#### PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this <u>1 8 th</u> day of August, 2023 by and between the Wheaton Park District, 102 E. Wesley St., Wheaton, IL 60187, hereinafter referred to as the "Owner" and WT Group, LLC, 2675 Pratum Avenue, Hoffman Estates, IL, 60192, hereinafter referred to as the "Consultant."

For and in consideration of the promises and mutual covenants set forth herein, the parties hereto agree as follows:

- 1. <u>SCOPE OF WORK</u>. The Consultant will provide professional services to examine and assess Owner's facilities, properties and website to provide an ADA Access Audit and Transition Plan regarding its facilities, properties and website, and provide a written report to the Owner regarding the same, and provide additional services, all as more fully described in the Consultant's Proposal dated April 21, 2023 and revised June 26, 2023 (the "Work") (including Alternates 1 through 4 identified in the Proposal). The Consultant's Proposal is attached hereto as Exhibit B and is incorporated into this Agreement as part of this Agreement provided, however, that in the event of any conflict between this Agreement and the Consultant's Proposal or the Consultant's General Terms and Conditions, this Agreement shall control.
- 2. PAYMENT FOR PROFESSIONAL SERVICES RENDERED. Subject to the limitation set forth herein, Consultant shall be paid not more than ninety-nine thousand five hundred seventy-five dollars and fifty cents (\$99,575.50), which sum includes all fees of Consultant and its subcontractor(s)/subconsultant(s), and costs and expenses to complete the Work. No change in scope or cost of the Work will be effective unless a written change order is executed by Owner and Consultant. Consultant may invoice Owner upon completion of each task in the Proposal. Owner will make payment in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1, et seq.). Acceptance of final payment by the Consultant, a subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of the application for final payment.
- 3. <u>TERM OF WORK</u>. Consultant shall complete tasks according to the schedule to be provided by Consultant upon award. No extension of time to Complete the Work will be permitted by Owner without Owner's prior written approval.
- 4. <u>CONFLICT OF INTEREST</u>. Consultant covenants that neither it nor its principal presently has any interest, and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. No official, officer or employee of the Owner who exercises any functions or responsibilities in the review or approval of the work or services rendered by the Consultant under this Agreement shall participate in any decision relating to this Agreement which affects such individual's personal interest, or the interest of any corporation, partnership or association in which such individual is directly or indirectly interested, or have any interest, directly or indirectly, in this Agreement or the proceeds thereof.
- 5. <u>INDEMNIFICATION</u>. To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless the Owner and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses, settlements and expenses, including but not limited to attorney's fees and costs (including without limitation filing fees, deposition and

transcription fees, expert witness fees) arising out of or resulting from the performance of the Consultant's services, provided that any such claim, damage, loss or expense (i) is attributable to (a) professional negligence or (b) bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom and (ii) is related to or arises in whole or in part from any act or omission of the Consultant, Consultant's consultants and subconsultants, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent it is caused in whole or in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Consultant shall similarly protect, defend, indemnify, and hold and save harmless the Owner, its officers, officials, employees, volunteers, and agents against and from any and all claims, costs, causes, actions, and expenses including but not limited to legal incurred by reason of Consultant's breach of any of its obligations under, or Consultant's default of, any provision of the Contract. Consultant's obligations under this section shall survive the termination or completion of this Agreement.

- 6. <u>STANDARD OF CARE</u>. In performing its services hereunder, the Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality.
- 7. <u>INSURANCE REQUIREMENTS</u>. Consultant shall meet all insurance requirements as set forth on Exhibit A, which is incorporated as if fully set forth herein.
- 8. <u>TERMINATION</u>. The Owner may terminate this Agreement for cause upon seven (7) days' written notice if the Consultant refuses or fails to meet any of the milestone dates without Owner's authorized extension of time; fails to make payment to subcontractors, subconsultants or suppliers in accordance with the respective agreements between the Consultant and the subcontractor, subconsultant or suppliers; or otherwise is guilty of substantial breach of a provision of the Contract Documents. In the event Owner terminates the Agreement for cause, Consultant shall be paid for services rendered up until the date of termination provided Consultant has delivered to Owner the work product it has completed up to the date of termination.

The Owner may terminate the Agreement for the Owner's convenience and without cause upon written notice to Consultant. Upon receipt of notice from the Owner of termination for the Owner's convenience, the Consultant shall cease operations as directed by the Owner in the notice; take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders. In case of termination for the Owner's convenience, the Owner shall pay the Consultant for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of subcontracts, and Consultant shall be obligated to provide Owner with its work product up to the date of termination for convenience.

9. <u>PARTIES TO THE AGREEMENT</u>. The services to be performed by the Consultant under this Agreement are intended solely for the benefit of the Owner. Nothing contained herein shall confer any rights upon or create any duties on the part of the Consultant toward any person or persons not a party to this Agreement, including, but not limited to, any contractor, subcontractor or supplier or the agents, officers, employees, insurers or sureties of any of them.

- 10. STATE OF ILLINOIS LAW APPLIES; ATTORNEY'S FEES. This Agreement is made and delivered in the State of Illinois and shall be construed and enforced in accordance with the laws thereof. Any action arising from any provision herein included shall be adjudicated in the State of Illinois in the Eighteenth Judicial Circuit Court, DuPage County, Illinois. In the event the Owner is required to use the services of an attorney to enforce this Agreement, Consultant shall pay the Owner's reasonable attorney's fees and all expenses and costs incurred by the Owner in enforcing the Agreement or in seeking any remedy for default under or breach of this Agreement.
- 11. <u>ENTIRE AGREEMENT</u>. This Agreement constitutes the entire agreement between the parties, and there are no other agreements other than those expressed herein. The parties hereto agree that this Agreement shall not be construed or interpreted in favor of either party on the basis of draftsmanship or preparation and that this Agreement has been jointly drafted.
- 12. <u>FAILURE TO EXERCISE</u>. Neither failure nor any delay on the part of the Owner in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise or the exercise of any other right, power or privilege hereunder. The Owner's rights and remedies under this contract are cumulative and not exclusive of any other rights which the Owner may have at law or in equity.
- 13. <u>SEVERABILITY</u>. If any section, paragraph, clause, phrase or portion of this contract is, for any reason, determined by a court of competent jurisdiction to be invalid and unenforceable, such portion shall be deemed separate, distinct and an independent provision, and the court's determination shall not affect the validity or enforceability of the remaining portions of this contract.
- 14. <u>COMPLIANCE WITH LEGAL REQUIREMENTS</u>. The Consultant's products, services and facilities shall be performed consistent with the standard of care for Consultant's profession in metropolitan Chicago area and shall be in compliance with those federal, state and local health, environmental and safety laws, regulations, standards and ordinances, regardless of whether they are referred to by the Owner. Furthermore, Consultant represents and warrants to the Owner that Consultant and any subcontractor has obtained any and all certificates required under applicable law for the rendering of said services and products and shall defend, indemnify and hold the Owner harmless for any liability (including reasonable attorney's fees) incurred by the Owner should Consultant not be so certified.
- 15. <u>LIENS</u>. Consultant shall not permit any mechanic's lien to stand against Owner's property or funds for any work, labor or materials in connection with work of any character performed on Owner's property at the direction of Consultant. In the event of any such lien attaching to Owner's property or funds as a result of Consultant's work, Consultant shall immediately have such lien either released, or if contested by Consultant, bonded over in the amount of one hundred percent (100%) of the claim and defend Owner's interests against such lien.
- 16. <u>SAFETY OF PERSONS AND PROPERTY</u>. The Consultant shall determine the means and methods of carrying out its Work (but not that of others) and shall take reasonable precautions for the health and safety of, and shall provide reasonable protection to prevent damage, injury or loss to its employees engaged in the Work, Owner's employees and patrons and other persons who may be affected thereby, including the public on at the location of the Work. In addition to

Consultant's obligations under this section, Consultant shall promptly remedy any damage or loss to Owner's property caused in whole or in part by the Contractor, a subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Consultant is responsible, except damage or loss attributable to acts or omissions of the Owner or anyone directly or indirectly employed by Owner, or by anyone for whose acts Owner may be liable, and not attributable to the fault or negligence of the Consultant.

INSTRUMENTS OF SERVICE. The Owner and Consultant agree that the Consultant's 17. preparation of all drawings, designs, specifications, notes, reports, recommendations and other elements of the Work prepared by Consultant and other services rendered in the performance of this Agreement (the "Instruments of Service") is a service work done for hire and that all title, ownership and copyright privileges to all drawings, designs, specifications, notes, reports, recommendations and other documents prepared by the Consultant in connection with the Project (with the exception of standard design elements, and industry or trade specifications which are not unique to the Owner or to the Owner's business) and which have been paid for by Owner in accordance with this Agreement, are and shall be solely in the Owner. Subject to payment by Owner in accordance with this Agreement, the Consultant agrees, when requested by the Owner, to execute immediately any documents which evidence and acknowledge the ownership of all such drawings, plans, specifications and other documents in the Owner, All drawings, specifications, models and other materials prepared or furnished by the Consultant shall be solely the property of the Owner upon the suspension or termination of the Project or the termination of this Agreement, provided Owner has made payment to the Consultant for such materials in accordance with this Agreement. Reproducible copies of all drawings and specifications and all other such materials shall, to the extent not previously delivered, be delivered promptly to the Owner upon demand and payment in full by Owner of all amounts due Consultant in accordance with this Agreement on outstanding invoices received from the Consultant and thereafter may be used by the Owner in whole or in part or in modified form for such purposes as the Owner may deem advisable, without further employment of, or payment of additional compensation to, the Consultant or anyone retained by the Consultant. Notwithstanding the foregoing, the Consultant retains the right to use standard design elements and details which are neither unique to the Owner or the Project or related to the business of the Owner. Should the Owner use the drawings, designs, specifications, notes, reports, recommendations and or other materials upon termination of the Consultant's services for completion of this Project by others, the Owner shall release Consultant from liability or claims arising from such use.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and in the year first above written.

THEW-T GROUP LLC

By:

Michael Benard, Executive Director

WHEATON PARK DISTRICT

#### **EXHIBIT A**

#### **Insurance Requirements**

Company shall obtain insurance of the types and in the amounts listed below.

#### A. Commercial General and Umbrella Liability Insurance

Company shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

District shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 26 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to District. Any insurance or self-insurance maintained by District shall be excess of Company's insurance and shall not contribute with it.

#### B. Professional Liability Insurance

Company shall maintain professional liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each wrongful act arising out of the performance or failure to perform professional services.

#### C. Business Auto and Umbrella Liability Insurance

If applicable, Company shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

#### D. Workers Compensation Insurance

Company shall maintain workers compensation and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

If District has not been included as an insured under the CGL using ISO additional insured

endorsement CG 20 26 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Company waives all rights against District and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Company's work.

#### E. General Insurance Provisions

#### 1. Evidence of Insurance

Prior to beginning work, Company shall furnish District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to District prior to the cancellation or material change of any insurance referred to therein. Written notice to District shall be by certified mail, return receipt requested.

Failure of District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of District to identify a deficiency from evidence that is provided shall not be construed as a waiver of Company's obligation to maintain such insurance.

District shall have the right, but not the obligation, of prohibiting Company from beginning work until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by District.

Failure to maintain the required insurance may result in termination of this Contract at District's option.

Company shall provide certified copies of all insurance policies required above within 10 days of Districts' written request for said copies.

#### 2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the District has the right to reject insurance written by an insurer it deems unacceptable.

#### 3. Cross-Liability Coverage

If Company's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

#### 4. Deductibles and Self Insured Retentions

Any deductibles or self insured retentions must be declared to the District. At the option of the District, the Company may be asked to eliminate such deductibles or self insured retentions as respects the District, its officers, officials, employees, volunteers and agents or required to procure

a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

#### 5. Subcontractors

Company shall cause each subcontractor employed by Company to purchase and maintain insurance of the type specified above. When requested by the District, Company shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

#### F. Indemnification

Company shall indemnify and hold harmless the District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorneys' and paralegals' fees and court costs), arising out of or resulting from the performance of the Company's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use there from, and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Company, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Company shall similarly protect, indemnify and hold and save harmless the District, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Company's breach of any of its obligations under, or Company's default of, any provision of the Contract.

### EXHIBIT B

Proposal





## WHEATON PARK DISTRICT 2023 ACCESS AUDIT AND TRANSITION PLAN

## A PROPOSAL BY THE WT GROUP, LLC ACCESSIBILITY PRACTICE April 21, 2023 REVISED June 26, 2023

#### INTRODUCTION

We provide this *revised* proposal by The WT Group, LLC (WTG) Accessibility Practice at the request of the Wheaton Park District, for an Access Audit and Transition Plan. In this proposal, we describe our experience, our approach to the scope of service, our team and our qualifications. We also discuss our costs for the project. We formed in 2008 for exactly this scope of service, and have since served more than 500 entities.

#### **EXPERIENCE**

Our corporate status has evolved to meet the needs of park districts and other parks and recreation agencies across the country.

In 2008, The WT Group created the Accessibility Practice. We formed to address compliance efforts by park districts and parks and recreation agencies within cities, counties, and states. Our focus then and today is the requirements of the title II regulation issued by the US Department of Justice (DOJ) to implement the comprehensive civil rights law, the Americans with Disabilities Act (ADA).

We have served park districts large and small across the State, and municipal parks and recreation agencies from coast to coast. In 2022, we worked in 18 states, conducting access audits and developing transition plans. Many of our park district clients have retained us more than once. Plan review, staff training, updating prior transition plans, dispute resolution, and providing expert advice are the most common reasons we return to a former client.

As to The WT Group (WTG), we have provided professional services to park districts for more than 50 years. A full service firm, our access, architecture, and engineering consulting is valued nationwide. Our professional licenses span all of the 50 states. WTG clients include many park districts, cities, villages, counties, townships, school districts, colleges and universities, businesses, states, property developers, owners, nonprofits, faith-based entities, and homeowners. Additionally, our merger in March of 2023 with draftPros makes us today a minority owned business enterprise.

Our Practice Areas work together for our clients. Practice Areas include Accessibility, Architecture, Civil Engineering, Construction, Electrical Engineering, Land Surveying, Mechanical Engineering, Plumbing Engineering, Structural Engineering, and a strong presence in the rapidly changing Telecommunications Engineering world.

For the Wheaton Park District project, only the Accessibility Practice will be involved. All of the other Practices are available though, if design of a solution becomes a part of the scope.

#### SCOPE OF SERVICE AND OUR APPROACH

#### Introduction

The District did send information regarding new sites, closed sites, and the status of some work at other sites. We did review the information and considered whether a partial audit at District sites was the proper approach. In the end, we feel the District is best served by a complete audit. For example, at Northside in the status report, we see there are 36 "open" items for retrofit. However, we do not know what the items are.

As mentioned in our meeting, we can do a partial site audit if we know precisely what the District wants to have audited. The District sent other important information, including the playground replacement schedule. To the greatest extent possible, that we will incorporate that in our deliverables.

#### Tasks

We see six specific Tasks to complete the work. We also suggest four alternates. Each is below, and we describe in detail how we approach and execute each Task or Alternate. The Tasks and Alternates are:

- 1. Project Management;
- 2. Access Audits of Parks and Facilities;
- Site Reports:
- Transition Plan and Cost References;
- 5. Community Engagement; and
- 6. Preparation and Presentation of the Final Report.
- 7. Value-Added (free!) Staff Training

Alternate1 is a review of District public facing policies, including a review of the process by which reasonable modifications are invited, analyzed, and fulfilled.

Alternate 2 is a consultation with a nationally recognized website access expert, Promet Source. Promet will advise the District's website team as to how to properly evaluate the website for compliance with the Website Content Accessibility Guidelines.

Alternate 3 is report data in a GIS shapefile. We can do that, in concert with our Land Surveying Practice Area.

Alternate 4 is a staff training series. The four topics to be selected touch administrative staff, planners, recreation and facility staffs, and maintenance staffs.

#### Task 1 – Project Management

Regular communication is essential for a transition plan project. Towards that end, our Project Manager is Shelley Zuniga, the WTG Accessibility Practice Senior Project Manager and a Certified Access Specialist (CASp). She leads this effort, establishing schedules and agendas for regular monthly meetings. Meetings will occur in-person or by Zoom or a similar platform.

Meeting agendas will include a review of work the prior month, work planned for the next month, and address issues or questions that may arise during the month. She will also produce and distribute meeting notes to District staff. She will lead the meetings, but other WTG staff (John McGovern, Aaron Hirthe, and Laurel Heizelman) may attend. We ask that the District have at least one staff on the project management team.

#### Task 2 – Access Audits of Parks and Facilities

Task 2 is conducting access audits of District facilities and parks, based on the list provided to us by the District. Zuniga leads our effort here, supported by Hirthe and Heizelman. Zuniga will schedule audits for the sites. Our auditors are Heizelman, Hirthe, and Zuniga. We anticipate six weeks to complete all site audits.

We often conduct access audits alone, but at some sites, Heizelman, Hirthe, and Zuniga may work together. For site audits, we use a smartphone app called BlueDAG. This cloud-based system incorporates federal and Illinois requirements, and smart practices we recommend for park districts.

Our carefully designed checklists prompt our experienced auditors regarding access requirements, who then gather metrics (slope, height, etc.) and enter observations in BlueDAG. We use simple tools, including a 2' digital level, tape measure, door pressure gauge, and a GPS enabled smart phone. Auditors are experienced in applying federal and Illinois requirements, and smart practices.

Our audit process is made more efficient by using BlueDAG. The smartphone is easy to use and very portable. This system literally writes the site report as the audit occurs (more on site reports later in this proposal), and we can provide site reports with a range of information, as desired by District staff. Our objective here is to make the site reports clear and easy to understand. We document access deficits with a digital image.

As to schedule, we will prepare a schedule for the project once the work is awarded and we know the entire scope. There are two factors that could impact audits: weather and Covid-19. Although difficult to predict, we are hopeful neither will be an issue. If a schedule issue does arise, we will resolve it in our Project Management meetings. The entire project should require eight months from start to finish. Please advise if an earlier timeline is required by the District.

We evaluate everything; we do not have digital eyeballs or feet. We will make spaces used by the public our highest priority for audits. We will also evaluate spaces used only by employees, and apply the "approach, enter, and exit" test in the 2010 Standards.

We typically start the audit process early in the day. Zuniga will prepare a proposed audit schedule and seek feedback from District staff as to times and proximity of sites.

We understand the importance of your residents having unrestricted access to sites. Our auditors will not interfere with District functions. Appendix A is a list of sites.

By the way, we had already accounted for minimal hours at the sites principally used for water retention. We have reduced the time at those sites even more and will assign one of our team to see all of those sites, assuring consistency in our approach. This did result in a small decrease in overall project cost.

#### Task 3 – Site Reports

Task 3 is the preparation of site reports after the audits. Zuniga, Hirthe, and Heizelman will lead our work here. McGovern is also involved.

These site reports note noncompliant elements. For those elements, we describe the deficit, recommend a retrofit, and then apply the program access test. This may result in an asset at a facility, or a facility itself, being left as is and inaccessible. The DOJ makes it clear that not necessarily every deficit must be removed. We do use DOJ guidance on unique, one-of-a-kind District sites like Arrowhead Golf Course, as well as recurring sites or site assets.

The site reports will include digital images and a brief description of the deficit, and this assures that District staffs will know the precise location of the deficit. Our digital images and our site report language make clear where the deficit is at the site.

In site reports, we do incorporate the concepts of construction tolerance, technical infeasibility, safe harbor, and equivalent facilitation. As a result, site reports may describe a deficit, but recommend it be left as is if safe harbor applies, remediation is technically infeasible, the variance is within a construction tolerance, or the remediation is not necessary because of the program access test. Site reports also address the opportunities for universal design, enabling ease of access by persons of all types.

Importantly, we will provide a priority for retrofit. Our three-phased approach is based on the type of space and the type of deficit. The title II regulation is silent on the order of retrofit for existing facilities, except in the circumstance of an alteration or addition. Our unique approach assures that District services within District facilities are accessible to Wheaton residents. We discuss this further in the portion of our response that addresses the transition plan report.

To familiarize staff with the site reports, we will provide two draft site reports after the first week of audits. These can be reviewed and discussed in-person or at a project management meeting, or both. The discussion can shape the format of the remaining site reports.

We caution the District that the site reports will be full of detail. Reports for larger sites exceed 100 pages. We urge the District to view reports digitally, and for conservation purposes, not to print site reports.

#### Task 4 - Transition Plan and Cost References

Task 4 is the preparation of a Transition Plan that exceeds the title II 35.150(d) requirements. Zuniga, Hirthe, Heizelman, and McGovern are involved in this Task.



The Transition Plan is the key deliverable. The work product must be useful for District staffs now and in the future. This deliverable is an Excel spreadsheet database. With the site reports, it meets and exceeds the title II 35.150(d) requirements.

Title II 35.150(d) requires a transition plan to include:

- A description of every deficit (this is in our site report);
- A description of the recommended retrofit we recommend (in our site report and Excel document);
- Name the person responsible for barrier removal (this is in the Excel document);
- Date by which barrier removal will occur (we include this as a phase in the Excel spreadsheet); and

We also include cost references for planning purposes. We note here that title II does not require costs. However, we know the District cannot make a plan without costs.

We apply the program access test, and advise the District as to whether we believe a retrofit must occur or can be left as is. We use RS Means for accessible design to develop cost references, adding a multiplier because this version of Means has not been revised in 18 years. These are cost references for planning purposes, not estimates or budgets. We will work with District staff to apply a multiplier to Means' numbers to reflect the change in the cost of retrofits since 2004 in Illinois.

We will seek feedback on retrofit priorities from District staff by way of an order of retrofit memo. This memo describes factors that other entities have applied in the development of a transition plan. To the greatest extent possible, we will blend feedback from the public with feedback from District staff.

The Transition Plan is an Excel document with two tabs. Excel is a great tool for this, as it allows sorting by task, site, cost, completion, and other variables.

The first tab has nine columns. Those are:

- 1) The name of the site (the first time the site is named it is hyperlinked to the site report for ease of reference);
- 2) The citation to our recommended retrofit in the site report;
- 3) The type of correction (a few-word description, e.g., parking signs);
- 4) Our specific retrofit recommendation, such as "Install accessible parking signs at accessible parking stall":
- 5) The price or cost reference per unit;
- 6) The unit type, e.g., linear feet, staff time, or an object;
- 7) The number of units, e.g., 100 linear feet;
- 8) The projected total cost reference; and
- 9) The Phase in which we recommend the work occur.

The second tab is an Excel Pivot Table, which provides an at-a-glance review for each site. This is an excellent fiscal summary of the cost references provided. Projected

costs for all five phases of the work are sorted on a table. District staff can sort and search pivot tables in many ways.

We generally phase work as described below.

Phase One usually has two sets of tasks. One set is tasks that the District can complete with current human and fiscal resources (low hanging fruit). The second set is work completed by the District since 1992, if that work was constructed or designed in a way that fails the access standards. This latter set of work is a high priority for work since it was done wrong. We typically make Phase One include three or four fiscal years.

Phase Two usually includes elements new to the 2010 Standards. This includes park assets, pavilions, sport fields and courts, playgrounds, boat ramps, fishing areas, golf, pools, and other recreation assets. We include Illinois guidance for trails and picnic areas too. We typically make Phase Two include three or four fiscal years.

Phase Three usually includes two sets of tasks. One set is tasks that are complex or costly, or involve a partner entity. These are considered long-term tasks. We typically make Phase Three include two or three fiscal years.

Not necessarily every site, or every element at a site, needs to be retrofit. The retrofit may be technically infeasible, or the retrofit may not be necessary because of the program access test. We call this *fourth phase* "District Option".

Finally, we include smart practices. These are access methods that exceed the minimum, such as a power door opener. This is the fifth phase in our report.

District staff will see and review the draft Transition Plan. Staff feedback is critical to internal adoption and understanding of the Transition Plan. Once we have heard the voices of staff, we can move to gather community feedback.

#### Task 5 - Plan and Conduct Community Engagement Activities

Task 5 is planning and conducting community engagement. We propose two means of gathering public feedback. The public feedback requirement is required in title II at both 35.105 and 35.150(d).

That said, title II is not prescriptive as to the form of community engagement. We have had great success with both of the methods below. We will work closely with the Western DuPage Special Recreation Association (WDSRA) and the District on this part of the project.

In-Person Public Feedback Session: In this method, we conduct one in-person meeting, during the day on a weekday. We will review the project scope, discuss the ADA requirements for existing facilities, and illustrate some of our findings with images of park and facility access deficits. We will discuss the factors used to phase retrofit work by other jurisdictions, and then ask the public for their access preferences and priorities, listening for ideas that can influence our recommendations to the District for the order of retrofit. These typically run 90 minutes.

Survey: In this method, we survey known Wheaton residents with disabilities. This has been very helpful in identifying access preferences and priorities. This survey is not interactive, but provides the District with much more feedback. We will review survey results in tandem with the Public Feedback Session comments. The survey requires four to five minutes to complete.

#### Task 6 – Preparation and Presentation of Final Report

Task 6 is preparing and presenting the Final Report, and is the last of our Tasks. McGovern and Zuniga lead here.

Our Final Report is in Word and pdf. It captures the title II requirements for existing facilities, the process used to evaluate sites, how we applied the program access test, how we applied the technical infeasibility exception, how we treated construction tolerance, how community engagement influenced the recommendations, the final priorities for the retrofits to be made, fiscal issues, implementation strategies, and more.

This report is not developed in a vacuum. District leaders will see and discuss the first draft before we make a final report. The District may also choose to share the draft with stakeholders as it sees fit. Our Practice Area Principal-in-Charge and the Project Manager will report to the District leadership and other District officials as desired, at a date to be determined.

#### Task 7 – Value-Added Staff Training

We do offer the District a training series as an alternate. However, we understand the importance of training staff regarding the implementation of the Transition Plan. Therefore, towards that end, regardless of whether the District chooses the training series alternate below, we will provide two workshops for staff at no charge.

Both are two hours in length. The first addresses park district infrastructure in general, and reviews common problems and solutions in parks and facilities. We intend the second for recreation and administrative staff, and it addresses policy requirements, the eight-step recreation inclusion process, and the definition of reasonable modification. We usually conduct these towards the end of the project, but are happy to work on dates this fall that may better meet the schedule of the Wheaton Park District.

#### Alternate 1 – Policy Review

Our approach requires meeting with key District staff to implement this Task. The intent of the review is to identify documents, policies, and processes related to services and sites for the public. Our tool in this process will be the title II regulation, last revised and effective March 15. 2011.

Our deliverable is a policy report identifying policy revisions that are necessary, policies that are absent and should be adopted, and policy language that should be edited for clarity.

Our career experience in public parks and recreation aids us greatly in this task, as does McGovern's role in creating the national recreation inclusion school. Heizelman and McGovern lead this task.

#### Alternate 2 - Website Consultation

Our sub-consultant Promet Source leads this effort. They will consult with the District IT team, providing advice regarding the best way to evaluate a website for compliance with the Website Content Accessibility Guidelines. This includes using both automated and manual methods of evaluation. McGovern will coordinate with Promet Source.

#### Alternate 3 – GIS Shapefile

Our Land Surveying Practice Area can develop a GIS shapefile consistent with any GIS system in use by the District. Zuniga coordinates this effort with Land Survey.

#### Alternate 4 – Staff Training Series

We propose a four-part training series with content we develop in collaboration with you and your staff. These four sessions are in addition to the two value-added sessions discussed earlier. Topics are one hour in length and related topics can be combined in a longer session. All sessions are supported by the statute, regulations, court decisions, and settlement agreements. All sessions can be recorded for later use by the District. Topics could include, but are not limited to:

- The eight-step recreation inclusion process
- Recreation dispute case studies
- Top ten park errors
- Top ten facility errors
- The role of maintenance in ADA compliance
- Just what is a reasonable modification?
- Rules and policies must change as medical technology advances
- ADA enforcement methods
- What are the 2010 Standards, and what do they cover?
- Title II from definitions to enforcement...smart practices for the District

#### **TEAM QUALIFICATIONS**

#### **Our Personnel**

Our team includes a wide range of credentials and experience. Four are assigned to the Wheaton project, and each are identified below.

**The Project Director is John McGovern**. He leads the WTG Accessibility Practice. His career experience includes more than 30 years in public parks and recreation, and

fifteen years as a nationwide ADA consultant. While working in parks and recreation, he was appointed to represent the National Recreation and Park Association (NRPA) on the three federal advisory committees that developed content for the 2010 Standards for Accessible Design. When US DOJ wanted enforcement staffs to better understand how parks and recreation agencies implement ADA title II, he was invited to Washington to train architects, engineers, investigators, and others.

In every one of the more than 500 WTG Accessibility Practice projects, he is the title II interpreter. He leads the community engagement process, and is the primary reporter to District leadership. A sought after trainer, he is heavily involved in developing training content and providing the training itself. He regularly presents speaks at the annual NRPA conference and the IAPD/IPRA conference.

The Project Manager is Shelley Zuniga. She is the Senior Project Manager in the WTG Accessibility Practice, and a Certified Access Specialist. A Certified ADA Coordinator, she brings great value to the District. She has a great understanding of the accessibility code requirements. She will perform tasks she has implemented for many other parks and recreation agencies. With Heizelman and Hirthe, she will plan and conduct access audits of existing facilities and sites. Post-audit, she will coordinate site reports, serve as quality control for audits, and with McGovern complete reporting to District leadership.

**Aaron Hirthe is one of our Accessibility Specialists**. He is a Certified Parks and Recreation Professional (CPRP). He has served people with disabilities his entire career. He will lead audits and write site reports.

Also on the team is Laurel Heizelman. She is an Accessibility Specialist with WTG. She too has worked in the world of recreation for people with disabilities all of her career, in Austin, TX and Raleigh, NC. She is a CPRP and CTRS. Her familiarity with parks and recreation, and therapeutic recreation, makes her an asset to the District.

**Nicole Dudek is a summer intern** in the Accessibility Practice. A University of Illinois student and a resident of Wheaton, she will learn our processes at several agencies, including the Wheaton Park District.

Other staff at WTG are available if needed. This includes architects, engineers, a Registered Accessibility Specialist, and more. If such a need arises, we will provide credentials to, and seek consent from, the District before changing our team.

#### References

We do list four references below, all of which occurred in the last three years. If you wish to see more, please reach out.

Bartlett Park District (IL): The District retained us in early 2022 for a scope identical to the one proposed for Wheaton. We completed audits and a transition plan for all District parks and facilities in 2008 and 2010. For this second project, we audited all parks and facilities including new assets, prepared site reports, conducted community engagement, prepared a transition plan, and reported to District leadership.

Reach Rita Fletcher at 630-540-4835 or rfletcher@bartlettparks.org.

<u>Greenville Parks and Recreation (SC)</u>: The District retained us in early 2019 for exactly the scope we propose here. We conducted access audits of all existing sites, and prepare a revised transition plan with cost references that incorporated retrofits made since 2009. We also conducted community engagement, and planned and conducted staff training. We completed the project in late 2019.

Reach Edward Kinney at <a href="mailto:ekinney@greenvillesc.gov">ekinney@greenvillesc.gov</a> or by phone at 864-232-2273.

<u>Seminole County Leisure Services District (FL)</u>: The District retained us in mid-2021 for exactly the scope we propose here. We conducted access audits of all existing sites, and prepared a transition plan with cost references. We conducted community engagement, and reported to District leadership as well as the County Board.

Reach Michael Wirsing at mwirsing@seminolecountyfl.gov or 407-665-2171.

<u>City of Missouri City (TX)</u>: The City retained us in early 2020 for exactly the scope we propose here. The project was led by Parks and Recreation but included all City facilities. We conducted access audits of all existing sites, and prepared a transition plan with cost references. We completed the project in late 2020, and successfully worked around the various Covid restrictions in place in Texas.

Reach Jason Mangum at jason.mangum@missouricitytx.gov or 281-403-8637.

#### Sub-consultants

Regarding Alternate 2, Promet Source is our website consultant for the project, if the District chooses this alternate. WTG has worked with Promet on many projects, and their subject matter expertise is superior.

For agencies large and small, their workable solutions have assisted title II entities in the increasingly important area of website accessibility. Covid-19 restrictions since 2020 have made every unit of local government even more aware of how much the general citizenry is reliant on park district websites. Ashley Burns coordinates Promet services. Their competent and capable technology team will be a great benefit to the District.

#### **PROJECT TIMETABLE**

As noted earlier, weather and Covid are the only probable delays in the completion of the project. We anticipate the project will require eight months, depending on when we start. Once awarded, we will prepare a detailed schedule for your review. As noted before, please advise if an accelerated schedule is required.

#### **PROPOSED COSTS**

Here, we include information about the NRPA discount, a rate table, and proposed costs by Task. We also provide a cost for each of the Alternates.

#### NRPA Discount

Since 2013 our firm has been the preferred provider of access consulting to the more than 60,000 members of the National Recreation and Park Association. We value this

taff

recognition, and in return, we provide a 10% discount in our rates to agencies with staff or commissioners who are NRPA members. We know the District commissioners or staff are NRPA members. We have therefore applied the 10% discount.

#### Rate Table

The rate table on the next page identifies our team and their respective rates.

CONSULTANT	TITLE AND CREDENTIALS	NRPA RATE
John McGovern	WTG Partner, Principal-in-Charge of the WTG Accessibility Practice, licensed attorney (IL)	\$ 175.50
Shelley Zuniga	WTG Accessibility Practice Senior Project Manager, Certified Access Specialist (CASp), CTRS	\$ 144.00
Aaron Hirthe	WTG Accessibility Practice Accessibility Specialist, CPRP	\$ 121.50
Laurel Heizelman	WTG Accessibility Practice Accessibility Specialist, CTRS, CPRP	\$ 121.50
Nicole Dudek	WTG Accessibility Practice Summer Intern	\$ 63.00

#### Total All Inclusive Proposed Cost

The total proposed cost, exclusive of alternates, is \$68,161.50. By Task, we list the proposed fees below.

1. Project management: \$2,335.50

2. Access audits of sites and facilities: \$29,074.50

3. Prepare site reports: \$18,625.50

4. Prepare Excel spreadsheet Transition Plan: \$7,497.00

5. Plan and conduct community engagement: \$3,933.00

6. Prepare and present Final Report: \$6,696.00

We also provide a fee for four alternates. For Alternate 1, the review of public facing policies, we propose a fee of \$6,336.00.

For Alternate 2, the website review, we propose a fee of \$7,870.00.

For Alternate 3, the preparation of a GIS shapefile, we propose a fee of \$8,208.00.

For Alternate 4, staff training modules come at \$2,250.00 each and District staff will select topics of interest and value to the District.

#### **TERMS AND CONDITIONS**

We have attached our general terms and conditions, and these are an integral part of our proposal.

#### CONCLUSION

Compliance with the Americans with Disabilities Act can be made more complex than it need be. Acting voluntarily, as the District is here, saves valuable resources for other District activities. A Transition Plan is also a great tool for the District, helping meet accreditation requirements and demonstrating your commitment to equity in Wheaton

In an earlier discussion, we expressed our interest in paying the wages for our summer intern, and having her experience some of what occurs at the Park District this summer. We hope you are still willing to try this and will work with you to assure minimal impact on the very busy summer season for Park District staff. We want her to have a more complete understanding of the career options in parks and recreation.

Our unique team stands ready to help. We know of no other team with an attorney with ADA experience, a Registered Architect, a Certified Access Specialist, a Registered Accessibility Specialist, a Certified Therapeutic Recreation Specialist, a Civil Engineer, two Certified ADA Coordinators, and two Certified Park and Recreation Professionals. Our career parks and recreation experience complements our work with parks and recreation agencies nationwide. We hope you agree.

If there are any questions, please reach me at <a href="mailto:imcgovern@wtgroup.com">imcgovern@wtgroup.com</a> or call my desk at 224-293-6451. Thanks for the invitation to submit, and we look forward to serving the District.

Sincerely,

John N. McGovern, JD

Partner, Principal-in-Charge

The WT Group, LLC Accessibility Practice

JNM/WHEATON PARK DISTRICT ADA PROPOSAL 202303



# WHEATON PARK DISTRICT FACILITIES, DEVELOPED PARKS, AND OPEN SPACE 2023 ADA INITIATIVE SITE LIST June 26, 2023

Central Athletic Center Community Center (a/k/a Rice CC) Cosley Zoo Lincoln Marsh Natural Area Du Page County Historical Museum Lincoln Park Lincoln Marsh Offices Lucent Fields Mary Lubko Center Northside Girl Scout Cabin Northside Boy Scout Cabin Northside Warming Shelter Northside Warming Shelter Northside Family Aquatic Center Prairie Path Park Park Services Center Presidents Park Rathje Park Rathje Park House Rotary Park Rice Pool and Waterpark Arrowhead Golf Club Seven Gables Park Memorial Park Memorial Park Memorial Park Millow Park M	FACILITIES (followed by Developed Parks	s and Open Space Parks)			
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JNM/WHEATON PARK DISTRICT ADA INITIATIVE SITE LIST 202303



Engineering • Design • Consulting

#### **GENERAL TERMS AND CONDITIONS**

- 1. **BILLING AND PAYMENT** The Client or Owner agrees to compensate the Consultant for services on a fixed fee basis as set forth in the Professional Services Agreement executed by the parties. Services and expenses will be invoiced upon completion of tasks within the overall project, and not at the end of the entire project. s.
- 2. **REIMBURSABLE EXPENSES** Reimbursable expenses shall be marked up 10% and are subject to the payment terms described in Condition 1 above.
- 3. **CONSEQUENTIAL DAMAGES** The Client, Owner, and Consultant agree to waive consequential damages for claims, disputes or other matters arising from or related to this Agreement against each other.
- 4. **DELAYS** The Consultant will not be liable for delays due to force majeure or for any delays caused by others or by circumstances outside the control of Consultant.
- 5. **DISPUTE RESOLUTION** Intentionally omitted.
- 6. **ENVIRONMENTAL** The Consultant assumes no responsibility for the detection or removal of any hazardous substances found at the job site.
- 7. **JOBSITE SAFETY** As set forth in the Professional Services Agreement executed by the parties.
- 8. **LIMITATION OF LIABILITY** Intentionally omitted

## WT Group Accessibility Practice GENERAL CONDITIONS 202301 page 2

- 9. **OWNER PROVIDED INFORMATION** The Consultant shall have the right to rely on the accuracy of any information provided by the Owner or Client. The Consultant will not review this information for accuracy *unless* so noted in the proposal.
- 10. **OWNERSHIP OF INSTRUMENTS OF SERVICE** As set forth in the Professional Services Agreement executed by the Parties
- 11. **RIGHT OF ACCESS** The Consultant shall have access to the job site whenever work is in preparation or in progress.
- 12. **TERMINATION** As set forth in the Professional Services Agreement executed by the parties.
- 13. **STANDARD OF CARE** As set forth in the Professional Services Agreement executed by the parties.

GENERAL CONDITIONS 202301

as of March 31, 2023

