



**CITY OF ALBANY**  
**OFFICE OF THE MAYOR**  
24 EAGLE STREET  
ALBANY, NEW YORK 12207

**KATHY SHEEHAN**  
MAYOR

February 29, 2024

Hon. Dr. Dorcey Applyrs  
Chief City Auditor  
Albany City Hall  
24 Eagle Street  
Albany, NY 12207

Re: Equity Audit Report Draft – Administration Response

Dear Chief City Auditor Applyrs:

Thank you for the opportunity to provide a response to your office's draft Equity Audit.

After reviewing the draft audit, we have provided the following comments, context, and information for your review and consideration as you finalize the Equity Audit. The comments are provided in the order of the findings as presented in the draft Equity Audit.

When I became Mayor in 2014, I committed my administration to leading with equity and responsive government that includes diverse community voices. Through that vision, we have worked over the past 10-plus years to ensure that every neighborhood works and that every neighborhood provides opportunity for our residents. I believe we have demonstrated our commitment by investing heavily in parts of our city that were harmed by decades of disinvestment.

In 2019, I was deeply encouraged that with your support and leadership, the Common Council codified our Equity Agenda to ensure we are not only making those strategic decisions based on equity, but that we are compiling data and tracking the impact of those investments – and ensuring that all future City of Albany administrations will be required to do the same.

I sincerely appreciate you and your team's efforts to collect and analyze our impact implementing our historic Equity Agenda.

Please do not hesitate to reach out with any questions or concerns.

Sincerely,

Kathy M. Sheehan  
Mayor, City of Albany

Equity Agenda  
**Equitable Budgeting**

**Finding 1:**

*“Regarding equity-based enhancements, the data showed inequity in streets and sidewalk reconstructions/enhancements in 2019 and 2020. Wards with higher rated (better quality) streets were proposed to receive reconstruction/enhancement over wards with lower rated streets. In 2019, 47% of the total mileage proposed for enhancements and installations were in wards with the majority of their street mileage rated above eight and 20% were in wards that had the majority of their street mileage rated below five. In 2020, 58% of the total mileage proposed for enhancements and installations were in wards with majority of their street mileage rated above eight and 5% were in wards with majority of their street mileage rated below five. Parity was achieved in 2021 - approximately 72% of the total mileage proposed for enhancements and installations were in wards that had the majority of their street mileage rated below five. Table 1 displays the percent of streets that were proposed for enhancements based on their street ratings.”*

**Response:** We believe it is important to highlight the “Street Repaving Methodology” that is also shared in the annual Equity Audit Reports (EAR) beginning in 2022. This is the methodology the administration uses to identify and select annual capital improvement street resurfacing and sidewalk reconstruction projects:

Street Repaving Methodology:

1. Review “High Priority Street Candidate” list which is updated throughout the year with street candidates based on resident complaints, Common Council Member requests, field observed conditions, and completed construction projects.
2. If available, update the list based on the most recent street condition survey to identify new poor condition street candidates and updated street condition scores for existing street candidates.
3. Update the street candidate list to reflect completed and upcoming construction projects by other parties (to help avoid schedule conflicts) and/or damage to a newly paved road.
4. Review the most recent street condition by ward summary to identify which wards need the most improvement. Identify street projects that are already in the design phase for next year’s construction (for example: consultant-designed and federal-aid projects) and other candidates which are definitely planned to be repaved in the following year. Add these streets to the preliminary list and acknowledge which wards they are contributing to the most.
5. Internally meet to review candidates and come up with a preliminary list which includes more street candidates in the wards which need the most improvement, but also includes at least one street improvement in each ward.
6. Send preliminary list to National Grid and Albany Water Department for their feedback. Remove, replace, and modify the list to accommodate a realistic construction schedule and to avoid as many utility project conflicts as possible.
7. Check budget restrictions on the preliminary list and make any adjustments to the overall scope of work as necessary, then develop into a draft list. Develop a sheet showing street condition projections in each ward based on the proposed paving list.
8. Send a draft list with supporting documentation to the Mayor’s Office for feedback and Equity Agenda analysis. Make any necessary changes.
9. Send a draft list to the Common Council for review.

We observed that the grading rubric included in the draft Equity Audit was different from the Capital Region Transportation Council’s (formerly CDTC) grading rubric that the City of Albany utilizes when determining which streets to repave.

The draft Equity Audit utilizes a standard of streets graded below 5 (in other words, 1 through 4) being rated “poor,” streets graded between 5 and 8 rated “fair,” and streets graded above 8 (in other words, 9 and 10) rated as “good to excellent.” However, the administration utilizes the Capital Region Transportation Council’s grading system. This system classifies streets with a grade of 0 as a “no score,” streets graded 1 through 5 as “poor,” streets graded 6 as “fair,” streets graded 7 and 8 as “good,” and streets graded 9 and 10 as “excellent.”

#### Draft Equity Audit Grading Rubric

**Table 1: Selection of City of Albany Street Enhancements based on Street Ratings (1-10)**

| <b>Audit Year</b> | <b>Wards Selected with Street Ratings Below 5 (Poor)</b> | <b>Wards Selected with Street Ratings between 5-8 (Fair)</b> | <b>Wards Selected with Street Ratings Above 8 (Good to Excellent)</b> |
|-------------------|--|--|---|
| <b>2019</b>       | 20%  | 33%  | 47%   |
| <b>2020</b>       | 5%   | 37%  | 58%   |
| <b>2021</b>       | 72%  | 16%  | 12%   |

#### Capital Region Transportation Commission Grading Rubric utilized by the City of Albany in 2019 & 2020

Score

—— 0 No Score

—— 1-5 Poor

6 Fair

—— 7-8 Good

9-10 Excellent

When utilizing the Capital Region Transportation Council’s grading system for the 2019 proposed street repaving list, the City determined the wards that had a higher percentage of streets graded 0 through 5 (“no score” and “poor”) compared to the Citywide average – or put another way, that needed more immediate repairs compared to others – were Wards 1, 2, 3, 4, 6, 10, and 15.

Of the total lane miles repaved in 2019: Ward 1 comprised 10%, Ward 2 comprised 12%, Ward 3 comprised 10%, Ward 4 comprised 19%, Ward 6 comprised 3%, Ward 10 comprised 3%, and Ward 15 comprised 5%. The total lane miles repaved in 2019 in those seven specific wards together make up 62% of all lane miles paved in the City that year – an overwhelming majority of the lane miles of streets repaved.

When utilizing the Capital Region Transportation Council’s grading system for the 2020 proposed street repaving list, the City determined the wards that had a higher percentage of streets graded 0 through 5 compared to the Citywide average – or put another way, that needed more immediate repairs compared to others – were Wards 1, 2, 3, 4, 5, and 14.

Of the total lane miles repaved in 2020: Ward 1 comprised 8%, Ward 2 comprised 6%, Ward 3 comprised 8%, Ward 4 comprised 13%, Ward 5 comprised 8%, and Ward 14 comprised 12%. The total lane miles repaved in 2020 in those six specific wards together make up 55% of all lane miles paved in the City that year – an overwhelming majority of the lane miles of streets repaved.

**Finding 1:**

*According to the 2019, 2020 and 2021 EARs, the administration was partially compliant with Section 183-2(A) (2). Recreation, DGS and AWD successfully submitted city-wide parks' assets maps with all of the mandated information, however there were investments made that weren't equity based. In 2020 and 2021, all of the parks chosen for capital projects had assets that were reported as in "fair" or "good" condition with the exception of one park which had an asset reported as "replace." There were seven parks with one or more assets in "replace" condition that did not receive capital investment in either of the years. According to Recreation, multiple factors are taken into consideration when making decisions about park enhancements, such as, user-ship, community need and community participation.*

**Response:** As was acknowledged in the finding, the Department of Recreation highlighted multiple factors are taken into consideration when making decisions about park enhancements, such as level of use, community needs, and community participation. Other factors include strategic transformative investments, goals, and strategic funding opportunities associated with long-term park plans (i.e. Lincoln Park Master Plan), and other infrastructure work necessary to ensure the health and safety of residents (i.e. Hansen-Ryckman stormwater enhancements that led to the replacement of a baseball field to allow the Albany Water Department to create an underground stormwater retention facility to help mitigate historic and persistent flooding in the neighborhood surrounding the park during severe weather events). This strategic investment plan can result in parks with assets in "fair" or "good" condition being replaced while other parks have assets reported as "replace."

The administration is proud of the fact that over the last 10 years nearly every playground has been replaced and that historic investments are being made in every park across the City in addition to the construction of a new Lincoln Park Pool, new Albany West Community Center, revitalized Albany South Recreation Center.

**Finding 1:**

*According to the 2019, 2020 and 2021 EARs, the administration was partially compliant with Section 183-2(A) (4). Although DGS submitted annual maps and charts showing the location of trash receptacles within the City, DGS did not assess whether trash receptacles were evenly distributed throughout wards in commercial zones and placed in areas of high activity.*

**Response:** The Department of General Services (DGS) works closely with our various Business Improvement Districts to determine the placement, quantity, and type of trash receptacles in those specific corridors. Placement is based on foot traffic, amount of garbage picked up, and staffing resources available at DGS.

**Finding 1:**

*"Regarding Section 183-2(B) (2), the administration did not include a separate budget line titled "Prevention Task Force Funding" in the City's 2020, 2021 or 2022 annual budget. As a result, there were no funds allocated to the Task Force"*

**Response:** The 2020 and 2022 proposed annual budgets contained funding for the Violence Prevention Task Force, however it was not included in a separate budget line and was instead included within the Mayor's Office Contracted Services line (A.1210.7440). This has since been updated and the City's 2023 and 2024 annual budgets contain a specific budget line dedicated to violence prevention activities (account no. A.1010.7306). It is the administration's belief this

funding was not included in 2021 given the financial uncertainty during the height of the COVID pandemic and lack of federal revenue replacement at of the date the 2021 budget was proposed.

### **Measuring and Monitoring the Campaign for Equity**

#### **Finding 1:**

*“Regarding Section 183-3(D), the administration did not clearly track if the goals outlined in the equity agenda were being met”*

**Response:** The Department of Administrative Services worked closely with City Departments and Offices to compile the data for the annual Equity Agenda Reports. These reports were delivered to the Commission on Human Rights for their analysis and recommendations. The Equity Agenda Reports were produced for 2019-2022 and delivered to the Common Council as required by statute. We will share with the Commission on Human Rights the Chief City Auditor’s recommendations regarding improvements to future reports.

#### **Finding 3:**

*“Due to lack of information we were unable to determine if the administration was in compliance with the following sections of the Equity Agenda ordinance*

- *Regarding Section 183-3(C), there was no mention of CHR conducting an annual forum to encourage dialogue on race, equity and inclusion for the City’s communities and if funds were made available in the EARs, nor on the CHR or City’s website and/or platforms.”*

**Response:** The Annual Human Rights Recognition Reception and Forum was held during most years covered by this audit. Unfortunately, due to the pandemic, the Forum was not held in 2020 and 2021.

Upon taking office, Mayor Sheehan created a robust Rotunda Event series and hosted monthly events to encourage dialogue on race, equity, and inclusion. Through 2019, that Rotunda Event series was robust and occurred regularly. Just before the pandemic, the administration hosted a Youth Black History Month Celebration on February 19, 2020, centered around community, arts, and education.

During the pandemic, the administration held several virtual forums to encourage dialogue on race, equity, and inclusion. The first was a Virtual Town Hall on Community Health Impacts of COVID-19 held on May 13, 2020, that included Mayor Sheehan, Albany County Health Commissioner Dr. Elizabeth Whalen, Dr. Brenda Robinson, Dr. Dorcey Appllys, and Dr. Frank Dimase. In April 2021, the administration partnered with a variety of community-based organizations to host a Capital Youth Speak-out centered around the prevention of violence. The City also led robust community conversations in an effort to seek input on the new community center proposed for the West Hill neighborhood – one of the most historically marginalized neighborhoods in the City of Albany. While outside the scope of this audit, the City of Albany also hosted a virtual panel discussion on February 24, 2022, entitled “The State of Health and Mental Health for Black Americans in New York.” The panel was led by Lisa Wilson Good, Barry Walston, Dr. Julia Hastings, Dr. Alfredo Medina, and Dr. Deb Privott.

The City’s annual budgets contain a specific budget line dedicated to CHR outreach activities, including the annual forum (account no. A.8040.7440).

## City Permits

The audit period of 2011 to 2021 was a period of change and transition for the City of Albany and the Department of Buildings & Regulatory Compliance. Mayor Kathy Sheehan took office in 2014, the Department rolled out EnerGov Permitting & Code Enforcement software in 2017, and the new USDO was adopted in 2017, with a comprehensive review and update of the USDO in 2021. All events had a significant impact on the ability to interpret data, provide equitable and uniform permit approvals throughout the City and the City's rate at which permits were approved.

The Department provided two data sets to the OAC, a pre-EnerGov dataset, from 2011-2017, and a dataset from after the rollout of EnerGov, 2017-2021. Prior to utilizing EnerGov, the City maintained all of its permit applications in a Microsoft Access database which did not allow for any interpretation of a permit's approval status. The EnerGov rollout allowed the Department to create additional Permit Status categories to capture more information regarding the determination of a permit application. As such, the citywide permit approval rates increase from the period of 2017-2021.

The Department of Building and Regulatory Compliance appreciates that OAC met them to discuss the parameters of this Audit. BRC believes that had it been given the opportunity to explain the different permit determinations (approved, denied, voided, on hold, in review) that the outcome of OAC's data interpretation would be vastly different. For the purpose of this response, we are requesting that the OAC review the following information and adjust its findings as needed.

It is important to note the Department of Buildings & Regulatory Compliance is the enforcement arm for other City Departments that review and render the actual denials of the Department's applications (i.e. Planning Department and Traffic Engineering.)

## **Permit Denial**

The NYS Code and local zoning regulations are designed to remove personal discretion from the process to approve or deny a permit, regardless of the geographical location of the subject property.

## **Voided applications**

There were several voided permit applications included in the total count of rejected permit applications. Permit applications are typically voided for the following reasons and only after numerous communications (emails and phone calls) are sent to the applicant:

- Missing information (stamped plans, insurance, necessary product specifications. Payment etc.)
- A contractor applies for a permit & then retracts/backs out of the project
- A homeowner or the general contractor terminates their relationship with a contractor/sub-contractor
- Applicant does not respond to e-mails/letters requesting additional needed clarification

These applications should not be considered part of the total rejected applications as the City has no ability to review an application that is not complete.

## **On Hold or in Review**

There were also several applications that were submitted; however the City was waiting for the applicant to supply additional information so that it could be reviewed, or it was in the process of being reviewed. As such they should also be removed from the total count of rejected applications.

The chart below shows the permit approval rates from 2011 to 2017, 2017 to 2021, and from 2017 to 2021, adjusted to remove incomplete/withdrawn applications.

|             | 2011-2017 | 2017-2021<br>(Unadjusted) | 2017-2021<br>(Adjusted) |
|-------------|-----------|---------------------------|-------------------------|
| Residential | 90.1%     | 92.9%                     | 98.2%                   |
| Commercial  | 81.9%     | 89.2%                     | 96.5%                   |
| Apartment   | 71.3%     | 95.4%                     | 99.4%                   |
| Other       | 59.6%     | 78.9%                     | 95.2%                   |

Given the above information, we believe the overall approval rate in each particular ward will change dramatically. See below for 2022 complete year, that shows Ward 2 in line with city % of denials.

| Area     | Applications | Denied | % Denied | VOIDED | % VOIDED |
|----------|--------------|--------|----------|--------|----------|
| Citywide | 2375         | 81     | 3%       | 131    | 6%       |
| Ward 2   | 149          | 4      | 3%       | 14     | 9%       |
| Ward 11  | 125          | 3      | 2%       | 9      | 7%       |

The Department of Building and Regulatory Compliance takes the utmost responsibility in making sure that all neighborhoods in the City of Albany are safe and healthy for all of Albany's residents, especially those that live in historically underinvested neighborhoods. The Department bases its permit approval on the NYS Codes and local zoning regulations.

**Finding 5:**

*BRC should host quarterly town hall style meetings in wards that have historically low permit application approvals. The purpose of these town hall meetings would be to meet with residents and businesses and determine why permit applications approvals are low. BRC should proactively outline most frequent issues that they have observed on permit applications and provide guidance and resources on how to resolve said issues.*

**Response:** In 2023, the City created the Department of Neighborhood and Community Services (NSD). The Department of Buildings and Regulatory Compliance and the Department of Planning and Development are co-located in this new department, and both play a role in the approval of permits. The Department of Neighborhood Services is also now located in the same building and has dedicated staff and resources so that the residents of the City of Albany can have a better understanding of what resources are available to them and how they can access them. In 2024, the department as a whole will provide more education surrounding the permit approval process in all neighborhoods of the City.

The BRC already understands the most frequent issues surrounding why a permit application is not approved. If an application is complete and denied, it is simply because it does not meet the mandatory NYS code or a zoning regulation.

We believe it is important to take a deeper look into applications that are incomplete and then voided because of no follow up from the applicant. We believe this Equity Audit shines a light on a

citywide systemic issue related to historically disenfranchised communities where it may be more likely that residents do not have the resources necessary to fully complete and pay for a permit application, most predominantly, stamped plans.

Factors can affect denial when they are economic. Change of Uses often require infrastructure upgrades that are beyond the ability of the “tenant” and the owner is unwilling to make such upgrades. An example of this situation is when a tenant may be converting a building from a bank to a restaurant and bar where a sprinkler system would now be required. Sometimes, the BRC is informed of the assumption of the tenant applicant is that “no work will need be done” because the property was commercial before.

**Finding 6:**

*BRC can benefit from having a more user-friendly webpage. City of Raleigh, NC does a great job of having an informative webpage without overwhelming the reader with technical or legislative language.*

**Response:** Work continues on the citizen’s self-service portal launched last year. The City of Raleigh, NC uses the same software vendor (Tyler EnerGov). We are currently in the process of setting up application submission through the guided portal.

**Finding 7:**

*BRC should implement a flowchart that standardizes the decision making process a staff member follows when reviewing a permit application. Having a standardized flowchart decreases the potential for implicit bias to impact the decision making process. All employees that review permit applications should be trained on how to utilize the flowchart.*

**Response:** As highlighted previously, BRC staff is obligated to base all decisions upon the NYS Code or local zoning regulations to determine an application’s approval or denial. Applications are already standardized and anyone applying can come directly to the Department with any questions related to what needs to be submitted. Applications that are denied are always given the opportunity to be brought into compliance for additional review and approval if it meets the requirements set forth in state and local law.

Each application type has a guided workflow customized to the permit type with action steps in EnerGov. The Planning Department now utilizes EnerGov for their review of permit application so all information is now documented in the permit records.

**Finding 9:**

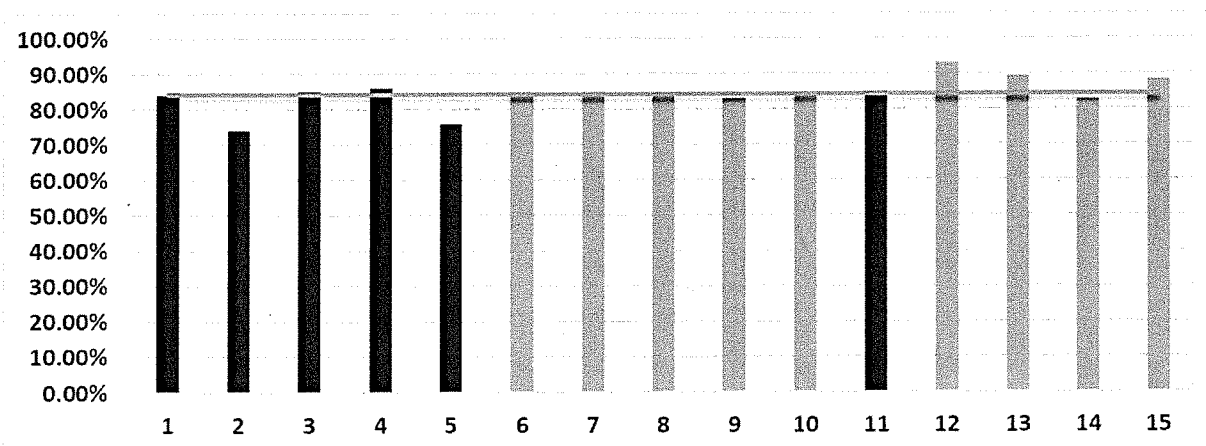
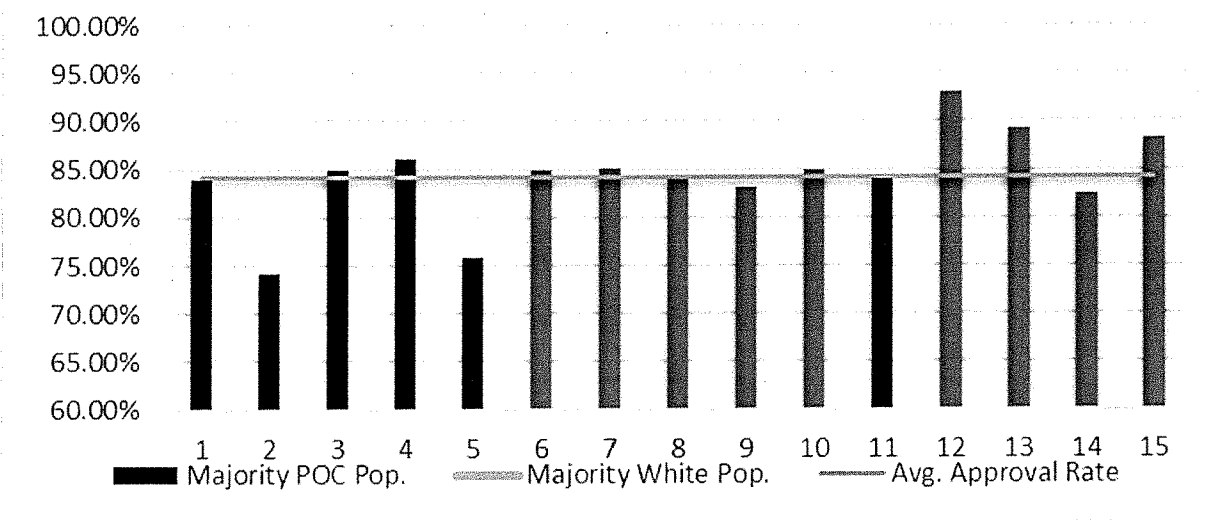
*BRC should work with their software vendor to upgrade their system so employees can easily input and access reasons why a particular permit was denied, held up, etc. BRC should explore using a City of Albany Summer Youth Employment Program intern to manually enter the missing data*

**Response:** This process is already implemented and has been since the rollout of EnerGov. Anyone that has applied since 2017 can request data as to why their application was denied. In addition, with the rollout of the public portal more information is being made accessible to any applicant from anywhere they have access to the internet. It is the desire and goal of the Department to be transparent in the permit and all processes.

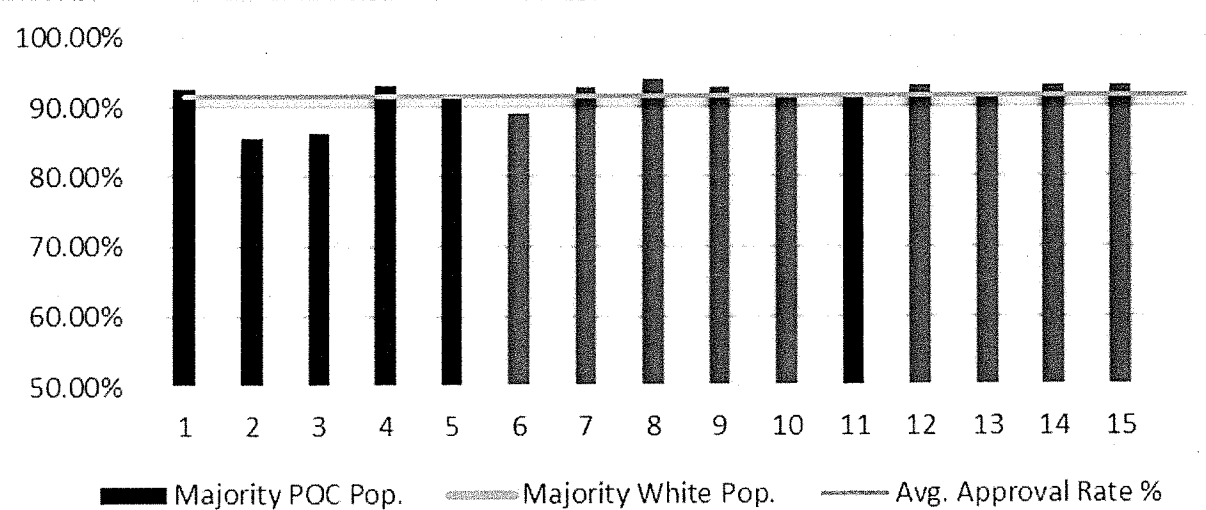
We also believe it is important to note that the bar graphs in Figure 1, Figure 3, and Figure 5 all utilize a Y-Axis that begins at either 50%, 60%, or 80%. When utilizing a Y-Axis that begins at 0%, the referenced disparities become further contextualized.

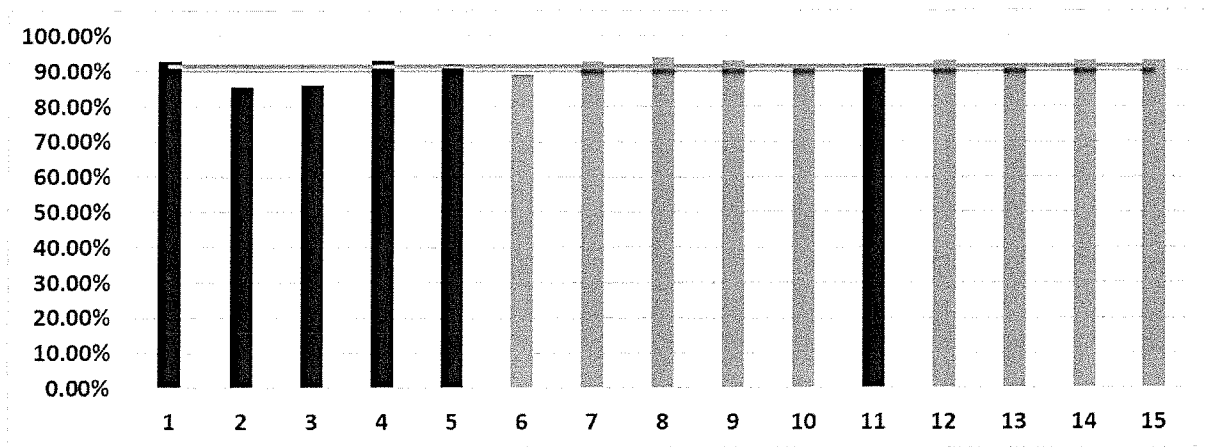


**Figure 1: City of Albany's Commercial Permit Approval Rates by Ward (Page 16)**

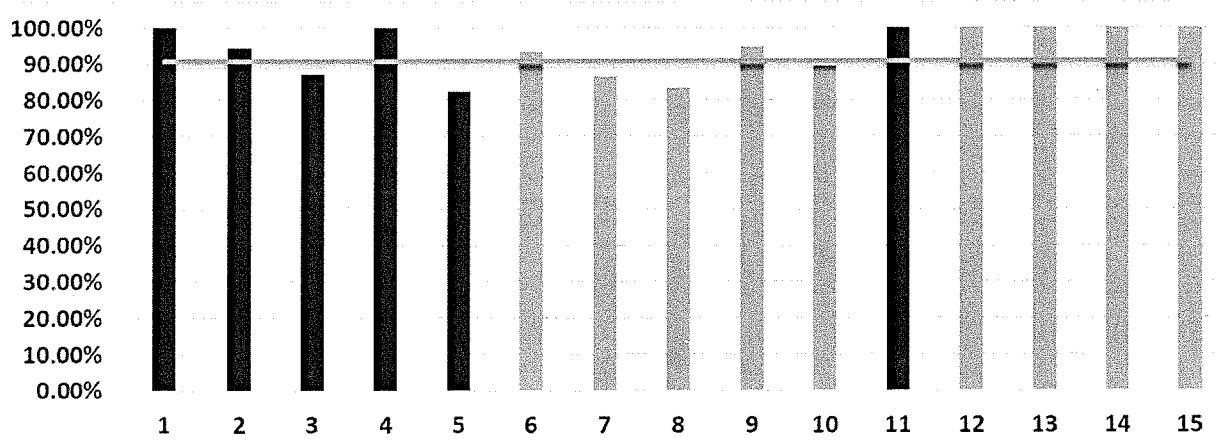
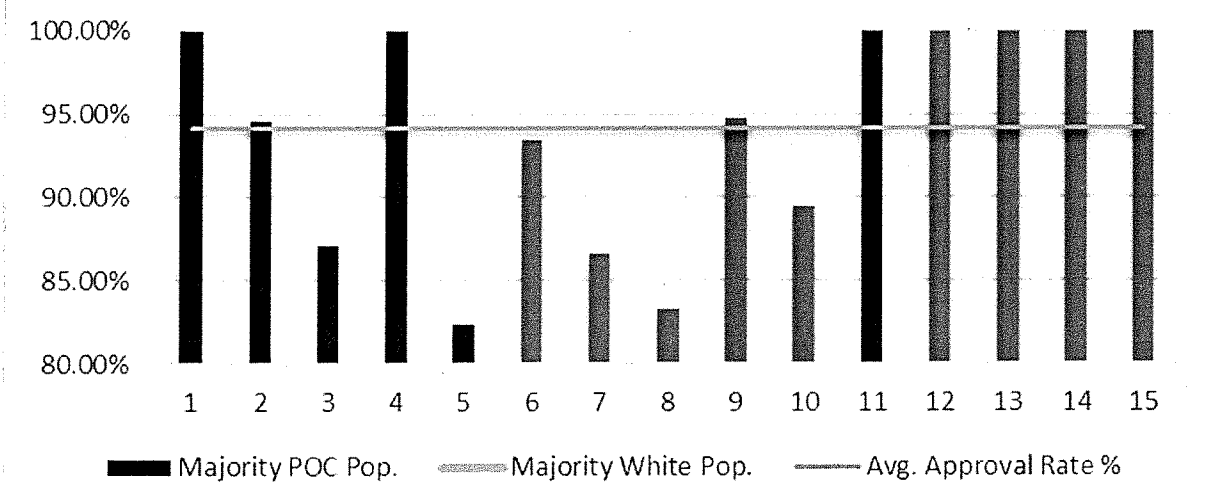


**Figure 3: City of Albany's Residential Permit Approval Rates by Ward (Page 17/18)**





**Figure 5: City of Albany's Apartment Permit Approval Rates by Ward (Page 19/20)**



## MWBE Compliance

### Finding 8:

*There is no formal policy or process for discontinuing and disqualifying contractors who violate the policies and performance agreements. While overall the MWBE and Labor Utilization goals were met there were instances in which individual contractors did not meet these goals, in some cases repeatedly.*

**Response:** The enabling legislation does not outline the specific actions the City must take to enforce compliance with the MWBE statute. The City makes every effort to ensure compliance with the MWBE goals including requiring waiver requests from contractors who have legitimate reasons for falling short of the goals. When contractors do not submit waiver requests or fail to comply with MWBE plans, the City's Chief Compliance Officer raises these concerns with Corporation Counsel, who then takes appropriate legal action. Such actions have previously included requiring contractors to have their MWBE subcontractors submit formal letters to the City signifying their intent to participate in the project.

### Finding 9:

*"There is conflicting information on the City's webpage regarding the labor utilization plan. The City ordinance states the contractor must: "Strive to attain a minority and women labor utilization plan of 30%." However, the City's 2022 MWBE Program Compliance Report states that the labor utilization goal is 25%."*

**Response:** The Common Council has enacted two increases to the labor utilization goal in recent years. As of January 1, 2021, the labor goal was increased from 17.8% to 25%. And then, as of May 1, 2022, the labor goal was increased once again, this time to 30%. The labor utilization goal that is in place at the time that a contract goes out to bid is the one that is cited in the bid specs and is applied to the contract. Because of the long timeframe of many construction projects, the 2022 MWBE Program Compliance Report covers projects which span all of these goal changes. There was a time period of 16 months where the labor goal was 25%, and this is referenced in the 2022 report even though, at the time of the report itself the goal was (and remains) 30%.

### Finding 10:

*"The City's MWBE webpage does not clearly articulate the rationale for the MWBE program's scope and its 15% goal. Clearly articulating this information could potentially assist with changing community perceptions. Albany residents and business owners have expressed confusion and in some cases disappointment with the City's MWBE program. In particular, there have been concerns expressed that the scope of the program being too narrowly focused (construction only) and the goal and utilization rate are too low."*

**Response:** The City's MWBE Ordinance governs the program and defines it as pertaining to construction projects. An MWBE, as defined by the ordinance, is a "venture engaging in and capable of continuous engagement in construction/construction-related activity."

### Finding 11:

*"The City does not have a robust and proactive MWBE recruitment plan. Many of the events the City frequents to recruit MWBEs may not always have MWBE representation. As a result the City may be missing opportunities to connect with prospective vendors."*

**Response:** There is always room for improvement regarding community outreach and education about government programs. We are working on a communication strategy for 2024, which will include additional outreach efforts.

**Finding 13:**

*“As mentioned in the 2014-2015 Compliance Report, MWBE firms have expressed concerns about not knowing when bids are going to be advertised.”*

**Response:** This information can be found on the City website. This office routinely provides instructions to inquiring business owners as to how to access this information. Interested MWBE business owners are advised to monitor the stream of available City contracts, review bid specs, and contact contract awardees to offer their services as a subcontractor. As part of our enhanced communications platform, we can highlight bidding opportunities.

## Hiring Findings

**Finding 22:**

*“There were gender disparities in hiring. Males were hired at a higher rate than females*

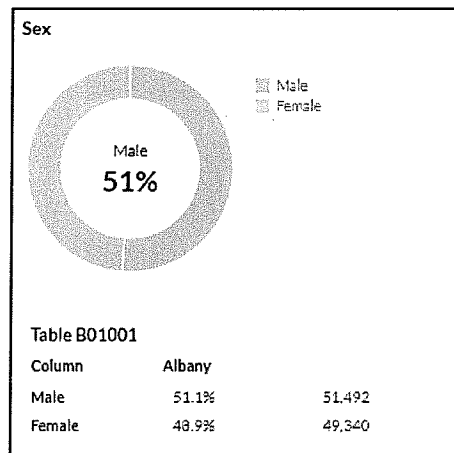
- *On average, 74% of new hires were male*
- *From 2016 to 2017 the gap between male and female hires decreased (from 42.8% to 19.7%), but for the remainder of the audit period the gap widened*
  - *For the remainder of the audit period, the gap between male and female new hires was 44.3% on average,”*

**Response:** The majority of the City of Albany’s workforce is comprised of Police Officers, Firefighters, and employees who work in public works maintenance, sanitation, water/sewer maintenance, and construction activities. Collectively, employees engaged in these professions make up 68% of the City’s workforce. U.S. Census bureau statistics show that the City of Albany’s proportion of male vs. female workers is higher than the national average for natural resources, construction, and maintenance occupations. While we lag the national averages for male vs. female workers at Fire and Police, we are actively seeking to recruit more women to the Public Safety professions.

| Job Category   | Percentage of City Workforce | City of Albany |          | National Average* |          |
|--|------------------------------|----------------|----------|-------------------|----------|
|  |                              | % Male         | % Female | % Male            | % Female |
| Natural Resources, Construction, & Maintenance Occupations | 24%                          | 88%            | 12%      | 95%               | 5%       |
| Sworn Law Enforcement Personnel                            | 25%                          | 91%            | 9%       | 86%               | 14%      |
| Certified First Responders/ Sworn Fire                     | 19%                          | 99%            | 1%       | 96%               | 4%       |

\*Source: 2021 Data from the Census Bureau ACS PUMS 5-Year Estimate, aggregated through Data USA

When we exclude the previously mentioned job categories that are male dominated across the United States, the remaining City workforce exhibits a distribution of 52% male and 48% female. In comparison, the residents of the City of Albany reflect a demographic distribution of 51% male and 49% female as shown in the chart below.



\*Source: 2022 Data from the Census Bureau ACS PUMS 1-Year Estimate, aggregated through Census Reporter

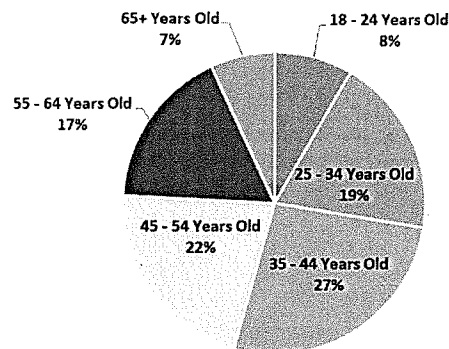
### Finding 23:

*“There were age disparities in hiring. Individuals in the 25 to 34 age group were hired at the highest rate annually throughout the audit period*

- *On average, 47.8% of new hires were in the 25-34 age group*
- *Individuals in the 35-44 age group were hired at the second highest hiring rate*
  - *On average, 17.7% of new hires were in the 35-44 age group”*

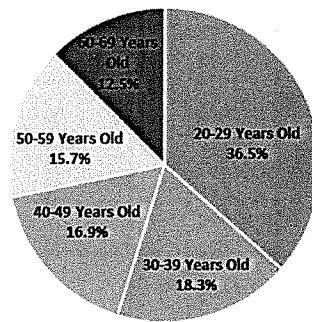
**Response:** According to Section 58 of New York State's Civil Service Law (<https://www.nysenate.gov/legislation/laws/CVS/58>), individuals are ineligible to sit for a Police Officer exam and be subsequently hired if they do not fall between the ages of 20 to 35 at the time of applying for the written exam. Approximately 25% of the City of Albany’s workforce is comprised of Police Officers. As a result, when analyzing age groups among employees, the grouping that contains employees who fall between the ages of 20 and 35 will be significantly higher due to the State’s hiring mandate. However, when looking at age groups among City employees with Police Officers excluded from the analysis, there is a more even disbursement of employees per category as shown below.

City of Albany Workforce by Age Group Excluding Police Officers



However, regardless of the specific job titles, the City of Albany's practice of hiring individuals between the ages of 25 and 34 is closely aligned with the City's median age of 31.7 years. When analyzing Census data and excluding non-working age groups from the analysis/figure shown below, over half of the City’s working population falls in between the ages of 20 and 39.

City of Albany Residents by Age Group



\*Source: 2022 Data from the Census Bureau ACS PUMS 1-Year Estimate, aggregated through Census Reporter

**Finding 28:**

*"The City did not record and track the number of promotions requested and promotions granted during the audit period."*

**Response:**

New York State Civil Service Law guides how the City of Albany promotes staff. Positions for career series require either an examination issued by New York State or a formula of years of experience and/or education level. The New York State Department of Civil Service establishes when the exams can be conducted and the frequency in which they are administered. Once a candidate takes an exam, scores are released, and NYS Civil Service provides the Office of Human Resources with a list of candidates who passed and ranked by the highest score. Depending on the exam, this process can take 3-6 months. Other positions are based on education and experience per NYS Civil Service Law. The Office of Human Resources reviews the qualifications and approves applicants to move on to interviews with the departments. The departments are required to work with HR to canvas the promotional list and hire people within the top-3 scores.

**Promotions through Civil Service Exams/ Promotional Civil Service lines**

Promotional lists are tracked by the city through its e-Gov database system, which was implemented in 2018. We track all promotions for Civil Service competitive tiles. Examples of competitive promotions include:

- Information Clerk I → Information Clerk II
- Firefighter → Lieutenant
- Laborer I → Laborer II
- Police Sergeant → Police Lieutenant

Promotional exams are required for all Sworn Public Safety promotions, except for non-union Command Staff.

Data regarding appointments from promotional lists was provided to the Office of Audit and Control on July 15, 2022 in Appendix C of the Department of Administrative Services' audit response.

**Promotions/ Advancement Opportunities through Title Changes (not a Civil Service Promotional Line)**

Other job changes are not classified as promotions under NYS Civil Service law but may be considered internal opportunities for advancement. For example, an employee may be an

Accountant, and then become an Office Manager. Or a Laborer I at DGS may earn an additional credential, such as a driver's license, and then apply for a job as a Sanitation Worker. These jobs are steps up in pay and responsibility, but don't follow a Civil Service promotional line.

The City also wants to understand the movement and advancement of our employees and to that end, we are adding additional data points to our HRIS systems so we can report on job title changes that fall outside the Civil Service promotional lines. The City also implemented pay grades for all non-union titles in 2022, which will allow us to track advancement through various salary ranges. Prior to this, it was not always clear whether a lateral transfer such as Accountant to Human Resources Generalist I was considered a promotion or just a transfer. With the pay grade structure, we can see whether the job title was classified at a higher pay rate level, based on features and responsibilities of the job.

#### Disciplinary Action Findings

##### **Finding 29:**

*"During the audit period, the City did not have a database that recorded and tracked complaints, investigations and disciplinary actions"*

- *The City implemented a system in September 2021 to track complaints and disciplinary actions. This resulted in OAC receiving limited data (25 cases).*
- *The HR Director was the sole employee who had the ability to record, track and access complaints, investigations and disciplinary action data. As a result, the data could not be accessed after the employee left."*

**Response:** The Department of Administrative Services works closely with Corporation Counsel to investigate and address workplace and harassment/discrimination complaints. The City has established written policies and procedures for addressing harassment in the workplace that meet the standards set by New York State and the U.S. Equal Employment Opportunity Commission. Our policies explain the prohibited conduct, provide assurances that employees who report claims of harassment or provide information related to such claims will be protected against retaliation, explain the complaint process, and ensure that the City will protect the confidentiality of individuals bringing complaints to the extent possible. Additionally, all employees receive training and information on where and how to submit complaints, and supervisors and managers receive training so that they understand their responsibilities under the City's anti-harassment policy and complaint procedure.

To assist with oversight of complaints, the City is launching a centralized database for tracking and monitoring inquiries or allegations of harassment. This system will be managed by the EEO Compliance Officer, in cooperation with the Corporation Counsel and Human Resources Director.

##### **Finding 34:**

*"Once a complaint has been investigated and substantiated, the respondent's Department head determines disciplinary action. This may result in biased outcomes."*

**Response:** After an investigation is complete, the investigator will make a recommendation on how the Department should respond to the issue. When making a recommendation, the following things are considered:

- Whether or not there was a rule or law violation;
- The severity of the complained-of conduct;
- Whether or not the employee cooperated with the investigation;
- The employee's prior discipline;

- Consistency in what type of discipline has been imposed in the past for similar misconduct;
- The disciplinary procedures outlined in the collective bargaining agreement (if applicable).

Implementation of a disciplinary recommendation is determined by the employee's appointing authority (i.e. relevant department head or their designee). Unionized employees are disciplined in accordance with the procedures outlined in their collective bargaining agreements. Non-unionized employees are disciplined in accordance with the New York State Civil Service Law and the City's Policy & Procedure Manual. The City Administration has trained its managers in disciplinary procedures and is creating process maps and guides to support managers when they implement corrective action and/or discipline.

#### Attrition Findings

##### **Finding 35:**

*"There were a gender disparity in attrition. The majority of employees (77%) that departed City service during the audit period were males."*

**Response:** A correlation exists between the percentage of male employees recruited by the City throughout the audit period and the percentage of male employees departing City employment during the same timeframe. The connection between these factors indicates a consistent trend, reinforcing the idea that variations in one variable coincide with corresponding changes in the other. During the audit period specifically, 77% of those departing City employment were males, while 73% of those newly hired were also males. This shows that males are departing City employment at a slightly higher rate than they are being hired.

##### **Finding 36:**

*"There were racial disparities in attrition. The majority of employees (71%) that departed City service during the audit period were white."*

**Response:** Among the employees who left City employment during the audit period, 40% were comprised of sworn law enforcement personnel and certified first responders/sworn fire. This statistic emphasizes the prevalence of sworn law enforcement and fire personnel among those leaving City employment, affecting the distribution of data when viewed at the City-wide level. According to U.S. Census Bureau ASC PUMS 5-Year Estimate data for 2021, 73% of Police Officers and 82% of Firefighters identified as being white. This comparison to national data provides insights into the broader trends in the composition of police and fire personnel, providing a context for understanding the demographic framework of employees departing City employment.

#### City Workforce Equity Survey

**Response:** To add additional context, we recommend adding the percentages of the overall workforce to Tables 9, 10, and 11

**Table 9: Gender of Respondents**

| Gender    | Number of Respondents | Percentage | Overall Workforce Percentage |
|-----------|-----------------------|------------|------------------------------|
| Female    | 74                    | 37%        | 20%                          |
| Male      | 107                   | 54%        | 80%                          |
| Trans Man | 1                     | 1%         |                              |



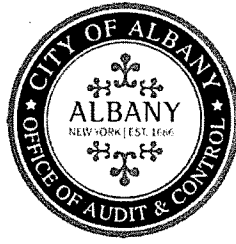
|                      |    |    |  |
|----------------------|----|----|--|
| Prefer Not to Answer | 16 | 8% |  |
|----------------------|----|----|--|

**Table 10: Race and Ethnicity of Respondents**

| Race (Ethnicity)                                   | Number of Respondents | Percentage | Overall Workforce Percentage |
|--|-----------------------|------------|------------------------------|
| Asian (Non-Hispanic or Latino)                     | 4                     | 2%         | 2%                           |
| Black or African American (Non-Hispanic or Latino) | 32                    | 16%        | 26%                          |
| Hispanic or Latino                                 | 12                    | 6%         | 5%                           |
| White (Non-Hispanic or Latino)                     | 113                   | 57%        | 66%                          |
| Two or More Races (Non-Hispanic Latino)            | 7                     | 4%         | 1%                           |
| Prefer Not to Answer                               | 30                    | 15%        |                              |

**Table 11: Age Groups of Respondents**

| Age Group            | Number of Respondents | Percentage | Overall Workforce Percentage |
|----------------------|-----------------------|------------|------------------------------|
| 17 - 24 Yrs.         | 5                     | 2%         | 8%                           |
| 25 - 34 Yrs.         | 42                    | 21%        | 21%                          |
| 35 - 44 Yrs.         | 53                    | 27%        | 29%                          |
| 45 - 54 Yrs.         | 43                    | 22%        | 20%                          |
| 55 - 64 Yrs.         | 22                    | 11%        | 15%                          |
| 65 Yrs. and Over     | 10                    | 5%         | 6%                           |
| Prefer Not to Answer | 23                    | 12%        |                              |



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**MEMORANDUM**

**To:** Kathy M. Sheehan, Mayor

**From:** Dr. Dorcey Applys, Chief City Auditor

**Date:** March 1, 2024

**RE:** Equity Audit Report Draft – Administration Response

The Office of Audit and Control (OAC) would like to thank the Administration and the respective departments for their continued cooperation throughout the audit process.

The OAC has reviewed the Department of Administrative Services' (DAS) formal response to the draft equity audit report and have the following remarks. Please acknowledge the page numbers noted in our remarks correspond with the Administration's memo.

**Response 1 (pg. 2):**

**Finding stands with some changes.** The OAC used the Capital Region Transportation Council's grading rubric utilized by the City when analyzing street grading data. However, the scores for "poor," "fair," and "good to excellent" were incorrectly labeled on Table 1, so the error has been rectified.

According to Section 183-2(A)(1) "to achieve parity, wards with a disproportionate percentage of streets rated three or lower must be prioritized." Therefore to determine compliance, the OAC analyzed each ward's proportion of streets in "poor," "fair," and "good to excellent" condition. Based on that methodology, in 2019 and 2020 the City did not prioritize wards with a disproportionate percentage of streets rated three or lower and so the finding stands.

**Response 2 (pg. 4):**

**Finding stands with no changes.** While the OAC acknowledge the additional factors that impact the investment of parks, these factors should be conveyed in alignment with Section 183-2(A)(2).

All factors used in the decision for park investments, such as level of use, community needs and community participation should all be included in the data collected and reported to the common council to illustrate equity compliance.

**Response 3 (pg. 4):**

**Finding stands with no changes.** The OAC would like to highlight that not all neighborhoods have a Business Improvement District (BID) to advocate on their behalf, so it's vital the Department of General Services (DGS) complies with Section 183-2(A)(4) by assessing the even distribution of trash receptacles throughout wards in commercial zones and area of high activity. DGS's assessment would help the City track their progress and ensure equity.

**Response 4 (pg. 4):**

**Finding stands with no changes.** The OAC appreciates the context, however the response does not address our finding.

**Response 5 (pg. 5):**

**Finding stands with no changes.** According to Section 183-3(D), The Department of Administrative Services (DAS) has shared accountability and responsibility to not just collect the data, but also analyze and use the data to make informed decisions regarding the equitable distribution of City resources. We recommend DAS work with the Commission on Human Rights to ensure future reports include an analysis that tracks the City's progress and determines if goals are being met.

**Response 6 (pg. 5):**

**Finding stands with no changes.** According to Section 183-3 (C), the legislation requires "the Commission on Human Rights to conduct an annual forum to encourage dialogue on race, equity and inclusion for the City's communities." While the OAC applauds the Mayor for hosting events to celebrate those who have impacted and pushed the conversation on race, equity and inclusion, it does not meet the standard outlined in the equity agenda. Celebratory events, although brings awareness, does not facilitate or encourage dialogue. The Commission on Human Rights should take the lead on conducting annual forums to encourage dialogue on race, equity and inclusion.

During the audit period (2011-2021) funds were only allocated to account 8040.7440 in 2014 (\$2,776) and 2013 (\$14,200). Although outside of the audit period, we acknowledge \$7,500 was allocated annually from 2022 to 2024.

**Response 7 (City Permits Data pg. 6):**

**Finding stands with no changes.** While the OAC appreciates the informative and contextual background that the Administration provided in their response, it would not be appropriate to exclude data regarding applications in the following status: voided, on hold, or in review. Instead of excluding or ignoring this data, the OAC encourages the City to further investigate their mention of a citywide systemic issue related to historically disenfranchised communities that may not have the resources necessary to fully complete and pay for a permit application.

**Response 8 (pg. 7):**

**Recommendation stands with no changes.** As mentioned in response 7, the OAC encourages the City to further investigate their mention of a citywide systemic issue related to historically disenfranchised communities that may not have the resources necessary to fully complete and pay for a permit application.

**Response 9 (pg. 8):**

**Recommendation stands with no changes.** The recommendation for a more user-friendly webpage is more about the layperson's ability to easily navigate the webpage and less about the specific software being used.

**Response 10 (pg. 8):**

**Recommendation stands with no changes.** There are parts of the permit approval process that are not reliant on NYS Code or local zoning regulations. According to the Administration's response, applicants are given the opportunity to be brought into compliance. This opportunity is dependent on communication and a collaborative process. However, the frequency and number of correspondence between Buildings and Regulatory Compliance (BRC) employees and the applicant are not outlined, so an applicant's experience can vary depending on which BRC employee is working their cases. For example, a non-English speaker might require more guidance than an English speaking applicant. For parts of the permit approval process that do not include regulations there should be a clear standardized process and practice to ensure all applicants receive equitable resources and treatment.

**Response 11 (pg. 8):**

**Findings stand with some changes.** The OAC specifically asked BRC to provide reasons for why any particular application was denied, but we were told it would be too arduous of a process to report that information.

Regarding figures 1, 2, 3, 4, 5 and 6 in the draft report, they were zoomed in as a stylistic decision. However, if the Administration feels the data is not being displayed appropriately, we have modified the figures so the Y-axis starts from 0%.

**Response 12 (pg. 11):**

**Finding stand with no changes.**

**Response 13 (pg. 11):**

**Finding regarding conflicting information on the labor utilization plan has been removed.**

**Response 14 (pg. 11):**

**Finding stands with no changes.**

**Response 15 (pg. 11):**

**Finding stands with no changes.**

**Response 16 (pg. 12):**

**Finding stands with no changes.** While the Minority / Women-Owned Business Enterprises (MWBE) webpage does include the posting of bids and requests for proposals, it is buried under

the "Helpful Links" tab. Furthermore, it requires an individual to scroll down and review eight hyperlinks before locating the link associated with open bids and request for proposals. Unless individuals are well versed in City business, the webpage does not allow for MWBEs to easily navigate the webpage and find pertinent information.

The OAC strongly recommends updating the MWBE webpage to include a new tab on the left-hand side dedicated strictly to displaying open bids and request for proposals. Additionally, the OAC also recommends adding a link to open bids and request for proposals to the main City webpage tab labeled, "How Do I..."

**Response 17 (pg. 12):**

**Finding stands with no changes.** We acknowledge the context provided in the Administration's response and understand how that may skew the data.

**Response 18 (pg. 13):**

**Findings stands with no changes.** We acknowledge the context provided in the Administration's response and understand how that may skew the data.

**Response 19 (pg. 14):**

**Finding stands with no changes.** The OAC appreciates the context, however the response does not address our finding.

**Response 20 (pg. 15):**

**Finding stands with no changes.** The OAC appreciates the context, however the response does not address our finding.

**Response 21 (pg. 15):**

**Finding stands with no changes.** We acknowledge the context provided in the Administration's response and understand how that may skew the data.

**Response 22 (pg. 16):**

**Finding stands with no changes.** We acknowledge the context provided in the Administration's response and understand how that may skew the data.

**Response 23 (pg. 16 Regarding demographics of Survey)**

**Finding stands with no changes.**

Thank you,



**Dr. Dorcey L. Applyrs**  
**Chief City Auditor**  
**Office of Audit and Control**  
**City of Albany, New York**