

Office of Audit and Control

AUDIT REPORT

Trinity Alliance

45 - 47 Lark Street, Albany, NY

July 2018

Susan Rizzo

Chief City Auditor

Audit Team

Susan Rizzo, Chief City Auditor

Ransom Moore III, Deputy Chief City Auditor

Aindrea Richard, Analyst

Eric Ma, Auditor

A full copy of this report is available for download at our website:

www.albanyny.gov/Government/Departments/OfficeofAuditandControl

You may also contact our office by email at srizzo@albanyny.gov

Preface

The Office of Audit and Control (OAC) exists to provide oversight, transparency and public accountability as a means to improve the City of Albany Administration accountability. This audit is a part of that function.

When the OAC takes on an audit subject and, setting aside issues of misconduct, that City department(s) or entities concerned respond positively to address the audit's findings, it is the commitment of the OAC to support and encourage use of the audit process by City departments as a means to improve their operations.

This audit was conducted with the full cooperation of Trinity Alliance and their employees. The City of Albany Administration and Trinity Alliance have committed to addressing any findings.

The proper use of the audit findings in these circumstances is to provide for oversight of the resulting changes and as the basis for informed public policy discussions.

Given that Trinity Alliance has given their full cooperation, it would be unfair and damaging to the audit process for this audit's findings to be used for political gain. As such, the OAC will view the political use of this audit's findings as detrimental to our mission.

We thank the Trinity Alliance employees for their cooperation and commitment.

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Background

This audit was initiated because the Office of Audit and Control (OAC) was alerted that utility expenses related to a decommissioned firehouse had been incurred and paid by the City of Albany. The OAC investigated and determined that the property located at 45 – 47 Lark Street (the “Property”) was indeed owned by the City. However, the property is currently occupied by a nonprofit organization, Trinity Alliance (“Trinity”), which operates its “Arbor Hill Community Center” at this City-owned property. See Appendix III – Property Details for a map of the area.

The OAC initiated an audit of the City’s property located at 45 – 47 Lark Street and its current tenant.

Introduction

The OAC decided to investigate the situation to determine the circumstances surrounding Trinity’s tenancy at 45 – 47 Lark Street and the terms of the arrangement. The primary objective of this audit was to protect the City from any liability related to Trinity’s activities at the Property.

The audit findings are as follows:

1. The City of Albany and Trinity Alliance do not have a formal agreement to allow Trinity Alliance to occupy 45 – 47 Lark Street.
2. Trinity Alliance did not have the City of Albany listed as an “additional insured” party on its liability and property insurance policy.
3. Trinity Alliance has incurred operating expenses for which the City of Albany has paid with no reimbursement from Trinity. Also, City of Albany employees respond to Trinity Alliance requests regarding the building with no reimbursement to the City.

Scope, Objectives and Methodology

Scope

The audit covered the tenancy of Trinity at the Property for the period of 2016 through the present.

Objectives

The objectives of this audit were as follows:

1. Determine if the City has an agreement with Trinity Alliance to occupy the Property;
2. Determine if the City is included as an “additional insured” party on the occupant’s insurance policy;
3. Document and analyze the Property’s operating expenses and determine if Trinity is reimbursing the City; and
4. Determine if Trinity Alliance pays rent to the City of Albany related to its occupancy of the Property.

Methodology

The overall audit methodology consisted of the following:

- Conducting a tour of the Property with Trinity personnel;
- Researching the history of Trinity’s occupancy and the existence of a formal written agreement with the City;
- Collecting, reviewing, and analyzing the expenses related to the Property;
- Reviewing Trinity’s insurance policy.

The Chief City Auditor contacted a member of the Common Council representing this ward and organized a walk-through of the Property. The mission and services provided by Trinity as well as the history of the Arbor Hill Community Center located in the decommissioned firehouse were discussed.

The OAC determined that the Arbor Hill Community Center was established by Trinity Alliance during a previous administration. Additionally, it was discovered that there was no agreement established between Trinity and the City. Since there was no formal agreement, Trinity does not pay the City rent and does not pay for operating expenses associated with the Property. The OAC contacted other

departments of the City that it believed may have had a copy of such a document on file. However, no such document was found to exist.

The OAC reviewed the City's operating/capital expenses related to 45 – 47 Lark Street. The table below summarizes the expenses that the OAC was able to attribute to Trinity's operation of its Arbor Hill Community Center.

	<u>2016</u>	<u>2017</u>	<u>YTD</u>	<u>Total</u>
National Grid	\$9,216.09	\$12,701.25	\$3,060.17	\$24,977.51
James D. Warren and Son Inc.	\$310.00	\$1,144.34	\$11,516.19	\$12,970.53
Direct Energy	\$1,417.74	\$1,426.94	\$1,756.42	\$4,601.10
Amazin Glass Co.		\$270.00		\$270.00
Red Hawk Fire & Security			\$291.60	\$291.60
Total	\$10,943.83	\$15,542.53	\$16,624.38	\$43,110.74

The data in the above table is limited, however, because invoices were only included if it explicitly stated "Trinity Alliance" or "45-47 Lark Street." The OAC is only able to verify the accuracy of the information but not its completeness.

The OAC requested a copy of Trinity's insurance policy. It was discovered that the City was not listed as an "additional insured" party on Trinity's insurance policy. The OAC immediately requested that Trinity add the City of Albany as an additional insured on its insurance policy.

Audit Results

Lack of agreement

Trinity Alliance and the City of Albany do not have a formal agreement for Trinity Alliance to occupy 45 - 47 Lark Street. Trinity's current occupancy of the Property began during a prior administration and has continued without any documentation.

Operating expenses

Trinity Alliance has incurred operating expenses that the City of Albany has paid without reimbursement. These expenses include utilities, HVAC service and miscellaneous repairs.

Capital expenses

Trinity Alliance has incurred capital expenses that the City of Albany has paid. Rent is usually charged in third party tenant occupied buildings to offset some of the capital needed to maintain a building.

Insurance

Trinity Alliance did not have the City of Albany as an additional insured party on its liability and property insurance policies.

Recommendations

1. Negotiate a Lease Agreement or Facility Use Agreement for Trinity Alliance to occupy the Property. The City should decide whether or not to charge Trinity and if operating expenses should be passed through to the tenant. As part of this process, the OAC believes a sale of the Property should be considered, either to Trinity or a third party.
2. The Administration should decide if Trinity needs to reimburse the City for historical operating expenses related to the Property. In addition, Trinity and the City should negotiate terms to determine how operating expenses billed to the City shall be directed and paid. The agreement should also include who should be paying for capital expenditures incurred at the Property.
3. The OAC recommends that the Administration develop a proactive strategy for addressing any other City properties that are occupied by third parties. Formal written agreements including rent (if any), operating expense reimbursement, capital expenditures and insurance should be addressed.
4. The OAC requested Trinity add the City of Albany as an additional insured party on its insurance policy. Trinity responded immediately to the request. Annually, a certificate of insurance should be received from Trinity certifying that the policy includes "The City of Albany, 24 Eagle Street, Albany, NY 12207" as an additional insured party and loss payee. The City should determine the appropriate coverage that protects itself.

Conclusion

Trinity Alliance provides many benefits to the residents of the City of Albany. The Administration needs to establish an appropriate occupancy agreement with Trinity to formally codify the terms of the arrangement. A formal agreement will resolve the issue of the City's liability and address responsibility for expenses.

Appendix I – Operating Expenses

National Grid

National Grid Account 79450-81100
45 - 47 Lark St.

Beginning	End	Bill Issued	Due Date	Amount
12/3/2015	1/6/2016	1/6/2016	1/30/2016	\$ 718.63
1/5/2016	2/3/2016	2/3/2016	2/27/2016	640.18
2/3/2016	3/4/2016	3/4/2016	3/30/2016	663.68
3/4/2016	4/6/2016	4/6/2016	4/30/2016	579.86
4/5/2016	5/4/2016	5/4/2016	5/28/2016	513.88
5/4/2016	6/3/2016	6/3/2016	6/29/2016	586.43
6/3/2016	7/6/2016	7/6/2016	7/30/2016	978.25
7/6/2016	8/4/2016	8/4/2016	8/28/2016	1,137.46
8/4/2016	9/2/2016	9/2/2016	9/29/2016	1,114.08
9/2/2016	10/4/2016	10/4/2016	10/28/2016	1,227.18
10/4/2016	11/2/2016	11/2/2016	11/26/2016	435.51
11/2/2016	12/5/2016	12/5/2016	12/29/2016	\$ 620.95
12/5/2016	1/4/2017	1/4/2017	1/28/2017	634.55
1/4/2017	2/2/2017	2/2/2017	2/26/2017	650.68
2/2/2017	3/3/2017	3/3/2017	3/29/2017	611.79
3/3/2017	4/4/2017	4/4/2017	4/28/2017	674.96
4/4/2017	5/4/2017	5/4/2017	5/28/2017	691.40
5/4/2017	6/5/2017	6/5/2017	6/29/2017	731.86
6/5/2017	7/5/2017	7/5/2017	7/29/2017	1,494.75
7/5/2017	8/3/2017	8/3/2017	8/27/2017	1,273.03
8/3/2017	9/5/2017	9/6/2017	9/30/2017	1,573.49
9/5/2017	10/3/2017	10/3/2017	10/27/2017	2,648.10
10/3/2017	11/2/2017	11/2/2017	11/26/2017	876.69
11/2/2017	12/5/2017	12/5/2017	12/29/2017	839.95
12/5/2017	1/4/2018	1/4/2018	1/28/2018	893.11
1/4/2018	2/2/2018	2/2/2018	2/28/2018	762.82
2/2/2018	3/6/2018	3/7/2018	3/31/2018	750.87
3/5/2018	4/4/2018	4/4/2018	4/28/2018	653.37
			Total	\$ 24,977.51
				\$ 24,977.51

James D. Warren and Son

James D. Warren and Son Inc.
45-47 Lark Street (aka Old Engine 2)

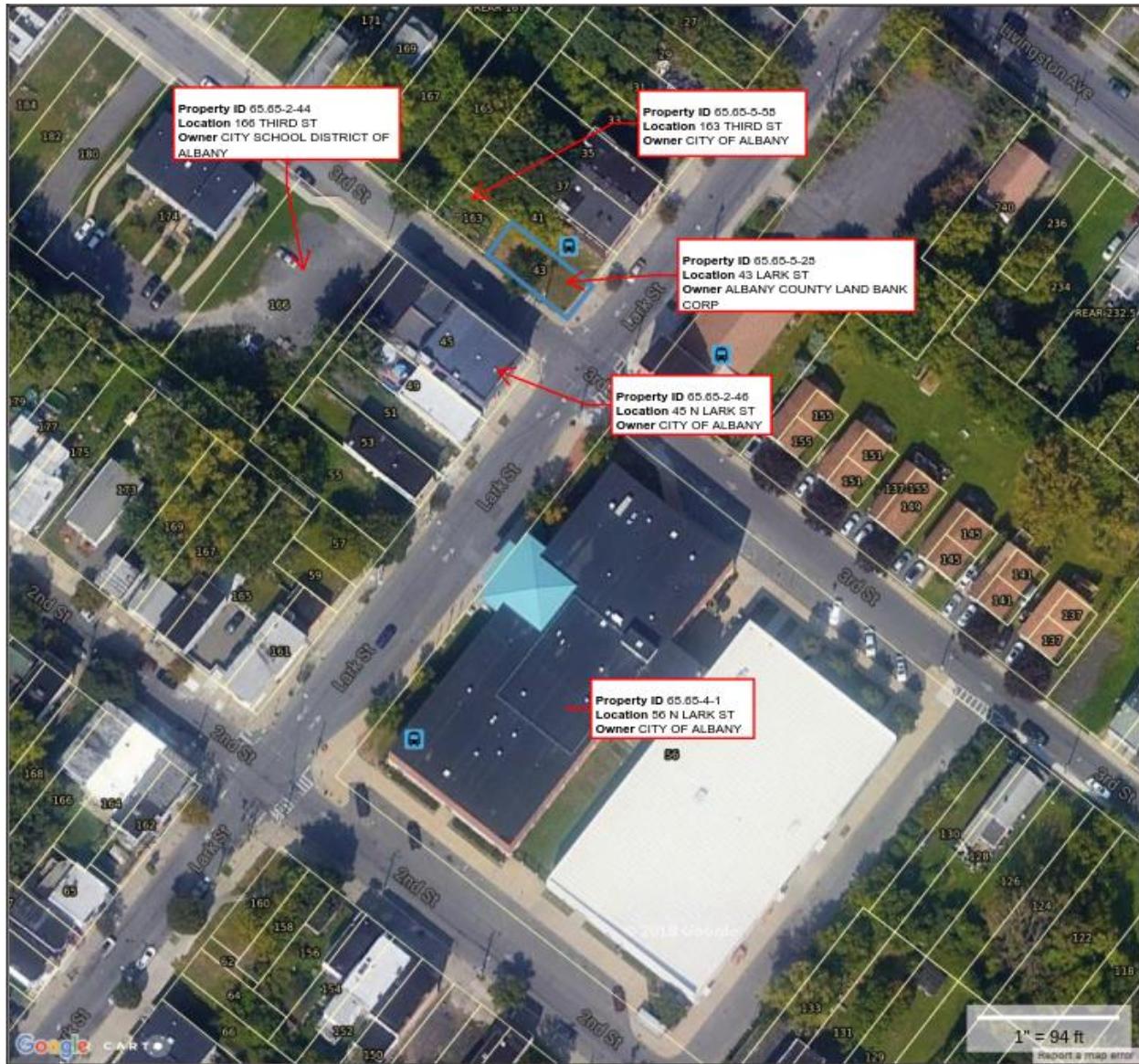
Date	Paid	Description	Amount
01/28/2016	03/31/2016	Preventive Maintenance	\$ 155.00
06/15/2016	07/27/2016	Preventive Maintenance	\$ 155.00
12/22/2016	01/12/2017	Preventive Maintenance	\$ 155.00
01/20/2017	03/22/2017	Replace Bad Ignitor in upper RTU and Tested	\$ 360.90
07/18/2017	08/11/2017	Preventive Maintenance	\$ 160.00
08/08/2017	08/31/2017	Insurance Inspection Repairs	\$ 468.44
12/29/2017	03/13/2018	Failed Heat Exchange - no heat 1st floor	\$ 100.00
01/31/2018	03/14/2018	Replace Trane RTU for 1st floor	\$ 11,256.19
02/28/2018	03/23/2018	Filter Change and Inspection	\$ 160.00
		Total	\$ 12,970.53
			\$ 12,970.53

Direct Energy

Direct energy Business 705230
45 - 47 Lark St.

Beginning	End	Bill Issued	Due Date	Amount
12/4/2015	1/6/2016	1/8/2016	2/7/2016	249.80
1/7/2016	2/3/2016	2/16/2016	3/17/2016	288.59
2/4/2016	3/4/2016	3/15/2016	4/14/2016	327.95
3/5/2016	4/6/2016	4/15/2016	5/15/2016	168.37
4/7/2016	5/4/2016	5/16/2016	6/15/2016	98.34
5/5/2016	6/3/2016	6/16/2016	7/16/2016	25.71
6/4/2016	7/6/2016	7/18/2016	8/17/2016	10.43
7/7/2016	8/4/2016	8/18/2016	9/17/2016	9.47
8/5/2016	9/2/2016	9/14/2016	10/14/2016	8.79
9/3/2016	10/4/2016	10/17/2016	11/16/2016	10.75
10/5/2016	11/2/2016	11/18/2016	12/18/2016	47.55
11/3/2016	12/5/2016	12/19/2016	1/18/2017	171.99
12/6/2016	1/4/2017	1/16/2017	2/15/2017	285.97
1/5/2017	2/2/2017	2/14/2017	3/16/2017	270.68
2/3/2017	3/3/2017	3/16/2017	4/15/2017	219.19
3/4/2017	4/4/2017	4/12/2017	5/12/2017	270.97
4/5/2017	5/4/2017	5/12/2017	6/11/2017	47.87
5/5/2017	6/5/2017	6/12/2017	7/12/2017	26.38
6/6/2017	7/5/2017	8/1/2017	8/11/2017	4.86
7/6/2017	8/3/2017	8/1/2017	9/8/2017	5.21
8/4/2017	9/5/2017	9/11/2017	10/11/2017	7.80
9/6/2017	10/3/2017	10/10/2017	11/9/2017	7.80
10/4/2017	11/2/2017	11/14/2017	12/14/2017	21.50
11/3/2017	12/5/2017	12/14/2017	1/13/2018	258.71
12/6/2017	1/4/2018	1/15/2018	2/14/2018	\$ 438.29
1/5/2018	2/2/2018	2/14/2018	3/16/2018	438.06
2/3/2018	3/6/2018	3/15/2018	4/14/2018	416.81
3/7/2018	4/4/2018	4/23/2018	5/23/2018	282.24
4/5/2018	5/3/2018	5/24/2018		181.02
			Total	\$ 1,756.42
				\$ 4,601.10

Appendix II – Property Details



Note: The City of Albany owns the building occupied by Trinity Alliance. The Parking Lot (behind the building) is owned by the City of Albany School District.



Appendix III – Trinity Alliance Insurance



CERTIFICATE OF LIABILITY INSURANCE

TRINALL-01

TKEENAN

DATE (MM/DD/YYYY)
04/27/2018

<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>																						
<p>PRODUCER Rose & Kiernan, Inc. 99 Troy Road East Greenbush, NY 12061</p>	<p>CONTACT NAME: PHONE (A/C, No, Ext): (518) 244-4245 FAX (A/C, No): (518) 244-4262 E-MAIL ADDRESS:</p>																					
<p>INSURED Trinity Alliance of the Capital Region, Inc. 15-17 Trinity Place Albany, NY 12202</p>																						
<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td colspan="2">INSURER A: Harleysville Preferred Ins. Co</td> <td>35696</td> </tr> <tr> <td colspan="2">INSURER B: Harleysville Insurance Company of NY</td> <td>10674</td> </tr> <tr> <td>INSURER C:</td> <td colspan="2"></td> </tr> <tr> <td>INSURER D:</td> <td colspan="2"></td> </tr> <tr> <td>INSURER E:</td> <td colspan="2"></td> </tr> <tr> <td>INSURER F:</td> <td colspan="2"></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A: Harleysville Preferred Ins. Co		35696	INSURER B: Harleysville Insurance Company of NY		10674	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER D:																						
INSURER E:																						
INSURER F:																						

COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:	
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p>					
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY) POLICY EXP (MM/DD/YYYY) LIMITS
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			MPA8186AE	01/01/2018 01/01/2019
	GENTL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:				
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS Hired AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA 0000008185AE	01/01/2018 01/01/2019
	COMBINED SINGLE LIMIT (\$) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)				
	EACH OCCURRENCE AGGREGATE				
	PER STATUTE E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT				
B	UMBRELLA LIAB EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	<input checked="" type="checkbox"/> OCCUR CLAIMS-MADE		CMB8184AE	01/01/2018 01/01/2019
	EACH OCCURRENCE AGGREGATE				
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY AN. PROFESSOR/PARTNER/EXECUTIVE OPT-IN/EXEMPT EXCLUDED? <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y / N N / A		MPA8186AE MPA8186AE	01/01/2018 01/01/2019 01/01/2018 01/01/2019
	EACH OCCURRENCE AGGREGATE				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Operations usual and incidental to the business of the Named Insured

CERTIFICATE HOLDER		CANCELLATION	
<p>City of Albany Attn: Susan Rizzo, Chief City Auditor 24 Eagle Street Albany, NY 12207</p>		<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p>	
		<p>AUTHORIZED REPRESENTATIVE </p>	

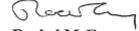
ACORD 25 (2016/03)

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Appendix IV

Office of Administrative Service's Response

 <p>CITY OF ALBANY OFFICE OF ADMINISTRATIVE SERVICES 24 EAGLE STREET ALBANY, NEW YORK 12207 TELEPHONE (518) 434-5078</p> <p>KATHY M. SHEEHAN MAYOR</p> <p>RACHEL MCENENY COMMISSIONER OF ADMINISTRATIVE SERVICES</p>	
<p><u>MEMORANDUM</u></p> <p>TO: Susan Rizzo, Chief City Auditor FROM: Rachel McEneny, Commissioner of Administrative Services DATE: September 19, 2018 RE: City Audit</p> <p>The Department of Administrative Services is in receipt of the Trinity Alliance Audit. The Administration is pursuing conversations with Trinity through our Corporation Counsel. After a more thorough review, we will consider and determine the best course of follow up on any recommendations made by the Auditor's Office. We would like to thank the Chief City Auditor and her staff for their efforts.</p> <p>Please feel free to contact me if you have any questions.</p> <p>Sincerely,</p> <p> Rachel McEneny Commissioner of Administrative Services</p>	

Auditor's Response

The Office of Audit and Control will follow-up to verify if recommendations are addressed.