

# ADA TRANSITION PLAN

FOR THE CITY OF MARATHON

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## ADA TRANSITION PLAN

### INTRODUCTION

The **City of Marathon** has developed an Americans with Disability Act (ADA) Transition Plan to better serve its community and develop policies and practices for implementing physical pedestrian improvements within the public right of way of the **City of Marathon**. The goal is to provide safe and usable pedestrian facilities for all pedestrians, and to assure compliance with all federal, state and local regulations and standards.

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a federal civil rights law that provides protection for all persons with disabilities against discrimination by public and private entities. The ADA extends similar earlier protections provided by Section 504 of the Rehabilitation Act of 1973. This legislation mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program, service or activity. The Act also protects employees with disabilities, with certain protections and requires employers to make reasonable accommodations for applicants and employees with disabilities.

The ADA is divided into five parts, covering the following areas:

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#### TITLE I: EMPLOYMENT

Under Title I, employers, including governmental agencies, must ensure that their practices do not discriminate against person with disabilities in the application, hiring, advancement, training, compensation or discharge of an employee, or in other terms, conditions and rights of employment.

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#### TITLE II: PUBLIC SERVICES

Title II prohibits state and local government from discriminating against person with disabilities or from excluding participation in or denying benefits of programs series or activities to persons with disabilities. It is under this Title that this ADA Transition Plan has been prepared. The ADA Transition Plan is intended to outline the methods by which physical or structural changes will be made to affect the non-discrimination policies described in Title II.

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#### TITLE III: PUBLIC ACCOMMODATIONS

Title III requires places of public accommodation to be accessible and usable by persons with disabilities. The term public accommodation as it applies to public agency refers to any privately funded and operated facility serving the public.

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#### TITLE IV: TELECOMMUNICATIONS

Title IV covers regulations regarding private telephone companies, and requires common carriers offering telephone services to the public to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments.

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## TITLE V MISCELLANEOUS PROVISIONS

Title V contains several miscellaneous regulations, including construction standards and practices, provision for attorney's fees and technical assistance provisions. This plan provides the action items necessary to ensure compliance with ADA Statutes based on the City's Self-Assessment Evaluation.

The City has various responsibilities under Title II of the ADA. Title II of the ADA is similar to Section 504 of the Rehabilitation Act of 1973 but differs in that Section 504 applies only to government agencies that receive federal financial assistance. The purpose of Section 504 is to ensure that no otherwise qualified individual with disabilities shall, solely by reason of disability, be discriminated against under any program or activity receiving federal financial assistance. The City has been operating under the requirements of Section 504 for many years.

The public entity also is required to designate a person to be responsible for coordinating the implementation of ADA requirements and for investigating complaints of alleged noncompliance. As such, the City's designated ADA Coordinator is:

Evie Engelmeyer, Human Resources Director/ADA Coordinator (ACTCP)

City: City of Marathon

Address: 9805 Overseas Hwy, Marathon FL 33050

Phone number 305-289-4122

Email Address: HR@ci.marathon.fl.us

## ADA TRANSITION PLAN REQUIREMENTS

According to ADA, a public agency is required to prepare an ADA Transition Plan if physical or structural modifications to facilities are required to provide access to programs or services. Title II of the ADA Regulates government agencies, with its primary goal being to ensure that all their programs and services are accessible to individuals with disabilities. The ADA Transition Plan is limited to evaluating physical barriers; however, an analysis of the programs and services is important to determine what physical changes are necessary. The ADA Transition Plan documents what action the City will take to alter its facilities. The ADA requires that the ADA Transition Plan be submitted for public review before final approval and adoption by the appropriate regulatory agency.

Generally, the ADA Transition Plan lists existing barriers in the public rights-of-way under the City's jurisdiction, and schedules which barriers to remove to provide access for individuals with disabilities to the City programs. The City is required to provide access to all of its programs, but is not required to remove all architectural barriers in all its facilities. In addition to making physical improvement, government agencies can choose from various administrative solutions such a relocating or modifying a particular program, to obtain overall program access.

The ADA Transition Plan is required by Department of Justice (DOJ) rules to address the following aspects of accessibility:

- 1) If a public entity has responsibility or authority over streets roads or walkway, this ADA Transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks across curbs, giving priority to a walkways serving entities covered by the ADA, including State and local government offices and facilities, transportation, place of public accommodation, and employer, followed by walkways serving other areas.
- 2) The ADA Transition Plan shall identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities
- 3) The ADA Transition Plan shall describe the methods that it will use to make the facilities accessible: and
- 4) The ADA Transition Plan shall specify the schedule for taking the steps necessary to achieve compliance with the ADA and if the time period of the ADA Transition Plan is longer than one year, identify steps that will be taken during each of the transition periods.

## PROGRAM ACCESSIBILITY

The Rules and Regulations of the ADA describe the requirements for program accessibility (Code of Federal Regulations, Title 28. Part 35, Subpart D). A public entity shall operate each service, program or activity, when viewed in its entirety, so that it is accessible to and usable by individuals with disabilities. The ADA does not require the public entity to make all its existing facilities accessible, nor does it require a public entity to take any action that would fundamentally alter the nature of a service, program or activity. Also, it does not require implementation of the ADA that would result in undue financial and administrative burdens. In such cases where documentation is provided in keeping with strict procedures outlined in the ADA, there are various methods that may be appropriate for providing programs accessibility in lieu of making actual physical changes to facilities.

The first step in determining what structural changes to existing facilities are necessary to develop an understanding of the specific public program and activities occurring at existing facilities within the City of Marathon. This section attempts to describe the programs and activities in the public right of way. It should be noted that this section is not intended to be a self-evaluation as described in the ADA. A self-evaluation includes an analysis of all programs and services offered by a public entity.

The activity of using the public right of way may be considered a program in two different ways

- 1) Streets, sidewalks and curb ramps may be part of a continuous path of travel between activities or programs. At various public and private facilities located on adjacent properties.
- 2) Streets, sidewalks and curb ramps may themselves represent a program or public pedestrian activities that are essential to the usage and enjoyment of a city's built environment.

The Department of Justice's Title II Technical Assistance manual point out that the a public entity's programs related to streets, sidewalks and curb ramps may be prioritized with respect to relative importance and frequency of usage. It further describes that program accessibility wouldn't require all streets, sidewalks and curb ramps to be fully accessible as required by current codes. A determination of what public rights-of-ways are programmatically required to be accessible may vary from jurisdiction to jurisdiction.

## PUBLIC PARTICIPATION

The ADA states that a public entity is required to make available to applicants, participants, residents and other interested parties information regarding the ADA Transition Plan and its applicability to the services programs or activities of the public entity, and to apprise the public of the protection against discrimination afforded to them by the ADA. A public entity also is required to provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the ADA Transition Plan by submitting comments and making specific recommendations. The ADA also requires that a copy of the draft ADA Transition Plan shall be made available for public inspection during formal public review period.

A copy of this Transition Plan will be published on the **City of Marathon's WEBSITE** and the public will be invited to provide comments, as well as available for review. The plan will be updated, as needed, based on the comments received. Comments on the plan can be provided to the City's ADA Coordinator in writing by letter or email to [hr@ci.marathon.fl.us](mailto:hr@ci.marathon.fl.us), in person or via phone at 305-289-4122. The City will maintain a log of all comments registered. The transition plan will be available in alternative format upon request.

The folloeing methods are used for public input.

- Advisory Groups
- Website
- Community Planning Advisory Councils

## DESIGN AND REGULATION OF IMPROVEMENTS

The **City of Marathon** will adhere to the ADA design standards put forth by the Florida Department of Transportation Design Standards, and requirements of the Florida Building Code. The technical provisions of the Design Standards as well as the Florida Department of Transportation's Plans Preparation Manual, as related to ADA accessibility to public facilities, is adopted by reference as part of this report. Reference to Americans with Disabilities Act Accessibility Guidelines (ADAAG) have been used to determine considerations for accessible design.

## ADA SELF-ASSESSMENT

### UPDATED ASSESSMENT PENDING

The following section details the self- evaluation results for the **City of Marathon**. Evaluations were undertaken in review of facilities and policies related to public buildings and facilities, including pedestrian facilities in the right-of way and curb ramps, employment effective communication and monitoring and reporting policies.

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### BUILDINGS AND FACILITES

The **City of Marathon** has performed an evaluation of ADA accessibility for existing public building. The City currently has two buildings and four facilities which are ADA Compliant. After further evaluation the City was able to identify one buildings and four facilities that would require remedial action under this ADA Transition plan.

The following is summary of Government Buildings, Public Buildings and Facilities identified that would require ADA remediation along with a schedule for completion and estimated cost. The agency will prioritize and integrate corrections/ modification with planned alterations as well as with existing structures.

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### BARRIERS WITHIN THE PUBLIC RIGHT OF WAY

An evaluation was undertaken to address ADA accessibility for existing barriers within the public right of way in the City of Marathon. The City of Marathon in general does not have any public sidewalks in within the City maintained R/W. However, the City has three collector roads with bike/multi-use trails. Two of the three trails are currently ADA compliant, and the third trail has completed plans and, which has design components designed to be brought up to standard, awaiting release of funding from FDOT as part of a LAP project. While the City's R/W do not have sidewalks, the main corridor through Marathon, US 1, has either sidewalks or a bike trail on both sides of the highway and is all ADA compliant.

Further, the City of Marathon is committed to ensuring that any development or acquisition of additional public buildings or properties with the City will undergo an evaluation to determine compliance with ADA Standards. If necessary, remedial actions would be undertaken to ensure full compliance with applicable federal, state and local statutes.

### RECORD KEEPING

The ADA Coordinator will maintain permanent records, which include, but are not limited to, copies of the ADA complaints and lawsuits and related documentation, and records of correspondence to and from complainants, and ADA investigations. The ADA Coordinator shall be responsible for conducting annual reviews of ADA records and updating the Capital Improvements recommendations as necessary.

## NOTICE UNDER THE AMERICANS WITH DISABILITY ACT

The City of Marathon does not discriminate on the basis of race, color, national origin, sex, age, religions, disability or family status. Those with questions or concerns about nondiscrimination, those requiring special assistance under the Americans with Disabilities Act (ADA) or those requiring language assistance (free of charge) should contact Evie Engelmeyer, Human Resources Director/ADA Coordinator (ACTCP) at HR@ci.marathon.fl.us or (305) 289-4122

## GRIEVANCE PROCEDURES

This grievance procedure is established to meet the requirements of the 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 City of Marathon.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number, email address 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 as soon as possible, preferably within 60 calendar days of the alleged violation to:

Evie Engelmeyer, Human Resources Director/ADA Coordinator (ACTCP)  
(305) 289-4122  
HR@ci.marathon.fl.us  
9805 Overseas Highway  
Marathon, FL 33035

Within 15 calendar days after receipt of the complaint, Evie Engelmeyer will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days of the meeting, Evie Engelmeyer will respond in writing, and where appropriate, in formats that is accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City of Marathon and offer options for substantive resolution of the complaint.

If the response by Evie Engelmeyer does not satisfactorily resolve the issue, the complainant may appeal the decision within 15 calendar days after receipt of the response to the City Manager or designee.

Within 15 calendar days after receipt of the appeal, the City Manager or designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager or designee will respond in writing, and, where appropriate, in a format that is accessible to the complainant, with a final resolution of the complaint.