

## 3.0 ADA Transition Plan

Title II of the ADA requires that public entities having responsibility for or authority over facilities, streets, roads, sidewalks, and/or other areas meant for public use develop a Transition Plan to ensure their facilities meet the standards for program accessibility. Program accessibility means that a program, activity, and/or service is accessible when viewed in its entirety. Simply put, a Transition Plan transitions inaccessible facilities into environments that are accessible to and functional for individuals with disabilities.

The process of developing an ADA Transition Plan includes the identification of access barriers within the built environment. The Transition Plan for the removal of structural barriers to program access must contain the following information:

- Identification of the barriers to program access;
- Identification of the specific barrier removal action(s);
- Identification of a schedule for barrier removal; and
- Identification of responsibility for ensuring barrier removal.

This Transition Plan has two parts: facilities, including buildings and parking lots; and the public right-of-way, including curb ramps, sidewalks, and pedestrian signals that fall within ACHD's area of responsibility.

### 3.1 Schedule for Facility Improvements

Title II regulations state that if a transition plan will take more than one year to fully implement, it must contain interim steps to provide program accessibility. ACHD reserves the right to modify barrier removal priorities to accommodate community requests, petitions for reasonable modifications from persons with disabilities, changes in ACHD programs, and funding opportunities and constraints. The barrier removal strategy incorporates flexibility in the process and allows ACHD to respond to new opportunities as they arise.

ACHD will accomplish barrier removal in its facilities and public right-of-way based on two strategies: policy and procedure modifications to remove programmatic barriers, and maintenance and construction projects to remove structural barriers. ACHD's ADA Title II Coordinator will be responsible for ensuring barrier removal. For the most current status of the remediation of barriers, contact the ADA Title II Coordinator.

### **3.2 Accessibility Standards**

The 2010 ADA Standards and 2017 ICC A117.1 Standards for Accessible and Usable Buildings and Facilities were used to identify barriers at ACHD facilities. The standards for the public right-of-way are supplemented with best practice guidance from the 2011 PROWAG. PROWAG guidelines were developed by the U.S. Access Board and are currently under review by the U.S. Department of Justice. Therefore, the Federal Highway Administration only recommends the PROWAG technical guidelines as best practices for accessibility in the public right-of-way. While the 1991 and the 2010 ADA Standards for Accessible Design are intended primarily for building and site construction, PROWAG offers design solutions that are more suited for right-of-way construction. ACHD will seek to implement best practices such as PROWAG where deemed feasible and practical by qualified engineering staff. The barrier evaluations assessed current conditions as viewed by current code and provide a baseline for future barrier removal.

### **3.3 Building Facilities**

During the site evaluations of the buildings, all portions of exterior and interior features of the Administration Building and Commuteride office used by the public were evaluated. The assessment identified physical barriers in each facility that limit accessibility and compared each facility to the 2010 ADA and the 2017 ICC. The site evaluations were accomplished using a consultant team equipped with measuring devices, facility data, and evaluation checklists. Diagrams and maps of each site were annotated during the evaluation process.

Barriers identified at ACHD facilities will be addressed through the redevelopment of the Administration Building, resulting in an accessible facility that meets ADA standards. As part of this redevelopment, ACHD will incorporate the Commuteride administration division into the main administration building, after which the current Commuteride office will no longer be open to the public. Interim measures will be explored and implemented to provide programmatic access to the public pending the implementation of these redevelopment projects. Residents concerned about access to ACHD programs, events, or facilities during the interim period should contact ACHD's ADA Coordinator for modifications to ensure accessibility.

ACHD will revise and update the inventory of facility barriers as remediation is completed, and, as applicable, revise the Transition Plan schedule for the removal of remaining barriers on a regular basis. ACHD reserves the right to modify barrier removal priorities to allow flexibility in accommodating community requests, petitions for reasonable modifications from persons with disabilities, changes in ACHD programs, and funding opportunities and constraints.

### **3.4 Public Right-of-Way**

The ADA addresses accessible public right-of-way where sidewalks are the responsibility of the public agency. The ADA does not mandate the installation of sidewalks but does require a schedule for providing curb ramps or other sloped areas where pedestrian walkways cross curbs at streets, roads, or intersections.

In 2002, the United States Court of Appeals for the Ninth Circuit, whose jurisdiction includes Idaho, held for the first time that sidewalks constitute a service, program, or activity of a city, and sidewalks are therefore subject to the ADA's program accessibility regulations.<sup>49</sup> Before this decision, the law was unclear about whether municipalities' transition plans should address barrier removal from sidewalks. When originally written, the ADA specifically addressed curb ramps; subsequently the courts have added sidewalks.

Under title II of the ADA, a public entity is not necessarily required to construct curb ramps at every point where a sidewalk intersects a curb. Traffic safety considerations may make construction of ramps at some locations undesirable. Alternative routes to buildings that make use of existing curb ramps may be acceptable under the concept of program accessibility where individuals with disabilities need only travel a marginally longer route. In addition, the undue financial or administrative burden limitation recognized by title II of the ADA may limit the number of curb ramps that the public entity is required to provide.

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<sup>49</sup> Barden v. City of Sacramento, 292 F.3d 1073 (9th Cir. 2002)

ACHD's approach to scheduling barrier removal in the public right-of-way will incorporate two steps. First, barrier removal ranks will be assigned to each barrier. Second, as potential projects are identified, they will be evaluated using the established criteria to generate a list of proposed projects for future years. The list will be further refined considering other factors that impact project delivery such as environmental requirements, right-of-way requirements, constructability, and a logical sequence to the projects to maximize the provided funding for ADA projects. This list will be used to incorporate the projects into ACHD's Integrated Five-Year Work Plan (IFYWP).

A determination of the conditions of curb ramps and sidewalks was based in part on an analysis of existing GIS data. A complete inventory and reassessment of these elements was not undertaken during this planning effort, but curb ramps and sidewalks will be consistently assessed for compliance as adjacent work is undertaken in the right-of-way. If curb ramps or sidewalks believed to be accessible are found to be inaccessible through ACHD assessment or public request, they will be added to the transition plan schedule for remediation. The GIS Data Analysis Methodology is provided in Appendix E.

### **Curb Ramps**

Table 2, Map 1, and Map 2 summarize the assigned barrier removal ranks for ACHD's curb ramps. The current inventory includes 1,273 high ranked curb ramps, 696 medium ranked curb ramps, and 7,608 low ranked curb ramps. ACHD intends to remove existing barriers primarily in conjunction with ongoing street maintenance and capital improvement projects.

- Curb ramps ranked high will be addressed within the next one to 10 years.
- Curb ramps ranked medium will be addressed within the next one to 20 years.
- Curb ramps ranked low will be addressed within the next one to 30 years.
- Curb ramps with no deficiencies will be addressed on an as needed basis.

It is assumed that as curb ramps are evaluated in greater detail as part of future projects and complaints. Through the implementation of this plan, ACHD is encouraged to evaluate its inventory of diagonal curb ramps. ACHD recognizes that a percentage of ramps will fall within the "safe harbor" provisions, as described in Section 3.5. These "safe harbor" ramps will help to reduce the deficient ramp inventory. ACHD will then revise the curb ramp transition plan schedule for removal of the remaining barriers, update the curb ramp inventory, and revise the transition plan schedule for the removal of remaining barriers on a regular basis.

### Sidewalks

Table 3, Map 4, and Map 5 summarize the assigned barrier removal ranks for ACHD's sidewalks. The current inventory includes 58.6 miles of high ranked projects, 225.3 miles of medium ranked projects, and 766.6 miles of low ranked projects.

- Sidewalks ranked high will be addressed within the next one to 10 years.
- Sidewalks ranked medium will be addressed within the next one to 20 years.
- Sidewalks ranked low will be addressed within the next one to 30 years.
- Sidewalks with no deficiencies will be addressed on an as needed basis.

### Pedestrian Signals

ACHD's inventory of accessible pedestrian signals has two classifications for prioritization – high priority and secondary priority – as determined by ACHD's ADA Advisory Committee. After adoption of the Self-Evaluation and Transition Plan, ACHD will pursue an implementation phase of its ADA Compliance Plan by undergoing a complete review of its current practices relating to accessible pedestrian signals and ACHD will conduct an accessibility assessment of the pedestrian signal inventory. A decision matrix will be developed based on the MUTCD and PROWAG to analyze each criterion for pedestrian signal construction and maintenance. This effort may be considered for adoption by the ACHD Commission as a formal ACHD policy. Until this review is completed, updates to pedestrian signals will be incorporated annually into the IFYWP based on the prioritization completed by the ADA Advisory Committee. After the review, pedestrian signals will be incorporated into the IFYWP based on the findings of the review. The current inventory of the locations of prioritized signals, other existing signals, and planned accessible signals is provided in Appendix G.

### Right-of-Way Prioritization

Criteria for prioritizing barrier removal were developed using title II regulation § 35.150(d)(2).

*If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.*

The prioritization criteria include the following:

- Locations of citizen complaint/request (ADA title II Program Access) - this includes formal and informal complaints and requests for barrier removal within the public right-of-way;
- Locations serving government offices and public facilities – this includes any facility serving a public facility for example a school, city building, park, post office, county building, etc.;
- Locations serving transportation – this includes parking facilities, transit stops and facilities, and other means of public transportation;
- Locations serving commercial districts and employers – this includes places of public accommodation which include restaurants, hotels, retail stores, etc. and employment areas such as office parks, industrial areas, etc.; and
- Locations serving other areas – this includes locations not meeting the above criteria.

Matrices on the following pages illustrate the prioritization criteria for curb ramp and sidewalk barrier removal projects under ACHD’s responsibility in the public right-of-way. Each facility evaluated is assigned a rank based on the prioritization criteria and a barrier category based on the facility’s existing condition. The barrier categories are described on the page following each matrix.

The facilities were ranked as high, medium, or low. Each rank was color referenced, with the high rank shaded in purple, the medium rank in yellow, and the low rank in green. The facilities with no assigned rank have no access deficiencies identified and are not shaded. The columns in the matrix indicate the assigned priority and are in order of importance from left to right, with the left column having the highest importance. The rows indicate the category of condition assigned to each facility during the evaluation process, with the top row having the highest importance.

Table 2. Curb Ramp Barrier Summary &amp; Transition Plan Phasing Schedule

Category	Priority	Total Ramps	Percent Total	Schedule Year
<b>High Priority</b>				
1	A1	5	0.0%	1-10
1	B1	27	0.1%	1-10
1	C1	23	0.1%	1-10
1	D1	19	0.1%	1-10
2	B2	373	1.4%	1-10
2	C2	717	2.7%	1-10
2	A2	22	0.1%	1-10
4	A4	87	0.3%	1-10
Subtotal	-	1,273	4.8%	-
<b>Medium Priority</b>				
2	D2	485	1.8%	1-20
3	B3	58	0.2%	1-20
3	C3	82	0.3%	1-20
3	D3	71	0.3%	1-20
Subtotal	-	696	2.6%	-
<b>Low Priority</b>				
1	E1	225	0.8%	1-30
2	E2	6,700	25.2%	1-30
3	E3	480	1.8%	1-30
4	B4	12	0.0%	1-30
4	C4	18	0.1%	1-30
4	D4	21	0.1%	1-30
4	E4	152	0.6%	1-30
Subtotal	-	7,608	28.6%	-
<b>No Deficiencies Identified</b>				
5	B5	1,146	4.3%	n/a
5	C5	2,729	10.3%	n/a
5	D5	2,986	11.2%	n/a
5	E5	10,170	38.2%	n/a
Subtotal	-	17,031	64.0%	-
<b>Totals</b>	-	<b>26,608</b>	<b>100.0%</b>	-

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Curb Ramps		ADA 35.150(d) Geospatial Proximity Priorities*				
		A	B	C	D	E
Priorities (Category)	Priority Description	Location of Citizen Complaint / Request (ADA Title II Program Access)	Location Serving Government Offices & Public Facilities	Location Serving Transportation	Location Serving Commercial Districts, Employers	Location Serving Other Areas
1	See Category 1 Description	A1 High Priority -----	B1	C1	D1	E1
2	See Category 2 Description	A2	B2	C2	D2	E2
3	See Category 3 Description	A3	B3 Medium Priority -----	C3	D3	E3
4	See Category 4 Description	A4	B4 Low Priority -----	C4	D4	E4
5	No deficiencies identified	A5	B5	C5	D5	E5

\*The priorities listed under columns B, C, D, and E are specified under title II 28 CFR § 35.150 (d).

***Curb Ramp Barrier Descriptions***

**Category 1:**

- The curb ramp is constructed with asphalt.
- The curb ramp condition is very poor.

**Category 2:**

- The curb ramp condition is below average.
- Top landing is less than three-by-three feet or there is no top landing.
- Width of ramp is less than 36 inches.
- Curb ramp is built prior to 2010 and is not located within marked crossings (when present).
- Curb ramp is built prior to 2010 and the bottom landing width is less than 36 inches.
- Running slope of ramp exceeds 8.33 percent.

**Category 3:**

- The curb ramp condition is average.
- Top landing is 36 to 47 inches.

**Category 3 (cont.):**

- Width of ramp is 36 to 47 inches.
- Curb ramp is built prior to 2010 and the bottom landing width is 36 to 47 inches.
- Curb ramp is built prior to 2010 and the bottom landing slope is greater than two percent.

**Category 4:**

- Cross slope of ramp exceeds two percent
- Curb ramp is built prior to 2010 and flared sides (if applicable) exceed 10 percent.
- Curb ramp is built prior to 2010 where the bottom of the ramp is not flush.

**Category 5:**

- Curb ramp built 2010 or later and/or no deficiencies identified.



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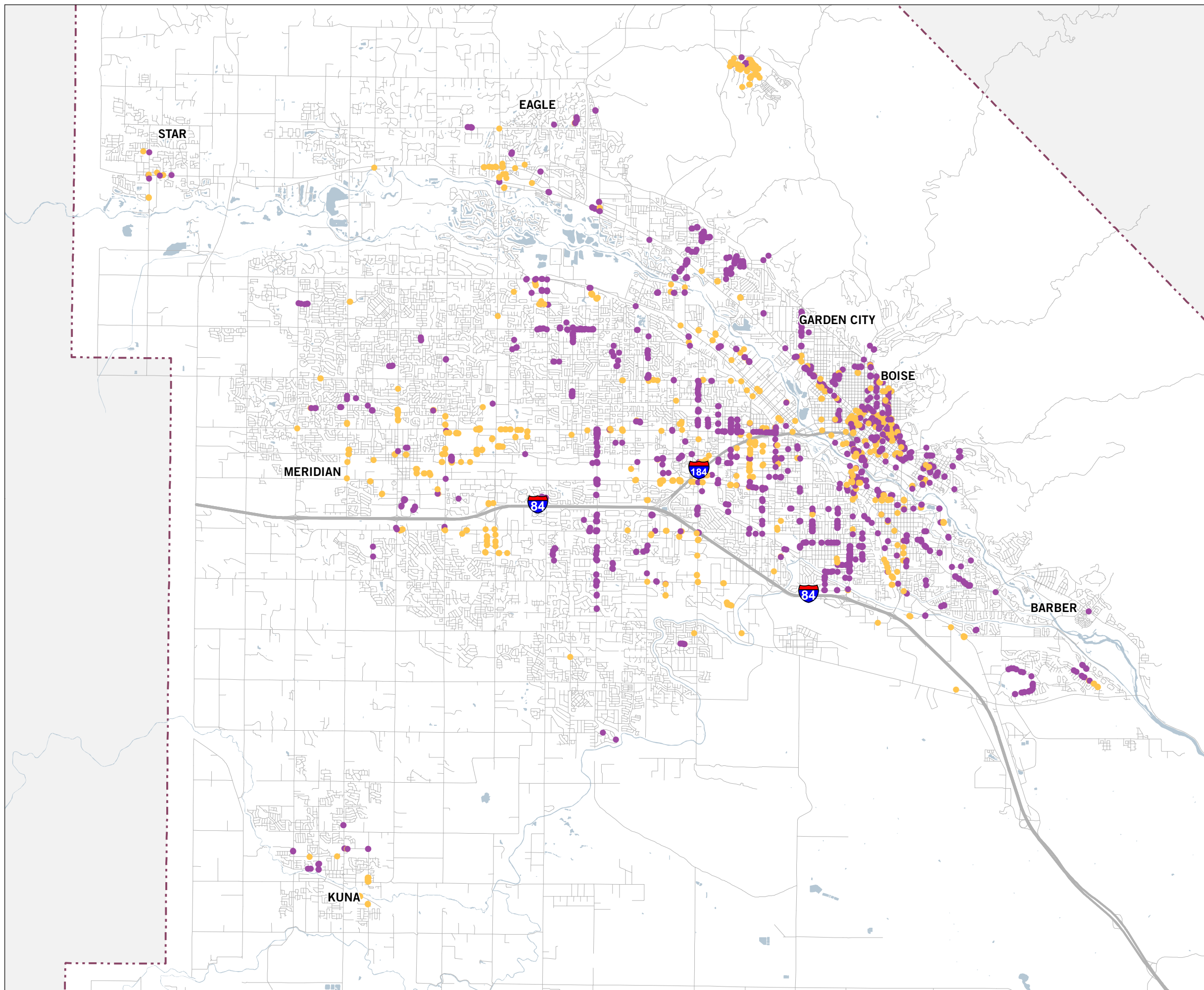
### Curb Ramp Barrier Removal Project Priorities: High and Medium

#### Barrier Removal Rank

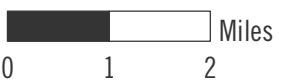
- High
- Medium

#### Context

- Streets
- Water Feature
- - - County Boundary



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### Curb Ramp Barrier Removal Project Priorities: Low

Barrier Removal Rank

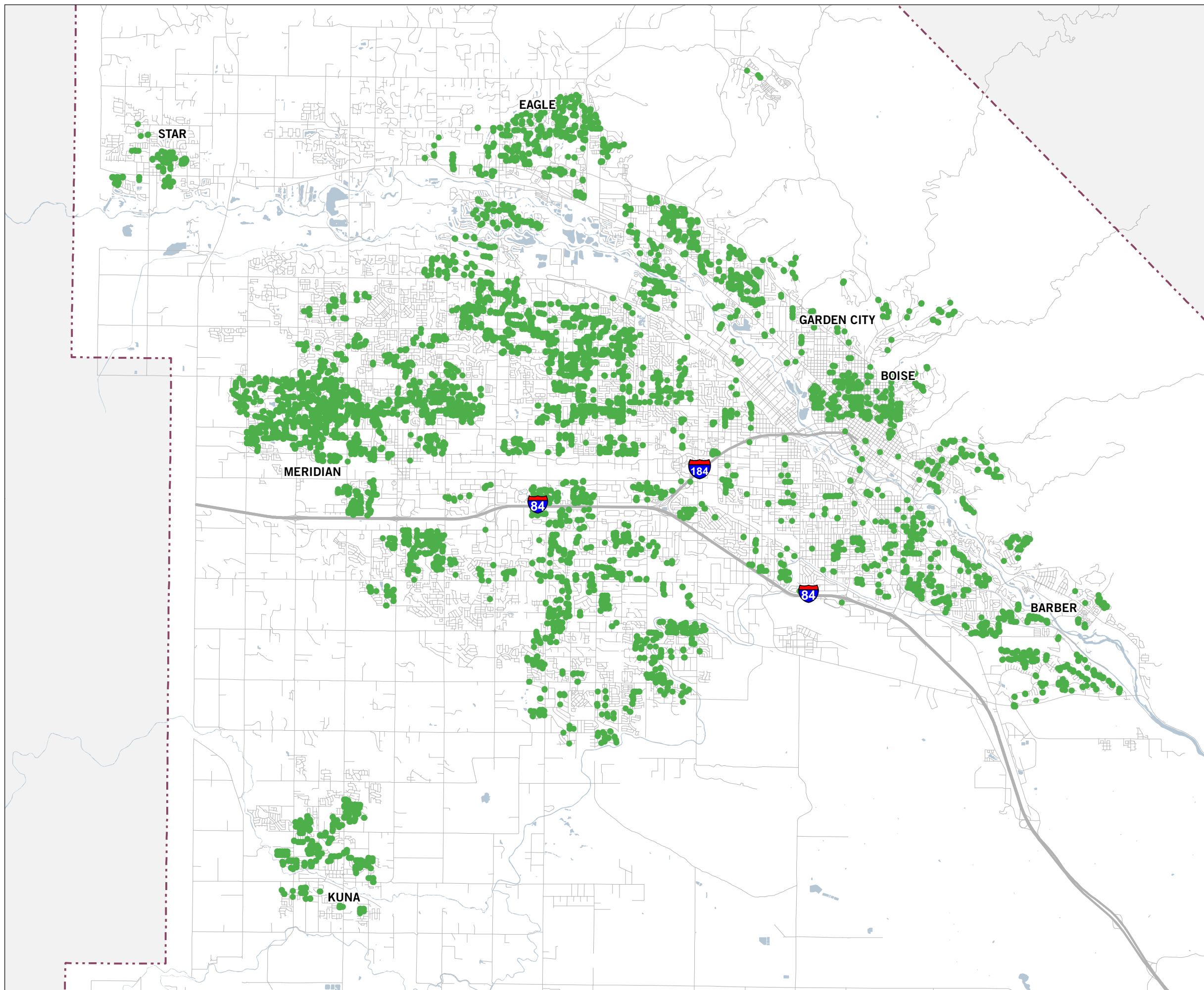
● Low

Context

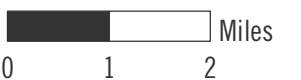
— Streets

■ Water Feature

⋯ County Boundary



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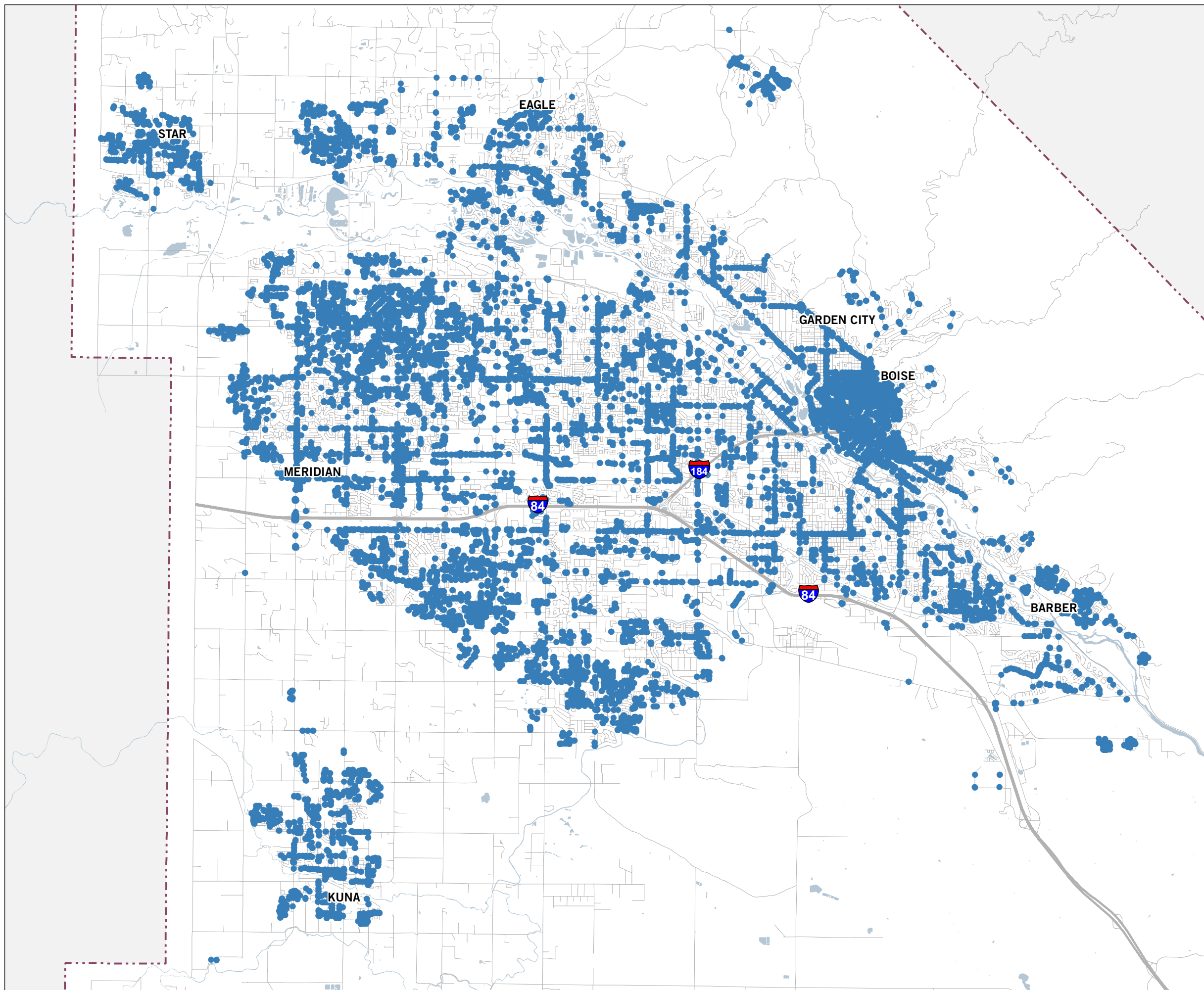
## Curb Ramp Barrier Removal Project Priorities: No Deficiencies Identified

Barrier Removal Rank

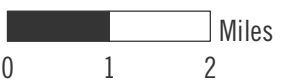
- No Deficiencies Identified

Context

- Streets
- Water Feature
- - - County Boundary



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**Table 3. Sidewalk Barrier Summary & Transition Plan Phasing Schedule**

Category	Priority	Total Miles	Percent Total	Schedule Year
<b>High Priority</b>				
1	A1	1.0	0.0%	1-10
1	B1	14.7	0.6%	1-10
1	C1	36.9	1.4%	1-10
2	A2	1.4	0.1%	1-10
3	A3	4.6	0.2%	1-10
Subtotal	-	58.6	2.2%	-
<b>Medium Priority</b>				
1	D1	5.8	0.2%	1-20
2	B2	61.5	2.3%	1-20
2	C2	114.6	4.3%	1-20
2	D2	43.4	1.6%	1-20
Subtotal	-	225.3	8.5%	-
<b>Low Priority</b>				
1	E1	87.4	3.3%	1-30
2	E2	361.3	13.7%	1-30
3	B3	28.4	1.1%	1-30
3	C3	40.1	1.5%	1-30
3	D3	22.5	0.9%	1-30
3	E3	226.9	8.6%	1-30
Subtotal	-	766.6	29.0%	-
<b>No Deficiencies Identified</b>				
4	B4	146.3	5.5%	n/a
4	C4	134.4	5.1%	n/a
4	D4	224.3	8.5%	n/a
4	E4	1,090.2	41.2%	n/a
Subtotal	-	1,595.1	60.3%	-
<b>Totals</b>	-	<b>2,645.6</b>	<b>100.0%</b>	-

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Sidewalks		ADA 35.150(d) Geospatial Proximity Priorities*				
		A	B	D	E	F
Priorities (Category)	Priority Description	Location of Citizen Complaint / Request (ADA Title II Program Access)	Location Serving Government Offices & Public Facilities	Location Serving Transportation	Location Serving Commercial Districts, Employers	Location Serving Other Areas
1	See Category 1 Description	A1 High Priority	B1	C1	D1	E1
2	See Category 2 Description	A2	B2 Medium Priority	C2	D2	E2
3	See Category 3 Description	A3	B3 Low Priority	C3	D3	E3
4	No deficiencies identified	A4	B4	C4	D4	E4

\*The priorities listed under columns B, C, D, and E are specified under title II 28 CFR § 35.150 (d).

### ***Sidewalk Barrier Descriptions***

#### **Category 1:**

- Sidewalk built prior to 2010 and the width is less than 48 inches.
- The sidewalk is built prior to 2010 and heaving and cracking is noted as significant.
- The sidewalk condition is considered poor.

#### **Category 2:**

- The sidewalk is built prior to 2010 and heaving and cracking is noted as moderate.
- The sidewalk is constructed of asphalt.
- The sidewalk condition is considered average.
- The sidewalk is built prior to 2010 and the number of vertical protrusions along a block is five or more.
- The sidewalk is built prior to 2010 and the number of driveway entries that exceeds two percent cross slope is four or more driveways.

#### **Category 3:**

- The sidewalk is built prior to 2010 and heaving and cracking is noted as minor.
- The sidewalk is built prior to 2010 and the number of vertical protrusions along a block is one to four.
- The sidewalk is built prior to 2010 and the number of driveway entries that exceeds two percent cross slope is one to three driveways.

#### **Category 4:**

- Sidewalk built 2010 or later and/or no deficiencies identified.



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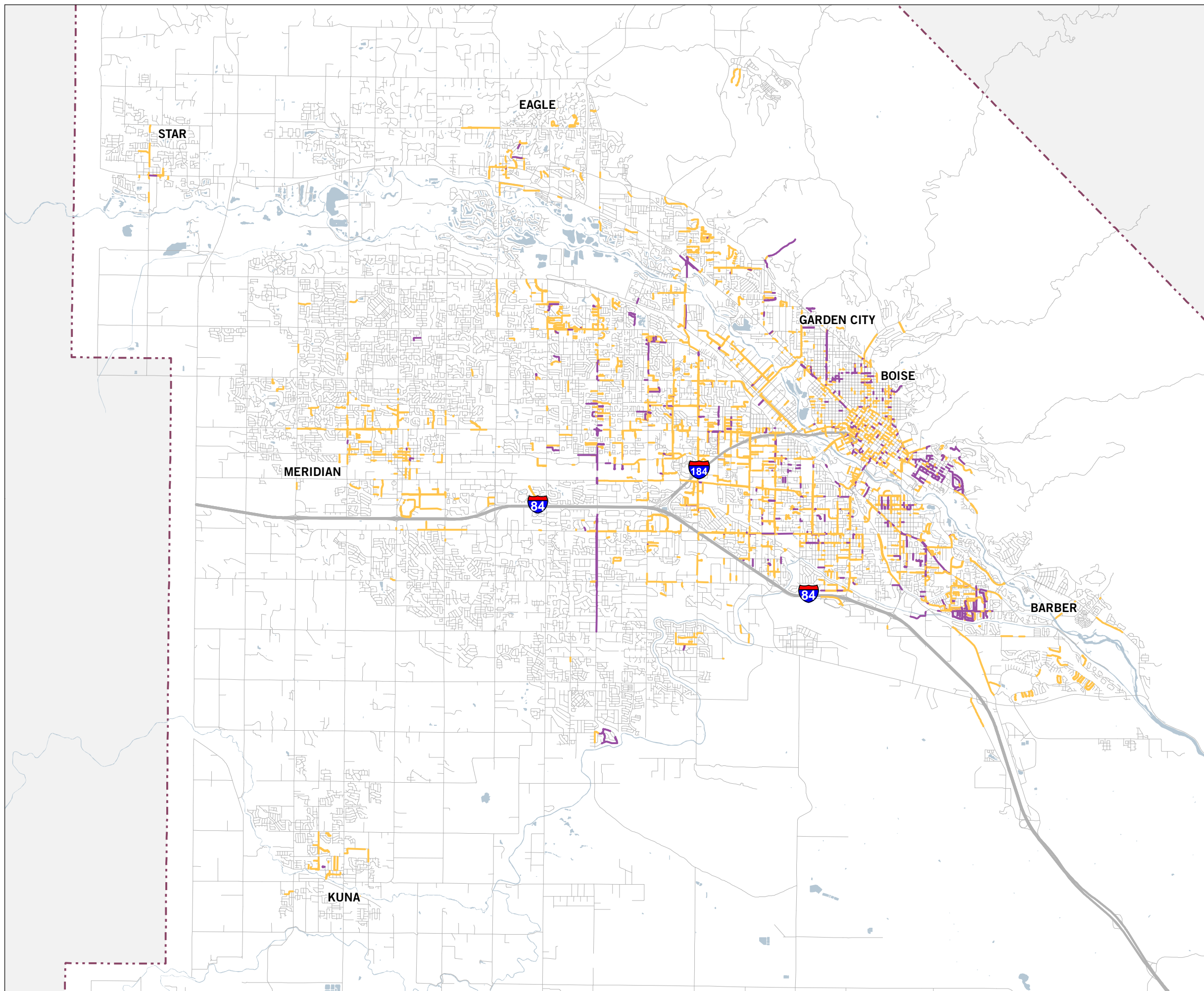
## Sidewalk Barrier Removal Project Priorities: High and Medium

### Barrier Removal Rank

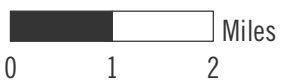
- High Priority
- Medium Priority

### Context

- Streets
- Water Feature
- County Boundary



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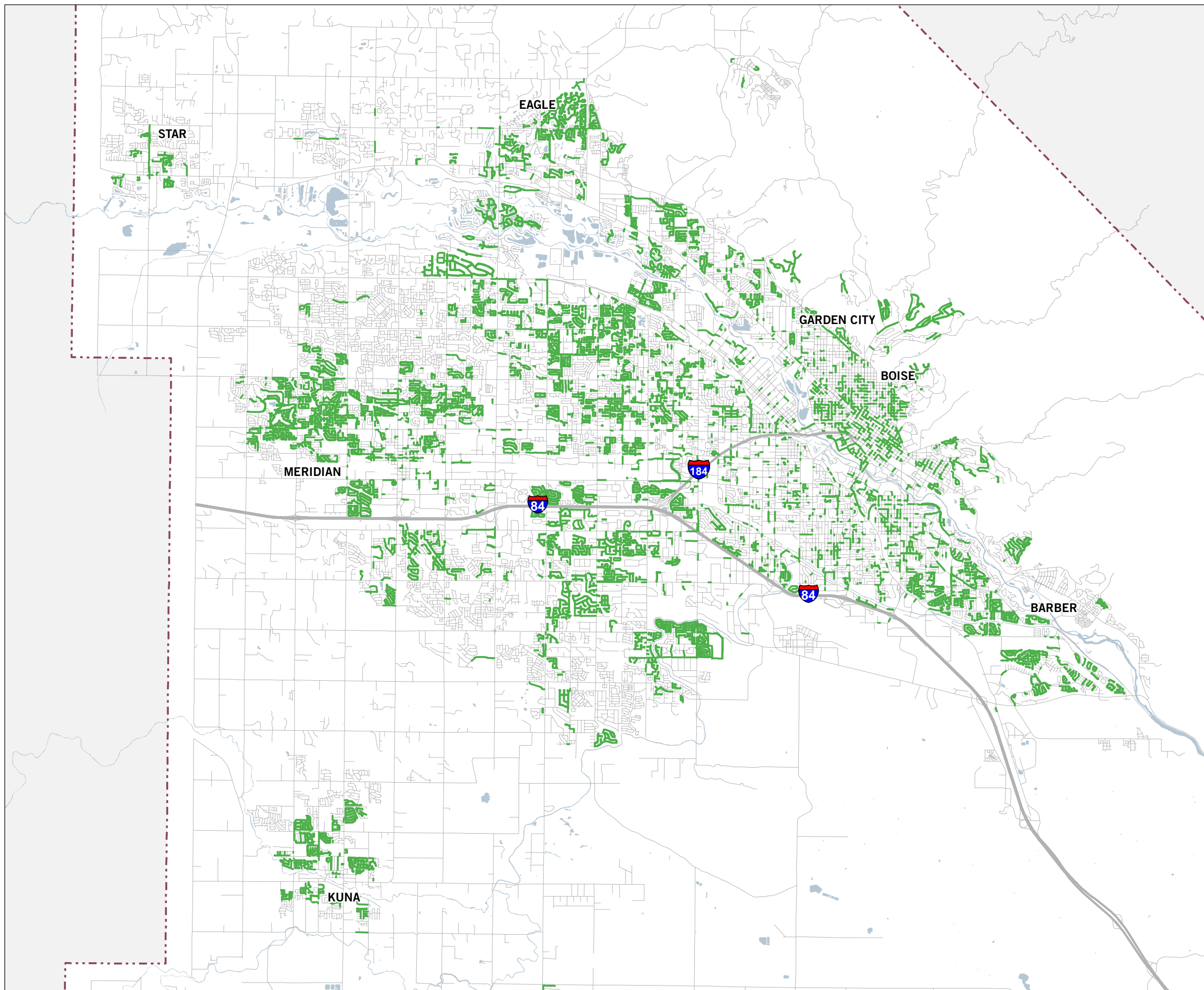


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## Sidewalk Barrier Removal Project Priorities: Low

Barrier Removal Rank  
Low Priority

Context  
Streets  
Water Feature  
County Boundary



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## Sidewalk Barrier Removal Project Priorities: No Deficiencies Identified

Barrier Removal Rank

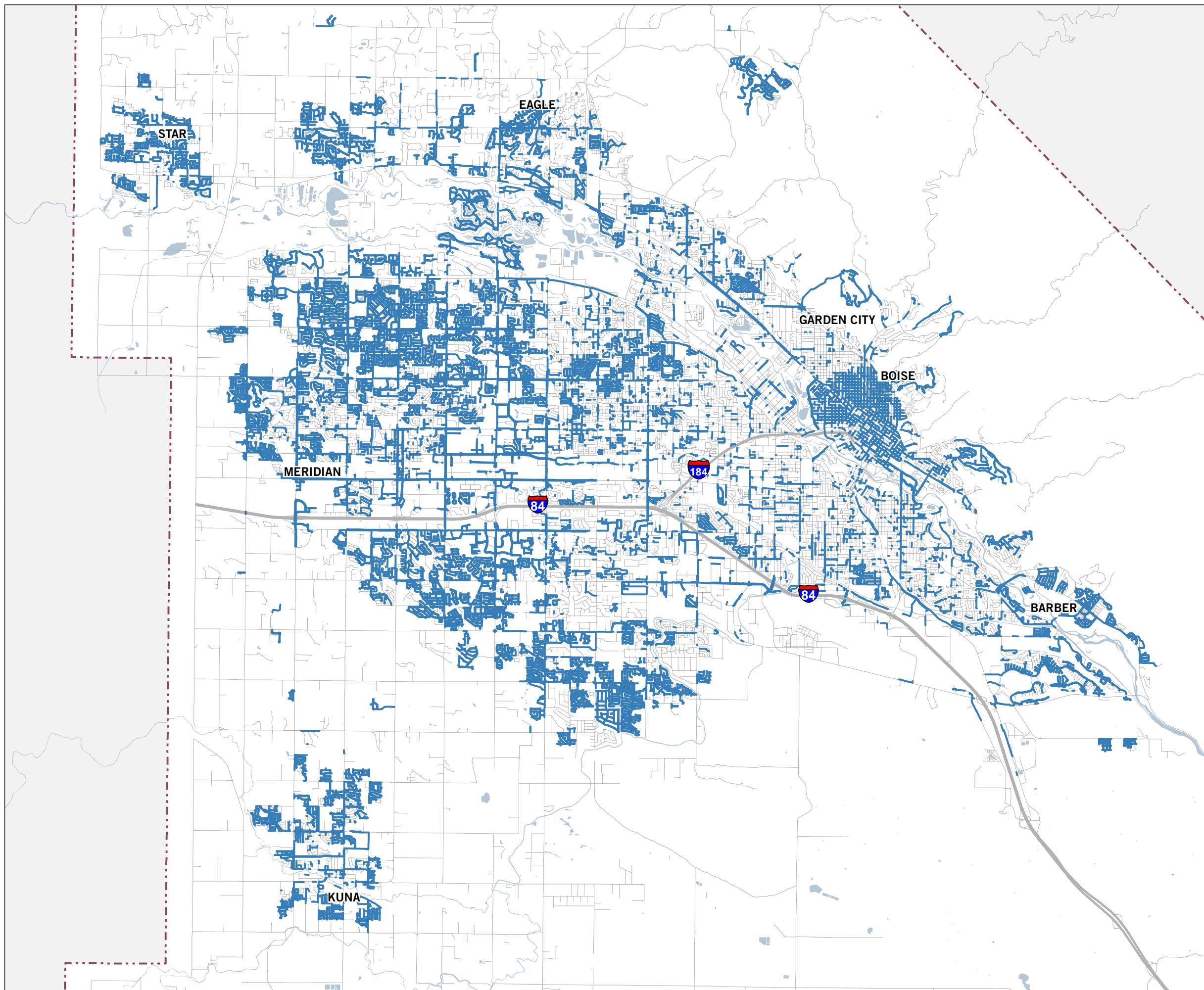
— No Deficiencies Identified

Context

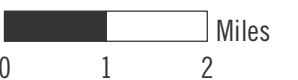
— Streets

■ Water Feature

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### 3.5 Addressing Identified Barriers

#### Program Accessibility

A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. A state or local government's programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to facilities of a public entity that existed on January 26, 1992. Public entities do not necessarily have to make each of their existing facilities accessible. They may provide program accessibility by a number of methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate accessible sites.

#### Undue Burden

ACHD is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity, would create a hazardous condition resulting in a direct threat to the participant or others, or would represent an undue financial and administrative burden.

A determination of undue financial or administrative burden can only be made by the head of a department or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use by ACHD. If an action would result in such an alteration or such burdens, ACHD must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

#### Safe Harbor Provisions

The 2010 ADA regulations introduced the concept of "safe harbor," which allows facilities built prior to March 15, 2012 that comply with the 1991 ADA Standards to remain as-is until the structural feature is altered.<sup>50</sup> The exception applies to elements that might otherwise have to be modified under: 1) the program access requirement for public entities; 2) the readily achievable barrier removal requirement for places of public accommodation; or 3) the path of travel requirement for any alteration that affects the usability of a primary function area in any covered facility.

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<sup>50</sup> DOJ, Title II Regulations Subpart D § 35.150 (b) (2) Safe harbor

If pedestrian facilities such as curb ramps and transit stops were built or altered in the past 20 years to become compliant with the 1991 ADA Standards, no further changes to those elements are mandated until the structural feature is altered, even though the 2010 standards have different requirements. However, certain exceptions to "safe harbor" do exist – roadway alterations as described in the *Roadway Alterations and Maintenance Triggers for Barrier Removals* section of this chapter are required to bring all curb ramps up to the current standard and "safe harbor" does not apply.

### **3.6 Schedule for Right-of-Way Barrier Removal**

Because ACHD is responsible for many sidewalks and curb ramps, it is infeasible to immediately remove all barriers. Barriers will be removed systematically, countywide, to ensure equality among ACHD's programs. It is ACHD's intent to address barriers by 2050, contingent upon ACHD Commission approval, depending on the immediate necessity, degree of complexity, and overall cost. ACHD's goal during the first year of barrier removal will be to mitigate barriers at 300 curb ramps and along four miles of sidewalk. ACHD will then work to increase the amount of dedicated funding each year to address an additional 10 percent of barriers each year. This will actively shorten the transition plan phasing schedule to a timeline of 15-20 years. If current funding levels are retained but not increased in the short-term, ACHD will upgrade the facilities identified as high priority in the first 10 years following the Plan's adoption to address the most immediate needs. The facilities designated as medium and low priority will be addressed systematically in the following 20 and 30 years, respectively, after adoption of the Plan. Wherever possible, ACHD will coordinate barrier remediation at transit stops with Valley Regional Transit.

#### **Strategies for Funding and Scheduling Right-of-Way Barrier Removal**

Opportunities for funding the removal of access barriers will be actively sought. These include:

- Capital projects for new construction;
- Capital projects for roadway alterations;
- Maintenance and repair projects and programs;
- Dedication of a fund for ADA barrier removal;
- Requiring private developers to remove access barriers when development affects facilities within the right-of-way; and
- Actively seeking out and applying for grant funding specific to removal of access barriers when available.

ACHD's rolling IFYWP schedules rehabilitation and maintenance of public right-of-way facilities. ACHD plans to review barriers in the right-of-way during the implementation of this Plan and address those barriers that can be resolved as part of the IFYWP. As part of the review, ACHD will revise the Transition Plan schedule for the removal of barriers. The project list for the period of 2018-2022 is provided in Appendix H.

The following programs will be used as a means of bringing noncompliant facilities into compliance:

- **Capital Maintenance Program:** This program focuses primarily on addressing known roadway maintenance needs. As part of any roadway resurfacing or reconstruction project deemed an alteration under the ADA, ACHD will upgrade adjacent pedestrian ramps identified as noncompliant.
- **Bridge Program:** This program focuses primarily on addressing known bridge replacement needs. As part of any bridge replacement project, ACHD will ensure noncompliant facilities associated with programmed projects are brought into compliance.
- **Traffic Program:** This program includes funding for addressing known safety and accessibility considerations related to traffic operations. Projects are prioritized by ACHD's ADA Advisory Committee, including upgrades to pedestrian signals and other traffic control equipment.
- **Community Programs:** This program is dedicated to pedestrian and bicycle projects in Ada County. Projects include addition or completion of sidewalks, new enhanced pedestrian crossing opportunities, enhanced bike facilities, and ADA compliance projects. This program includes ACHD's Safe Sidewalk program, which receives dedicated funding every year to address deteriorated and noncompliant pedestrian facilities. These efforts include projects to fill gaps in the sidewalk network to improve accessibility.
- **Road and Intersection Programs:** This program focuses on widening roads and intersections to address known capacity and safety considerations. For each project, ACHD is committed to constructing sidewalks, bike facilities, and, as appropriate, enhanced pedestrian crossing opportunities. As part of these projects, ACHD will address any identified noncompliant pedestrian ramps or sidewalks within the project area, bringing them into full compliance with the ADA.

### **Roadway Alterations and Maintenance: Triggers for Barrier Removal**

The Department of Justice, in coordination with the U.S. Department of Transportation, specifies that public agencies are required to provide curb ramps or upgrade curb ramps whenever roadways are altered. An alteration is a change that affects or could affect the usability of all or part of a building or facility.<sup>51</sup> Alterations of streets, roads, or highways include activities such as reconstruction, rehabilitation, resurfacing, widening, and projects of similar scale and effect.<sup>52</sup> Maintenance activities on streets, roads, or highways, such as filling potholes, are not alterations.<sup>53</sup> The following list distinguishes between roadway alterations and maintenance activities.

#### ***Alteration***

- Addition of new layer of asphalt
- Cape seals
- In-place asphalt recycling
- Microsurfacing and thin-lift overlay
- Mill and fill / mill and overlay
- New construction
- Open-graded surface course
- Rehabilitation and reconstruction
- Resurfacing of a crosswalk

#### ***Maintenance***

- Chip seals
- Crack filling and sealing
- Diamond grinding
- Dowel bar retrofit
- Fog seals
- Joint crack seals
- Joint repairs
- Pavement patching
- Painting or striping
- Scrub sealing
- Slurry seals
- Spot high-friction treatments
- Surface sealing

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<sup>51</sup> DOJ, Title II Regulations Subpart D § 35.151(b)(1) New construction and alterations

<sup>52</sup> 2010 ADA Standards, 106.5 Defined terms

<sup>53</sup> “Department of Justice/Department of Transportation 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.” July 8, 2013.

### Maximum Extent Feasible in the Public Right-of-Way

In an alteration or new construction project, ACHD must incorporate the ADA accessibility standards to the maximum extent feasible.<sup>54</sup> As part of the Plan's implementation, the Lead Engineer should document all design exceptions:

*When pre-ADA streets or sidewalks are altered, there may be space limitations that restrict how much they can be altered to install accessible curb ramps. In these cases, the curb ramps installed must meet the accessibility requirements of the ADA to the maximum extent feasible. Scoping requirements in the ADA Standards establish limitations for the running slope of the ramp run of curb ramps installed during alterations to pre-ADA streets and walkways.<sup>55</sup>*

*The Civil Rights Division recognizes that there will be very rare instances when it will be technically infeasible for a curb ramp installed during alterations to pre-ADA roadways and walkways to be constructed in full and strict compliance with the requirements of ADA Standards § 4.1.6(3)(a) and § 4.7 because of physical or site constraints. In such circumstances, state and local governments must install curb ramps that provide accessibility to the maximum extent feasible.<sup>56</sup> Before reaching a conclusion about technical infeasibility, state and local governments need to consider the extent to which physical or site constraints can be addressed by alternative curb ramp designs. The burden of proving technical infeasibility lies with the state or local government that constructed it.*

*When highways, streets, and roads are built or altered post-ADA, they must have curb ramps at certain locations. Curb ramps must be located wherever there are curbs or other barriers to entry from a pedestrian walkway or sidewalk, including any intersection where it is legal for a pedestrian to cross the street, whether or not there is any designated crosswalk. Curb ramps must also be located wherever there are curbs or other barriers to entry at any designated pedestrian crosswalks that are located mid-block. Likewise, when sidewalks or walkways are built or altered post-ADA, they must include curb ramps or other sloped areas wherever they intersect with highways, streets, or roads and pedestrians may legally cross the vehicular way as well as at public transportation stops.*

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<sup>54</sup> DOJ, Title II Regulations Subpart D §35.151 (b) New construction and alterations

<sup>55</sup> ADA Standards § 4.1.6 (3) (a)

<sup>56</sup> ADA Standards § 4.1.6 (1) (j)

*By contrast, for pre-ADA highways, streets, roads, and sidewalks that have not been altered, state and local governments may choose to construct curb ramps at every point where a pedestrian walkway intersects a curb. However, they are not necessarily required to do so. Under a more flexible standard called “program access,” alternative routes to buildings may be acceptable where people with disabilities must travel only a marginally longer route than the general public.*