

Americans with Disabilities Act: Transition Plan

**Maricopa County Department of Transportation
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Introduction

The core purpose of Maricopa County's Department of Transportation (MCDOT) is to provide connections that improve people's lives. The *Americans with Disabilities Act (ADA) Transition Plan* is intended to further this purpose by providing equivalent access to the maximum extent feasible for people with disabilities. The Plan accomplishes this by documenting improvement needs, outlining methods to address ADA issues, and setting a schedule for achieving compliance with the ADA. The Plan is a living document that will annually address, through summary reports, the ADA issues in MDCOT public rights-of-way that limit the accessibility of individuals with disabilities. The Plan will meet all requirements for compliance with Title II of the ADA and show innovative transportation planning, public participation processes, and an enhanced transportation facilities program at a regional level. This Plan is submitted to ADOT for approval, full updates and revisions to the document will be done periodically unless otherwise advised by ADOT.

Purpose and Need

The ADA of 1990 provides comprehensive civil rights protection to individuals with disabilities. The ADA is divided into five parts, covering the following areas:

Title I: Employment

Title II: Public Services and Transportation

Title III: Public Accommodations and Services

Title IV: Telecommunications

Title V: Miscellaneous Provisions

Title II¹ applies to state and local governments, and protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by state and local governments, regardless of the government entities size or whether they receive Federal financial assistance.

As a requirement of Title II of the ADA, a transition plan is required. A transition plan at minimum will include:

- Identification of physical obstacles in the public entity's
- Detailed descriptions of the methods used to make the facilities accessible
- Scheduling of steps to meet compliance, and if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period
- Identification of the public official responsible for the implementation of the Transition Plan

In addition to what is included in the plan a public agency must:

¹ 28 Code of Federal Regulations (CFR) part 35

- Provide public notice about ADA requirements
- Establish a grievance procedure
- Develop internal design standards, specifications, and details
- Approve a schedule and set milestones for addressing ADA issues
- Establish a budget for the Transition Plan
- Monitor the progress of plan implementation
- Provide an opportunity for interested parties to participate in the development and annual update of the plan by submitting comments.

ADA Guidance

The Department of Justice has amended the ADA regulations over time to address accessibility concerns that have arisen since 1991 and to be consistent with guidelines produced by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). The most current standards are required for new construction and any alterations to an element of the accessible route. With the 2010 ADA Standards, a safe harbor provision was included for existing facilities built or altered prior to March 15, 2012. These facilities or elements are not required to be updated to reflect the incremental changes in the 2010 Standards solely because of an alteration to a primary function area that is served by that path of travel. This provision only applies to facilities that were built to the 1991 ADA Standard at the time of when they were constructed. It should be noted that when addressing curb ramp requirements specifically, the detectible warning requirement in the 1991 Standards was suspended during the period between May 12, 1994 and July 26, 1998 and from December 23, 1998 and July 26, 2001. This safe harbor provision allows balance between providing accessibility to facilities and the potential financial burden to undertake alterations subject to the current standards.

The table below address which standards, to date, a facility must be in accordance with.

New Construction and Alterations of ADA Element	
<u>Dates</u>	<u>Applicable Standards</u>
Before September 15, 2010	1991 Standards or UFAS
September 15, 2010 to March 15, 2012	1991 Standards, UFAS, or 2010 Standards
On or after March 15, 2012	2010 Standards

The regulations and requirements for ADA incorporate and span many different types of facilities. This Plan only addresses ADA compliance for MCDOT public rights-of-way and does not include the rights-of-way incorporated by Maricopa County cities and towns.

The types of facilities that are addressed when evaluating for ADA compliance in MCDOT public rights-of-way include: sidewalks, pedestrian crossings, pedestrian signals, bus stops, curb ramps, driveway

crossings, and rail crossings as part of sidewalks. Each feature has its own set of unique requirements for design in order to be ADA compliant. However, when addressing accessibility needs and requirements, it is important to note that Title II requirements do not supersede or preempt state or local laws that may offer equivalent or greater protections².

Exceptions

Curb ramps are an important part in making sidewalks, street crossings, and other pedestrian routes in the public right-of-way accessible to people with disabilities as they allow a safe transition from a roadway to a curbed sidewalk and vice versa. Curb ramps are required if sidewalk is installed or altered at an intersection, during new construction, as a means of providing program accessibility, and as a reasonable modification. The ADA does not require installation of ramps or curb ramps in the absence of a pedestrian walkway. There is not an obligation to address existing obstacles on the adjacent sidewalk at the same time, if an existing curb ramp is replaced as part of a resurfacing alteration.

When discussing maintenance, ADA facilities are not required to be brought into compliance with the current standards if they met the applicable standards at the time (safe harbor). However, if two or more maintenance treatments are used it may be considered an alteration. Resurfacing, as maintenance, may also be considered an alteration under ADA, 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. If such 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 if there are none.

If there is an insufficient amount of right-of-way to make the necessary ADA modifications during an alteration project, proper documentation of reasonable efforts to obtain access to the necessary right-of-way is required.

ADA Program Information

ADA Title II Coordinator

The ADA Title II Coordinator is the public official responsible for the coordination of efforts of the government entity to comply with the requirements of ADA, and is responsible to investigate and respond to complaints filed by the public.

The following individual is the ADA Title II Coordinator for MCDOT,

Denise Lacey
2901 W Durango St
Phoenix, AZ 85009
(602) 506-6172
DeniseLacey@mail.maricopa.gov

² ADA Title II Technical Assistance Manual, Covering State and Local Government Programs and Services

Policy and Procedures

Currently MCDOT adheres to ADA standards for all new construction and alterations to existing public rights-of-way, as outlined in MCDOT's Roadway Design Manual, and designed in accordance with the MAG Uniform Standard Specifications.

The MAG Standard Details for Public Works Construction address in the specification notes for each design that ramps will be ADA complaint.

As new information becomes available, or ADA standards change, MCDOT will update policy and practices to incorporate the latest information and standards. **Appendix A**

Grievance Procedure

The Grievance Procedure³, required by Title II of ADA, may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, or programs by MCDOT. Under the Grievance Procedure, MCDOT will act or respond to all complaints received where one believes MCDOT has not provided reasonable accommodation. The Grievance Procedure and form is provided in **Appendix B** and is available for access through the MCDOT website or upon request in an alternative format.

Public Notice

An ADA Public Notice is a requirement and responsibility for state and local governments to provide information about the rights of the public under ADA. This is not a onetime requirement but an ongoing responsibility. The ADA Public Notice is provided in **Appendix C** and is available for access through the MCDOT website or upon request in an alternative format.

Communication

MCDOT will provide Title II information, the ADA Transition Plan, ADA Title II Coordinator contact information, and the ability to provide feedback to the Plan and inventory on the MCDOT website. MCDOT will also provide annual updates to the inventory and a summary of the current status of the Plan each year.

MCDOT's Compliance History

In 1994, MCDOT developed the Americans with Disabilities Transportation Facility Compliance Transition Plan. The objective was to identify the deficiencies of MCDOT facilities and set forth measure to correct them. A physical inventory of intersections within MCDOT jurisdiction without curb ramps was collected with the intention to install curb ramps on every corner of every intersection. Within this Plan MCDOT also modified the design standards used for curb ramps to comply with the new ADA requirements (1991 ADA Standards).

MCDOT evaluated the effectiveness of the 1994 Americans with Disabilities Transportation Facility Compliance Transition Plan in 2011 and prepared an ADA Transition Plan Guideline that provided some

³ 28 CFR Part 35.107

recommendations for when a full update was needed. The main recommendation made for the full update was to address multiple types of transportation facilities, not just curb ramps. These five facilities included curb ramps, sidewalks, driveways, accessible pedestrian signals, and railroad at-grade crossings. In 2015, intersections from the original 1994 plan were looked at to determine if they were still within MCDOT jurisdiction.

In 2017, MCDOT began a comprehensive inventory of facilities in the public rights-of-way under its jurisdiction. This process discovered a significant number of curb ramps, sidewalks, driveways, and other facilities that were not previously identified in the 1994 plan.

Commitment

MCDOT has made ADA awareness and compliance an integral part of business. Each year, MCDOT updates its Transportation Improvement Program (TIP) to identify how transportation dollars will be invested over the next five fiscal years. The TIP contains system improvements that include new or improved roadways, bridges, drainage structures, intersection improvements, Intelligent Transportation Systems and more. The TIP allows MCDOT to plan for five years of future projects using the project development process (planning, scoping, design and construction). The document is updated annually and approved by the Maricopa County Board of Supervisors. Where necessary and achievable, ADA compliance issues remediation will be recommended through projects included in the TIP.

Implementation

An understanding of existing defects, combined with priorities expressed by the public, will ultimately serve as the basis to identify and prioritize locations that require accessibility improvements.

Identification

A survey must be completed in order to collect the necessary information for the ADA Transition plan. Observations during the survey must acknowledge if ADA compliance issues do or do not exist for facilities with the public rights-of-way, and if they comply with the applicable standard at the time in which they were first built or last altered.

Methods for compliance

There are multiple ways in which identified ADA issues in MCDOT public rights-of-way can be mitigated and incorporated into projects. Improvements can be incorporated into roadway maintenance, roadway reconstruction, combined with bike and pedestrian projects, or as a reasonable accommodation.

Identified accessibility issues, not mitigated in programmed MCDOT projects, will be processed, bundled, and recommended for programming as funds are available. The prioritization of these potential projects will consider the following:

- % of population based upon latest census
 - Disabled
 - Elderly

- Low Income
- Other vulnerable users
- Necessary service areas (i.e. medical facilities, pharmacies, elderly homes, grocery store, government offices)
- Community facilities (i.e. schools, libraries, recreational)

In some areas it may not be feasible to achieve ADA compliance, either due to technical constraints or financial burden. If a project to eliminate the ADA accessibility issue is found to be infeasible the ADA Coordinator will compile detailed documentation for reaching such conclusion. This documentation, required by ADA, will include the consideration of all resources available for use in the funding and operation of the service, program, or activity. If the project is not feasible other remedial actions will be taken to provide the services to individuals with disabilities, whether through practical design improvements or design accommodations, to make sure that access in public rights-of-way are still provided.

Funding

MCDOT receives funding for the TIP from local, regional, state and federal sources. The primary source of funding is the Highway User Revenue Fund (HURF). HURF is the distribution of the State of Arizona taxes for motor fuels and a variety of other fees and charges including: gasoline and use fuel taxes, motor carrier taxes, vehicle license taxes, motor vehicle registration fees, and other miscellaneous fees. The second largest source of MCDOT funding is the Maricopa Association of Governments (MAG) Arterial Life Cycle Program (ALCP). MAG ALCP funding is for specific projects and includes regional funds and federal transportation funds.

Another source of TIP funding comes from local partnerships. MCDOT works cooperatively with the County's 25 cities and towns as well as other stakeholders to meet the transportation needs of its residents. This includes entering into Intergovernmental Agreements to share costs and resources on joint roadway projects.

Since MCDOT receives federal financial assistance from DOT through ADOT, MAG, or other sources, it is required that no individual with a disability be excluded, denied benefits, or be discriminated against even if the specific road alteration project does not use Federal funds⁴.

Current Status Summary

Identification Methods

MCDOT conducted a survey of owned and/or maintained public rights-of-way to evaluate current accessibility. Curb ramps, driveways, and sidewalks were observed through aerial imagery and assumptions were made to determine if these facilities or elements were in accordance with the 2010 ADA standards. A Geographic Information System (GIS) program was used to collect this data, and then hundreds of locations were field checked to ensure accuracy. The type of survey is called a windshield

⁴ 49 CFR 27.3

survey, a systematic observation, and not specifically detailed. A sample of the GIS data collected can be found in **Appendix D**.

In addition, the Maricopa County Department of Public Health (MCDPH) provided targeted outreach to discern socioeconomic information, and detailed data on bus stop accessibility was provided from the Valley Metro Transit Stop Inventory and Accessibility Study completed in June 2017.

Data collection and identification of ADA issues began in fiscal year (FY) 17 for the Plan. Due to the scale of the data inventory, assumptions were made to determine if the element of the accessible route was built to the most current ADA standard. The assumption made for curb ramps was that if a highly visible, truncated dome was present at a curb ramp, that the curb had been reconstructed to adhere to the 2010 ADA standards. If the curb ramp lacked a truncated dome, was in significantly poor condition, or dimensions of the landing appeared to be less than four feet wide, they were identified as possibly having ADA issues. The ramps that were identified as possibly not being built to the 2010 ADA standards based on the above assumptions will be further investigated if the safe harbor provision applies.

The basis for sidewalk compliance identification was whether the sidewalk width met the current 2010 standard, and if there were obstructions along the accessible route reducing the sidewalk's passable width.

Communication

The dissemination of information and requests for comments in regards to possible accessibility issues were gathered for the Plan in part through the Active Transportation Plan (ATP) public outreach. The public outreach conducted during the ATP process included public and stakeholder workshops, open house events, online outreach with an interactive map, and participation in regional community events.

This Plan, its supporting documents, and the ability to provide feedback during the drafting process will be available for all persons through MCDOT's website, as required by ADA⁵, and all communication by MCDOT, where necessary, will be provided in an effective way for individuals with disabilities to ensure an equal opportunity.

Inventory Summary

The 2017 inventory identified facilities on MCDOT roadways and determined, of those, which may need further evaluation to determine potential accessibility issues:

- 1,286 miles of sidewalk
 - 1,029 miles of inadequate sidewalk width
 - 50 locations with identified obstructions in pedestrian way
- 12,163 total existing curb ramps
 - 10,391 curb ramps without detectable warnings including:

⁵ 28 CFR 35.105, 35.150(d)

- 78 signalized intersections
- 70 traffic island curb ramps
- 3,453 potential locations for new curb ramps
- 6,556 driveways crossing sidewalks with vertical curbs
 - 3,353 potential cross slope issues
- 78 bus stops
 - 73 possible accessibility issues

A full inventory is provided in **Appendix E**.

Schedule

The required ADA barrier remediation cannot be completed in one year. Repairs will be made systematically over a multiyear period. When possible, upgrades to curb ramps, driveways, traffic signals, and narrow sidewalks will be made in conjunction with programmed roadway maintenance and reconstruction projects. Accessibility issues will also be addressed through projects identified in the MCDOT Transportation System Plan (TSP) and the MCDOT Active Transportation Plan (ATP). As funding becomes available, remediation specific projects will be identified for programming and construction in the MCDOT Transportation Improvement Program (TIP).

Appendix A: MCDOT or County ADA Policy

Policy to be inserted

Appendix B: Grievance Procedure and Form

Maricopa County Department of Transportation 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 ("ADA"). 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 **MCDOT**. The **County'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 for persons with disabilities upon request.

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

Denise Lacey
ADA Title II Coordinator & Planning Branch Manager
2901 W Durango St. Phoenix, AZ 85009

Within 15 calendar days after receipt of the complaint, **Denise Lacey** or **[his/her]** designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, **Denise Lacey** or **[his/her]** designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of **MCDOT** and offer options for substantive resolution of the complaint.

If the response by **Denise Lacey** or **[his/her]** designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15

calendar days after receipt of the response to the [**City Manager/County Commissioner/ other appropriate high-level official**] or [*his/her*] designee.

Within 15 calendar days after receipt of the appeal, the [**City Manager/County Commissioner/ other appropriate high-level official**] or [*his/her*] designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the [**City Manager/County Commissioner/ other appropriate high-level official**] or [*his/her*] 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 *Denise Lacey* or [*his/her*] designee, appeals to the **County Engineer** or [*his/her*] designee, and responses from these two offices will be retained by the **MCDOT** for at least three years.

ADA Complaint / Grievance Form

Complainant: _____
Person Preparing Complaint (If different from Complainant): _____
Relationship to Complainant (If different from Complainant): _____
Street Address & Apartment Number: _____
City: _____ State: _____ Zip: _____

Phone: (_____) _____ E-Mail: _____

Please provide a complete description of the specific complaint or grievance:

Please specify any location(s) related to the complaint or grievance (if applicable):

Please state what you think should be done to resolve the complaint or grievance:

Signature: _____ Date: _____

Return to:
Denise Lacey
ADA Title II Coordinator & Planning Branch Manager
Maricopa County Department of Transportation,
2901 West Durango Street, Phoenix, AZ, 85009.

Upon request, reasonable accommodation will be provided in completing this form, or copies of the form will be provided in alternative formats. Contact the ADA Coordinator at the address listed above, via telephone (602) 506-6172 or email, deniselacey@mail.maricopa.gov.

Appendix C: ADA Public Notice



NOTICE UNDER THE AMERICANS
WITH DISABILITIES ACT

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the **Maricopa County Department of Transportation (MCDOT)** will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: MCDOT 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 ADA.

Effective Communication: MCDOT will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in MCDOT 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: MCDOT will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in MCDOT offices, even where pets 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 program, service, or activity of MCDOT, should contact the office of **Denise Lacey at 602-506-6172 or by email at DeniseLacey@mail.maricopa.gov** as soon as possible but no later than 48 hours before the scheduled event.

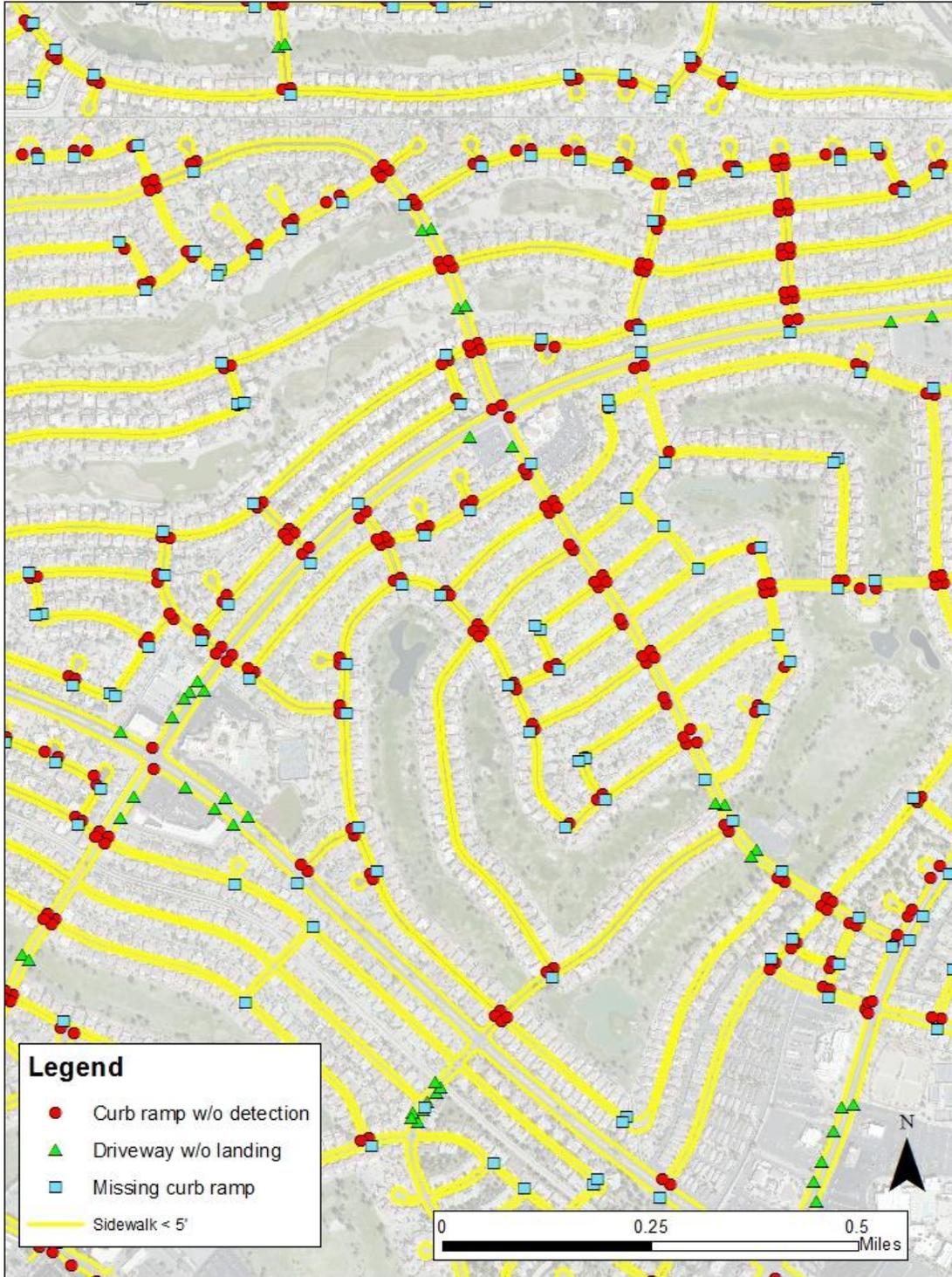
The ADA does not require the MCDOT to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of **MCDOT** is not accessible to persons with disabilities should be directed to ***Denise Lacey at 602-506-6172 or by email at DeniseLacey@mail.maricopa.gov***

MCDOT 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.

Appendix D: Sample GIS Map

Sample GIS map



Appendix E: Inventory