

New York City Department of Parks & Recreation

Park Accessibility for People With Disabilities

Report 2021-N-7 | March 2023

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine if New York City Department of Parks & Recreation facilities were accessible for people with disabilities, as required. Our audit covered the period from January 2015 to October 2022.

About the Program

The New York City (NYC or City) Department of Parks & Recreation (Parks or agency), a mayoral agency, is the chief steward of City parkland. Parks' mission is to plan resilient and sustainable parks, public spaces, and recreational amenities; build a park system for present and future generations; and care for parks and public spaces. Parks maintains about 30,000 acres of land (14% of NYC), including more than 5,000 individual properties, nearly 1,000 playgrounds, 2,600 athletic fields and facilities, 82 outdoor public swimming pools, 51 recreation centers, 15 nature centers, and 14 miles of beaches (hereafter collectively referred to as "parks"). Its parks are also the setting for a range of attractions, including free concerts, world-class sports events, and cultural festivals.

NYC is home to 8.5 million people, including nearly 1 million individuals with a disability, and based on 2020 estimates from the Mayor's Office for People with Disabilities, an annual destination for approximately 6 million visitors with a disability. For the nearly 7 million people with a disability either living in or visiting the City, access to parks – and the necessary amenities therein, such as restrooms, sinks, water fountains, and concessions – is critical.

Title II of the 1990 Americans with Disabilities Act (ADA) prohibits discrimination against individuals with a disability in all programs, activities, and services of public entities, such as Parks. The U.S. Department of Justice's (DOJ) regulations implementing Title II adopted ADA Standards for Accessible Design (Standards), which set forth minimum requirements – both scoping and technical – for newly designed and constructed or altered facilities. The Standards may also be used as a guide to identify accessibility issues for existing structures. The DOJ regulations also required public entities to develop a Transition Plan detailing any structural changes that would be undertaken to achieve program accessibility and specifying a time frame for their completion.

As reported in a December 2005 audit by our office, *Compliance With ADA Requirements (2004-N-6)*, Parks facilities did not identify and address potential barriers to accessibility. In response to the audit, and as a step toward enhancing compliance with the ADA, between 2006 and 2009, agency officials conducted assessment surveys of 2,745 properties and facilities. The compiled results of these surveys (hereafter referred to as 2006–2009 Survey or Survey) would be the basis for its Transition Plan.

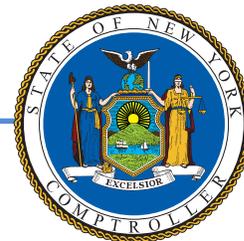
For fiscal years 2015–2021, Parks' capital commitment plan totaled approximately \$9 billion. In addition, in October 2021, NYC committed about \$426 million in new funding over the next 10 years for a Community Parks Initiative. The initiative's objective is to redesign and rebuild previously neglected community parks, focusing on high-density, low-income areas and parks. Officials indicated that accessibility improvements are a key part of the agency's work and are prioritized in all public-facing capital projects, including reconstruction and renovations of existing properties as well as the creation of new public spaces.

Key Findings

- While Parks has made progress in making more of its facilities accessible for people with a disability, its accessibility efforts are primarily focused on ensuring newly funded capital projects are ADA compliant, rather than removing identified barriers at existing facilities.
 - During our visits to 115 facilities, we found hundreds of accessibility barriers that the agency had identified in its 2006–2009 Survey – more than 13 years ago – that still have not been addressed, including some that pose potential safety risks. For the majority of these barriers, the Survey had classified them as “readily achievable” or “achievable.”
 - Among other issues, we also identified restrooms, including toilets and sinks, and wheelchair ramps that were not included in Parks’ assessment surveys of accessibility barriers.
- Agency officials do not adequately monitor concession contractors to ensure they are complying with contractual obligations and other accessibility requirements.
- Agency officials do not ensure that the facility accessibility information posted on its website is accurate and updated. Our on-site observations at a sample of 22 properties contradicted the information posted on the website. This accessibility information is an important service for potential visitors, as incorrect information can ultimately cause an otherwise well-planned visit to end poorly.
- Notably, Parks has not finalized a Transition Plan, nor has it developed formal rules, policies, and procedures pertaining to its ADA compliance.
- We also note that accessibility has not been among the agency’s performance indicators in the Mayor’s Management Reports during the last 10 years. Prioritizing the improvement of facilities’ and amenities’ accessibility and including it as a goal and performance indicator could raise awareness and act as a catalyst for additional funding.

Key Recommendations

- Reassess the information and status of accessibility barriers identified in the 2006–2009 Survey and revise as needed, review the potential barriers identified in this report to determine if they present accessibility issues, and begin addressing those barriers that can be rectified without much difficulty and expense.
- Finalize and communicate the Transition Plan, establish the timeline, and monitor its implementation.
- Ensure the accessibility information posted on the Parks’ website is accurate.
- Monitor concession facilities’ compliance with contractual obligations and other accessibility requirements.
- Prioritize the improvement of facilities’ and amenities’ accessibility as a goal and performance indicator. Engage with the Mayor’s Office to include accessibility as part of Parks’ performance indicators in the Mayor’s Management Report.



**Office of the New York State Comptroller
Division of State Government Accountability**

March 22, 2023

Sue Donoghue
Commissioner
New York City Department of Parks & Recreation
830 Fifth Ave
New York, NY 10065

Dear Ms. Donoghue:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Park Accessibility for People With Disabilities*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
Parks	New York City Department of Parks & Recreation	<i>Auditee</i>
ADA	Title II of the Americans with Disabilities Act of 1990	<i>Key Term</i>
Cross slope	Cross slope of a surface is measured perpendicular to the direction of pedestrian travel	<i>Key Term</i>
DOJ	U.S. Department of Justice	<i>Federal Agency</i>
Element	An architectural or mechanical component of a facility, space, or site, such as signage, bench, restroom sink, access route, ramp, entrance	<i>Key Term</i>
Facility	Property such as buildings, restrooms, playgrounds, recreation centers, swimming pools, beaches, spray showers, and basketball courts	<i>Key Term</i>
MMR	Mayor's Management Report	<i>Key Term</i>
Running slope	Running slope of a surface is measured in the direction of pedestrian travel	<i>Key Term</i>
Standards	2010 ADA Standards for Accessible Design	<i>Key Term</i>
2006–2009 Survey	Results of Parks' series of assessment surveys conducted from 2006 to 2009, which would be the basis for its Transition Plan	<i>Key Term</i>
Transition Plan	Plan required by DOJ regulations in support of ADA Standards for Accessible Design	<i>Key Term</i>

Background

The New York City (NYC or City) Department of Parks & Recreation (Parks or agency), a mayoral agency, is the chief steward of the City’s parkland. Parks maintains about 30,000 acres of land (14% of NYC), including more than 5,000 individual properties, ranging from Coney Island Beach and Central Park (see Figure 1) to community gardens; nearly 1,000 playgrounds; 2,600 athletic fields and facilities; 82 outdoor public swimming pools; 51 recreation centers; 15 nature centers; and 14 miles of beaches – hereafter collectively referred to as “parks.” Its parks are also the setting for a range of attractions, including free concerts, world-class sports events, and cultural festivals. According to its website, Parks strives to help all New Yorkers discover how the City’s parks can enrich their lives, promoting physical and emotional well-being and providing venues for fitness and peaceful respite for the widest possible audience.



Figure 1 – Sheep Meadow (left) and Wollman Rink (right) in Central Park, Manhattan

NYC is home to 8.5 million people, including nearly 1 million individuals with a disability, and based on 2020 estimates from the Mayor’s Office for People with Disabilities an annual destination for approximately 6 million visitors with a disability. Especially given that, in addition to their routine use, City parks are the setting for thousands of ancillary events, for the 7 million people with a disability either living in or visiting NYC, access to the parks – and the necessary amenities therein, such as restrooms, sinks, water fountains, and concessions – is critical.

Title II of the 1990 Americans with Disabilities Act (ADA) prohibits discrimination against individuals with a disability in all programs, activities, and services of public entities, such as Parks. The U.S. Department of Justice (DOJ) regulations implementing Title II adopted ADA Standards for Accessible Design (Standards), which set forth minimum requirements – both scoping and technical – for newly designed and constructed or altered facilities. Overall, the Standards make it easier for individuals with a disability to travel, enjoy sports and leisure activities, play, and otherwise participate in society. Although the Standards apply to new construction and major alteration projects, they may also be used as a guide to identify and address accessibility issues at existing structures. The DOJ regulations also required public entities to develop a Transition Plan detailing any structural changes that would be undertaken to achieve program accessibility and specifying a time frame for their completion.

As reported in a December 2005 audit by our office, *Compliance With ADA Requirements* (2004-N-6), Parks had not yet developed a Transition Plan to achieve program accessibility but had adopted an approach that primarily focused on meeting the ADA’s accessibility requirements for new construction and major alteration projects, which agency officials considered more in line with the nature of their funding. The audit found that Parks’ project-by-project approach “consumes a significant amount of resources in a few locations” and “does not ensure that the entire facility will achieve ADA compliance within a reasonable amount of time.” The audit concluded that Parks needed to take a more systematic approach, identifying existing facilities and services that remained non-compliant and that could limit a person with a disability from participating in a program, activity, or service offered by the agency. In response to the audit, agency officials indicated they would develop a Transition Plan, starting with agency-wide assessment surveys of all park facilities to determine accessibility. The results of these surveys would be the basis for its Transition Plan. Between 2006 and 2009, agency employees trained in ADA rules and regulations conducted assessment surveys of 2,745 properties and facilities. The compiled results of these surveys (hereafter referred to as 2006–2009 Survey or Survey) documented accessibility barriers/issues at 2,057 of the 2,745 properties and facilities.

Parks’ capital commitment plan for the 7 fiscal years 2015 to 2021 totaled approximately \$9 billion. In addition, in October 2021, NYC committed about \$426 million in new funding over the next 10 years for the Community Parks Initiative. The initiative’s objective is to redesign and rebuild previously neglected community parks, focusing on high-density, low-income areas and parks. Officials indicated that the accessibility improvements are a key part of the agency’s work and are prioritized in all public-facing capital projects, including reconstruction and renovations of existing properties as well as the creation of new public spaces. Parks established an ADA Coordinator position to assist with this endeavor.

According to information posted on its website, between 2014 and November 2021, Parks has improved and added to its roster of accessible facilities by reconstructing or building: 278 accessible playgrounds and sports courts; 165 newly constructed compliant paths and plazas; 60 ADA-compliant comfort stations; 55 athletic fields with improved access to the dugouts and fields; and 28 piers and waterfronts, which became more accessible for all New Yorkers and visitors year-round (see Figure 2).



Figure 2 – Accessible physical activity element at St. Mary’s Playground West in the Bronx (renovated in 2019)

Audit Findings and Recommendations

While Parks has made progress in improving accessibility to its facilities and states that improving site accessibility for the public is a key goal for the agency, our findings cause us to question whether the agency's actions match its stated commitment to exceed applicable requirements and provide for the needs of the 7 million people with a disability either living in or visiting the City. More than 30 years have passed since the ADA was enacted, and there are still many park areas that are not accessible and, within them, amenities that do not meet the needs of patrons with a disability.

- Parks focuses its accessibility efforts on its capital projects to the detriment of existing facilities:
 - During our visits to 115 facilities, we found hundreds of accessibility barriers the agency had identified in its 2006–2009 Survey – more than 13 years ago – that still have not been addressed, including some that also pose potential safety risks.
 - Among other issues, we also identified restrooms – including toilets and sinks – and wheelchair ramps that were not included on Parks' assessment surveys that were likely not accessible.
- Parks does not adequately monitor concession contractors to ensure facilities are operating in compliance with applicable contractual obligations and other accessibility requirements.
- We also note that accessibility has not been among Parks' performance indicators in the Mayor's Management Reports (MMRs) in the last 10 years. Prioritizing the improvement of amenities' accessibility and including it as a goal and performance indicator could raise awareness on this issue and act as a catalyst for additional funding.

Furthermore, the agency was unable to show it has finalized a Transition Plan, nor has it developed formal rules, policies, and procedures pertaining to ADA compliance and implementation. Such internal guidance would provide the necessary controls to help steer efforts to prioritize long overdue corrective actions.

Survey Assessments of Accessibility Barriers

Lack of Corrective Actions for Priority Issues

Parks' 2006–2009 assessment surveys of accessible obstacles were intended to serve as the basis for its Transition Plan, establishing the steps necessary to complete essential changes to improve accessibility. The 2006–2009 Survey documented accessibility barriers/issues at 2,057 of the 2,745 properties and facilities. Issues were classified according to a Prioritization Plan, ranging from 1 (readily achievable) to 5 (not achievable), as described in Table 1.

Table 1 – Prioritization Plan for Barriers Identified in 2006–2009 Survey

Priority Level	Description
1: Readily Achievable	Barrier can be removed without much difficulty or expense, generally by trained Parks maintenance and operations staff. Examples: placing signage to indicate inaccessible entrances, adding armrests to benches, designating parking spaces for accessibility.
2: Achievable	Barrier is not readily removable; requires outside resources to fix. Examples: constructing wheelchair ramps, adding accessible play equipment, widening doorways.
3: Future Improvement	Barrier is scheduled for future reconstruction; can also mean that capital work is needed.
4: Future Improvement	Barrier improvement design is funded and plans for accessibility are drafted.
5: Not Achievable	Barrier cannot be made accessible because corrective action is not technically feasible. Examples: historic sites and parks built on hilltops.

Survey results were not reported in a way that would allow us to calculate the exact number of barriers that were identified at the 2,057 facilities. However, we were able to count at least 2,331 barriers, of which 519 were Priority 1 (readily achievable) and 1,100 were Priority 2 (achievable).

To determine whether these readily achievable and achievable barriers had been corrected, we selected a judgmental sample of 115 facilities at 22 properties, including 64 that the 2006–2009 Survey showed as having 380 Priority 1 or 2 barriers. At our visits to these facilities, we were able to observe 297 of them, and found that 192 (74 Priority 1 and 118 Priority 2 barriers), or 64%, at 38 facilities remain uncorrected – 12 or more years after being identified. For example:

- At Clove Lakes Park (Staten Island), uncorrected barriers included inaccessible entrances to the restroom and playgrounds (Priority 1) and inaccessible drinking fountains and a spray shower (Priority 2).
- At J. Hood Wright Park (Manhattan), remaining barriers included an inaccessible service desk and lockers (Priority 1) as well as vestibule and route to the weight room (Priority 2).

Table 2 identifies the top facilities with the highest number of uncorrected Priority 1 or 2 barriers.

Table 2 – Top Facilities With the Most Uncorrected Priority 1 and/or 2 Barriers

Borough	Facility	Number of Uncorrected Barriers
Brooklyn	Coney Island Beach	34
Queens	Rockaway Beach 86th Street	24
Bronx	Bufano Park restroom	17
Bronx	Flynn Playground restroom	16
Bronx	Haffen Park restroom	16
Manhattan	Morningside Park men’s restroom	14
Staten Island	South Beach Boardwalk	12
Staten Island	Silver Lake Park restroom	7
Total		140

In response to our preliminary findings, agency officials indicated that they “prioritize ADA issues by ensuring that all newly funded capital designs meet ADA regulations.” By taking this approach, however, barriers that are not part of a capital project may not be addressed to enhance accessibility. According to agency officials, the accessibility improvements are a key part of their work and are prioritized in all “public-facing” capital projects, including reconstruction and renovations of existing properties as well as the creation of new public spaces. Additionally, Parks reported that many of its newly renovated playgrounds contain elements designed for children with autism spectrum disorders or other sensory-processing disorders, such as loss of vision or hearing.

Following our recommendation in our prior audit report (2004-N-6), Parks established a position of ADA Coordinator; however, the Coordinator’s monitoring functions appear to be limited. For example, the Coordinator does not officially sign off on new construction or renovations at either the project design or completion phase. Furthermore, the Coordinator’s monitoring responsibilities related to the agency’s capital projects are not included in the Capital Project Timeline. We believe that the Coordinator’s role could be strengthened to ensure that instances of non-compliance in capital projects do not occur.

Accessibility Elements Not Assessed by Parks’ Survey

At 79 of the 115 facilities we visited, we identified 309 instances where certain elements, such as wheelchair ramps or accessibility signage, were not included in the assessment surveys. Of these 309 elements, we identified 249 (80%) – mostly at playgrounds – where accessibility could be improved (see Table 3).

Table 3 – Number of Potential Barriers per Facility Type

Facility	Number of Facilities	Number of Potential Barriers
Playground	24	126
Bathroom	23	77
Eateries	5	16
Basketball courts	6	2
Beach	3	12
Recreation center	3	3
Pool	2	3
Tennis courts	2	1
Bocce ball courts	1	1
Golf courses	1	1
Historic houses	2	1
Marinas	1	3
Media lab	2	1
Paddleboat rentals	1	1
Spray shower	3	1
Totals	79	249

Notably, of these 249 instances of potential inaccessible elements, five elements were the most common: accessibility signage (83), access routes (23), sinks (20), ramps/playground entrances (17), and bathroom stall doors (15). For example, we found instances where the width of bathroom doors at the newly renovated Lawrence, Mauro, and Hunts Point playgrounds were narrower than the Standard of 36 inches – 31.5, 32, and 33 inches, respectively.

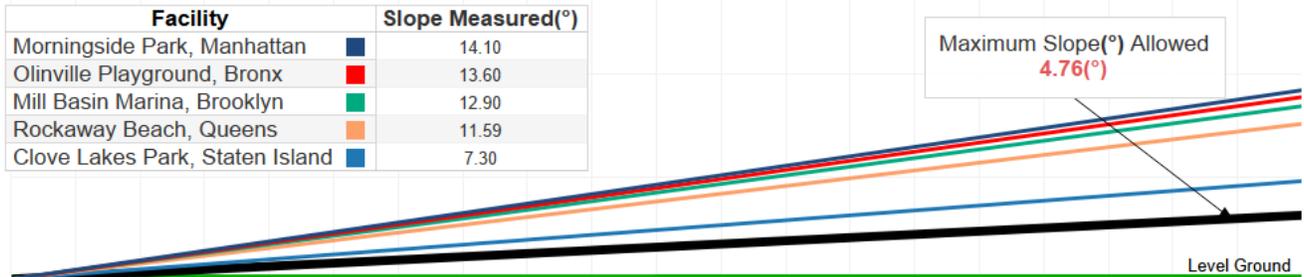
Moreover, we found 17 instances where the condition of certain of these elements also posed potential safety risks. For example, despite signage indicating an accessible route, the incline of an entrance ramp at Morningside Park (Manhattan) measured 14.10 degrees at its steepest point (almost three times the allowable Standard of 4.76 degrees for outdoor spaces), had no handrails or wheelchair resting platforms, and the route surface itself was in poor condition – including uneven pavement, potholes, and bumps – and potentially hazardous for people with a disability (see Figure 3). Agency officials acknowledged that the entrance was inaccessible and the signage was inappropriate.



Figure 3 – Accessibility sign at inaccessible entrance, Morningside Park, Manhattan

We also found similar slope conditions at several other facilities, as illustrated in Figure 4.

Figure 4 – Slopes Exceeding ADA Guidelines



We also noted that, at 10 facilities, while the elements themselves conformed to the Standards, the passageways to those facilities presented potential accessibility issues. For example, at Haffen Park (Bronx), all three entrances were steeper than the maximum running slope that the Standards allow (4.76 degrees), and the access routes leading to the playground had slopes ranging from 4.90 to 5.25 degrees. In addition, the cross slope (1.19 degrees – Maximum Allowed Slope) on the same routes ranged from 7.45 to 8.60 degrees – up to three times the maximum steepness that the Standards permit. We also observed numerous potholes along the route. Similarly, at Olinville Playground (Bronx), the access routes had slopes measuring between 2.50 and 13.60 degrees. We also noted that the entrance ramps from the sidewalk to the playground lacked the evidently needed handrails.¹

Oversight of Concessions’ Accessibility Compliance

Concessions is a critical amenity at parks, and particularly for individuals with a disability, who may have hydration/sustenance requirements, access is essential, as is ready access to restrooms. To determine whether Parks’ concession facilities comply with applicable accessibility requirements, we reviewed a sample of six concession agreements (three original license agreements, two license assignments, and one permit), and we also visited the concessions, interviewed their staff, and took measurements of certain elements. We found that Parks was not adequately monitoring the concessions’ compliance with contractual obligations and other accessibility requirements. For example, at four concessions, we found accessibility issues such as ramps with slopes exceeding the required 4.76 degrees and restroom stalls that were not accessible and did not have a grab bar.

¹ Although these deviations from the Standards do not constitute non-compliance with the ADA, our findings suggest that Parks should take further action to meet the stated goal of exceeding the minimum requirements.

Accuracy of Website Accessibility Information

Parks posts accessibility information on its website to inform potential visitors about the accessibility status of amenities at parks. To determine if the agency disseminated accurate and complete accessibility information to the public, we compared the accessibility information for the 22 sampled properties and elements posted on the agency’s website with our observations during our site visits. At the time of our review, we found a total of 48 instances where the website contained erroneous information. For example:

- The Morningside Park bathroom at the West 123rd Street (Manhattan) playground was billed as accessible; however, we found the entrance doors did not meet the required clearance of 36 inches.
- Restrooms at Washington Square Park (Manhattan) were identified as inaccessible but were accessible.
- A drinking fountain at Flynn Playground (Bronx) was labeled vaguely as “unknown.” We observed that it was inaccessible, having a knee clearance depth less than the required minimum of 8 inches.

We note that, in response to our findings, agency officials updated some of the information on its website. Nevertheless, incorrect information can mislead the public and ultimately cause an otherwise well-planned visit to end poorly. We encourage Parks to take steps to ensure data reported on its website is accurate and up to date.

Other Matters

Reporting Accessibility in Mayor’s Management Report

According to agency officials, ADA compliance is a top priority and accessibility improvements are a key part of Parks’ work and are prioritized in all “public-facing” capital projects, including reconstruction and renovations of existing properties. However, we note that accessibility has not been among Parks’ performance indicators in the MMRs in the last 10 years. We believe including accessibility as a performance indicator in the MMR could raise awareness of the issue as well as act as a catalyst for more funds to address barriers to accessibility. Agency officials acknowledged that including accessibility as a performance indicator would be helpful; however, they advised us that the MMR is owned and maintained by the Mayor’s Office, and they cannot dictate what is included in the report. However, according to the MMR, the services and goals within the report are developed “through collaboration between the Mayor’s Office of Operations and the senior leadership of each agency.”

Internal Accessibility Rules, Policies, and Procedures

Parks has not developed formal rules, policies, and procedures pertaining to its ADA compliance and implementation. Without internal policies and procedures, it is unclear how the agency ensures that the ADA guidelines are followed and who is

responsible for implementing and communicating them to the agency's architectural design staff and construction contractors as well as to vendors (e.g., concessions, tennis centers) who operate businesses on Parks' properties.

Recommendations

1. Reassess the information and status of accessibility barriers identified in the 2006–2009 Survey and revise as needed, review the potential barriers identified in this report to determine if they present accessibility issues, and begin addressing those barriers that can be rectified without much difficulty and expense.
2. Finalize and communicate the Transition Plan, establish the timeline, and monitor its implementation.
3. Ensure accessibility signs at entrances to facilities are only placed at locations that comply with ADA requirements. When facilities are not accessible, provide directional signs to the nearest accessible alternative.
4. Monitor concession facilities' compliance with contractual obligations and other accessibility requirements.
5. Ensure the accessibility information posted on the Parks' website is accurate.
6. Prioritize the improvement of facilities' and amenities' accessibility as a goal and performance indicator. Engage with the Mayor's Office to include accessibility as part of Parks' performance indicators in the Mayor's Management Report.
7. Formally develop and communicate rules, policies, and procedures pertaining to ADA compliance and implementation, as well as the duties and responsibilities of the ADA Coordinator.

Audit Scope, Objective, and Methodology

The audit objective was to determine whether Parks facilities were accessible for people with disabilities, as required. Our audit covered the period from January 2015 to October 2022.

To accomplish our objective and evaluate relevant internal controls, we reviewed relevant laws and ADA regulations. We interviewed Parks officials and assessed capital construction and improvement processes as they related to ADA accessibility. We judgmentally selected a sample 22 different properties (with 115 facilities) from a list of 1,942 different properties provided to us by Parks in November 2021. We selected our sample based on factors such as borough where the property was located, type of facility (e.g., restroom, playground, swimming pool), inclusion in the draft Transition Plan as having barriers rated Priority 1 or 2, how recently renovated, and complaints related to accessibility issues. We conducted observations of the sampled facilities between February 2022 and June 2022. The results of our testing were not meant to be projected.

Despite claiming on its website to be responsible for 5,000 properties, Parks was only able to provide us with a list of 1,942. Parks was not able to provide us with an explanation for the discrepancy, nor were we able to obtain any other lists of Parks properties. Therefore, we cannot determine the reliability of the list. However, as this is the only list of properties provided to us, we used it to select our sample of properties to visit to evaluate Parks' oversight.

We also reviewed assessment surveys prepared by Parks during the period of 2006 to 2009. We observed the facilities and took detailed measurements of 606 facility elements (297 from the assessment surveys and 309 from our additional observations) using a laser distance measuring device, a digital slope measuring device, a wheel distance measuring device, and a measuring tape. We also reviewed a sample of six license agreements between Parks and concession vendors, and examined the agency's website.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objective.

Reporting Requirements

We provided a draft copy of this report to Parks officials for their review and formal comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. Parks officials agreed with six of the seven recommendations in our report and indicated that certain actions have been and will be taken to implement them. Our responses to specific Parks comments are embedded within Parks' response.

Within 180 days after final release of this report, we request that the Commissioner of the New York City Department of Parks & Recreation report to the State Comptroller, advising what steps were taken to implement the recommendations contained in this report, and if the recommendations were not implemented, the reasons why.

Agency Comments and State Comptroller's Comments



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February 10, 2023

Margarita Ledezma
State of New York, Office of the State Comptroller
59 Maiden Lane
New York, NY 10038

Dear Ms. Ledezma:

Thank you for forwarding your draft report (2021-N-7) on Park Accessibility for People with Disabilities.

This audit provides us with the opportunities to reflect on how we provide accessibility to Park visitors and showcase our many accessibility achievements. Over the past eight years, Parks has devoted substantial investment to providing accessible spaces for all New Yorkers and addressing existing barriers in facilities throughout the five boroughs. Parks directs funding to improvement of properties as funding becomes available.

Since 2015, Parks has invested over \$700 million to complete the following projects that increased accessibility: 136 accessible playground and 98 comfort station reconstructions, accounting for \$373 million and \$123 million, respectively; 85 projects focused exclusively on sidewalks, entrances, pathways, sitting areas and plazas – all key pieces of accessibility infrastructure, totaling \$201 million. Parks also installed on its properties 566 accessible “Hi-Lo” drinking fountains that we worked directly with manufacturers to develop. Further, 108 fitness sites were created with accessible features prioritized for the elderly and park users with mobility challenges.

Thank you for the recommendations in this report. Overall, we agree with all but the final recommendation (re: developing policies and procedures). Our responses to the findings and recommendations follow this letter.

Our main concern with the audit is that some findings can be considered misleading and need clarification. We believe the auditors may have misinterpreted regulations during their observations and analyses. For example, the report lists 249 potential barriers, termed “instances of potential inaccessible elements,” that include signs at outdoor locations (i.e., not an ADA requirement), and comfort station elements.

State Comptroller's Comment 1 – Our conclusions are not misleading and we did not misinterpret the regulations. As noted in Parks' response, our report lists instances of potential inaccessible elements. We reiterate here that nearly half of the 249 instances cited involved playgrounds. Parks could do more to open up all its parks and recreational amenities to the “widest possible audience.”



The number of these issues is overstated because auditors observed facilities where no material work had been done. Further, of 17 instances of “potential safety risks,” nine were pipe covers, which we are in the process of rectifying, where necessary. The other eight instances have slope topography that is challenging due to structural impracticable conditions and lack of funding. It is our understanding that if a facility has not been materially altered, full compliance was structurally impracticable, or funding unavailable for construction, it is still compliant with ADA regulations.

State Comptroller’s Comment 2 – Our report did not state that the slopes were non-compliant. Rather, we pointed out that these slopes were steeper than the maximum allowed by the regulations.

Further, we have doubts about the first key finding: “... accessibility efforts are focused on ensuring newly funded capital projects are ADA compliant, rather than removing identified barriers at existing facilities.”

State Comptroller’s Comment 3 – We stand by our conclusions. In their response to our preliminary report, Parks officials acknowledged that their priority is newly funded capital designs.

We are pleased that the audit team had the opportunity to observe many accessibility improvements at our concessions. These improvements include a curb cut, accessible restroom, and new lift installed at the Loeb Boathouse, and an accessible ramp at Cloves Lake Café. Parks will continue to work with our concessionaires as they perform required work that includes installing accessible counters and providing better access to restrooms.

Finally, we would suggest that the discussion on priority levels is insightful, but no longer relevant. Over the years, priorities have changed, and some are not feasible. The priority levels and examples in Table 1 were developed using the Transition Plan assessment survey, conducted between 2006 and 2009. Priorities and issues detected in the Plan 13 years ago might be addressed differently in 2023. What was “readily achievable” in 2006 may not be “readily achievable” now, due to differences in the Mayoral administration, funding priorities, and staff.

State Comptroller’s Comment 4 – We acknowledge that priorities may change, which is why our report recommends reassessing the information in the 2006–2009 Survey.

Our response to the findings and recommendations follows this letter. We plan to finalize our Transition Plan draft, ensure our website clearly communicates facilities’ accessibility (note: we have corrected the specific park examples noted in the audit findings), and incorporate ADA indicators into this year’s MMR. Going forward, Parks



will continue working to upgrade accessibility to facilities and programs for the eight million New York City residents whom we serve.

Sincerely yours,



David Cerron
Assistant Commissioner

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NYC Parks – Accessibility

Final Report Response

February 2023

Working together with the Division of State Government Accountability on the Park Accessibility for People With Disabilities Report has been a valuable exercise for NYC Parks and has given us an opportunity to reflect on the ways in which we provide accessible public spaces for the people of New York City. As the Agency continues to design and build high-quality parks, playgrounds and other accessible public spaces each year, we look forward to incorporating the recommendations from the Report to improve our process even further.

To respond to the Audit team’s findings constructively, we would like to address some of the points laid out in the report that we believe mischaracterize the Agency’s capital process and approach to accessibility and reflect a misinterpretation of ADA requirements.

Key Findings

New Construction vs. Existing Issues

The Report asserts that Parks focuses primarily on ensuring ADA-compliance in new projects to the detriment of addressing barriers at existing facilities. This reveals a critical error in analysis: Parks’ capital program is precisely the mechanism by which the Agency addresses existing accessibility issues. Since 2015, Parks has completed 136 playground projects - of these, 132 were renovations/reconstructions of existing properties. Similarly, out of 98 comfort station projects completed in the same time period, 71 were reconstructions/renovations of existing structures. In total, the majority (87%) of playground and comfort station improvements have updated existing properties, all according to Parks’ rigorous accessibility standards. The suggestion that Parks focuses more on building new accessible properties than on addressing existing issues is not supported by the data.

[State Comptroller’s Comment 5 – During the audit, Parks provided numerous data sets that do not correspond to the figures presented in Parks’ response. Therefore, we have no assurance that the newly presented information is accurate. Refer to Comment 3.](#)

Evaluating ADA Compliance

The Capital Division’s output over the past eight years clearly shows that the Agency has devoted substantial investment to providing accessible spaces for all New Yorkers and addressing existing barriers in facilities throughout the five boroughs. The Agency directs funding to the improvement of properties as funding becomes available. In this way, the Capital Program is consistently working towards addressing identified barriers in the system.

Understanding this, the Report still focuses exclusively on existing issues in the system today and seems to present these issues as evidence for Parks’ non-compliance with ADA requirements. The Americans with Disabilities Act plainly states that facilities must be brought up to code when ‘materially altered and if feasible’, meaning that the Agency is acting in accordance with the law as it steadily updates its properties through successive capital improvements. In evaluating the Agency’s ADA compliance, the requirements of the law should be correctly understood. NYC Parks owns and maintains over 1,000

properties and contends with substantial funding and staffing challenges. The fact that accessibility issues exist in the system today does not indicate non-compliance with ADA law.

State Comptroller's Comment 6 – Our report did not state that Parks was non-compliant with ADA law.

The Law *does* mandate that the Agency adhere to accessibility requirements when it is able to update them with capitolally-funded improvements, a commitment that Parks takes very seriously. In this way, the Report's focus on issues in sites that have not seen recent capital investment seems to indicate a misinterpretation of ADA requirements.

The Report's focus on existing issues in the system also largely ignores the robust capital improvements planned and completed by the Agency each year - all of which serve to resolve existing access issues and create new accessible spaces. In addition to the 136 accessible playground reconstructions and 98 comfort station reconstructions completed since 2015, accounting for \$373M and \$123M, respectively, Parks has completed a number of projects that address accessibility throughout the system in other ways. 85 projects completed during this timeframe focused exclusively on sidewalks, entrances, pathways, sitting areas, and plazas; all key pieces of accessibility infrastructure, for a total of \$201M. 566 accessible 'Hi-Lo' drinking fountains were installed in Parks properties during this time, a feature that Parks worked directly with manufacturers to develop. 108 fitness sites were also created, with accessible features for the elderly and park users with mobility devices prioritized at every site. The omission of the Capital Program's transformative, far-reaching work leads to a mischaracterization of the Agency's significant accessibility efforts.

State Comptroller's Comment 7 – Our sample included both newly constructed and existing facilities. We did not ignore information related to Parks' capital improvement work. Our key findings acknowledge Parks' progress in its accessibility efforts.

Most Common Potentially Inaccessible Elements

The report identifies 249 instances of the most common potentially inaccessible elements in surveyed Parks properties. It should be noted that while these elements may be inaccessible, they are not instances of ADA non-compliance. The law mandates accessibility in sites that have been 'materially altered' - existing instances of inaccessibility in sites that have not received capital investment in many years do not violate ADA law. It should also be noted that selecting parks sites which have not received capital improvements in some time would also not reveal instances of ADA non-compliance. The Audit Team's site selection criteria suggest a potential misunderstanding of ADA regulations.

State Comptroller's Comment 8 – Refer to Comment 6. Moreover, our criteria for site selection were consistent with audit standards and ADA regulations.

Signage

Of all the instances of inaccessible elements identified, 83 pertained to signage. 79 of these instances were outdoor signs, which are not mandated by the Americans with Disabilities Act. ADA regulations require accessible signage within accessible indoor facilities. Outdoor directional signage in parks and outdoor areas is recommended but not mandatory as per the ADA.

State Comptroller's Comment 9 – The ADA mandates indoor signage, but outdoor signage is recommended. Outdoor signage would be a simple, and equally constructive, means to assist visitors with disabilities.

The remaining 4 signage instances have been addressed and will be updated by borough operations staff.

Section 216.6 of the ADA applies to buildings, facilities and/or pathways providing access to facilities. This would not apply to all our Parks properties, only to buildings with public programming and services, like Recreation Centers. Section 216.6 refers to directional signage on a route to a building's accessible entrance to eliminate backtracking. With the number of Park entrances, varying lengths of pathway, and diverse topography within our parks system, this signage project is a large and expensive undertaking. Assessing grades on all sections of park paths requires significant funding and expertise. Parks has made this a priority in all new projects and has begun to make progress towards accomplishing this goal.

Pipe Covers

The Report findings identify several comfort stations that did not have sink pipe covers installed. These instances occurred in older comfort stations that have not been recently reconstructed to current standards. As such, these instances are not examples of non-compliance. Many have not been updated since they were built and feature openings narrower than 32 inches, which do not accommodate the use of wheelchairs. Therefore, the pipe covers meant for wheelchair users are not necessary at these sites.

All of Parks' recently built, accessible and ADA-compliant comfort stations also include pipe covers, as per ADA regulations. Pipe covers have been installed in any newly reconstructed comfort stations that did not already include these features. When the older comfort stations are targeted for capital improvements, they will be fully brought up to code and have pipe covers installed.

State Comptroller's Comment 10 – The report did not state that the facilities or elements were non-compliant. We encourage Parks to assess the conditions identified in the report.

Slopes

We appreciate the Report's attention to slope grades in ramps and other pathways and will continue to refine our methods for ensuring ADA-compliance in all slopes throughout the construction process. We would like to point out that the instances indicated in the Report refer to certain sections of ramps that exceed maximum slope limits - when the ramp is measured in totality, the slope is overall under the maximum allowed percentage and accessible. If a park user with a mobility device or disability is walking or rolling over one of these small non-compliant portions of a pathway or ramp, the slope is hardly noticeable as it does not extend over a significant enough distance to be an obstacle.

State Comptroller's Comment 11 – We disagree. We measured the slopes at three different points and where we identified the ones that exceeded the maximum allowed steepness, we included them in our findings.

Comfort Stations

The Report indicates several comfort station doors as being inaccessible - again, these findings may be based on a misinterpretation of ADA requirements. Doors surveyed were below the legal maximum depth of 2 feet. As per regulations, doors with depths below 2 feet are only required to be 32 inches wide, not 36 inches. The comfort station doors indicated in the report are less than 2 feet deep and at least 32 inches wide, and are therefore compliant.

State Comptroller's Comment 12 – We stand by our conclusion. Further, we provided details of our measurements to Parks.

Rules, Policies and Procedures for ADA Compliance

The Report asserts that 'Parks has not developed formal rules, policies and procedures pertaining to its ADA compliance and implementation', despite multiple documents and materials shared with the audit team showing this assertion is inaccurate. Parks projects go through a rigorous and multi-levelled design review process before moving on to construction, where additional, continuing oversight ensures the park is built as designed. Written SOPs (standard operating procedure documents) clearly define this process and outline the requirements at each level.

State Comptroller's Comment 13 – We stand by our conclusion. Parks provided a document, "Parks Capital Projects Accessibility Policy," which does not specifically address accessibility rules, policies, and procedures.

Each project begins with a 'Pre-scope' meeting, where designers meet with maintenance staff and make an initial assessment of the site, noting any accessibility issues. Next, a 'Community Input' meeting is held, where the design team engages the public and solicits additional information about park user needs and site issues. This is an important step for gathering insight from the community, including the needs of park users with disabilities. Finally, detailed site surveys by Parks staff identify any other accessibility issues.

As the project moves through the design phase, it is subjected to multiple levels of review where different parks staff provide oversight and guidance. All schematic designs must pass through three successive levels of internal design reviews, finally securing approval from the Parks Borough Commissioner, Deputy Commissioner for Capital Projects, and the Parks Agency Commissioner. The design will then be submitted for review by the Public Design Commission and/or the Landmarks Preservation Commission, if applicable. Finally, licensed professionals review and sign off on detailed contract documents. Throughout this process, the design is changed and refined according to input from various staff, both internal and external. The Capital Division ADA Coordinator works closely with the design team as they develop the schematic for the new park space, providing comments and critiques at design reviews, and advising best practices to ensure that equal access is prioritized in the final design.

Contract Documents & Signoff

Before entering the procurement and construction phases, designers create a full set of contract documents based on the schematic design. Contract documents are detailed sets of instructions for building a park, including technical drawings and written specifications for all materials. The Capital Division has developed detailed drawings and specifications for the Agency's standard set of accessible site elements and materials. Standard site elements help to ensure consistency, reliability and ease of maintenance, and are based on years of experimentation and research to identify best practices in the design of accessible spaces. Final documents are thoroughly reviewed for completeness and clarity by licensed landscape architecture, architecture, and/or engineering professionals, who sign and seal the documents. The Chief of Landscape Architecture completes a final review of the drawings, often consulting with the Accessibility Coordinator to ensure that accessibility features are described correctly.

Re-thinking the Transition Plan

The 2006-2009 assessment and Transition Plan provided an overall assessment of the Agency's accessibility, and was useful in raising awareness and identifying areas that needed attention in future

work. We have indicated that the Agency does not regard the Transition Plan, drafted more than a decade ago under a different administration and with different rules regulating the capital process, as a useful document in guiding its approach to accessibility today.

State Comptroller's Comment 14 – The Transition Plan was never finalized. In the absence of a finalized Transition Plan, we believe the 2006–2009 draft and the Surveys would be useful tools of accessibility information for Parks.

Whenever funding can be secured for public improvements to Parks properties, ADA-compliance is sure to be a top priority. As Mayoral and City Council funding sources are secured, comprehensive property upgrades are planned and executed, including all required accessibility improvements. The transition plan does not reflect the realities of the capital process in its assessment of barriers classified as 'achievable' or 'readily-achievable'. Because of the way that capital projects are planned and funded, and the rules regulating capital eligibility, individual barriers within larger sites cannot be considered as simple 'quick-fixes' - they must be considered within the totality of a larger capital upgrade. The Capital Division cannot make small micro-improvements within a property while the surrounding property is in need of a comprehensive upgrade. Funding for a total reconstruction is assembled before all issues, including accessibility, are addressed in a holistic manner.

One example that illustrates this is Haffen Park: the report identified 16 'uncorrected barriers' in Haffen Park that had been indicated in the 2006-2009 assessment as 'achievable' or 'readily-achievable'. There is a major renovation of this property currently underway (with construction scheduled to begin in 2024).

The Haffen Park project includes \$31.93M for the reconstruction of the playground and sports courts, with new ramped park entrances, accessible paths, landscapes, sports areas and playground features. All play equipment and fitness areas will have accessible features. The \$8.4M allocated for the reconstruction of the pool complex will provide an additional accessible park entrance with a ramp leading to the pool, which will receive other important accessibility upgrades. \$24.5M has been set aside for the reconstruction of the fieldhouse/comfort station and community space, which will provide fully ADA-compliant, accessible spaces for park users with mobility challenges.

In this way, the 'uncorrected barriers' identified in the Transition Plan have been addressed - through a multi-million dollar, capitolally-funded reconstruction of the entire property. Characterizing these individual barriers as 'readily-achievable' misrepresents the size and scope of capital projects, and ignores the capital-eligibility guidelines that govern the division's work. In this way, the 2006-2009 Transition Plan is no longer a useful tool, and should not be used as a rubric for evaluating the Agency's progress towards addressing accessibility barriers.

Role of Accessibility Coordinator

Parks' Accessibility Coordinator is a role that emphasizes the Agency's commitment to accessibility in both the design and operation of its facilities. The Accessibility Coordinator participates in all levels of design review, from the early development of the project, through to important internal and external approvals as the design is finalized. In this way, the expertise in accessibility, informed by personal experience and extensive knowledge of ADA requirements, is incorporated into the capital process from the early stages of site design through completion. The Accessibility Coordinator also acts as community liaison for accessibility at Parks, responding to public queries and requests for information, as well as maintaining long-standing relationships with key community leaders that provide real-time information about

accessibility throughout the system. The Accessibility Coordinator uses the insight gained through these connections to inform the design process, and provide training for Capital staff on both the key concepts of Accessibility, as well as the more advanced technical requirements of the ADA.

State Comptroller's Comment 15 – We stand by our conclusion that the responsibilities of the ADA Coordinator should be formalized and communicated.

Oversight During and After Construction Phase

During construction, contractors build or renovate the site according to the project documents developed in the design phase. A Resident Engineer supervises onsite throughout the construction process, ensuring that what is built follows the plan detailed in the technical contract drawings, including accessible features. A 'Substantial Completion Use Inspection' confirms that the project is ready to be open to the public, and a 'Guarantee Inspection', scheduled for one year after completion, confirms that all work under warranty has continued to function properly. Throughout design and construction, multiple parks staff, licensed professionals, external reviewers, and coordination with community stakeholders, all ensure that accessibility is prioritized in the design and final execution of the project. The rules guiding this process are clearly laid out in Parks' internal documents.

Recommendations

Transition Plan

Based on the findings of the Accessibility Audit, Parks will now begin the drafting of a new transition document to assess system wide access and guide future efforts to improve accessibility.

The 2006-2009 assessment and report acted as a snapshot of the park system's accessibility needs, but does not accurately reflect how capital projects are funded and implemented in New York City. The Transition Report is not a useful tool for evaluating the Parks Department's accessibility approach, and does not act as a guide for directing capital investments or ensuring ADA-compliance. Instead, the Capital Division's funding detailed design guidelines, review procedures and oversight mechanisms are the primary way that the Agency ensures that all projects meet or exceed accessibility requirements.

Signage

We agree with the recommendation that directional signage be installed when possible, and will continue to improve our accessible signage throughout the Parks system. We would like to note that although there will always be room for improvement, the Parks Department's signage is ADA-compliant.

Concessions Monitoring

Parks appreciates the NY State Comptroller's accessibility audit review of four Parks concessions. We are glad that the audit team had the opportunity to observe the many improvements made to provide increased accessibility at our facilities, including the new accessible lift, accessible restroom and curb cut that was installed at the Loeb Boathouse and the accessible ramp installed at the Clove Lakes café. Parks will continue to work with our concessionaires, including new operators at Clove Lakes and Rippers, as they perform required work, including installing accessible counters, and providing accessible access to restrooms. Concession licensees are required to comply with all City, State and Federal requirements to provide safe and accessible recreation opportunities for everyone.

Parks Website

NVC Parks is committed to ensuring that its website clearly communicates its facilities' accessibility. As such, we have corrected the specific park examples noted in the audit findings. We agree with the findings of the Report that the website is a key resource for park users and will continue our efforts to ensure all information is accurate so the public can reliably plan visits and be informed about accessible features.

MMR Reporting

We emphatically agree with the Report's recommendation that accessibility data be included in the Mayor's Management Report going forward. We will work with the Mayor's office to include a statement of our accessibility improvement goals and efforts, as well as statistical indicators and other data, in future MMRs. Because the MMR is managed by the Mayor's Office and not by Parks, indicators are selected by that office and not the Parks Department, and as such the Agency's commitment to accessibility has not been recorded as a performance indicator in the past. We again agree that highlighting capital data about accessibility improvements could catalyze engagement and awareness about these important issues, and potentially secure additional funding. We look forward to sharing data about our capital program's commitment to accessible design in future MMRs.

Rules, Policies and Procedures

We do not agree with the conclusion that Parks has not 'developed formal rules, policies, and procedures pertaining to its ADA Compliance'. Parks has numerous mechanisms designed to ensure ADA-compliance built into its Capital Process, from public outreach through design and construction.

Designs are reviewed closely with attention to accessibility issues in a series of design reviews throughout development. Licensed professionals are required to sign off on designs and confirm ADA-compliance before they are finalized. Contractors are supervised by on-site Resident Engineers and their work is checked for compliance at multiple stages throughout the construction process. All of these procedures are laid out in detail in written SOPs (Standard Operating Procedures).

State Comptroller's Comment 16 – We stand by our conclusion. Parks provided a document, "Parks Capital Projects Accessibility Policy," which does not specifically address accessibility rules, policies, and procedures.

Conclusion

We again want to thank the audit team for their time and attention to the Report, and their recommendations for Parks' Capital Division. We believe that highlighting the Agency's work in the Mayor's Management Report is a particularly good suggestion, and will begin steps to implement that immediately. Creating a new Transition Plan that better reflects Parks' capital process will be another important step. Finally, improving the accessibility information available on the Parks website will be a key priority for the Agency, and a major effort is currently underway to update and expand the resources available to the community online.

The Report is an important opportunity to reflect on Parks' approach to accessibility and identify areas for improvement. It should also reflect all the work that the Agency does to provide accessible spaces in New York City. The Parks Department is one of the main drivers behind improving accessibility in the City, and its far-reaching work has deep impacts for park users with disabilities throughout the five boroughs. Parks holds itself to a high standard when designing and constructing accessible public spaces, and often goes

above and beyond ADA requirements, in some cases working closely with manufacturers to develop new site elements (like the Hi-Lo drinking fountain and accessible fitness units) specifically for the Agency. Since 2015, Parks' Capital Division has invested \$496 Million in the creation of accessible playgrounds and comfort stations alone. This does not include other key accessibility upgrades like the sidewalks, entrances, pathways and other public spaces, which accounted for \$201 Million of the capital budget during this time frame.

A true assessment of the Parks Department's approach to accessibility should recognize the key role that the Agency plays in creating a more accessible and equitable New York City. While barriers will be present in an expansive, heavily-used and constantly-evolving Parks system, the Capital Division continues to do important work every year to address these issues, directing substantial staff time and capital dollars towards ensuring accessibility improvements are prioritized and executed to a high standard in all projects. We look forward to implementing many of the recommendations in the Report, and to continuing our commitment to the design and construction of high-quality, accessible public spaces.

Thank You,
NYC Parks Capital Projects

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