

October 24, 2024

# City of Palo Alto

Office of the City Auditor

ADA Compliance Audit

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# Executive Summary

## Purpose of the Audit

Baker Tilly Advisory Group, LP (Baker Tilly), in its capacity serving as the Office of the City Auditor (OCA) for the City of Palo Alto (the City), conducted an ADA Compliance Audit based on approved Task Order 4.22 as part of the City's FY24 Audit Plan. The objective of this audit was to:

Determine whether improvements have been made to make facilities, programs, and services compliant with the Americans with Disabilities Act (ADA) of 1990 and in accordance with the City of Palo Alto's *ADA Transition Plan Update (Plan Update)*.

## Report Highlights

**Finding 1: (Page 10)** While the City has made progress in making ADA Transition Plan compliance improvements to facilities and streets, these efforts were hampered by the pandemic, reductions in staffing, and lack adequate tracking and monitoring.

The *ADA Transition Plan* includes an "ADA Transition Plan - Implementation Schedule" for improvements of Public Facilities, Parking, and Parks spanning 60 years. In addition, the *ADA Transition Plan* includes schedules for "Curb Ramps in Public Right-of-Way" and "Sidewalks in Public Right-of-Way" spanning 30 years. The plan is in the beginning stages as the City is in the first 5-year implementation phase.

The OCA examined the spreadsheets that the Public Works Department Engineering Services Division (PWE) uses to track completed projects. In addition, the OCA obtained the Adopted Capital Budget FY 2024 and Proposed Capital Budget FY 2025.

The OCA noted the following:

- While progress on curbs and sidewalks was delayed due to pandemic-related funding and staffing reductions, the City is ramping up its efforts to address curb and sidewalk repairs in FY2025.
- Progress on facilities is behind schedule as only one of the 14 facilities scheduled to be updated in Implementation Phase 1, during 2021-2025 was completed.
- The City's current progress reports may not reflect actual efforts as they currently do not track *in-progress* projects, only completed projects. In addition, the reports do not appear to be regularly updated.
- Despite the City's allocation of funds for ADA Compliance, only 9.6 percent was used in 2022 and 0.2 percent was used in 2023, leaving a significant portion of the budget unspent.
- The *Plan Update* does not specify regular reporting of planned progress and outcomes due to the long-term scope of this project.

Several factors contributed to *Plan Update* progress delays including the pandemic, funding reductions, and staffing shortages. The City has a new rehabilitation cycle starting with sidewalk districts 1 and 2 in FY 2024, which will increase progress in sidewalk and curb ramp remediations.

### Key Recommendations

We recommend that the City determine whether current staffing levels are adequate to implement the *Plan Update* or if outside resources, such as contractors and/or consultants could be used to enhance the City's efforts to meet the *ADA Transition Plan* Schedule goals and expend the full budget each year.

In terms of reporting, we recommend the City consider developing a more robust tracking and monitoring system for *Plan Update* projects and an appropriate schedule for reporting progress to City Council, residents and other stakeholders. Specifically, we recommend the City consider tracking and reporting on the following:

- actual vs. planned progress;
- actual expenditures vs. budget; and
- planned vs. in-progress vs. completed projects for the time period in question.

### Finding 2: (Page 14)

#### **ADA requests and grievances are tracked and monitored inconsistently.**

The City receives ADA requests and grievances several ways. ADA requests can be submitted online via PaloAlto311 (an online interface for residents to submit a request or complaint using the City of Palo Alto website), the ADA email inbox, or the ADA phone number. ADA requests and grievances can also be made directly to a department or program. Staff indicated that all requests and grievances should be recorded in the 311 system.

Based on our analysis of 50 ADA requests recorded in the 311 system, it appeared that 58% of requests were not marked as "Completed" within the required 15 working days, as stipulated by the City's ADA Grievances Policy.

It appears the 311 system does not encompass all ADA requests or grievances received by the City and is not consistently monitored based on lack of documentation of complaint resolution and several items open past the 15 working day requirement. This makes it difficult to ensure requests are timely resolved.

In addition, the ADA Grievances Policy appears to be outdated as it has not been revised or updated since October 1997, uses outdated language to refer to the ADA Coordinator, and includes an ADA Grievance Procedure Form that may no longer be applicable.

Finally, the ADA Administrator indicated that there are potential timing and budgetary constraints related to the ADA administrative function.

### Key Recommendations

We recommend that the City consider establishing a centralized procedure and process for recording and tracking all ADA requests and grievances received by the City including those received by departments.

Procedures should define roles and responsibilities in addressing and monitoring ADA requests/complaints and address how requests/complaints should be logged, routed

to the appropriate individual, and tracked for when and how they are resolved with appropriate supporting documentation. ADA requests/complaints should be regularly reviewed to ensure they are addressed within the designated timeframe per the policy and the outcome recorded. A periodic reconciliation should also be performed to ensure all requests/complaints are being captured and appropriately resolved. In addition, we recommend the City regularly review and revise the ADA grievance policy to ensure that the documentation reflects the current process and process owners. The City should also consider if the City of Palo Alto ADA Grievance Procedure Form is still applicable as the City uses the 311 system to receive ADA grievances. Finally, we recommend that the City consider whether the ADA Coordinator position is sufficiently resourced and within the appropriate department.

**Finding 3:**  
(Page 18)

**The City has implemented nearly two-thirds of the self-assessment recommendations but there is no formal oversight for completing this work including determining whether recommendations should be implemented and/or an appropriate timeframe for completion.**

As part of the *Plan Update*, a third-party consultant, SZS, reviewed the City's policies and procedures using the US Department of Justice (DOJ) ADA Best Practices Took Kit. After receiving responses from various departments on the DOJ ADA Best Practices Tool Kit, SZS provided recommendations to City departments. Imbedded within the *Plan Update*, the *Self-Evaluation Report* provided self-evaluation recommendations to existing City policies and procedures to ensure all programs, services, or activities are accessible.

The OCA sent a questionnaire to the various City departments subject to recommendations to determine the status of the recommendation. It appears that several recommendations have not been implemented and progress is not being tracked.

The OCA noted the following:

- While many of the recommendations have been implemented or partially implemented, roughly 35 percent have not.

Recommendations do not appear to be centrally tracked or monitored, and there appears to be a lack of coordination of efforts between departments in tracking progress and addressing self-evaluation recommendations that involve more than one department.

### **Key Recommendations**

We recommend that the City assign oversight of the *Plan Update* to monitor and track progress and ensure recommendations are implemented timely.

Per the "Tracking Progress on Remediations" section of the Staff Report included in the *Plan Update*, it states that City individuals who are identified to act in furthering the City's progress in accessibility will submit progress assessments to Public Works Engineering or a later designated individual overseeing the City's overall accessibility. The progress assessment will provide documentation from the individual on their team's progress in implementing recommendations from the *Plan Update*. The City should determine if this still applies or if another approach should be implemented.





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# Introduction

## Objective

The objective of this audit was to:

Determine whether the City has made improvements to facilities, programs, and services in accordance with the *ADA Transition Plan Update (Plan Update)*, the purpose of which is to ensure compliance with the Americans with Disabilities Act (ADA).

## Background

In an active effort to improve the City's accessibility, the City hired SZS Consulting Group (SZS) in 2015 to evaluate and survey all public facilities that hold City programs, services, or activities. Key drivers for this update were new ADA Standards<sup>1</sup> for Accessible Design which became effective on March 15, 2011, updating the 1990 regulations for state and local government services to prevent disability discrimination and new facilities and projects for which the City has taken responsibility since the original *ADA Transition Plan* was prepared in 1992<sup>2</sup>.

The *ADA Transition Plan Update (Plan Update)* was adopted by Palo Alto in 2021 and focuses on making improvements to physical barriers in existing City facilities and rights-of-way (land or property owned by the City). The *Plan Update* presents a vision to improve accessibility in the City of Palo Alto over the next 60 years. Public-rights-of-way (PROW) improvements are scheduled as part of a 30-year, district-by-district sidewalk, curb, and gutter repair program. Imbedded in the *Plan Update*, SZS developed the *Self-Evaluation Report* which outlines the context of having a Transition Plan and provides recommendations to existing City policies and procedures to ensure all programs, services, and activities are accessible.

### About the Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a comprehensive law addressing both employment and the provision of goods and services for persons with disabilities. The ADA addresses all aspects of accessibility which may include public accommodations in facilities, as well as policies, procedures, and website accessibility.

Title II of the ADA Standards covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that state and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities.

## Scope

The OCA evaluated the *Plan Update* adopted in 2021 and assessed whether improvements have been made to make facilities, programs, and services

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<sup>1</sup> These new standards align with the minimum guidelines set by the Access Board and reflect the Department's legal and practical experiences in enforcing the ADA since 1991, providing clearer guidance for compliance with the ADA.

<sup>2</sup> In 1992, the City hired Schirmer Engineering Corporation to create an *ADA Transition Plan* to comply with Federal ADA regulations issued in July 1991.

accessible to ensure compliance with the ADA from adoption of the plan to the current period (audit period).

### Methodology

To achieve the audit objectives, the OCA performed the following procedures:

- Interviewed the appropriate individuals to gain an understanding of the organizational structure, processes, and controls related to ADA compliance efforts.
- Analyzed policies and procedures as well as the Americans with Disabilities Act (ADA) of 1990 standards, laws, & regulations to understand Transition Plan requirements and ADA Title II regulations.
- Evaluated the relevant documents such as the *ADA Transition Plan*, which includes the *ADA Self-Evaluation Report*, the *Transition Plan Schedule*, and progress assessment reports.
- Gathered information and reports to assess if projects are on schedule according to the Transition Plan Schedule, and if there is funding for all improvements to be made in a timely manner.
- Inquired with departments via a questionnaire to assess progress of self-evaluation recommendations, how ADA complaints are handled, and how departments monitor accessibility of programs and services.
- Selected a sample of emails sent to the ADA Coordinator inbox and reconciled to the 311-system log to assess how issues are communicated to departments and if the ADA Coordinator is tracking ADA requests and grievances.
- Analyzed where the ADA Coordinator role resides in surrounding communities.
- Completed audit report of findings, conclusions, and recommendations based on the supporting evidence gathered.

### Compliance Statement

This audit activity was conducted from June 2024 to September 2024 in accordance with generally accepted government auditing standards, except for the requirement of an external peer review<sup>3</sup>. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, observations, and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings, observations, and conclusions based on our audit objectives.

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<sup>3</sup> Government auditing standards require an external peer review at least once every three (3) years. The last peer review of the Palo Alto Office of the City Auditor was conducted in 2017. The Palo Alto City Council approved a contract with Baker Tilly U.S, LLP for internal audit services for October 2020 through June 2022 with an extension through June 2025. City Council appointed Kate Murdock, Audit Manager in Baker Tilly's Risk Advisory practice, as City Auditor in May 2024. As a result of transitions in the Audit Office and peer review delays due to the COVID pandemic, an external peer review is targeted for 2025. It should be noted that Baker Tilly's most recent firmwide peer review was completed in October 2021 with a rating of "Pass". The scope of that peer review includes projects completed under government auditing standards. A report on the next firmwide peer review should be available later in 2024.



### **Organizational Strengths**

During this audit activity, we noted the expertise and responsiveness demonstrated by the Public Works and the Planning & Development Services departments, notably the ADA Coordinator and the Assistant Director for the Engineering Services. We also appreciated the willingness of departments to participate and respond to our ADA Compliance Questionnaire, including the Office of the City Clerk, Community Services, Fire, Police, OES, Communications, Public Works, and Planning & Development.

**The Office of the City Auditor greatly appreciates the support of the departments involved in conducting this audit activity.**

*Thank you!*

# Detailed Analysis

## ADA Transition Plan Update

This audit evaluated the City's ADA compliance efforts based on progress made on the recommended actions outlined in the planning documents included in the *ADA Transition Plan Update (Plan Update)*. These planning documents and a brief description of what they cover are listed below. For more detailed information about these specific action plans, please see Appendix A.

- *Self-Evaluation Report – recommendations related to city programs, services and prioritization of some facility improvements*
- *Schedule for Public Facilities, Parking, and Parks – recommended improvements to City facilities*
- *Schedule for Public Right-of-Way – recommended improvements for sidewalks and curbs*
- *ADA Facility Reports – identify all physical barriers based on accessibility requirements as established by the ADA and CBC Accessibility provisions*

### Tracking Progress on Remediations

Public Works has been keeping track of recent remediations from CIP and other facilities maintenance projects. Due to the lengthy process of completing the *Plan Update*, some barriers were removed prior to its finalization. The Public Works Department Engineering Services Division (PWE) created an Excel system for all City staff to access, update, and document the progress on barrier removals as they take place. Project managers are required to enter information pertaining to the project including which barrier was removed, when it was removed, cost for removal, and a photo for documentation. Staff will then update the databases periodically based on the gathered information from departments. Staff will be looking into a more effective, integrable, electronic means of documenting barrier removals for the long term.

City staff who are identified to act in furthering the City's progress in accessibility will submit progress assessments to PWE or a later designated individual overseeing the City's overall accessibility. The progress assessment will be documentation from the individual on their team's progress in implementing recommendations from the *Plan Update*. The progress assessments will be submitted annually or when a significant change takes place. The ADA Best Practices Tool Kit provides a consistent method to track the City's progress on ADA accommodations that are not physical barriers in City facilities. Existing examples of progress documentation include annual updates on the City's Information Technology's progress towards an ADA, WCAG 2.1, and Section 508 compliant website and an updated review of the ADA Tool Kit self-evaluation questionnaires.

### Timeline

The *ADA Transition Plan Update* Schedules were effective when the plan was adopted. The *Schedule for Public Facilities, Parking, and Parks* takes place over 60 years starting in 2021. According to the Staff Report accompanying the *Plan Update*, this timeline was chosen based on the current amount of funding in PF-93009 and is typical for these types of efforts. The *Plan Update* is a living document

## DETAILED ANALYSIS

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and these schedules are likely to change over time; for example, due to changes in management of facilities such as Cubberley Community Center. The *Schedule for PROW* is compiled into a 30-year cycle annual sidewalk, curb, and gutter repair program, in alignment with the City's annual Sidewalk, Curb and Gutter Repairs Project. The City's determination of all sidewalks and curb ramps being deficient when compiling the *Schedule for PROW* ensures all districts are addressed based on the age of the district. Staff will determine which sidewalks and curb ramps in each district need to be repaired each year. City staff are currently tracking curb ramps and sidewalks brought into compliance through the City's annual maintenance program and other PWE projects. City staff will also be working with the Development Center if a curb ramp or sidewalk in the PROW is required to be fixed with a private development project.

# Audit Results

## Finding 1:

While the City has made progress on ADA Transition Plan compliance improvements to facilities and streets, these efforts were hampered by the pandemic, reductions in staffing, and lack of adequate tracking and monitoring

The *Plan Update* contains provisions for making facilities, parks, parking structures, sidewalk and curbs accessible. Included in the plan are various implementation schedules (see the table below). The *ADA Transition Plan - Implementation Schedule* spans 60 years and is divided into 3 phases made up of 5-year increments. Currently, The City is in Implementation Phase 1, Increment 1 (2021-2025).

**Table 1: ADA Transition Plan – Implementation Schedules**

Schedule/Plan	Description	Timeline
Schedule for Public Facilities, Parking, and Parks	Prioritizes buildings based on age, planned CIP, extent of work and use	60 years (3 phases divided into 5-year increments)
Curb Ramps in Public Right-of-Way	Prioritizes curbs and ramps	30 years (divided into 5-year increments)
Sidewalks in Public Right-of-Way	Prioritizes sidewalks	30 years (divided into 5-year increments)

The city-wide district-by-district sidewalk, curb, and gutter repair program also uses a 30-year lifecycle and is prioritized based on when the district was last completed. Each district is surveyed by a Public Works staff member and if a curb ramp/sidewalk doesn't meet ADA standards, it is marked for replacement and included in the next CIP project. Currently, the City is tasked with completing district 1 and district 2 in 2023-2027.

**Progress on the Transition Plan appears to be behind schedule, in part due to the COVID pandemic.**

Due to delays attributed to the pandemic, funding reductions, and staffing shortages in the Public Works Department Engineering Services (PWE) Division, progress on the *Plan Update* has been slow to start.

### Facilities

Per the *Plan Update*, the OCA observed that 14 facilities are scheduled to be completed during Implementation Phase 1, 2021-2025. Per inspection of the *ADA Facilities Report*, an Excel spreadsheet used to track completed projects, the OCA observed that out of the 3 facilities listed, 2 facilities were marked as remediated. Only one of the 14 facilities scheduled to be updated during Implementation Phase 1, 2021-2025 was completed.

### Curb Ramps and Sidewalks

The OCA observed that District 2 is listed to be completed in 2023-2024 and District 1 is listed to be completed in 2025-2026. Per inspection of the *2020 ADA Transition Plan Progress* worksheet, an Excel spreadsheet used to track progress of curb ramps and sidewalks updates, it did not appear that any projects have been completed since 2020. Per discussions with staff, although some progress has been made since 2020, this has been on a limited scale and was not tracked.

Although the City appears to be behind on the *Plan Update*, budget documents show there are plans to increase efforts on sidewalks and curbs in the fall of FY25.

Per discussions with staff and inspection of Staff Report #2404-2878<sup>4</sup>, the City will begin a new rehabilitation cycle starting with sidewalk districts 1 and 2 in FY 2025. The work will involve sidewalk, driveway, curb ramp, curb, gutter, and asphalt pavement repairs. The scope of work includes the replacement of approximately 18,468 square feet of concrete sidewalk, 2,136 linear feet of curbs and gutters, and 3,759 square feet of driveways. Additionally, 84 new curb ramps will be installed, and 33 existing curb ramps will be retrofitted with truncated domes to conform with ADA requirements.

**The current schedule does not track in-progress projects and does not appear to be regularly updated.**

The PWE Division created an Excel tracking system for all City staff to access, update, and document the progress on barrier removals as they take place. The OCA obtained the *ADA Facilities Report*. The Report shows 3 facilities, project completion dates, and barrier IDs to track the remediated barriers at each facility. The OCA noted the following observations:

- Projects are not marked as remediated in the spreadsheet until all barriers are removed. Barrier removal was completed for 2 of the 3 projects listed.
- In-progress facilities were not recorded or tracked within the spreadsheet.

The OCA obtained the *2020 ADA Transition Plan Progress* worksheet. The OCA noted the following observations:

- The worksheet does not show which district streets are located in making it difficult to align with the *ADA Transition Plan* schedules.
- In-progress streets were not recorded or tracked in the spreadsheet.

Although there are tracking spreadsheets in place for facility, sidewalk, and curb improvements per the *Plan Update*, there did not appear to be current reporting of in-progress projects or regular periodic updates to the spreadsheets based on the gathered information from departments. In addition, there did not appear to be tracking of actual progress compared to the *Plan Update* schedules.

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<sup>4</sup> <https://portal.laserfiche.com/Portal/DocView.aspx?id=72810&repo=r-704298fc&searchid=384fa4e6-8419-41a6-a73b-53bb11a863b6>

## AUDIT RESULTS

**Despite the City's allocation of funds for ADA compliance, it has been observed that a significant portion of the budget remains unutilized.**

The OCA obtained the Adopted Capital Budget FY 2024<sup>5</sup> and FY 2023<sup>6</sup> and the Proposed Capital Budget FY 2025<sup>7</sup> from the City of Palo Alto website. Per observation of the ADA compliance budget for FY 2022 – FY 2024, it appears that actual expenditures have made up about 9% or less of the allotted budget for ADA compliance activities.

Table 2: ADA Compliance Capital Budget vs. Actual Expenditures				
Fiscal Year	Adopted Capital Budget	Estimated Expenditures	Actual Expenditures	Actual Expenditures Percentage of Budget
FY 2022	\$ 800,328	\$ 362,328	\$ 77,218	9.6%
FY 2023	\$ 919,451	\$ 86,900	\$ 1,342	0.2%
FY 2024	\$ 884,677	\$ 84,676	*N/A	*N/A

\*FY 2024 actual expenditures were not available at the time of this audit.

The OCA was unable to obtain actual spending related to ADA compliance as actual spending of ADA compliance projects currently does not appear to be tracked or reported on OpenGov (budget platform used by the City that provides actual spending data). However, there is a *Status of Capital Improvement Program Projects* report that goes to Council twice a year to inform the progress of capital projects. According to the April 22, 2024 Agenda Item 13<sup>8</sup> and May 1, 2023 Agenda Item 13<sup>9</sup>, actual expenditures in 2022 and 2023 were \$77,218 and \$1,342 respectively.

The OCA concluded that the allocated funds have not been fully deployed, potentially delaying necessary upgrades and improvements. Ensuring that these funds are effectively used is crucial for meeting ADA standards and staying in line with the *Plan Update* Schedule.

**The ADA Transition Plan does not specify regular reporting of planned progress and outcomes.**

The OCA noted based on interviews with staff and evaluation of the *Plan Update* that the City has not established a regular reporting cycle for Plan progress or outcomes.

Given the long-range nature of this endeavor, giving regular reporting of progress on facility, program, and service improvements will help to ensure

<sup>5</sup> <https://www.cityofpaloalto.org/files/assets/public/v/1/administrative-services/city-budgets/fy-2024-city-budget/adopted/palo-alto-adopted-capital-budget-book.pdf>

<sup>6</sup> [https://www.cityofpaloalto.org/files/assets/public/v/1/administrative-services/city-budgets/fy-2023-city-budget/adopted-fy23/capital-budget\\_final-4-online-version.pdf](https://www.cityofpaloalto.org/files/assets/public/v/1/administrative-services/city-budgets/fy-2023-city-budget/adopted-fy23/capital-budget_final-4-online-version.pdf)

<sup>7</sup> <https://www.cityofpaloalto.org/files/assets/public/v/1/administrative-services/city-budgets/fy-2025-city-budget/proposed-budget/fy-2025-proposed-capital-budget.pdf>

<sup>8</sup> <https://cityofpaloalto.primegov.com/Portal/Meeting?meetingTemplateId=14970>

<sup>9</sup> <https://cityofpaloalto.primegov.com/Portal/Meeting?meetingTemplateId=1455>



the ADA Transition Plan is effectively implemented and the City remains accountable.

**Recommendation** We recommend that the City identify and address the barriers preventing the full utilization of the budget and evaluate if outside resources, such as contractors and/or consultants could be used to enhance the City's efforts to meet the *ADA Transition Plan* Schedule goals.

In terms of reporting, we recommend that the City consider developing a more robust tracking and monitoring system for ADA Transition Plan projects and consider an appropriate schedule for reporting progress to City Council, residents and other stakeholders. Specifically, we recommend the City consider tracking and reporting on the following:

- actual vs. planned progress;
- actual expenditures vs. budget; and
- planned vs. in-progress vs. completed projects for the time period in question.

### Management Response

**Responsible Department(s):** Public Works

**Concurrence:** Partially Agree

**Target Date:** 1<sup>st</sup> Quarter Calendar Year 2025

**Action Plan:** Public Works Department will update the Construction Contract Manual to add a procedure to provide updates to the ADA Transition Plan tracking as part of the Notice of Completion process for all Public Works projects. Staff acknowledge the observations regarding the ADA Transition Plan schedule goals. The implementation schedule shown in the ADA Transition Plans identified certain facilities to be worked on in each of the five-year increments, those facilities were intended to be identified as a guide and not a master plan. Since the ADA Transition Plan was adopted in June 2021, Public Works Engineering has completed the following projects that involve ADA improvements as a component of the capital improvement work:

- Rinconada Park Phase 1 (April 2022),
- Lucie Stern Children's Theater Seat Replacement (December 2022),
- Lucie Stern Community Theatre Seat Replacement (October 2024),
- Public Safety Building (anticipated completion late 2024),
- Curb Ramps: various street resurfacing projects and Charleston/Arastradero Corridor Phase 1-3 (completed December 2020 – August 2024),
- Boulware Park (anticipated completion early 2025), and
- FY 2024 Sidewalk ADA Curb Ramp Improvements (anticipated completion Spring 2025).

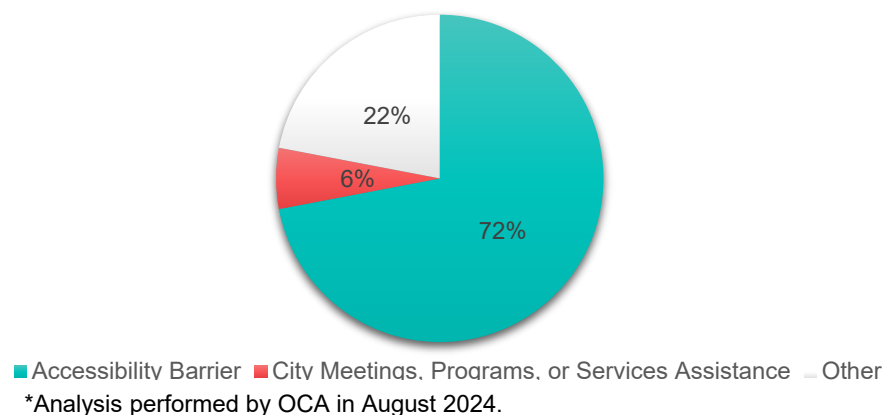
**Finding 2:**  
**ADA requests and grievances are tracked and monitored inconsistently.**

The City provides several ways for individuals to make ADA requests and grievances. ADA requests can be submitted online via PaloAlto311 (an online interface for residents to submit a request or complaint using the City of Palo Alto website), the ADA email inbox, or the ADA phone number. ADA requests and grievances can also be made directly to a department or program. It should also be noted that individuals can file ADA-related complaints against public entities directly with the federal government<sup>10</sup>.

The “Accessibility” section of the City of Palo Alto website<sup>11</sup> provides the public with the contact information of the City’s ADA Coordinator, including the ADA Coordinator’s email and phone number. This section provides a way for individuals to request assistance for persons with disabilities who need materials in alternative formats, auxiliary aids, or modifications to policies or procedures in order to access City meetings, programs, or services. Additionally, it allows individuals to submit feedback, report accessibility barriers, or file a grievance report through the PaloAlto311 (“311”) system.

All ADA-related requests and grievances are expected to be recorded in the 311 system. ADA requests and grievances are collected and routed internally to the appropriate department via the 311 system. Once routed to the appropriate department, a decision is then rendered and communicated to the requestee. According to the ADA Grievances Policy, a decision will be rendered in writing within 15 working days from the date the complaint is received. The chart below shows a breakdown of the types of complaints received in the 311-system from FY 2023 – FY 2024:

**Types of ADA Requests or Grievances**



- 72% of 311 system ADA requests or grievances are related to accessibility barriers.
- 22% of 311 system ADA requests or grievances are related to City meetings, programs, or services assistance.

<sup>10</sup> [Your rights under the Americans with Disabilities Act \(ADA\) | USAGov](https://www.usa.gov/your-rights-under-the-americans-with-disabilities-act-ada)

<sup>11</sup> <https://www.cityofpaloalto.org/City-Hall/Accessibility>

- 6% of 311 system ADA requests or grievances are categorized as “other.”

### **58% of ADA Requests were not marked as “Completed” within the required 15 working days**

The OCA obtained the ADA request data from the 311 system from FY 2023 to FY 2024. Per our analysis of the 311-system data, it appeared that a total of 50 ADA requests were recorded from FY 2023 - FY 2024.

The OCA noted the following observations:

- 28 (56%) of all requests received were marked as “Completed.”
- 21 (42%) requests were marked as “Submitted.”
- 1 (2%) request was marked as “Received.”
- 29 (58%) requests remained open for more than 15 working days.
- The average days a request remained open was about 170 days.

Per discussion with the ADA Coordinator, “Submitted” is the default status, “Received” is a status that staff use to acknowledge the ticket and its contents when routed to a department or kept internally, and “Completed” is a status that staff use to close out their task and move it to the next task or close out the ticket when the issue has been addressed.

According to the ADA Coordinator, there has not been adequate staffing or resources to follow up with departments to confirm if the requests have been addressed within 15 working days. Although some requests that remained open may have been addressed, the 311-system data is not updated to show this.

### **It appears the 311 system does not include all ADA requests or grievances received by the City and is not consistently monitored to ensure requests are adequately resolved.**

The OCA took a sample of emails from the ADA Coordinator’s email inbox to determine if they were appropriately logged in the 311 system and resolved in accordance with policy. A sample of eight emails was selected and assessed for whether the request was logged in the 311 System, whether the request was marked as “complete” aka resolved, and if the decision was rendered within the 15 working days required by policy.

The OCA documented the following results:

- 3 out of 8 emails selected did not appear to be included in the 311-system report.
- 4 out of the 5 emails included in the 311-system report appeared to have been open for more than 15 business days.
- 1 out of the 5 emails included in the 311-system report was marked as “Submitted” and had been open more than for 228 days.
- Out of the 5 emails included in the 311-system report, there did not appear to be evidence of a decision being rendered in writing in the 311 report.

The OCA completed a reconciliation of the email inbox to the 311 system which should contain all requests and complaints and found that 6 out of 18 ADA request emails received to the ADA inbox from FY 2023 to FY 2024 did not appear to be included in the 311-system report.

Additionally, based on our survey of departments, it does not appear departments independently track ADA requests or complaints that are received directly via email, phone, or in person and these requests may not be added to the 311 System.

Without a comprehensive and centralized approach for recording and tracking ADA requests received by the City, ADA requests and grievances may not be appropriately and efficiently addressed in accordance with the ADA Grievances Policy.

### **The Grievance policy in place appears to be outdated.**

The City has an ADA Grievance Policy in place which includes a policy statement, documented procedures of filing a complaint and the appeal process if the complaint is not resolved to the complainant's satisfaction, and a City of Palo Alto ADA Grievance Procedure Form ("ADA Grievance Procedure Form").

The OCA inspected the ADA Grievance Policy document and noted the following observations:

- It appears that the policy has not been revised or updated since October 1997. The policy uses outdated language such as referring to the ADA Coordinator as the "Disabilities Act Director" which appears to no longer apply to the position title.
- Although the ADA Grievance Procedure Form included in the policy appears to have been updated more recently in January 2016, it does not appear to reflect the current process. As ADA grievances are currently reported via the 311 system on the city website rather than submitting a form, the ADA Grievance Procedure Form may not be applicable.

### **There are potential timing and budgetary constraints related to the ADA administrative function.**

The current ADA administrator indicated timing, resources, and staffing constraints related to administering the program. Staff suggested that this function might be better placed outside the Planning & Development Services department.

The OCA completed an assessment of 7 surrounding communities, finding that the ADA Coordinator and program sits in various departments across communities with no single department emerging as standard.

## AUDIT RESULTS

Community	Department in which the ADA Coordinator Role Resides (Per the Community Website)
Palo Alto	Planning & Development Services
San Mateo	City Clerk's Office
Mountain View	City Manager's Office
Santa Clara	Public Works
Los Gatos	Community Development
Los Altos	Human Resources
Menlo Park	City Manager's Office
Sunnyvale	Recreation and Community

### Recommendation

We recommend that the City consider establishing a centralized procedure and process for recording and tracking all ADA requests and grievances received by the City including those received by departments.

Procedures should define roles and responsibilities in addressing and monitoring ADA requests/complaints and address how requests/complaints should be logged, routed to the appropriate individual, and tracked for when and how they are resolved with appropriate supporting documentation. ADA requests/complaints should be regularly reviewed to ensure they are addressed within the designated timeframe per the policy and the outcome recorded. A periodic reconciliation should also be performed to ensure all requests/complaints are being captured and appropriately resolved. In addition, we recommend the City regularly review and revise the ADA grievance policy to ensure that the documentation reflects the current process and process owners. The City should also consider if the City of Palo Alto ADA Grievance Procedure Form is still applicable as the City uses the 311 system to receive ADA grievances.

Finally, we recommend that the City consider whether the ADA Coordinator position is sufficiently resourced and within the appropriate department.

### Management Response

**Responsible Department(s):** Planning & Development Services

**Concurrence:** Agree

**Target Date:** 1<sup>st</sup> Quarter Calendar Year 2025

**Action Plan:** Planning and Development Services will prepare a procedures manual to ensure effective processing and tracking of ADA requests and follow up with inquiries. Staff expect that use of 311 system will continue to be the primary repository to manage ADA requests. With the additional documentation and processes, staff review resource needs to support ADA efforts, balancing resources in alignment with historical volume of ADA requests/complaints. Planning and Development Services will review historical ADA efforts and resource needs and lead coordination among departments to evaluate needs and potential gaps including engaging with the City Manager's Office and Administrative Services Departments in preparation for the annual budget process reporting out findings and any recommended changes to the current organization.

**Finding 3: The City has implemented nearly two-thirds of the self-assessment recommendations but there is no formal oversight for completing this work including determining whether recommendations should be implemented and/or an appropriate timeframe for completion.**

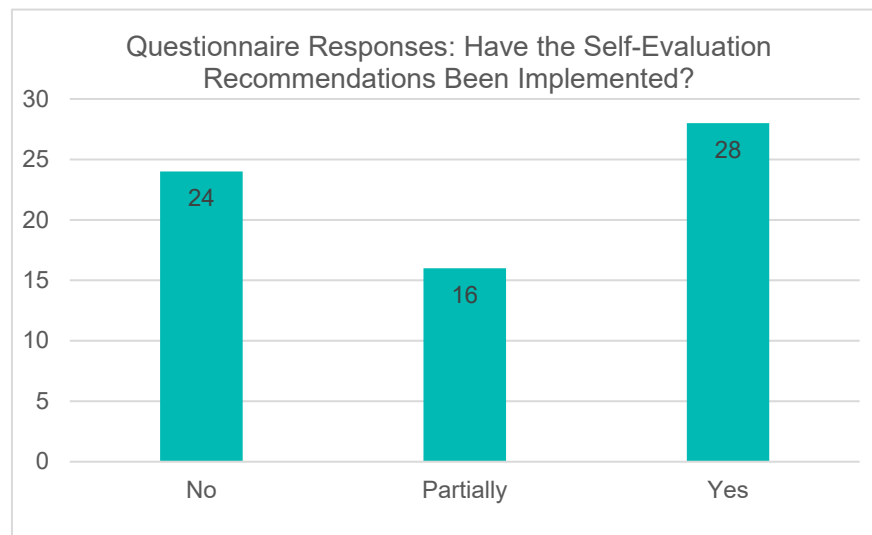
Imbedded in the *Plan Update*, The *Self-Evaluation Report* provided recommendations to existing City policies and procedures to ensure all programs, services, or activities are accessible. As part of the *Self-Evaluation Report*, SZS reviewed the City's policies and procedures using the DOJ ADA Best Practices Tool Kit. After receiving responses from various departments on the DOJ ADA Best Practices Tool Kit, SZS provided recommendations to City departments.

The OCA sent a questionnaire to the various City departments to which the recommendations are addressed to determine if the recommendations have been implemented, the efforts to date, and if there are plans to implement the recommendation. The OCA received responses from the following departments: Public Works, Community Services, Planning & Development, Communications, City Clerk, Police, Fire, and OES.

Based on responses, it appears several departments have tools in place to monitor the accessibility of programs and services. For example, the Communications department has contracted a third-party service to monitor the accessibility of the City website. In addition, the Library department uses a third-party service provider for online materials. As part of these services, the vendor uses Web Content Accessibility Guidelines to ensure accessibility through tools such as magnification and color contrast which improve legibility. Lastly, the Community Services department hired a Therapeutic Recreation & Accessibility Coordinator to accommodate disability requests.

**While many of the recommendations have been implemented or partially implemented, roughly 35 percent have not.**

Based on responses, no one department or office is coordinating or monitoring implementation of the self-evaluation recommendations. Instead, departments are tracking implementation on their own. Based on responses, roughly 35 percent of the 68 self-evaluation recommendations have not been implemented or partially implemented.



\*Analysis performed by OCA in August 2024.



### **Recommendations do not appear to be centrally tracked or monitored.**

Without a centralized tracking system in place, it is difficult for the City to determine if recommendations are properly addressed and implemented and if the City is in compliance with ADA standards. Ensuring compliance is a key step in making sure the City provides programming and services with equitable access and avoiding potential legal and reputational consequences.

#### **Recommendation**

We recommend that the City assign oversight of the *ADA Transition Plan* to monitor and track progress and ensure recommendations are implemented timely.

Per the “Tracking Progress on Remediations” section of the Staff Report included in the *ADA Transition Plan*, it states that City individuals who are identified to act in furthering the City’s progress in accessibility will submit progress assessments to Public Works Engineering or a later designated individual overseeing the City’s overall accessibility. The progress assessment will provide documentation from the individual on their team’s progress in implementing recommendations from the *ADA Transition Plan*. The City should determine if this still applies or if another approach should be implemented.

#### **Management Response**

**Responsible Department(s):** Public Works

**Concurrence:** Agree

**Target Date:** 1<sup>st</sup> Quarter Calendar Year 2025

**Action Plan:** The Public Works Department will lead an effort to coordinate and track progress specifically seeking to address self-evaluation recommendations for the City including identifying any recommendations the City may not recommend pursuing.

# Appendices

## Appendix A: ADA Transition Plan Best practices

The City of Palo Alto City Council Staff Report for the Adoption of *ADA Transition Plan Update* dated 6/7/2021 provides guidance from the 2010 ADA standards and outlines the considerations for the *ADA Transition Plan*, which includes the *Self-Evaluation Report* and schedules. Information from the Staff Report<sup>12</sup> is included below.

### **Americans with Disabilities Act Transition Plan**

The development of a Transition Plan is a requirement of both the Americans with Disabilities Act and for implementation of the Rehabilitation Act of 1973. In addition to fulfilling the requirements of federal law, adopting the Transition Plan will help the City schedule and track its progress during renovation projects as a structured checklist. ADA standards have changed since the original 1992 *ADA Transition Plan*, as has the City's roster of public facilities, and an updated plan provides better guidance to improve overall accessibility in City public buildings and Public Rights-of-Way (PROW).

Based on the 2010 ADA guidance for public facilities, a Transition Plan requires the following:

- Identify physical obstacles in the public agency's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- Describe in detail the methods that will be used to make the facilities accessible;
- Specify the schedule for the transition plan; and
- Indicate the official responsible for implementation of the plan.

The final Transition Plan fulfills the requirements listed above and includes the following Documents:

- *Self-Evaluation Report*
- *Schedule for Public Facilities, Parking, and Parks*
- *Schedule for Public Right-of-Way*
- *ADA Facility Reports*

### **Self-Evaluation Report**

In the Self-Evaluation Report<sup>13</sup>, SZS Consulting Group outlines what determines a qualified individual with disabilities and defines programmatic accessibility. SZS Consulting Group reviewed the City's policies and procedures using the DOJ ADA Best Practices Took Kit.

The DOJ ADA Best Practices Tool Kit covers the following categories:

- ADA Coordinator
- General Effective Communication Requirements under Title II of the ADA
- 9-1-1 and Emergency Communications Services
- Website Accessibility under Title II of the ADA
- Curb Ramps and Pedestrian Crossings
- Emergency Management under Title II of the ADA

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<sup>12</sup> <https://www.cityofpaloalto.org/files/assets/public/v/2/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2021/id-12292.pdf>

<sup>13</sup> The *Self-Evaluation Report* includes context and history behind the ADA and requirements for a Transition Plan. Title II of the 2010 ADA standards applies to state and local government entities, and in Subtitle A, focuses on protecting qualified individuals with disabilities from discrimination based on disability in programs, services, or activities provided by state and local government entities.

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After receiving responses from various departments on the DOJ ADA Best Practices Tool Kit, SZS Consulting Group provided recommendations that staff actively started to pursue. These recommendations apply to a broad group of City departments.

The *Self-Evaluation Report* also lists functions at each facility in the City that may affect people with disabilities. For example, most departments include a public-facing counter for transactions and requests for information. Other important functions that may affect people with disabilities include information and updates posted on the City website and public meetings such as Council Meetings and Board meetings. These listed functions educate staff on which City facilities may need to be prioritized earlier in the Schedule and where City policies may need to be modified to accommodate people with disabilities.

## **Schedules**

The *Schedule for Public Facilities, Parking, and Parks* was prioritized based on the age of the facility, extent of corrective work, budget, planned CIP projects, and public input. In the development of the first draft of the *Schedule for Public Facilities, Parking, and Parks*, facilities were assigned a priority by SZS Consulting Group based on a four-level priority system.

Priority 1 – Points of arrival on site (parking lots, connecting walkways, transportation) or projects that have been currently budgeted

Priority 2 – Facilities built between 1888 to 2000 that provide programs, services, or activities by the City

Priority 3 – Facilities built between 2000 to 2016 or facilities with an unknown construction date

Priority 4 – Remaining facilities

SZS Consulting Group also took into consideration the facilities that were used most frequently by the largest number of people and based on public outreach feedback.

The *Schedule for Public Facilities, Parking, and Parks* was then further refined based on the type of facility and extent of work measured by the estimated costs<sup>14</sup> to remediate the identified barriers to accessibility in the facility. One of the staff's goals was to ensure a relatively even amount of work for every five-year block.

The *Schedule for Public Facilities, Parking, and Parks* is seen as an adaptive, living document, and changes are expected to occur depending on the City's progress. Several factors can influence the actual remediation cost such as contracting to complete barriers of the same type. The schedule can also change substantially if accommodations are requested that reprioritize a building, a change takes place that ensures programmatic accessibility within a facility, or changes in ownership of a facility. For example, the City returned ownership of Cubberley Community Center Buildings A, B, I and portions of Buildings G and M to the Palo Alto Unified School District. This will decrease the estimated cost of remediation by \$314,719, the total estimated costs for identified barriers in the Cubberley buildings the City does not lease or own.

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<sup>14</sup> The total estimated cost is generally larger when a facility has a larger area contributed to programs, services, or activities and is older. For example, although fewer facilities are shown at the end of the *Schedule for Public Facilities, Parking and Parks*, this is partly due to the higher estimated cost to remediate these facilities.

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Similar to the *Schedule for Public Facilities, Parking, and Parks*, the *Schedule for PROW* considers the age of the facility. To simplify the process, the City has assumed that all City sidewalks and curb ramps are deficient<sup>15</sup> with respect to ADA.

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<sup>15</sup> In fact, not all sidewalks and curb ramps are deficient, but this determination creates a simpler schedule since the City is entering a new cycle of the 30-year district-by-district sidewalk, curb, and gutter repair program. Older districts such as Downtown are prioritized first due to the older average age of ramps and sidewalks.