WT Group AEC

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AMERICANS WITH DISABILITIES ACT EVALUATION AND TRANSITION PLAN

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)

FINAL REPORT TO URBAN COUNTY COUNCIL & LEADERSHIP

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INTRODUCTION

In 2023, the Lexington-Fayette Urban County Government (LFUCG) issued a request for proposals for accessibility evaluations and a partial transition plan for selected high-use facilities and sites. A transition plan must address all sites, both parks and facilities, so this initial work was the first of two phases.

LFUCG received and reviewed the Phase One deliverables. It then added scope to the project, and all remaining parks and facilities were combined into Phase Two.

This report combines the findings and recommendations of both Phase One and Phase Two.

ADA MANDATES

Federal and Kentucky requirements mandate the accessibility of LFUCG sites and facilities. This report summarizes our findings and recommendations to make LFUCG facilities more accessible to people with disabilities. The details and recommendations are in the site reports. This report recommends steps to meet the federal, state, and local requirements and incorporates smart practices.

For efficiency, LFUCG cannot implement all recommendations at once; no local government can. We suggest a phased approach to retrofits. LFUCG staff must gain a good understanding of the findings and recommendations. We suggest a systematic approach, as described in the following pages. Below, we review the application of the Americans with Disabilities Act (ADA) title II regulation to LFUCG facilities, parks, programs, and services.

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

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

The subject of this report is LFUCG facilities, parks, and programs. We also address spaces used principally by LFUCG employees that a member of the public may visit. These must have access for the visitor with a disability. LFUCG may also have relationships with nonprofits, universities, or other entities, and when an entity uses LFUCG property or resources, the entity is strictly prohibited from discrimination on the basis of disability.

The ADA is to be broadly interpreted. In this section of the final report, we will define terms as the ADA defines them. These terms are drawn from the Department of Justice (DOJ) implementing regulation for title II of the ADA.

In this section, we will review the:

- ADA administrative requirements for LFUCG
- Ways in which the ADA applies to new design and construction
- ADA requirements for existing facilities
- ADA Transition Plan requirements
- ADA requirements for LFUCG public-facing policies
- ADA requirements for LFUCG programs, and
- ADA requirements for LFUCG communications.

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

What Are the ADA Administrative Requirements?

The US Department of Justice (DOJ) published title II implementing regulation in 1991, and it became effective on January 26, 1992. It has been amended once, and those changes became effective March 15, 2011. The DOJ title II regulation is here. LFUCG faces many administrative requirements under title II of the ADA. In this section of the report, we will describe and review five key administrative requirements.

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

35.107(a) Designation of Responsible Employee: LFUCG must appoint at least one employee "…to coordinate its efforts to comply with and carry out…" its obligations under the ADA. Known as the ADA Coordinator, this employee investigates complaints regarding noncompliance and coordinates overall ADA implementation. LFUCG has named Hannah LeGris as the Access & Engagement Officer. She leads the ADA Compliance Team.

35.107(b) Complaint Procedure: LFUCG must have a process by which disputes regarding accessibility at sites, effective communications, and inclusion in programs and services can result in "…prompt and effective resolution…". DOJ refers to this as a "grievance procedure". We recommend that LFUCG change the way it refers to this process. Naming this a grievance process makes it appear to be adversarial. It need not be, and in fact, many believe that a more positive approach yields "prompt and effective resolution" in a much more customer-friendly way.

We suggest LFUCG rename the process to Solutions Process, or some other appropriate name that is inviting, not adversarial. As a deliverable, we provide LFUCG with a sample Solutions Process language.

35.130(b)(7) Make Reasonable Modifications: LFUCG must make reasonable modifications that enable access to programs, facilities, and services when so requested by a person with a disability, unless doing so creates an undue burden. The statute and the DOJ regulation identify many reasonable modification solutions. In addition, court decisions and DOJ settlement agreements help further define the term and the limits on the concept of reasonable modification. The DOJ ADA website is a good source of information on this subject. During phase one, we provided LFUCG with a sample process for Reasonable Modification Requests.

35.150(a)(3) Writing Requirement: LFUCG, whenever it denies a request for a reasonable modification, must create a writing. This is a mandate once it is determined by LFUCG staff that a request would create an undue burden. Importantly, the writing is to be signed by "…the head of the entity or his or her designee…". In making this decision, the entity is to consider "…all resources available for use in the funding and operation of the service, program, or activity…". We recommend the Urban County Council delegate this authority to the Chief Administrative Officer, who can then delegate that authority to department or program heads as needed. We recommend that LFUCG keep these writings together for ease of access and analysis. These have great risk management value and will help in forecasting the requests LFUCG receives.

What Are the ADA Requirements for New Design and Construction?

Many ADA requirements are open to interpretation. There is, however, one set of requirements that is clear: all LFUCG new design and construction must comply with the federal 2010 Standards for Accessible Design, Kentucky, and Lexington requirements that are more stringent from an access perspective. We have seen several instances of new design and construction where this did not occur. The DOJ regulation at section 35.151 establishes this requirement and permits a variance only when it is "structurally impracticable" to fully comply with the Standards.

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

New design and construction include alterations and additions; therefore, alterations and additions must adhere to the 2010 Standards. The DOJ title II regulation, at 35.151(b)(4), establishes a requirement that when alterations or additions occur at an existing LFUCG facility, that a "path of travel" is required to connect the accessible elements of the existing facility with accessible elements in the altered area or addition. In preparing the regulation, DOJ recognized the inequity of a result whereby the accessibility portion of an alteration or addition, the path of travel, could require more fiscal resources than the alteration or addition.

The regulation, therefore, introduces the concept of disproportionality, which permits LFUCG to limit path of travel costs to 20% of the cost of a project.

Four clarifications are necessary regarding the concept of disproportionality.

First, the creation of a path of travel whenever an alteration to a primary space occurs is an absolute and unavoidable mandate. LFUCG must expend at least 20% of the cost of the alteration for the path of travel.

Second, LFUCG may elect to apply a higher percentage to the concept of disproportionality. If LFUCG wishes to dedicate 30% of the cost of the alteration or addition to the path of travel, it may do so. The ADA sets the floor or minimum at 20%.

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

- Playground surfaces and playground components at LFUCG playgrounds;
- Pools and spray grounds at LFUCG aquatic centers; and
- Spectator seating and player seating at LFUCG softball and baseball fields.

Fourth, some work at an alteration or addition is simply maintenance, and the cost of that work may be deducted from the determination of the cost of the alteration or addition, thereby affecting the amount necessary to meet the 20% disproportionality test. For example, LFUCG will apply paint to the walls of an alteration or addition. The cost of the paint may be removed when tallying the alteration costs, thereby slightly reducing the cost to be applied as a path of travel. At many sites, these non-alteration costs are very small. In a world where every LFUCG penny counts, apply the concept of disproportionality properly is appropriate.

Access requirements for new design and construction are important in the context of the LFUCG Capital Improvement Plan (CIP). CIP designers and contractors must meet or exceed federal and state requirements.

What Are the ADA Requirements for Existing Facilities?

The title II requirements for existing facilities begin with a requirement that the programs within those facilities and sites are accessible. DOJ title II at 35.149 clearly states:

"No qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."

The term "program" is to be broadly interpreted. For LFUCG, an opportunity made available to the public is a program. Using a playground is a program. Cooling off at a splash pad is a program. Making public comment at an Urban County Council meeting is a program. A workout at a park fitness site is a program. Sports fields are a program. A scheduled activity that meets at a specific time for a specific duration is a program. Fishing and boating are programs. Renting a Neighborhood Center for a celebration is a program. Having picnic tables in a park is a program.

Think broadly here and understand that a program is not just an organized activity for which one registers, pays a fee, and participates. In applying 35.149, it is a violation of the ADA if a LFUCG program cannot be accessed by a person with a disability because the facility in which the program is located is inaccessible.

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

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

- Relocating a program from an inaccessible site to a site that is accessible;
- Providing a program at two or more sites, one of which is not accessible and at least one of which is accessible;
- Redesigning or acquiring equipment to make program participation accessible;
- Bringing the program to the person with a disability by way of home visits;
- Construction of new accessible facilities to house the program; and
- Providing extra staff to facilitate interaction by program beneficiaries.

Elsewhere in title II, LFUCG is required to make changes to rules and policies as well. These nonstructural alternatives may be effective in making a program accessible.

However, when nonstructural alternatives are not effective in making the program accessible, 35.150(b) requires LFUCG to alter existing parks, facilities, and assets, and when doing so, to treat the alteration as new work and comply with title II 35.151. LFUCG must also give the highest priority "…to those methods that offer services, programs, and activities…in the most **integrated setting**". LFUCG must also disperse accessible programs that are to be retrofit. For example, all accessible playgrounds cannot be located in one quadrant of LFUCG.

The 2011 title II regulation amendments introduced the concept of safe harbor for LFUCG and other state and local governments at 35.150(b)(2). If LFUCG designed and constructed an asset before March 15, 2012, and that asset complied with the 1991 Standards for Accessible Design, LFUCG cannot be penalized if the Standards change at a later date. This concept is referred to as safe harbor.

An example of safe harbor is the reach range requirement. In the 1991 Standards, reach range could be at 54" above the finished floor (AFF) if a side approach was used and only 48" AFF if a forward approach was used. In the 2010 Standards, because of confusion about forward reach and side reach, the maximum unobstructed reach range was simply reduced to 48" AFF. The safe harbor concept applies here for elements mounted between 48" and 54" at LFUCG facilities designed and constructed before March 15, 2012. However, if that hypothetical operating mechanism is at 55" AFF, it failed to meet the 1991 Standards and must be retrofit to meet the 2010 Standards maximum of 48" AFF.

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

What is the ADA Transition Plan Requirement?

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

At 35.150(d), the requirements are:

- Describe the deficits at every LFUCG asset
- Describe a solution for each deficit, or if it is to be left as is, describe why
- Specify the year or by what date the retrofit will occur, and
- Name LFUCG official responsible for assuring compliance.

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

LFUCG must understand the guidance as to by what date it must complete all retrofits. The title II regulation, at 35.150(c), discussing the period for compliance, offers this guidance:

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

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

LFUCG can draw guidance from the statement above by acknowledging that retrofits will occur as soon as possible and acting in good faith to execute those retrofits. This requires that LFUCG resources be balanced with the integration of Transition Plan retrofits and CIP activity. LFUCG should make Transition Plan work a higher priority than discretionary development and acquisition.

Regarding parks and facilities, there is other guidance by DOJ. If there is only one of a type of asset, it must be made accessible. If there are many assets of the same or similar type, such as playgrounds and sports fields, not necessarily all must be retrofit to be accessible.

When the issue of recurring assets arises, the DOJ does not specify a ratio or percentage that must be accessible. Our work in preparing transition plan recommendations relies on making a minimum of one of every three recurring assets accessible and dispersing accessible assets throughout LFUCG. This ensures that no matter where a resident is, some LFUCG assets are near them and are accessible. This approach has been accepted by the DOJ, the Department of Interior, federal district courts, and two state enforcement agencies.

Lastly, title II at 35.150(d)(a) requires LFUCG to provide an opportunity for public participation in the development of the transition plan. LFUCG conducted many feedback opportunities, as described later in this report.

What Are the ADA Requirements for LFUCG Communications?

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

More and more local governments utilize their websites for communication with the public as well as with employees. Certainly, today, post-pandemic, website reliance has only grown. The broad requirements apply to LFUCG website, letters, contracts, aural communication that might occur at a Council meeting, emails, phone calls, and more.

Recognizing this change, in 2024 the DOJ adopted a final and enforceable website guideline, which require the LFUCG website to be compliant by April 26, 2026.

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

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

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

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

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

35.150(a)(3) Undue Administrative Burden: The DOJ and the US Congress recognized that there may be circumstances in which a local government will find it difficult to administratively obtain the personnel, devices, and processes by which it can make reasonable modifications, or remove barriers. This circumstance will be hard to show in LFUCG. Municipalities across the state will have addressed and resolved the request related to disability faced by LFUCG.

35.150(a)(3) Undue Financial Burden: The DOJ and the US Congress recognized that there may be circumstances when a local government will find it difficult to provide the fiscal resources to make a modification or to remove barriers. This circumstance is hard to show for LFUCG. DOJ guidance requires that LFUCG consider the entire budget before claiming Undue Financial Burden. If a modification for a child with a physical disability will require the creation of a firm and stable accessible route to sports fields, LFUCG must consider operating and capital budget resources in determining if it can grant this request for modification.

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

35.130(b)(7) Fundamental Alteration in Nature of the Service, Program, or Activity: DOJ and Congress recognized that a circumstance may arise where a local government will find it difficult to provide the requested modification based on disability because in doing so the

fundamental nature of the service, program, or activity will be changed. For example, LFUCG has an equestrian facility. A wheelchair user will likely find the dirt surface very difficult to cross. That person may ask LFUCG to resurface the arena with a firm and stable surface that a wheelchair can negotiate. While the engineering is not complex, replacing a dirt surface with a firm and stable surface fundamentally alters the surface and how it can be used.

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

A GUIDE TO THIS REPORT

There are approximately 19,430 access deficits identified in the 188 site reports. The ADA requires that the access evaluation identify every access deficit at every site. For each, a solution must be identified but as discussed earlier, LFUCG does not necessarily have to make every site accessible. It does have to make every program it conducts accessible.

In this report, we identify some broad solutions, such as refreshing all accessible parking, as a way to address issues identified in the site reports. It is also a way for LFUCG to manage compliance. This gives LFUCG flexibility within its compliance efforts to move resources so that they are applied with optimal impact. We offer these systemic changes as a complement to a site-by-site approach. LFUCG will determine how to proceed, and many local governments apply a hybrid of a systemic and site-by-site approach.

The scope of our work does not include the design of a solution. Our recommendations are performance-based. For example, if a parking stall at Safety City needs to have the proper striping and signage to be compliant, we will make that recommendation and will note the dimensions and sign type. The design of a solution is a task for LFUCG staff or contractors.

We recommend the following to facilitate review:

First, read this Report. It provides a “big picture” review of the issues and solutions.

Second, read the site reports. View the reports digitally, and you will have instant access to the report content and supporting images.

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

COMMON ISSUES

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

Maintenance

LFUCG uses a conscientious staff to maintain its parks and facilities. However, over time, every site yields to wear and tear. The recommendations below describe ways in which attention to maintenance can specifically address some access deficits.

1. Provide training to maintenance staff regarding the features of an accessible route and how to ensure that it remains unobstructed. This requires staff to place park amenities, e.g., garbage cans or signs, adjacent to the accessible route.

2. Add door closer checks to park & facility maintenance staff checklists and test doors regularly. When too much force is required to open a door, adjust the closer.

3. Purchase some new tools. LFUCG needs battery-powered 2′ digital levels and tools to measure pounds of force designed to do so. Do not use 4′ digital levels. Door pressure gauges can be assigned to staff for scheduled spot checks at doors, and levels can be used by staff to check running and cross slopes on accessible routes.

Changes in Level and Gaps

The paths that make up the LFUCG network of accessible routes are in fair condition. Wear and tear, settling, weather, and other factors combine to cause changes in level and gaps along portions of those accessible routes, making that portion noncompliant and a barrier to many visitors with physical and sensory disabilities.

Removing changes in level and gaps has a significant universal design benefit too, as more people with all types of conditions can more easily use routes, such as staff pushing carts of supplies, parents with kids in strollers, and people using an assistive device such as a wheelchair, Segway, or walker.

4. Add change in level of more than .25″ to park & facility maintenance safety checklists. This will help identify and correct these problems before they expand. Make or buy pre-measured shims and distribute to employees for their use and ease of measurement.

5. Add inspections for gaps of greater than .5″ to park & facility maintenance safety checklists. Identify and fill these gaps before they expand. In the alternative, consider resurfacing segments of deteriorated asphalt routes.

6. Eliminate changes in level. Using the rationale that the most severe changes in level are the greatest barriers to access, make changes in level of greater than .75″ the highest priority. Make changes in level of .5″ to .75″ the second priority. Make beveling of changes in level of .25″ to .5″ the third priority. Consider acquiring or contracting for a grinder.

Employee Work Areas

LFUCG employs many qualified and skilled full-time staff. LFUCG employs many more on a part-time or seasonal basis. LFUCG likely has employees with disabilities, and in the future, will have more employees with disabilities, in all categories of employment.

It is important to address access to work areas, and both the title II regulation and the work of the Access Board address the matter. Section 203.9 of the 2010 Standards for Accessible Design makes clear how to treat employee areas. Generally, a person with a disability should be able to approach, enter, and exit the work area. This is addressed by requirements for accessible routes and accessible means of egress. Other factors are door width, hardware, maneuvering clearance, and threshold changes in level.

Excluded from this exception are several types of common spaces in employee areas. Spaces such as the ones below must meet the access guidelines as they are excluded from the definition of employee-only areas:

- Corridors;
- Toilet rooms;
- Kitchenettes for employee dining use, and
- Break rooms.

In short, the key issues are the accessible route, changes in level, doors and entries, and maneuvering space once within the work area. This approach is effective so long as when LFUCG hires an employee with a disability, or a current employee acquires a disability, it will remove architectural barriers in work areas or make other accommodations.

The two recommendations below are important for all employees at all LFUCG sites.

7. Address accessibility in LFUCG personnel policies, and note that, upon request by an employee, LFUCG will make reasonable accommodations, which may include the removal of architectural barriers in workspaces.

8. Require new construction, alterations, and additions that include employee work areas to be designed and constructed so they are compliant with the 2010 Standards for Accessible Design.

Accessible Parking

LFUCG maintains many public parking spaces. Additionally, a Lexington Parking Ordinance includes standards that exceed the ADA. It is common to see parking barriers, and the access evaluation revealed many deficits in parking. The ratio of accessible stalls is applied per each separate parking lot. See our site reports for details.

9. Create a parking stall template. A suggested template is below.

Parking Stall Dimensions

Lexington requires a minimum of two van accessible stalls per site, and applies a ratio for the number of accessible stalls based on the overall total of stalls within the lot. Stalls are a minimum of 8′ wide. An adjacent access aisle must also be a minimum of 5′ wide. The access aisle must be diagonally striped with yellow, white, or blue hash lines and the text 'no parking any time' within. Two accessible stalls can share the access aisle.

The designated stall must include a sign with the international symbol of accessibility, such as the US Department of Transportation R7-8 standard sign, with the symbol drawn in white on a blue background or blue on a white background. In concert with the Lexington Parking Ordinance, the sign shall be at least 12″ by 18″ in size.

Federal settlement agreements and the Lexington Parking Ordinance require an additional sign, on at least two stalls, that says VAN ACCESSIBLE. This stall must be 11′ wide with a 5′ access aisle. An acceptable alternate is 8′ and 8′.

Finally, the bottom edge of the lowest parking sign is a minimum of 60″ above the finished grade. We suggest that the signpost be centered at the head of the accessible stall and we suggest that the curb cut and detectable warning run the distance of the access aisle.

The most common deficit in accessible parking stalls and access aisles is the slope. The 2010 Standards limit the slope to not more than 2.08% in any direction. This is a challenging requirement that can take considerable effort to meet.

Connection to the Accessible Route

The access aisles should connect to an accessible route. The maximum running slope for the accessible route is 5%, and to account for heaving and settling, we recommend 4%. The maximum cross slope is 2%.

Passenger Loading Zone

The loading zone must have an access aisle adjacent and parallel to vehicle pull-up space. The loading zone access aisle must be a minimum of 60″ wide and 20′ long.

10. Develop a plan to correct or refresh every accessible stall at every facility. Incorporate this task into other plans that require parking lot repair, restriping, or resurfacing.

Running Slope and Cross Slope

There are many sites with running slopes steeper than permitted. At some sites, this was a minimal issue, but at others, it was a significant variance. This condition naturally occurs when concrete settles, or when connections between new and old routes are off by fractions of an inch. Cross slope is equally important, as it serves drainage and access purposes.

11. Revise standard specifications and details so that in new construction and alterations, the slope of the AR shall not exceed 1:21, or 4.7%, as opposed to 1:20, or 5%. This allows room for field error.

12. Revise standard specifications and details so that in new construction and alterations the ramp slope shall not exceed 1:13, or 7.7%, as opposed to 1:12, or 8.33%. This allows room for field error. It also makes ramps easier to use for all, not just people with disabilities. This universal design approach is also a risk management tool.

13. Revise standard specifications and details so that in new construction or alterations, the cross slope shall be an integral part of the project and shall not exceed 2% or 1:50.

Detectable Warnings

The US Access Board suspended the detectable warning requirement in the late 1990s, for several years. It was restored in 2002. However, it is not required in the 2010 Standards. As a smart practice, WT recommends the use of detectable warnings at LFUCG parks and facilities.

14. As with parking, develop a template for detectable warnings.

15. In the same year that parking is refreshed, implement a plan to correct or refresh every detectable warning at every curb or crossing at facilities. If necessary, phase this out over a two or three-year period.

16. Weather greatly affects the life of detectable warnings. We recommend the use of durable, metal plates as opposed to plastic plates.

Door Opening Force Requirements

LFUCG facilities have many doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for interior doors and 8.5 lbf for exterior doors). However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

17. Evaluate and determine the age of door closers.

18. Add door closer maintenance checks to safety checklists and for closers with 10 years of service or less, aggressively maintain them for effectiveness.

19. Purchase and install new door closers for all exterior doors (with closers 20 years old or more) and 50% of interior doors as soon as is possible.

20. Purchase and install new door closers for all remaining interior doors (with closers 20 years old or more) as soon as is possible.

21. Consider acquiring, installing, and maintaining power-assisted door openers for facilities with heavy consumer traffic.

Signage

Signs serve several purposes. First, signs assist wayfinding in large sites such as the Phoenix Building. Second, signs identify permanent elements of facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations.

The standards treat two types of signs differently. Signs for permanent spaces, such as a bathroom, must be in both Grade 2 Braille and raised lettering. Signs that are directional or informational only require visual lettering of a certain size. Be certain to incorporate these approaches into signs in buildings and sites operated by LFUCG.

22. Create a sign template for use by LFUCG, and describe where and in what facilities signs will be used. The template could include:

- Size of sign
- Mounting height and location
- Size of characters and space between characters
- Contrast between characters
- Background
- Icons or symbols used in the signs
- LFUCG information, e.g., facility name, phone number, main number, and more.

23. Implement signage template and refresh signs.

Bathrooms

Bathrooms are an essential part of a visit to a LFUCG site. Exercise, food and beverage, social activities, and more all rely on one of the oldest designs known to us. Making those facilities accessible is tremendously important.

24. Develop a bathroom template. Confirm it with the State of Kentucky. This is a list of criteria for restrooms, not a design template. Do include temporary facilities such as portable toilets in the template. The template must address the assisted or family use restrooms, toilet, grab bars, items in the stall such as toilet paper and hooks, the stall, operating mechanisms, mirrors, sinks, hand towels, and more.

25. Include bathroom renovations in the LFUCG Capital Improvement Plan.

26. Consider the use of automatic flush controls. These have environmental benefits and are a great way to eliminate some accessibility problems.

27. In the interim, implement non-structural modifications recommended in each section of this report, such as lowering mirrors, remounting grab bars, changing the height of toilets and urinals, installing compliant stall hardware, and so forth. These less costly changes on a site-by-site basis will serve your customers well until resources are available to renovate restrooms on a comprehensive scale.

28. Make at least one portable toilet, where provided at a site, accessible. This includes a portable toilet placed at a picnic shelter or adjacent to sports fields. These must be accessible and must be served by an accessible route. LFUCG likely has sites with portable toilets; this must be addressed. Use our site report recommendations and require compliance by vendors.

Alarms

In existing facilities where an aural or audible fire alarm system is provided, a visual alarm is not required unless the building was constructed after January 26, 1992 or has been upgraded since that same date. If an alarm in an existing facility is audible only, it need not be modified to include a visual alarm unless it is replaced or upgraded in the future.

29. Determine if systems have been upgraded or replaced since 1992.

30. Develop a plan for the installation of aural and visual alarms in renovations.

31. Retrofit construction that has occurred since 1992 to include aural and visual alarms.

Publications and Online Information

The use of an interactive park grid on the LFUCG website is an important tool for residents and can be used to communicate about access. Incorporate the access work LFUCG staff completes and indicate in your amenity list the location of accessible features.

32. Update print material about parks and facilities to reflect plans regarding access, and to note which sites are accessible or will be made accessible.

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

People with disabilities rely on the information in publications as well as LFUCG website. Later in this report, we summarize our recommendations for making assets that recur, such as playgrounds and sports fields, accessible. Remembering that not necessarily every recurring asset must be accessible, we urge LFUCG to “brag” about what assets are accessible at which sites. LFUCG has accomplished much and will accomplish even more in the years to come. Tell your community about those achievements through your print and online materials.

34. Promote accessibility success stories at sites, in print and online materials.

CRITICAL ISSUES

LFUCG faces some critical issues in the journey to accessibility. Below are critical issues that LFUCG must address. These range from a better understanding of certain concepts to the need to make improvements to specific infrastructure types.

New Construction Requires Full Compliance

At many sites, we saw new design and construction that failed to meet the minimum standards of the federal 2010 Standards for Accessible Design. This poses problems for LFUCG, but can be resolved going forward. The analysis below addresses the title II new design and construction requirements, the federal 2010 Standards, the Kentucky Building Code, Lexington local code, and the interface between these four authorities. We will also discuss how internal LFUCG processes can change to ensure that new design and construction in the future are indeed compliant.

Title II Regulation: Title II is the part of the ADA that governs LFUCG facilities, parks, programs, and opportunities. DOJ issued the title II implementing regulation revisions on September 14, 2010 and the "new" title II regulation became effective March 15, 2011. Title II is unambiguous about new design and construction. In clear and simple language, it says in section 35.151:

> **(a) Design and construction.**
>
> **(1) Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.**

Title II and the 2010 Standards also require that entities must adhere to whichever is more stringent, the federal 2010 Standards or state accessibility standards such as the Kentucky Building Code. By "more stringent", DOJ meant that the code that provides greater access or ease of use is preferred. This is on an element-by-element basis. For example, the Lexington local code requires a minimum of two accessible stalls when there are 25 total stalls, but the federal 2010 Standards only require one. Therefore, in that instance, the Lexington local code is more stringent, and for accessible parking stalls, LFUCG must install at least two accessible stalls when there are 25 total stalls in the lot.

Federal 2010 Standards for Accessible Design: The 2010 Standards became effective March 15, 2012. They are the successor standard to the 1991 Standards for Accessible Design, which became effective January 26, 1992. The 2010 Standards include all of the content of the 1991 Standards, with some modifications. The 2010 Standards include scoping, which mandates the number of a specific asset that must be accessible, e.g., 60% of public entries, and technical requirements, e.g., operable parts and hardware, mounting height, door widths, reach ranges, and other operational aspects of accessible entries.

The 2010 Standards also include some new types of assets related to parks and recreation that were not included in the 1991 Standards. These include amusement parks, boating areas, fishing areas, golf courses, playgrounds (called play areas), sports courts, sports fields, swimming facilities, and more. There is unfinished business here, as there is not yet a final and enforceable design standard for trails, campsites, picnic areas, viewing areas, beaches, and constructed park furniture such as grills, firepits, and similar outdoor recreation assets.

Interface Between Federal and State Standards: These standards (2010 Standards and the Kentucky Building Code) must be applied simultaneously. A designer who cites only the KBC fails. A designer who cites only the Lexington Code fails. A designer who cites only the 2010 Standards fails. Each of the three, the 2010 Standards, the Kentucky Building Code, and the Lexington Code, includes an element or elements that are more stringent than the others.

Furthermore, the Kentucky Building Code states that in assembly and mercantile occupancies, an accessible family or assisted-use toilet room shall be provided where an aggregate of six or more male and female water closets is required. When technically feasible, installation of a family or assisted-use toilet room should be accomplished by LFUCG upon the hire and review by architects and engineers to determine feasibility at applicable sites. This is a good example of where KBC exceeds federal requirements.

Strategies: The following are recommended for LFUCG new design and construction.

35. Revise LFUCG requests for proposals to ensure that they compel designers to comply with the more stringent requirements of local code, the Kentucky Building Code, and the federal 2010 Standards for Accessible Design.

36. Train LFUCG staff regarding the 2010 Standards. Several employees expressed a lack of awareness of federal requirements and instead believed the KBC was the dominant standard. It is not.

37. Train LFUCG staff who review proposals for new design and construction so they can identify the more stringent requirements of local code, the Kentucky Building Code, or the federal 2010 Standards for Accessible Design.

38. Train plan review and code enforcement staff at municipalities within LFUCG who review proposals for new design and construction so they can identify the more stringent requirements of local code, the Kentucky Building Code, and the federal 2010 Standards for Accessible Design, enabling the effective evaluation of submittals..

39. Consider contracting for professional plan review with accessibility experts who can evaluate the compliance of a plan.

40. Reject proposals and submittals that fail to comply with local code, the Kentucky Building Code, the federal 2010 Standards for Accessible Design, and all other local codes regarding accessibility.

41. Award design contracts only to proposals that comply with local code, the Kentucky Building Code, and the federal 2010 Standards for Accessible Design.

42. When purchasing assets from vendors, train staff to research the accessibility requirements before purchasing. Many new assets, such as drinking fountains, portable toilets, restroom buildings, and picnic tables, failed to meet the minimum standards. LFUCG must hold vendors accountable and need not assume that an item identified as 'ADA compliant' is actually in compliance.

LFUCG park administrators, engineers and designers, and others must understand these requirements. As noted earlier, the LFUCG ADA Compliance Team should be a resource system-wide, and not just for one department.

Age of Infrastructure

While many park assets are newly constructed, there are also many older facilities. The Government Center, Switow Building, Phoenix Building, Parks and Recreation Administration Building, and Pam Miller Downtown Arts Center, to name a few, have an abundance of access deficits that are likely due to the age of the buildings. These deficits are also difficult to correct due to the age of the building. Many of these sites host unique services that are not offered elsewhere within LFUCG. It is critical to address the programs at older facilities and to increase access measures at these sites.

Evacuation Sleds

At multi-story facilities, we suggest the purchase of evacuation sleds. The purchase should be accompanied by staff training and the designation of staff on each floor who will manage the sled. This will strengthen emergency preparedness throughout LFUCG.

An ADA Compliance Team

LFUCG needs an ADA Team. These assignments or positions could make sites more accessible and inclusive. These employees would be responsible for several tasks:

- Plan review and walkthrough at new sites;
- Analysis of requests for reasonable modifications; and
- Maintaining records of requests and the disposition of those requests.

Throughout the project, LFUCG has taken steps to strengthen the coordination of its approach to ADA compliance. This is evidenced by the creation and hiring of an Access & Engagement Officer.

LFUCG is a multifaceted system. We urge the continued development of an ADA team with different backgrounds. In our experience, an approach that works well is an ADA coordinator familiar with title I regarding employment, an ADA Coordinator familiar with LFUCG services,

and an ADA Coordinator familiar with LFUCG facilities. We have also seen ADA committees with representation from each department.

Ideally, these roles should be housed within the office of the Chief Administrative Officer, as has been done with the Access & Engagement Officer. Other offices could be as effective, but a goal is to establish the authority of the ADA Coordinator.

What is a program?

This concept is noted earlier in the report. LFUCG staff must understand that a "program" in the world of accessibility is an opportunity. LFUCG programs can be organized events that meet at a certain time and location for a specific duration. However, often, an LFUCG program is an opportunity provided by park infrastructure, such as a playground or spray ground.

Other common programs are theaters, trails, fishing, boating, swimming areas, picnic areas, golfing, and sports fields or courts. Programs also include traditional built environment assets such as constructed park restrooms, portable toilets, community centers, fire stations, and parking.

Why is this a critical issue?

The ADA requires that the programs at an LFUCG park be made accessible. Many parks have playgrounds, sports courts, sports fields, trails, picnic areas, and constructed restrooms. At such a park, those "programs" must be accessible. If leadership thought those assets or programs were important for people without disabilities, they are equally important for visitors with disabilities. Therefore, it is not enough to make some of these assets accessible; instead, at least one of each type of asset must be accessible.

To be clear, there is no obligation to create an accessible playground if the LFUCG park has no playground. However, if LFUCG has already established a playground at a park, either it must be accessible or another playground at that same park must be accessible. It is also possible to have a playground accessible at a nearby park serving the same neighborhood.

Additionally, if an LFUCG park recently added a picnic area, and there is only one, that one must be made accessible. If there are multiple picnic areas at the same park, at least one must be made accessible. For some types of park assets, such as sports fields and sports courts, there is no scoping requirement that prescribes the required number (scoping is a table that notes the number of a specific asset, such as parking stalls, and then notes the number of parking stalls that must be accessible). When that circumstance arises, we suggest that LFUCG make a minimum of one of three similar assets accessible throughout the system.

Finally, we note that there is no grandfather clause in the ADA. An existing site asset developed in 1980, before the ADA effective date of January 26, 1992, is still subject to the requirements of the ADA.

Programs do not only exist within the context of parks. A field trip to visit the Mounted Patrol is a program and must be made accessible. Haunted houses at fire stations must be made

accessible. Farmers' markets at Fifth Third Pavilion must be accessible. Ensuring event planners and community organizers understand this requirement supports LFUCG in access improvements.

Concessionaires, Contractors, and Affiliates

An important issue is the relationship between LFUCG and the many concessionaires, contractors, and affiliates at LFUCG sites. Title II (see 35.130(b)(1)) prohibits LFUCG from discriminating on the basis of disability through administrative means such as contractors, concessionaires, and affiliates:

> (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability (discriminate against a person with a disability).

We recommend five steps for LFUCG in this regard.

First, require each current contractor, concessionaire, or affiliate to agree in writing that going forward it will not discriminate on the basis of disability in delivering services in LFUCG facilities or on LFUCG property.

Second, define discrimination. Make contractors, concessionaires, and affiliates aware that discrimination includes but is not limited to:

- Refusing to conduct an assessment when a visitor with a disability makes a request for a reasonable modification;
- Denying a request for a reasonable modification unless the request creates an undue burden;
- Charging a higher fee for participation by a visitor with a disability than the fee charged to a visitor without a disability for the same service;
- Refusing to pay for and provide a sign language interpreter for services that are aural in nature; and
- Failing to make infrastructure accessible, if and only if the contractor, concessionaire, or affiliate is responsible for the design, construction, or maintenance of assets at LFUCG parks.

Third, for contractors, concessionaires, and affiliates renewing agreements, or entering into new agreements, include language that describes the ADA obligations of both LFUCG, and the contractor.

That language could include something like the elements below and include language for LFUCG and for contractors.

The Contractor agrees:

- It will welcome visitors with disabilities.
- It will make concession services, facilities, and equipment available to visitors with disabilities who meet any eligibility requirements that visitors with and without disabilities must meet, e.g., age.
- It agrees that when a visitor asks for a reasonable modification, concessionaire will evaluate the request and unless fulfilling the request is an undue burden, shall fulfill the request.
- It agrees to keep a single record containing all requests for reasonable modification, including date and time, activity, details about the person making the request, the disposition of the request, and any cost incurred to fulfill the request.

LFUCG agrees:

- It will ensure that parking, restrooms, and accessible routes to the contractor's place of business in the park are accessible and maintained by LFUCG to remain accessible.
- It will be available to assist the contractor in evaluating requests for reasonable modification.

Fourth, LFUCG shall prepare a short (30-minute) online orientation and training module for contractors regarding the ADA. Contractors shall be required to have all employees and volunteers view the recording once every year.

Fifth, LFUCG will consider developing a certificate for contractors. Contractors can display the certificate at an LFUCG park or facility as evidence the contractor has agreed to LFUCG terms and has completed the annual training. LFUCG will, in turn, identify those contractors in print and online materials and develop other efforts to promote the availability and use of those contractors.

Similarly, in leasing agreements, LFUCG must provide accessible facilities to outside parties who utilize LFUCG sites and services. An example of this is the Fairgrounds at Masterson Station Park. Though the buildings are not owned or operated by LFUCG staff, the land in which the services occur is owned by LFUCG and therefore LFUCG is obliged to ensure compliance for programs on LFUCG property. LFUCG should work with the Fairgrounds to develop a lease that requires accessible programming. LFUCG should request and review policies for fairground programs to ensure they align with LFUCG's mission for compliance.

Public Right-of-Way Assessments Remain

While the scope of the project did not include right-of-way evaluations, the topic of right-of-way posed a theme throughout many discussions with staff, stakeholders, and residents.

LFUCG must develop a Transition Plan to address the program of sidewalks, curb ramps, pedestrian button controls, crossings, and transit stops.

PROGRAM ACCESS TEST

The DOJ test for existing facilities is known as the "program access test". A "program" is an opportunity made available by LFUCG. It includes eating a sandwich at a picnic table in a park, enjoying a playground at a park, renting a neighborhood center, seeking services at a fire department, enjoying a walk on the miles of walking paths at LFUCG Parks, voting at an LFUCG facility, attending an Urban County Council meeting, and making public comment at that meeting. A program is not just an activity for which a person registers and pays a fee. Be sure to advertise accessible amenities on your website and in printed materials.

DOJ at 35.150(b) explains that the program of play areas, sports fields, or trails, may be made accessible by making changes to an existing site. However, those programs may also be made accessible through the design and construction of new sites. In our work, we have relied on the 2026 Parks Capital Plan to identify new construction that would increase the number of sites that are accessible, because all new sites must be accessible.

Trails

There is currently no final and enforceable standard for trails in Kentucky or at the federal level. The US Access Board has issued significant guidance since 2013, but for several reasons, DOJ has not issued it as a final and enforceable standard for LFUCG and other local governments. Trails developed before 2013 often fail the requirements, because no guidance was available. LFUCG trails are no exception. We discuss some issues below.

Was there any Federal Guidance Regarding Trails? Yes. The US Access Board published the Architectural Barriers Act Accessibility Guidelines (ABAAS) in 2013. ABAAS governed trails developed by federal agencies such as the Army Corps of Engineers, Forest Service, and National Park Service. As a smart practice, many jurisdictions have adhered to the ABAAS standards.

Some States Have Acted! Some states, tired of waiting for federal action, adopted guidance for those outdoor recreation assets into their state codes. States that have so acted include Illinois and California, and Texas plans to do the same. New Jersey, New Hampshire, Colorado, Massachusetts, and other states have adopted more stringent restroom, website, or playground requirements, impacting municipal assets in those states. The outdoor recreation guidance regarding trails would be a perfect fit for the vision and structure of the Kentucky Building Code. LFUCG could also adopt that federal guidance as a standard.

Remember New Construction Requirements! LFUCG likely resurfaces trails or portions of trails regularly. Unlike patching, resurfacing is new construction. As new construction, it must strictly adhere to the requirement that it be accessible.

What Alternatives Exist for LFUCG? The outdoor asset guidance is not yet final and enforceable for LFUCG. However, for existing trails, the program access test applies, and

options here include the design and construction of new trails or trail segments that will be accessible. Retrofits to existing trails are an option, too.

What About Funder Requirements? We also note that some funders, such as the State of Kentucky and the federal government, may require compliance with the Architectural Barriers Act and ABAAS. This "backdoor" access still requires a newly designed and constructed trail, when federal or state funds are in use, to meet ABAAS. Failing to follow funder requirements could result in loss of grants, repayment of earlier grants, and ineligibility for future grants.

Must LFUCG Retrofit Every Trail? LFUCG must act to make the program of trails accessible. It could make retrofits to existing trails, or it could develop new trails that meet the access requirements. The latter may be more viable. Many jurisdictions have used this approach. It saves the resources required for trail retrofit and applies those to new site development. This approach, creating new assets that will be accessible, is specifically mentioned in the title II regulation at 35.150(b) as a way to achieve access to the program of trails.

Our Recommendation? We know LFUCG wants trails to be accessible. For the Transition Plan, we have included most trail retrofits in phase three. In moving ahead, LFUCG should take three steps and consider taking a fourth step:

- We identified many trail surface deficits. LFUCG should identify when trail resurfacing occurred at trail segments. If that work occurred after 2013, it could have been accessible and is a higher retrofit priority.

- Address dispersion of trails. Make retrofit plans to ensure that trails across LFUCG see improvements each year.

- Create a toolkit for staff and contractors to use when trail resurfacing projects arise. The toolkit should guide staff and contractors regarding cross slopes, running slopes, rest areas, gaps, changes in level, surface types, and signage.

- Design and construct new trails that can meet the technical requirements for scope, width, surface, etc., and add these accessible sites to the trail inventory. This action could supplant the first and second steps suggested above.

The minimum required of LFUCG by title II of the ADA is that the "program" of trails be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing trails should be accessible. We recommend that a minimum of one trail of every three miles be accessible.

We saw 45.5 miles of trail, and recommend LFUCG plan to reach 15 miles of accessible trails. Any trails to be replaced in the future, or designed and built where one did not exist, should be made accessible. We recommend corrections and maintenance to these trails.

43. Make corrections cited in the reports so the trails at the sites below become or remain accessible:

- Addison Park
- Armstrong Mill Parkway
- Cardinal Run North
- Coldstream Park
- Cross Keys Park
- Davis Park
- Elizabeth Street Park
- Gainesway Park
- Gardenside Park
- Hartland Park
- Johnson Heights Park
- Liberty Park
- Masterson Hills Park
- Masterson Station Park
- Meadowbrook Park
- Mount Tabor Park
- Pine Meadows Park
- Raven Run – Discovery Trail
- Veteran's Park
- Waverly Park
- Wellington Park
- Whitney Young Park
- Woodhill Park
- Valley Park

Leave as is the trails at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Beaumont Preserve
- Belleau Woods
- Berry Hill Park
- Constitution Park
- Dogwood Park
- Douglass Park
- Garden Springs Park
- Harrolds Hill Park
- Higbee Mill Park
- Highlands Park
- Hisle Farm Park
- Kirklevington Park
- Lakeview Park
- Landsdowne-Merrick Park
- Martin Luther King Park
- Mary Todd Park
- McConnell Springs Park
- Meadowthorpe Park
- Raven Run remaining trails
- River Hill Park
- Shillito Park
- Southpoint Park

Play Areas

The Standards for play areas are incomplete. They do not address many smart practices that jurisdictions across the country use to make play areas safe, accessible, and enjoyable. That includes fencing around play areas.

Playground users include children of all abilities. Some have difficulty recognizing the danger of a street or other park assets where activities may pose a risk. While not required by the ADA or by the playground safety standards published by the American Society for Testing and Materials (ASTM), the demand for fences by families across the country is rising. LFUCG seems to know this, as some play areas do have partial or complete fences. Additionally, the 2026 Parks Capital Project list includes fencing for some future projects. In the Community Engagement process, audience members and survey respondents spontaneously mentioned a preference for fencing at play areas as well.

The minimum required of LFUCG by title II of the ADA is that the "program" of play areas be accessible to residents. This is measured by the "program access test" described in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing playgrounds must be accessible. Treat this as a planning exercise and aim for one of three playgrounds to be made accessible.

Our evaluation included 108 play areas. Of these, many are new construction or have plans for new construction in the near future, and must be fully accessible. Of the 108 play areas, 41 were designated for ages 2-5, and 67 were designated for ages 5-12. We recommend access to 23 of the 41 play areas designated for ages 2-5, for a compliance rate of 56% for the program of play areas. We recommend access to 37 of the 67 play areas designated for ages 5-12, for a compliance rate of 55% for the program of play areas. The ratio for meeting program access is greater than one-of-three because every constructed play area was not compliant, and as new construction, must be accessible.

The 2010 Standards require play area surfaces to be certified by an independent test service. Two certifications are required: the first is the F1292 for impact attenuation, and the second is the F1951 for accessibility. LFUCG was unable to provide either 1292 or 1951 certification documents. We therefore cannot attest to the accessibility of the surface. We do, however, believe that, with a certification, some of the surfaces would be deemed accessible. The Parks and Recreation Department should seek these certifications retroactively and certainly require them for future playground projects.

44. Reach prior vendors and acquire the F1292 and F1951 certificates by December 31, 2026.

45. Effective immediately, require all play area surface vendors to have the F1292 and F1951 certificates for products sold to LFUCG, or they will be deemed ineligible to do business with LFUCG.

46. Make corrections cited in the reports so the play areas below become accessible:

- Berry Hill Park (2-5, 5-12)
- Cardinal Valley Park (2-5, 5-12)
- Cardinal Run North Park (2-5, 5-12)
- Charles Young Park (2-5, 5-12)
- Davis Park (2-5, 5-12)
- Douglass Park (2-5, 5-12)
- Duncan Park (2-5, 5-12)
- Elizabeth Street Park (5-12)
- Gainesway Park (2-5, 5-12)
- Garden Springs Park (5-12)
- Gardenside Park (2-5, 5-12)
- Hill-N-Dale Park (2-5, 5-12)
- Idle Hour Park (2-5, 5-12)
- Jacobson Park (2-5, 5-12)
- Kenawood Park (2-5, 5-12)
- Kenwick Park (5-12)
- Landsdowne-Merrick Park (2-5, 5-12)
- Marlboro Park (5-12)
- Martin Luther King Park (2-5, 5-12)
- Mary Todd Park (2-12)
- Masterson Hills Park (2-5, 5-12)
- Masterson Station Park (5-12, 2-12)
- Meadowthorpe Park (2-5, 5-12)
- Northeastern Park (2-5, 5-12, 2-12)
- Phoenix Park (2-5, 5-12)
- Pine Meadows Park (5-12)
- Southland Park (2-5, 5-12, 2-12)
- Speigle Heights Park (5-12)

- Veteran's Park (2-5, 5-12)
- Whitney Young Park (2-5, 5-12)
- Woodland Park (2-5, 5-12, 2-12)

47. Leave as is the playgrounds at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Addison Park (2-5, 5-12)
- Belleau Woods (2-5, 5-12)
- Brucetown Park (5-12)
- Burley Park (2-5, 5-12)
- Cardinal Run South Park (2-5)
- Coolavin Park (5-12)
- Dixie Park (2-5)
- Dogwood Park (2-5, 5-12)
- Ecton Park (5-12)
- Green Acres Park (5-12)
- Harrods Hills Park (5-12)
- Hartland Park (2-5, 5-12)
- Highlands Park (2-5, 5-12)
- Johnson Heights Park (2-5, 5-12)
- Kirklevington Park (2-5, 5-12)
- Lakeview Park (5-12)
- Lou Johnson Park (5-12)
- Maple Leaf Forest Park (2-5, 5-12)
- Meadowbrook Park (2-5, 5-12)
- Mount Tabor Park (2-5, 5-12)
- Oakwood Park (2-5, 2-12)
- Pleasant Ridge Park (2-5, 5-12)
- River Hill Park (5-12)
- Southpoint Park (2-5, 5-12)
- Thompson Road Park (5-12)
- Waverly Park (5-12)
- Wildwood Park (2-12)
- Wolf Run Park (2-5, 5-12)
- Woodhill Park (2-5, 5-12)

Ball Fields

The minimum required of LFUCG by title II of the ADA is that the "program" of ball fields be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing ball fields should be accessible. We recommend that a minimum of one field of every three be accessible.

We saw 62 baseball fields, and 3 are accessible. We recommend that 18 additional fields be made accessible for a compliance rate of 34% for the program of baseball. We saw six softball fields, and none were accessible. We recommend that two fields be made accessible for a compliance rate of 33% for the program of softball.

48. Make corrections cited in the reports so the ball fields below remain accessible:

- Douglass Park (1 of 3 baseball fields)
- Shillito Park (miracle league field)
- Wolf Run Park (backstop field)

49. Make corrections so that the ball fields at the following sites become accessible:

- Athens Ball Field Complex (3 baseball fields)
- Constitution Park (1 of 3 softball fields)
- Douglass Park (1 of 3 baseball fields)

- Ecton Park (1 of 2 baseball fields)
- Garden Springs Park (backstop field)
- Idle Hour Park (1 of 2 baseball fields, softball field)
- Kenawood Park (1 of 3 baseball fields)
- Kirklevington Park (1 of 2 baseball fields)
- Landsdowne-Merrick Park (1 of 2 baseball fields)
- Mary Todd Park (baseball field)
- Shillito Park (4 of 10 baseball/softball fields)
- Veteran's Park (2 of 6 baseball fields)
- Wolf Run Park (1 of 2 baseball fields)

50. Leave as is the ballfields at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Cardinal Valley Park (2 baseball fields)
- Cardinal Run South Park (6 baseball fields, 2 softball fields)
- Castlewood Park (2 baseball fields)
- Constitution Park (2 of 3 softball fields)
- Coolavin Park (baseball field)
- Douglass Park (1 of 3 baseball fields)
- Ecton Park (1 of 2 baseball fields)
- Gainesway Park (baseball field)
- Green Acres Park (baseball field)
- Highlands Park (baseball field)
- Idle Hour Park (1 of 2 baseball fields)
- Johnson Heights Park (backstop field)
- Kenawood Park (2 of 3 baseball fields)
- Kirklevington Park (1 of 2 baseball fields)
- Landsdowne-Merrick Park (1 of 2 baseball fields)
- Marlboro Park (baseball field)
- Martin Luther King Park (baseball field)
- Meadowthorpe Park (baseball field)
- Oakwood Park (backstop field)
- River Hill Park (baseball field)
- Shillito Park (5 of 10 baseball/softball fields)
- Southland Park (2 baseball fields)
- Veteran's Park (4 of 6 baseball fields)
- Wolf Run Park (one of 2 baseball fields)
- Woodhill Park (baseball field)
- Woodland Park (baseball field)

Basketball Courts

The minimum required of the LFUCG by title II of the ADA is that the "program" of basketball be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing basketball courts should be accessible. We recommend a minimum of one of every three courts be accessible. We saw 51 full basketball courts, and 28 are accessible. We recommend corrections to two additional courts, due to their status as new construction, for a compliance rate of 59% for the program of basketball. We saw nine half courts, and three are accessible. We recommend no new access to half courts for a compliance rate of 33% for the program of basketball. We have noted the location of half-court sites by marking them as ½.

51. Make corrections cited in the reports so the basketball courts below remain accessible:

- Addison Park
- Brucetown Park
- Cardinal Run North Park
- Constitution Park
- Davis Park (½)
- Dogwood Park (½)
- Douglass Park (3)
- Elizabeth Street Park
- Garden Springs Park
- Gardenside Park (½)
- Hill-N-Dale Park
- Jacobson Park (2 of 3)
- Kenwick Park
- Kirklevington Park
- Landsdowne-Merrick Park (2)
- Marlboro Park
- Martin Luther King Park (1 of 2)
- Mary Todd Park
- Masterson Hills Park
- Meadowbrook Park
- Meadowthorpe Park
- Mount Tabor Park
- Pine Meadows Park
- Southland Park
- Waverly Park
- Wolf Run Park (2)
- Woodhill Park

52. Make corrections so that the ball fields at the following sites become accessible:

- Charles Young Park
- Speigle Heights Park

53. Leave as is the ballfields at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Berry Hill Park
- Burley Park
- Cardinal Valley Park
- Coolavin Park (2)
- Dixie Park (½)
- Duncan Park
- Ecton Park (½)
- Gainesway Park
- Green Acres Park (2)
- Harrolds Hills Park
- Highlands Park
- Idle Hour Park (½)
- Jacobson Park (1 of 3)
- Johnson Heights Park (½)
- Kenawood Park (½)
- Lou Johnson Park
- Martin Luther King Park (1 of 2)
- Oakwood Park
- River Hill Park
- Shillito Park (2)
- Thompson Road Park
- Whitney Young Park (2)
- Woodland Park (1, ½)

Rectangular and Other Fields

The minimum required of LFUCG by title II of the ADA is that the "program" of rectangular fields and other fields be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing rectangular fields or other fields should be accessible. We recommend that a minimum of one field of every size, type, or age designation be accessible.

We saw 46 fields, including five football fields and 41 multi-use or soccer fields. Of the five football fields we evaluated, one is accessible. We recommend corrections to one additional football field for a compliance rate of 40% for the program of football. Of the 41 multi-use or soccer fields we evaluated, three are accessible. We recommend corrections to 13 additional fields for a compliance rate of 36% for the program of multi-use or soccer fields.

54. Make corrections cited in the reports so one of each type of field below remain accessible:

- Addison Park (multi-use or soccer field)
- Gainesway Park (football field)
- Lou Johnson Park (multi-use or soccer field)
- Whitney Young Park (multi-use or soccer field)

55. Make corrections cited in the reports so one of each type of fields below become accessible:

- Cardinal Run North Park (2 multi-use or soccer fields)
- Idle Hour Park (lacrosse field)
- Martin Luther King Park (multi-use or soccer field)
- Masterson Station Park (7 of 14 multi-use or soccer fields)
- Shillito Park (football field)
- Speigle Heights Park (multi-use or soccer field)

56. Leave as is the fields at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Cardinal Valley (3 of 4 multi-use or soccer fields)
- Constitution Park (football field)
- Deer Haven Park (multi-use or soccer field)
- Douglass Park (football field)
- Elkhorn Park (multi-use or soccer field)
- Harrolds Hill Park (2 multi-use or soccer fields)
- Higbee Mill Park (multi-use or soccer field)
- Kirklevington Park (multi-use or soccer field)
- Martin Luther King Park (football field)

- Mary Todd Park (multi-use or soccer field)
- Masterson Station Park (7 of 14 multi-use or soccer fields)
- Mount Tabor Park (2 multi-use or soccer fields)
- Pleasant Ridge Park (multi-use or soccer field)
- Shillito Park (4 multi-use or soccer fields)
- Wolf Run Park (multi-use or soccer field)
- Woodhill Park (multi-use or soccer field)

Tennis & Pickleball Courts

The minimum required of LFUCG by title II of the ADA is that the "programs" of tennis and pickleball be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing tennis and pickleball courts should be accessible. We recommend that at least one of every three of each type be accessible. There are 42 tennis courts, and 22 are accessible. We recommend corrections to five additional courts, due to their status of new construction, for a compliance rate of 64% for the program of tennis. There are 33 pickleball courts, and 15 are accessible. We recommend corrections to 17 additional courts, due to their status of new construction, for a compliance rate of 97% for the program of tennis.

57. Make corrections cited in the site reports so the courts at the sites below remain accessible:

- Addison Park (tennis courts)
- Belleau Woods Park (tennis courts)
- Cardinal Run North (pickleball courts)
- Constitution Park (tennis courts)
- Gardenside Park (pickleball court)
- Idle Hour Park (pickleball court)
- Meadowbrook Park (pickleball court)
- Meadowthorpe Park (tennis courts)
- Mount Tabor Park (tennis courts)
- River Hill Park (pickleball court)
- Waverly Park (tennis courts)
- Woodland Park (tennis courts)
- Parks & Recreation Administration Building (pickleball courts)

58. Make corrections cited in the reports so courts below become accessible:

- Kirklevington Park (pickleball courts)
- Landsdowne-Merrick Park (tennis courts)
- Shillito Park (tennis and pickleball courts)
- Southland Park (tennis courts)

59. Leave as is the courts at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Cardinal Valley Park (tennis court)
- Castlewood Park (tennis courts)
- Douglass Park (tennis courts)
- Duncan Park (pickleball court)
- Ecton Park (tennis courts)
- Gainesway Park (tennis courts)
- Marlboro Park (tennis courts)

Volleyball Courts

The minimum required of LFUCG by title II of the ADA is that the "program" of volleyball be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing volleyball courts should be accessible. We recommend that at least one of every three be accessible. There are 13 volleyball courts, and four are accessible. We recommend one additional court be made accessible, for a compliance rate of 38% for the program of volleyball.

60. Make corrections cited in the site reports so the courts at the sites below remain accessible:

- Kirklevington Park (4)

61. Make corrections cited in the reports so courts below become accessible:

- Shillito Park (1 of 2 courts)

62. Leave as is the courts at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Shilito Park (1 of 2 courts)
- Green Acres Park
- Jacobson Park (4)
- Marlboro Park
- Masterson Station Park

Picnic Shelters

The minimum required of LFUCG by title II of the ADA is that the "program" of picnicking be accessible to residents. This is measured by the "program access test" described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing shelters or picnic areas should be accessible. We saw 79 shelters, and two are accessible. We recommend access to 27 additional shelters for a compliance rate of 37%. The most critical issue for LFUCG shelters and picnic areas includes the lack of picnic tables with compliant wheelchair spacing.

Picnic area technical requirements are not yet a final and enforceable standard. The US Access Board offers significant guidance, and we apply it here to LFUCG shelters and picnic areas.

However, the US Access Board does not have the authority to establish a Standard, which is a step above the final guideline that exists today. We recommend LFUCG continue as a smart practice to adhere to the Access Board guidance on this matter. The Program Access Park Grid illustrates the areas where work is recommended so that every resident of the LFUCG is close to an accessible shelter.

63. Make corrections cited in the site reports so the shelters at the sites below remain accessible:

- Kenawood Park
- Fifth Third Pavilion

64. Make corrections cited in the reports so shelters at the sites below become accessible:

- Addison Park
- Belleau Woods Park
- Cardinal Run North Park (2)
- Castlewood Park
- Constitution Park (2)
- Davis Park
- Elizabeth Street Park
- Gainesway Park (1 of 2)
- Hartland Park (1 of 2)
- Idle Hour Park (2)
- Jacobson Park (3 of 7)
- Mary Todd Park (1 of 8)
- Masterson Station Park (2 of 5)
- Meadowbrook Park
- Meadowthorpe Park
- Shillito Park (3 of 6)
- Speigle Heights Park
- Veteran's Park (3 of 5)
- Waverly Park

65. Leave as is the shelters at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Berry Hill Park
- Coolavin Park
- Dixie Park
- Dogwood Park
- Ecton Park
- Gainesway Park (1 of 2)
- Gardenside Park
- Green Acres Park (2)
- Harrolds Hill Park
- Hartland Park (1 of 2)
- Hill-N-Dale Park
- Jacobson Park (4 of 7)
- Johnson Heights Park
- Kirklevington Park
- Landsdowne-Merrick Park
- Lou Johnson Park
- Marlboro Park
- Mary Todd Park (7 of 8)

- Masterson Station Park (3 of 5)
- McConnell Springs
- Mount Tabor Park
- Oakwood Park
- Pleasant Ridge Park
- River Hill Park
- Shillito Park (3 of 6)
- Southland Park
- Veteran's Park (2 of 5)
- Wellington Park
- Wildwood Park
- Woodhill Park
- Woodland Park (2)

In addition to the park assets listed above, the program access test has been applied to other recurring sites and assets, such as fishing areas, fire stations, pools and splash pads, golf courses, neighborhood centers, community centers, and amphitheaters. The designation of sites and site assets that we recommend leaving as is can be found within the Transition Plan and Transition Plan Pivot Table.

TRANSITION PLAN

LFUCG must have a transition plan per 35.150(d) of the DOJ title II regulation. The plan should identify the barrier, the corrective work, the date by which the work will occur (in our reports, the Phase), and the person responsible for barrier removal.

Barriers should be removed as soon as possible. Phasing the work allows access to occur and makes the best use of the LFUCG resources. We recognize that each phase requires a different number of years for implementation. LFUCG should determine the annual activity within its fiscal years.

We recommend work in three phases. We also note work we believe does not need to occur in a category titled LFUCG Option (LO). Should LFUCG plans change, or should other resources become available, the corrective work needed at these sites is known. Finally, we do recommend that some work occur as a smart practice.

We have made cost references for planning purposes for the corrective work recommended. We note that these are not estimates and should be used only for planning purposes. The final design, the year in which the work will occur, the relationship with the contractor, and many other factors must be considered before a cost estimate is made.

Our total of all cost references is $119,056,253. We believe the work in Phase One, Two, and Three can be accomplished in 20 fiscal years at an approximate cost of $74,448,590. We have spread work through all three phases, and LFUCG can certainly choose to reorder those recommendations. We describe our phasing below:

In Phase One, we recommend work in three categories: The first are easy to do with current human and fiscal resources (low-hanging fruit). The second includes some unique or one of a kind assets. The third are sites that are newly constructed and not compliant with older access standards. We suggest that completion of this phase requires ten fiscal years. Cost references for Phase One are $21,984,731.

In Phase Two, we recommend work that addresses the program access test and areas that are new to the 2010 Standards. It addresses some unique or one of a kind assets. It also addresses recurring assets such as playgrounds, sports fields, fishing areas, boating areas, sports courts, and other assets owned and operated by LFUCG. We suggest that completion of this phase requires five fiscal years. Cost references for Phase Two are $6,189,043.

In Phase Three, we continue to address the program access test with more complex or costly site assets. This phase also includes work at assets not yet subject to a final and enforceable standard in which we recommend corrections to meet the program access test. We suggest that completion of this phase requires five fiscal years. Cost references for Phase Three are $46,274,815.34.

We do phase some work as **LFUCG Option**. This is work at a site or element with access deficits where we believe LFUCG meets or will meet the program access test and can therefore defer plans to make these assets accessible, until and unless LFUCG later alters these for another purpose. Cost references for LFUCG Option are $43,678,940.

We identify corrections and provide recommendations that we refer to as "smart practices" in the column labeled "SP". These corrections, we believe, make your services and assets more accessible and usable by individuals with disabilities. Cost references for smart practices are $928,723.

COMMUNITY ENGAGEMENT

The ADA does require LFUCG to provide an opportunity for public feedback in the shaping of transition plan priorities. Over the span of the project, seven in-person feedback sessions were held. Five internal meetings occurred between May 15 and 16, 2024. Two additional meeting occurred between December 2 and 3, 2026.

Each meeting is described below.

May 15, 2024:

The first meeting was held at the Government Center in the 1st floor Economic Development Conference Room and included the Mayor, Chief Administrative Officer, and Commissioners of Law and Finance. The group discussed ADA obligations, preliminary findings from phase one evaluations, and compliance strategies.

The second meeting was held at the Lexington Senior Center and included members of Access Lex. The group discussed the phase one scope of work, preliminary findings from phase one evaluations, the order of retrofit, location distribution, smart practices, and compliance strategies.

The third meeting was held at Artworks at the Carver School and included members of the Senior Services Commission and the Parks and Recreation Advisory Board. The group discussed the age of infrastructure, preliminary findings from phase one evaluations, maintenance backlogs, and compliance strategies.

May 16, 2024:

The fourth meeting was held in the Phoenix Building on the 3rd floor Conference Room and included selected LFUCG Departments, including but not limited to: Parks and Recreation, Facilities and Project Management, Social Services, Public Safety, Risk Management, and Engineering. The group discussed enforcement methods, title II requirements, preliminary findings from phase one evaluations, specific park and facility assets such as play surfacing, gate hardware, play structures, and parking, and compliance strategies.

The fifth meeting was held at the Government Center in the 2nd floor Caucus Room and included Councilmembers and Legislative Aides. The group discussed ADA requirements, phase one scope of work, unfinished business, preliminary findings from phase one evaluations, demographic trends, the benefits of accessible communities, and compliance strategies.

December 2, 2025:

The sixth meeting was held at the Artworks at the Carver School, and one resident attended. The group discussed the project scope, enforcement methods, deficits found at LFUCG sites, and the order of retrofit.

December 3, 2025:

The seventh and final meeting was held at the Lexington Senior Center, and three residents and two Councilmembers attended. This group discussed the project scope, the accessibility of trails, the deficits found at LFUCG sites, and the order of retrofit.

In addition to the in-person meetings, two surveys were conducted. Both surveys asked respondents to identify as having disability in the home or daily life, and asked they rank their most frequented LFUCG sites in terms of accessibility. Additionally, the survey asked respondents for priority for retrofit considerations.

The first survey was paired with the first five internal meetings and invited staff, Councilmembers, Commission and Board members, and advisory committee members to participate. The survey received 43 total replies, with 19 of the 43 respondents having disability prevalence in the home or daily life. The second survey, paired with the final two in-person meetings, invited LFUCG residents to participate. The survey received 279 total replies, with 166 of the 279 respondents having disability prevalence in the home or daily life.

Common themes gathered from the responses of both surveys included the following: play area barriers such as surfacing, fencing, and equipment, programmatic barriers, parking and route barriers, right-of-way related barriers, restroom barriers, website and communication barriers, and trail barriers.

See both the Phase One Community Engagement Survey Report and the Phase Two Community Engagement Survey Report for a complete review of the analysis of responses.

FUNDING ACCESS RETROFITS

We provide this section to discuss potential funding sources used by other local governments in other states for ADA compliance. This is not intended as a comprehensive list.

No Dedicated Federal Source

There is no dedicated source of federal funds for accessibility renovations to existing sites. This will not likely change in the future. Even if a change does occur, federal funding is unpredictable, as we have seen from other federal programs.

Congressionally Directed Spending

Formerly known as earmarks, Congressionally Directed Spending (CDS) has become a consistent source of discretionary funding. Some of our clients have pursued CDS for access work. These can be unpopular and difficult to obtain.

While CDS were not used for a decade or more, both political parties now support their use. This is an opportunity for LFUCG.

Community Development Block Grant Funds

Several of our clients have acquired federal Community Development Block Grant (CDBG) funds for accessibility renovations at existing sites. CDBG funds often have a scale of priority. It is important to establish accessibility as a priority for CDBG applications.

State Grants Programs

Several states, and several of our clients, have successfully pursued state legislation to set aside dedicated state funds that can be used for specific park purposes, including access retrofits. To name a few, Illinois, New Jersey, Colorado, Ohio, Florida, and Texas all have sources of revenue funded in various ways, such as a real estate transfer tax. While the various states have at times not fully funded these grant programs, they remain an effective tool regarding site acquisition and development.

State Discretionary Funds

Most state legislatures provide some type of discretionary funding for members of the legislature. In some states, these are relatively small grants of under $50,000. These can be a viable option for a jurisdiction with good relationships with state legislators.

Private Giving

Some of our clients have successfully sought private gifts for accessibility purposes. The private giving area is subject to fluctuations depending on the economy, political issues, and related fiscal impacts. In our experience, private giving works best when an agency has an employee dedicated to this purpose.

Corporate Giving

Some of our clients have successfully sought grants from corporations. These may, for corporate purposes, come from marketing (such as naming rights to a facility) or from community giving. Also, many corporations have a related foundation that manages corporate giving. In our experience, corporate giving works best when an agency has an employee dedicated to this purpose.

Community Foundations and Other Foundations

Community foundations, which operate on a regional basis, have also been involved in accessibility giving. Perhaps the greatest example here is the multi-million dollar Kellogg Foundation project that improved accessibility in Michigan, Ohio, Indiana, Illinois, and other states that bordered the Kellogg headquarters in Michigan. In our experience, this approach works best when an employee is assigned to this role exclusively.

Other Methods

There are many other methods, some of which are crafted by a community to meet a unique set of circumstances. These include:

Communities in New Jersey and Oregon take 100% of accessible parking fines and apply those funds towards recreation for people with disabilities.

Some agencies add a modest surcharge to every registration, earmarking the fees generated for access and inclusion expenses.

Several communities have successfully sought budget increases to address accessibility backlogs, just as they have with maintenance backlogs. Those increases may be general fund allocations, proceeds from successful referenda, or reallocations of under-expended funds originally budgeted for other local government purposes.

Risk Management

Investing in safety saves money by avoiding legal expenses related to injuries on LFUCG properties. The same concept applies here. Investing in retrofits saves the cost of staff time and attorneys to defend against ADA lawsuits or complaints.

While we do not believe a decision about access should hinge solely on risk management factors, we do recommend that LFUCG be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities.

Relief under the ADA is injunctive in nature, but the time consumed and cost of litigation can be a great drain on human and fiscal resources.

Blend the Transition Plan with the CIP

Another method is to blend the transition plan projects with the CIP. By refusing to silo this effort, the possibility of greater efficiency exists.

Additional State, Regional, and Federal Funding Opportunities

In addition to the funding sources identified above, there are several state, regional, and federal programs that may be used to support accessibility improvements. While these programs are not dedicated exclusively to ADA compliance, many jurisdictions have successfully leveraged them to fund accessibility upgrades when those improvements are incorporated into broader capital projects.

Kentucky Land and Water Conservation Fund (LWCF)

The Land and Water Conservation Fund, administered in Kentucky through the Kentucky Department for Local Government, provides funding for park acquisition and development projects.

While LWCF is not specifically dedicated to accessibility improvements, ADA related upgrades are eligible when included as part of a larger park improvement or redevelopment effort. Many communities have successfully bundled accessibility enhancements, like accessible routes, parking, and amenities, into LWCF funded projects.

Kentucky Recreational Trails Program (RTP)

The Kentucky Energy and Environment Cabinet administers the Recreational Trails Program, which provides funding for trail construction, maintenance, and trailhead improvements.

Accessibility improvements, including accessible trail surfaces, trailheads, and supporting infrastructure, are eligible expenses under this program. RTP can be an effective funding source for addressing ADA barriers along trail systems.

Section 108 Loan Guarantee Program

The U.S. Department of Housing and Urban Development Section 108 Loan Guarantee Program allows local governments to finance large-scale public facility improvements.

Accessibility upgrades may be included as part of broader community development projects, particularly those that benefit low to moderate-income populations.

IMPLEMENTATION STRATEGIES

Title II of the ADA is relatively straightforward. That said, we offer some suggestions below regarding the implementation of the mandates in the regulation.

1. **Maintain a strong relationship with disability advisory groups**. Make it a point to seek out and work with local advocacy groups and seek their feedback on future initiatives.

Having a good relationship between LFUCG and the advocacy groups will help greatly in meeting the ADA mandates and improving the quality of life for all, including those with disabilities.

2. **Acquire and maintain the Certified ADA Coordinator credential**. There is no nationwide credential required for ADA implementation. However, a Certified ADA Coordinator will benefit LFUCG, keeping it current on implementation strategies and smart practices from other local entities in the United States.

3. **Identify available sign language interpreters and enter into agreements** before situations arise where LFUCG needs such services. Negotiate rates, availability, environments where the work will occur, and so forth.

4. Title II requires communications produced by LFUCG to **match the form of the inquiry used by the person making the request.** We also believe that this is the courteous way to respond. Here, if an inquiry to LFUCG comes in the form of a Braille document, the response from LFUCG should also be in Braille.

   We recommend that LFUCG either locate the nearest Braille printer and enter into an arrangement for use or simply acquire one and have employees learn how to use it. For a review of this topic by the American Foundation for the Blind, visit this site.

5. **Acquire assistive listening systems**. There are three principal types: inductive loop systems, infrared systems, and FM systems. These devices are helpful for persons with some residual hearing. These devices separate speech from ambient noise and amplify speech. People who are deaf or hard of hearing may prefer, for various reasons, one type of device. The National Association of the Deaf has a brief review of the topic here.

6. **Implement the new website accessibility requirements**. The Department of Justice published a final and enforceable website access standard in 2024. It is wise to ensure that the LFUCG website complies with the standard by April, 2026.

7. **Strengthen access inventory information.** LFUCG has a robust website that provides residents and visitors with a great deal of information. From what park assets exist at each site, to room capacities at rentable spaces, LFUCG provides the public with useful information and should incorporate access information.

   Multiple studies suggest that people with disabilities rely much more on pre-visit research than people without disabilities. They are less likely to choose a destination when accessibility information is missing or unclear. Update online materials and identify the accessible features within your sites. Ensure accessible trail mileage is accurate, identify parks with adult-sized changing tables, and name the play areas with fencing around components. Identify play area surface types, as well as play areas that have ramp access versus transfer system access.

8. **Develop an ongoing series of disability training for employees.** Every day, new products appear on the market, agencies issue new enforcement decisions, and local entities develop and refine strategies for inclusion and access. Keep current on these developments and share this news with LFUCG staff.

9. **Continue partnerships with the current entities that provide disability services**. These relationships provide benefits for LFUCG residents and families with and without disabilities.

10. **Explore all funding opportunities.** In practice, communities that make the most progress in implementing Transition Plans do not rely on a single funding source. Instead, they incorporate accessibility improvements across multiple programs, including transportation, parks, community development, and capital improvement planning.

    By aligning accessibility priorities with existing funding mechanisms and planned capital projects, LFUCG can make steady, measurable progress toward compliance while minimizing reliance on limited or unpredictable funding sources.

CONCLUSION

LFUCG has a variety of facilities, sites, and services, thanks to the vision of the Urban County Council. The skilled staff operate facilities and sites that the community wants and enjoys. This report identifies issues that are typical in local government infrastructure and some that are unique to LFUCG. Lexington-Fayette Urban County Government takes steps towards access every year, and that undoubtedly helps. Continue to do so every year during the transition plan.

No one can say with certainty how long LFUCG can stretch the transition plan projects. Therefore, LFUCG should make access retrofits an ongoing part of its annual plans and budgets. The US Department of Justice officials have said that local governments must complete work as soon as possible. Be certain to understand that a complaint could force LFUCG to accelerate its pace.

Making access projects a high priority is an important show of good faith.

It was an honor to serve LFUCG. If we can help in the future, please reach out.

Submitted by:

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