



**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER
AUDIT DIVISION**

**John M. Kennedy, Jr.
Comptroller**

An Audit of the
Suffolk County Department of Parks, Recreation and Conservation's
Administration of Beach Hut License Agreements
For the Period
January 1, 2015 through December 31, 2016

**Assignment No.: 2016-19
Date Issued: July 27, 2018**

**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER**

John M. Kennedy, Jr.
Comptroller

Louis A. Necroto, CPA
Chief Deputy Comptroller

Frank Bayer, CPA
Executive Director of Auditing Services

Audit Staff:

Diane Forte, CPA, Chief Auditor
Audra Lebowitz, Senior Auditor
Steven Sanchez, Auditor
Jeannie Rasco, Auditor
Hinna Khalid, Auditor

TABLE OF CONTENTS

	<u>Page</u>
LETTER OF TRANSMITTAL	1
EXECUTIVE SUMMARY	3
BACKGROUND	8
SCOPE AND METHODOLOGY	10
AUDIT FINDINGS and RECOMMENDATIONS	11
ADDITIONAL FINDINGS and RECOMMENDATIONS.....	24
CONCLUSION	26
 SCHEDULES	
Schedule 1 - Schedule of Contractually Required Capital Improvement for Cupsogue Beach Hut	28
Schedule 2 - Schedule of Contractually Required Capital Improvement for Meschutt Beach Hut	29
Schedule 3 - Schedule of Contractually Required Capital Improvement for Smith Point Beach Hut	30
 NOTES TO SCHEDULES	 31
 APPENDICES	
Appendix A Response from Suffolk County Department of Parks, Recreation and Conservation.....	33
Appendix B Comptroller Office’s Comments on the Department’s Response.....	89

LETTER OF TRANSMITTAL

July 27, 2018

Mr. Philip Berdolt, Commissioner
Department of Parks, Recreation and Conservation
P.O. Box 144
West Sayville, New York 11796

Dear Commissioner Berdolt:

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, a performance audit was conducted of the Department of Parks, Recreation and Conservation's (Department) administration of the Beach Hut License Agreements (Agreements) for the period January 1, 2015 through December 31, 2016. The Department is located at 200 Montauk Highway, West Sayville, New York.

The objectives of our audit were as follows:

- To review and test all applicable documentation for the Request for Proposal process relative to the above-noted license agreements and determine whether the proper entities were awarded the Agreements.
- To determine if the Department complied with laws, regulations and standard operating procedures applicable to the awarding of the Department's Agreements.
- To obtain an understanding of the Department's internal controls and procedures relative to the administration of the Agreements. To test whether the controls and procedures are effective in monitoring compliance with the Agreements.

We conducted our audit in accordance with generally accepted government auditing standards, except for the external peer review requirement. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Further, these standards require that we understand the internal control structure of the Department and the compliance requirements stated in laws and regulations that are significant to our audit objective.

An audit includes examining, on a test basis, evidence supporting the transactions recorded in the accounting and operating records, and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings and recommendations.

Our audit of the Department disclosed multiple instances of inadequate internal controls and failure to comply with contractual provisions. We found that the Department failed to collect contractually required fees from the Beach Hut in the amount of \$1,250 during the audit period and, based on additional documentation requested, fees for 2017 in the amount of \$269,550. Moreover, we determined that the Department failed to ensure that \$525,811 (99%) of the Beach Hut's contractual capital improvements of \$533,000 were performed.

It should be noted that the Department was not forthcoming with requested information which impeded the audit process.

Respectfully submitted,

Office of the County Comptroller
Division of Auditing Services

EXECUTIVE SUMMARY

Introduction:

The Suffolk County Comptroller's Office reviewed the internal controls and procedures of the Suffolk County Department of Parks, Recreation and Conservation (Department) associated with the awarding and oversight of the Beach Hut License Agreements (Agreements) for the period January 1, 2015 through December 31, 2016.

Prior to the commencement of this audit, the Office of the Suffolk County Comptroller conducted physical observations of the Beach Hut concessions during peak season, which led to the decision to conduct an audit of the Department's oversight of the Agreements. In addition, the results of our observations provided sufficient evidence to refer our findings to the Suffolk County District Attorney for further investigation of the reporting practices of the Beach Hut.

On December 15, 2017, Frederick Marsilio, President of the Beach Hut, Inc. was convicted for failure to pay sales tax on \$3,431,401 in sales at four of his concessions and one restaurant, resulting in \$295,958 in unpaid sales taxes. Two of the four concessions pertained to Suffolk County Agreements for Cupsogue Beach Hut, Inc. and Smith Point Beach Hut, Inc.¹ In Suffolk County Criminal Court, on December 15, 2017, Mr. Marsilio pled guilty to one count of fifth-degree criminal tax fraud and paid \$1,144,211 in restitution; of which \$131,558 was remitted to Suffolk County in restitution of fees due for the years 2013, 2014 and 2015.

Subsequent to learning of the conviction, we requested additional documents from the Department regarding their calculation of the 2017 percentage of gross receipts for the Beach Hut. The Department provided copies of the notification letters sent to each of the Beach Hut concessions. We were advised by the Commissioner that the letters, dated January 3, 2018, were sent a few days later.

Purpose:

The purpose of our review of the Department's internal controls and procedures was to determine if the Department's Request for Proposals (RFPs), evaluation of proposals and subsequent awarding of the Agreements were properly executed and in compliance with applicable laws, guidelines, regulations and standard operating procedures (SOPs); and to review the Department's system of internal controls to determine if the Department has adequate procedures in place to properly monitor the Beach Hut to ensure their compliance with the Agreements. As of the date of this report, the fees are still outstanding.

¹ Cupsogue Beach Hut, Inc. is the contracting party for the License Agreements to operate the Cupsogue and Meschutt concessions.

Summary of Findings:

Our review of the Department's internal controls and procedures relative to the audit subject disclosed multiple instances of inadequate internal controls which caused the Beach Hut's failure to comply with contractual provisions. We found that the Department failed to collect contractually required fees from the Beach Hut in the amount of \$1,250 during the audit period and, based on additional documentation as stated above, fees for 2017 in the amount of \$269,550. Moreover, we determined that the Department failed to ensure that \$525,811 (99%) of the Beach Hut's contractual capital improvements of \$533,000 were performed.

Internal Controls over the Department's Oversight of License Agreements

- The Department does not have a formal policies and procedures manual relative to the administration and oversight of license agreements. (p.11)
- The Contracts Unit lacked employees with adequate financial acumen to effectively monitor license agreements. (p.11)
- The Department failed to effectively manage the administration of the Agreements by providing little oversight of the Contracts Unit in monitoring compliance with the Agreements. (p.12)
- The lack of adequate internal controls resulted in the Department's failure to enforce compliance with provisions pertaining to the submission of yearly plans for capital improvements, annual Operational Plans, annual Operational Schedules and valid performance bonds. (p.12)
- The Department failed to ensure the Beach Hut's compliance with the advertising provisions of the Agreements resulting in a loss of funds to the County in the amount of \$1,250. (p.13)
- The Department does not have an adequate system of internal controls in place to ensure the timely collection of the Annual Flat License Fees in accordance with the Agreements. (p.13)
- The Agreements required that the payment of Percentage of Gross Receipts Fee be billed by the County based on the gross receipts collected by the Beach Hut. Rather than billing the Beach Hut periodically as revenue was earned and reported, the Department sent only one bill after each year-end, thereby delaying the receipt of revenue by the County. Furthermore, the Department neglected to bill the fees for 2017 in the amount of \$269,550 until after year-end; and subsequent to the termination of the Agreements these fees remain outstanding as of the date of this report. (p.14)

- The Department did not collect the Beach Hut's 2016 Percentage of Gross Receipts Fees timely, nor did they assess penalties for late payments. (p.14)
- In accordance with the Agreements, the Beach Hut is required to submit copies of their New York State Quarterly Sales Tax Returns to the Commissioner. Although the Department reviews this information, they do not analyze differences to determine if licensees are properly reporting revenue; such analyses would have uncovered discrepancies to be acted upon. (p.15)
- The Department did not ensure the Beach Hut's submission of a daily log of business activities and cash register tapes with the monthly sales reports as required by the Agreements. (p.15)
- The Department failed to ensure the Beach Hut's provision of a Summary of Catering Events that may have occurred with their Monthly Sales Report as required by "Audit and Control's Regulations for Concession Contracts." (p.15)
- The Department did not have adequate internal controls in place to ensure the completion of \$533,000 in capital improvements to the licensed premises required in the Agreements; we only found evidence that \$7,189 (1%) of the required improvements were properly documented and completed. (p.16)
- The Department failed to ensure the Beach Hut's completion of 99% of its capital improvement obligation as per the Agreements, within a ten year period leaving County assets unjustly devalued. (p. 17)
- The Department failed to enforce the Agreement provision requiring that the Beach Hut solicit and obtain competitive bids for capital projects in accordance with New York State General Municipal Law. (p.18)
- The Department failed to ensure the Beach Hut's compliance with State and County procurement policies by allowing them to circumvent the purchasing threshold by artificially dividing a purchase for goods. (p.18)

Department's Compliance with Agreements, Rules and Regulations

- Of the three RFPs issued within the scope of this audit, the Department failed to comply with the New York State and County policies and regulations regarding the RFP process as follows:
 - For all three RFPs, the Department did not follow Executive Order 3-2009 requiring departments to request and obtain approval from the County Executive's Office to advertise an RFP prior to initiating the process. (p.19)
 - For two of the three RFPs, the Department did not provide evidence of the Commissioner's review and approval of the RFP document prior to advertisement, nor is there evidence of review by the Advisory Committee

and the Park Trustees for comments and recommendations in accordance with SOP I-04. (p.19)

- The Department failed to provide evidence of no conflict of interest by the members of the Advisory Committee for two of the three RFP evaluations. New York General Municipal Law §801 prohibits conflicts of interest by municipal officers, employees or members of a board who are involved in the process of awarding a contract. (p.19)
- The Department failed to provide evidence that all proposals accepted by the Department were received on or before the deadline stated in the RFP and that all proposals received and accepted were evaluated. (p.19)
- The Department could not provide evidence of compliance with SOP D-08 which requires that all deposits to a departmental bank account occur within 24 hours of receipt of funds. (p.20)
- The Department did not enforce payment terms within the Agreements to ensure the prompt receipt of the Annual Flat License Fees which ultimately delayed the realization of revenue to the County. (p.20)
- Since at least 2006, the Department allowed the Beach Hut to have an arrangement with an ice cream truck vendor to operate in the parking lot of the Smith Point Park without the appropriate permit for a mobile food concession or written consent of the Commissioner; the Department never moved to legitimize this operation. (p.20)
- The Department failed to comply with established procedures and provisions of the Agreements relative to capital improvements as follows:
 - The Department established its own policy requiring licensees to obtain three quotes for projects costing \$3,000 or above; however, they did not provide evidence that this deviation from State and County procurement policies was approved by the Commissioner. (p.21)
 - The Department failed to ensure that the Capital Investment Authorization Request Form, for the initial project concept approval, was signed by the Commissioner/Designee but still allowed the projects to proceed. (p.21)
 - The Department did not follow their procedure to assign a capital request number to all projects in order to effectively track each project. (p.21)
 - The Department was inconsistent in their practice to grant credit to licensees toward their capital improvement spending obligation net of sales tax, and granted credit to the Beach Hut for a number of their capital improvement spending obligations inclusive of sales tax. (p.21)

- The Department failed to ensure confirmation of project completion evidenced by the performance of a final site inspection. (p.21)
- The Department granted credit for capital improvements that were not approved by the Commissioner/Designee. (p.21)
- In one instance, the date of the Commissioner/Designee's final approval of the project as complete on the Capital Investment Authorization Request Form was prior to the project's actual completion date. (p.22)
- The Department failed to obtain proper documentation of capital improvement expenditures made by the Beach Hut in accordance with the Agreements. (p.22)

Additional Findings

- Our review of the Cupsogue Agreement revealed that the Department allowed the Beach Hut to operate under an expired First Amendment for fifteen months from January 1, 2016 until the Second Amendment was executed on April 13, 2017; this inaction by the Department rendered the Agreement unenforceable and exposed the County to unnecessary liability. (p.24)
- We found inconsistencies in the Agreement language, hindering the Department's ability to establish standard procedures for revenue collection. (p.24)
- Although the Agreements permit the Beach Hut to sell liquor on the licensed premises, the Agreements do not require the Department to obtain proof of the Beach Hut's liquor license. (p.24)

BACKGROUND

The Suffolk County Department of Parks, Recreation and Conservation (Department) is responsible for nearly 50,000 acres of parkland which includes 14 major active parks, with numerous facilities, four golf courses, four marinas, eleven camping facilities and equestrian facilities. The Department also maintains three lifeguard protected beaches, picnic facilities, nature trails and more than 200 historic structures.

In accordance with Article 28 of the Suffolk County Charter, the Department is administered by a Commissioner of Parks who is appointed by the County Executive and approved by the County Legislature. Article 28 also established a Board of Trustees of Parks which consists of 11 members; one member from each of the 10 Suffolk County townships recommended by the Town Supervisor and one member appointed at large by the County Executive, subject to the approval of the Legislature. The powers and duties of the Board of Trustees include making policy recommendations and approving all matters having to do with the regulation and use of park facilities. The County Legislature has the authority, by duly enacted resolution, to supersede an action or determination of the Trustees and establish County policy with regard to parks.

The Department manages a Private/Public Concessionaire Management Program designed to increase leisure services, provide capital improvements to the park system and generate additional revenue for the County. During the audit period, the Department had 19 license agreements for the operation of four golf course concessions, five restaurant concessions, three beach concessions, two horseback riding concessions, one trap and skeet concession, two canoe concessions and two camp store concessions. The Department's awarding and oversight of the three beach concessions under separate license agreements is the subject of this audit.

The Department is responsible for the preparation, evaluation and awarding of license agreements in accordance with various provisions of New York State General Municipal Law, Suffolk County Standard Operating Procedure I-04 (SOP I-04), and other County policies and regulations which govern the Request for Proposal (RFP) process. Pursuant to SOP I-04, the Department is responsible for preparing the RFP which must be approved by the Suffolk County Park Trustees and the Commissioner.

Pursuant to an RFP process, the Department granted three separate license agreements to renovate, operate, manage and maintain the food service and related activities at three County-owned beach facilities to operate seasonally, as follows:

- **Beach Hut at Smith Point County Park**, Shirley - Term of Agreement was January 1, 2011 through December 31, 2020.
- **Beach Hut at Cupsogue County Park**, Westhampton Village - Term of Agreement was January 1, 2006 through December 31, 2010, extended by two amendments through December 31, 2020.
- **Beach Hut at Meschutt County Park**, Hampton Bays - Term of Agreement was January 1, 2015 through December 31, 2024.

The above Beach Hut entities were required to pay an “Annual License Fee” which includes an Annual Flat License Fee and a fee representing 10 percent of their gross receipts to the Department for the privilege of operating each concession. To support the gross receipts fee, the Beach Hut was required to submit a monthly revenue report with details of daily activity. For the audit period, the Beach Hut remitted payments to the County for their Annual Flat License Fees and percentage of gross receipts as follows:

	2015		2016	
Beach Hut	Annual Flat License Fee	% of Gross Receipts	Annual Flat License Fee	% of Gross Receipts
Smith Point	\$35,000	\$117,598	\$35,000	\$138,515
Meschutt	15,000	37,876	15,000	67,507
Cupsogue	17,500	51,022	17,500	63,042
Total Collections	\$67,500	\$206,496	\$67,500	\$269,064

In addition, the Beach Hut was required to expend a specified amount on advertising to maximize concession sales as well as remit additional funds to the Department for Commissioner-directed advertising. The Agreements also required the Beach Hut to renovate and improve the licensed premises by investing in capital improvements as itemized in the agreement.

The Parks Department’s Contracts Unit is responsible for the preparation of the RFPs and related license agreements, the accounting for and reporting of sales by the licensees, the collection of required fees and the monitoring of capital improvement projects. During the audit period, the Contracts Unit was comprised of two Contracts Examiners and a Senior Clerk Typist that were supervised by a Community Relations Director, replaced by a Coordinator of Community Based Projects in July of 2016. In the past, the Department employed a team of auditors who also monitored compliance by performing site visits and investigations of complaints at the concessions. In 2012, the audit team was disbanded and the oversight of the concessions has been ineffective since then.

It should be noted that this report is the first report in a series of audits performed by the Comptroller’s Office regarding the Department’s awarding and oversight of license agreements.

SCOPE AND METHODOLOGY

We conducted a performance audit of the Department's awarding and administration of the three Beach Hut license agreements for the period January 1, 2015 through December 31, 2016. In order to accomplish the objectives as stated in the Letter of Transmittal (p. 1) we performed the following procedures:

- Reviewed relevant State and local laws, resolutions, Standard Operating Procedures (SOPs), and Suffolk County Comptroller's Regulations for Reporting, Accounting and Control Procedures for Concession Contracts.
- Reviewed and analyzed three Agreements and related amendments for the Beach Hut concessions.
- Interviewed departmental personnel to gain an understanding of the procedures used to issue an RFP and the subsequent awarding of concession license agreements.
- Interviewed departmental personnel to gain an understanding of the Department's process for the authorization of licensee's capital improvement projects.
- Interviewed departmental personnel responsible for recording and reconciling revenue from license agreements to gain an understanding of the systems and procedures used in establishing, monitoring and reporting financial accounts.
- Performed testing of the Department's oversight of the Beach Hut's compliance for Insurance Provisions, Legislative Provisions, Operational Plan and Schedule Provisions, Security and Bond Provisions, Advertising Fees, Annual Fees, Percentage of Gross Fees, Capital Improvements and Liquor Licenses utilizing relevant provisions of the State and local laws, resolutions, SOPs, Suffolk County Comptroller's Regulations for Reporting, Accounting and Control Procedures for Concession Contracts, license agreements and departmental policies.
- Obtained the Beach Hut's Monthly Revenue Reports and Quarterly Sales Tax Returns for each of the three locations. Performed a comparison of the two reports to determine whether any discrepancies exist between the reported sales to the County and reported sales to the State.
- Performed testing of the Department's compliance with the RFP process utilizing relevant provisions of State and local laws, regulations and SOPs.
- Performed testing of the Department's compliance with evaluating and awarding the Agreements utilizing relevant provisions of State and local laws, SOPs and departmental policies.

AUDIT FINDINGS and RECOMMENDATIONS

Prior to the commencement of this audit, the Office of the Suffolk County Comptroller conducted physical observations of the Beach Hut concessions during peak season, which led to the decision to conduct an audit of the Department's oversight of the Agreements. In addition, the results of our observations provided sufficient evidence to refer our findings to the Suffolk County District Attorney for further investigation of the reporting practices of the Beach Hut.

On December 15, 2017, Frederick Marsilio, President of the Beach Hut, Inc. was convicted for failure to pay sales tax on \$3,431,401 in sales at four of his concessions and one restaurant, resulting in \$295,958 in unpaid sales taxes. Two of the four concessions pertained to Suffolk County Agreements for Cupsogue Beach Hut, Inc. and Smith Point Beach Hut, Inc.² In Suffolk County Criminal Court, on December 15, 2017, Mr. Marsilio pled guilty to one count of fifth-degree criminal tax fraud and paid \$1,144,211 in restitution; of which \$131,558 was remitted to Suffolk County in restitution of fees due for the years 2013, 2014 and 2015.

Internal Controls over the Administration of License Agreements

The Department does not have adequate internal controls and procedures to ensure proper oversight of licensee compliance with agreements. Our testing revealed that as a result of inadequate internal controls, the Department failed to provide the proper oversight of the license agreements as follows:

The Department does not have a formal policies and procedures manual relative to the administration and oversight of license agreements. Our interviews of departmental staff revealed that there are no written procedures for any of the processes related to the administration of license agreements. As a result, we found that there was a divergence of opinions regarding oversight responsibilities and necessary monitoring tasks were often not performed. We found that the employees tasked with oversight were not as familiar with the agreement provisions and concession operations as they should be, especially in the area of capital improvements.

The Contracts Unit lacked employees with adequate financial acumen to effectively monitor license agreements. Although the Contracts Unit was comprised of two Contracts Examiners, a Senior Clerk Typist and a Community Relations Director, we found the staff to be lacking in financial skills necessary to effectively monitor the Agreements. The Contracts Unit is tasked with the calculation and collection of revenue from licensees. Generally, we found their recordkeeping lacked organization and was not in accordance with basic bookkeeping processes. For instance, the staff did not record the date that payments were received from licensees, therefore, rendering the calculation of late penalties impossible. In addition, the Unit did not obtain a complete record of licensee revenue documents to support the accurate calculation of fees owed to the County.

² Cupsogue Beach Hut, Inc. is the contracting party for the License Agreements to operate the Cupsogue and Meschutt concessions.

The Department failed to effectively manage the administration of the Agreements by providing little oversight of the Contracts Unit in monitoring compliance with the Agreements. Although the organization of the Contracts Unit includes a supervisor, we did not find evidence of direct management of the Unit. We found many instances where contract requirements were not met due to the absence of supervisory oversight. Our review of processes relative to the awarding and monitoring of the Agreements disclosed numerous instances where we found little or no evidence of the required Commissioner approvals. Our review of capital improvements disclosed insufficient evidence of necessary approvals at various phases of the projects which resulted in capital obligations not being satisfied. Furthermore, we did not find evidence of management's monitoring of concessions through site visits. The lack of physical presence on the part of the Department increases the risk of non-compliance on the part of the licensee and provides opportunity for theft and/or misappropriation of funds by the licensee.

The lack of adequate internal controls resulted in the Department's failure to enforce compliance with certain provisions for all three Agreements.

- The Department failed to ensure the Beach Hut's submission of yearly plans for capital improvements or the Commissioner's approvals of these capital improvements.
- The Department failed to ensure the Beach Hut's submission of an annual Operational Plan and Operational Schedule by January 30th of each year.
- The Department failed to ensure the Beach Hut's provision of a sufficient, valid performance bond or an alternate financial instrument until the total cost of required capital improvements were fulfilled.

Recommendation:

The Department should develop a comprehensive, written policies and procedures manual for the administration of license agreements. Such policies and procedures should provide clear and concise guidelines to aid staff in providing the proper oversight to monitor the licensee's performance, enforce the terms and conditions of their agreements and ensure that they are adhering to all contractual requirements. The manual should include; but not be limited to, detailed descriptions of procedures, job responsibilities, management oversight functions and standardized forms and checklists.

The Department did not ensure the Beach Hut's compliance with the advertising provisions of the Agreement resulting in a loss of funds to the County of \$1,250. The Agreements require the Beach Hut to expend a specified amount each contract year on advertising to promote the concession operation as well as to remit a specified amount to the Department for Commissioner-directed advertising. The Department did not produce any evidence that the Beach Hut expended \$750 on advertising for the Cupsogue concession and \$500 for the Meschutt concession for year 2016. In the absence of such expenditures, it is the Department's policy to collect the amounts not expended from the licensees. The Department failed to collect these amounts which resulted in a loss of funds to the County in the amount of \$1,250. Also, the Department failed to make sufficient effort to collect the required Commissioner-directed advertising fees for all three concessions on a timely basis which were ultimately collected between six and fourteen months past the prescribed due date.

Recommendation:

The Department should adopt procedures to actively pursue the collection of advertising fees. In instances where the licensee fails to provide evidence of their required annual advertising expense, a letter should be sent to the licensee after year-end requesting documentation of their advertising expense or to secure the remittance of amounts not spent. The Department should send written notification to licensees who are in arrears for their advertising obligations on a monthly basis until the required fees have been remitted. In addition, the Department should modify the language in future license agreements to include a requirement that the licensee will be assessed a penalty on any part of the advertising fees not paid by the prescribed due date.

The Department does not have an adequate system of internal controls in place to ensure the timely collection of the Annual Flat License Fees in accordance with the Agreements. Audit testing revealed the Department failed to collect the contractually required Annual Flat License Fees from the Beach Hut by the prescribed due date. Our review revealed numerous instances in which the Annual Flat License Fee payments were late. In addition, the Department could not always provide evidence of their effort to collect the outstanding fees, nor was the Beach Hut assessed a penalty for late payments.

Recommendation:

The Department should design and implement procedures to properly notify licensees of their Annual Flat License Fee obligation and actively pursue the collection of these fees. Upon execution of the Agreements and each year thereafter, the Department should send a payment schedule to the licensee indicating the monthly payment amounts and the due dates. If the licensee does not remit these fees by the due date, the Department should send a late notice followed by a monthly statement until the required fees have been remitted. In addition, the Department should exercise the stipulation of the Agreement to assess penalties when appropriate. In the event that the licensee is over 90 days in arrears, we recommend that the Department consider terminating the Agreement.

The Agreements required that the payment of the Percentage of Gross Receipts Fee be billed by the County based on the gross receipts collected by the licensee. Rather than billing the Beach Hut periodically as revenue was earned and reported, the Department sent only one bill after each year-end thereby delaying the receipt of revenue by the County. Furthermore, the Department neglected to bill the fees for 2017 in the amount of \$269,550 until after year-end; and subsequent to the termination of the Agreements these fees remain outstanding. The Percentage of Gross Receipts Fees received by the County for all three Agreements for 2015 and 2016 were \$206,496 and \$269,064, respectively. These fees were billed by the Department in January of the following year and received by March when they could have been billed and collected as early as July through October of the preceding year. This condition was further exacerbated with regard to the 2017 fees. The Agreements were terminated by the County subsequent to the indictment and conviction of Mr. Marsilio of the Beach Huts in December 2017 and the Department did not send bills for the 2017 Percentage of Gross Receipts Fees until January 2018. These fees, totaling \$269,550, are still outstanding as of the date of this report and should have been billed and collected well before the agreements were terminated. (2015 & 2016 see p.9 of report)

The Department did not collect the Percentage of Gross Receipts Fees for 2016 from the Beach Hut timely, nor did they assess penalties for late payments. Our audit revealed that the date on the Beach Hut's check and the date processed by the Department were subsequent to the payment due date for all three Agreements and therefore considered late. Furthermore, we found no evidence of any effort made by the Department to actively collect the overdue fees nor did they assess a penalty for late payments. This inaction delayed the realization of revenue to the County and resulted in the loss of an indeterminable amount of late penalties.

Recommendation:

The Department should design and implement procedures to properly notify licensees of their percentage of gross receipts fee obligation and actively pursue the collection of these fees. The fees should be calculated monthly by the Department and once the revenue threshold has been reached a bill should be submitted to the licensee accordingly. By collecting the Percentage of Gross Receipts Fee on a monthly basis, the Department can better control the oversight of the licensee, as well as, mitigate any losses due to unforeseen circumstances. If the licensee does not remit payments by the due date, the Department should send a late notice followed by a monthly statement until the required fees have been remitted. In addition, the Department should exercise the assessment of late penalties when appropriate. In the event that the licensee is over 90 days in arrears, we recommend that the Department consider terminating the agreement. Furthermore, we recommend the strengthening of the related language in future agreements to reflect the above procedures and facilitate more timely collection of revenue by the County.

In accordance with the Agreements, the Beach Hut is required to submit copies of their New York State Quarterly Sales Tax Returns to the Commissioner. Although the Department reviews this information, they do not analyze differences to determine if licensees are properly reporting revenue; such analyses would have uncovered discrepancies to be acted upon. Our analysis of these reports revealed that there were significant discrepancies. This condition should have alerted the Department of potential problems with revenue reporting that could negatively impact the County. As a result of this inaction and others, the Beach Hut was able to perpetuate the underreporting of revenue to both the County and New York State for several years, which was later confirmed by a criminal investigation.

Recommendation:

The Department should enforce the agreement provision in which the licensee is required to submit their New York State Quarterly Sales Tax Returns no later than thirty days following the end of each quarter. In instances where the licensee fails to submit these reports when due, the Department should send written notification of this reporting deficiency to the licensee. We recommend that the Department perform a quarterly comparative analysis of the Monthly Sales Reports to the New York State Quarterly Sales Tax Returns. If these reports do not agree, the Department should refer the matter to the Audit Division for review.

The Department did not ensure the Beach Hut's submission of a daily log of business activities and cash register tapes with the Monthly Sales Reports as required by the Agreements. Our audit revealed that the Department did not obtain the daily cash register tapes containing individual transaction detail; instead they accepted the "end of day" report of register totals for all three concessions. The accuracy of the monthly reports cannot be determined without the ability to verify the sales transaction detail.

Recommendation:

The Department should adopt policies and procedures to ensure that the licensee submits all documentation pertaining to the cash receipts which includes the daily cash register tapes with transaction details and totals, the daily sales reports and the monthly sales reports to support the calculation of revenue due to the County.

The Department failed to ensure the Beach Hut's provision of a Summary of Catering Events that may have occurred with their Monthly Sales Report as required by "Audit and Control's Regulations for Concession Contracts." A review of the Beach Hut's website disclosed that they offer catering services at all three locations, however; testing revealed no reported evidence of catered events. The Department informed us that they do not require licensees to submit this information nor do they require that the licensees attest that no catered events have occurred during the prior month. By not requiring licensees to report sales from catered events on their monthly sales report the Department is providing the licensees with the opportunity to underreport their gross receipts, which may ultimately result in lost revenue to the County.

Recommendation:

The Department should enforce the requirement for the licensees to provide a summary of catering events with their Monthly Sales Reports. The completed form should be accompanied by a valid invoice evidencing catering services provided, cost of services and payment made. Additionally, the revenue collected for catering services should be reported as a separate line item on the Daily and Monthly Sales Reports. If no catering events occurred in a given month, the summary should indicate “none” and be submitted with the Monthly Sales Report.

The Department did not have adequate internal controls in place to ensure the completion of \$533,000 in capital improvements to the licensed premises required in the Agreements; we only found evidence that \$7,189 (1%) of the required improvements were properly documented and completed. We found the following:

Contractual Capital Improvements	Cupsogue	Meschutt	Smith Point	Total
Obligation through 2017	\$ 255,000	\$ 128,000	\$ 150,000	\$ 533,000
Less Amount Completed	-	(747)	(6,442)	(7,189)
Amount Not Completed	\$ 255,000	\$ 127,253	\$ 143,558	\$ 525,811

For details see Schedules 1, 2 and 3.

Cupsogue Beach Hut - We expanded our testing to include the initial Agreement and the First and Second Amendments between Cupsogue Beach Hut and the Department in order to capture all capital improvement requirements. The initial Agreement (2006 - 2010) required the Beach Hut to complete \$200,000 of capital improvements which were never performed. The Department extended the Agreement for an additional five year period (First Amendment 2011 - 2015) with the same capital improvement requirement of \$200,000 carried forward to complete the same projects by June 2011. By 2014, the Beach Hut had expended \$36,777 on capital improvements; however, we could not confirm that these improvements were contractually required or if the Commissioner approved modifications to the agreed-upon capital improvements. In September 2014, a fire destroyed the Cupsogue facility after which the Beach Hut purchased a custom mobile kitchen and other equipment to continue operations at a cost of \$77,914. Notwithstanding the monies expended because of the fire, the Beach Hut did not fulfill their contractual capital improvement requirement of the initial Agreement and carried forward to the First Amendment of \$200,000. Nevertheless, the Department opted to extend the Agreement for another five year period (Second Amendment 2016 - 2020), the terms of which required the Beach Hut to complete \$55,000 of capital improvements by the winter of 2017 with no mention of the previous capital requirements that were never performed. Although the Department allowed the Beach Hut to perform several non-contractual projects, they did not enforce the contractually required capital improvements of \$255,000 from 2006 through 2017 [Schedule 1 - p.28].

Meschutt Beach Hut - We expanded our testing to include the Agreement start date of January 1, 2015 through 2017 to capture all capital improvement requirements. We determined that \$747 of the \$128,000 of contractual capital improvements were properly documented and completed. Although the Department granted the Beach Hut credit for several non-contractual projects totaling \$6,844 they did not enforce the performance of \$127,253 in capital improvements contractually required of the Beach Hut [Schedule 2 - p.29].

Smith Point Beach Hut - We expanded our testing to include the Agreement start date of January 1, 2011 through 2017 to capture all capital improvement requirements. We determined that the Beach Hut expended \$6,442 toward their contractual capital improvements of \$150,000. Although the Department granted the Beach Hut credit for several non-contractual projects totaling \$7,841, they did not enforce the performance of \$143,558 in capital improvements contractually required of the Beach Hut [Schedule 3 - p.30].

Recommendation:

The Department should strengthen internal controls over their monitoring of capital improvements required by their license agreements. The Department should maintain a record of contractually required improvements to track progress from inception to completion of the project. Site inspections should be conducted periodically and inspection reports prepared that provide sufficient information about the status of the capital improvement work. These reports should be accompanied by photos, serial numbers, name of manufacturer and other relevant information. Department staff should review invoices, cancelled checks and other related documentation submitted by the licensee evidencing the completion of the capital improvement. All supporting documentation should be maintained in a project file for each licensee. Additionally, if licensees do not complete their capital improvements within the contractual timeframe, the Department should issue a Notice-to-Cure to the licensee, requesting corrective action. If corrective action is not taken, the Department should consider terminating the agreement. It is further recommended that the County's future license agreements be modified to contain language requiring licensees to remit to the County, as additional license fees, any amount not expended of their capital improvement obligation within a specified timeframe.

The Department failed to ensure the Beach Hut's completion of 99% of its capital improvement obligation as per the Agreements, within a ten year period leaving County assets unjustly devalued. Although it is common for agreements requiring a large capital outlay to have terms of ten years or more, the longer terms only benefit the County if the capital investment is actually realized. When capital improvements are not performed the County asset is devalued. As in this case, the Agreements were terminated without the required capital improvements having been performed and the licensed premises were left with an extensive backlog of improvements which will require an even greater future capital outlay and possibly deter prospective proposers.

Recommendation:

If it is the Department's desire to enter into license agreements for ten year periods with options for extension, we recommend that the underlying agreements require the completion of the capital improvements within the initial five years of the term. To this end, the Department should ensure that licensees submit a yearly capital plan and enforce that plan by developing an aggressive monitoring system that includes frequent site inspections to ensure that contractual improvements are completed to the County's satisfaction. The Department should evaluate the performance of all licensees to determine if contractual obligations are being met in a timely manner prior to entering into extensions of the agreement. If a licensee does not fulfill the capital obligation, the Department should take appropriate action by documenting shortcomings and consider terminating the agreement if appropriate.

The Department failed to enforce the Agreement provision requiring that the Beach Hut solicit and obtain competitive bids for capital projects in accordance with New York State General Municipal Law. New York State General Municipal Law §103 establishes thresholds for the competitive bid process to be followed by political subdivisions and §104-b directs the governing board of political subdivisions to adopt internal policies and procedures governing the procurement of goods and public services which are not required to be made pursuant to the competitive bidding requirements of §103; such procedures are codified in Chapter 1065 of the Suffolk County Code. We found numerous instances where the Department granted credit for capital improvements without obtaining evidence that the Beach Hut solicited and obtained bids following a competitive procurement method as prescribed by law. One instance was the procurement of a custom mobile kitchen costing \$73,424 for which the Department did not secure evidence from the Beach Hut of competitive bidding practices appropriate to the dollar threshold. We found other instances where the Beach Hut should have solicited and obtained quotes from at least three separate vendors for the purchase of goods and services and another instance where formal sealed bids or requests for proposals from four vendors should have been obtained.

The Department failed to ensure the Beach Hut's compliance with State and County procurement policies by allowing them to circumvent the purchasing threshold by artificially dividing a purchase for goods. NYS General Municipal Law §103 requires that "purchases of commodities, services or technology shall not be artificially divided for the purpose of satisfying the discretionary buying thresholds established by the subdivision." Our audit testing revealed that the Department approved two separate Capital Improvement Authorization Requests submitted by the Smith Point Beach Hut, on the same date, for purchases of the same item ordered within one day of each other and delivered on the same date with a total cost of \$3,597. As a result of the separation of the purchase as two projects, the Beach Hut avoided bid requirements that would have been necessary if the purchase was presented properly as one project. It appears that these purchases were artificially divided in an effort to circumvent the purchasing threshold defined by Suffolk County Chapter 1065 which requires a formal sealed bid process for the purchase of goods over \$3,500, and therefore was improperly approved by the Department.

Recommendation:

In order to provide proper oversight, the Department should require licensees to adhere to the Agreements by following the appropriate competitive bid process for the purchase of goods and services. The Department should ensure that licensees are complying with State and County laws that govern the purchase of goods and public work to ensure the existence of fair and open competition.

Compliance by the Department

Our examination of the Department's compliance with agreement provisions, standard operating procedures, laws and regulations resulted in the following findings:

Of the three RFPs issued within the scope of this audit, the Department failed to comply with New York State and County policies and regulations regarding the RFP process as follows:

- For all three RFPs, the Department did not follow Executive Order 3-2009 requiring departments to request and obtain approval from the County Executive's Office to advertise an RFP prior to initiating the process.
- For two of the three RFPs, the Department did not provide evidence of the Commissioner's review and approval of the RFP document prior to advertisement nor is there evidence of review by the Advisory Committee and the Park Trustees for comments and recommendations to the Commissioner in accordance with SOP I-04.
- The Department failed to provide evidence of no conflict of interest by the members of the Advisory Committee for two of the three RFP evaluations. New York General Municipal Law §801 prohibits conflicts of interest by municipal officers, employees or members of a board who are involved in the process of awarding a contract.
- The Department failed to provide sufficient evidence that all proposals accepted by the Department were received on or before the deadline stated in the RFP. The Department failed to provide complete bid opening documentation for all three RFPs. Therefore, it could not be reasonably determined whether all proposals accepted by the Department were received on or before the deadline stated in the RFP.
- The Department did not always provide evidence that all proposals received and accepted by the Department were evaluated. The Department could not provide a summary of proposals indicating receipt and acceptance of proposals for RFP for the Smith Point concession. As a result, we were unable to confirm whether every accepted proposal was evaluated by the Advisory Committee.

Recommendation:

The Department should review all laws, rules, policies and regulations related to the RFP process and formulate comprehensive, written procedures to ensure compliance with all requirements. Such procedures should allow for a competitive process that ensures fair and open competition in the pursuit and awarding of license agreements. These policies and procedures should provide clear and concise guidance and include checklists and timelines.

The Department could not provide evidence of compliance with SOP D-08 which requires that deposits to a departmental bank account be made within 24 hours of receipt of funds. The Department does not maintain a record of payments received from the licensee that indicates the date of receipt. As a result, we were unable to determine the exact date a cash receipt was received by the Department, and consequently the Department was unable to demonstrate compliance with SOP D-08.

Recommendation:

The Department should create and maintain a subsidiary cash receipts ledger that includes: licensee name, fee type, amount paid, check number, date of receipt, POS receipt number, date of deposit and the name of the employee processing the transaction. Furthermore, a copy of the check received should be maintained with the ledger. The originals should be maintained by the individual responsible for processing cash receipts, and the Contracts Unit should receive a copy of the ledger, checks and POS receipts.

The Department did not enforce payment terms within the Agreements to ensure prompt receipt of the Annual Flat License Fees which ultimately delayed the realization of revenue to the County. For the year 2015, the Department directed the Beach Hut to remit their Annual Flat License Fees on or before the end of the month even though the Agreements stipulate that all payments are due by the 10th day of the month.

Recommendation:

The Department should develop and implement policies and procedures to ensure that collections of the Annual Flat License Fees are in compliance with the Agreements. The Department should not set payment terms that deviate from the provisions contained in the Agreements and delay the receipt of revenue to the County.

Since at least 2006, the Department allowed the Beach Hut to have an arrangement with an ice cream truck vendor to operate in the parking lot of Smith Point Park without the appropriate permit for a mobile food concession or written consent of the Commissioner. The Department was aware of this arrangement and made no attempt to legitimize the operation through the appropriate permit process, a separate agreement or by written consent of the Commissioner. Our audit disclosed that the Beach Hut did include revenues from this operation in their percentage of gross receipt submissions;

however, we could not verify if the amounts reported were accurate due to poor recordkeeping and a lack of access to the ice cream vendor's sales transaction details. Furthermore, the Beach Hut did not include the revenue from the ice cream operation on its New York State Quarterly Sales Tax Return which led to confusion and errors in calculating the Beach Hut's gross receipts.

Recommendation:

If the Department finds that it would be beneficial to allow a mobile food concession at a County park, the Department should include such a provision in the Request for Proposals or follow a competitive process that ensures a fair and open competition in the pursuit and award of an operating permit. It is further recommended that the Department employ measures to ensure that all mobile food concessions operating at County parks have the appropriate permit and or written agreement in place which will provide the Department with greater control.

The Department failed to comply with established procedures and provisions of the Agreements relative to capital improvements as follows:

- The Department established its own policy requiring licensees to obtain three quotes for projects costing \$3,000 or above; however, they did not provide evidence that this deviation from State and County procurement policies was approved by the Commissioner.
- The Department failed to ensure that the Capital Investment Authorization Request Form, for the initial project concept approval, was signed by the Commissioner/Designee but still allowed the projects to proceed for two of the three Agreements.
- The Department did not follow their procedure to assign a capital request number to all project requests in order to effectively track each project. Without a tracking process in place, the Department cannot properly monitor the status of the capital improvements. For instance, duplications may occur in the crediting process and incomplete projects may go undetected.
- The Department was inconsistent in their practice to grant credit to licensees toward their capital improvement spending obligation net of sales tax, and granted credit to the Beach Hut for a number of their capital improvement spending obligations inclusive of sales tax.
- The Department failed to ensure confirmation of project completion evidenced by the performance of a final site inspection for all three Agreements.
- The Department granted credit for capital improvements to the Beach Hut that were not approved by the Commissioner or Designee.

- In one instance, the date of the Commissioner/Designee's final approval of the project as complete on the Capital Investment Authorization Request Form was prior to the project's actual completion date.

The Department failed to obtain proper documentation of capital improvement expenditures made by the Beach Hut in accordance with the Agreements (i.e. signed contracts, paid invoices, and cancelled checks). Audit testing revealed instances in which the Department failed to obtain sufficient evidence of the Beach Hut's capital outlay for projects that the Department credited toward their spending obligation. Several times the Department accepted copies of just the front of a check, which lacked evidence of cancellation, as proof of payment. In addition, the Department accepted an invoice as proof of payment indicating an amount that could not be reconciled to the amount paid. In other instances, the Department accepted an informal invoice for labor costs and did not secure any evidence to support the costs associated with a capital improvement.

Recommendation:

The Department should strengthen procedures to ensure that proper actions are taken by staff to be in compliance with both departmental procedures and the license agreement provisions. In that regard, the following should be considered in the development of procedures:

- The Department should not deviate from State and County procurement policies by establishing special purchasing thresholds for the licensees' with regard to capital improvements. The intent of State and County procurement policies is to ensure the existence of fair and open competition in the purchase of goods and public work.
- All phases of the capital improvement approval process should be included in the Capital Investment Authorization Request Form and contain a designated line for an authorized signature to signify the approval of each phase.
- Ensure all Capital Investment Authorization Request Forms are assigned an identifying number to properly track each capital improvement.
- Conduct site inspections and prepare inspection reports that provide sufficient information about the status of the required capital improvement work. These reports should be accompanied by photos, serial numbers, name of manufacturer, and other relevant identifying information.
- Adequately review invoices, cancelled checks and other related documentation submitted by licensees evidencing the completion of a capital improvement.
- Maintain all supporting documentation in a capital project file for each licensee.

- Ensure that licensees who successfully complete all requirements of a capital improvement receive a credit towards their spending obligation, such credit should be calculated in a consistent manner.
- Confirm final approval is obtained from Commissioner/Designee.
- Modifications to a contractual capital improvement require the approval of the Commissioner/Designee. The approval should be officially documented in writing and include: the capital improvement, cost, approved modification, and the signature of the Commissioner or Designee. These documents should be maintained in a capital improvement file for each concession.

ADDITIONAL FINDINGS and RECOMMENDATIONS

Our review of the Cupsogue Agreement revealed that the Department allowed the Beach Hut to operate under an expired First Amendment from January 1, 2016 until the Second Amendment was executed on April 13, 2017 (15 months); this inaction by the Department rendered the Agreement unenforceable and exposed the County to unnecessary liability. Without a properly executed agreement, the Department could not possibly provide the proper oversight to ensure that all contractual provisions were adhered to for 15 months. For instance, the 2016 Annual License Fee Payment Schedule should have been sent to the Beach Hut in January 2016 was not issued until April 20, 2017, subsequent to the execution of the Second Amendment. This delayed the receipt of revenue in the amount of \$4,500 by the County for over a year. Moreover, in light of the fact that the Cupsogue location experienced a devastating fire that destroyed a County asset in 2014, it should have been paramount for the Department to ensure that all license agreements are current to protect the County from liability.

Recommendation:

The Department should ensure that licensees do not operate their concessions without a fully executed agreement. In allowing the operations to continue when an agreement has lapsed, the County may become legally vulnerable and susceptible to a loss of funds from non-payment of required advertising fees, annual license fees, percentage of gross fees and unfulfilled capital improvement obligations.

We found inconsistencies in the Agreement language, hindering the Department's ability to establish standard procedures for revenue collection. The Agreements for the three Beach Hut concessions provide for similar operations. Although many of the agreement provisions are uniform; we found inconsistencies in payment terms pertaining to fees for advertising and percentage of gross receipts and in the definition of Annual License Fees.

Recommendation:

The Department should develop uniform language in future license agreements to ensure clear and consistent terms and conditions.

Although the Agreements permit the Beach Hut to sell liquor on the licensed premises, the Agreements do not require the Department to obtain proof of the licensee's liquor license. The Agreements state that failure to obtain and maintain a liquor license for the entire term of the Agreement will be cause for default and revocation of the Agreement. However, without obtaining evidence of a valid liquor license, the Department lacks control over the County property.

Recommendation:

We recommend that the language in future license agreements include a provision that requires the licensee to submit proof of their liquor license to the Department on an annual basis to ensure that all licensees are operating on County property within the confines of the law.

CONCLUSION

Our audit of the Department disclosed multiple instances of inadequate internal controls and failure to comply with contractual provisions. We believe that the lack of financial acumen on the part of the staff responsible for monitoring license agreements is a direct result of the loss of accounting/auditing staff due to retirements and lay-offs. In 2011, the Department's Administrative Unit was comprised of 32 staff, which included a Principal Accountant, one Senior Auditor, two Auditors and one Accountant. However, by 2015 the Department's Administrative Unit was reduced by ten staff members, which included the loss of all five financial personnel. This loss of financial knowledge and expertise most likely contributed to the problems identified herein which resulted in a loss to the County totaling \$796,611 for the three Beach Hut License Agreements including 2017 fees in the amount of \$269,550 which were not billed until after year end and remain outstanding as of the date of this report.

Prior to the commencement of this audit, our office performed physical observations of the Beach Hut concessions during the 2016 peak season. Our observations revealed a severe lack of controls over the cash operations, which resulted in our referral of the Beach Hut concessions to the District Attorney for criminal investigation in lieu of conducting an audit by our office. As a result of the investigation, Frederick Marsilio, President of the Beach Hut Inc. admitted to submitting false sales information in an effort to reduce the amount of profit sharing that was due to Suffolk County. He pled guilty to underreporting revenue for years 2013, 2014 and 2015 and paid restitution to the County in the amount of \$131,558. We believe the amount of underreported revenue may have been higher considering the District Attorney's calculation did not include the operational months of May and September. Consequently, there is a high probability that the Beach Hut also underreported revenue to the Department in years 2016 and 2017. Therefore, based on the District Attorney's calculations, we estimate (via extrapolation) that the Beach Hut concessions underreported revenue for the years 2016 and 2017 in the amount of \$1,245,424. The Department's inadequate monitoring of the Beach Hut most likely contributed to a loss of revenue to the County in the amount of \$124,542 and the underreporting of sales tax to New York State estimated to be approximately \$100,000.

SCHEDULES

Note: The accompanying schedules are an integral part of this report.

Schedule 1

Schedule of Contractually Required Capital Improvements for Cupsogue Beach Hut

Capital Improvement by Project	Capital Obligation Amount	Contractual Completion Date	Amount Credited by Department	Capital Improvement Completed?	Notes
Initial License Agreement I/1/06 - 12/31/10					
Building Expansion			\$ -	No	
Ground Level Improvements			-	No	
New Food Line and Counter with Additional Kitchen			-	No	
New Themed Ice Cream/Smoothie Parlor			-	No	
Gift Store			-	No	
Tropical Tiki Bar			-	No	
Deck			-	No	
Capital Obligation	\$ 200,000	12/31/2010	-		
1st Amendment to Agreement I/1/11 - 12/31/15					
Building Expansion	\$ 100,000	June 2011	\$ -	No	
Ground Level Improvements	25,000		-	No	
Equipment	75,000		-	No	
Capital Obligation	\$ 200,000		-		
2nd Amendment to Agreement I/1/16 - 12/31/20					
Design and Build Refreshment Stand	\$ 35,000	Winter 2016	\$ -	No	
Install Tent Over Lower Deck Area	10,000	Spring 2017	-	No	
Fence Wall by Kitchen Trailer and Walk-in Box	5,000	Spring 2017	-	No	
Build a Band Area on Upper Deck	5,000	Winter 2017	-	No	
Improve Lighting Lower Deck Area	5,000	Spring 2018	-	No	
Capital Obligation	\$ 60,000	2016-2018	-		
Total	\$ 460,000		\$ -		

Total Required Capital Improvements:	\$ 460,000	
Less: Capital Improvements Required in both Initial Agreement and 1st Amendment:	(200,000)	(1)
Capital Improvements Required by 1st and 2nd Amendments:	\$ 260,000	
Less: 2018 Capital Improvements:	(5,000)	(2)
Total Capital Improvements required by 2017:	\$ 255,000	
Total Required Capital Improvements Completed:	-	
Total Required Capital Improvements Not Completed:	\$ 255,000	

See Notes to Schedule (p.31).

Schedule 2

Schedule of Contractually Required Capital Improvements for Meschutt Beach Hut

Capital Improvement by Project	Capital Obligation Amount	Contractual Completion Date	Amount Credited by Department	Capital Improvement Completed?	Notes
License Agreement - 1/01/15 - 12/31/24					
Installation of new chain link fence around dumpster	\$ 1,500	2015	\$ -	No	
Installation of new fans under tent over patio area	1,000	2015	-	No	
New Plywood, primed/painted for proper winterization	1,500	2015	747	Yes	(3)
Reinstallation of tent and tables within Patio area for improved handicapped access	2,000	2015	-	No	
Installation of new front canopy and wind brakes	15,000	2016	-	No	
Installation of brick pavers on the west side of the EMT building	5,000	2016	-	No	
Purchase new tables	2,000	2016	-	No	
Construction of new restrooms and upper deck	100,000	2017	-	No	
Conversion of existing bathrooms to expanded interior space of the kitchen/service area within the Concession Building	22,000	2018	-	No	
Total	\$ 150,000		\$ 747		

Total Required Capital Improvements:	\$ 150,000	
Less: 2018 Capital Improvements:	(22,000)	(2)
Total Capital Improvements required by 2017:	\$ 128,000	
Total Required Capital Improvements Completed:	747	
Total Required Capital Improvements Not Completed:	\$ 127,253	

See Notes to Schedule (p.31).

Schedule 3

Schedule of Contractually Required Capital Improvements for Smith Point Beach Hut

Capital Improvement by Project	Capital Obligation Amount	Contractual Completion Date	Amount Credited by Department	Capital Improvement Completed?	Notes
License Agreement - 1/1/11 - 12/31/20					
Install new counter and counter tops			\$ -	No	
Construct gift counter and display for merchandise			-	No	
Purchase 30' tv monitor and computer system to view Beach Hut slide show			-	No	
Construct and equip ice cream parlor to include: soft ice cream machine, smoothie/ milkshake machine, handwashing station, additional sink, scoop ice cream freezer, 1950's theme décor, additional cash register/counter, additional plumbing/electric			-	No	
Construct four new volleyball courts west of pavilion			3,597	Partial	(4)
Capital Obligation	\$ 75,000	May 2011			
Construction of Band Stand with canopy top, lighting and electric; approximately 400 square feet; built next to existing stage southeast of pavilion			\$ -	No	
Install brick paver walkway of approximately 1000 square feet connecting cement walkway to tent area and southwest of pavilion			-	No	
Purchase 20 new tables and 80 new chairs			2,845	Partial	(5)
Capital Obligation	\$ 50,000	June 2011			
Purchase and install 30' x 40' large framed tent in white fenced area southeast of pavilion			-	No	
Install pizza oven, panini press and pizza display area			-	No	
Capital Obligation	\$ 25,000	2011-2012			
Total	\$ 150,000		\$ 6,442		(6)

Total Capital Improvements required by 2017:	\$ 150,000
Less: Partially Completed Required Capital Improvement:	\$ (6,442)
Remaining Required Capital Improvement Amount:	<u>\$ 143,558</u>

See Notes to Schedule (p.31).

NOTES TO SCHEDULES

The terms of each License Agreement require the Beach Hut to renovate and improve the licensed premises over the term of the agreement according to an agreed upon schedule for Capital Improvements.

- (1) Capital Improvements required in the initial Agreement for the Cupsogue Beach Hut were not completed. The same Capital Improvements were carried forward and required in accordance with the First Amendment to the Agreement.
- (2) The County terminated the Agreement subsequent to the indictment and conviction of an owner of the Beach Huts in December 2017, therefore, Capital Improvements required to be performed in 2018 could not be completed.
- (3) Capital Improvement was completed in May 2016.
- (4) The Agreement for the Smith Point Beach Hut required the construction of four new volleyball courts; according to the documentation provided by the Department two volleyball courts were constructed in July 2016.
- (5) Partial completion of the project consisted of the purchase of 30 replacement table tops and 32 chairs, in July 2015 and May 2016 respectively.
- (6) Although the department granted the Beach Hut a credit of \$6,442 for partial completion of two projects, the contractual projects are still considered incomplete.

APPENDICES

APPENDIX A

Suffolk County Department of Parks, Recreation and Conservation
Contracts Unit
Response to Unofficial Draft Report Number 2016-19

Internal Controls over the Administration of the License Agreements

1. **The Department does not have a formal policies and procedures manual relative to the administration and oversight of the license agreements.**

Response: The Department is already addressing this concern by working with the Performance Management Team to draft a policy manual to assist in the administration and oversight of license agreements.

2. **The Contracts Unit lacked employees with adequate financial acumen to effectively monitor license agreements.** Although the Contracts Unit was comprised of two Contracts Examiners, a Senior Clerk Typists and a Community Relations Director, we found the staff to be lacking in financial skills necessary to effectively monitor the Agreements. The Contracts Unit is tasked with the calculation and collection of revenue from licensees. Generally, we found their recordkeeping lacked organization and was not in accordance with basic bookkeeping processes. For instance, the staff did not record the date that payments were received from licensees, therefore, rendering the calculation of late penalties impossible. In addition, the Unit did not obtain a complete record of licensee revenue documents to support the accurate calculation of fees owed to the County.

Response: The finding is misleading in that it lacks any detailed information that would support a conclusion that the Contract Unit employees lacked adequate financial acumen to effectively monitor license agreements. The Department worked with Civil Service to hire a Principal Financial Analyst to provide oversight over the Contracts Unit. The Department has also implemented protocols to ensure that dates of payments received are recorded and that a complete record of licensee revenue documents is maintained.

3. **The Department failed to effectively manage the administration of the Agreements by providing little oversight of the Contracts Unit in monitoring compliance with Agreements.** Although the organization of the Contracts Unit includes a supervisor, we did not find evidence of direct management of the Unit. We found many instances where contract requirements were not met due to the absence of supervisory oversight. Our review of processes relative to the awarding and monitoring of the Agreements disclosed numerous instances where we found little or no evidence of the required Commissioner approvals. Our review of capital improvements disclosed insufficient evidence of necessary approvals at various phases of the projects which resulted in capital obligations not being satisfied. Furthermore, we did not find evidence of management's monitoring of concessions through site visits. The lack of physical presence on the part of the

Department increases the risk of non-compliance on the part of the licensee and provides opportunity for theft and/or misappropriation of funds by the licensee.

Response: *The Department disagrees with this finding. No information is provided to support a conclusion that the Department provided little oversight of the Contracts Unit in monitoring compliance with Agreements. While the finding states that required Commissioner approvals were not obtained, in many instances verbal approvals were provided. The Department agrees with the finding that written approvals should have been obtained and has implemented new protocols to address this concern. Additionally, the Department recently received approval to hire a Principal Financial Analyst to provide oversight of the contracts unit.*

4. The lack of adequate internal controls resulted in the Department's failure to enforce compliance with certain provisions for all three Agreements.

- **The Department failed to ensure the Beach Hut's submission of yearly plans for capital improvements**

Response: *The Department concurs with this finding. While formal written plans were not submitted, the Commissioner, Contracts Unit staff and Maintenance supervisors met annually with the licensee to discuss, review and approve proposed capital projects. New protocols have been implemented to ensure written plans will be submitted in a timely manner.*

- **The Department failed to ensure the Beach Hut's submission of an annual Operational Plan and Operational Schedule by January 30th of each year**

Response: *The Department concurs with this finding. As explained previously, the operational plans were discussed and approved in the yearly meetings between the Commissioner, Parks staff and the Licensee. New protocols have been implemented to ensure written plans will be submitted in a timely manner.*

- **The Department failed to ensure the Beach Hut's provision of a sufficient, valid performance bond or an alternate financial instrument until the total cost of the required capital improvements were fulfilled.**

Response: *The Department concurs with this finding. The Department has established and implemented protocols to ensure the receipt of a valid performance bond or alternate financial instrument.*

5. The Department failed to ensure the Beach Hut's possession of a surety bond for an amount sufficient to cover the 2016 Annual Flat License Fee for the Cupsogue concession. The Department provided evidence of a surety bond for the Cupsogue concession for 2016 in the amount of \$17,500, however the Agreement requires the Beach Hut to obtain a surety bond in the amount of \$22,000.

Response: *This finding is misleading. The first amendment expired on December 31, 2015, and the second amendment was not fully executed until April 13, 2017. A letter of*

agreement was signed by both the County and the Licensee on June 30, 2016 whereby both parties agreed to continue under the terms of the agreement dated November 29, 2011 until a new agreement was prepared and fully executed. According to the terms of the November 2011 agreement, the annual license fee was \$17,500. In 2017, when the new agreement was fully executed, the surety bond was increased to \$22,500 as required under the agreement. **(See Exhibit A)**

6. **The Department did not ensure the Beach Hut's compliance with the advertising provisions of the Agreement resulting in a loss of funds to the County or \$1,250.**

Response: *The Department disagrees with this finding. Contrary to what is stated in the finding, the Department collected all payments owed to the County for advertising, and there was no loss of funds to the County.*

7. **The Department does not have an adequate system of internal controls in place to ensure the timely collection of the annual Flat License Fees in accordance with the Agreements.** Audit testing revealed the Department failed to collect the contractually required Annual Flat License Fees from the Beach Hut by the prescribed due date. Our review revealed numerous instances in which the Annual Flat License Fee payments were late. In addition, the Department could not always provide evidence of their effort to collect the outstanding fees, nor was the Beach Hut assessed a penalty for late payments.

Response: *This finding is misleading. Based on the subject years of this audit (2015-2016), citing "numerous instances" in which payments of flat fees were late is unfounded and exaggerated, as the only concession to which this finding is applicable was the Cupsogue license agreement. This finding has already been addressed by the Department in response to the Preliminary Audit Report, but the Department's response has not been acknowledged here. As stated in the response to the Preliminary Audit report, "The Parks Contracts Unit did issue a 2016 fee payment schedule once the contract was executed. The new contract was fully executed on April 13, 2017 and the flat fee payment fee schedule was sent out on April 21, 2017. **(See Exhibit B)** The \$22,000 was paid as follows:*

\$5,000	Ck#1113	7/11/16
\$5,000	Ck#1275	8/2/16
\$7,500	Ck#1158	8/31/16
\$2,500	Ck#1166	6/5/17
\$2000	Ck#1875	6/12/17

8. **The Agreements required that the payment of the percentage of Gross Receipts Fee be billed by the County based on the gross receipts collected by the licensee. Rather than billing the Beach Hut periodically as revenue was earned and reported, the Department sent only one bill after each year-end thereby delaying the receipt of revenue by the County, Furthermore, the Department neglected to bill the fees for 2017 in the amount**

of \$269,500 until after year-end; and subsequent to the termination of the Agreements these fees remain outstanding.

***Response:** This finding is misleading. The Agreements did not specify the payment terms for the percentage of Gross Fees, except to state that the fees, "if any, shall be billed by the County and promptly paid by the Licensee, based upon the gross receipts collected by the Licensee." A finding that the Department neglected to bill fees for 2017 is not only incorrect but outside the scope of the audit period (2015-2016). The Department has changed the procedure through which percentage of gross payments are collected, which is reflected in the payment terms of the new Concession agreements. Pursuant to the new agreements the Department will collect percentage of gross payments during the month following the time at which the threshold for payment is met, and each month thereafter for that calendar year.*

Furthermore, had the Department been notified in a timely manner that the results of the audit could have led to the Department to terminate the license agreements, the Department would have taken appropriate action to prevent or mitigate potential losses.

9. The Department did not collect the Percentage of Gross Receipts Fees for 2016 from the Beach Hut timely, nor did they assess penalties for late payments.

***Response:** The Department concurs with this finding. The Licensee was billed and submitted a payment 10 days late. The Department has changed the procedure through which percentage of gross payments are collected, which is reflected in the payment terms of the new Concession agreements. Pursuant to the new agreements, the Department will collect percentage of gross payments during the month following the time at which the threshold for payment is met, and each month thereafter for that calendar year.*

10. In accordance with the Agreements, the Beach Hut is required to submit copies of their New York State Quarterly Sales Tax Returns to the Commissioner. Although the Department reviews this information, they do not analyze differences to determine if licensees are properly reporting revenue; such analyses would have uncovered discrepancies to be acted upon. Our analysis of these reports revealed that there were significant discrepancies. This condition should have alerted the Department of potential problems with revenue reporting that could negatively impact the County. As a result of this inaction and others, the Beach Hut was able to perpetuate the underreporting of revenue to both the County and New York State for several years, which was later confirmed by a criminal investigation.

***Response:** This finding is excessively vague, misleading and incomplete. The finding fails to provide specific information regarding the referenced "analysis" that should have been performed or to identify "discrepancies" that should have been uncovered.*

11. The Department did not ensure the Beach Hut's submission of a daily log of business activities and cash register tapes with the Monthly Sales Reports are required by the Agreements.

***Response:** The Department does not dispute this finding but notes that the Department did receive a daily log of business activities for two of the licensees, and that one of the*

three agreements only requires that the licensee maintain cash register tapes on file for review upon request.

Contract language has been incorporated in the new agreements that require licensees to install, a Point of Sales System, that will provide the Department real time access to daily sales and reports, and to submit detailed transaction reports of all sales and purchases to the Department on a monthly basis.

12. The Department failed to ensure the Beach Hut’s provision of a Summary of Catering Events that may have occurred with their Monthly Sales Report as required by “Audit and Control’s Regulations for Concession Contracts.”

Response: *The Department agrees with this finding. New protocols and procedures recently implemented to enhance oversight will be reviewed to ensure compliance with the “Audit and Control’s Regulations for Concession Contracts”, dated 1985.*

13. The Department did not have adequate internal controls in place to ensure the completion of \$533,000 in capital improvements to the license premises required in the Agreements; we only found evidence that \$7,189 (1%) of the required improvements were properly documented and completed.

Response: *The Department disagrees with this finding. This finding had already been addressed by the Department in response to the Preliminary Audit Report, but that response has not been acknowledged in this report. The finding fails to address the fact that the contracts were terminated prior to expiration and that the termination of the agreements precluded the Licensee from completing additional capital improvements. However, documented capital improvements are as follows:*

Smith Point 1/1/11 – 12/31/2020	\$44,287.75
Cupsogue 1/1/16 – 12/31/2020	\$975.00
Meschutt 1/1/15 – 12/31/2024	\$15,689.37

14. The Department failed to ensure the Beach Hut’s completion of 99% of its capital improvement obligation as per the Agreements, within a ten year period leaving County assets unjustly devalued.

Response: *The Department does not agree with this finding. No information is provided to support the hyperbolic statement of percentages included in the finding, which also fails to acknowledge the practice of past administrations to defer initial licensee capital obligations into future contract terms to provide licensees with more flexibility to complete capital projects.*

15. The Department failed to enforce the Agreement provision requiring that the Beach Hut solicit and obtain competitive bids for capital projects in accordance with New York State General Municipal Law One instance was the procurement of a custom mobile kitchen costing \$73,424 for which the Department did not secure evidence from the Beach Hut of competitive bidding practices appropriate to the dollar threshold.....

Response: *This finding is misleading as it ignores the explicit authority of the Commissioner pursuant to the license agreements to approve procurement actions by the*

licensee other than those carried out in accordance with General Municipal Law. In this instance, after the concession building at Cupsogue was completely destroyed by fire, and to accommodate park visitors in a timely manner, a decision was made to have the licensee purchase a custom made trailer kitchen based on specifications required by the Suffolk County Department of Public Works, Suffolk County Health Department and this Department. The Licensee was unable to find comparable specifications and was authorized by the Department to order this trailer consistent with the authority provided in the license agreement.

- 16. The Department failed to ensure the Beach Hut's compliance with State and County procurement policies by allowing them to circumvent the purchasing threshold by artificially dividing a purchase for goods.**

Response: This finding is incomplete as it fails to provide any supporting information regarding the practice cited. The Department is therefore unable to respond to this finding.

Compliance by the Department

- 17. Of the three RFP's issued within the scope of this audit, the Department failed to comply with New York State and County policies and regulations regarding the RFP process as follows:**

- For all three RFP's the Department did not follow Executive Order 3-2009 requiring departments to request and obtain approval from the County Executive's Office to advertise an RFP prior to initiating the process.

Response: The Department concurs with this finding and has implemented new protocols to ensure the County Executive's Office approves RFP advertisements in accordance with Executive Order 3-2009.

- For two of the three RFPs, the Department did not provide evidence of the Commissioner's review and approval of the RFP document prior to advertisement nor is there evidence of review by the Advisory Committee and the Park Trustees for comments and recommendations to the Commissioner in accordance with SOP I-04

Response: The Department concurs with this finding. Evidence of Commissioner's review and approval for two of the RFP's could not be provided due to the inability of staff to locate related documentation. Documents provided by the Department show that the Parks Trustees did approve the Cupsogue and Smith Point RFPs. Documentation of review by the Advisory Committee could not be located.

- For all three RFPs, the Department did not comply with the New York State County Law §214 which requires that the notice of RFP be published in a least two newspapers designated as official Suffolk County newspapers by the Legislature.

Response: *This finding is inaccurate. Proof of required advertising for each of the three RFPs is attached. (Exhibit C)*

- **The Department failed to provide evidence of no conflict of interest by the members of the Advisory Committee for two of the three RFP evaluations. New York General Municipal Law §801 prohibits conflicts of interest by municipal officers, employees or members of a board who are involved in the process of awarding a contract.**

Response: *This finding is inaccurate. Documentation submitted demonstrates that this requirement was satisfied for the Meschutt and Smith Point procurements. The Department concurs that evidence was not provided for Cupsoque as documentation could not be located.*

- **The Department did not comply with SOP I-04 which requires that the Commissioner of Parks review and consider Advisory Committee's evaluations and make a final determination as to the award of the contract. The Department could not provide evidence of such review and approval in the award of the Smith Point Beach Hut Agreement.**

Response: *This finding is inaccurate.*

Cupsoque – *Attached email to the evaluation committee confirms that the Commissioner and Deputy Commissioner reviewed the results and were in agreement with them as to the recommendation. (See Exhibit D)*

Smith Point – *Award letter signed by the Commissioner confirms review and acceptance of the Evaluation Committee's recommendation. (See Exhibit E - award letter)*

Meschutt – *There was only one response to this RFP. Attached email directs staff to move forward with the Agreement. (See Exhibit F)*

- **The Department failed to provide sufficient evidence that all proposals accepted by the Department were received on or before the deadline stated in the RFP. The Department failed to provide complete bid opening documentation for all three RFPs. Therefore, it could not be reasonably determined whether all proposals accepted by the Department were received on or before the deadline stated in the RFP.**

Response: *The Department concurs with this finding as original documentation from 13 years ago could not be located. New procedures have been implemented to ensure all submitted bids are time-stamped to properly document acceptance within prescribed deadlines.*

- **The Department did not always provide evidence that all proposals received and accepted by the Department were evaluated. The Department could not provide a summary of proposals indicating receipt and acceptance of the**

proposals for RFP for the Smith Point concession. As a result we were unable to confirm whether every accepted proposal was evaluated by the Advisory Committee.

Response: This finding is unfounded. The bid opening check-lists, comparison spreadsheet and score and tally sheets from the evaluation committee are attached. (See Exhibit G)

18. The Department could not provide evidence of compliance with SOP D-08 which requires that deposits to a departmental bank account be made within 24 hours of receipt of funds.

Response: The Department agrees with this finding. Controls have been implemented to comply with SOP D-08.

19. The Department did not enforce payment terms within the Agreements to ensure prompt receipt of the Annual Flat License Fees which ultimately delayed the realization of revenue to the County.

Response: This finding is misleading. The late payment of annual flat license fees during the subject years of this audit (2015-2016) only applies to the Cupsogue Agreement. This issue had already been addressed by the Department in response to the Preliminary Audit Report, but that response has not been acknowledged here. According to the letters that were mailed to the licensee with a schedule for the flat fee payments, the Licensee paid the fees in a timely manner, sometimes completing their payments prior to the scheduled deadlines (See Exhibit "H"). The Cupsogue payments, as explained previously, were delayed due to the Contract amendment not having been executed until April 13, 2017.

20. Since at least 2006, the Department allowed the Beach Hut to have an arrangement with an ice cream truck vendor to operate in the parking lot of Smith Point Park without the appropriate permit for a mobile food concession or written consent of the Commissioner.

Response: The Department concurs with this finding. Controls have been implemented to provide written documentation of such approvals moving forward.

21. The Department failed to comply with established procedures and provisions of the Agreements relative to capital improvement as follows:

- The Department established its own policy requiring licensees to obtain three quotes for projects costing \$3,000 or above; however they did not provide evidence that this deviation from State and County procurement policies was approved by the Commissioner.

Response: The Department disagrees with this finding. The Commissioner approved procedures in accordance with the terms of the contract. The contracts in question provided in relevant part that "... solicit and obtain competitive bids in accordance with the New York General Municipal Law, or follow other competitive procurement procedures approved by the Commissioner,

for all improvements, construction, and renovations to the Licensed Premises.” The new Contracts Capital Procedures were developed in 2015 and were subsequently approved by the Commissioner and the Senior Park Superintendent during contract unit staff meetings.

- **The Department failed to ensure that the Capital Investment Authorization Request Form, for the initial project concept approval was signed by the Commissioner/Designee but still allowed the projects to proceed for two of the three Agreements.**

Response: The Department concurs with this finding. New protocols have been implemented to ensure the Capital Investment Authorization Request Forms are approved and signed by the Commissioner in a timely manner.

- **The Department did not follow their procedure to assign a capital request number to all projects requests in order to effectively track each project. Without a tracking process in place, the Department cannot properly monitor the status of the capital improvements. For instance, duplications may occur in the credit process and incomplete projects may go undetected.**

Response: The Department concurs with this finding. New protocols have been implemented to ensure all capital projects are assigned a request number to effectively track each project.

- **The Department was inconsistent in their practice to grant credit to licensees toward their capital improvement spending obligation net of sales tax, and granted credit to the Beach Hut for a number of their capital improvement spending obligations inclusive of sales tax.**

Response: The Department concurs with this finding. Action was taken on this issue by the Department in September 2015, and all Licensees were notified of this policy. (See Exhibit I - letter dated September 18, 2015)

- **The Department failed to ensure confirmation of project completion evidenced by the performance of a final site inspection for all three Agreements.**

Response: This finding is excessively vague. Without more specific information supporting the finding, the Department is unable to provide a response.

- **The Department granted credit for capital improvements to the Beach Hut that were not approved by the Commissioner or Designee.**

Response: This finding is excessively vague. Without specific information supporting the finding, the Department is unable to provide a response.

- **In one instance, the date of the Commissioner/Designee’s final approval of the project as complete on the Capital Investment Authorization Request Form was prior to the project’s actual completion date.**

Response: Without more specific information to support this finding, the Department is unable to provide a response.

- 22. The Department failed to obtain proper documentation of capital improvement expenditures made by the Beach Hut in accordance with the Agreements (i.e. signed contracts, paid invoices, and cancelled checks).**

Response: Without more specific information to support this finding, the Department is unable to provide a response.

Additional Findings and Recommendations:

- 23. Our review of the Cupsogue Agreement revealed that the Department allowed the Beach Hut to operate under an expired First Amendment from January 1, 2016 until the Second Amendment was executed on April 13, 2017 (15 months); this inaction by the Department rendered the Agreement unenforceable and exposed the County to unnecessary liability.**

Response: The Department disagrees with this finding. The Department executed a two-signature letter agreement that allowed the parties to continue operations under the terms of the expired agreement until the new agreement was fully executed. This matter was discussed with the County Attorney's office and the Department was advised that this provision was enforceable with the two-signature letter agreement (**See Exhibit J**).

- 24. We found inconsistencies in the Agreement language, hindering the Department's ability to establish standard procedures for revenue collection.**

Response: The Department disagrees with this finding. Because License Agreements are drafted and executed at different times, specific language in those agreements may vary. As the Department and County establish new procedures the agreement template language is refined and updated to incorporate new requirements. .

- 25. Although the Agreements permit the Beach Hut to sell liquor on the licensed premises, the Agreements do not require the Department to obtain proof of the licensee's liquor license.**

Response: This finding is misleading. According the New York State Liquor Authority Handbook for Retail Licensees <https://www.sla.ny.gov/system/files/StateLiquorAuthority-RetailLicenseesHandbook.pdf>, authorized retailers are required to display their framed certificate and post it in a location where it can easily be seen by anyone visiting the business. As the sale of alcohol and distribution of the license is regulated by the State Liquor Authority, the Department notes contends that the display of the Beach Hut's liquor license certificate on the premises was sufficient proof of their compliance with the liquor law. To further document conformance with the New York State Liquor Law, the Department will require the submission of liquor license copies.

"Exhibit A"

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

June 23, 2016

Fred Marsilio
Beach Huts, Inc.
64 North Country Road
Smithtown, NY 11787

RE: Beach Hut - Cupsogue Beach County Park

Dear Mr. Marsilio,

In accordance with the terms and conditions of your License Agreement with the County of Suffolk License to renovate and operate a food service concession at Cupsogue Beach County Park, the first amendment of agreement term ended on December 31, 2015. The License Agreement provides for one additional five-year option to extend the Agreement from January 1, 2016 to December 31, 2020.

If Beach Huts, Inc. wishes to maintain their License Agreement, please indicate your agreement by signing and dating where indicating and returning this letter to us at the address below.

All other terms and conditions of the License Agreement dated November 29, 2011, will remain in full force and effect until a new agreement is prepared and fully executed.

Should you have any questions, please contact AnaMarie Cucciniello, Contracts Examiner at 631-854-4983.

Sincerely,

Greg Dawson
Commissioner

AGREED:

Fred Marsilio
Beach Huts, Inc.

DATE: 6/30/16





License No. _____

RIDER

To be attached to and form part of Bond No. 104007696

Issued on behalf of Cupsogue Beach Hut, Inc. as Principal, and in favor of Suffolk County Department of Parks Recreation and Conservation as Obligee.

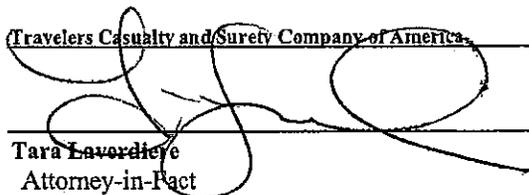
It is agreed that:

- 1. The Surety hereby gives its consent to change the Name:
from: _____
to: _____
- 2. The Surety hereby gives its consent to change the Address:
from: _____
to: _____
- 3. The Surety hereby gives its consent to change the the bond amount :
from: \$17,500.00
to: \$22,500.00

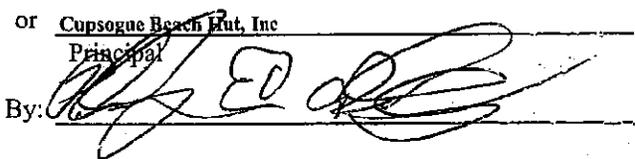
This rider shall become effective as of January 1, 2017

PROVIDED, however, that the liability of the Surety under the attached bond as changed by this rider shall not be cumulative.

Signed, sealed and dated May 3, 2017

~~Travelers Casualty and Surety Company of America~~
 By: 
 Tara Laverdiere
 Attorney-in-Fact

Accepted: Suffolk County Department of Parks Recreation and Conservation
Obligee

OR Cupsogue Beach Hut, Inc
Principal
 By: 

By: _____

Rev. 11/03/11 Law No. 08-008A
Term: 1/1/06-12/31/15
Cupsogue Food Service Concession

Exhibit B-1
Description of License/Financial Terms and Conditions/Other Variable Terms and Conditions

1. Annual License Fees

Paragraph 1 (Page 34 of 41) of Exhibit B of the Agreement is deleted in its entirety and replaced with the following:

- a. The Licensee agrees to pay to the County as compensation for the License and for the privilege of operating the Concession, an annual license fee ("Annual License Fee"). The Annual License Fee for each year of this Agreement shall be the "Annual Flat License Fee" for that year of operation and the corresponding percentage of Gross Receipts over \$100,000 ("Percentage of Gross Receipts"), collected or generated by the Licensee for that year as set forth in the chart below.

<u>Annual Flat Fee</u>	<u>Percentage of Annual Gross Receipts, Where Gross Receipts are over \$100,000</u>
2011 \$17,500.00	10%
2012 \$17,500.00	10%
2013 \$17,500.00	10%
2014 \$17,500.00	10%
2015 \$17,500.00	10%

- b. As used herein, "Gross Receipts" means all revenues received or generated by the Licensee through the operation of the Concession, including but not limited to food and all beverage sales, vending machine sales (if applicable), and fees paid by service providers or vendors. Gross Receipts shall be exclusive of sales tax and gratuities.
- c. The Annual License Fee for the second option period is subject to negotiation at the Commissioner's discretion based upon the financial performance of the licensed concession operation during this option period but will not be less than the year 2015 fee.
- d. The Licensee's obligation to pay the Annual License Fee shall be separate and apart from any and all additional costs incurred and expenses that are required to be paid by the Licensee under this Agreement, including, but not limited to, costs and expenses related to renovations, capital improvements, maintenance, upkeep, utilities, security, and advertising for the Licensed Premises.

Rev. 10-03-16; Law No. 20-PK-008B
Term: 1/1/06-12/31/2020
Cupsogue Food Service Concession

Article V
General Financial Terms and Conditions

1. Annual License Fees

- a. The Licensee agrees to pay to the County as compensation for the License and for the privilege of operating the Concession, an annual license fee ("Annual License Fee"). The Annual License Fee for each year of this Agreement shall be the "Annual Flat License Fee" for that year of operation and the corresponding Percentage of Gross Receipts ("Percentage of Gross Receipts") over \$100,000.00 Fee, collected or generated by the Licensee for that year, as set forth in the chart below.

<u>Year</u>	<u>Annual Flat License Fee</u>	and	<u>Percentage of Annual Gross Receipts over \$100,000.00</u>
2016	\$22,000.00		10%
2017	\$22,500.00		10%
2018	\$23,000.00		10%
2019	\$23,500.00		10%
2020	\$24,000.00		10%

- b. As used herein, "Gross Receipts" means all revenues received or generated by the Licensee through the operation of the Concession, including but not limited to food and beverages sales, convenience items sales and special events, and fees paid by service providers or vendors. Gross Receipts shall be exclusive of sales tax and gratuities.
- c. The Licensee's obligation to pay the Annual License Fee shall be separate and apart from any and all additional costs incurred and expenses that are required to be paid by the Licensee under this Agreement, including, but not limited to, costs and expenses related to renovations, capital improvements, maintenance, upkeep, utilities, and advertising for the Licensed Premises.

2. Payment Terms

- a. All remittances shall be made payable to the "Suffolk County Department of Parks, Recreation and Conservation" on a monthly basis, with the first payment made within thirty (30) days of execution of this Agreement. The remainder of the Annual Flat License Fee shall be paid in accordance with the payment schedule agreed to in writing by the parties for the first year of this Agreement and each year of this Agreement thereafter ("Payment Schedule"). Once the Payment Schedule has been memorialized in writing each year, it shall be incorporated into and attached to this Agreement as if originally included herein. The payment of the Percentage of Gross Receipts Fee, if any, shall be billed by the County and promptly paid by the Licensee, based upon the gross receipts collected by the Licensee.
- b. All monthly payments of the Annual License Fee shall be made on or before the 10th day of the month in which such payment is due and shall be in an amount not less than the amount set forth in the Payment Schedule.
- c. The Licensee shall be liable for a penalty of one and one half percent (1 ½%) per month for any part of the Annual License Fee not paid as required above at sub-paragraph (b). Such penalty shall be compounded monthly until the outstanding Annual License fee is paid in full. For any payment which is less than thirty (30) days, the penalty shall be assessed at the rate of five one hundredths of one percent (.05%) per day.
- d. Should the Licensee neglect to pay any charges for services supplied and billed by the County when the same become due and payable, then the amount of said charges shall forthwith become a part of and added to the Annual License Fee and shall under all circumstances and conditions be considered and be collectable as such. These charges shall be subject to the same penalty provisions as set forth at sub-paragraph (c) above.
- e. The obligations of this paragraph shall survive termination of this Agreement.

"Exhibit B"

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

Phillip A. Berdolt
COMMISSIONER

April 21, 2017

Mr. Fred Marsilio
Beach Huts Inc.
64 North Country Road
Smithtown, NY 11787

Re: Revised 2016 Annual License Fee Schedule for Cupsogue Beach Hut

Dear Mr. Marsilio,

In accordance with your License Agreement with Suffolk County Parks, your minimum annual License Fee for 2016 is \$22,000. Your flat fee payment schedule is as follows:

<u>Month/Date</u>	<u>Amount</u>
July	\$ 5,000 PD 7/2016
August	\$ 5,000 PD 8/2016
September	\$ 7,500 PD 9/2016
November	\$ 4,500
Total	\$22,000

In the event revenues exceed \$100,000, you will also be required to pay 10% of gross over \$100,000, in accordance with your license agreement.

All payments are to be received and recorded by Parks on or before the 10th day of the month in which such payment is due. Penalties of .05% per day or 1.5% per month will be charged against late payments until paid in full. Checks are to be made payable to Suffolk County Department of Parks and the "memo" portion of the check should identify the purpose of the payment. All payments should be mailed to:

Suffolk County Department of Parks, Recreation & Conservation
P.O. Box 144, Montauk Highway
West Sayville, NY 11796
Attention: Contracts Unit

A daily log of business activities (Dailies) is to be submitted by the 10th day of the following month with register receipts to support amounts shown. Monthly activity is to be summarized on a separate "total" sheet.

Should you have any questions, please contact the undersigned at 631-854-4983. We look forward to a rewarding and successful 2017 season.

Sincerely,

Ana Marie Cucciniello
Contracts Examiner

cc: Phillip Berdolt, Commissioner
Terry Maccarrone, Coordinator of Community Based Programs



Exhibit C

Colleen -
FYI

REQUEST FOR PROPOSALS (RFP) FOR THE SUFFOLK COUNTY DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

FOR A LICENSE TO RENOVATE AND OPERATE A FOOD CONCESSION AT CUPSOGUE BEACH COUNTY PARK
Proposals Due Date: December 8, 2005

(Advertised: October 27, 2005)
The Suffolk County Department of Parks, Recreation and Conservation is accepting proposals for a License to Renovate and Operate a Food Concession at Cupsogue Beach County Park, Village of Westhampton Dunes, New York.

The specifications for this Request For Proposal will be available for pick-up on October 27, 2005. Packages may be obtained in person at the Parks Department's Administration Office located at the West Sayville County Golf Course, Montauk Highway, P.O. Box 144, West Sayville, New York, 11796 for a non-refundable handling fee of \$75.00 payable in cash or credit card only. Completed Proposals must be returned directly to the Parks Administration Office at the above cited address. No Proposal will be accepted later than 11:00 A.M. on December 8, 2005. For information, please call Colleen Logan Hofmeister at (631) 854-4962. LIA, 53835, 10/27

STATE OF NEW YORK,

ss:

COUNTY OF SUFFOLK,
ANNETTE TARVER of Patchogue, NY

in said County, being duly sworn, says that she is Principal Clerk of the LONG ISLAND ADVANCE a Weekly Newspaper, published at Patchogue, in the Town of Brookhaven, County of Suffolk, and State of New York; and that the Notice, of which the annexed is a printed copy, was published in said Newspaper on the 27TH day of OCTOBER 2005.

Annette Tarver
Sworn to before me this 27TH day of OCTOBER 2005

VICKI ANN MORALES
Notary Public, State of New York
01M04968036, Suffolk County
Commission Expires April 19, 2006

**REQUEST FOR PROPOSALS (RFP)
FOR THE
SUFFOLK COUNTY
DEPARTMENT OF
PARKS, RECREATION AND
CONSERVATION
FOR
A LICENSE TO RENO-
VATE AND OPERATE A FOOD
CONCESSION AT CUPSOGUE
BEACH COUNTY PARK**

Proposals Due Date:

December 8, 2005

(Advertised: October 27, 2005)

The Suffolk County Department of Parks, Recreation and Conservation is accepting proposals for a License to Renovate and Operate a Food Concession at Cupsogue Beach County Park, Village of Westhampton Dunes, New York.

The specifications for this Request For Proposal will be available for pick-up on October 27, 2005. Packages may be obtained in person at the Parks Department's Administration Office located at the West Sayville County Golf Course, Montauk Highway, P.O. Box 144, West Sayville, New York, 11796 for a non-refundable handling fee of \$75.00 payable in cash or credit card only.

Completed Proposals must be returned directly to the Parks Administration Office at the above cited address.

No Proposal will be accepted later than 11:00 A.M. on December 8, 2005.

For information, please call Colleen Logan Hofmeister at (631) 854-4982.

41842 10-4

Smithtown News 10/27/05

AFFIDAVIT OF PUBLICATION

State of New York }
County of Suffolk } ss:
Phillip L. Sciarillo, of Woodbury, in Nassau County, is the
Publisher of the

Smithtown Messenger Ronkonkoma Review
 Brookhaven Review Medford News

a weekly newspaper published at Smithtown, Town of Smithtown, County of Suffolk, State of New York, and annexed is a printed copy, that has been regularly published in said newspaper once in each week for _____ week(s), dates of insertion being the following:

July 8 2010

Sworn to before me this *8th*
day of *July*, 2010

Doris G. Ward
NOTARY PUBLIC, State of New York
No. 4886446, Suffolk County
Term Expires April 14, 2014
Doris G. Ward
NOTARY PUBLIC

**PUBLIC NOTICE
REQUEST FOR PROPOSALS (RFP)**

**FOR THE
SUFFOLK COUNTY
DEPARTMENT OF
PARKS, RECREATION
AND CONSERVATION
FOR A LICENSE TO
RENOVATE, OPERATE,
MAINTAIN AND MAN-**

**AGE A
FOOD SERVICE
CONCESSION AND
RELATED FACILITIES
AT SMITH POINT
COUNTY PARK
SHIRLEY, NEW YORK**

Proposals Due Date:
September 16, 2010
(Advertised:
July 8, 2010)

The Suffolk County Department of Parks, Recreation and Conservation is accepting proposals for a license to Renovate, Operate, Maintain and Manage a Food Service Concession with Related Facilities at Smith Point County Park, Shirley, New York.

The specifications for this Request For Proposal will be available for pick-up on July 12, 2010. Packages may be obtained in person at the Parks Department's Administration Office located at the West Sayville County Golf Course, Montauk Highway, P.O. Box 144, West Sayville, New York 11796 for a non-refundable handling fee of \$75.00 (cash or credit card only).

Completed Proposals must be returned directly to the Parks Administration Office at the above cited address.

No Proposal will be accepted later than 11:00A.M. on September 16, 2010.

For information, please call Colleen Logart Holmeister at (631) 854-4982 or Cindy Heuer at (631) 854-4956.
7/8/2024

The Smithtown News
P.O. Box 805
Smithtown, New York 11787
631-265-2100

Affidavit of Publication

To: SUFFOLK COUNTY PARKS
ATTN: KRISTINE HARKINS
P.O. BOX 144
WEST SAYVILLE, NY 11796

Re: Legal notice #57021

State of NEW YORK }
County of SUFFOLK } SS:

I, Ann buschor, being duly sworn, depose and say: that I am the CLERK of The Smithtown News, a weekly newspaper of general circulation published in SMITHTOWN, County of SUFFOLK, State of NEW YORK; and that a notice, of which the annexed is a printed copy, was duly published in The Smithtown News once on 07/08/10.

Ann Buschor

Sworn to before me this 8th day of July, 2010

Mary Lavecchia

Notary Public, State of New York
MARY LAVECCHIA
No. 4509602, Suffolk County
Term Expires June 30, 2011

**REQUEST FOR PROPOSALS
(RFP)
FOR THE
SUFFOLK COUNTY
DEPARTMENT OF PARKS,
RECREATION AND
CONSERVATION
FOR A LICENSE TO
RENOVATE, OPERATE,
MAINTAIN AND MANAGE
A FOOD SERVICE
CONCESSION AND
RELATED FACILITIES
AT SMITH POINT COUNTY
PARK
SHIRLEY, NEW YORK**

Proposals Due Date:
September 16, 2010
(Advertised: July 8, 2010)

The Suffolk County Department of Parks, Recreation and Conservation is accepting proposals for a License to Renovate, Operate, Maintain and Manage a Food Service Concession with Related Facilities at Smith Point County Park, Shirley, New York.

The specifications for this Request For Proposal will be available for pick-up on July 12, 2010. Packages may be obtained in person at the Parks Department's Administration Office located at the West Sayville County Golf Course, Montauk Highway, P.O. Box 144, West Sayville, New York, 11796 for a non-refundable handling fee of \$75.00 (cash or credit card only).

Completed Proposals must be returned directly to the Parks Administration Office at the above cited address.

No Proposal will be accepted later than 11:00 A.M. on September 16, 2010.

For information, please call Colleen Logan Hofmeister at (631) 854-4982 or Cindy Heuer at (631) 854-4956.

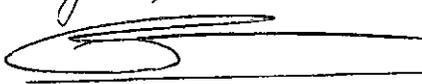
AFFIDAVIT OF PUBLICATION

State of New York }
County of Suffolk } ss:

Phillip L. Sciarillo, of Woodbury, in Nassau County, is the
Publisher of the

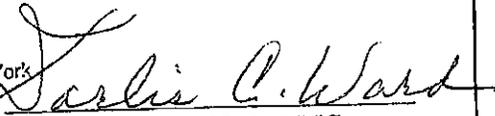
Smithtown Messenger Ronkonkoma Review
 Brookhaven Review Medford News

a weekly newspaper published at Smithtown, Town of Smith-
town, County of Suffolk, State of New York, and annexed is a
printed copy, that has been regularly published in said newspaper
once in each week for _____ week(s), dates of
insertion being the following:

February 19, 2015


Sworn to before me this 19th
day of February, 2015

Darlis C. Ward
NOTARY PUBLIC, State of New York
No. 4856446, Suffolk County
Term Expires April 14, 2018


NOTARY PUBLIC

PUBLIC NOTICE
REQUEST FOR
PROPOSALS
FOR THE
SUSTAINMENT
DEPARTMENT
PARKS REGULATION
AND CONSERVATION
JOB LICENSE
RENEWAL
OPERATION MAINTENANCE
AND MANAGE
A FOOD SERVICE AND
RELATED ACTIVITIES
CONCESSION
CONCESSIONS AT
MESCHETTI BEACH
COJUNK PIER
HAMPTON BAYS NY
Proposed Date
March 27, 2015
Anticipated
February 19, 2015
The Suffolk County Depart-
ment of Parks, Regulation and
Conservation is currently pro-
posing the following: Rego-
latory, Operation, Maintenance and
Management of Food Service Con-
cession with Public Facilities
at Meschetti Beach, County
of Hampton, State of New
York.
The specifications for this Re-
quest for Proposal will be
available to be examined at
March 19, 2015. Packets may
be obtained by mail at the
Parks Department's Adminis-
tration Office located at the
West Sayville County Golf
Course, Montauk Highway
P.O. Box 144, West Sayville,
New York 11786. A non re-
fundable handling fee of
\$75.00 cash or certified
only.
Complete Proposals must be
returned directly to the Park
Administration Office at the
above cited address.
No Proposal will be ac-
cepted later than 1:00 A.M.
on March 27, 2015.
For information, please call
Emily Lauriat at (631) 854-
4980 or Ann Marie Ciccimello
at (631) 854-4983.
2/19/15

"Exhibit D"

Houghtalen, Mary Ellen

From: Hofmeister, Colleen
Sent: Thursday, January 05, 2006 8:09 AM
To: O'Driscoll, Alysa; Thompson, William; Astuto, Stephen; Brown, Eric
Cc: Foley, Ronald; Bellone, Tracey; Houghtalen, Mary Ellen; Wahrer, Colleen
Subject: RFP Updates

Thank you very much for participating in the RFP Evaluation Committee for Cupsogue Beach Hut. The votes were tallied, with the end result being Fred Marsilio received an average of 94% of total available points while John Lugano received an average of 46% of the total available points. After providing the results to the Commissioner and Deputy Commissioner, all are in agreement with the RFP Evaluation Committee to award the contract to Mr. Marsilio. We will commence contract negotiations immediately.

It is my understanding you are all the lucky appointees for the evaluation committee for the RFP for Cedar Point Camp Store. Proposals are due January 10th. Since you are all well-versed in the workings of the Parks Department RFPs, we will forego an initial meeting to review the rules and I will distribute the proposals for your review upon receipt. At that point, we will contact you to schedule a time for the oral presentations.

Thank you once again for all of your assistance in ensuring the patrons of our concessions are well served. If you have any questions, please don't hesitate to contact me.

Regards,

Colleen

Colleen Logan Hofmeister, Contracts Manager

Suffolk County Department of Parks

631-854-4982

631-854-4978 (FAX)

1/5/2006

"Exhibit E"

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

JOSEPH J. MONTUORI
COMMISSIONER

TRACEY BELLONE
DEPUTY COMMISSIONER

October 12, 2010

Mr. Fred Marsilio
Smith Point Beach Hut, Inc.
64 North Country Road
Smithtown, NY 11787

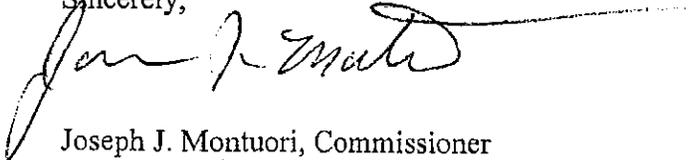
Dear Mr. Marsilio:

The Parks Department and the RFP Evaluation Committee have carefully reviewed your proposal and oral presentation relating to the Request for Proposals for a License to renovate, operate, maintain, and manage a food service concession at Smith Point County Park, Shirley, New York.

As a result, the Committee has made a determination, and I concur, to recommend to the County Executive the award of the License Agreement to you. Your current License Agreement expires on December 31, 2009. This new License Agreement will have an initial term of ten years (January 1, 2011 through December 31, 2020) and two five-year option periods to extend the Agreement (January 1, 2021 through December 31, 2025 and January 1, 2026 through December 31, 2030).

Your signature below will signify your acceptance of the License and commitment to comply with the contents of the RFP and your Proposal. We will commence contract negotiations at this time. Congratulations! We wish you success in continuing to provide an enjoyable dining experience at Smith Point County Park.

Sincerely,


Joseph J. Montuori, Commissioner

Agreed. 

Date 10/13/10



"Exhibit F"

Lauri, Emily R.

From: Dawson, Greg
Sent: Friday, April 24, 2015 9:53 AM
To: Cucciniello, AnaMarie
Cc: Barr, Jim; Lauri, Emily R.; DeTuro, Regina
Subject: Beach Hut Meshutt

Ana Marie,

Please proceed with the contract for Meshutt. The Beach Hut has agreed to pay us the \$15,000.00 per year as the flat fee with no escalation, 10% of all gross revenues exceeding \$100,000.00 (per year) and committed to \$150,000.00 in capital improvement over the course of the first term of the agreement.

I don't have the proposal in front of m but you can use the capital commitment in his proposal as a guideline for the work to be completed.

Please give me a call if you need additional information.

Thanks

Greg

" Exhibit G "

Bid Opening Checklist
Smith Point Food Service Concession and Related
Facilities
September 16, 2010

Proposal submitted by Dover

- 1. Signed Fee Proposal ✓ 375,000 including 10-20
- 2. Public Disclosure Form (notarized) ✓
- 3. Non-Collusive Certification ✓
- 4. \$5,000 Proposal Guaranty Check ✓
- 5. Non-Responsible Bidder (Local Law 25-1990 As Amended) (notarized) ✓
- 6. Proposals- 3 originals + 10 copies ✓

It appears to be a viable bid. Valerie Hafmeister

Oral Presentations are scheduled for October 5, 2010

Explain that the proposals will be reviewed by an Evaluation Committee and they (bidder) will be contacted regarding the scheduling of oral presentations

Bid Opening Checklist
Smith Point Food Service Concession and Related
Facilities
September 16, 2010

Proposal submitted by Looney's

1. Signed Fee Proposal ✓ Below min
2. Public Disclosure Form (notarized) ✓
3. Non-Collusive Certification ✓
4. \$5,000 Proposal Guaranty Check ✓
5. Non-Responsible Bidder (Local Law 25-1990 As Amended) (notarized) ✓
6. Proposals- 3 originals + 10 copies ✓

It appears to be a viable bid. Miller Hofmeister *e*

Oral Presentations are scheduled for October 5, 2010

Explain that the proposals will be reviewed by an Evaluation Committee and they (bidder) will be contacted regarding the scheduling of oral presentations

Bid Opening Checklist
Smith Point Food Service Concession and Related
Facilities
September 16, 2010

Proposal submitted by Berch Hut Inc.

1. Signed Fee Proposal ✓ exceeds minimum.
2. Public Disclosure Form (notarized) ✓
3. Non-Collusive Certification ✓
4. \$5,000 Proposal Guaranty Check ✓
5. Non-Responsible Bidder (Local Law 25-1990 As Amended) (notarized) ✓
6. Proposals- 3 originals + 10 copies ✓

It appears to be a viable bid. Valerie Hoffmeister

Oral Presentations are scheduled for October 5, 2010

Explain that the proposals will be reviewed by an Evaluation Committee and they (bidder) will be contacted regarding the scheduling of oral presentations

	LESSINGS	BEACH HUTS	DOVER
PROPOSED FEE	\$309,000	\$345,000	\$375,000
% OF GROSS	10% over \$100,000	10% over \$100,000	Starting at 10% and increasing to 12% by 2015 over \$50,000
COST OF CAPITAL IMPROVEMENTS	\$90,000	\$150,000	\$150,000
CAPITAL IMPROVEMENTS PLANNED	<ul style="list-style-type: none"> - Repair existing walk-in refrigerator - Ice cream kiosk – with soft and hard ice cream, milk shakes, floats and smoothie machine - New décor - New picnic tables and umbrellas - New condiment stands and waste bins - New look inside and out 	<ul style="list-style-type: none"> - New storefront windows - New tile floor - Gift area - New tables and chairs - New volleyball courts - Build bandstand including canopy top, lighting and electricity - New large framed tent - Ice cream parlor - Update all service counter tops - Brick paver walkway - Pizza oven - Panini press - Ice machine - 30" TV monitor and new computer system - Public address system - Refurbish/replace kitchen equipment as needed - Upgrade electric as needed - Renovate bathrooms 	<ul style="list-style-type: none"> - Ice cream parlor - Pizza parlor - Beach shop - Install POS system - Install camera and surveillance system - Create outside service windows - Clean, refurbish and upgrade kitchen and food prep areas - Install volleyball courts - Install beach tennis courts - Install catering tent - Vending machines
OTHER SERVICES PLANNED	<ul style="list-style-type: none"> - Corporate picnics - Theme nights: lobster night, BBQ night, pasta night, family night, etc. - Live music - Sell beach items - Rent umbrellas 	<ul style="list-style-type: none"> - Add gluten free items to menu - Live music - Sand castle contests - Theme nights: lobster, pasta, etc. - Thursday night volleyball league - Children's birthday parties - Tent weddings - Corporate events 	<ul style="list-style-type: none"> - Beach umbrella and chair rentals - Wait service on beach - Wedding, special event and corporate catering - Family movie nights with meal specials - Beach tennis and volleyball - No cost snack/beverage service at Flight 800 Memorial services - Children's day camp - Mobile food service for sporting and special events - Family festivals and car shows

**SUFFOLK COUNTY DEPARTMENT OF PARKS
SMITH POINT ORAL PRESENTATION - OCTOBER 5, 2010**

DOVER GOURMET CORPORATION

	Committee Member Vote				
	1	2	3	4	5
1) Fee to the County of Suffolk					
2) Capital Improvement Investment					
3) Appropriate Experience					
4) Financial Strength					
5) Personnel Qualifications and Experience					
6) Business Plan					
7) Capital Improvement Plan					
8) Operation of Concession					
	3	2.5	3	3	3
	2	2	3	3	3
	2	3	4	5	3
	4	4	3.5	4	3
	3	2	3	3	3.5
	2	4	3	3	2.5
	2	2	3	4	3

5 = Excellent 100% Available Points
 4 = Very Good 80% Available Points
 3 = Good 60% Available Points
 2 = Fair 40% Available Points
 1 = Poor 20% Available Points
 0 = Unacceptable No Points

	Committee Member Points					Total Points	
	1	2	3	4	5		
1) Fee to the County of Suffolk	25	25	25	25	25	125	100%
2) Capital Improvement Investment	25	12.5	15	15	15	72.5	58%
3) Appropriate Experience	20	8	12	12	12	52	52%
4) Financial Strength	20	12	16	20	12	68	68%
5) Personnel Qual and Exper	10	8	7	8	6	37	74%
6) Business Plan	20	8	12	12	14	58	58%
7) Capital Improvement Plan	15	12	9	9	7.5	43.5	58%
8) Operation of Concession	15	6	9	12	9	42	56%
Total Available Points	150	91.5	105	113	100.5	498	66%
	59%	61%	70%	75%	67%		

PERCENTAGE OF TOTAL AVAILABLE POINTS RECEIVED 66%

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Dover Gourmet Corporation

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- | | |
|--|--|
| <ul style="list-style-type: none"> a. <u>Fee to the County of Suffolk</u>
(Points to be calculated by the Parks Department) b. <u>Capital Improvement Investment</u> | <p><u>Calculated</u></p> <p><u>3</u></p> |
|--|--|

2) Proposer Background and Experience:

- | | |
|---|-----------------|
| <ul style="list-style-type: none"> a. <u>Appropriate Experience</u>
<u>2</u> b. <u>Financial Strength</u>
<u>2</u> c. <u>Personnel Qualifications and Experience</u> | <p><u>4</u></p> |
|---|-----------------|

3) Proposal Contents:

- | | |
|--|---|
| <ul style="list-style-type: none"> a. <u>Business Plan</u> b. <u>Capital Improvement Plan</u> c. <u>Operation of Concession</u> | <p><u>3</u></p> <p><u>2</u></p> <p><u>2</u></p> |
|--|---|

COMMENTS:

JAMES J. INGENITO, R.A.
10/5/10

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Dover Gourmet Corporation

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- a. Fee to the County of Suffolk Calculated
(Points to be calculated by the Parks Department)
- b. Capital Improvement Investment 2.5

2) Proposer Background and Experience:

- a. Appropriate Experience 2
- b. Financial Strength 3
- c. Personnel Qualifications and Experience 4

3) Proposal Contents:

- a. Business Plan 2
- b. Capital Improvement Plan 4
- c. Operation of Concession 2

COMMENTS:

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Dover Gourmet Corporation

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- | | |
|--|--|
| <ul style="list-style-type: none"> a. <u>Fee to the County of Suffolk</u>
(Points to be calculated by the Parks Department) b. <u>Capital Improvement Investment</u> | <p><u>Calculated</u></p> <p style="text-align: center;"><u>3</u></p> |
|--|--|

2) Proposer Background and Experience:

- | | |
|---|---|
| <ul style="list-style-type: none"> a. <u>Appropriate Experience</u>
<u>3</u> b. <u>Financial Strength</u>
<u>4</u> c. <u>Personnel Qualifications and Experience</u> | <p style="text-align: center;"><u>3</u></p> <p style="text-align: center;"><u>4</u></p> <p style="text-align: center;"><u>3.5</u></p> |
|---|---|

3) Proposal Contents:

- | | |
|--|---|
| <ul style="list-style-type: none"> a. <u>Business Plan</u> b. <u>Capital Improvement Plan</u> c. <u>Operation of Concession</u> | <p style="text-align: center;"><u>3</u></p> <p style="text-align: center;"><u>3</u></p> <p style="text-align: center;"><u>3</u></p> |
|--|---|

COMMENTS:

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Dover Gourmet Corporation

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 **Excellent**
- 4 **Very Good**
- 3 **Good**
- 2 **Fair**
- 1 **Poor**
- 0 **Unacceptable**

1) **Return to County:**

- | | |
|---|-----------------------------|
| a. <u>Fee to the County of Suffolk</u> | <u>Calculated</u> JS |
| (Points to be calculated by the Parks Department) | |
| b. <u>Capital Improvement Investment</u> | <u>3</u> |

2) **Proposer Background and Experience:**

- | | |
|--|----------|
| a. <u>Appropriate Experience</u> | <u>3</u> |
| b. <u>Financial Strength</u> | <u>5</u> |
| c. <u>Personnel Qualifications and Experience</u> | <u>4</u> |

3) **Proposal Contents:**

- | | |
|---|----------|
| a. <u>Business Plan</u> | <u>3</u> |
| b. <u>Capital Improvement Plan</u> | <u>3</u> |
| c. <u>Operation of Concession</u> | <u>4</u> |

COMMENTS:

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Dover Gourmet Corporation

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- a. Fee to the County of Suffolk Calculated 2.5
 (Points to be calculated by the Parks Department)
- b. Capital Improvement Investment 3

2) Proposer Background and Experience:

- a. Appropriate Experience 3
- b. Financial Strength 3
- c. Personnel Qualifications and Experience 3

3) Proposal Contents:

- a. Business Plan 3.5
- b. Capital Improvement Plan 3.5
- c. Operation of Concession 3.5

COMMENTS:

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Lessings, Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 **Excellent**
- 4 **Very Good**
- 3 **Good**
- 2 **Fair**
- 1 **Poor**
- 0 **Unacceptable**

1) Return to County:

- | | | |
|----|---|--------------------------|
| a. | <u>Fee to the County of Suffolk</u> | <u>Calculated</u> |
| | (Points to be calculated by the Parks Department) | |
| b. | <u>Capital Improvement Investment</u> | <u>2</u> |

2) Proposer Background and Experience:

- | | | |
|----|---|----------|
| a. | <u>Appropriate Experience</u> | <u>3</u> |
| b. | <u>Financial Strength</u> | <u>4</u> |
| c. | <u>Personnel Qualifications and Experience</u> | <u>2</u> |

3) Proposal Contents:

- | | | |
|----|--|----------|
| a. | <u>Business Plan</u> | <u>2</u> |
| b. | <u>Capital Improvement Plan</u> | <u>1</u> |
| c. | <u>Operation of Concession</u> | <u>2</u> |

COMMENTS:

JAMES J. INGEBITO, R.A.
10/5/10

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Lessings, Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- | | | |
|----|---|-------------------|
| a. | <u>Fee to the County of Suffolk</u> | <u>Calculated</u> |
| | (Points to be calculated by the Parks Department) | |
| b. | <u>Capital Improvement Investment</u> | <u>1</u> |

2) Proposer Background and Experience:

- | | | |
|----|--|----------|
| a. | <u>Appropriate Experience</u> | <u>3</u> |
| b. | <u>Financial Strength</u> | <u>4</u> |
| c. | <u>Personnel Qualifications and Experience</u> | <u>2</u> |

3) Proposal Contents:

- | | | |
|----|---------------------------------|----------|
| a. | <u>Business Plan</u> | <u>2</u> |
| b. | <u>Capital Improvement Plan</u> | <u>1</u> |
| c. | <u>Operation of Concession</u> | <u>2</u> |

COMMENTS:

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Lessings, Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- | | | |
|----|---|-------------------|
| a. | <u>Fee to the County of Suffolk</u> | <u>Calculated</u> |
| | (Points to be calculated by the Parks Department) | |
| b. | <u>Capital Improvement Investment</u> | <u>2</u> |

2) Proposer Background and Experience:

- | | | |
|----|--|-------------|
| a. | <u>Appropriate Experience</u> | <u>3</u> |
| b. | <u>Financial Strength</u> | <u>4</u> |
| c. | <u>Personnel Qualifications and Experience</u> | <u>2.75</u> |

3) Proposal Contents:

- | | | |
|----|---------------------------------|------------|
| a. | <u>Business Plan</u> | <u>2.5</u> |
| b. | <u>Capital Improvement Plan</u> | <u>2</u> |
| c. | <u>Operation of Concession</u> | <u>2.5</u> |

COMMENTS:

LIMITED INVESTMENT, INDIFFERENT PLAN.

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Lessings, Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- | | | |
|----|---|----------------------|
| a. | <u>Fee to the County of Suffolk</u> | <u>Calculated</u> 20 |
| | (Points to be calculated by the Parks Department) | |
| b. | <u>Capital Improvement Investment</u> | <u>2</u> |

2) Proposer Background and Experience:

- | | | |
|----|--|----------|
| a. | <u>Appropriate Experience</u> | <u>5</u> |
| b. | <u>Financial Strength</u> | <u>5</u> |
| c. | <u>Personnel Qualifications and Experience</u> | <u>5</u> |

3) Proposal Contents:

- | | | |
|----|---------------------------------|----------|
| a. | <u>Business Plan</u> | <u>3</u> |
| b. | <u>Capital Improvement Plan</u> | <u>2</u> |
| c. | <u>Operation of Concession</u> | <u>3</u> |

COMMENTS:

**SUFFOLK COUNTY DEPARTMENT OF PARKS
SMITH POINT ORAL PRESENTATION - OCTOBER 5, 2010**

	SMITH POINT BEACH HUT				
	Committee Member Vote				
	1	2	3	4	5
1) Fee to the County of Suffolk					
2) Capital Improvement Investment	4	4	3.5	5	4
3) Appropriate Experience	4	5	4	5	5
4) Financial Strength	3	4	3.5	5	4
5) Personnel Qualifications and Experience	4	5	4	5	5
6) Business Plan	3	5	3	4	4
7) Capital Improvement Plan	3	5	3.5	4	4
8) Operation of Concession	4	5	3	5	4.5

5 = Excellent 100% Available Points
 4 = Very Good 80% Available Points
 3 = Good 60% Available Points
 2 = Fair 40% Available Points
 1 = Poor 20% Available Points
 0 = Unacceptable No Points

	Committee Member Points					Total Points	
	1	2	3	4	5		
1) Fee to the County of Suffolk	25	21	21	21	21	105	84%
2) Capital Improvement Investment	25	20	17.5	25	20	102.5	82%
3) Appropriate Experience	20	20	16	20	20	92	92%
4) Financial Strength	20	16	14	20	16	78	78%
5) Personnel Qual and Exper	10	8	8	10	10	46	92%
6) Business Plan	20	12	12	16	16	76	76%
7) Capital Improvement Plan	15	9	10.5	12	12	58.5	78%
8) Operation of Concession	15	12	9	15	13.5	64.5	86%
Total Available Points	150	137	108	139	128.5	622.5	83%
	73%	91%	72%	93%	86%		

PERCENTAGE OF TOTAL AVAILABLE POINTS RECEIVED 83%

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Smith Point Beach Hut Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 **Excellent**
- 4 **Very Good**
- 3 **Good**
- 2 **Fair**
- 1 **Poor**
- 0 **Unacceptable**

1) Return to County:

- | | |
|--|-----------------------------------|
| <ul style="list-style-type: none"> a. <u>Fee to the County of Suffolk</u>
(Points to be calculated by the Parks Department) b. <u>Capital Improvement Investment</u> | <u>Calculated</u>

<u>4</u> |
|--|-----------------------------------|

2) Proposer Background and Experience:

- | | |
|---|----------------------------------|
| <ul style="list-style-type: none"> a. <u>Appropriate Experience</u> b. <u>Financial Strength</u> c. <u>Personnel Qualifications and Experience</u> | <u>4</u>
<u>3</u>
<u>4</u> |
|---|----------------------------------|

3) Proposal Contents:

- | | |
|--|----------------------------------|
| <ul style="list-style-type: none"> a. <u>Business Plan</u> b. <u>Capital Improvement Plan</u> c. <u>Operation of Concession</u> | <u>3</u>
<u>3</u>
<u>4</u> |
|--|----------------------------------|

COMMENTS:

JAMES J. INGENTO, R.A.
10/5/10

Proposal For
A License to Renovate, Operate, Maintain and Manage
A Food Service Concession and Related Facilities
At
Smith Point County Park
Shirley, New York

Oral Presentation
October 5, 2010

Smith Point Beach Hut Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- a. Fee to the County of Suffolk Calculated
- (Points to be calculated by the Parks Department) 4
- b. Capital Improvement Investment 4

2) Proposer Background and Experience:

- a. Appropriate Experience 5
- b. Financial Strength 4
- c. Personnel Qualifications and Experience 5

3) Proposal Contents:

- a. Business Plan 5
- b. Capital Improvement Plan 5
- c. Operation of Concession 5

COMMENTS:

This proposer presented the best program and has a very high level of enthusiasm.

**Proposal For
 A License to Renovate, Operate, Maintain and Manage
 A Food Service Concession and Related Facilities
 At
 Smith Point County Park
 Shirley, New York**

**Oral Presentation
 October 5, 2010**

Smith Point Beach Hut Inc.

For each category, give a numerical rating ranging from 0-5 in accordance with the following definitions:

- 5 Excellent
- 4 Very Good
- 3 Good
- 2 Fair
- 1 Poor
- 0 Unacceptable

1) Return to County:

- | | |
|--|-----------------------------------|
| <ul style="list-style-type: none"> a. <u>Fee to the County of Suffolk</u>
(Points to be calculated by the Parks Department) b. <u>Capital Improvement Investment</u> | <p><u>Calculated 2)</u>
4</p> |
|--|-----------------------------------|

2) Proposer Background and Experience:

- | | |
|---|---|
| <ul style="list-style-type: none"> a. <u>Appropriate Experience</u> b. <u>Financial Strength</u> c. <u>Personnel Qualifications and Experience</u> | <p><u>5</u>
<u>4</u>
<u>5</u></p> |
|---|---|

3) Proposal Contents:

- | | |
|--|---|
| <ul style="list-style-type: none"> a. <u>Business Plan</u> b. <u>Capital Improvement Plan</u> c. <u>Operation of Concession</u> | <p><u>4</u>
<u>4</u>
<u>4.5</u></p> |
|--|---|

COMMENTS:

COUNTY OF SUFFOLK

Exhibit "A"



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

February 3, 2015

Mr. Fred Marsilio
Beach Huts Inc.
64 North Country Road
Smithtown, NY 11787

Dear Mr. Marsilio,

In accordance with your License Agreement with Suffolk County Parks, your flat fee schedule for 2015 is as follows:

<u>Month/Date</u>	<u>Cupsogue</u>	<u>Smith Point</u>	
July		\$ 8,750	} \$ 11,500 pd 7/9/15 \$ 12,000 pd 8/19/15 \$ 11,500 pd 9/9/15
August	\$ 6,000 pd 7/1/15	\$ 8,750	
September	\$ 6,000 pd 8/1/15	\$ 8,750	
October	\$ 5,500 pd 9/8/15	\$ 8,750	
Total	\$17,500	\$35,000	

All payments are to be received and recorded by Parks on or before the last day of the month in which payment is due. Penalties of .05% per day or 1.5% per month will be charged against late payments until paid in full. Checks are to be made payable to Suffolk County Department of Parks and the "memo" portion of the check should identify the purpose of the payment. All payments should be mailed to:

Suffolk County Department of Parks, Recreation & Conservation
P.O. Box 144
Montauk Highway
West Sayville, NY 11796
Attention: Contracts Unit

In the event revenues exceed \$100,000, you will also be required to pay 10% of gross over \$100,000 for Cupsogue and Smith Point in accordance with a schedule to be negotiated.

A daily log of business activities (Dailies) is to be submitted by the 10th day of the following month with register receipts to support amounts shown. Monthly activity is to be summarized on a separate "total" sheet. If you require blank reporting forms, kindly contact Tracy Seeba at 631-854-4918. We look forward to a rewarding and successful 2015 season.

Sincerely,

Emily R. Lauri
Community Relations Director

cc: Greg Dawson, Commissioner
Regina DeTuro, Administrator II
Phil O'Reilly



COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

July 15, 2015

Mr. Fred Marsilio
Beach Huts Inc.
64 North Country Road
Smithtown, NY 11787

Dear Mr. Marsilio,

In accordance with your License Agreement with Suffolk County Parks, your flat fee schedule for 2015 is as follows:

<u>Month/Date</u>	<u>Meschutt</u>
July	\$ 3,750 7/15/15
August	\$ 3,750 8/17/15
September	\$ 3,750 9/18/15
October	\$ 3,750 9/28/15
Total	\$15,000

All payments are to be received and recorded by Parks on or before the last day of the month in which payment is due. Penalties of .05% per day or 1.5% per month will be charged against late payments until paid in full. Checks are to be made payable to Suffolk County Department of Parks and the "memo" portion of the check should identify the purpose of the payment. All payments should be mailed to:

Suffolk County Department of Parks, Recreation & Conservation
P.O. Box 144
Montauk Highway
West Sayville, NY 11796
Attention: AnaMarie Cucciniello, Contracts Examiner

In the event revenues exceed \$100,000, you will also be required to pay 10% of gross over \$100,000, in accordance with your license agreement.

A daily log of business activities (Dailies) is to be submitted by the 10th day of the following month with register receipts to support amounts shown. Monthly activity is to be summarized on a separate "total" sheet. If you require blank reporting forms, kindly contact Trish Ladowski at 631-854-4912. We look forward to a rewarding and successful 2015 season.

Sincerely,

AnaMarie Cucciniello
Contracts Examiner

cc: Greg Dawson, Commissioner
Jim Barr, Superintendent of Parks
Emily Lauri, Community Relations Director



COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

Philip A. Berdolt
COMMISSIONER

April 21, 2017

Mr. Fred Marsilio
Beach Huts Inc.
64 North Country Road
Smithtown, NY 11787

Re: Revised 2016 Annual License Fee Schedule for Cupsogue Beach Hut

Dear Mr. Marsilio,

In accordance with your License Agreement with Suffolk County Parks, your minimum annual License Fee for 2016 is \$22,000. Your flat fee payment schedule is as follows:

Month/Date	Amount
July	\$5,000 PD 7/2016
August	\$5,000 PD 8/2016
September	\$7,500 PD 9/2016
November	\$4,500 - \$2,500 6/8/17; \$2,000 6/12/17
Total	\$22,000

In the event revenues exceed \$100,000, you will also be required to pay 10% of gross over \$100,000, in accordance with your license agreement.

All payments are to be received and recorded by Parks on or before the 10th day of the month in which such payment is due. Penalties of .05% per day or 1.5% per month will be charged against late payments until paid in full. Checks are to be made payable to Suffolk County Department of Parks and the "memo" portion of the check should identify the purpose of the payment. All payments should be mailed to:

Suffolk County Department of Parks, Recreation & Conservation
P.O. Box 144, Montauk Highway
West Sayville, NY 11796
Attention: Contracts Unit

A daily log of business activities (Dailies) is to be submitted by the 10th day of the following month with register receipts to support amounts shown. Monthly activity is to be summarized on a separate "total" sheet.

Should you have any questions, please contact the undersigned at 631-854-4983. We look forward to a rewarding and successful 2017 season.

Sincerely,

Ana Marie Cucciniello
Contracts Examiner

cc: Philip Berdolt, Commissioner
Terry Maccarrone, Coordinator of Community Based Programs



COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

January 26, 2016

Mr. Fred Marsilio
Beach Huts Inc.
64 North Country Road
Smithtown, NY 11787

Re: Smith Point Beach Hut

Dear Mr. Marsilio,

In accordance with your License Agreement with Suffolk County Parks, your minimum annual License Fee for 2016 is \$35,000. Your flat fee payment schedule is as follows:

<u>Month/Date</u>	<u>Amount</u>
July	\$ 8,750
August	\$ 8,750
September	\$ 8,750
October	\$ 8,750
Total	\$35,000

\$ 15,000 7/11/16
 \$ 10,000 8/11/16
 \$ 10,000 8/29/16

In the event revenues exceed \$100,000, you will also be required to pay 10% of gross over \$100,000, in accordance with your license agreement.

All payments are to be received and recorded by Parks on or before the 10th day of the month in which such payment is due. Penalties of .05% per day or 1.5% per month will be charged against late payments until paid in full. Checks are to be made payable to Suffolk County Department of Parks and the "memo" portion of the check should identify the purpose of the payment. All payments should be mailed to:

Suffolk County Department of Parks, Recreation & Conservation
P.O. Box 144, Montauk Highway
West Sayville, NY 11796
Attention: Contracts Unit

A daily log of business activities (Dailies) is to be submitted by the 10th day of the following month with register receipts to support amounts shown. Monthly activity is to be summarized on a separate "total" sheet.

Should you have any questions, please contact the undersigned at 631-854-4983. We look forward to a rewarding and successful 2016 season.

Sincerely,

AnaMarie Cucciniello
Contracts Examiner

cc: Greg Dawson, Commissioner
Jim Barr, Superintendent
Emily R. Lauri, Community Relations Director
Regina DeTuro, Administrator II



COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

January 26, 2016

Mr. Fred Marsilio
Beach Huts Inc.
64 North Country Road
Smithtown, NY 11787

Re: Meschutt Beach Hut

Dear Mr. Marsilio,

In accordance with your License Agreement with Suffolk County Parks, your minimum annual License Fee for 2016 is \$15,000. Your flat fee payment schedule is as follows:

<u>Month/Date</u>	<u>Amount</u>
July	\$ 3,750
August	\$ 3,750
September	\$ 3,750
October	\$ 3,750
Total	\$15,000

> \$ 5,000 7/11/16
 > \$ 5,000 8/21/16
 > \$ 5,000 8/31/16

In the event revenues exceed \$100,000, you will also be required to pay 10% of gross over \$100,000, in accordance with your license agreement.

All payments are to be received and recorded by Parks on or before the 10th day of the month in which such payment is due. Penalties of .05% per day or 1.5% per month will be charged against late payments until paid in full. Checks are to be made payable to Suffolk County Department of Parks and the "memo" portion of the check should identify the purpose of the payment. All payments should be mailed to:

Suffolk County Department of Parks, Recreation & Conservation
P.O. Box 144, Montauk Highway
West Sayville, NY 11796
Attention: Contracts Unit

A daily log of business activities (Dailies) is to be submitted by the 10th day of the following month with register receipts to support amounts shown. Monthly activity is to be summarized on a separate "total" sheet.

Should you have any questions, please contact the undersigned at 631-854-4983. We look forward to a rewarding and successful 2016 season.

Sincerely,

Ana
AnaMarie Cucciniello
Contracts Examiner

cc: Greg Dawson, Commissioner
Jim Barr, Superintendent
Emily R. Lauri, Community Relations Director
Regina DeTuro, Administrator II



✓ "Exhibit I"

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

September 18, 2015

Dear Licensee,

This letter is sent to notify you that the Parks Department will not credit any tax paid for purchases or payments that are submitted toward your Capital or Maintenance obligations for the licensed premises. The County, as a municipality, is exempt from paying taxes and therefore not authorized to allow credit for tax on any purchase.

If you have any questions regarding this matter, please feel free to contact me at (631) 854-4980.

Sincerely,

Emily R. Lauri
Community Relations Director



Lauri, Emily R.

From: Lauri, Emily R.
Sent: Thursday, September 17, 2015 12:19 PM
To: Barr, Jim
Subject: RE: Send data from MFP07879407 09/17/2015 08:46

Tracking:	Recipient	Read
	Barr, Jim	Read: 9/17/2015 4:13 PM

Will do.

Emily R. Lauri, Community Relations Director Suffolk County Department of Parks, Recreation, and Conservation P.O. Box 144, Montauk Highway West Sayville, NY 11796

631-854-4980
631-854-4978 (Fax)
Email: emily.lauri@suffolkcountyny.gov

CONFIDENTIALITY NOTICE: This electronic mail transmission is intended only for the use of the individual or entity to which it is addressed and may contain confidential information belonging to the sender which is protected by the attorney-client privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by e-mail and delete the original message.

-----Original Message-----

From: Barr, Jim
Sent: Thursday, September 17, 2015 12:19 PM
To: Lauri, Emily R.
Cc: Cucciniello, AnaMarie
Subject: RE: Send data from MFP07879407 09/17/2015 08:46

This is great! Can you prepare a letter to all of our concessionaires that we will no longer apply credit to their capital/maintenance purchases for sales tax? You can inform them they can request an exemption form from us or they can absorb the tax without receiving credit for it.
Thanks!

-----Original Message-----

From: Lauri, Emily R.
Sent: Thursday, September 17, 2015 11:22 AM
To: Barr, Jim
Subject: FW: Send data from MFP07879407 09/17/2015 08:46

Hi Jim - Update...

Finally made some progress on this issue.... Got in touch with someone in DPW accounting who provided me with the letter and form that our Concessionaires need to use when purchasing equipment /supplies for County projects..... We are allowed to provide this to our licensees as this is how DPW handles it as well....

Emily R. Lauri, Community Relations Director Suffolk County Department of Parks, Recreation, and Conservation P.O. Box 144, Montauk Highway West Sayville, NY 11796

631-854-4980

631-854-4978 (Fax)

Email: emily.lauri@suffolkcountyny.gov

CONFIDENTIALITY NOTICE: This electronic mail transmission is intended only for the use of the individual or entity to which it is addressed and may contain confidential information belonging to the sender which is protected by the attorney-client privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by e-mail and delete the original message.

-----Original Message-----

From: Baldwin, Amy

Sent: Thursday, September 17, 2015 8:50 AM

To: Lauri, Emily R.

Subject: FW: Send data from MFP07879407 09/17/2015 08:46

Emily,

This is what we provide to our vendors if they request a tax exempt certificate. We only allow tax when the equipment, tools or supplies are rented, which is stated on the bottom of page 2 of the ST-120 form. I scanned the pages out of order, oops!!

Amy

AMY BALDWIN

DPW FINANCE - CAPITAL ACCOUNTING

PHONE (631)852-4042

FAX (631)852-4057

baldwina@suffolkcountyny.gov

DISCLAIMER: The information contained in this transmission (including any attachments) may contain confidential information, privileged material (including material protected by the attorney-client or other applicable privileges), or constitutes non-public information. Any use of this information by anyone other than the intended recipient is prohibited. If you have received this transmission in error, please immediately reply to the sender and delete this information from your system. Use, dissemination, distribution, or reproduction of this transmission by unintended recipients is not authorized and may be unlawful.

-----Original Message-----

From: Copier [mailto:svc_dpwemail@suffolkcountyny.gov]

Sent: Thursday, September 17, 2015 11:47 AM

To: Baldwin, Amy

Subject: Send data from MFP07879407 09/17/2015 08:46

Scanned from MFP07879407

Date:09/17/2015 08:46

Pages:5

Resolution:200x200 DPI

Sent from copier. Please do not reply.

"Exhibit J"

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PARKS, RECREATION AND CONSERVATION

GREG DAWSON
COMMISSIONER

June 23, 2016

Fred Marsilio
Beach Huts, Inc.
64 North Country Road
Smithtown, NY 11787

RE: Beach Hut – Cupsogue Beach County Park

Dear Mr. Marsilio,

In accordance with the terms and conditions of your License Agreement with the County of Suffolk License to renovate and operate a food service concession at Cupsogue Beach County Park, the first amendment of agreement term ended on December 31, 2015. The License Agreement provides for one additional five-year option to extend the Agreement from January 1, 2016 to December 31, 2020.

If Beach Huts, Inc. wishes to maintain their License Agreement, please indicate your agreement by signing and dating where indicating and returning this letter to us at the address below.

All other terms and conditions of the License Agreement dated November 29, 2011, will remain in full force and effect until a new agreement is prepared and fully executed.

Should you have any questions, please contact AnaMarie Cucciniello, Contracts Examiner at 631-854-4983.

Sincerely,

Greg Dawson
Commissioner

AGREED:

Fred Marsilio
Beach Huts, Inc.

DATE:

6/30/16



APPENDIX B

Comptroller Office's Comments on the Department's Response

Auditee: Suffolk County Department of Parks, Recreation and Conservation

An exit conference was held with the Department on March 5, 2018 to discuss preliminary audit findings. Those in attendance were as follows:

<u>Name</u>	<u>Title</u>	<u>Organization</u>
Frank Bayer	Exec. Director of Auditing Svcs.	Audit and Control
Diane Forte	Chief Auditor	Audit and Control
Audra Lebowitz	Senior Auditor	Audit and Control
Philip Berdolt	Commissioner	Parks Department
Donald Mc Kay	Deputy Commissioner	Parks Department
Emily Lauri	Community Relations Director	Parks Department
Cindy Heuer	Contracts Examiner	Parks Department
Trish Ladowski	Contracts Examiner	Parks Department
Karri Marengo	Program Examiner	DoIT

The following took place at the exit conference:

- We informed the Department that an exit conference is an opportunity to discuss preliminary audit findings.
- We informed the Department that they may request copies of our work papers which support our findings. All documentation requested by the Department as of this time, has been provided.
- We provided the Department with a summary of Preliminary Findings and Items for Discussion.
- Each finding was explained to the Department. The ensuing discussion focused primarily on unfulfilled capital project requirements, the absence of documentation demonstrating the concessionaire was properly bonded and insured and the unauthorized use of a mobile food concession.

At the exit conference, the Department's representatives requested Audit and Control's schedules regarding the finding, "*The Department did not have adequate internal controls in place to ensure the completion of \$533,000 in capital improvements to the licensed premises required in the Agreements; we only found evidence that \$7,189 (1%) of the required improvements were properly documented and completed.*" (found on page 16 of

the report). These work papers were originally sent to the Commissioner of Parks on March 12, 2018.

We received a response to our preliminary findings along with additional documentary evidence from the Department via email on April 13, 2018. Prior to issuing our unofficial draft report to the Department on May 31, 2018, we reviewed the Department's response and removed any findings that additional documentary evidence refuted. Throughout the audit process, we found the Department was less than accommodating with audit staff working in a hallway throughout the audit. Requests for documentation were repeated multiple times causing frustration for both the Department and audit staff as well as causing the Department to appear subversive. In addition, documentation provided was found to be well short of Department's own contractual requirements as is evidenced throughout this report.

The Department's representatives submitted a formal written response to the unofficial draft audit report for the audit period January 1, 2015 through December 31, 2016 on July 9, 2018 (Appendix A, p. 33). Along with this response, the Department submitted additional documentation, not presented previously, which we reviewed. Our assessment of the Department's response is as follows:

Response to #1:

The Department concurs with our assessment and stated they are pursuing the development of a written policy manual to assist in the administration and oversight of license agreements.

No modification of the audit report for this finding is warranted.

Response to #2:

The Department's objection to this finding is duly noted. However, we believe the multitude of findings pertaining to basic recordkeeping and calculations found in the audit report clearly exhibit a lack of financial acumen. The Department's intention to hire a Principal Financial Analyst to provide oversight of the Contracts Unit is in, and of itself, an acknowledgment of this finding, and the need for staff possessing financial skills to effectively manage the license agreements. Our statement is further supported in our responses contained within this Appendix as follows: Responses to #6, #7, #8, #9, #10, #11, #16, #19 and #20.

No modification of the audit report for this finding is warranted.

Response to #3:

While the Department disagrees with this finding, at the same time, they agree that written approvals should have been obtained. As indicated above, the Department's intention to hire a Principal Financial Analyst to provide oversight of the Contracts Unit is evidence of their agreement with the need for supervision of this Unit. This finding is supported throughout the audit report and is reinforced by the fact that the Department was so unfamiliar with the provisions of the agreements that they needed guidance from audit staff pertaining to contractually required capital improvement documents.

No modification of the audit report for this finding is warranted.

Response to #4:

The Department concurs with our finding and has affirmed that new protocols have been implemented to ensure compliance with contractual requirements.

No modification of the audit report for this finding is warranted.

Response to #5:

While the Department disagrees with this finding, they failed to provide documentation that they obtained the proper surety bond for the Cupsogue concession during the audit process. Additionally, they had approximately three months following the exit conference to provide such documentation. Since the Department subsequently provided a copy of the change in surety bond coverage with their response to the draft audit report, this finding is removed from the audit report. However, we continue to believe that the Department's delay in sending the Beach Hut a letter offering the option to extend their agreement six months after the expiration of the agreement is a result of poor oversight and administration of the license agreements.

Response to #6:

While the Department does not agree with our finding and contends that they collected all payments owed to the County for advertising, the Department failed to provide evidence supporting the receipt of advertising fees, in total, for two concessions; despite numerous requests for this documentation throughout the audit process and at the exit conference.

No modification of the audit report for this finding is warranted.

Response to #7:

While the Department considers our finding misleading, unfounded and exaggerated, and believes it only applies to the Cupsogue Agreement, we do not agree with this assertion. We found instances of late payments of annual flat license fees for all three concessions during the audit period where the date of the check was subsequent to the contractual date payment was due. There is no evidence the Department assesses the contractually required penalties for late payments nor were they able to demonstrate the existence of mitigating controls. The Department's practice of determining the timeliness of payments is based on the check date rather than the date of receipt. Substituting the check date for the actual date of receipt, when recording cash receipts, is not acceptable. For example, the Department provided us with documentation to supporting that a payment occurred on July 11, 2016 for the Cupsogue concession. However, the payment was not processed until July 29, 2016, which suggests that the Department does not want to charge the licensee late fees or they delayed the deposit of the funds for two weeks.

No modification of the audit report for this finding is warranted.

The Department's response also suggests that they have already addressed this finding and their response has not been acknowledged. However; subsequent to the exit conference and in response to a separate finding, the Department provided evidence of the two final 2016 annual flat license fee payments for the Cupsogue concession six months after year end. Upon receipt of such documentation, that specific finding was removed prior to issuing the draft audit report.

Response to #8:

We disagree with the Department's response that this finding is misleading and their contention that the agreements do not specify the payment terms for the percentage of Gross Fees. To the contrary, we find them rather specific. Per the License Agreement for the Meschutt concession and the Second Amendment for the Cupsogue concession (2016):

“The Annual License Fee for each year of this Agreement shall be the “Annual Flat License Fee” for that year of operation and the corresponding percentage of Gross Receipts (“Percentage of Gross Receipts”) collected or generated by the Licensee for that year.”

Additionally, the provision for Payment Terms states: “All monthly payments of the Annual License Fee shall be made on or before the 10th day of the month in which such payment is due. The agreements clearly define the Annual License Fee to include the Percentage of Gross Receipts and the related payment terms. The First Amendment to the Cupsogue Agreement also defines the Annual License Fee to include the Percentage of Gross Receipts; however, it is silent in regards to the Payment Terms. Therefore, the Licensee is required to adhere to the Payment Terms of the Initial License Agreement which requires that the percentage of gross payments shall be paid in full by January 31st of the following year. According to the Smith Point License Agreement, the percentage of Gross Receipts is due no later than December 31st of each year.

In their response the Department states: “had the Department been notified in a timely manner that the results of the audit could have led to the Department to terminate the license agreements, the Department would have taken appropriate action to prevent or mitigate potential losses.” In its response, the Department fails to acknowledge that the conviction of the owner of the Beach Hut, which became public on December 18, 2017, was a result of a criminal investigation performed by the Suffolk County District Attorney's Office in coordination with the New York State Department of Taxation and Finance. Even though the Department knew of this conviction in December 2017, the Department took no action to terminate the agreements until January 19, 2018, one month after learning of the conviction. The Department's unwillingness to recognize that it is their responsibility to notify their licensees of fees due in a timely manner is clearly an illustration of poor management oversight, as noted by the outstanding balance of \$269,500 that remains unpaid.

During the audit process, if we encounter weak practices or procedures, we will advise staff of corrective action. On a number of occasions we advised departmental staff that it would be prudent to calculate the percentage of gross receipts due on a monthly basis and once the dollar threshold was met, send a notification for remittance to the licensees. Our advice was met with resistance by the staff, who stated that they would not be able perform such a calculation on a monthly basis due to the complexity caused by the dollar threshold. This lack of ability to perform basic financial calculations is a further demonstrates a lack of financial acumen on the part of the staff.

No modification of the audit report for this finding is warranted.

Response to #9:

The Department concurs that our finding is correct and has affirmed a change in collection procedures; however, the Department makes no mention of their intention to assess penalties for late payments as required by the license agreements.

No modification of the audit report for this finding is warranted.

Response to #10:

While the Department asserts that this finding is excessively vague, misleading and incomplete, their response to this same finding at the exit conference was that the Department has re-developed a procedure to make sure that the licensees' reported revenues are compared to their NYS Quarterly Sales Tax Returns. The Department's assertion calls further into question their financial competence. Performing a fundamental comparative analysis between the licensees' reported revenues and the NYS Quarterly Sales Tax Returns would require only basic financial skill.

No modification of the audit report for this finding is warranted.

Response to #11:

While we acknowledge the Department's response, we stand by our finding that the Department clearly failed to obtain the daily cash register tapes containing individual transaction detail and instead accepted the "end of day" report of totals for all three concessions. Contrary to the Department's response, the license agreements for all three concessions contain the following provision: "The Licensee shall complete, daily, a log of business activities in a form acceptable to the County ("daily reports"). All daily reports shall be submitted to the County by the 10th day of the month following the activities along with a monthly summary also in a form acceptable to the County. Daily cash register tapes and vending machine readings are to accompany all submissions."

No modification of the audit report for this finding is warranted.

Response to #12:

The Department concurs with our assessment and has affirmed that new protocols have been implemented to enhance oversight and ensure compliance with regulations.

No modification of the audit report for this finding is warranted.

Response to #13:

While we acknowledge the Department's response, the Department did not ensure that \$525,811 (99%) of the Beach Hut's contractual capital improvements of \$533,000 were performed. In their response to the preliminary findings discussed at the exit conference, the Department's interpretation of the license agreement provisions pertaining to Capital Improvements is inaccurate. While the Department believes that the Capital Improvement Projects are "suggested" and not required, the agreements state:

"The Licensee shall complete the following capital improvements"

It is only the timeframes for completion of each project that are "suggested" in the agreements. Although the agreements allow for changes to the Capital Improvement Plan

by the Commissioner, the Department provided no evidence of prior written approval of any substitutions, alterations, modifications, negotiations to the Capital Improvements detailed in the agreements by the Commissioner. With regard to the Department's belief that the termination of the agreements prior to expiration precluded the Licensee from completing capital improvements, the First Amendment to the Cupsogue Agreement required \$200,000 of capital improvements to be completed by December 31, 2015, the expiration date of the agreement; none of which were ever completed. In our testing of the contractually required Capital Improvements we considered those projects that had completion dates prior to the termination of the agreements, excluding \$27,000 of improvements that were to be completed in 2018. Furthermore, subsequent to the exit conference, the Department was provided with a copy of a work paper for the schedule of contractual capital improvements for each concession in support of our finding. This response calls into question the Departments financial and administrative competence.

No modification of the audit report for this finding is warranted.

Response to #14:

While we acknowledge the Department's response, the Department failed to ensure the Beach Hut's completion of 99% of its capital improvement obligation as required by the agreements, as detailed above in Response to #13.

No modification of the audit report for this finding is warranted.

Response to #15:

While we acknowledge the Department's response that the agreements allow for the licensees to follow other "competitive procurement procedures" approved by the Commissioner, the Department did not provide written evidence of the Commissioner's approval for the deviation from standard procurement policies. In the absence of written documentation evidencing the Commissioner's authorization of an alternate competitive procurement method the Department should require licensees to follow New York General Municipal Law as required by the agreements. The provisions of the New York General Municipal Law were designed to guard against favoritism, improvidence, extravagance, fraud and corruption and ensure the best value for the acquisition. It is not prudent for the Commissioner to establish a procurement policy which does not ensure fair and open competition in the spirit of New York General Municipal Law and does not preserve the best interest of the County. Furthermore, as stated in the agreements: "All improvements to the Licensed Premises, including the purchase of fixtures, appliances, furnishings, and equipment shall immediately become the property of the County and part of the Licensed Premises and shall be lien and encumbrance free." Effectively, the licensees are making capital improvement purchases on behalf of the County and should be held to the same procurement standards as the County.

In the instance of the purchase of a custom mobile kitchen costing \$73,424, the Department asserts this was permitted to accommodate visitors in a timely manner after the concession building at Cupsogue was completely destroyed by fire. The Beach Hut had eight months before the start of a new season to acquire a mobile kitchen, as the fire occurred on September 14, 2014. However, the Beach Hut waited six months to obtain an estimate for a mobile kitchen and submit a Capital Investment Authorization Request Form for concept approval by the Department. The belief that the urgency of the situation precluded adherence to a competitive procurement procedure is unfounded.

No modification of the audit report for this finding is warranted.

Response to #16:

While the Department asserts they are unable to provide a response, they were afforded ample time to request copies of work papers that support our finding that the Department allowed the Beach Hut to circumvent their purchasing threshold by artificially dividing a purchase for goods.

No modification of the audit report for this finding is warranted.

Response to #17:

While the Department concurred with certain findings related to their noncompliance with the RFP process, their response includes documentation that was not provided to the audit team despite of numerous requests for such evidential matter.

- The Department acknowledges that they did not request and obtain approval from the County Executive's Office to advertise the RFPs.

No modification of the audit report for this finding is warranted.

- While the Department concurs that they could not provide evidence of the Commissioner's review and approval of the RFP document, they attempt to justify this deficiency due to the inability of staff to locate related documentation.

No modification of the audit report for this finding is warranted.

- While the Department disagrees with our finding pertaining to the lack of evidence of RFP advertisements, the Department neglected to provide evidence throughout the audit process despite numerous requests for such. Additionally, the Department had approximately three months following the exit conference to provide such documentation. Although the Department provided evidence of RFP advertisements with their response to the draft audit report, they provided a copy of one newspaper advertisement without also providing a notarized confirmation of such advertisement by the newspaper. Although a notarized confirmation of advertisement is preferred, as it demonstrates publication, we will accept the document provided and this finding is removed from the audit report.
- The Department disagrees with this finding and asserts that the documentation submitted demonstrates that the requirement for "No Conflict of Interest Disclosure" was satisfied for two of the three RFPs. We disagree with the Department in that they failed to provide documentation of this disclosure for the Cupsogue and Meschutt RFPs.

No modification of the audit report for this finding is warranted.

- While the Department disagrees with our finding pertaining to the lack of evidence of the Commissioner's review and approval in the awarding of the Smith Point License Agreement, the Department neglected to provide evidence throughout the audit process despite numerous requests for this documentation. Additionally, the

Department had approximately three months following the exit conference to provide such documentation. Since the Department subsequently provided a copy of the award letter signed by the Commissioner with their response to the draft audit report, this finding is removed from the audit report.

- While the Department concurs with the finding pertaining to evidence of the timely receipt of proposals, they suggest that original documentation from 13 years ago could not be located as justification. The RFPs pertaining to the Smith Point and Meschutt concessions, which were issued in 2010 and 2015, respectively, are not nearly as old, however, sufficient evidence was not provided. Additionally, the audit team was advised by departmental staff that they do not time stamp the proposals upon receipt, which would provide confirmation of receipt on or before the stated deadline.

No modification of the audit report for this finding is warranted.

- While the Department disagrees with our finding pertaining to the lack of evidence that all proposals received and accepted by the Department were evaluated, the finding still stands. Although the Department provided a Bid Opening Checklist for individual proposers, this does not provide evidence of the total number of proposals received and accepted, therefore, it would not be possible to confirm that all proposals received and accepted were evaluated. Within the County RFP process a Bid Opening Sheet is completed for all RFPs processed by the Purchasing Office as evidence of receipt and viability of all proposals. This document is comprised of a list of all proposers, confirmation of receipt of all documents required by the RFP, the due date and contains two signatures in attestation of completeness and the date the bids were opened.

No modification of the audit report for this finding is warranted

Response to #18:

The Department concurs with our finding and has affirmed that controls have been implemented to comply with SOP D-08.

No modification of the audit report for this finding is warranted.

Response to #19:

While the Department considers our finding misleading and believes it only applies to the Cupsogue Agreement, we do not agree with this assertion. As per all three license agreements, the licensees are required to submit their annual license fee by the 10th day of each month throughout the year. However, according to the notification letters sent to the licensees by the Department, the Contracts Unit did not set up the payment terms in compliance with the agreements. Instead of setting up a payment schedule according to the terms of the agreements, the Department directed the licensees to make payments during 2015 “due on or before the last day of the month in which payment is due”. As a result, the Department postponed the availability of funds owed to the County. In addition, the Department’s practice of determining the promptness of payments is based on the check date rather than the date of receipt. Substituting the check date for the actual date of receipt when recording cash receipts is not acceptable. For instance, the

Department provided documentation supporting that a payment occurred on July 15, 2015 for the Meschutt concession. However, the payment was not processed until July 30, 2015, which suggests that the Department does not want to charge the licensee late fees or they delayed deposit of the funds for two weeks.

No modification of the audit report for this finding is warranted.

Response to #20:

While the Department concurs with our finding, they were negligent in knowingly permitting the Beach Hut to violate contractual provisions as it pertains to an unauthorized mobile food concession for over a decade, allowing two concessionaires to have an illicit agreement amongst themselves for the operation of such. The Department states that controls have been implemented to provide written documentation of such approvals moving forward; however, departmental staff also advised the audit team that Smith Point Park is not eligible for a mobile food truck due to the fact that there is a food concession at Smith Point and whenever a park has a concession, a mobile permit cannot be issued for that park. Additionally, this is supported by the Department's exclusion of Smith Point on the Notice to Interested Bidders for Mobile Food/Beverage Concession for eligible park locations.

No modification of the audit report for this finding is warranted.

Response to #21:

- The Department did not provide written evidence of the Commissioner's approval for deviation from State and County procurement policies.
- The Department concurs with our finding and has affirmed that new protocols have been implemented to ensure that Capital Investment Authorization Request Forms are approved and signed by the Commissioner in a timely manner.
- The Department concurs with our finding and has affirmed that new protocols have been implemented to ensure all Capital projects are assigned a request number to effectively track each project.
- While the Department concurs with our finding and stated in their defense that action was taken by the Department in September of 2015 to notify the Licensees of this policy, the Department fails to acknowledge that it is their responsibility to properly grant credit, net of sales tax.
- While the Department asserts they are unable to provide a response, they were afforded ample time to request copies of work papers that support our finding that the Department failed to always ensure that the Capital Investment Authorization Request Form contained the inspection date and signature of the authorized individual attesting to performing the final site inspection and accepting the project as complete. The Department should be aware that their Capital Investment Authorization Request Form requires confirmation of the performance of a final site inspection evidencing completion of the project, which is to occur prior to the Commissioner's approval and granting of credit for that approval.

- While the Department asserts they are unable to provide a response, they were afforded ample time to request copies of work papers that support our finding that the Department failed to always ensure that the Capital Investment Authorization Request Form contained such approval. As stated above, the Department should be aware that their Capital Investment Authorization Request Form requires final approval by the Commission or Designee in the form of signature and date of approval.
- While the Department asserts they are unable to provide a response, they were afforded ample time to request copies of work papers that support our finding that the Commissioner's final approval of a capital improvement occurred in January 2016, when the project was not completed until May 2016.

No modification of the audit report for this finding is warranted.

Response to #22:

While the Department asserts they are unable to provide a response, they were afforded ample time to request copies of work papers that support our finding that the Department failed to obtain adequate documentation in support of capital improvement expenditures made by the Beach Hut.

No modification of the audit report for this finding is warranted.

Response to #23:

While we acknowledge the Department's response, we believe that the Department left the County needlessly exposed to unnecessary liability for a six month period. Although the Department executed a letter of agreement that allowed the Beach Hut to continue operations under the terms of the First Amendment to the Agreement, the term of which ended December 31, 2015, the letter was dated June 23, 2016. It is evident that the Department did not make an effort to extend the Agreement prior to and for six months subsequent to the expiration date. An additional nine months elapsed until the Second Amendment to the License Agreement was fully executed on April 13, 2017. It is unacceptable that the simple execution of an amendment to exercise an option would take over fifteen months to accomplish. The Department's delay is indicative of inadequate management oversight of the license agreements. The letter that the Department refers to in their response was first provided to us with the Department's response to our draft audit report. Such a letter of agreement is an instrument of the License Agreement, which should have been maintained in the contract file and presented with the copies of the original Agreement and First and Second Amendments to the Agreement.

No modification of the audit report for this finding is warranted.

Response to #24:

While the Department does not agree with our finding and contends that contractual language may vary due to the timing of the execution of an agreement, the lack of consistent revenue collection provisions hindered the Department's ability to provide oversight, which contributed to numerous issues. All three Beach Hut agreements required an Annual Flat License Fee and a Percentage of Gross Receipts over the same dollar

threshold. However, the license agreements for these similar concessions lack consistency and do not clearly reflect the terms and conditions in the same way. This is indicative of inadequate oversight of the contract drafting process on the part of the Department.

No modification of the audit report for this finding is warranted.

Response to #25:

While the Department considers our finding misleading, at the same time, they also concur with it by stating that the Department will require the submission of liquor license copies.

No modification of the audit report for this finding is warranted.