when the priorities and categories are combined. Each matrix is followed by a description of the barrier categories, a table summarizing removal actions by barrier priority, and maps showing the location of each identified barrier.

⁵⁴ Pedestrian access route information includes identified barriers along the sidewalks, crosswalks, and railroad crossings, and includes the identifications of hazards along the pedestrian route.

Curb Ramp Barrier Removal Priorities and Categories

Table 3.1: Curb Ramp Priority Matrix

Curb Ramps		ADA 35.150(d) Geospatial Proximity Priorities*					
		A	B	C	D	E	F
Priority (Category)	Description	Location of Citizen Complaint / Request (ADA Title II Program Access)	Location Serving Government Offices & Public Facilities	Location Serving Medical/Health Facility	Location Serving Transportation	Location Serving Commercial Districts, Employers	Location Serving Other Areas
1	See Category 1 Description	High Priority A1	B1	C1	D1	E1	F1
2	See Category 2 Description	A2	B2	C2	D2	E2	F2
3	See Category 3 Description	A3	Medium Priority B3	C3	D3	E3	F3
4	See Category 4 Description	A4	Low Priority B4	C4	D4	E4	F4
5	No deficiencies identified	A5	B5	C5	D5	E5	F5

*The priorities listed under columns B, D, E, and F are specified under Title II 28 CFR Section 35.150 (d)

Exhibit 2