



City of Las Cruces
MOUNTAINS OF OPPORTUNITY

City of Las Cruces

ADA Self-Evaluation & Transition Plan

January 2024

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Abbreviations

ADA – Americans with Disabilities Act

CFR – Code of Federal Regulations

CIP – Capital Improvement Program

DOJ – United States Department of Justice

FHWA – Federal Highway Administration

MUTCD – Manual on Uniform Traffic Control Devices

PROWAG – Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

PSA – Programs, Services, and Activities

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1.0 Introduction

1.1 Legislative Mandate

The Americans with Disabilities Act (ADA) is a civil rights law that mandates equal opportunity for individuals with disabilities. The ADA prohibits discrimination in access to jobs, public accommodations, government services, public transportation, and telecommunications. Title II of the ADA also requires that all programs, services, and activities (PSAs) of public entities provide equal access for individuals with disabilities.

The City of Las Cruces has undertaken a comprehensive evaluation of its PSAs to determine the extent that individuals with disabilities may be restricted in their access.

1.2 ADA Self-Evaluation and Transition Plan Development Requirements and Process

The City of Las Cruces is obligated to observe all requirements of Title I in its employment practices; Title II in its policies, programs, and services; any parts of Titles IV and V that apply to the City and its programs, services, or facilities; and all requirements specified in the 2010 ADA Standards and 2011 Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) that apply to facilities and other physical holdings.

Title II has the broadest impact on the City. Included in Title II are administrative requirements for all government entities employing more than 50 people. These administrative requirements are:

- Completion of a Self-Evaluation;
- Development of an ADA complaint procedure;
- Designation of at least one (1) person who is responsible for overseeing Title II compliance; and
- Development of a Transition Plan to schedule the removal of the barriers uncovered by the Self-Evaluation process. The Transition Plan will become a working document until all barriers have been addressed.

This document describes the process developed to complete the evaluation of the City of Las Cruces' PSAs and facilities, provides possible solutions to remove programmatic barriers, and presents a Transition Plan for the modification of facilities and public rights-of way to improve accessibility, which will guide the planning and implementation of necessary program and facility modifications over the next 20 years. The ADA Self-Evaluation and Transition Plan is significant in that it establishes the City's ongoing commitment to the development and maintenance of PSAs and facilities that accommodate all its citizenry.

1.3 Discrimination and Accessibility

Program accessibility means that, when viewed in its entirety, each program is readily accessible to and usable by individuals with disabilities. Program accessibility is necessary not only for individuals with mobility needs, but also to individuals with sensory and cognitive disabilities.

Accessibility applies to all aspects of a program or service, including but not limited to physical access, advertisement, orientation, eligibility, participation, testing or evaluation, provision of auxiliary aids, transportation, policies, and communication.

The following are examples of elements that should be evaluated for barriers to accessibility:

1.3.1 Physical Barriers

- Parking
- Path of travel to, throughout, and between buildings and amenities
- Doors
- Service counters
- Restrooms
- Drinking fountains
- Public telephones
- Path of travel along sidewalk corridors within the public rights-of-way
- Access to pedestrian equipment at signalized intersections

1.3.2 Programmatic Barriers

- Building signage
- Customer communication and interaction
- Non-compliant sidewalks or curb ramps
- Emergency notifications, alarms, and visible signals
- Participation opportunities for City sponsored events

1.3.3 Ongoing Accessibility Improvements

City PSAs and facilities evaluated during the Self-Evaluation will continue to be evaluated on an ongoing basis, and the ADA Transition Plan will be revised to account for changes that have been or will be completed since the initial Self-Evaluation. This Plan will be posted on the City's website for review and consideration by the public.

1.3.4 City of Las Cruces Approach

The purpose of the Transition Plan is to provide the framework for achieving equal access to the City of Las Cruces' PSAs within a reasonable timeframe. The City's elected officials and staff believe that accommodating persons with disabilities is essential to good customer service, ensures the quality of life Las Cruces residents seek to enjoy, and guides future improvements. This Plan has been prepared after careful study of all the City's programs, services, activities, and evaluations of a select number of City facilities.

The City of Las Cruces should make reasonable modifications in PSAs when the modifications are necessary to avoid discrimination based on disability, unless the City can demonstrate that making the modifications will fundamentally alter the nature of the program, service, or activity. The City of Las Cruces will not place surcharges on individuals with disabilities to cover the cost involved in making PSAs accessible.

2.0 Public Outreach

The City created a public access survey and interactive online map to provide a summary of the transition planning process and receive feedback on any concerns related to accessibility.

2.1 Web Survey

The survey was designed to help the City locate areas of greatest concern to the public and help provide better access to the community. The survey can be accessed via the following link:

https://www.surveymonkey.com/r/ADA_LasCruces

2.2 Web Map

The City also developed an online map to allow the public to identify specific locations where they experience issues related to accessibility, safety, connectivity, or suggestions for accessibility improvements that are needed in Las Cruces. The map can be accessed via the following link:

<https://wikimapping.com/LasCruces-ADA-Transition-Plan-Update.html>

The web survey and map will be posted on the City's web page and sent out through social media. Both will remain online and serve as a tool to solicit feedback from the public on the Transition Plan. The public access survey results will be available through the ADA Coordinator's office.

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3.0 Self-Evaluation and Summary of Findings

The City of Las Cruces' ADA Transition Plan reflects the results of a comprehensive review of the PSAs provided to the public. The review identifies programmatic barriers to individuals with disabilities interested in accessing the PSAs offered by the City.

3.1 Programs, Procedures, and Policies Review

Under the ADA, the City of Las Cruces is required to complete a Self-Evaluation of the City's facilities, programs, policies, and practices. The Self-Evaluation identifies and provides possible solutions to those policies and practices that are inconsistent with Title II requirements. To be compliant, the Self-Evaluation should consider all the City's PSAs, as well as the policies and practices the City uses to implement its various programs and services.

To comply with requirements of the plan, the City must take corrective measures to achieve program accessibility through several methods, including, but not limited to:

- (1) Relocation of programs to accessible facilities;
- (2) Modifications to existing programs so they are offered in an accessible manner;
- (3) Structural methods such as altering an existing facility;
- (4) Policy modifications to ensure nondiscrimination; and
- (5) Auxiliary aids provided to produce effective communication.

When choosing a method of providing program access, the City should attempt to give priority to the method that promotes inclusion among all users, including individuals with disabilities.

PSAs offered by the City to the public must be accessible. Accessibility applies to all aspects of a program, services, or activity, including advertisement, orientation, eligibility, participation, testing or evaluation, physical access, provision of auxiliary aids, transportation, policies, and communication.

However, the City does not have to take any action that will result in a fundamental alteration in the nature of a program or activity, create a hazardous condition for other people, or result in an undue financial and/or administrative burden. This determination can only be made by the ADA/504 Coordinator and/or an authorized designee of the City, such as the City Manager or their designee, and must be accompanied by a written statement detailing the reasons for reaching the determination.

The determination of undue burden must be based on an evaluation of all resources available for use. If a barrier removal action is judged unduly burdensome, the City must consider all other options for providing access that will ensure that individuals with disabilities receive the benefits and services of the program or activity. This process must be fully documented.

3.1.1 ADA/504 Coordinator (Title II)

Under the ADA Title II, when a public entity has 50 or more employees based on an entity-wide employee total count, the entity is required to designate at least one (1) qualified responsible employee to coordinate compliance with ADA requirements. The name, office address, and telephone number of this individual must be available and advertised to employees and the public. This allows for someone to assist with questions and concerns regarding disability discrimination to be easily identified.

ADA/504 Coordinator: Self-Evaluation Findings

The City of Las Cruces has appointed Saron McKee as ADA/504 Coordinator for Title II. Below is her contact information.

Saron McKee
ADA/504 Coordinator
Human Resources
700 N Main Street
Las Cruces, NM 88001
Office: 575-528-3039
New Mexico Relay: 7-1-1
ada@lascruces.gov

ADA/504 Coordinator: Possible Solutions

This information should be prominently displayed in common areas that are accessible to all employees and areas open to the public. Also, the ADA/504 Coordinator contact information should be included in materials that are distributed from the City as part of the public notice under the ADA described in **Section 3.1.5**. This includes posting this information on the website. More information is presented in the following section as well as Chapter 2 of the ADA best practice toolkit here: <https://www.ada.gov/pcatoolkit/chap2toolkit.htm>.

3.1.2 Roles and Responsibilities of the ADA/504 Coordinator

Below is a list of qualifications for ADA Coordinators that are recommended by U.S. Department of Justice:

- Familiarity with the entity's structures, activities, and employees;
- Knowledge of the ADA and other laws addressing the rights of people with disabilities, such as Section 504 of the Rehabilitation Act;
- Experience with people with a broad range of disabilities;
- Knowledge of various alternative formats and alternative technologies that enable individuals with disabilities to communicate, participate, and perform tasks;
- Ability to work cooperatively with local entities and people with disabilities;
- Familiarity with any local disability advocacy groups or other disability groups;
- Skills and training in negotiation and mediation; and
- Organizational and analytical skills.

Roles and Responsibilities of the ADA/504 Coordinator: Self-Evaluation Findings

No information regarding the roles and responsibilities of the ADA/504 Coordinator is provided on the City's website or in City documents.

Roles and Responsibilities of the ADA/504 Coordinator: Possible Solutions

The City should document the roles and responsibilities of the ADA/504 Coordinator. These roles and responsibilities should be consistent with the Department of Justice's guidance for "An Effective ADA Coordinator" (<https://www.ada.gov/pcatoolkit/chap2toolkit.htm>).

3.1.3 ADA Grievance Policy, Procedure, and Form with Appeals Process for the ADA

Title II

Local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances in a prompt and fair manner that may arise under Title II of the ADA.

ADA Grievance Policy, Procedure, and Form with Appeals Process for the ADA (Title II): Self-Evaluation Findings

- The City has an existing ADA Title II grievance policy, procedure and form, and this information is posted on the City's website.
- The existing grievance procedure does not contain a process for how to appeal and adverse decision.
- The existing grievance procedure does not contain a statement of how long complaint files will be retained.

ADA Grievance Policy, Procedure, and Form with Appeals Process for the ADA (Title II): Possible Solutions

- The City should update the existing ADA Title II grievance procedure to include an appeals process and statement of how long complaint files will be retained to be consistent with Chapter 2 of the ADA best practice toolkit here: <https://www.ada.gov/pcatoolkit/chap2toolkit.htm>.
- The City should consider including the ADA Coordinator's name and email address on the grievance procedure so the complainant can know who the City's ADA Coordinator is and submit the form via email.
- The City should consider establishing a specific grievance procedure for ADA Title II related complaints.
- Draft Grievance Form and Title II Grievance Procedures that are consistent with the ADA best practice toolkit have been provided in **Appendix A**.

3.1.4 Public Notice Under the ADA

The ADA public notice requirement applies to all state and local governments covered by Title II, including entities with fewer than 50 employees. The target audience for the public notice includes applicants, beneficiaries, and other people interested in the entities' PSAs. This notice is required to include information regarding Title II of the ADA and how it applies to the PSAs of the public entity. Publishing and publicizing the ADA notice is not a one-time requirement. State and local government entities should provide the information on an ongoing basis, whenever necessary.

Public Notice Under the ADA: Self-Evaluation Findings

- The City has an existing ADA Title II public notice, and this information is posted on the City's website.
- The public notice does not contain the name of the ADA Coordinator

Public Notice Under the ADA: Possible Solutions

- The City should update the existing ADA Title II public notice to include the ADA Coordinator's name to be consistent with Chapter 2 of the ADA best practice toolkit here: <https://www.ada.gov/pcatoolkit/chap2toolkit.htm>
- Publishing and publicizing the ADA notice is not a one-time requirement and the City should provide the information on an ongoing basis, whenever necessary. DOJ suggestions for ways to provide notice are provided at: <https://www.ada.gov/pcatoolkit/chap2toolkit.htm>.

- A draft Public Notice Under the ADA that is consistent with the ADA best practice toolkit has been provided in **Appendix A**.

3.1.5 ADA Liaison Committee

The ADA Liaison Committee is comprised of representatives from each City department. These individuals work closely with the ADA/504 Coordinator to resolve issues regarding the needs of their department and the programs under their management. The ADA/504 Coordinator works closely with the ADA Liaison Committee to coordinate the implementation of plans, programs, policies, and procedures.

ADA Liaison Committee: Self-Evaluation Findings

The City of Las Cruces has established an ADA Liaison Committee and is comprised of a representative from each City department, and these representatives have been appointed by the department directors. These representatives are tasked with serving as the ADA contact for their department and will consult with the ADA/504 Coordinator regarding all ADA issues impacting their department. Any department-specific ADA inquiries will be provided from the ADA/504 Coordinator to the departmental representative, and each representative is responsible for keeping a detailed log for all ADA inquiries within their department. This log shall be shared with the ADA/504 Coordinator and shall be retained for at least three (3) years. A summary of grievances and associated resolutions will be summarized by the ADA Coordinator at each quarterly ADA Liaison Committee meeting. The Liaison Committee will review the City's CIP each quarter to ensure ADA Transition Plan elements are integrated with planned City improvement projects.

ADA Liaison Committee: Possible Solutions

The ADA Liaison Committee information should be publicized in common areas that are accessible to employees and areas open to the public. This includes posting this information on the City website.

3.2 Programs, Services, and Activities (PSA) Review

The City of Las Cruces plans to compile a list of all City programs, services, and activities (PSAs) required to be reviewed for compliance with Title II of the ADA. The City will evaluate current status regarding ADA requirements including eligibility requirements, participation requirements, facilities used, staff training, tours, transportation, communication, notifications, public meetings, the use of contracted services, purchasing, maintenance of accessible features, and emergency procedures for any elements not already evaluated in the City's 2017 ADA Transition Plan. A copy of the 2017 ADA Transition Plan has been included in **Appendix B**.

The inventory and Self-Evaluation of these PSAs will be completed in a future project phase and updates to the City's Transition Plan will be made to include findings and possible solutions for identified barriers.

3.3 Facilities Self-Evaluation Action Plan

The Federal Highway Administration (FHWA) has provided guidance on the ADA Transition Plan process in their "INFORMATION AND ACTION: ADA Transition Plan Process" memo dated November 17, 2015 (see **Appendix C**). While this memo specifically addresses State Departments of Transportation, FHWA also recommends this guidance for local municipalities until municipality-specific guidance is developed by FHWA. The memo includes a checklist for elements to be included in an ADA Transition Plan and other ADA requirements that agencies must fulfill.

Items included in the FHWA checklist related to the public rights-of-way are:

- **Inventory of Barriers** (identification of physical obstacles)
 - Identify intersection information, including curb ramps and other associated accessibility elements.
 - Require an Action Plan to develop an inventory of sidewalks (slopes, obstructions, protruding objects, changes in level, etc.), signals (including accessible pedestrian signals), bus stops (bus pads), buildings, parking, rest areas (tourist areas, picnic areas, visitor centers, etc.), mixed use trails, linkages to transit.
 - Discuss jurisdictional issues/responsibilities for sidewalks.
- **Schedule**
 - Show a strong commitment toward upgrading ADA elements identified in the inventory of barriers in the short-term (planned capital improvement projects).
 - Show a strong commitment over time toward prioritizing curb ramps at walkways serving entities covered by the ADA.
 - Schedule should include prioritization information, planning, and investments directed at eliminating other identified barriers over time.
 - Dedicate resources to eliminate identified ADA deficiencies.
- **Implementation Methods**
 - Describe the methods that will be used to make the facilities accessible and include the governing standard (e.g., 2010 ADA Standards, 2011 PROWAG).

In addition to the evaluated facilities described in **Section 3.5 Facilities Review**, the City of Las Cruces plans to evaluate all City-owned and/or maintained facilities for compliance with 2010 ADA Standards for Accessible Design and 2011 Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG).

3.4 Existing Facilities Inventory

The first step in completing a Self-Evaluation Action Plan is understanding what facilities the City is responsible for maintaining and where each of these facilities is located. In addition to the inventory of public right of way facilities that has been completed and documented in **Section 3.5 Facilities Review**, the existing facility inventory should include City-owned or maintained buildings or parks. A portion of the City's park and building facilities have been evaluated and summarized in the City's 2017 ADA Transition Plan. The City plans to complete the development of an existing facility inventory for any remaining facilities in a future phase of the ADA Transition Plan. The City also plans to evaluate current status regarding ADA requirements for any facilities not already evaluated in the City's 2017 ADA Transition Plan and updates to the City's Transition Plan will be made to include findings and possible solutions for identified barriers. A copy of the 2017 ADA Transition Plan has been included in **Appendix B**.

3.5 Facilities Review

3.5.1 Signalized Intersections

Ninety-eight (98) signalized intersections within the City of Las Cruces were evaluated. Signalized intersection evaluations cataloged the conditions and measurements along the pedestrian path of travel, which includes street crossings, curb ramps, sidewalk adjacent to the curb ramps, and pedestrian signal equipment and adjacent clear spaces. All signalized intersections included in the evaluation are listed on a map included in **Appendix D**.

Signalized Intersections: Self-Evaluation Findings

Common curb ramp issues included no presence of detectable warning surface or incorrect placement on curb ramps, ponding at the base of the curb ramps or in curb ramp landings or flares, no color contrast for detectable

warning surfaces, and excessive curb ramp cross slopes. **Table 1** provides a summary of the curb ramp issues at signalized intersections.

About seven (7) percent of pedestrian crossings at signalized intersections did not have pedestrian signal heads or pedestrian push buttons. Pedestrian push buttons and signal heads were recommended to be installed at all signalized intersection pedestrian crossings where they did not exist. Common issues associated with the existing pedestrian push buttons included non-existent or inaccessible push button clear spaces, excessive push button clear cross slopes, push buttons installed at locations inconsistent with the current *Manual on Uniform Traffic Control Devices (MUTCD)* guidance, and insufficient push button diameter. **Table 2** provides a summary of the push button issues.

Signalized Intersections: Possible Solutions

A complete list of possible solutions can be found in the signalized intersection reports provided in **Appendix E**.

Table 1. Summary of Curb Ramp Issues at Signalized Intersections

Curb Ramp Element	Number Evaluated	Number Compliant	Percent Compliant
Curb ramp does not have traversable sides	447	446	99.8%
Curb ramp counter slope $\leq 5\%$	500	495	99.0%
Curb ramp lands in crosswalk	500	493	98.6%
Curbed sides are 90°	447	440	98.4%
Curb ramp turning space (landing) exists	479	458	95.6%
Curb ramp present where curb ramp is needed	541	500	92.4%
48" crosswalk extension exists	183	169	92.3%
No obstruction in curb ramp, turning space (landing), or flares	500	426	85.2%
Curb ramp turning space (landing) cross slope $\leq 2\%$	458	360	78.6%
Curb ramp turning space (landing) running slope $\leq 2\%$	458	350	76.4%
Flare cross slope $\leq 10\%$	53	39	73.6%
Flush transition to roadway exists	500	367	73.4%
Curb ramp running slope $\leq 8.3\%$	500	334	66.8%
Curb ramp width $\geq 48"$	500	317	63.4%
Curb ramp cross slope $\leq 2\%$	500	294	58.8%
Detectable warning surface color contrasts with adjacent curb ramp surface	500	291	58.2%
No ponding in curb ramp, turning space (landing), or flares	500	282	56.4%
Presence of detectable warning surface with correct placement	500	269	53.8%

Table 2. Summary of Push Button Issues

Push Button Element	Number Evaluated	Number Compliant	Percent Compliant
Push button orientation parallel to crossing	628	625	99.5%
Pedestrian head present where needed	712	699	98.2%
Push button offset from curb $\leq 10'$	628	610	97.1%
Push button height $\leq 48''$	628	607	96.7%
Push button offset from crosswalk $\leq 5'$	628	575	91.6%
Push button diameter 2"	628	559	89.0%
Push button present where needed	712	628	88.2%
Clear space cross slope $\leq 2\%$	366	237	64.8%
Clear space present and able to be accessed	628	366	58.3%

3.5.2 Sidewalk Corridors

Sidewalk corridor evaluations were conducted on six hundred and eighty-one (681) miles of City owned sidewalk. The evaluations included condition assessments and measurements along the pedestrian path of travel, which includes the sidewalk, curb ramps, and pedestrian crossings at driveway openings. Maps of the evaluated sidewalk corridors are provided in **Appendix D**.

Sidewalk Corridors: Self-Evaluation Findings

Common issues along the sidewalk corridors were excessive sidewalk cross slopes, vertical surface discontinuities that caused excessive level changes, excessive driveway and cross street cross slopes, permanent obstructions in the sidewalk such as power poles or utilities, and temporary obstructions in the sidewalk or path of travel such as weeds and low hanging branches. Where excessive vegetation was present, field crews attempted to assess the condition of the underlying sidewalk. Where possible, the condition of the underlying sidewalk was recorded; however, the City of Las Cruces may find additional issues with the sidewalk once the temporary obstruction is removed.

Common curb ramp issues at unsignalized intersections along the sidewalk corridors included curb ramps having excessive running slopes, no presence of color contrast or texture contrast, curb ramps containing debris and gravel, and discontinuities where the curb ramp transitions to the roadway. A summary of the unsignalized intersection curb ramp issues is provided in **Table 3**. Non-compliant curb ramps, sidewalk, and pedestrian paths of travel along driveways were recommended to be removed and replaced.

The ADA of 1990, Section 35.150, Existing Facilities, requires that the Transition Plan include a schedule for providing curb ramps or other sloped area at existing pedestrian walkways, which applies to all facilities constructed prior to 1992. For any sidewalk installations constructed from 1992 to March 15, 2012, the curb ramps should have been installed as part of the sidewalk construction project per the 1991 Standards for Accessible Design, Section 4.7

Curb Ramp, which states, "curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb." For sidewalk installations constructed on or after March 15, 2012, similar guidance is provided in the 2010

Standards for Accessible Design, Section 35.151 of 28 Code of Federal Regulations (CFR) Part 35, New Construction and Alterations, which states, “newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped area at any intersection having curb or other sloped area at intersections to streets, roads, or highways.”

Sidewalk Corridors: Possible Solutions

To meet the federal requirements for curb ramp installations, the following recommendations are provided:

- Where sidewalk leads up to the curb at an intersection, both parallel and perpendicular to the project corridor, two (2) directional curb ramps are recommended to be installed where geometry permits. PROWAG requires two (2) directional curb ramps be installed during modifications unless there are existing physical constraints.
- Where sidewalk parallel to the project corridor leads up to the curb at a driveway, directional curbs ramps are recommended to be installed to serve the driveway crossing.
- Where diagonal curb ramps were installed with the intent to serve a side-street crossing only, receiving curb ramps are still required to be installed on the opposite side of the major street. However, an engineering study should be performed prior to the installation of the receiving curb ramps to determine if the major street crossing is safe to accommodate. If the engineering study determines the major street crossing is unsafe to accommodate, the existing diagonal curb ramps should be removed and replaced with directional curb ramps in addition to the other requirements noted in **Section 3.5 Federal Highway Administration (FHWA) Guidance on Closing Pedestrian Crossings**.

When planning improvements to remove the identified accessibility barriers, the following engineering judgement or best practices recommendations should be made to maximize pedestrian safety. It should be noted that these improvements are advised but not required per federal standards.

- For pedestrian crossings across commercial driveways, detectable warning surfaces are recommended to be installed on curb ramps or sidewalk approaches on either side of the driveway. PROWAG states that detectable warning surfaces should not be provided at crossings of residential driveways since the pedestrian right-of-way continues across residential driveway aprons. However, where commercial driveways are provided with yield or stop control, detectable warning surfaces should be provided at the junction between the pedestrian route and the vehicular route.

A complete list of barriers and possible solutions can be found in the sidewalk and unsignalized intersection curb ramp information study completed in 2016 by Infrastructure Management Services (IMS). A prioritization tool was developed to aid the City in determining overall prioritization and implementation strategies for these facilities. A summary of the initial prioritization factors is included in **Appendix F**.

Table 3. Summary of Curb Ramp Issues at Unsignalized Intersections

Curb Ramp Element	Number Evaluated	Number Compliant	Percent Compliant
Curb ramp constructed of paved material and free of debris	26,952	26,951	99.9%
Curb ramp has flush transition to roadway	26,952	26,118	96.9%
Presence of detectable warning surface where required	26,952	22,374	83.0%
Curb ramp running slope $\leq 8.3\%$	26,952	7,621	28.3%

3.6 Maintenance Versus Alterations

The United States Department of Justice (DOJ) has issued a briefing memorandum on clarification of maintenance versus projects. Information contained in the briefing memorandum is below. We recommend this clarification with regard to when curb ramp installation is required as part of a project be distributed to the appropriate City of Las Cruces staff.

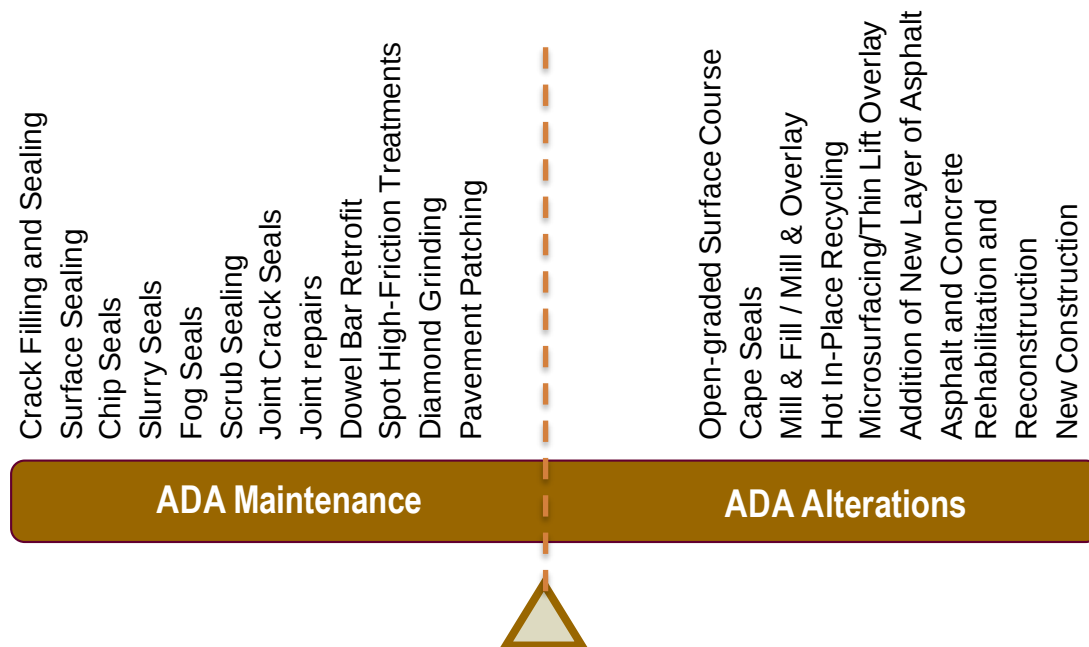
The Americans with Disabilities Act of 1990 (ADA) is a civil rights statute prohibiting discrimination against persons with disabilities in all aspects of life, including transportation, based on regulations promulgated by the United States Department of Justice (DOJ). DOJ's regulations require accessible planning, design, and construction to integrate people with disabilities into mainstream society. Further, these laws require that public entities responsible for operating and maintaining the public rights-of-way do not discriminate in their programs and activities against persons with disabilities. FHWA's ADA program implements the DOJ regulations through delegated authority to ensure that pedestrians with disabilities have the opportunity to use the transportation system's pedestrian facilities in an accessible and safe manner.

FHWA and DOJ met in March 2012 and March 2013 to clarify guidance on the ADA's requirements for constructing curb ramps on resurfacing projects. Projects deemed to be alterations must include curb ramps within the scope of the project.

This clarification provides a single Federal policy that identifies specific asphalt and concrete-pavement repair treatments that are considered to be alterations – requiring installation of curb ramps within the scope of the project – and those that are considered to be maintenance, which do not require curb ramps at the time of the improvement. Figure 1 provides a summary of the types of projects that fall within maintenance versus alterations.

This approach clearly identifies the types of structural treatments that both DOJ and FHWA agree require curb ramps (when there is a pedestrian walkway with a prepared surface for pedestrian use and a curb, elevation, or other barrier between the street and the walkway) and furthers the goal of the ADA to provide increased accessibility to the public right-of-way for persons with disabilities. This single Federal policy will provide for increased consistency and improved enforcement.

Figure 1. Maintenance versus Alteration Projects



Source: DOJ Briefing Memorandum on Maintenance versus Alteration Projects

3.7 FHWA Guidance on Closing Pedestrian Crossings

An alteration that decreases or has the effect of decreasing the accessibility of a facility below the requirements for new construction at the time of the alteration is prohibited. For example, the removal of an existing curb ramp or sidewalk (without equivalent replacement) is prohibited. However, the FHWA has indicated a crossing may be closed if an engineering study (performed by the City and not included in the scope of this Transition Plan) determines the crossing is not safe for any user. The crossing should be closed by doing the following:

- A physical barrier is required to close a crossing at an intersection. FHWA has determined that a strip of grass between the sidewalk and the curb is acceptable as a physical barrier.
- A sign should be used to communicate the closure.

The agency wishing to close certain intersection crossings should have a reasonable and consistent policy on when to do so written in their Transition Plan or as a standalone document. If safety concerns are established by an engineering study, a pedestrian crossing should not be accommodated for any user. The City of Las Cruces should also develop and implement a policy on how to close those crossings that are accommodated based on the existing conditions at the crossing location (e.g., existing sidewalk leading up to the curb in the direction of the crossing or existing curb ramp or crosswalk serving the crossing), but should not be due to safety concerns.

3.8 Prioritization

The following sections outline the prioritization factors and results of the prioritization for signalized intersections, sidewalks, and unsignalized intersections. Each facility type has a different set of parameters to establish the prioritization for improvements. These prioritization factors were taken into consideration when developing the implementation plan for the proposed improvements.

3.8.1 Prioritization Factors for Facilities

The prioritization methodology was developed by the Consultant Team to aid the City in determining which signalized intersections, sidewalk corridors, and curb ramps along the sidewalk corridors should be prioritized for improvements based on the severity of non-compliance with ADA.

Signalized intersections were prioritized on a 13-point scale. The 13-point scale is defined in **Table 4**.

Sidewalk corridors and associated curb ramps were prioritized based on severity on non-compliance, proximity to pedestrian focus areas, and adjacent roadway functional classification using the factors listed below.

Sidewalk corridor prioritization factors:

- Functional classification of adjacent roadway
- Sidewalk within pedestrian focus areas
- Joint damage severity
- Sagging severity
- Tilt severity
- Corner break severity
- Longitudinal cracking severity
- Transverse cracking severity
- Shattered slab severity
- Obstruction severity
- Faulting severity
- Slope severity
- Heaving severity
- Patching severity
- Texture severity
- Presence of ≥ 48 " width

Unsignalized intersection curb ramp prioritization factors:

- Functional classification of adjacent roadway
- Curb ramp within pedestrian focus areas
- Curb ramp type (standard detail under which curb ramp was constructed)
- Presence of detectable warning surface
- Presence of flush transition to roadway
- Curb ramp material
- Curb ramp slope severity

Table 4. Prioritization Factors for Signalized Intersections

Priority	Criteria
1 (high)	Complaint filed on curb ramp or intersection or known accident/injury at site
2 (high)	Existing curb ramp with any of the following conditions: • Running slope > 12% • Cross slope > 7% • Obstruction to or in the curb ramp or landing • Level change > ¼ inch at the bottom of the curb ramp • No detectable warnings AND within a couple of blocks of a hospital, retirement facility, medical facility, parking garage, major employer, disability service provider, event facility, bus/transit stop, school, government facility, public facility, park, library, or church, based on field observations.
3 (high)	• No curb ramp where sidewalk or pedestrian path exists AND within a couple of blocks of a hospital, retirement facility, medical facility, parking garage, major employer, disability service provider, event facility, bus/transit stop, school, government facility, public facility, park, library, or church, based on field observations.
4 (high)	No curb ramps, but striped crosswalk exists
5 (medium)	Existing curb ramp with any of the following conditions: • Running slope > 12% • Cross slope > 7% • Obstruction to or in the curb ramp or landing • Level change > ¼ inch at the bottom of the curb ramp • No detectable warnings AND NOT within a couple of blocks of a hospital, retirement facility, medical facility, parking garage, major employer, disability service provider, event facility, bus/transit stop, school, government facility, public facility, park, library, or church, based on field observations.
6 (medium)	• No curb ramp where sidewalk or pedestrian path exists AND NOT within a couple of blocks of a hospital, retirement facility, medical facility, parking garage, major employer, disability service provider, event facility, bus/transit stop, school, government facility, public facility, park, library, or church, based on field observations.
7 (medium)	Existing diagonal curb ramp (serving both crossing directions on the corner) is non-compliant and should be replaced with two curb ramps, one serving each crossing direction on the corner.
8 (medium)	Existing curb ramp with any of the following conditions: • Cross slope > 5% • Width < 36 inches • Median/island crossings that are inaccessible
9 (low)	Existing curb ramp with either running slope between 8.3% and 11.9% or insufficient turning space
10 (low)	Existing diagonal curb ramp without a 48-inch extension into the crosswalk
11 (low)	Existing pedestrian push button is not accessible from the sidewalk and/or curb ramp
12 (low)	Existing curb ramp with returned curbs where pedestrian travel across the curb is not protected
13 (low)	All other intersections not prioritized above

Table 5, Table 6, and Table 7 provide summaries of the prioritization classifications for signalized intersections, sidewalks, and unsignalized intersection curb ramps, respectively.

Table 5. Prioritization Summary Signalized Intersections

Priority	Number of Intersections
0 (compliant)	3
1 (high)	0
2 (high)	25
3 (high)	0
4 (high)	7
5 (medium)	57
6 (medium)	0
7 (medium)	0
8 (medium)	0
9 (low)	5
10 (low)	0
11 (low)	1
12 (low)	0
13 (low)	0
Total	98

Table 6. Prioritization Summary for Sidewalk Corridors

Deficiency Score Range (Priority)	Sidewalk Length (miles)
Deficiency Score = 0.00 (lowest)	81.5
0.00 < Deficiency Score < 0.25 (low)	315.5
0.25 ≤ Deficiency Score ≤ 0.50 (low)	109.1
0.50 < Deficiency Score < 0.75 (medium)	61.2
0.75 ≤ Deficiency Score ≤ 1.00 (medium)	37.7
1.00 < Deficiency Score < 1.50 (high)	37.8
1.50 ≤ Deficiency Score < 2.00 (high)	17.6
Deficiency Score ≥ 2.00 (highest)	20.8
Total	681.1

Table 7. Prioritization Summary for Unsignalized Intersection Curb Ramps

Deficiency Score Range (Priority)	Number of Curb Ramps
Deficiency Score = 0.00 (lowest)	3,038
0.00 < Deficiency Score < 0.50 (low)	4,301
0.50 ≤ Deficiency Score < 1.00 (low)	5,591
1.00 ≤ Deficiency Score < 1.50 (medium)	8,365
1.50 ≤ Deficiency Score < 2.00 (medium)	2,635
2.00 ≤ Deficiency Score < 2.50 (high)	4,951
2.50 ≤ Deficiency Score < 3.00 (high)	221
Deficiency Score ≥ 3.00 (highest)	888
Total	26,952

3.9 Conclusion

This document serves as the ADA Transition Plan for the City of Las Cruces. In developing the Transition Plan, PSAs were reviewed for compliance with ADA guidelines and a Self-Evaluation was conducted on the following facilities:

- 98 signalized intersections;
- 681 miles of sidewalk and all unsignalized intersections and driveways along the sidewalk corridors; and
- 26,952 curb ramps along the sidewalk corridors.

The possible solutions were prioritized and an implementation plan was developed to provide guidance for the City's improvement projects in the coming years. Public outreach was also conducted to aid in the development of the plan.

The City is taking the actions referenced below and will continue to look for and remedy, barriers to access to ensure that Las Cruces citizens who are disabled are given access to the City's PSAs.

To confirm follow-up on corrective actions required under the Transition Plan, the City will institute an ADA Action Log, documenting its efforts at compliance with the ADA. At a minimum, the Action Log will identify items that are not ADA compliant and will include anticipated completion dates. After the adoption of the Transition Plan by the governing body of the City, the ADA Action Log will be updated on an annual basis. The ADA Action Log should be available upon request. See example of ADA Action Log provided in **Appendix G**.

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4.0 Facility Costs

4.1 Facilities Cost Projection Overview

To identify funding sources and develop a reasonable implementation schedule, cost projection summaries for only the facilities evaluated were developed for each facility type. To develop these summaries, recent bid tabulations from the New Mexico Department of Transportation (NMDOT) construction projects, along with Consultant Team experience with similar types of projects, were the basis for the unit prices used to calculate the improvement costs. For signalized intersection improvements, a contingency percentage (20%) was added to the subtotal to account for increases in unit prices in the future in addition to an engineering design percentage (15%). For curb ramp improvements at unsignalized intersections, costs of \$2,000, \$1,700, or \$1,500 (for high, medium, and low respectively) per curb ramp for removal and replacement was applied to all ramps with a deficiency score > 0. These costs represent the worst-case scenario since not all facilities will require full replacement, and some facilities will be replaced as part of existing and upcoming construction and rehabilitation projects where funding has already been identified. All costs are in 2020 dollars. **Table 8** provides a summary of the estimated costs to bring each facility into compliance.

Table 8. Summary of Facility Costs

Facility Type	Priority			
	High	Medium	Low	Total
Signalized Intersections	\$1,185,000	\$2,196,800	\$63,200	\$3,445,000
Public Rights-of-Way Sidewalk	\$23,995,600	\$22,238,700	\$57,320,100	\$103,554,400
Public Rights-of-Way Unsignalized Intersection Curb Ramps	\$8,950,000	\$16,593,700	\$14,517,000	\$40,060,700
City Totals	\$34,130,600	\$41,029,200	\$71,900,300	\$147,060,100

4.2 Implementation Schedule

Table 9 details the barrier removal costs and proposed implementation schedule by facility type for all City-owned facilities evaluated. This 20-year plan will serve as the implementation schedule for the Transition Plan. The City of Las Cruces reserves the right to change the barrier removal priorities on an ongoing basis to allow flexibility in accommodating community requests, petitions for reasonable modifications from persons with disabilities, and changes in City programs.

It is the intent of the City to have its ADA Coordinator work together with department heads and budget staff to determine the funding sources for barrier removal projects. Once funding is identified, the ADA Coordinator will coordinate the placement of the projects in the Capital Improvement Program (CIP) to be addressed on a fiscal year basis.

Table 9. Implementation Schedule

Facility Type	Estimated Cost	Implementation Schedule (years)	Approximate Annual Budget
Signalized Intersections	\$3,445,000	20	\$172,250
Public Rights-of-Way Sidewalk	\$103,554,400	20	\$5,177,720
Public Rights-of-Way Unsignalized Intersection Curb Ramps	\$40,060,700	20	\$2,003,035
City Total	\$147,060,100		
Total Annual Budget			\$7,353,005

4.3 Funding Opportunities

Several alternative funding sources are available to the City to complete the improvements in this Transition Plan. The funding opportunities include applying for resources at the federal and state level, consideration of local options, and leveraging private resources. The following sections detail some different funding source options.

4.3.1 Federal and State Funding

Table 10 depicts the various types of federal and state funding available for the City to apply for funding for various improvements. The following agencies and funding options are represented in the chart.

- BUILD – Better Utilizing Investments to Leverage Development Transportation Discretionary Grants
- INFRA – Infrastructure for Rebuilding America Discretionary Grant Program
- TIFIA – Transportation Infrastructure Finance and Innovation Act (loans)
- FTA – Federal Transit Administration Capital Funds
- ATI – Associated Transit Improvement (1% set-aside of FTA)
- CMAQ – Congestion Mitigation and Air Quality Improvement Program
- HSIP – Highway Safety Improvement Program
- NHPP – National Highway Performance Program
- STBG – Surface Transportation Block Grant Program
- TA – Transportation Alternatives Set-Aside (formerly Transportation Alternatives Program)
- RTP – Recreational Trails Program
- SRTS – Safe Routes to School Program / Activities
- PLAN – Statewide Planning and Research (SPR) or Metropolitan Planning funds
- NHTSA 405 – National Priority Safety Programs (Nonmotorized safety)
- FLTTP – Federal Lands and Tribal Transportation Programs (Federal Lands Access Program, Federal Lands Transportation Program, Tribal Transportation Program, Nationally Significant Federal Lands and Tribal Projects)

Most of these programs are competitive type grants; therefore, the City of Las Cruces is not guaranteed to receive these funds. It will be important for the City to track these programs to apply for the funds. Federal-aid funding programs have specific requirements that projects must meet, and eligibility must be determined on a case-by-case basis.

Table 10. Funding Opportunities

ACTIVITY	BUILD	INFRA	TIFIA	FTA	ATI	CMAQ	HSIP	NHPP	STBG	TA	RTP	SRTS	PLAN	NHTS	FLTP
Access enhancements to public transportation	X	X	X	X	X	X		X	X	X					X
ADA/504 Self-Evaluation / Transition Plan									X	X	X		X		X
Bus shelters and benches	X	X	X	X	X	X		X	X	X					X
Coordinator positions (state or local)						X			X	X		X			
Crosswalks (new or retrofit)	X	X	X	X	X	X	X	X	X	X	X	X			X
Curb cut and ramps	X	X	X	X	X	X	X	X	X	X	X	X			X
Paved shoulders for pedestrian use	X	X	X			X	X	X	X	X		X			X
Pedestrian plans				X					X	X		X	X		X
Recreational trails	X	X	X						X	X	X				X
Shared use paths / transportation trails	X	X	X	X	X	X	X	X	X	X	X	X			X
Sidewalk (new or retrofit)	X	X	X	X	X	X	X	X	X	X	X	X			X
Signs / signals / signal improvements	X	X	X	X	X	X	X	X	X	X		X			X
Signed pedestrian routes	X	X	X	X	X	X		X	X	X		X			X
Spot improvement programs	X	X	X	X			X	X	X	X	X	X			X
Stormwater impacts related to pedestrian projects	X	X	X	X	X		X	X	X	X	X	X			X
Trail bridges	X	X	X			X	X	X	X	X	X	X			X
Trail / highway intersections	X	X	X			X	X	X	X	X	X	X			X
Trailside and trailhead facilities	X	X	X						X	X	X				X
Training						X	X		X	X	X	X	X	X	
Tunnels / undercrossings for pedestrians	X	X	X	X	X	X	X	X	X	X	X	X			X

Adapted from FHWA Pedestrian and Bicycle Funding Opportunities, Revised August 9, 2018:
https://www.fhwa.dot.gov/environment/bicycle_pedestrian/funding/funding_opportunities.cfm

4.3.2 Local Funding

There are several local funding options for the City to consider, including:

- Community Development Block Grants (CDBG)
- Community Improvement District (CID) – A geographically defined district in which commercial property owners vote to impose a self-tax. Funds are then collected by the taxing authority and given to a board of directors elected by the property owners.
- General fund (sales tax and bond issue)
- Scheduled/funded CIP projects that are funded through bonds
- Sidewalk or Access Improvement Fee
- Special tax districts – A district with the power to provide some governmental or quasi-governmental service and to raise revenue by taxation, special assessment, or charges for services.
- Tax Allocation District (TAD) – A defined area where real estate property tax monies gathered above a certain threshold for a certain period of time (typically 25 years) is to be used for a specified improvement. The funds raised from a TAD are placed in a tax-free bond (finance) where the money can continue to grow. These improvements are typically for revitalization and especially to complete redevelopment efforts.
- Tax Increment Financing District (TIF) – A TIF allows cities to create special districts and to make public improvements within those districts that will generate private-sector development. During the development period, the tax base is frozen at the predevelopment level. Property taxes continue to be paid, but taxes derived from increases in assessed values (the tax increment) resulting from new development either go into a special fund created to retire bonds issued to originate the development, or leverage future growth in the district.
- Transportation Reinvestment Zone
- Transportation User Fee / Street Maintenance Fee

4.3.3 Private Funding

Private funding may include local and national foundations, endowments, private development, and private individuals. While obtaining private funding to provide improvements along entire corridors might be difficult, it is important for the City to require private developers to improve pedestrian facilities to current ADA requirements, whether it by new development or redevelopment of an existing property.

4.4 Next Steps

The City will begin internal coordination to address the programmatic barriers identified in the Transition Plan.

The City will develop a budget to include the next 20 fiscal years. Projects identified in the ADA Transition Plan will be programmed within the 20-year budget based prioritization provided (see **Section 3.8 Prioritization**) and other factors determined by the City, such as how barrier removal can be incorporated into existing City projects identified for capital improvements.

The City is considering adoption of the 2011 PROWAG to enable City enforcement of these guidelines throughout the design and construction process of pedestrian facilities in the public rights-of-way.

Appendix

Appendix A: Grievance Procedure and Public Notice Under the ADA

- Title II Grievance Procedure

- Title II Grievance Form

- Public Notice Under the ADA

Appendix B: 2017 City of Las Cruces ADA Transition Plan

Appendix C: Federal Highway Administration ADA Transition Plan Process Memo

Appendix D: Facility Maps

- Signalized Intersections

- Public Rights-of-Way Sidewalk Corridors

Appendix E: Facility Reports

- Signalized Intersections

Appendix F: Sidewalk and Curb Ramp Initial Prioritization Summary

Appendix G: ADA Action Log