

# **Carson City**

## **2024 Americans with Disabilities Act**

### **(ADA) Transition Plan for Pedestrian Facilities in the Public Right-of-Way**

Approved July 10, 2024



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## Executive Summary

### Program Information and Requirements

The purpose of the Plan is to provide the framework for achieving equal access throughout Carson City's transportation programs, services, and activities. Carson City believes accommodating disabled persons throughout the transportation system is essential to good customer service, a high quality of life for residents and visitors, and to promote effective governance.

This document is required by Title II of the Americans with Disabilities Act (ADA) of 1990 and pertains to pedestrian facilities in the public right-of-way. This document ensures reasonable access for persons with disabilities, within the public right-of-way, is provided and maintained. Pedestrian facilities within the public right-of-way include sidewalks, curb ramps, pedestrian crossings, transit stops, paved shared use paths, and pedestrian activated signal systems.

To comply with Title II, Carson City is required to have and maintain an ADA Transition Plan that makes gradual progress toward development of a full self-evaluated inventory of barriers within pedestrian facilities located in the public right-of-way.

Title II requires that a Transition Plan include:

- (1) The official responsible for implementation of the transition plan
- (2) An inventory of accessibility barriers (obstacles to access)
- (3) Methods used to make facilities accessible
- (4) A schedule demonstrating a strong commitment to eliminate the inventory of barriers

### (1) Implementation of the ADA Transition Plan

The Official responsible for implementation of the ADA Transition Plan for Pedestrian Facilities in the Public Right-of-Way is:

Christopher Martinovich, Transportation Manager  
Carson City Public Works, 3505 Butti Way  
Carson City, Nevada 89701, 775-283-7367, [CMartinovich@carson.org](mailto:CMartinovich@carson.org)

## **(2) Inventory of Accessibility Barriers**

The 2024 ADA Transition Plan builds upon the City's initial 2015 ADA Transition Plan that performed a self-evaluation on 26 signalized intersections, 30 miles of sidewalk, and 41 transit stops. The 2015 document created an initial inventory of pedestrian facilities, solicited public outreach, identified an ADA Coordinator, and created a clear process for complaints and grievances.

Since the 2015 ADA Transition Plan, Carson City has developed an inventory of existing sidewalks, existing curb ramps, missing curb ramps, and signalized intersections and crosswalks in Carson City. The current inventory includes the following:

- 298 Linear miles of sidewalk
- 4,282 Existing Curb Ramps
- 628 Missing Curb Ramps
- 76 Signalized Intersections
- 26 Signalized Crosswalks

ADA barriers are physical elements of a facility that impede access by people with disabilities. The inventory has expanded to include other barriers such as areas of narrow access less than 36 inches, supports (sign, cabinet, or pole placed in the middle of a pathway), non-compliant curb ramps, discontinuities in the sidewalk (deteriorated, excessively cracked, or vertically offset sidewalks that impede accessibility), missing walkways (connectivity gaps in the existing pedestrian network), and paths narrower than 5 feet without a passing area.

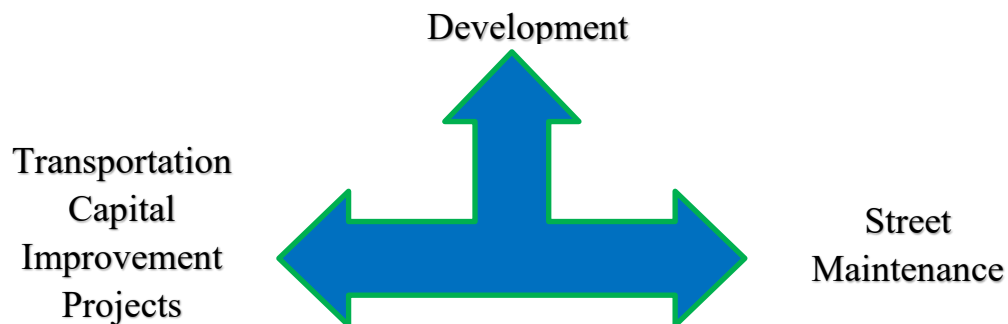
- 83 Interrupted Pathways (a sidewalk that has an interruption such as missing blocks, etc. Less than 10 feet in length.)
- 322 Missing Pathways (a sidewalk that is missing, creating connectivity gaps in the pedestrian network. More than 10 feet in length.)
- 15 Narrow Access Paths (less than 36 inches)
- 3635 ADA Compliant Ramps
- 647 Non-Compliant Ramps
- 10 Paths Narrower than 60 inches without a passing area
- 238 Supports

## **(3) Methods to Make Facilities Accessible**

The 2024 ADA Transition Plan documents and reaffirms Carson City's methods currently in place to improve the accessibility of pedestrian walkways. The most significant challenge for making pedestrian facilities ADA compliant is funding availability. The City employs a three-pronged approach to upgrading pedestrian facilities.

- **Transportation Capital Improvement Projects** – all capital projects constructed by City Departments are required to be designed to meet the 2010 ADA Standards for Accessible Design. In 2011, new design guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) were proposed. On August 8, 2023, the Architectural and Transportation Barriers Compliance Board (Access Board) published the Final Public Right-of-Way Accessibility Guidelines (Final PROWAG) in the Federal Register. Carson City plans to follow PROWAG in the design of projects. Capital projects that alter the roadway are required to provide curb ramps where street-level pedestrian walkways cross the curbs (street crossings). Roadway alterations are defined as reconstruction, rehabilitation, resurfacing, widening, and projects of similar scale and effect. Certain maintenance and pavement preservation projects do not require adding curb ramps; however, all transportation capital projects evaluate pedestrian accessibility during project scoping, in accordance with the City's adopted Complete Streets Policy (<https://www.carson.org/government/departments-g-z/public-works/transportation/documents>).
- **Development Permits** – all new private construction is required to comply with currently adopted ADA Accessibility Guidelines. Existing development seeking permits for expansion or rehabilitation are required to comply with accessibility guidelines. In addition, existing development, at the time of a permit, is required to bring inadequate infrastructure in the right-of-way into compliance with ADA guidelines. This includes removing barriers such as missing curb ramps, deteriorated and excessively cracked sidewalks, areas of narrow access, and missing walkways.
- **Street Maintenance** – Public Works street crews repair deteriorated concrete throughout the year. Repairs are prioritized based on safety, customer requests, and funding availability. A multi-year schedule is used to track repairs.

The current process allows for a responsive, customer-friendly approach. Over the coming years, Carson City's Street Maintenance Division will incorporate and prioritize accessibility barriers identified in this plan into its annual work program. ADA compliant curb ramps will then need to be tracked and updated into the Transportation Asset Management System.



#### **(4) Schedule to Eliminate Barriers**

Availability of funding plays an important role in the City's ability to eliminate barriers, and can vary year-to-year. Annually, there is approximately \$580,000 allocated toward sidewalk improvements through a combination of funding from capital projects, street maintenance, and competitive grant funding. Competitive grant funding, which is difficult to predict, is a primary source of funding to eliminate barriers.

Currently there are approximately 12 million square feet of sidewalk in the City, which would cost approximately \$101 million to replace. The lifespan of concrete sidewalks are approximately 80 years. However, according to the Federal Highway Administration, Northern Nevada's freeze and thaw climate cuts the expected lifespan of concrete sidewalks to 25 years. De-icing products can cause the surface to deteriorate faster. Given the current annual budget (\$580,000) allocated toward sidewalk infrastructure, Carson City would be able to replace its entire network every 168 years. As a result, the schedule to eliminate known barriers and future barriers (as sidewalk infrastructure degrades) is ongoing.

This plan prioritizes barriers that pose significant safety issues, such as missing curb ramps, missing sidewalks, and narrow access, due to their ability to force pedestrians off the sidewalk network and into the roadway. These barriers will further be prioritized based on the proximity to high use areas and the condition of the concrete. Due to the limited funds available, it is important that sidewalk infrastructure in fair condition, not posing an immediate safety hazard, be retained to the extent possible.

#### **Grievance Procedure**

Should there be anybody that has a grievance alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City, a Complaint should be filed. The Complaint should be in writing and contain information about the alleged discrimination. Alternative means of filing complaints, such as personal interviews or a tape recording of the Complaint, will be made available, upon request, for persons with disabilities. Below is the link to the Grievance Procedures and Form.

<https://www.carson.org/government/departments-g-z/public-works/transportation/documents>

- End of Executive Summary -

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# 2024 ADA TRANSITION PLAN

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## 1.0 ADA Policy Statement

The purpose of the 2024 ADA Transition Plan is to provide the framework for achieving equal access throughout Carson City's transportation programs, services, and activities. Carson City believes accommodating disabled persons throughout the transportation system is essential to good customer service, a high quality of life for residents and visitors, and to promote effective governance.

The ADA Policy is supported by the following goals:

From the **Carson City Board of Supervisor's FY 2022-2026 Strategic Plan**

### **Vision**

To be a leader among cities as an inviting, prosperous community where people live, work and play.

### **Mission**

To preserve and enhance the quality of life and heritage of Carson City for present and future generations of residents, workers, and visitors.

### **Values**

*Customer Service:* We value our residents, businesses, and visitors by committing to provide efficient and effective customer service.

*Organizational Culture:* We value an environment that fosters a proactive, team-oriented approach to delivering solutions.

*Integrity:* We value an ethical and accountable government that is open, accessible, and a responsible steward of public funds.

From national transportation legislation, **National Performance Goals** [\[23USC §150\(b\)\]](#)

- **Safety** - To achieve a significant reduction in traffic fatalities and serious injuries on all public roads
- **Infrastructure Condition** - To maintain the highway infrastructure asset system in a state of good repair
- **Congestion Reduction** - To achieve a significant reduction in congestion on the National Highway System.
- **System Reliability** - To improve the efficiency of the surface transportation system.
- **Freight Movement and Economic Vitality** - To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

- **Environmental Sustainability** - To enhance the performance of the transportation system while protecting and enhancing the natural environment.
- **Reduced Project Delivery Delays** - To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices

From the **Carson Area Metropolitan Planning Organization's (CAMPO) 2050 Regional Transportation Plan**

- Increase the safety of the transportation system for all users
- Maintain a sustainable regional transportation system
- Increase the mobility and reliability of the transportation system for all users
- Maintain and develop a multi-modal transportation system that supports economic vitality
- Provide an integrated transportation system

From the **Carson City Complete Streets Policy**

- To create a comprehensive, integrated, and connected transportation network that supports compact, sustainable development and provides for livable communities.
- To ensure safety, accessibility, and ease of transfer between modes for all users of the transportation system.
- To provide context sensitive, aesthetic improvements for new and existing roadways that best meet the needs and desires of the community.

## 1.1 Legislative Mandate

The federal legislation, known as the Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. The ADA is a civil rights law that mandates equal opportunity for individuals with disabilities. The ADA prohibits discrimination in access to jobs, public accommodations, government services, public transportation, and telecommunications. The ADA is divided into five titles (or sections) that relate to different areas of public life.

Title II of the ADA specifically applies to state and local governments, referred to as “public entities” and their programs and services. Title II of the ADA requires that all Programs, Services, and Activities of public entities provide equal access for individuals with disabilities.

To comply with Title II, Carson City is required to have and maintain an ADA transition plan that makes gradual progress toward development of a full self-evaluated inventory of barriers within pedestrian facilities located in the public right-of-way.

Title II requires that a Transition Plan include:

- (1) The official responsible for implementation of the transition plan
- (2) An inventory of barriers (obstacles to access)
- (3) Methods used to make facilities accessible
- (4) A schedule demonstrating a strong commitment to eliminate the inventory of barriers

In 2011, new design guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) were proposed. On August 8, 2023, the Architectural and Transportation Barriers Compliance Board (Access Board) published the Final Public Right-of-Way Accessibility Guidelines (Final PROWAG) in the Federal Register. The new guidelines address access to sidewalks and streets, crosswalks, curb ramps, pedestrian signals, on-street parking, and other components of public right-of-way. These guidelines also review shared use paths, which are designed primarily for use by bicyclists and pedestrians for transportation and recreation purposes. Carson City plans to follow PROWAG in the design of all projects to the extent technically feasible.

## 1.2 ADA Program Information

The current Carson City ADA Coordinator's name and contact information is posted on the City's ADA Information webpage at: <https://www.carson.org/government/departments-aff/finance/risk-management/ada-information>.

The Carson City ADA Coordinator is:

Jill Valdez, ADA Coordinator, Carson City Risk Management  
201 N. Carson Street, Suite #3  
Carson City, Nevada 89701, 775-283-7484, [jvaldez@carson.org](mailto:jvaldez@carson.org)

The Official responsible for implementation of the ADA Transition Plan for Pedestrian Facilities in the Public Right-of-Way is:

Christopher Martinovich, Transportation Manager  
Carson City Public Works, 3505 Butti Way  
Carson City, Nevada 89701, 775-283-7367, [CMartinovich@carson.org](mailto:CMartinovich@carson.org)

### **1.3 Public Accommodation and Grievance Procedure**

In accordance with the requirements of the ADA, Carson City has established a Grievance Procedure, which may be used by anyone who wishes to file a complaint alleging discrimination based on disability in the provision of services, activities, programs, or benefit by Carson City. The public request for accommodations or the complaint/grievance process is an integral part of the Transition Plan. Public requests for accommodations or grievances/complaints often drive the prioritization of improvements.

To make a request for accommodation or to file a complaint/grievance regarding accessibility of pedestrian facilities in the public right-of-way (i.e., missing curb ramps or deteriorated sidewalk), the ADA Coordinator should be contacted in writing in a way that describes the issue in detail and includes the location. If the person needs help in completing the required forms for the ADA Coordinator, assistance can be provided upon request. The ADA Coordinator will then route this information to the appropriate City department for review and possible action. The City department will then respond to the ADA Coordinator with its findings. The ADA Coordinator will then record the City's formal response and will reply to the requestor or the complainant/grievant. All accommodation requests and complaints/grievances are kept on file pursuant to the City's and State's records retention policies.

Below is the link to the City's Grievance Procedure and Grievance Form. The Form is also included as Attachment A:

Appendix A, Grievance Procedure and Grievance Form  
<https://www.carson.org/home/showdocument?id=69771>

## **1.4 History and Goals of Past ADA Transition Plans**

In 2015, Kimley Horn prepared the first ADA Transition Plan and was later approved by the Carson City Regional Transportation Commission (RTC). The purpose of the Plan was to provide an ADA Transition Plan for Transportation Facilities within Carson City, Nevada. The main goal for future Plans is to have additional program, service, activity, and facility evaluations be completed to provide a comprehensive Transition Plan for all of Carson City's public facilities.

Five years later, the ADA Transition Plan was updated and approved by the RTC in 2020. Based on the 2015 ADA Transition Plan, the main purpose of the 2020 Plan was to provide the framework for achieving equal access throughout Carson City's Programs, Services, and Activities. The 2020 Plan expanded the inventory of Transportation Facilities to include the number of existing and missing curb ramps and the linear miles of sidewalk. The goal for future plans is to expand the inventory to include all accessibility barriers such as areas of narrow access less than 36 inches, non-compliant existing curb ramps, non-compliant pedestrian push buttons and accessible pedestrian signals, discontinuities in the sidewalk, and missing walkways.

As of 2024, the inventory of accessibility barriers, or ADA barriers, has been expanded to include the previously mentioned barriers.

## 1.5 Public Outreach

Carson City provided several opportunities to receive input from various departments within the City as well as the public concerning the 2015 ADA Transition Plan. Efforts in 2015 included the formation of an ADA transition plan committee, a public workshop, a liaison committee, and the holding of a public meeting to share the draft plan with the public and solicit input. The information gathered from this outreach helped to form the framework for the 2015 Plan.

In 2016, Carson City established a Customer Request online forum ([Carson City Connect](#)). This forum has been used to receive comments and complaints from the public. Since the start of 2016, there have been approximately 386 customer requests that have involved sidewalk repair or obstructions in the sidewalk. This application is used by the Street Maintenance Division to rapidly respond to serious hazards on pedestrian facilities within the right-of-way.

The most recent update to the ADA Transition Plan occurred in 2020. In February 2020, an ad was placed in the local newspaper and on the City's website, presenting the draft 2020 ADA Transition Plan for Pedestrian Facilities in the Public Right-of-Way and invited individuals to meet with City staff to discuss the plan and its priorities, and to inform the public about the upcoming meetings noted below. The 2020 ADA Transition Plan was primarily technical in nature; thus, extensive outreach was not performed. The technical elements involved the development of sidewalk and curb ramp inventories, and the start of an inventory for accessibility barriers.

The draft 2024 ADA Transition Plan for Pedestrian Facilities in the Public Right-of-Way will be advertised for a 30-day public comment period before presentation at the Carson Area Metropolitan Planning Organization and the Carson City Regional Transportation Commission in Summer 2024. In development of this plan, the City's ADA Coordinator has been consulted. At the time of this report, no formal complaints/grievances have been submitted.

To showcase the removal of ADA barriers and the quantity of projects in Carson City, a Story Map or an interactive map will be created to help increase the awareness and garner support for the 2024 ADA Transition Plan. The Story Map will also implement information provided by the Community Development, Engineering, and Streets Maintenance Divisions of Public Works to help viewers of the map to understand the process of identifying ADA barriers and the steps taken to remove them.

## 2.0 Inventory of Accessibility Barriers

The 2024 ADA Transition Plan builds upon the City's initial 2015 ADA Transition Plan that performed a self-evaluation on the following:

- Carson Municipal Code, Title 11, Chapter 11.12 – Encroachments, Obstructions, Maintenance and Construction of Highways and Sidewalks
- Carson Municipal Code, Title 18, Division 12.12 – Sidewalks, Curb and Gutter, Driveway Approaches, Curb-cuts, Alleys, and Bikeways
- City Standard Details for Public Works Construction
- ADA policies and procedures for City fixed-route bus service
- ADA policies and procedures for City paratransit bus service
- Transportation Facilities
  - Twenty-six (26) signalized intersections within Carson City
  - Approximately thirty (30) miles of arterial sidewalks were inventoried and evaluated. Sidewalks were selected based on pedestrian activity along the corridor and proximity to major traffic generators.
  - Forty-one (41) transit stops within Carson City were identified and evaluated. Transit stops were chosen for evaluation based on transit ridership data, snow removal priority, and whether a shelter was present.

The Carson Area Transportation System Management Plan (CATSMP) was initiated as a planning effort for CAMPO to establish commonly held operations and management objectives and as an asset management plan to support improved transportation system performance for the CAMPO region.

- The plan reviews CAMPO's current transportation system and identifies its needs related to operations and management to inform future investments needed to provide a safe and reliable transportation system for the region. The total number of physical elements collected as part of this project, as of 2021, included:
  - 73 Signalized Intersections
  - 22 Signalized Pedestrian Crossings
  - 21 Flashing Beacons
  - 10 Radar Speed Feedback Signs
  - 472 Supports
  - 1,172 Signal Related Signs.

The 2015 ADA Transition Plan for Transportation Facilities is incorporated by reference and available online at:

<https://www.carson.org/government/departments-g-z/public-works/transportation/documents>

The 2024 ADA Transition Plan expanded inventory of Carson City includes:

- 298 Linear miles of sidewalk
- 4,282 Existing Curb Ramps
- 628 Missing Curb Ramps
- 76 Signalized Intersections
- 26 Signalized Crosswalks

Appendix B of this 2024 ADA Transition Plan graphically shows the collected inventory of pedestrian facilities. As discussed in Section 3.1 of this plan, the inventory is displayed by Carson City's five Performance Districts.

The inventory has expanded to include other barriers such as areas of narrow access less than 36 inches, supports (sign, cabinet, or pole placed in the middle of a pathway), non-compliant curb ramps, discontinuities in the sidewalk (deteriorated, excessively cracked, or vertically offset sidewalks that impede accessibility), missing walkways (connectivity gaps in the existing pedestrian network), and paths narrower than 5 feet without a passing area.

- 83 Interrupted Pathways (a sidewalk that has an interruption such as missing blocks, etc. Less than 10 feet in length.)
- 322 Missing Pathways (a sidewalk that is missing, creating connectivity gaps in the pedestrian network. More than 10 feet in length.)
- 15 Narrow Access Paths (less than 36 inches)
- 3,635 ADA Compliant Ramps
- 647 Non-Compliant Ramps
- 10 Paths Narrower than 60 inches without a passing area
- 238 Supports

The inventory of sidewalks, existing curb ramps, and missing curb ramps have been incorporated into the City's overall Asset Management Program, which promotes a proactive maintenance and planning strategy, minimizes risk, maximizes the effective useful life of City assets, optimizes customer service, promotes data driven decisions, and increases transparency.

### **3.0 Methods to Make Facilities Accessible**

The 2024 ADA Transition Plan documents and reaffirms Carson City's established methods to improve the accessibility of pedestrian walkways. The most significant challenge for making pedestrian facilities ADA compliant is funding availability. The City employs a three-pronged approach to upgrading pedestrian facilities. ADA upgrades within Carson City are completed through the City's Transportation Capital Improvement Program, the City's development permit approval process, and the City's annual street maintenance program.

### **3.1 Transportation Capital Improvement Projects**

Transportation capital projects funded through the City's budget is one method the City uses to remove ADA accessibility barriers and to bring existing infrastructure into compliance with current ADA standards.

#### **Funding**

Funded through the City's annual budget process with revenue from fuel, sales, and infrastructure taxes, the Carson City Regional Transportation Commission (RTC) establishes priorities and recommends funding allocation for transportation improvement projects.

There is currently \$2.5 million in annual funding for Carson City Public Works to design and deliver transportation capital projects, a portion of which (\$250,000) is used to complete ADA improvements. In addition to the \$2.5 million in local funding, federal funding is available in the form of competitive grants, which is commonly sought and awarded. Typically, the federal grants require a local match that can range from 0% to 50%.

#### **Pavement Management Plan**

In 2023, Carson City updated the Pavement Management Plan for Fiscal Years 2024-2028, which formalizes and establishes an efficient and effective strategy for preserving and maintaining the City's roadways. The Plan establishes five performance districts within the City and a five-year rotating schedule to streamline work efforts.

The Plan identifies project evaluation criteria to prioritize projects consistently and transparently. The leading criteria include pavement condition, preventive and corrective maintenance schedule, roadway functional classification, and safety. As part of the safety criterion, projects that reduce ADA barriers are given points as part of the scoring/project selection process.

The Pavement Management Plan can be viewed online at the link below:

<https://www.carson.org/government/departments-g-z/public-works/preserve-carson-city-roads/preserve-carson-city-roads-document-page>

## Scoping and Design

After the project selection process, the projects go into the scoping and design phase. All new capital projects are designed to meet the 2010 ADA Standards for Accessible Design (2010 ADA Standards) and the ADA standards apply to facilities used by state and local governments to provide designated public transportation services, including bus stops and stations. The Final Public Right-of-Way Accessibility Guidelines (Final PROWAG) was published in the Federal Register.

## Technically Infeasible

The ADA Standards set minimum accessibility requirements for infrastructure design. In situations where strict compliance with the Standards is technically infeasible, the entity must comply to the maximum extent feasible. "Technically infeasible" is defined as 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. Any existing pedestrian facility being replaced shall be made accessible to the maximum extent feasible. Carson City recognizes that there are locations where it is "technically infeasible" to bring a facility into full compliance due to existing physical site constraints. Alterations to features, spaces, or facilities within public rights-of-way are considered technically infeasible when existing physical site constraints such as underlying terrain, right-of-way availability, underground structures, adjacent developed facilities, drainage, or the presence of a notable natural or historic feature make it impracticable to bring the altered elements into compliance.

If a design element or elements are determined technically infeasible to achieve ADA compliance, then the pedestrian facility and features shall be documented with justification, approved by the City Engineer. Technical infeasibility does not apply for new construction. All new construction projects including pedestrian facilities or features shall meet current ADA standards unless it is structurally impracticable. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features [\[28 CFR 35.151\(a\)\(2\)\]](#).

## **Maintenance versus Alterations**

Due to the tangential relationship between roadways and sidewalks, federal regulations provide additional guidance when existing roadways are being replaced or altered. The U.S. Department of Justice (DOJ) has issued a briefing memorandum clarifying what types of roadway projects are determined to be an alteration or a maintenance project, as well as what pedestrian facilities adjacent to the roadway project are required to be upgraded. A summary of the briefing memorandum is below, and a copy of the briefing memorandum is included in Appendix C.

### Summary of the Memorandum

DOJ's regulations require accessible planning, design, and construction to integrate people with disabilities into mainstream society. Further, these laws require that public entities responsible for operating and maintaining the public rights-of-way do not discriminate in their programs and activities against persons with disabilities. The Federal Highway Administration's (FHWA's) ADA program implements the DOJ regulations through delegated authority to ensure that pedestrians with disabilities could use the transportation system's pedestrian facilities in an accessible and safe manner.

FHWA and DOJ met in March 2012 and March 2013 to clarify guidance on the ADA's requirements for constructing curb ramps on resurfacing projects. Projects deemed to be alterations must include curb ramps within the scope of the project if sidewalk is present or justified. This single Federal policy provides for increased consistency and improved enforcement.

The policy identifies specific asphalt and concrete-pavement repair treatments that are considered alterations – requiring installation of curb ramps within the scope of the project – and those that are considered to be maintenance, which do not require curb ramps at the time of the improvement.

This approach clearly identifies the types of structural treatments that both DOJ and FHWA agree require curb ramps (when there is a pedestrian walkway with a prepared surface for pedestrian use and a curb, elevation, or other barrier between the street and the walkway) and furthers the goal of the ADA to provide increased accessibility to the public right-of-way for persons with disabilities. Figure 3.0 provides a summary of the types of projects that fall within maintenance versus alterations.

**Figure 3.0 Maintenance versus Alterations**



## **3.2 Development Permits**

A second method that the City uses to remove ADA accessibility barriers and to bring existing infrastructure into compliance with current ADA standards is through the City's development permit process.

All new private construction is required to comply with currently adopted ADA Accessibility Guidelines. Existing development seeking permits for expansion or rehabilitation are also required to comply with accessibility guidelines. Carson City Municipal Code, Title 11 Highway and Sidewalks, Chapter 11.12, requires existing development at the time of a permit to bring inadequate infrastructure in the right-of-way into compliance with ADA guidelines. This includes removing barriers such as missing curb ramps, deteriorated and excessively cracked sidewalks, areas of narrow access, and missing walkways.

The standards for development are contained within the Carson City Municipal Code, available online here: [https://library.municode.com/nv/carson\\_city/codes/code\\_of\\_ordinances](https://library.municode.com/nv/carson_city/codes/code_of_ordinances)

### **3.3 Street Maintenance**

The third method the City uses to remove ADA accessibility barriers and to bring existing infrastructure into compliance with current ADA standards is through the City's annual maintenance program. The annual work program budget is approximately \$130,000. Public Works street crew repair deteriorated concrete throughout the year. Repairs are prioritized based on safety, customer requests and complaints, and funding availability. A multi-year schedule is used to track repairs.

The current process allows for a responsive, customer-friendly approach. Over the coming years, Carson City's Street Maintenance Division will incorporate and prioritize accessibility barriers identified in this plan into its annual work program. ADA compliant curb ramps will then need to be tracked and updated into the Transportation Asset Management System.

## 4.0 Schedule to Eliminate Barriers

The availability of funding plays an important role in the City's ability to eliminate barriers and upgrade infrastructure. Annually, there is approximately \$580,000 allocated toward sidewalk improvements through a combination of funding from capital projects, street maintenance activities, and competitive discretionary grants. Competitive grants, which are difficult to predict, is a significant source of funding to eliminate barriers.

Currently there's approximately 298 linear miles or approximately 12 million square feet of sidewalk in the city, this would cost approximately \$101 million to replace. The replacement cost estimate is based on an \$15.00 per square foot concrete removal and replacement cost, and a \$50.00 per linear foot removal and replacement cost for curb and gutter. The lifespan of concrete sidewalks are approximately 80 years. However, according to the Federal Highway Administration, Northern Nevada's freeze and thaw climate, and exposure to de-icing products, the expected lifespan for concrete sidewalks is 25 years. Given the current annual funding amount (\$580,000) allocated toward sidewalk infrastructure, Carson City would be able to replace its entire network approximately every 168 years. As a result, the schedule to eliminate known barriers and future barriers (as sidewalk infrastructure degrades) is ongoing.

At the time of this plan, the City had approximately 628 missing curb ramps. The cost for a curb ramp can range between \$5,000 and \$15,000 each. The total cost to eliminate missing ramps is approximately \$3 to \$9 million.

This 2024 ADA Transition Plan prioritizes barriers that pose immediate safety hazards, such as missing ramps and narrow access, due to their ability to force pedestrians off the sidewalk network and into the roadway. These barriers will further be prioritized based on the proximity to high-use areas, high volume roadways, and the condition of the concrete. Due to the limited funds available it is important that sidewalk infrastructure in fair condition, not posing an immediate safety hazard, is retained to the extent possible.

This ADA Transition Plan is a living document aimed at guiding investment to reduce ADA barriers and to demonstrate Carson City's strong commitment toward providing equal access to the maximum extent possible.

To illustrate Carson City's past and future commitment to ensuring equal access, below is a list of significant transportation related capital projects since 2020 that involve upgrades to pedestrian facilities. Some of the projects were entirely focused on pedestrian facilities while others were focused on roadway improvements with associated pedestrian improvements. For a more in-depth look into the Capital Transportation Projects that had Pedestrian improvements, please use the link below to view our Story Map about ADA Barriers in Carson City. The link to the Story Map can be found at the link below.

<https://storymaps.arcgis.com/stories/f9fae99fa0714ec3b37b4a59b4f3d18a>).

Figure 4.0 provides a list of transportation related capital projects.

**Figure 4.0 List of Transportation related Capital Projects from 2020 to 2024**

- 2020 (constructed) – College Parkway Improvements
- 2020 (constructed) – Saliman Road / Russell Way Pavement Preservation
- 2020 (constructed) - Airport Road ADA Project
- 2020 (constructed) - Fairview Drive Rehabilitation Project
- 2020 (constructed) – Telegraph Pavement Reconstruction
- 2021 (constructed) - Multi-Use Path to Colorado Street Project
- 2021 (constructed) – Northridge Drive Pavement Reconstruction
- 2021 (constructed) - South Carson Street Complete Street Project
- 2022 (constructed) – Saliman Road Pavement Preservation Project
- 2022 (constructed) – Curry Street Pavement Preservation Project
- 2022 (constructed) – Center Drive Reconstruction Project
- 2022 (constructed) – Silver Sage Drive Pavement Preservation Project
- 2023 (constructed) – Colorado Street CDBG Pavement Project
- 2023 (constructed) – Desatoya ADA Improvements
- 2023 (constructed) – Mountain Street Preservation Project
- 2024 (under construction) – Freeway Multi-Use Path to the Edmonds Sport Complex
- 2024 (planned) – E. 5<sup>th</sup> Street Reconstruction Project
- 2024 (planned) – East William Complete Streets Project
- 2024 (planned) – DMV Multi-Use Path Project.
- 2024 (planned) – Winnie Lane Reconstruction Project.
- 2024 (planned) – FTA/RACC Downtown Sidewalk and Pedestrian Improvement

- 2025 (planned) – West Carson Vulnerable User Pedestrian Safety Improvement Project
- 2025 (planned) – Carmine Street Rehabilitation Project
- 2026 (planned) – Roop Street Rehabilitation Project
- TBD (planned) - North Carson Complete Streets Project

## **5.0 Future ADA Transition Plan Updates**

This ADA Transition Plan is a living document aimed at guiding investment to reduce accessibility barriers and to demonstrate Carson City's strong commitment to providing equivalent access to the maximum extent possible. The Plan should be revisited at least once every 5-years to report the progress being made and report the inventory of ADA Barriers in Carson City.

# **Appendix A**

## **Grievance Procedures**

**&**

## **Grievance Form**



## CARSON CITY, NEVADA

### Grievance Procedure under The Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a Complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City. The City's Personnel Policy governs employment-related complaints of disability discrimination.

The Complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the Complaint, will be made available, upon request, for persons with disabilities.

The Complaint should be submitted by the grievant and/or their designee as soon as possible but no later than 60 calendar days after the alleged violation to:

ADA Coordinator  
Carson City Risk Management  
201 N. Carson Street, Suite #3  
Carson City, NV 89701

Within 15 calendar days after receipt of the Complaint, the ADA Coordinator or the designee, will speak to or meet with the complainant (whichever the complainant desires) to discuss the Complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or the designee, will respond in writing, and, where appropriate, in format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City and may offer options for substantive resolution of the Complaint.

If the response by the ADA Coordinator or the designee, does not satisfactorily resolve the issue, the complainant and/or their designee may appeal the decision within 15 calendar days after receipt of the response, to the City Manager or the designee.

Within 15 calendar days after receipt of the appeal, the City Manager or the designee, will speak to, or meet with the complainant (whichever the complainant desires) to discuss the Complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager or the designee, will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the Complaint.

All written complaints received by the ADA Coordinator or the designee, appeals to the City Manager or the designee, and responses from these two offices will be retained by the City for at least three years.

Attachment B to Settlement Agreement between the United States of America and **Carson City**, Nevada in DJ# **204-46-149**

*Revised 1/2020*

**DEPARTMENT OF RISK MANAGEMENT**  
**201 North Carson Street, Suite #3, Carson City, NV 89701 – Phone (775) 283-7484 Fax (775) 887-2107 TDD 711**



## CARSON CITY, NEVADA CONSOLIDATED MUNICIPALITY AND STATE CAPITAL

### NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

**In accordance with the requirements of title II of the Americans with Disabilities Act of 1990, Carson City will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities.**

**Employment:** The City does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the Americans with Disabilities Act (ADA).

**Effective Communication:** The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in City programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. For example, individuals with service animals are welcomed in City offices, although otherwise animals are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a City program, service, or activity, should contact the ADA Coordinator in the office of Risk Management, at 775-887-2133, as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the City to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a City program, service, or activity is not accessible to persons with disabilities should be directed to the ADA Coordinator in the office of Risk Management at 775-283-7484.

The City will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Attachment A to Settlement Agreement between the United States of America and **Carson City**, Nevada in DJ# **204-46-149**.

*Revised 1/2020*

# Grievance Form

Instructions: Please fill out this form completely, in black ink or type. Sign and return to the address on page 3.

Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Person Discriminated Against (if same as above, proceed to next page):

\_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Government, or organization, or institution which you believe has discriminated:

Name: \_\_\_\_\_

When did the discrimination occur? \_\_\_\_\_ Date: \_\_\_\_\_

Where did the discrimination occur? \_\_\_\_\_

Describe the incident/complaint with enough detail so the nature of the grievance can be understood (use space on page 3 if necessary):

\_\_\_\_\_

\_\_\_\_\_

Have efforts been made to resolve this complaint through the internal grievance procedure of the government, organization, or institution?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes: what is the status of the grievance?

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Has the complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes:

Agency or Court: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Do you intend to file with another agency or court?

Yes \_\_\_\_\_ No \_\_\_\_\_

Agency or Court: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Additional space for answers:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Return to:

ADA Coordinator  
Carson City Risk Management  
201 N. Carson Street, Suite #3  
Carson City, NV 89701  
775-283-7484

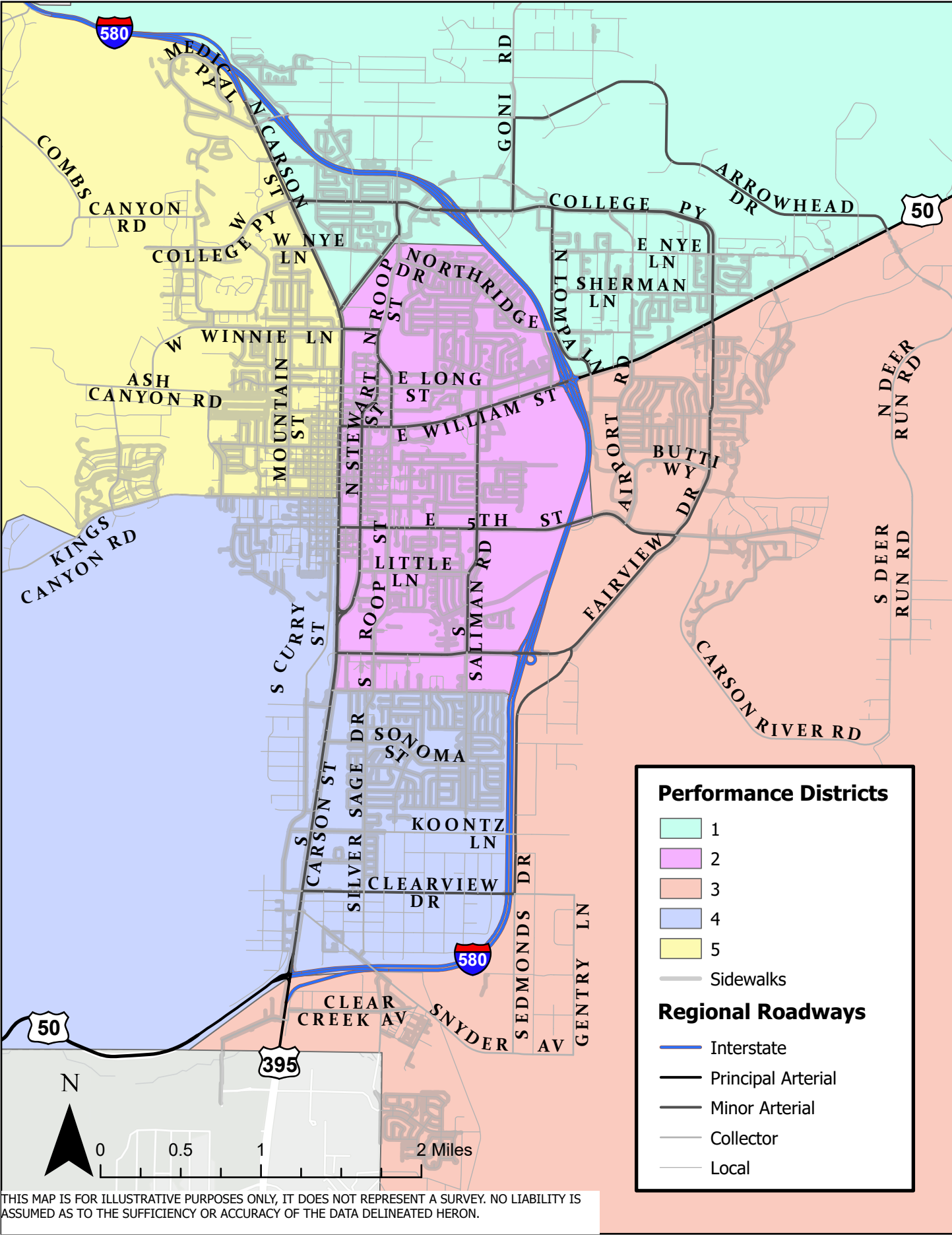
## **Appendix B**

### **Inventory of Pedestrian Facilities by Performance District**

#### **List of Maps**

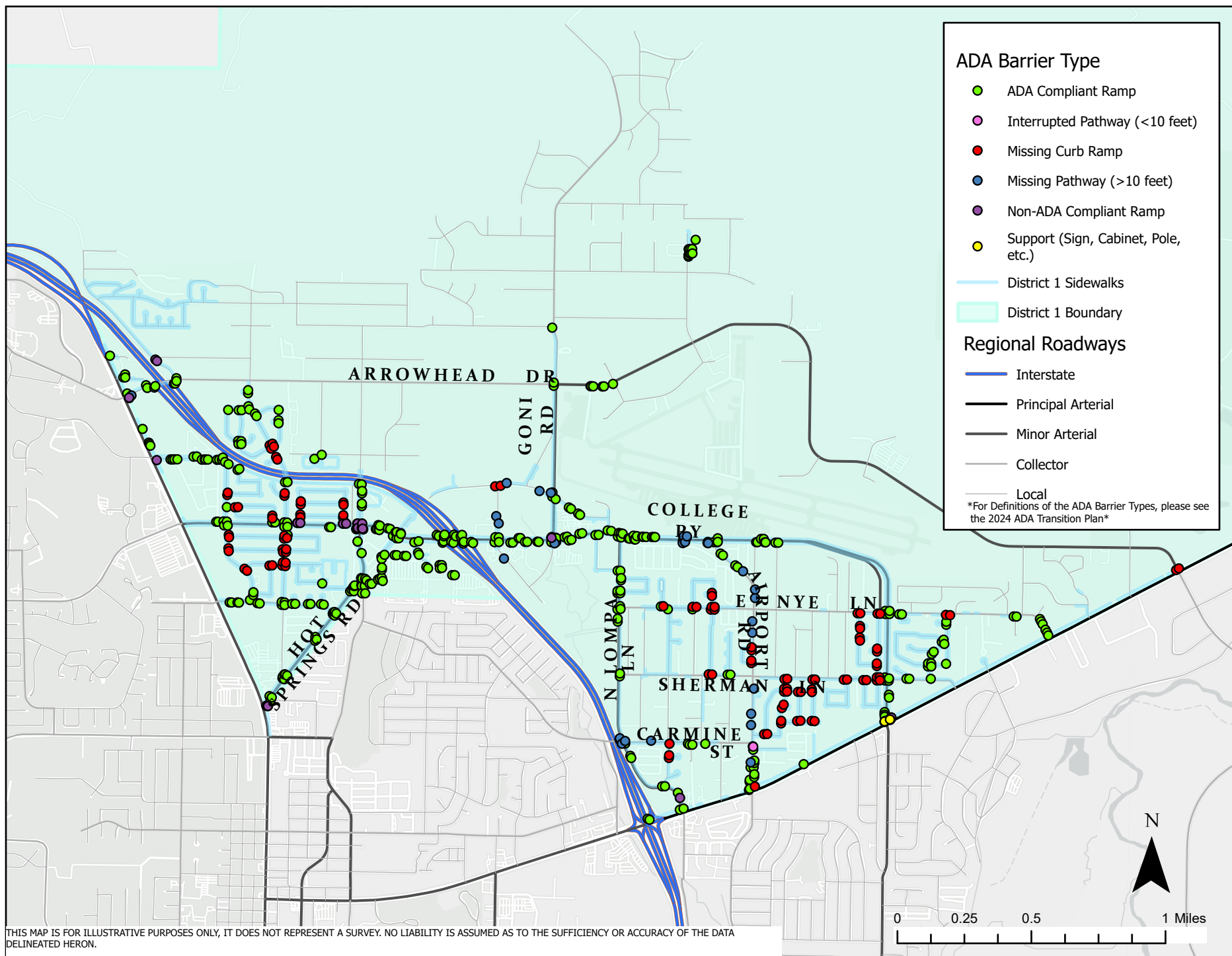
- Overview of Performance Districts
  - Performance District 1
  - Performance District 2
  - Performance District 3
  - Performance District 4
  - Performance District 5
- Douglas County CAMPO Portion
  - Lyon County CAMPO Portion

# Carson City Performance Districts

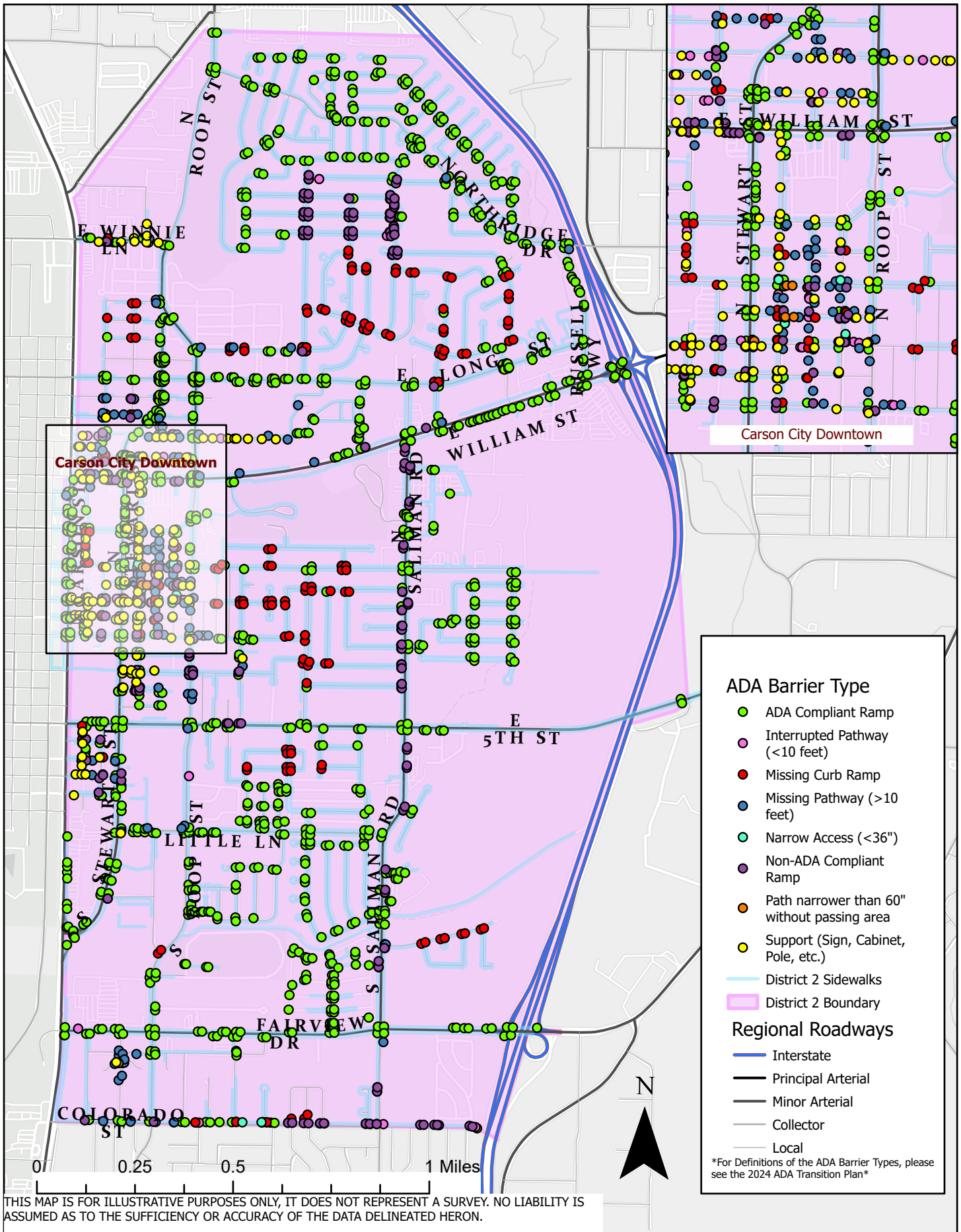


THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY, IT DOES NOT REPRESENT A SURVEY. NO LIABILITY IS ASSUMED AS TO THE SUFFICIENCY OR ACCURACY OF THE DATA DELINEATED HERON.

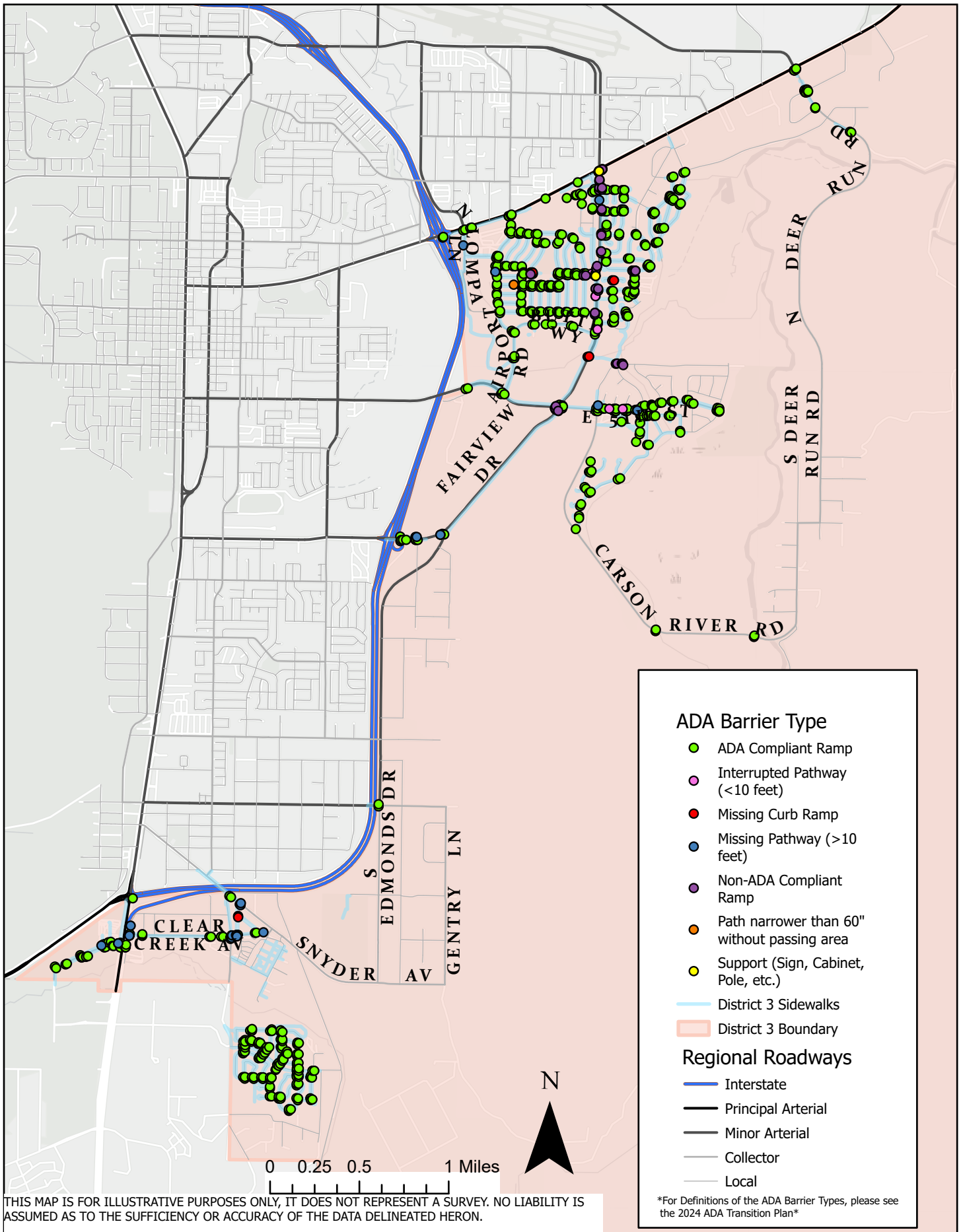
# Performance District 1 - 2024 Inventory of Pedestrian Facilities



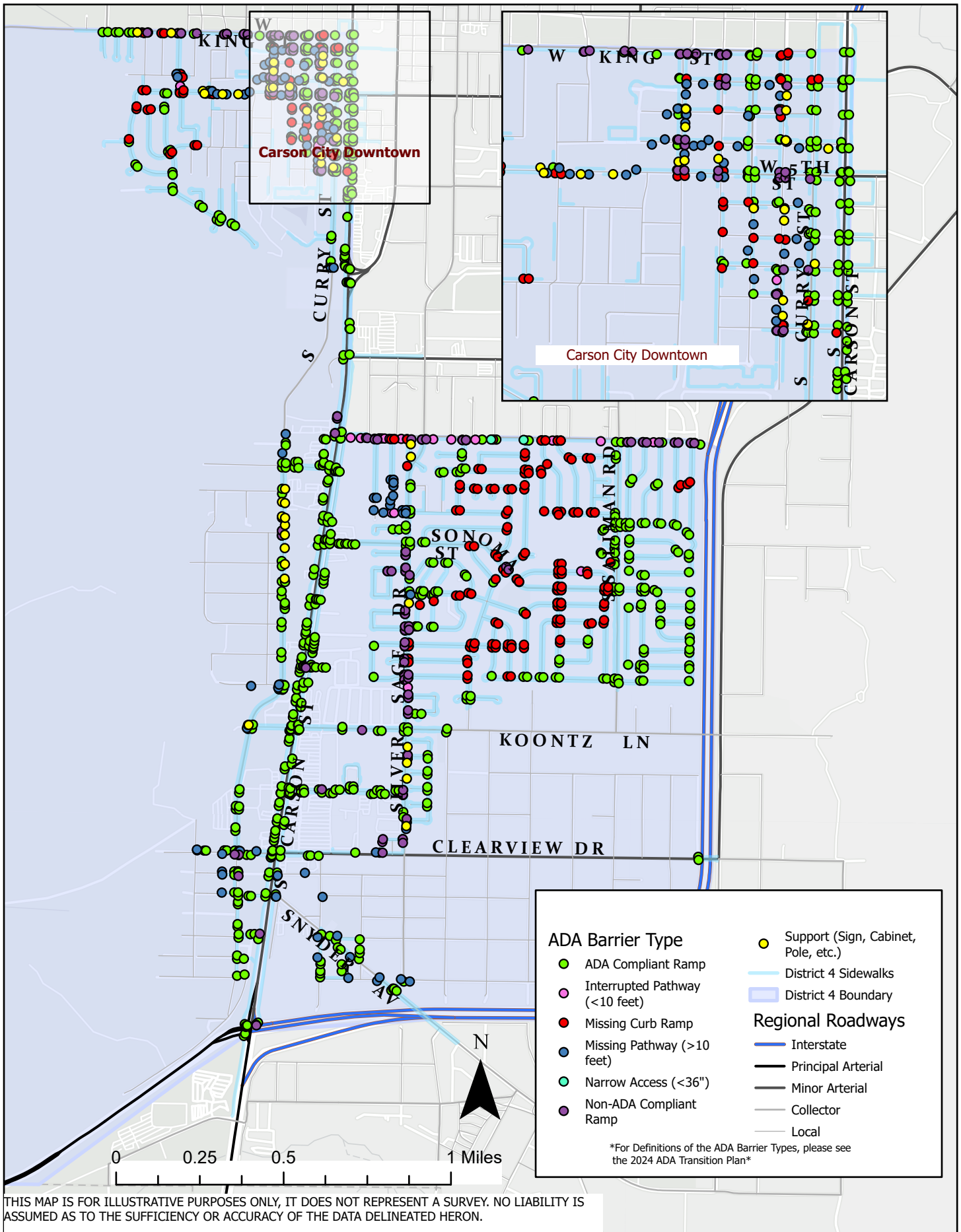
# Performance District 2 - 2024 Inventory of Pedestrian Facilities



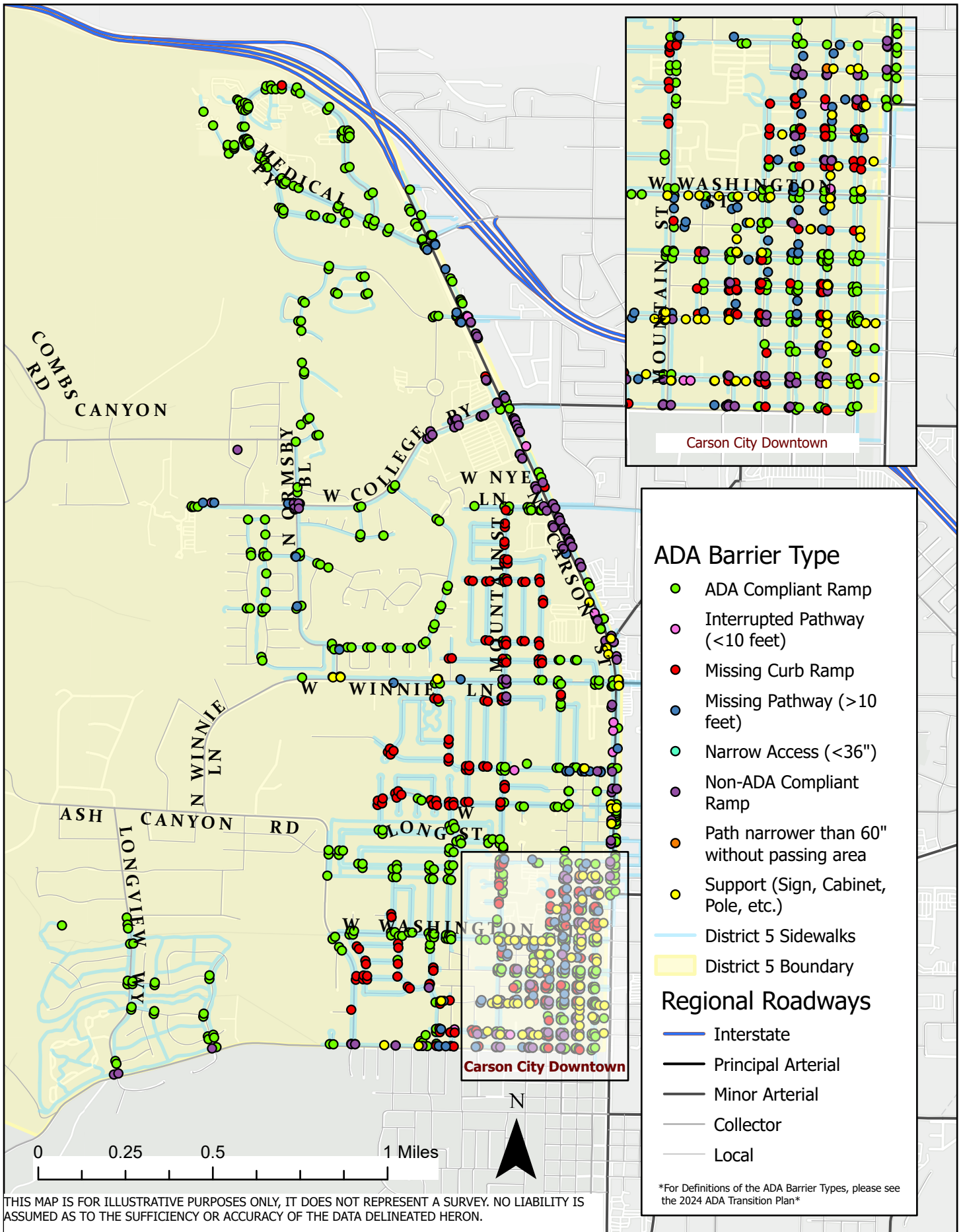
# Performance District 3 - 2024 Inventory of Pedestrian Facilities



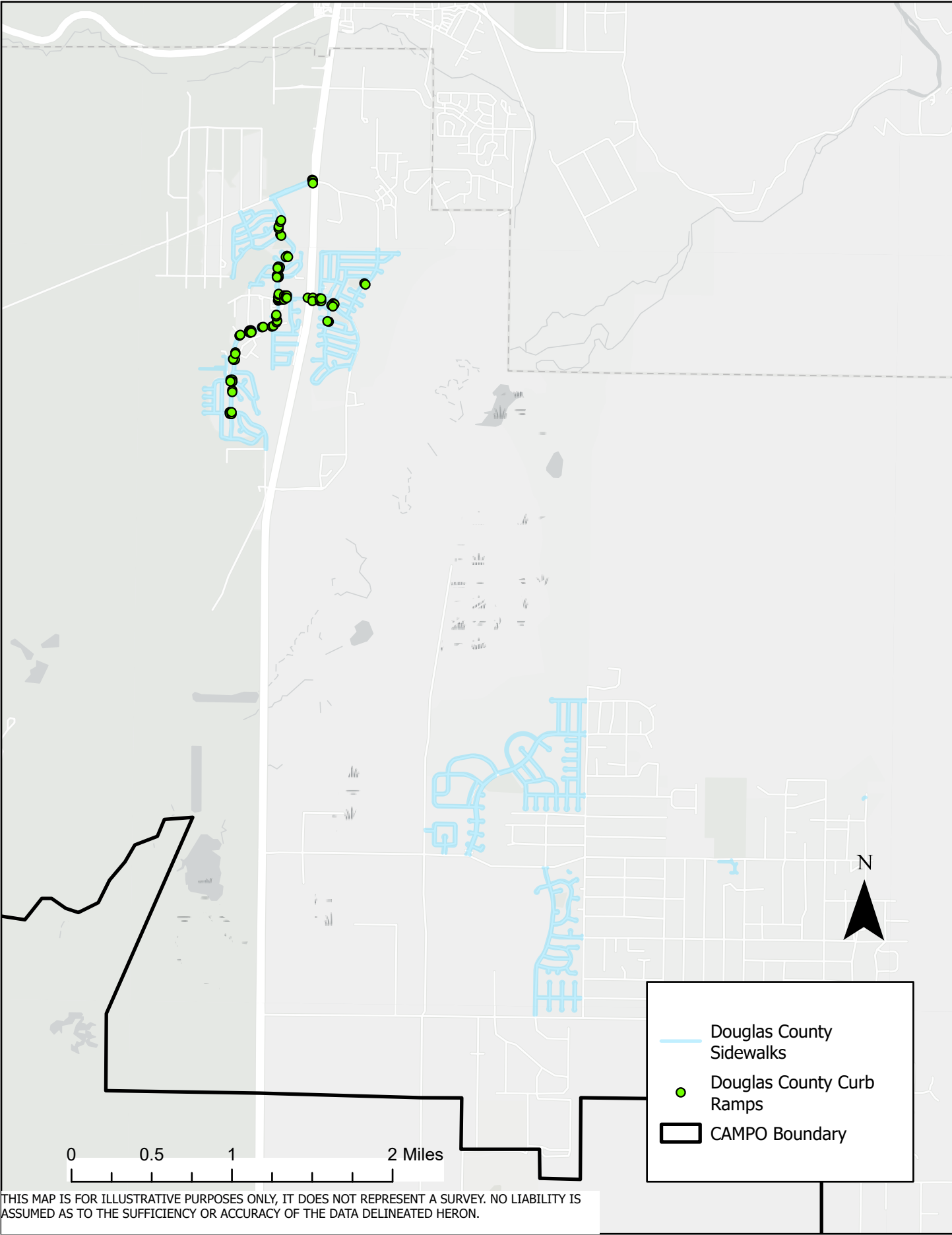
# Performance District 4 - 2024 Inventory of Pedestrian Facilities



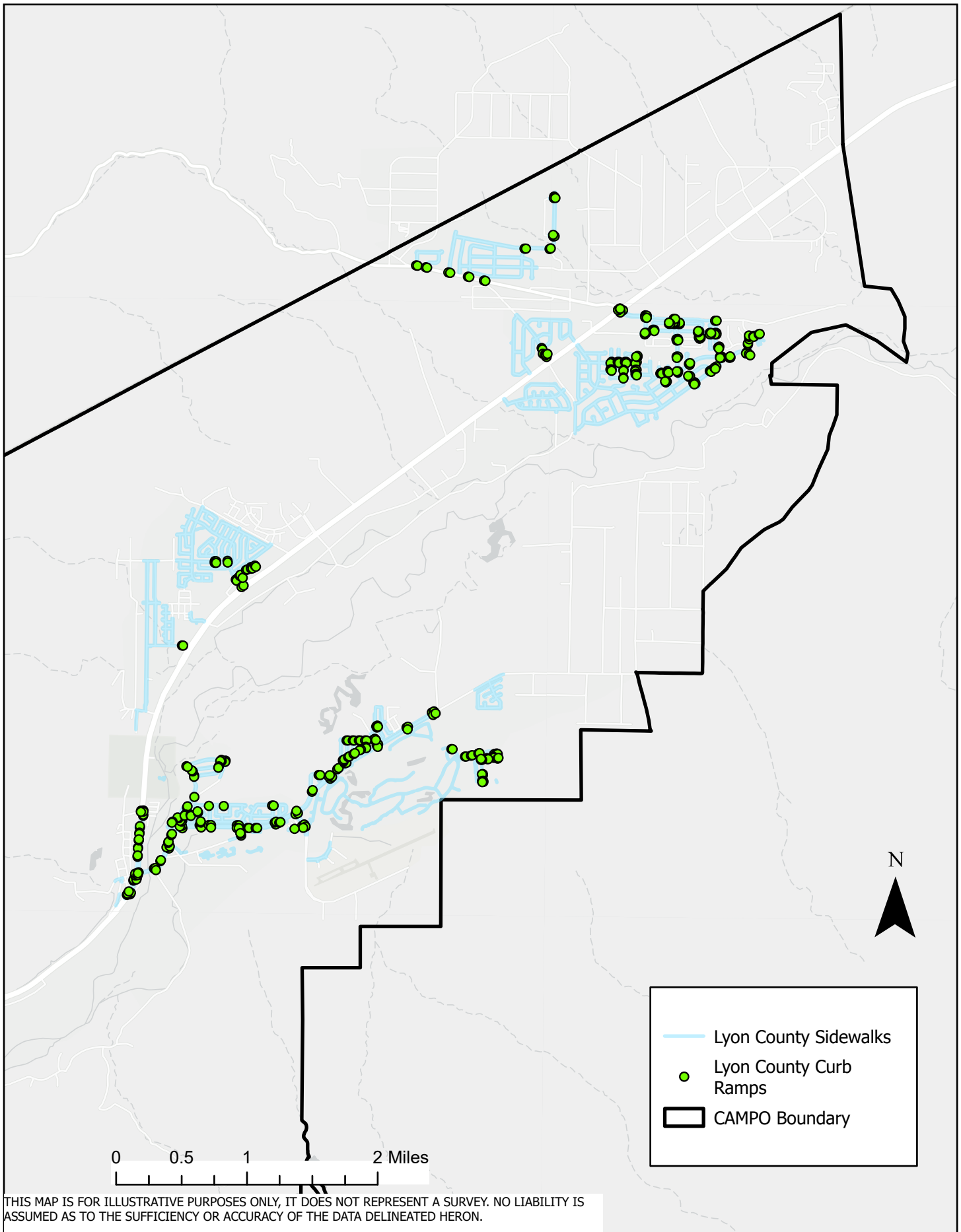
# Performance District 5 - 2024 Inventory of Pedestrian Facilities



# Douglas County CAMPO Boundary Inventory of Pedestrian Facilities



# Lyon County CAMPO Boundary Inventory of Pedestrian Facilities



0 0.5 1 2 Miles

- Lyon County Sidewalks
- Lyon County Curb Ramps
- CAMPO Boundary

THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY, IT DOES NOT REPRESENT A SURVEY. NO LIABILITY IS ASSUMED AS TO THE SUFFICIENCY OR ACCURACY OF THE DATA DELINEATED HEREON.

# **Appendix C**

**Maintenance**

**Versus**

**Alterations**

U.S. Department of Transportation

## Federal Highway Administration

1200 New Jersey Avenue, SE

Washington, DC 20590

202-366-4000

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### FHWA Office of Civil Rights



U.S. Department of Justice  
Civil Rights Division  
*Disability Rights Section*



U.S. Department of Transportation  
**Federal Highway Administration**

## Department of Justice/Department of Transportation Joint Technical Assistance<sup>1</sup> on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing

Title II of the Americans with Disabilities Act (ADA) requires that state and local governments ensure that persons with disabilities have access to the pedestrian routes in the public right of way. An important part of this requirement is the obligation whenever streets, roadways, or highways are *altered* to provide curb ramps where street level pedestrian walkways cross curbs.<sup>2</sup> This requirement is intended to ensure the accessibility and usability of the pedestrian walkway for persons with disabilities.

An alteration is a change that affects or could affect the usability of all or part of a building or facility.<sup>3</sup> Alterations of streets, roads, or highways include activities such as reconstruction, rehabilitation, *resurfacing*, widening, and projects of similar scale and effect.<sup>4</sup> Maintenance activities on streets, roads, or highways, such as filling potholes, are not alterations.

Without curb ramps, sidewalk travel in urban areas can be dangerous, difficult, or even impossible for people who use wheelchairs, scooters, and other mobility devices. Curb ramps allow people with mobility disabilities to gain access to the sidewalks and to pass through center islands in streets. Otherwise, these individuals are forced to travel in streets and roadways and are put in danger or are prevented from reaching their destination; some people with disabilities may simply choose not to take this risk and will not venture out of their homes or communities.

Because resurfacing of streets constitutes an alteration under the ADA, it triggers the obligation to provide curb ramps where pedestrian walkways intersect the resurfaced streets. See *Kinney v. Yerusalim*, 9 F 3d 1067 (3rd Cir. 1993). This obligation has been discussed in a variety of technical assistance materials published by the Department of Justice beginning in 1994.<sup>5</sup> Over the past few years, state and local governments have sought further guidance on the scope of the alterations requirement with respect to the provision of curb ramps when streets, roads or highways are being resurfaced. These questions have arisen largely due to the development of a variety of road surface treatments other than traditional road resurfacing, which generally involved the addition of a new layer of asphalt. Public entities have asked the Department of Transportation

and the Department of Justice to clarify whether particular road surface treatments fall within the ADA definition of alterations, or whether they should be considered maintenance that would not trigger the obligation to provide curb ramps. This Joint Technical Assistance addresses some of those questions.

### **Where must curb ramps be provided?**

Generally, curb ramps are needed wherever a sidewalk or other pedestrian walkway crosses a curb. Curb ramps must be located to ensure a person with a mobility disability can travel from a sidewalk on one side of the street, over or through any curbs or traffic islands, to the sidewalk on the other side of the street. However, the ADA does not require installation of ramps or curb ramps in the absence of a pedestrian walkway with a prepared surface for pedestrian use. Nor are curb ramps required in the absence of a curb, elevation, or other barrier between the street and the walkway.

### **When is resurfacing considered to be an alteration?**

Resurfacing is an alteration that triggers the requirement to add curb ramps if it involves work on a street or roadway spanning from one intersection to another, and includes overlays of additional material to the road surface, with or without milling. Examples include, but are not limited to the following treatments or their equivalents: addition of a new layer of asphalt, reconstruction, concrete pavement rehabilitation and reconstruction, open-graded surface course, micro-surfacing and thin lift overlays, cape seals, and in-place asphalt recycling.

### **What kinds of treatments constitute maintenance rather than an alteration?**

Treatments that serve solely to seal and protect the road surface, improve friction, and control splash and spray are considered to be maintenance because they do not significantly affect the public's access to or usability of the road. Some examples of the types of treatments that would normally be considered maintenance are: painting or striping lanes, crack filling and sealing, surface sealing, chip seals, slurry seals, fog seals, scrub sealing, joint crack seals, joint repairs, dowel bar retrofit, spot high-friction treatments, diamond grinding, and pavement patching. In some cases, the combination of several maintenance treatments occurring at or near the same time may qualify as an alteration and would trigger the obligation to provide curb ramps.

### **What if a locality is not resurfacing an entire block, but is resurfacing a crosswalk by itself?**

Crosswalks constitute distinct elements of the right-of-way intended to facilitate pedestrian traffic. Regardless of whether there is curb-to-curb resurfacing of the street or roadway in general, resurfacing of a crosswalk also requires the provision of curb ramps at that crosswalk.

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<sup>1</sup> The Department of Justice is the federal agency with responsibility for issuing regulations implementing the requirements of title II of the ADA and for coordinating federal agency compliance activities with respect to those requirements. Title II applies to the programs and activities of state and local governmental entities. The Department of Justice and the Department of Transportation share responsibility for enforcing the requirements of title II of the ADA with respect to the public right of way, including streets, roads, and highways.

<sup>2</sup> See 28 CFR 35.151(i)(1) (Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway) and 35.151(i)(2) (Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways).

<sup>3</sup> 28 CFR 35.151(b)(1).

<sup>4</sup> 2010 ADA Accessibility Standards, section 106.5.

<sup>5</sup> See 1994 Title II Technical Assistance Manual Supplement, Title II TA Guidance: The ADA and City Governments: Common Problems; and ADA Best Practices Tool Kit for State and Local Governments: Chapter 6, Curb Ramps and Pedestrian Crossings under Title II of the ADA, available at [ada.gov](https://www.ada.gov).



**U.S. Department of Justice**  
Civil Rights Division  
*Disability Rights Section*



**U.S. Department of Transportation**  
**Federal Highway Administration**

## QUESTIONS & ANSWERS

### **Supplement to the 2013 DOJ/DOT Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements To Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing**

The Department of Justice (DOJ)/Department of Transportation (DOT) [\*Joint Technical Assistance on the Title II of the Americans with Disabilities Act \[ADA\] Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing\*](#) (Joint Technical Assistance) was published on July 8, 2013. This document responds to frequently asked questions that the Federal Highway Administration (FHWA) has received since the technical assistance document was published. In order to fully address some questions, the applicable requirements of Section 504 of the Rehabilitation Act of 1973 that apply to public entities receiving Federal funding from DOT, either directly or indirectly, are also discussed. This document is not a standalone document and should be read in conjunction with the [2013 Joint Technical Assistance](#).

**Q1: *When a pavement treatment is considered an alteration under the ADA and there is a curb ramp at the juncture of the altered road and an existing sidewalk (or other prepared surface for pedestrian use), but the curb ramp does not meet the current ADA Standards, does the curb ramp have to be updated to meet the current ADA Standards at the time of the pavement treatment?***

**A1:** It depends on whether the existing curb ramp meets the appropriate accessibility standard that was in place at the time it was newly constructed or last altered.

When the Department of Justice adopted its revised title II ADA Regulations including the updated ADA Standards for Accessible Design (2010 Standards,<sup>1</sup> as defined in 28 CFR 35.151), it specified that “(e)lements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards (UFAS) ... are not required to be modified in order to comply with the requirements set forth in the 2010 Standards.” 28 C.F.R. 35.150(b)(2)(i). As a result of this “safe harbor” provision, if a curb ramp was built or altered prior to March 15, 2012, and complies with the requirements for curb ramps in either the 1991 ADA Standards for Accessible Design (1991 Standards, known prior to 2010 as the 1991 ADA Accessibility Guidelines, or the 1991 ADAAG) or UFAS, it does **not** have to be modified to comply with the requirements in the 2010 Standards. However, if that existing curb ramp did not comply with either the 1991 Standards or UFAS as of March 15, 2012, then the safe harbor does not apply and the curb ramp must be brought into compliance with the requirements of the 2010 Standards concurrent with the road alteration. See 28 CFR 35.151(c) and (i).

Note that the requirement in the 1991 Standards to include detectable warnings on curb ramps was suspended for a period between May 12, 1994, and July 26, 1998, and again between December 23, 1998, and July 26, 2001. If a curb ramp was newly constructed or was last altered when the detectable warnings requirement was suspended, and it otherwise meets the 1991 Standards, Title II of the ADA does not require that the curb ramp be modified to add detectable warnings in conjunction with a road resurfacing alteration project. See Question #14 however, for a discussion of the DOT Section 504 requirements, including detectable warnings.

**Q2: *The Joint Technical Assistance states that “[r]esurfacing is an alteration that triggers the requirement to add curb ramps if it involves work on a street or roadway spanning from one intersection to another, and includes overlays of additional material to the road surface, with or without milling.” What constitutes “overlays of additional material to the road surface” with respect to milling, specifically, when a roadway surface is milled and then overlaid at the same height (i.e., no material is added that exceeds the height of what was present before the milling)?***

A2: A project that involves milling an existing road, and then overlaying the road with material, regardless of whether it exceeds the height of the road before milling, falls within the definition of “alteration” because it is a change to the road surface that affects or could affect the usability of the pedestrian route (crosswalk). See *Kinney v. Yerusalim*, 9 F.3d 1067 (3rd Cir. 1993). Alterations require the installation of curb ramps if none previously existed, or upgrading of non-compliant curb ramps to meet the applicable standards, where there is an existing pedestrian walkway. See also Question 8.

**Q3: *If a roadway resurfacing alteration project does not span the full width of the road, do I have to put in curb ramps?***

A3: It depends on whether the resurfacing work affects a pedestrian crosswalk. If the resurfacing affects the crosswalk, even if it is not the full roadway width, then curb ramps must be provided at both ends of the crosswalk. See 28 CFR 35.151(i).

Public entities should not structure the scope of work to avoid ADA obligations to provide curb ramps when resurfacing a roadway. For example, resurfacing only between crosswalks may be regarded as an attempt to circumvent a public entity’s obligation under the ADA, and potentially could result in legal challenges.

If curb ramp improvements are needed in the vicinity of an alteration project, it is often cost effective to address such needs as part of the alteration project, thereby advancing the public entity’s progress in meeting its obligation to provide program access to its facilities. See Question 16 for further discussion.

**Q4: *When a road alteration project triggers the requirement to install curb ramps, what steps should public (State or local) entities take if they do not own the sidewalk right-of-way needed to install the required curb ramps?***

A4: The public entity performing the alteration is ultimately responsible for following and implementing the ADA requirements specified in the regulations implementing title II. At the time an alteration project is scoped, the public entity should identify what ADA requirements apply and whether the public entity owns sufficient right-of-way to make the necessary ADA modifications. If the public entity does not control sufficient

right-of-way, it should seek to acquire the necessary right-of-way. If a complaint is filed, the public entity will likely need to show that it made reasonable efforts to obtain access to the necessary right-of-way.

**Q5: *The Joint Technical Assistance is silent on when it becomes effective. Is there an effective date for when States and local public entities must comply with the requirements discussed in the technical assistance?***

A5: The Joint Technical Assistance, as well as this Supplement to it, does not create any new obligations. The obligation to provide curb ramps when roads are altered has been an ongoing obligation under the regulations implementing title II of the ADA (28 CFR 35.151) since the regulation was initially adopted in 1991. This technical assistance was provided to respond to questions that arose largely due to the development of a variety of road surface treatments, other than traditional road resurfacing, which generally involved the addition of a new layer of asphalt. Although the Joint Technical Assistance was issued on July 8, 2013, public entities have had an ongoing obligation to comply with the alterations requirements of title II and should plan to bring curb ramps that are or were part of an alteration into compliance as soon as possible.

**Q6: *Is the curb ramp installation work required to be a part of the Plans, Specifications and Estimate package for an alteration project or can the curb ramp work be accomplished under a separate contract?***

A6: The curb ramp installation work can be contracted separately, but the work must be coordinated such that the curb ramp work is completed prior to, or at the same time as, the completion of the rest of the alteration work. See 28 CFR 35.151(i).

**Q7: *Is a curb ramp required for a sidewalk that is not made of concrete or asphalt?***

A7: The Joint Technical Assistance states that “the ADA does not require installation of ramps or curb ramps in the absence of a pedestrian walkway with a prepared surface for pedestrian use.” A “prepared surface for pedestrian use” can be constructed out of numerous materials, including concrete, asphalt, compacted soil, decomposed granite, and other materials. Regardless of the materials used to construct the pedestrian walkway, if the intent of the design was to provide access to pedestrians, then curb ramps must be incorporated where an altered roadway intersects the pedestrian walkway. See 28 CFR 35.151(i).

**Q8: *If an existing curb ramp is replaced as part of a resurfacing alteration, is there an obligation to address existing obstacles on the adjacent sidewalk at the same time?***

A8: No. The Joint Technical Assistance addresses those requirements that are triggered when a public entity alters a roadway where the roadway intersects a street level pedestrian walkway (28 CFR 35.151(i)). Public entities are required to address other barriers on existing sidewalks, such as steep cross slopes or obstructions, as part of their on-going program access and transition plan obligations under title II of the ADA and Section 504 and in response to requests for reasonable modifications under the ADA or reasonable accommodations under Section 504. See 28 CFR 35.105, 35.130(b)(7), and 35.150(d); see also 49 CFR 27.7(e), 27.11(c)(2).

**Q9: *Several pavement preservation treatment types are not listed in the technical assistance. If the treatment type is not specifically on the list of maintenance treatments, is it an alteration?***

A9: New treatments are always being developed and the best practice is for the City or other local public entity conducting the work, the State transportation agency, and FHWA to work together to come to an agreement on a reasonable determination of whether the unlisted treatment type is an alteration or maintenance and document their decisions. If the new treatment can be deemed to be the equivalent of any of the items listed as alterations, it is a reasonable interpretation that they are in fact alterations and should be treated as such.

**Q10: *When does a combination of two or more ‘maintenance’ treatments rise to the level of being an alteration?***

A10: The list of the pavement types that are considered maintenance, as stated in the 2013 Joint Technical Assistance document, are Chip Seals, Crack Filling and Sealing, Diamond Grinding, Dowel Bar Retrofit, Fog Seals, Joint Crack Seals, Joint Repairs, Pavement Patching, Scrub Sealing, Slurry Seals, Spot High-Friction Treatments, and Surface Sealing. The combination of two or more maintenance treatments may rise to the level of being an alteration.

The best practice is for the City or other local public entity conducting the work, the State transportation agency, and FHWA to work together to come to an agreement on a reasonable determination, document their policies, and apply that determination consistently in their locality.

**Q11: *When will utility trench work require compliance with ADA curb ramp requirements?***

A11: The answer to this question depends on the scope and location of the utility trench work being done. If the utility trench work is limited to a portion of the pavement, even including a portion of the crosswalk, repaving necessary to cover the trench would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features, and as such, they must ensure that when the trench is repaved or other road maintenance is performed, the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a). If the utility work impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of “alteration,” and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).

If a public entity is unsure whether the scope of specific trench work and repair/repaving constitutes an alteration, the best practice is for the public entity to work together with the State transportation agency and the FHWA Division to come to an agreement on how to consistently handle these situations and document their decisions.

**Q12: *Is full-depth pavement patching considered maintenance?***

A12: The answer to this question depends on the scope and location of the pavement patch. If the pavement patch work is limited to a portion of the pavement, even including a portion of the crosswalk, patching the pavement would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features, and as such, they should ensure that when the pavement is patched or other road maintenance is performed, the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a). If the pavement

patching impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of “alteration,” and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).

If a public entity is unsure whether the scope of specific full-depth pavement patching constitutes an alteration, the best practice is for the public entity to work together with the State transportation agency and the FHWA Division to come to an agreement on how to consistently handle these situations and document their decisions.

**Q13: Do any other requirements apply to road alteration projects undertaken by public entities that receive Federal financial assistance from DOT either directly or indirectly, even if such financial assistance is not used for the specific road alteration project at issue?**

A13: Yes, if a public entity receives any Federal financial assistance from DOT whether directly or through another DOT recipient, then the entity must also apply DOT’s Section 504 requirements even if the road alteration project at issue does not use Federal funds. See 49 CFR 27.3 (applicability of DOT’s Section 504 requirements) and 27.5 (definition of “program or activity”).

DOT’s Section 504 disability nondiscrimination regulations are found at 49 CFR Part 27. These regulations implement Section 504 of the Rehabilitation Act of 1973 (Section 504). In 2006, DOT updated its accessibility standards by adopting the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG<sup>2</sup>) into its Section 504 regulations at 49 CFR 27.3 (referencing 49 CFR Part 37, Appendix A). These requirements replaced the previously applicable ADA Standards for Accessible Design (1991) (formerly known as 1991 ADAAG). At that time, DOT’s regulation adopted a modification to Section 406 of the 2004 ADAAG which required the placement of detectable warnings on curb ramps.

The revised DOT Section 504 regulation also provided a “safe harbor” provision (similar to the ADA provision discussed in Question 1) that applies to curb ramps that were newly constructed or altered by entities receiving Federal financial assistance from DOT and that were in compliance with the 1991 ADAAG requirements prior to November 29, 2006. If the “safe harbor” applies, these curb ramps are still considered compliant and do not have to be modified to add detectable warnings unless they are altered after November 29, 2006. The DOT “safe harbor” provision is found at 49 CFR 37.9(c). DOT’s Section 504 regulations (49 CFR 27.19(a)) require compliance with 49 CFR Part 37.

The Section 504 safe harbor does not apply, however, if, at the time of the road alteration project, the existing curb ramp does not comply with the 1991 ADAAG and at that time it must be brought into compliance with the current DOT Section 504 requirements (2004 ADAAG) including detectable warnings.

**Q14: Does the Section 504 safe harbor apply to curb ramps built in compliance with 1991 ADAAG during the time period when the requirement for detectable warnings was suspended and the roadway is now being resurfaced where it intersects the pedestrian walkway?**

A14: If the curb ramps that were built or altered prior to November 29, 2006 were fully compliant with 1991 ADAAG at the time that the detectable warnings requirements were suspended, then the DOT Section 504

safe harbor applies to them and the recipient does not have to add detectable warnings as a result of a resurfacing project.

**Q15: *In addition to the obligations triggered by road resurfacing alterations, are there other title II or Section 504 requirements that trigger the obligation to provide curb ramps?***

A15: In addition to the obligation to provide curb ramps when roads are resurfaced, both DOJ's title II ADA regulation and DOT's Section 504 regulation (applicable to recipients of DOT Federal financial assistance), require the provision of curb ramps if the sidewalk is installed or altered at the intersection, during new construction, as a means of providing program accessibility, and as a reasonable modification under title II or a reasonable accommodation under Section 504.

**New Construction and Alterations**

DOJ's title II ADA regulation provides that newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway. In addition, the regulation provides that newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways. See 28 CFR 35.151(i). These curb ramps must comply with the 2010 Standards.<sup>[3](#)</sup>

DOT's Section 504 Federally assisted regulation also requires the provision of curb ramps in new construction and alterations. See 49 CFR 27.19(a) (requiring recipients of DOT financial assistance to comply with DOJ's ADA regulation at 28 CFR Part 35, including the curb ramp requirements at 28 CFR 35.151(i)); 49 CFR 27.75 (a)(2) (requiring all pedestrian crosswalks constructed with Federal financial assistance to have curb cuts or ramps).

**Program Accessibility**

Both DOJ's title II ADA regulation and DOT's Section 504 regulation require that public entities/recipients operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This obligation, which is known as providing "program accessibility," includes a requirement to evaluate existing facilities in the public right-of-way for barriers to accessibility, including identifying non-existent or non-compliant curb ramps where roads intersect pedestrian access routes (sidewalks or other pedestrian walkways). After completing this self-evaluation, a public entity/recipient must set forth a plan for eliminating such barriers so as to provide overall access for persons with disabilities. See 28 CFR 35.150, and 49 CFR 27.11(c).

Since March 15, 2012, the DOJ title II regulation requires the use of the 2010 Standards for structural changes needed to provide program access. However, in accordance with the ADA safe harbor discussed in Question 1, if curb ramps constructed prior to March 15, 2012 already comply with the curb ramp requirements in the 1991 Standards, they need not be modified in accordance with the 2010 Standards in order to provide program access, unless they are altered after March 15, 2012.

Similarly, DOT's Section 504 "safe harbor" allows curb ramps that were newly constructed or altered prior to November 29, 2006, and that meet the 1991 ADAAG to be considered compliant.<sup>[4](#)</sup> Elements not covered

under the safe harbor provisions may need to be modified to provide program access and should be incorporated into a program access plan for making such modifications. 49 CFR 27.11(c)(2).

Under Section 504, self-evaluations and transition plans should have been completed by December 29, 1979. Under the ADA, transition plans should have been completed by July 26, 1992, and corrective measures should have been completed by January 26, 1995. While these deadlines have long since passed, entities that did not develop a transition plan prior to those dates should begin immediately to complete their self-evaluation and develop a comprehensive transition plan.

### **Reasonable Modification /Accommodation**

In addition to alteration and program accessibility obligations, public entities may have an obligation under title II and Section 504 to undertake curb ramp construction or alteration as a “reasonable modification/accommodation” in response to a request by, or on behalf of, someone with a disability. Such a request may be made to address a non-compliant curb ramp outside of the schedule provided in the public entity’s transition plan. A public entity must appropriately consider such requests as they are made. 28 CFR 35.130(b)(7); 49 CFR 27.7(e).

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<sup>1</sup> The 2010 Standards can be found on DOJ’s website at

[http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm).

<sup>2</sup> In 2004, the United States Architectural and Transportation Barriers Board (U.S. Access Board)

published the Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG), which serve as the basis of the current enforceable ADA standards adopted by both DOT and DOJ.

<sup>3</sup> The 2010 Standards include a provision on equivalent facilitation that allows covered entities to use other designs for curb ramps if such designs provide equal or greater access. See section 103 of the [2010 Standards](#).

<sup>4</sup> The DOT “safe harbor” provision is found at 49 CFR 37.9(c). DOT’s Section 504 regulations (49 CFR 27.19(a)) require compliance with 49 CFR Part 37.

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.

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U.S. Department of Transportation

## Federal Highway Administration

1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

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### FHWA Office of Civil Rights

## Glossary of Terms for DOJ/FHWA Joint Technical Assistance on the ADA Title II Requirements to Provide Curb Ramps When Streets Roads or Highways are Altered Through Resurfacing

This glossary is intended to help readers understand certain road treatments referenced on page 2 of the DOJ/FHWA Joint Technical Assistance on the ADA Title II Requirements to Provide Curb Ramps When Streets Roads or Highways are Altered Through Resurfacing. The definitions explain the meaning of these terms from an engineering perspective and are provided in the order in which they appear in the Technical Assistance document.

#### Treatments that are considered alterations of the road surface

**Reconstruction** – Reconstruction refers to removing all or a significant portion of the pavement material and replacing it with new or recycled materials. This may include full-depth reclamation, where the pavement surface is demolished in place and new pavement surface is applied. In addition, reconstruction may also include grinding up a portion of the pavement surface, recycling it and placing it back, and then adding a wearing surface, such as in cold in-place asphalt recycling. Reconstruction often includes widening or geometrical changes to the roadway profile.

**Rehabilitation** – Rehabilitation refers to significant repairs made to a road or highway surface, including activities such as full slab replacement, filling voids under slabs (slabjacking), widening, and adding additional structural capacity.

**Open-graded surface course** – Open-graded surface course, also known as “open-graded friction course,” involves a pavement surface course that consists of a high-void, asphalt concrete mix that permits rapid drainage of rainwater through the course and off the shoulder of the road. The mixture consists of either Polymer-modified or rubber-modified asphalt binder, a large percentage of one-sized coarse aggregate, and a small amount of fibers. This treatment prevents tires from hydroplaning and provides a skid-resistant pavement surface with significant noise reduction.

**Microsurfacing** – Microsurfacing involves spreading a properly proportioned mixture of polymer modified asphalt emulsion, mineral aggregate, mineral filler, water, and other additives, on a paved surface. Microsurfacing differs from slurry seal in that it can be used on high volume roadways to correct wheel path rutting and provide a skid resistant pavement surface.

**Thin lift overlays** – Thin lift overlays are thin applications of mixtures of hot mix asphalt. Thin lift overlays may also require some milling along curbs, manholes, existing curb cuts, or other road structures to assure proper drainage and cross slopes.

**Cape seal** – A cape seal is a thin surface treatment constructed by applying a slurry seal or microsurfacing to a newly constructed chip seal. It is designed to be an integrated system where the primary purpose of the slurry is to fill voids in the chip seal.

**In-place asphalt recycling** – In-place asphalt recycling is a process of heating and removing around 1-2 inches of existing asphalt and remixing the asphalt with the addition of a binder additive and possible aggregate to restore the wearing surface for placement and compaction. All of this is performed in a train of equipment.

### **Treatments that are considered maintenance of the road surface**

**Crack filling and sealing** – Crack filling and sealing involves placing elastomeric material directly into cracks in pavement.

**Surface sealing** – Surface sealing involves applying liquid sealant to pavement surface in order to stop water penetration and/or reduce oxidation of asphalt products. Sand is sometimes spread over liquid to absorb excess material.

**Chip seals** – Chip Seals involve placing graded stone (chips) on liquid emulsified asphalt sprayed on pavement surface. The surface is rolled to enable seating of chips.

**Slurry seal** – Slurry seals involve spraying a mixture of slow setting emulsified asphalt, well graded fine aggregate, mineral filler, and water on the pavement surface. It is used to fill cracks and seal areas of old pavements, to restore a uniform surface texture, to seal the surface to prevent moisture and air intrusion into the pavement, and to improve skid resistance.

**Fog seals** – Fog seals are a type of surface sealing.

**Scrub sealing** – Scrub sealing is type of surface sealing

**Joint crack seals** – Joint crack seals are usually associated with concrete pavement. This work consists of routing and cleaning existing cracks and joints and resealing to prevent water and non-compressibles from entering into the pavement joints and subgrade materials.

**Joint repairs** – Joint repairs are usually associated with concrete pavement. This work consists of selectively repairing portions of the pavement where the slabs are generally in good condition, but corners or joints are broken. The depth of the patch could be full depth or partial depth.

**Dowel retrofit** – Dowel retrofits are usually associated with concrete pavement. This work involves the installation of dowel bars connecting slabs in existing pavements. Pavement with dowel bar retrofits can have life extensions of as much as 20 years. Its application is almost exclusively on high-speed Interstate highways.

**Spot high-friction treatments** – Spot high-friction treatments involve using epoxy based resin liquids as a binder for an aggregate with high-friction properties. These are used in locations where drivers are frequently braking and the pavement surface has less resistance to slipping.

**Diamond grinding** – Diamond grinding involves using a gang saw to cut grooves in the pavement surface to restore smoothness and eliminate any joint faulting.

**Pavement patching** – Pavement patching involves selectively repairing portions of the pavement where the slabs are generally in good condition, but corners or joints are broken. The depth of the patch could be full depth or partial depth.