[Date]

**BY EMAIL**

[Name], ADA Coordinator

[City], [State]

[email]

**Re: Notice that Alteration Using LEDs Creates Discriminatory Barrier**

Dear [Name],

I am notifying the city that an installation of an LED device such as a streetlight, for traffic control, or on city vehicles is an alteration as defined by the Americans with Disabilities Act. The alteration of installing and operating a system using LEDs would create a new discriminatory barrier for me due to my condition of photophobia, and therefore this alteration would make the altered area not readily accessible and usable for me and would be a violation of the ADA.

28 C.F.R. 35.151(a)(1) states, “*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.*”[[1]](#footnote-1) A facility is broadly construed as any city operation, including vehicles.

On May 24, 2024, the US Food and Drug Administration issued a decision that the FDA will not publish performance standards for any LED product.[[2]](#footnote-2) Despite the requirements of 21 U.S.C. 360ii(a)(6)(B), the FDA has chosen to not liaise with any other federal agency to establish the required performance standards for any LED product, including those performance standards necessary to ensure protection and non-discrimination for individuals with photophobia. The result is that the US Access Board has no disability access guidelines for LED products to ensure full and equal access to city services.

Due to the lack of federal regulation of LED products, any decision by the city to install or operate an LED system will require that the city first publish its own regulations for LED products to ensure the health, safety, and civil rights of individuals with photophobia and the city must ensure that all alterations that include an LED device be readily accessible and usable by individuals with photophobia.

Sincerely,

[Name and Contact Information]

1. <https://www.ada.gov/law-and-regs/design-standards/2010-stds/#206-accessible-routes> [↑](#footnote-ref-1)
2. <https://www.softlights.org/wp-content/uploads/2024/05/Final-Response-Citizen-Petitions-FDA-2022-P-1151-FDA-2023-P-0233-FDA-2023-P-3828-FDA-2023-P-3879.pdf> [↑](#footnote-ref-2)