

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Compliance of Food Craft, Inc. (World Fair Marina Restaurant and Banquet) with Its License Agreement and Payment of License Fees Due the City

FL09-067A

September 3, 2009



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has audited the compliance of the Food Craft, Inc. (Food Craft) with its license agreement with the Department of Parks and Recreation (Parks).

Food Craft's license agreement with the City permits Food Craft to renovate and operate a restaurant and catering facility, the World Fair Marina Restaurant and Banquet Hall, in Flushing Meadows, Queens. We audit concessions such as this to ensure that private concerns under contract with the City comply with the terms of their agreements, properly report revenue, and pay all fees due the City.

The results of our audit, which are presented in this report, have been discussed with officials from Food Craft and Parks, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink, appearing to read "Will C. Thompson, Jr.", written over a horizontal line.

William C. Thompson, Jr.

WCT/fh

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ADDENDUM II

The City of New York
Office of the Comptroller
Bureau of Financial Audit

**Audit Report on the
Compliance of Food Craft, Inc.
(World Fair Marina Restaurant and Banquet) with Its
License Agreement and Payment of License
Fees Due the City**

FL09-067A

AUDIT REPORT IN BRIEF

The Department of Parks and Recreation (Parks) has a license agreement with the Food Craft, Inc., (Food Craft) to renovate and operate a restaurant and catering facility, the World Fair Marina Restaurant and Banquet Hall (World Fair), in Flushing Meadows, Queens. The agreement also requires that Food Craft spend a minimum of \$293,900 on capital improvements, post a \$120,000 security deposit with the Comptroller's Office, maintain certain types and amounts of insurance coverage, submit monthly statements of gross receipts to Parks, and pay all required taxes and utility charges related to the leased premises. According to the license agreement, gross receipts are to include all funds received, excluding collected sales taxes and gratuities paid directly or indirectly to employees in addition to their regular salaries.

This audit determined whether the Food Craft accurately reported its total gross receipts to Parks, properly calculated the annual license fees due the City, and paid license fees when they were due, and Complied with certain non-revenue-related requirements of the license agreement.

Audit Findings and Conclusions

Food Craft generally paid its minimum license fees on time, maintained the required liability insurance that named the City as additional insured party, maintained the required security deposit, and paid utility charges.

However, Food Craft had significant internal control weaknesses over the collecting, recording, and reporting of revenue. As a result of these weaknesses, we could not ascertain whether all of the revenue earned at the World Fair Marina Restaurant and Banquet was in fact recorded in Food Craft's books and records, and accurately and completely reported to Parks.

Nor could we determine whether Food Craft paid all license fees due Parks. Furthermore, the internal control weaknesses and lack of records were so extensive as to raise red flags concerning the potential of fraud.

Food Craft also violated provisions of New York State Labor Law and its license agreement by not distributing all service charges/gratuities collected to its wait staff. Moreover, Food Craft did not complete all the capital improvements to the licensed premises as stipulated in its license agreement.

Audit Recommendations

We make 12 recommendations, six to Food Craft and six to Parks, concerning the operation of World Fair and the oversight of this license agreement by Parks. In fact, we recommend that Parks consider terminating this agreement. If for reasons presently unknown to us and Parks decides to continue this agreement, Parks should assign a Parks employee to closely monitor Food Craft's operations through the remainder of the contract period to ensure that the appropriate license fees are paid. In any case, compliance with these recommendations will ensure that Parks collects from Food Craft all license fees that is due; controls over the operations of World Fair are adequate to ensure that all gross receipts collected by Food Craft are reported to Parks; Food Craft complies with all laws, including the New York State Labor Law; operates a restaurant at the facility; pays its water and sewer charges; and, completes all required capital improvement work.

INTRODUCTION

Background

On November 6, 2002, Food Craft, Inc., (Food Craft) entered into a 15-year license agreement with the New York City Department of Parks and Recreation (Parks) to renovate and operate a restaurant and catering facility, the World Fair Marina Restaurant and Banquet Hall, in Flushing Meadows, Queens. The license agreement contained an option to extend the agreement by an additional five years at the discretion of the Parks Commissioner.

In November 2004, Parks terminated the agreement with Food Craft due to an unauthorized transfer of ownership shares and certain violations of terms and conditions of the agreement. On January 25, 2005, Parks and Food Craft reached a settlement agreement that reinstated and modified the license agreement. For the period under audit, March 1, 2007, through September 30, 2008, the modified license agreement required Food Craft to pay the City the greater of either a minimum annual license fee of \$138,600 plus ten percent of the gross receipts in excess of \$700,000 or the total annual license fees paid in the prior operating year.

According to the modified license agreement, gross receipts are to include all funds received, excluding collected sales taxes and gratuities paid directly or indirectly to employees in addition to their regular salaries. The modified agreement also requires that Food Craft spend a minimum of \$293,900 on capital improvements, post a \$120,000 security deposit with the Comptroller's Office, maintain certain types and amounts of insurance coverage, submit monthly statements of gross receipts to Parks, and pay all required taxes and utility charges related to the leased premises.

For the period under audit, Food Craft reported a total of \$1,548,304 in gross receipts, and it paid Parks \$250,056 in license fees.

Objectives

Our audit objectives were to determine whether Food Craft:

- Accurately reported its total gross receipts to Parks, properly calculated the annual license fees due the City, and paid license fees when due, and
- Complied with certain non-revenue-related requirements of the license agreement.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance

with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93 of the New York City Charter.

The audit covered the operating period, March 1, 2007, through September 30, 2008. To achieve our audit objectives, we reviewed the license agreement and settlement agreement and examined their requirements. We interviewed Parks officials and reviewed documents in the Parks files, which included correspondence, monthly gross receipts statements, and other relevant documents related to the license agreement. We reviewed the Summary Schedule of Gross Receipts Statements for Food Craft prepared by the Parks Revenue Division to determine whether license fees were received within the timeframe stipulated in the license agreement and the settlement agreement.

To obtain an understanding of control procedures used by Food Craft for recording gross receipts of the restaurant and banquet operations, we interviewed management officials. To determine whether the controls were functioning as prescribed by the officials, we conducted a walk-through of restaurant and banquet operations and documented our understanding of the controls in place through memorandum and flowcharts. We also conducted unannounced observations of restaurant and banquet when open and during events to ascertain whether the controls were actually being used by Food Craft while the restaurant and banquet were in operation.

Food Craft reported to Parks gross receipts of \$1,312,763 from banquet sales, \$205,854 in service charges, and \$29,687 from restaurant sales—totaling \$1,548,304. To assess the controls over restaurant and banquet sales, we conducted unannounced observations by dining at the restaurant on three occasions: lunch on August 28, 2008, and dinner on August 30, 2008, and September 4, 2008. We also conducted various unannounced observations during the months of September, October, and November 2008.

To determine the accuracy of gross receipts Food Craft reported to Parks for the audit period, we compared total gross receipts recorded in the general ledger to the monthly gross receipts statements submitted by Food Craft to Parks.

To determine whether Food Craft accurately reported to Parks its gross receipts from restaurant sales, we traced all guest checks from the restaurant for March 1, 2007, through September 30, 2008, to the amounts recorded in Food Craft's general ledger, and to the monthly gross receipts statements Food Craft submitted to Parks.

To determine whether the Food Craft accurately reported to Parks its gross receipts from banquet sales, we requested and reviewed all banquet contracts and invoices for the 62 banquets held between June 1, 2008, and September 30, 2008. We then compared all banquet contracts and invoices and their charges to the amounts recorded on Food Craft's general ledger and monthly contract summaries. The monthly contract summaries listed 62 banquets as being held between June 1, 2008, and September 30, 2008. We then traced the individual contract and invoice amounts to the monthly contract summaries and the total monthly amounts to the general ledger. In addition, we obtained Food Craft's banquet event calendar from June 1, 2008, through September 2008 and compared the information recorded on the banquet event calendar

to determine whether all sales from banquets noted on the calendar were recorded on Food Craft's general ledger, monthly contract summaries, and the monthly gross receipt statements submitted to Parks.

To determine whether service charges/tips were fully distributed to Food Craft's employees in accordance with Labor Law Section 196-d, Division of Labor Standards, New York State Department of Labor, we traced the service charges reported on Food Craft's monthly gross receipts statements to the amounts recorded on the general ledger to payroll records for our audit period—March 1, 2007, through September 30, 2008.

To determine whether Food Craft remitted the required security deposit, we examined documents on file with the Comptroller's Office. We reviewed Food Craft's records to determine whether it maintained insurance, paid its utility bills, and has the certificates of occupancy and incorporation on file as required in the agreement. To determine whether Food Craft paid its water and sewer charges, and did so in a timely manner, we reviewed the Accounts Receivable Transaction History Report for World Fair Marina Restaurant and Banquet maintained by the Department of Environmental Protection. Finally, the Audit Manager of our Engineering Audit Division inspected the facility on March 10, 2009, to determine whether Food Craft made the capital improvements to the facility required by its license agreement. We also examined canceled checks and invoices to determine whether Food Craft expended \$293,900 on capital improvements in accordance with the license agreement and reviewed the supporting documentation Food Craft submitted to Parks to verify the total dollar amount spent on capital improvements.

Discussion of Audit Results

The matters covered in this report were discussed with Food Craft and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to Food Craft and Parks officials on June 1, 2009, and was discussed at an exit conference held on June 29, 2009. On July 22, 2009, we submitted this draft report to Food Craft and Park officials with a request for comments. We received written responses from Food Craft's Attorney and Parks on August 7, 2009.

In his response, despite taking exception to the audit's findings, Food Craft's Attorney stated that Food Craft agreed to implement or was already in the process of implementing five of the six recommendations directed at them. Food Craft Attorney's stated that Food Craft disagreed with the remaining recommendation related to service charges, and would like to review the position with counsel for the City.

It should be noted that, part of his written response includes an unjustified and unwarranted attack on the integrity of our audit, contending "that the GAGAS standards were incorrectly applied by the auditors..." and that "The Scope and Methodology of the audit was not performed in accordance with generally accepted government auditing standards (GAGAS)". These statements are inaccurate and untrue.

The basis of these inaccurate and untrue statements is the opinion that when our auditors identified deficiencies they should have conducted additional work to both clarify the deficiencies and attempt to satisfy the audit objectives.

During the course of the audit, our auditors interviewed Food Craft management to obtain an understanding of the controls in place, conducted “walk-throughs” of restaurant and banquet operations to observe the controls in operation, reconciled, vouched through and tested the accounting records to the available supporting documentation. Our auditors documented their understanding of Food Craft’s internal control system, potential weaknesses, and the results of their audit tests. These issues were discussed with Food Craft management during the course of the audit. These audit procedures were conducted to ensure that “sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives” (as GAGAS requires) had been obtained.

On the basis of the above we concluded that the internal control deficiencies at the time of our audit were so pervasive that “we could not ascertain whether all of the revenue earned at the World Fair Marina Restaurant and Banquet was in fact recorded in Food Craft’s books and records, and accurately and completely reported to Parks”. “Furthermore, the internal control weaknesses and lack of records were so extensive as to raise red flags concerning the potential of fraud”. We therefore recommended and still recommend that Parks should consider terminating the agreement.

The response further notes that GAGAS requires that auditors report the views of management concerning any disclosed internal control deficiencies or audit findings. As disclosed below we have attached the written response submitted on behalf of Food Craft together with all supporting documentation to this report.

In its response, Parks officials generally agreed with the six recommendations directed at them, and described the actions Parks has taken or will take to address the report’s recommendations.

The specific comments raised by Food Craft’s Attorney and Parks and our rebuttals are contained in the relevant section of this report.

The full texts of the responses received from Food Craft’s Attorney and Parks are included as addenda to this report.

FINDINGS

Food Craft generally paid its minimum license fees on time, maintained the required liability insurance that named the City as additional insured party, maintained the required security deposit, and paid utility charges.

However, Food Craft had significant internal control weaknesses over the collecting, recording, and reporting of revenue. As a result of these weaknesses, we could not ascertain whether all of the revenue earned at the World Fair Marina Restaurant and Banquet was in fact recorded in Food Craft's books and records, and accurately and completely reported to Parks. Nor could we determine whether Food Craft paid all license fees due Parks. Furthermore, the internal control weaknesses and lack of records were so extensive as to raise red flags concerning the potential of fraud.

Food Craft also violated provisions of New York State Labor Law and its license agreement by not distributing all service charges/gratuities collected to its wait staff. Moreover, Food Craft did not complete all the capital improvements to the licensed premises as stipulated in its license agreement.

These issues are discussed in detail in the following sections of this report.

Significant Internal Control Weaknesses over Banquet and Restaurant Operations

Food Craft does not have adequate internal controls over its banquet and restaurant operations to ensure that all gross receipts are properly recorded and reported to the City. The deficiencies are so severe that Food Craft was unable to demonstrate that it had accurately and completely reported its total gross receipts to Parks and paid the appropriate rent due the City. As a result, we were unable to reach a determination about the accuracy of Food Craft's reported gross receipts and payment of appropriate rent to the City. Specifically, Food Craft:

- Did not have a cash register, point of sale system (POS), or any other device to record its transactions for banquets and restaurant sales.
- Maintained an incomplete and inaccurate cash receipts journal.
- Did not have adequate controls over banquet contracts and invoices.
- Could not account for all restaurant guest checks.

As a consequence of the totality of the severe weaknesses in internal controls, the reliability of the gross receipts Food Craft reported to Parks has been compromised. Article 4.7 of the license agreement requires that:

Licensee, during the term of this License, shall maintain adequate systems of internal control and shall keep complete and accurate records, books of account and data, including daily sales and receipts records, which shall show in detail the total business transacted by Licensee and the Gross Receipts therefrom. Such books and records maintained pursuant to this License shall be conveniently segregated from other business matters of Licensee and shall include, but not be limited to: all federal, state and local tax returns and schedules of the Licensee, records of daily bank deposits of the entire receipts from transactions in, at, on or from the Licensed Premises; sales slips, daily dated cash register receipts, sales books; duplicate bank deposit slips and bank statements.

These issues are discussed in greater detail in the following sections of this report.

Lack of Controls over Cash Receipts

Lack of a Cash Register or a Point of Sale System

Food Craft does not have a cash register, point of sale system (POS), or any other device to record its transactions for banquets and restaurant sales, in violation of Article 9.6 of its license agreement. As a result, we cannot be assured that all sales were recorded on Food Craft's books and reported to Parks and that the appropriate license fees were paid to the City. Food Craft's license agreement states:

Licensee shall record all transactions involved in the operation of this License on cash registers and keep books and records as required by Section 4 and as deemed acceptable by the Commissioner.

According to the operator of Food Craft, all payments received are kept in the safe until they are deposited in the bank.

A cash register, POS system, or other device to record Food Craft's banquet and restaurant sales is a basic business tool that ensures all sales are recorded when the transaction takes place. Without a cash register or POS system, there is no evidence that all sales were recorded by Food Craft and reported to Parks and that the appropriate license fees were paid to the City.

Incomplete and Inaccurate Cash Receipts Journal

Food Craft does not record the details of all transactions involving the receipts of cash from its operation of the restaurant and banquet hall in its cash receipts journal. As a result, we cannot be assured that all cash generated from the operation of the restaurant and banquet hall was entered on Food Craft's books and records. We, therefore, cannot be assured that all sales transacted at the licensed premises were reported to Parks or that Food Craft paid the appropriate license fees due the City.

Specifically, the records presented to us as a cash receipts journal lacks basic information such as the date cash was received, the dollar amount received, and the patron from whom the cash was received. Instead, Food Craft’s so called “cash receipts journal” includes dates of bank deposits, total dollar amount deposited in the bank on a certain date—regardless of the number of individual deposits—and patrons identified only as “Customer Deposit, Banquet.” For example, for the period of April 1, 2008, through April 30, 2008, Food Craft recorded just one receipt of cash from “Customer Deposit, Banquet” on April 30, 2008—despite making 37 separate deposits in the bank over seven days during April.

According to the operator of Food Craft, all cash receipts are deposited in the bank, and the bank statements, therefore, record all receipts of cash. However, without a correctly maintained cash receipts journal, we were unable to trace individual transactions to the bank statements to determine if all cash received was recorded and deposited in the bank.

Further, Food Craft does not issue pre-numbered receipts to its patrons who pay in cash or checks (i.e., non-credit-card sales), and does not always retain copies of checks received from patrons. Thus, it is virtually impossible to trace cash and checks received from patrons to any particular sales transaction of the restaurant and the banquet hall.

A complete and accurately maintained cash receipts journal that records all individual transactions of receipt of cash is a basic accounting record over non-credit-card sales activity in the operation of the restaurant and the banquet hall. It adds assurance that all cash received is recorded in an entity’s books and records and is reconciled with the bank statements to verify that all cash receipts were deposited in the bank. Without a properly maintained cash receipts journal, there is no evidence that all cash receipts were recorded on Food Craft books and records, deposited in the bank, and reported to Parks, and that the appropriate license fees were paid to the City.

Lack of Controls over Banquet Contracts

Food Craft does not issue pre-numbered contracts in sequential order to patrons who schedule banquets at its facility. As a result, we cannot be assured that all revenue from banquet activity was recorded on Food Craft’s books and reported to Parks and that appropriate rent was paid to the City.

Moreover, our review revealed that instead of issuing pre-numbered banquet contracts, it appears that Food Craft stamped the contract numbers—starting with 500—on its contracts.¹ In fact, banquet contract numbers were stamped in ink on each page of the contract and were not necessarily stamped in the same place on each page. In some cases, a banquet contract had two different banquet contract numbers stamped on it. In one case, Food Craft wrote the banquet contract number on the first page of the contract then stamped it, but did not stamp the number on pages two and three. As a result, pages two and three bore only the carbon copy of the number that had been written on the first page. In another case, one banquet contract number was used on two different contracts.

¹ The contract numbers prior to #500 appear to be pre-numbered and not stamped.

Further, when we reviewed the banquet contracts for our sample of banquets that took place between June 1, 2008 and September 30, 2008, we found that banquet contract numbers are not always issued in sequential order. For example, our sample of banquets showed that Food Craft entered into two banquet contracts—banquet contract #604 and #620 on January 21, 2008. However, ten days later on January, 31, 2008, Food Craft entered into two additional banquet contracts—# 610 and #611.

In another example, our sample of banquets showed that Food Craft entered three contracts—#650, #663, and #655—from April 5, 2008 to April 17, 2008, that were not issued in sequential order as illustrated in Table I, below.

Table I

Banquet Contracts Issued Out of Sequence

Contract Date	Contract Number
April 5, 2008	650
April 13, 2008	663
April 17, 2008	655

The banquet contract numbers for events held during our sample period included #418 to #721—a range of 303 contract numbers. While Food Craft was able to account for all 303 banquet contract numbers, we question the veracity of some of the banquet contracts that were voided or were for banquets that were held outside our sample period. For example, on December 5, 2007, Food Craft entered into three contracts with a patron—banquet contract #576, #577, and #578—for three luncheons for 100 people each to take place on August 11, 12, and 13, 2009, respectively. We question these banquet contracts because the banquet contracts were in exceptionally good condition compared to other contracts signed around the same time. The luncheons are scheduled for weekdays—Tuesday, Wednesday, and Thursday—and, were booked 19 months in advance without a deposit. In another example, on May 25, 2007, Food Craft entered into two contracts with an organization—banquet contracts #675 and #664—for two luncheons for 50 people on July 20, 2009, and July 21, 2009, respectively. Again, we question these banquet contracts because the banquet contracts were in exceptionally good condition compared to other contracts signed around that time. The luncheons are scheduled for weekdays—Monday and Tuesday—and, were booked 26 months in advance without a deposit.

Issuing pre-numbered contracts in sequential order provides a fundamental internal control mechanism to ensure that all banquet revenue is accurately reported in Food Craft’s books and records and consequently reported on the quarterly gross receipts statements it submits to Parks. Maintaining a complete log of all banquet contracts in sequential order (including voided and unused contract numbers) provides assurance of the proper accounting of all banquet contracts. Without pre-numbered banquet contracts, there is no evidence that all

banquet revenue was recorded on Food Craft books and records and reported to Parks and that appropriate rent was paid to the City.

Lack of Controls over Banquet Revenue

Food Craft cannot account for all the revenue from banquets. During our sample period, June 1, 2008, to September 30, 2008, Food Craft reported that 62 banquets were held that generated revenue totaling \$435,870.

However, we could not reconcile within \$1,000 the total contract dollar amounts for 16 of the 61 banquet contracts with the amounts recorded on Food Craft's Monthly Contract Summary and the amounts Food Craft reported on the monthly gross receipts statement it provided to Parks. Specifically, Food Craft underreported 13 banquet contracts, totaling \$58,536, and overreported three banquet contracts, totaling \$16,549. It should be noted that Food Craft did not have a contract for one of its banquets, which generated revenue totaling \$1,000.

Further, we could not trace \$168,800 from the Food Craft's Monthly Contract Summary to deposits recorded on the bank statements for 50 of the 61 sampled contracts. Specifically, we could not trace all cash receipts because cash was commingled, copies of checks were not retained, and credit card transactions were unaccounted for. While Food Craft explained that cash receipts were recorded and deposited up to two months after an event, we were unable to verify these assertions because of the weaknesses in its internal controls over its cash receipts.

Lack of Accounting for Banquet Invoices

Food Craft does not issue pre-numbered invoices to patrons making payments for banquets at the facility. In fact, in many instances, banquet invoices were not on file at Food Craft. As a result, we cannot be assured that all invoices from banquets and the revenue were recorded on Food Craft's books and reported to Parks and that the appropriate license fees were paid to the City.

During the period June 1, 2008, to September 30, 2008, Food Craft reported that 62 banquets were held that generated revenue totaling \$435,870. Of the 62 banquets Food Craft reported, there were no invoices on file for 12 (19.35 percent) of these events, which generated revenues totaling \$89,133.

In addition, we could not reconcile within \$1,000 the dollar amounts recorded on 15 of the remaining 50 invoices to the dollar amounts patrons actually paid and the amounts Food Craft reported on the monthly gross receipts statement it provided to Parks. Specifically, Food Craft underreported to Parks the amount listed on 11 invoices, totaling \$30,143, and overreported four banquet invoices, totaling \$16,549. As a result, Food Craft owes \$1,980 in additional license fees, including interest and penalties, to the City.

Issuing pre-numbered invoices would provide a basic internal control mechanism to ensure that all banquet revenue is accurately reported in Food Craft's books and records and consequently reported on the monthly gross receipts statements it submits to Parks.

Maintaining a complete accounting of all banquet invoices in sequential order (including voided and unused invoice numbers) provides assurance of the proper accounting of all banquet invoices. Food Craft's lack of proper accounting of banquet invoices provides no assurance that all banquet revenue was recorded on Food Craft books and records and reported to Parks or that the appropriate license fees were paid to the City.

Other Internal Control Weaknesses over Banquet Revenue

As stated previously, because of Food Craft's lack of basic controls over banquet contracts and invoices, we could not ascertain whether it reported all banquet revenue to Parks. However, we were able to perform testing of the banquet records provided for the period June 1, 2008, to September 30, 2008. Based on our review of documentation provided by Food Craft (i.e., banquet event calendar, monthly gross receipts statements, monthly contract summaries, and supporting documentation of actual events), we identified several types of irregularities shown in Table II, below.

Table II

Banquet Event Record Irregularities

Types of Irregularity	Number of Irregularities
Events recorded on banquet calendar book but not recorded on monthly gross receipts statements	78
Events on monthly gross receipts statement but not on banquet calendar book	3
Events recorded on banquet calendar without any supporting documentation of the actual event	78
TOTAL	159

Without the proper internal controls in place over revenue collection and record keeping, Food Craft has violated its license agreement. As a result, Parks cannot be assured that all revenue from Food Craft's banquet operation is being accurately reported and the appropriate license fees are being paid to the City.

Lack of Accounting of Restaurant Guest Checks

For our audit period, March 1, 2007, to September 30, 2008, Food Craft reported \$29,687 in revenue from restaurant sales or approximately \$1,649 per month in restaurant revenue.

However, Food Craft records did not account for 237,587 restaurant guest check numbers for that period. Consequently, Food Craft cannot demonstrate, and we cannot be assured, that all gross receipts from restaurant operations were recorded on Food Craft's books and reported to Parks and that appropriate license fees were paid to the City.

Food Craft issues pre-numbered restaurant guest checks to patrons who order food and beverages at the restaurant and who make payments for scheduled banquets. According to Food Craft's records, the restaurant guest check numbers for the audit period March 1, 2007, to September 30, 2008, began with #336211 and ended with #574000. Thus, it would appear that 237,790 restaurant guest checks were used during the audit period. However, Food Craft's books and records could account for only 203 restaurant guest checks, of which 167 restaurant guest checks were used during the audit period. Of the remaining 237,587 restaurant guest checks:

- 1,715 restaurant guest checks were missing between guest check numbers 336211 and 338000,
- All 233,709 restaurant guest checks were missing between guest check numbers 338001 and 571709, and
- 2,163 restaurant guest checks were missing between guest check numbers 571710 and 574000.

It should be noted that as part of our initial testing of restaurant revenue, on August 28, and September 4, 2008, auditors under the guise of patrons dined at the restaurant to observe Food Craft's restaurant in operation. However, during our testing we were unable to find in Food Craft's books and records the two guest checks—572208 and 571776— issued during our observations.

According to Food Craft's accountant, guest checks are not used to report restaurant sales. He stated that there is no system to keep an accurate account of restaurant sales. Instead, he reconciles the deposits on Food Craft's bank statements to events on the Monthly Contract Summary. The dollar amount that cannot be reconciled to an event is then reported to Parks as restaurant sales.

Since Food Craft cannot account for missing guest checks numbers and restaurant sales and it cannot demonstrate that all restaurant revenue was recorded in its books and records and reported to Parks, and we cannot be assured that Food Craft paid the appropriate license fees to the City.

Food Craft Is Not in Compliance with Other Provisions of Its License Agreement

Violated Provisions of New York State Labor Law

Food Craft reported \$205,854 in service charges during the audit period from March 1, 2007, to September 30, 2008. However, Food Craft distributed only 23 percent of these service charges/gratuities to its wait staff. The remaining 77 percent of the service charges/gratuities collected from banquet and restaurant operations was either retained by Food Craft or distributed to other staff, including its general manager, restaurant operator, chefs, and cooks. This is a violation of New York State Labor Law, and Food Craft is not in compliance with its license agreement. In fact, Food Craft retained 61 percent (\$124,584) of the service charges and reported it as profit.

Specifically, Food Craft is in violation of Labor Law Section 196-d, Division of Labor Standards, New York State Department of Labor. According to a New York State Department of Labor opinion dated March 26, 1999,

If the employer's agents lead the patron who purchases a banquet or other special function to believe that the contract price includes a fixed percentage as a gratuity, then that percentage of the contract price must be paid in its entirety to the waiter, busboys and "similar employees" who work at that function, even if the contract makes no reference to such a gratuity.

Further, a New York State Court of Appeals decision dated February 14, 2008, states;

We hold that the statutory language of Labor Law §196-d can include mandatory charges when it is shown that employers represented or allow its customers to believe that the charges were in fact gratuities for its employees. An employer can not be allowed to retain these monies.

Food Craft's violation of New York State Labor Law also puts it in noncompliance with its license agreement with Parks. Article 20.1 of the Food Craft's license agreement states:

Licensee shall comply with and cause its employees and agents to comply with all laws, rules, regulations and orders now or hereafter prescribed by commissioner, and to comply with all laws, rules, regulations and orders of any City, State or Federal agency or governmental entity having jurisdiction over operations of the License and the Licensed Premises and/or Licensee's use and occupation thereof.

Food Craft is representing these service charges as gratuities. According to New York State law, all service charges should have been distributed to wait staff who worked at each function.

Not Fully Operating a Restaurant

For our audit period, March 1, 2007, to September 30, 2008, Food Craft reported \$29,687 in revenue from the restaurant sales. However, according to Food Craft officials, World Fair does not operate a restaurant. Instead it operates as a catering facility, in violation of its license agreement. According to Article 1.1 of the Food Craft's license agreement:

Commissioner hereby grants to Licensee and Licensee hereby accepts from the Commissioner this license to renovate and operate a restaurant and catering facility at the Licensed Premises for the accommodation, enjoyment and convenience of the public in accordance with the terms herein and to the satisfaction of the Commissioner.

During our three unannounced observations to assess controls over restaurant sales, we noted that there were no other restaurant patrons at World Fair. In fact, on one observation we were turned away because World Fair had two banquets that day.

On our initial unannounced observation Thursday, August 28, 2008, auditors under the guise of patrons attempted to have lunch at World Fair. Initially, the auditors were told that restaurant serves only parties of at least ten people and does not serve individual guests. However, when one of the auditors went back to use the restroom, one of the owners asked her if she came in for lunch. The auditor said yes and the owner seated them. There were no other patrons in the restaurant.

On Saturday, August 30, 2008, the auditors made a reservation, which was accepted, and attempted to have dinner at the restaurant. However, the manager of World Fair informed the auditors that the restaurant could not serve them that night because it had two banquets. He told them that World Fair could not take any reservations for the weekends and suggested that they come back on a weekday. When the auditors returned to World Fair for dinner on Thursday, September 4, 2008, they noted no other patrons in the restaurant. The only other people in the restaurant were a World Fair employee dining with an unidentified woman.

Since Food Craft is not fully operating a restaurant, it may not be maximizing the facility's earning potential. As a result, the City may be losing money that it would have been paid in additional license fees.

Food Craft Owes \$18,646 in Water and Sewer Charges

According to the New York City Department of Environmental Protection's Account Receivable Transaction History Report, Food Craft owes \$18,646 in water and sewer charges, as of March 18, 2009. According to Article 7.1 of Food Craft's license agreement:

Licensee, at its sole cost and expense, shall directly pay for all utility costs associated with Licensee's construction and operations at the Licensed Premises. . . . Utilities as described in this Agreement, may include, but shall not be limited to, electricity, gas, heat, coolant, telephone, water and sewer charges.

Issues with Capital Improvements

Food Craft carried out 18 of 29 required capital improvements specified in Exhibit D of its license agreement. (See Appendix I.) However, for the remaining 11 required improvements, we noted seven cases for which improvements were not done and could not substantiate four. We observed the following deficiencies (see Appendix II for photographs):

- Dysfunctional fountain plumbing including clogged drains and inoperable piping. Spalled and chipped portions of the concrete parapet, coping, and fountain base. Fountain statue paint flaked and peeling.
- Broken parapets and spalled concrete at portions of the garden wall.
- Damaged wood trim and railings, and flaked and spotty painting at gazebo and trellis.
- Damaged caulking around dining area skylight.
- Portions of discolored and waterlogged ceiling plaster.
- Missing tiles at kitchen floor.
- Missing sprinkler heads.

Furthermore, four required improvements could not be substantiated. According to Food Craft, exterior aluminum siding was painted—not replaced. The concessionaire also contended that it fulfilled the requirement to provide new exterior lighting by installing “string” lighting in the outdoor landscaping. In another case, there was no evidence of a mirror ceiling that was to be removed. In the final case, the concessionaire constructed a sloped tile wall and waterfall rather than repair the aquarium. According to the concessionaire, the modification was necessitated and approved by Parks because of a problem with sealing the aquarium effectively. However, in all four cases, Parks should have certified in writing or modified the license agreement its authorization to change or cancel the required improvements.

In another matter, we note that Exhibit D of the license agreements requires the concessionaire to carry out repairs or replacements to various building elements (e.g., repair garden wall, repair roofing system) for 11 of 29 items, despite the fact that license agreement §11.1 specifies that “Licensee shall, at its sole cost and expense . . . put, keep, repair and preserve in good order the Licensed Premises.” Given this stipulation, Parks should have excluded the 11 repair items from the list of the 29 required capital improvements. Had Parks

done so, the repair work could have been carried out by the concessionaire at its own expense—not as part of the required capital improvement expenditures under Exhibit D.

Finally, Food Craft reported \$239,134 in capital improvements. However, we question \$229,134 of these capital improvements because Food Craft had inadequate supporting documentation. Specifically, the supporting documentation lacked one or more of the following: requests for work, invoices, records of payments, and written approval by Parks.

RECOMMENDATIONS

Food Craft officials should:

1. Pay the City the additional \$1,980 in license fees and late charges assessed in this audit report.

Food Craft's Attorney Response: "In response to the recommendation that World's Fair Marina repay the City the additional \$1,980 in license fees and late charges the World's Fair Marina has previously paid the original \$675 that was the figure provided in the original draft report and will now pay the remaining \$1,305. The checks for payment are attached hereto as Exhibit F."

Parks Response: "On June 9, 2009 Food Craft submitted a payment to Parks in the amount of \$675 to begin to address the amount due in Recommendation 1 of the Preliminary Draft Report. In our NTC [Notice to Cure] to Food Craft, Parks has demanded payment of the remaining amount of \$1,305 within thirty (30) days."

2. Take immediate action to strengthen its internal controls over the financial operations of the restaurant, the bar, and banquet hall. These actions should include:
 - Creating and maintaining a complete and accurate cash receipts journal that records all individual transactions of receipts of cash that includes at least basic information such as the date cash was received, the dollar amount received, and the patron from whom the cash was received,
 - Installing and maintaining a cash register, point of sale system, or other device to record its banquet and restaurant sales, and
 - Issuing sequentially pre-numbered banquet contracts, invoices, and restaurant guest checks.

Food Craft's Attorney Response: "In response to the recommendation that the World's Fair Marina take immediate action to strengthen its internal controls over its financial operations, the World's Fair Marina has taken the following steps:

- A. As of February 2009, long before the receipt of these recommendations, World's Fair Marina installed and implemented CATEREASE, a state of the art POS [Point of Sales] system, specifically tailored to catering establishments in place of the sequentially numbered banquet contracts, after the system was reviewed and approved by the Parks Department. (see Exhibits A, B). The system together with Quickbooks which has also been installed, fully complies with the criteria requested by the Audit."

Parks Response: “In its NTC, Parks has directed Food Craft to fully comply with Recommendation 2. Food Craft has already installed a point-of-sale system for its catering services, which automatically creates sequentially pre-numbered banquet contracts and invoices and provides an electronic banquet calendar to clearly indicate scheduled events. Food Craft has also improved its controls over its restaurant sales and is retaining all sequentially pre-numbered guest checks and is entering each restaurant sale through its cash register. Through the NTC, Parks is now also directing Food Craft to purchase a point-of-sale system to record its restaurant sales. These improvements represent but a beginning of the comprehensive internal control improvements that are called for in Food Craft’s operations. As noted at the beginning of this letter, if Parks decides not to terminate this concession in the near term, Parks would instead direct Food Craft to hire a City-selected Financial Monitor, to ensure and verify that Food Craft fully implements Recommendation 2 in a timely manner, among other tasks.”

3. Distribute *all* service charges to its wait staff who worked at each function, in accordance with Labor Law Section 196-d, Division of Labor Standards, New York State Department of Labor.

Food Craft’s Attorney Response: “In response to the Audit recommendation that all service charges should be distributed to the waiter staff, we disagree and would like to review the position with counsel for the City. The Worlds Fair Marina service charges are not gratuities within the meaning of Labor Law Section 196-d, the New York State Department of Labor opinion dated March 26, 1999 and the New York State Court of Appeals decision dated February 14, 2008. They are distinguishable from gratuities as the customers were told to give gratuities directly to the staff (see Exhibit F, attesting thereto). In the event counsel for the City resolves that reimbursement is warranted we will not object to reimbursement. In further support of our position, we annex a customer’s statement that he was told to give gratuities directly to the staff, whereas the service fee was paid to the establishment. Going forward, we propose to include in the contracts a clarification that the service charges are not gratuities and that all gratuities should be given directly to the staff.”

Parks Response: “Parks has referred to the Law Department the issues raised in Recommendation 3, and will make a determination covering said issues once it has received the Law Department’s advice.”

Auditor Comment: Contrary to Food Craft’s Attorney’s response, Food Craft does treat service charges as gratuities. Specifically, invoices presented to its patrons show that services charges were added to the bill *after* calculating sales tax, which indicates that services charges are gratuities since no sales tax was charged or calculated. In fact, some of the Food Craft invoices identified the additional charge as a “gratuity.” In addition, Food Craft’s general ledger separates banquet revenue, sales tax on banquet revenue, and service charges. If service charges were banquet revenue, as alleged by Food Craft’s Attorney, rather than a gratuity, Food Craft should have included the service charges in revenue and paid sales tax on that amount. Finally, Food Craft’s payroll records, including W-2 forms submitted to each employee and the Internal Revenue Service,

indicated that Food Craft does collect gratuities, however, only 23 percent of gratuities was distributed to its wait staff.

Obviously, Food Craft is representing and treating service charges as gratuities. However, instead of distributing all of the service charges/gratuities collected to its wait staff, Food Craft either retained or distributed it to other staff, including its general manager, restaurant operator, chefs, and cooks. In fact, as previously stated, Food Craft retained 61 percent (\$124,584) of the service charges and reported it as profit.

4. Operate a restaurant at the facility, as required by its license agreement.

Food Craft's Attorney Response: "In response to requirement for a restaurant on the premises; World's Fair Marina, has been operating and continues to operate restaurant services on the premises. There is a restaurant menu, and waiters to serve food. Unfortunately, there are few clients for a restaurant as there is no local population and the exit from the highway has been shut down. We are working with the Parks department on improving accessibility to the premises."

Parks Response: "Food Craft is required by its Agreement to operate a restaurant, and Food Craft's management understands this responsibility. We have worked with Food Craft to establish a temporary operating schedule for lunch and dinner (which has been in place for several months) that Food Craft is mandated to follow and that Parks is monitoring for compliance. There is not a large public demand for walk-in dining at this facility due to its location. Therefore, there are times when Parks will allow, with appropriate notice, the Restaurant to be closed to walk-in diners if both the first and second floor dining areas are being substantially used for events by Food Craft customers."

5. Immediately, pay all outstanding water and sewer charges related to the licensed premises.

Food Craft's Attorney Response: "In response to the requirement to pay all outstanding water and sewer charges, these have been paid and annexed hereto as Exhibit I are copies of said payments, totaling \$20,976.69. The only reason they had not been paid earlier, was that they had not been billed until recently."

Parks Response: "In its NTC, Parks had directed Food Craft to immediately (within 30 days) pay all outstanding water and sewer charges related to the licensed premises."

6. Complete all required capital improvement work.

Food Craft's Attorney Response: "In response to the requirements of the capital improvement work, the present ownership of the World's Fair Marina, has been diligent to complete the improvements. Aside from the fountain improvement which was paid for but has not yet been completed, upon information and belief, all of the other required capital improvement work has been performed. Photographs attesting to the improvements as annexed hereto as Exhibit G."

Parks Response: “In its NTC, Parks has reminded Food Craft that it must complete all capital improvement work in a manner that satisfies the requirements of the Agreement. Specifically, we have directed Food Craft to complete improvements to the fountain/pool area, to repaint the fountain/pool statue, provide new exterior lighting, and to restore partially damaged areas around the premises, such as the wood trim and railings at the gazebo. These improvements must be completed no than September 18, 2009.”

Parks should:

7. Issue a Notice to Cure requiring the payment of the additional \$1,980 license fees and late charges due from Food Craft management assessed in this audit report.

Parks Response: “We have addressed Recommendation 7 by issuing an NTC to Food Craft requesting payment of the additional license fees and late charges due the City.”

8. Consider terminating the agreement.

Parks Response: “[W]e note that the Comptroller suggests that Parks consider terminating its Agreement with Food Craft. Parks concurs with the Comptroller as to the serious nature of the concerns regarding Food Craft’s fitness. We will advise the Comptroller once a determination is made concerning termination or continuation of this Agreement.”

9. If for reasons presently unknown to us and Parks decides to continue this agreement, Parks should assign a Parks employee to closely monitor Food Craft’s operations through the remainder of the contract period to ensure that the appropriate license fees are paid.

10. Issue a Notice to Cure mandating that Food Craft management:

- Establish and implement an adequate system of internal controls over the financial operations of the restaurant, the bar, and banquet hall,
- Distribute all service charges in accordance with the New York State Labor Law, and
- Complete all required capital improvement work.

Parks Response: “We have also addressed Recommendations 8, 9 and 10, by issuing an NTC to Food Craft and by requiring, in the event that Parks decides not to terminate this concession in the near term, Food Craft to hire a DOI [Department of Investigation]-approved Financial Monitor to ensure that it implements the Recommendations outlined in the Report.”

Auditor Comment: We are pleased that Parks has taken steps to strengthen its monitoring of Food Craft. However, we are concerned that a Financial Monitor that is hired and paid by Food Craft would impair its ability to independently monitor and report any deficiencies to Parks and DOI.

11. Ensure that all modifications to capital improvement requirements are approved and documented with formal agreements with the concessionaire.

Parks Response: “Regarding Recommendation 11, Parks will continue to document any modifications to the capital improvement requirements. Any such changes must be approved by Parks in writing.”

12. Ensure that all repair and maintenance work be excluded from license agreement provisions that require concessionaires to expend funds for capital improvements.

Parks Response: “Regarding Recommendation 12, we note that the subject matter of this Report was Food Craft’s compliance with the existing Agreement, which contains a specific list of improvements to the premises for which Food Craft was responsible. While the Agreement denominates those as ‘capital’ improvements, the critical factor for compliance purposes was whether or not Food Craft made the improvements, rather than what they are called. Parks remains willing to discuss with the Comptroller’s Office any question or differences it may have concerning the types of improvements that are defined as capital improvements in future concession agreements as they arise, but such matters are not relevant to Food Craft’s current compliance status. Parks will continue to ensure that Food Craft complies with all of its capital requirements as they are set forth in detail in the current Agreement.”

Auditor Comment: A capital improvement is an addition to real property that substantially adds to the value of the real property. By including maintenance and repairs, which are already required in the license agreement, in capital improvements, Parks is relieving Food Craft of its responsibility to improve and add value to City property, which is in the best interest of the City.

Exhibit D

Capital Improvements

The following Capital Improvements shall be completed no later than January 31, 2004:

- Repair and Paint Cornice on the building's exterior.
- Repair or replace windows as needed including glass frame and trim.
- Scrape and paint the building throughout.
- Provide new improved landscaping.
- Repair garden wall.
- Provide new signage and canopy at entryway.
- Paint and repair Gazebo trellis and sculpture in garden court area.
- Provide new hex-block paving at entryway and patio. Re-grade pavement to eliminate ponding at entry.
- Provide new siding to the exterior.
- Provide new exterior lighting.
- Repair or replace all exterior doors, including front doors.
- Provide new locks and trim around doors.
- Provide a screen for exterior air conditioner unit along promenade.
- Repair skylights in lobby and dining area to eliminate all leaks.
- Repair damage to floors and ceilings as a result of skylight leaks.
- Make improvements to bar area, including flooring, fixed equipment and back bar.
- Provide grease traps at all sinks to NYC Building Code Standards. The concessionaire will be required to arrange for regular maintenance and cleaning of all traps.
- Repair kitchen floor.
- Provide new fixed kitchen equipment including but not limited to stoves, grilles, refrigeration and ice making equipment on an as needed basis.
- Provide new fixtures and tiling in all restrooms.
- Provide new carpeting throughout.
- Provide new tile areas at bars.
- Upgrade interior lighting, i.e. new fixtures in cove areas, replace large lighting fixture in catering space, etc.
- Remove mirror ceiling in catering space and provide new ceiling.
- Replace sprinkler heads as required.
- Refinish entry area woodwork.
- Repair and reinstate aquarium.
- Repair and reinstate fountain/pool, repair and repaint fountain/pool statue

and provide lighting for fountain/pool.

The following Capital Improvement shall be completed no later than January 1, 2006:

- Repair roofing system of the restaurant.

Photograph #1, Spalled and Chipped Concrete at Fountain Base



Photograph #2, Clogged Drain at Dysfunctional Fountain



Photograph #3, Broken and Cracked Garden Wall Concrete



Photograph #4, Damaged Wood Trim at Gazebo



Photograph #5, Damaged Caulking at Skylight



Photograph #6, Waterlogged Ceiling Plaster



Photograph #7, Missing Tiles at Kitchen Floor



Photograph #8, Missing Sprinkler Heads



YORAM NACHIMOVSKY, ESQ.

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New York, N.Y. 10007
NYBizLaw@uol.com
212 267-1157
Fax: 212 267-1199

August 6, 2009

Office of the Comptroller
City of New York
1 Centre Street
New York, NY 10007

Re: *World's Fair Marina: Response to Audit Report*

To Whom It May Concern,

We are the attorneys for Food Craft Inc. (referred to in the audit as "World's Fair Marina Restaurant and Banquet" and herein as "World's Fair Marina"). This response together with its supporting documentation, represents the response of the World's Fair Marina to the recommendations contained in the New York City Comptroller's Draft Audit Report ("the Audit") dated July 24, 2009.

1. In response to the recommendation that World's Fair Marina repay the City the additional \$1,980. in license fees and late charges the World's Fair Marina has previously paid the original \$675. that was the figure provided in the original draft report and will now pay the remaining \$1305. The checks for payment are attached hereto as Exhibit F.

2. In response to the recommendation that the World's Fair Marina take immediate action to strengthen its internal controls over its financial operations, the World's Fair Marina has taken the following steps:

- A. As of February 2009, long before the receipt of these recommendations, World's Fair Marina installed and implemented CATEREASE, a state of the art

POS system, specifically tailored to catering establishments in place of the sequentially numbered banquet contracts, after the system was reviewed and approved by the Parks Department. (see Exhibits A, B). The system together with Quickbooks which has also been installed, fully complies with the criteria requested by the Audit.

3. In response to the Audit recommendation that all service charges should be distributed to the waiter staff, we disagree and would like to review the position with counsel for the City. The Worlds Fair Marina service charges are not gratuities within the meaning of Labor Law Section 196-d, the New York State Department of Labor opinion dated March 26, 1999 and the New York State Court of Appeals decision dated February 14, 2008. They are distinguishable from gratuities as the customers were told to give gratuities directly to the staff. (see Exhibit F, attesting thereto) In the event counsel for the City resolves that reimbursement is warranted we will not object to reimbursement. In further support of our position, we annex a customer's statement that he was told to give gratuities directly to the staff, whereas the service fee was paid to the establishment. Going forward, we propose to include in the contracts a clarification that the service charges are not gratuities and that all gratuities should be given directly to the staff.

4. In response to requirement for a restaurant on the premises; World's Fair Marina, has been operating and continues to operate restaurant services on the premises. There is a restaurant menu, and waiters to serve food. Unfortunately, there are few clients for a restaurant as there is no local population and the exit from the highway has been shut down. We are working with the Parks department on improving accessibility to the premises.

5. In response to the requirement to pay all outstanding water and sewer charges, these have been paid and annexed hereto as Exhibit I are copies of said payments, totaling \$20,976.69. The only reason they had not been paid earlier, was that they had not been billed until recently.

6. In response to the requirements of the capital improvement work, the present

ownership of the World's Fair Marina, has been diligent to complete the improvements. Aside from the fountain improvement which was paid for but has not yet been completed, upon information and belief, all of the other required capital improvement work has been performed. Photographs attesting to the improvements are annexed hereto as Exhibit G.

Additional Response Statement:

We have been involved with the World's Fair Marina since the present owners have taken over the license approximately five years ago. We were present before the beginning of the audit process and were present for meetings with Parks as well as the conference with the auditors.

It is clear to us that the conclusion reached by the audit is unwarranted. These owners, Swaran Singh and Veena Bhatara, the shareholders of Food Craft Inc. have worked diligently and produced results on their behalf and on behalf of the City of New York. They have improved the receipts of the business by more than 200 percent over the prior owners. They had an accounting system in place to run their affairs, and were in constant communication with the City, reporting on a monthly basis; and communicating even more frequently as a result of their heavy financial commitment to improve their premises. Had there been a single entity informing them that they should change their accounting system earlier, they would have done so. As is clear from this audit, the World's Fair Marina has tried to be transparent in their business operations, but none of their explanations have found their way into the Final Audit Report. The auditors at one of the meetings stated: "We aren't going to include your remediative behaviors." Clearly this is a violation of GAGAS, as indicated by the CPA letter. Upon information and belief, the auditors knew that their statement regarding the missing thousands of restaurant receipts was false when they included it in their audit report. They included it for the shock value so that they could reach a conclusion that they wanted to get to; namely, that the license should be terminated. This was wrong and the auditors should know better. They sat in the premises for almost six months for the audit. They knew that there were very, very few people who came to this out of the way place for a lunch or dinner. But that didn't matter. The auditors knew that the restaurant business was less than 2 percent of gross

receipts, but they harped on its faults continuously. The auditors also knew that the present owners had built up the business over 200 percent from those before them. But they didn't want to include this in their report. GAGAS requires more than harping on faults.

The auditors knew that the present owners had invested more than \$200,000. in material improvements to the premises, but instead chose to point out a few thousand dollars worth of damages, without acknowledging the investment that was made; or that the repairs were completed prior to the issuance of the final draft. In certain instances, the auditors resorted to pure speculation: " the condition of the contract papers of these three contracts was almost new....." so what? Does that prove anything? What it really proves is that the auditors were less concerned with GAGAS standards then with finding fault with the World's Fair Marina. Why else would they fail to point out every positive point that they knew about the activities of my clients in establishing what has become a premier banquet hall destination despite all the obstacles that exist: The entrance from the highway is closed; there is inadequate signage to reach the premises; the people going to Shea clog the parking lot; there is polluted odors oft times emanating from the waterway which should be treated by the powers that be. Despite all this, my clients who are simple working people have worked diligently and industriously to build up the World's Fair Marina for themselves and for the City of New York. Had the City suggested to them to install a POS system earlier, they would have done so immediately. The City has earned more revenue from my clients than from the prior owners by far, and if my clients can continue, they will undoubtedly build up the business even more. In fact, if the City helps by re-opening the entrance from the highway, the restaurant business may become more than 2 percent of income.

With the new POS system for the catering, already in place for approximately six months and a cash register system for the restaurant, as well as the Quickbooks log of income, the City will have an assurance that even if they sent the same auditors back, there would be no issue about the accounting procedures. Moreover, if the City wants even more supervision, or monitors, my clients would accept that as well. . For the foregoing reasons, it is respectfully requested that my clients be allowed to continue their business for the benefit of all parties, with

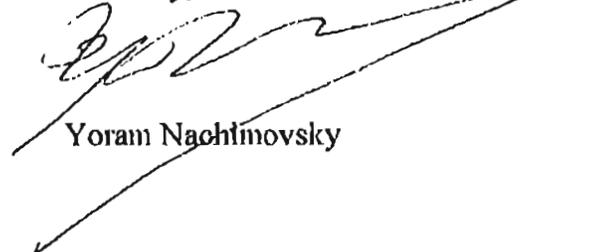
or without additional supervision.

Conclusion:

This letter should not be construed as taking any position with respect to the matters addressed in the audit report except as expressly stated herein, although in the interest of brevity the World's Fair Marina has not included every argument in support of its positions. The World's Fair Marina respectfully reserves all of its rights and remedies with respect to the matters addressed in the Audit and otherwise.

In light of the foregoing, the World's Fair Marina respectfully requests that the Comptroller revisit the conclusions embodied and recommendations made in the draft Audit Report and make changes to accommodate the World's Fair Marina's objections, comments and corrections as stated above prior to issuing the final report. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Yoram Nachimovsky

Cc: Assistant Commissioner
Department of Parks & Recreation
Of the City of New York
The Arsenal
830 Fifth Avenue
New York, NY 10021

Supporting Documentation in Response to Audit

- A. Letter from Phillip Zerillo of Zuccarello Zerillo, & Company, Inc., Certified Public Accountants, who have been hired by Worlds Fair Marina to analyze the Audit report, and have concluded that the GAGAS standards were incorrectly applied by the auditors and that there was an adequate internal accounting system utilized by Worlds Fair Marina.
- B. Letter from Worlds Fair Marina management addressing and responding to the Auditor's Final report, and confirming that they had greatly improved the premises, paid the city more than double the prior owners, and had implemented the majority of the suggestions of the auditors even prior to the issuance of a final draft.
- C. A letter from Vikrant Patel an accountant at J&S Associates, who is the accountant for Worlds Fair Marina. Mr. Patel states that Worlds Fair Marina's accounting practices, while not perfect, are efficient and accurate, and an improvement over the prior owners and that the auditors failed to note all the positives presented.
- D. A letter from Amar Arts, a printing company, stating that they have printed for World's Fair Marina a set of Catering Contracts, sequentially numbered 1-850. Five hundred at once, the balance in lots of fifty. This refutes the allegation of the auditors.
- E. A letter from Mohammad Jafar, a repeat customer of Worlds Fair Marina, who commends the job that they do and confirms that the service charges were separate and not gratuities.
- F. Copies of checks paid for Licensing Fees and late charges, totaling \$1,980.00.
- G. Photographs of required capital improvement work and repairs noted in the audit, having been completed.
- 2nd new lighting fixture on the second floor
 - 3rd repair of garden wall

- The new bridal suite
- Caulking redone on skylights
- Custom made front doors
- Install new parapet wall and lighting
- New awnings
- New bar floor in both rooms
- New carpet
- New chairs, tables, and exterior doors
- New covering for exterior HVAC units
- New custom black bathroom tile
- New garden wall (done 3 times)

- H. Invoice from CATEREASE catering and event management software, ordered and paid for by World's Fair Marina in 2007. This POS system was installed prior to the draft audit report and solves many of the audit accounting concerns.
- I. Checks paid to NYC Water Board -- to pay the current water and sewer bills. Checks total \$20,976.69. The bills were only currently delivered.

FOOD CRAFT INC
 WORLD FAIR MARINA RESTAURANT
 1 WORLDS FAIR MARINA
 FLUSHING, NY 11356-1131

DATE 6/29/08

5215
 1-1002716

PAY TO THE ORDER OF NYC WATER BOARD \$ 3200.00

Thirty two hundred & no/100 DOLLARS

HSBC
 Cam Dept NY 11004

FOR Paul G/2/08 - 6/3/08 Viana Bhatara

WARRANTY: MAKE SURE
 THE CHECK IS
 DEPOSITED IN
 YOUR BANK
 WITHIN 60 DAYS
 OF THE DATE
 OF THE CHECK
 TO AVOID
 PENALTIES

Zuccarello, Zerillo & Company, Inc

Certified Public Accountants

148-29 Cross Island Parkway

Whitestone, New York 11357

Tel: (718) 746-7201

Fax (718) 746-7203

08/6/2009

City Of New York
Office of the Comptroller
Bureau of Financial Audit
William C. Thompson Jr.
1 Centre Street
New York, NY 10007

Re: Food Craft Inc.
Audit Report FL09-067A

Dear Mr. Thompson:

My firm has been hired by Food Craft Inc.(Worlds Fair Marina Restaurant and Banquet) to analyze the preliminary audit report prepared by the auditors from the NYC Comptrollers office. Our firm was established in January 2000. We are Certified Public Accountants registered with NYS Education Department. As a follow up to our letter dated July 10, 2009 we would like to communicate more specifically our differences of opinions with regard to the alleged deficiencies noted by the auditors.

The Scope and Methodology of the audit was not performed in accordance with generally accepted government standards (GAGAS). The GAGAS standards require the auditors to obtain sufficient, appropriate evidence to provide a reasonable basis for their findings. Certain GAGAS standards of fieldwork have not been utilized in writing the final audit report on Food Craft Inc, and as a result the audit unfairly characterizes the Food Craft Inc. operations and has wrongfully caused a detrimental effect on their contract with the NYC Parks Department.

The auditor's report states that they followed GAGAS Standards, and issued an unmodified GAGAS compliance statement. That statement presumes they followed all applicable mandatory GAGAS requirements or used any other unconditional requirements or means and documented them in order to achieve their audit objectives. However, in various sections of the report, they only state the findings and provide no reference that their objectives were not obtainable through alternative procedures or other means. The GAGAS fieldwork standards also state that an auditor must obtain a sufficient understanding of the entity and its environment, including its internal controls, to assess the risks of misstatements. We believe that the auditors may not have obtained a sufficient understanding of Food Craft Inc. and therefore issued a report with numerous findings that would have been clarified had Food Craft Inc. been given the proper

opportunity. When an auditor identifies a deficiency, they should plan and perform procedures to develop the elements of the findings that are relevant and necessary to achieve the audit objectives. In other words substitute measures could help resolve that deficiency or help support their claim.

We reviewed a sample of banquet sales transactions of Food Craft, Inc. as well as the adequacy of the accounting system they had in place at the time of the audit and have determined that if the auditor's had applied the alternative procedures required by GAGAS and clarified some of their uncertainties more specifically with management, they should have been able to achieve the audit objectives set forth.

While the auditor's report noted all alleged deficiencies as required by GAGAS, the auditor's report failed to include many instances of remediation (required by GAGAS to be included). For example:

- A. Immediately upon the suggestion of Parks in February 2009, Food Craft instituted the implementation of a POS system for their banquet business, and a cash register for the restaurant business. Both systems were implemented during the auditor's fieldwork and will provided undisputable evidence for any audits of the current and future periods to easily calculate sales revenue.
- B. The Auditors failed to acknowledge that the present operators of Food Craft Inc. have increased revenue over the prior operators by at least 200%. Instead, the Auditors note without proper basis that the restaurant is not operating to its fullest potential. The auditors also neglect to indicate in their report all the limitations of Food Craft's location and environment such as the exit from the highway to the restaurant has been closed by a governmental entity and there is inadequate signage for travelers to find the restaurant (there is no local population within walking distance). The pollution at times from the low tide of the marina makes it unbearable to breathe. The low flying airplanes of the airport when taking off or landing make it excruciatingly loud and difficult to hear anything when that occurs.
- C. GAGAS standards further require that a level of materiality should be established in the planning stage of an audit. When we analyzed a sample of restaurant patron tickets we noted that restaurant sales are immaterial compared to banquet sales because they represent less than 2% of sales. The noted deficiency should be excluded because it is immaterial. Instead of noting the immateriality, the Auditors tried to use poor recording of restaurant sales as their primary spear into the business of Food Craft, Inc.

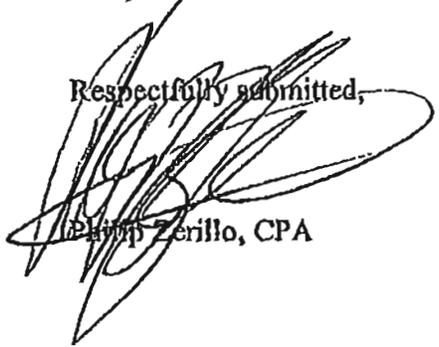
The GAGAS standards state auditors should obtain sufficient appropriate audit evidence from third parties to corroborate management's statements or assertions, such as corresponding with the printer as to the error in numbering the banquet contracts. Upon request, the management of Food Craft Inc. did contact the printer, and the printer provided a letter of explanation. This should have been initiated by the auditors and reflected in their report.

GAGAS reporting standards state that an auditor whose report discloses deficiencies on internal control, should also contain and report the views of management concerning their findings, conclusions or recommendations as well as their planned

corrective actions. These views and comments were provided by management and not incorporated into the auditor's report nor was any response from the auditors provided, which is also a requirement of the GAGAS reporting standards.

It is the collective opinion of Food Craft Inc. and our firm that the final audit report should be revised to be more fairly written and should include all the mitigating factors performed by Food Craft during and after the audit to help demonstrate that their performance of the Licensing agreement was acceptable and compliant, since the documentation provided for the audit, combined with standard GAGAS alternative procedures, as well as a more complete understanding of the operations, would have been able to provide reasonable assurance regarding the sales figures reported to Parks as well as highlighting the 200% plus improvement of revenue over the prior owners.

Respectfully submitted,



Philip Zerillo, CPA



Office of the Comptroller
City of New York
1 Center Street
New York, NY 10007

August 4th 2009

Re: Response to audit report for Food Craft Inc

Dear Sir/Madam,

This letter is in response to the attached audit findings of the NYC comptroller's office. We, as the management of World's Fair Marina, believe that the audit findings are not justifiable due to the fact that despite the detailed responses, explanations and concerns the management submitted to the comptroller's office, our responses were not reflected in the final audit report. During the audit process, we were questioned concerning our contracts and restaurant transactions and we provided legitimate and reasonable answers and explanations for all the questioned contracts. The explanations provided by the management of World's Fair Marina was often verbally discussed as well as documented during the audit. Upon the release of the preliminary report, the same explanations were all documented and respectfully shared with the NYC Comptroller's office. After reviewing the final audit report, we the management of The World's Fair Marina were dismayed when we realized that the auditors failed to acknowledge our answers and explanations. For that reason, the management of The World's Fair Marina will again give their responses to the final audit report.

Please review our responses, and should any additional response be needed, we will be happy to address any explanation/answer in question.

The World's Fair Marina has been existence for over three decades. Our ownership group took over approximately five years ago. Since that time we have completely renovated the facility (beyond the requirements set forth from the Parks Department). We have increased business by over two hundred percent. When we took over The World's Fair Marina had a poor reputation due to mistakes by the prior management in event execution, subpar food, and the facility falling into disrepair and neglect. Since we took over we spent hundreds of thousands of dollars in construction and marketing/advertising, and have built The World's Fair Marina a solid reputation in the world of New York City catering and banquets. We are the most respected South Asian banquet hall in the city and have hosted luminaries from countries around the world.

The management of World's Fair Marina has made every attempt to promote and operate this business in a highly diligent fashion and in alignment with Parks Department requirements. The final findings and conclusions claimed in the audit report, will be addressed in the attached documents.



Most importantly, we have retained the firm of Zuccarello, Zerillo & Company, Inc. Certified Public Accountants, to review the final audit, and their response to the audit report is annexed hereto. Their conclusion, as ours, is that the Audit was not performed in accordance with generally accepted government standards (GAGAS) and that the auditors failed to include the exculpatory elements, leaving just the charges which were unjustified.

Regarding the alleged lack of internal controls over the banquet operation:

As evidenced by two accounting firms, the management of the World's Fair Marina had sufficient internal controls for the audit. We provided sequentially numbered contracts, monthly excel spreadsheets, banquet calendar book and records of deposits. If we had been requested to provide any additional information, we would have done so.

Our preprinted contracts were purchased from a printing company and numbered from 1-1000. The first 500 were all preprinted, while the second 500 were stamp printed by the Printer. The auditors did not verify these details with the Printer, however in response to the initial audit report, we obtained a letter from our printer, confirming that their company did all our contract printing. This letter was not acknowledged or disclosed in the final audit report.

We did have some issues but these were inadvertent and due to a busy booking office with management booking events simultaneously, deposits for some later events were taken and recorded before some earlier ones due. Also we failed to notice a printing company's error, stamping two contracts with the same number. We did book two separate events, for two separate dates on those two contracts, and we did report and deposit all payments from both of those contracts. We have since implemented a newer and even more reliable system and can assure that to the best of our ability this would not be a problem in the future.

The management (after discussing our systems with David Cerron from the Parks Department) decided to update our internal controls systems in February 2009 by purchasing a state of the art catering POS system named CATEREASE. Parks reviewed this system before we implemented it, and approved it before we purchased it. CATEREASE has the ability to issue pre-numbered, sequential contracts on its own. We have been using this system beginning with contract 850 and have used this as the only contract and receipt tool for every contract from number 850. This system provides numbered invoices and keeps a proper backlog in its system to ensure we have significant backup for each and every event. It also solved the problem of having contracts executed out of order, because of its internal sequential numbering.

CATEREASE is beyond industry standards. Most private banquet halls still operate with a simple payment log book and numbered contracts (which we did, substituting a detailed excel spreadsheet for the payment log book). We went above and beyond this by having a banquet record book to confirm all banquet contracts. That is the system which we were using before CATEREASE was implemented. We understand that CATEREASE will provide stronger internal controls, and we are pleased to be operating with this system in place, however it is



important to note that before CATEREASE the World's Fair Marina did keep track of contracts, payments and deposits. Due to the fact that we used an Excel spreadsheet to track and report monthly sales to the Parks Department, we keep track of all money which comes through the doors of our facility.

Before CATEREASE, whenever a monetary final banquet transaction occurred, there was a receipt given (the receipts were printed from an excel document which was created by World's Fair Marina management). Our receipts would state the customer's information and the contract and monetary information as well as the contract number. For all deposits and partial payments, a notation was made on the customer's contract copy as well as the World's Fair Marina's master copy.

We do not believe the auditors allegation that they doubt the veracity of some of our contracts. As most people know, we can not predict when contracts will be booked, for what dollar amount they will be booked for, or for which date they will be booked for. Most banquet customers book events, a year, if not more than a year before a date to ensure their party occurred when they wanted. I don't know why this was an issue with the comptroller stating that certain contracts (both sets which happen to be with two of our best clients) are being questioned. We have told the comptroller's office before that would be more than willing to set up an appointment with these clients for the comptroller to ask them any questions they had regarding the stated contracts, but the auditors did not respond to this request and this notation was not made on the final audit report. Again, the auditors did not seek to determine whether their speculation was in fact founded, and did not reflect our willingness to go a step further and prove the accuracy of our numbers.

At one point, the comptroller's office stated that \$168,800 could not be reconciled. They sent us a breakdown of these contracts and we sent them answers regarding the contracts which they requested, and cleared up the reconciliation, but the auditors did not place that information in their report. Also when it comes down to table II, we had also sent in a detailed response showing the auditors mistakes on this table, but this too was not acknowledged in the final report. The comptroller's office also stated there was a payment of \$1000 which was paid to the facility by management without a contract. We had stated (again both on paper and verbally), that this payment was for the cost of liquor for a private management event. This acknowledgement also did not make it unto the final report.

Also, regarding the banquet reporting, there are a couple of issues we would like to clear up. First of all when the auditors stated that they could not reconcile, that doesn't mean we did not report or deposit the money. It just means there was no copy of check or a credit card receipt was not attached. It doesn't mean the check wasn't deposited, or the credit card batch wasn't closed. The auditors checked our bank statements and saw that these transactions were in fact deposited, but still choose to submit this irreconcilable claim on us. Also, the management never stated that payments from banquets were deposited two months in advance. We stated that some customers have a minimal amount still pending at the end of the event (due to having extra



guests at their event). That money is deposited when it is received. Also, the auditors stated that there were twelve contracts where the final invoice was not in the folder. This does not mean the final invoice was not paid (we actually showed them this fact on our excel spreadsheets and bank statement). This just means that the invoice may have been misplaced.

Regarding the alleged incomplete Cash Receipts Journal:

We have spoken to David Carron from the Parks Department and the members of the audit team confirming that the excel spreadsheets that we use are in fact cash receipts journals. We have provided both Parks and the auditors with information allowing them to verify our cash receipt journal which shows:

- a. which contract a payment came from;
- b. how much the payment was for, and
- c. Date of deposit.

That is in fact what our excel spreadsheets do and they perform the dual task of reporting the deposit history of our checks and credit card transactions.

Regarding the allegations about the NYS Labor Law:

With regard to alleged violation of the NYS labor laws, we feel that this claim is unfounded and incorrect. The claim was made that the service charge collected from patrons were gratuities and should have been fully disbursed to the employees.

NYS Labor Law Section 196-d, which was cited as being violated, pertains to gratuities not service charges. Also the case cited on the report clearly states that the patrons were lead to believe that the service charge was clearly a gratuity.

Our case can easily be distinguished as we do not tell the patrons(or state on any of the contracts) that the service charge collected is a gratuity or tips which will be given to the employees. In fact we let them know that if they want to give a gratuity, they should give it directly to the staff.

Furthermore, according to Federal Law, "service charges belong to the establishment, become part of its gross receipts and may be retained by the management or distributed to employees in any amount management chooses". All service charge income was reported as sales for tax purposes and to NYC Parks Department.

We have included a letter from a banquet customer stating how we explain the service charge to prospective clients.



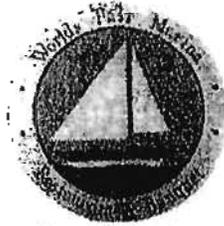
Regarding the restaurant and cash register:

As the restaurant sales are less than 2% of World's Fair Marina gross sales, they really are not significant statistically however contrary to the assertion by the auditors, the World Fair Marina has (since present management took over) operated a restaurant on our premises. The restaurant is open six days a week (it is only closed on these days if a smaller private event is booked on the mezzanine level). The primary problem with the restaurant is that the facility is not easily accessible for restaurant business. Access is poor, signage is poor, at times there is a smell from pollution in the water; and parking is frequently monopolized by baseball attendants at Shea stadium. Despite this, we have always tried to push the restaurant. We added an additional menu. We spruced up the dining room, and just added new banquettes. We also have spent enormous sums of money on advertising and PR to bring new clients to our venue. But our location has great historical value as a catering hall for almost 30 years and that is the reason almost all of our revenue, the lions share of our revenue is from the Banquets and catering. It is our outstanding banquet hall which is helping us produce our highest grossing summer in our brief five year history, far exceeding the efforts of the management before us. While other banquet halls are struggling in this "recession" our quality and high standards have helped us thrive, even in this economic climate.

As there was not a great demand for the restaurant, we bought simple receipt books and when a customer dined at our facility, they were issued these guest checks. The money collected by the wait staff was given to management who would deposit this money in a weekly fashion. Due to the fact that so few customers dined at our restaurant, the management did not notice that not all the restaurant guest checks were being reported to management. The fact that two guest checks (whose guest check numbers and dollar figures still haven't been given to us, despite requests) were not reported to management by the wait staff shocked us. The management has made some staffing and internal control changes (we have since purchased and installed a cash register along with a restaurant sales journal to insure that each and every guest check transaction is reported and deposited in a timely fashion) and to insure that every cent that comes through the restaurant is tracked and reported in a timely fashion.

The auditors made a claim that an absurd number of guest checks went unreported, yet they acknowledge that they did not see a single restaurant customer come in to dine during the times they came to dine, or dining the audit period. To ensure that each and every guest check is accounted for from now on, we have purchased only 100 guest checks. We will purchase the next set after the first set is finished, and after we state to the Parks Department what the next sequential order will be. The claim by the auditors for the missing guest checks is in error. There are so few customers for the restaurant services that this allegation is absurd. Regardless, a new system has been implemented for the restaurant that will allow the auditors even more control.

Regarding the water and sewer charges going unpaid:



We had stated on more than one occasion that the only reason that the water bill came out to this high number was because DEP did not send us a bill in 2008. And like any service, if you are not billed, how is it possible to pay for the service. We have never owed the DEP any money for any service. Once we received this bill, we noticed that there may be an error because in the past we have been told that we may need to have a meter inspection to ensure that the Parks office and restaurant meters are separate. We have waited for this inspection, and when word came in that the bill was ours, we paid it in full. We had stated this to the auditors before, but our comments were not included in the final report.

Regarding the capital improvements to the facility:

We have spent hundreds of thousands of dollars from the designated escrow account and our own pockets to upgrade this facility and transform it into a beautiful facility. We have included pictures of the work that we have done, but we would like to address the issues the auditors had with the capital improvements:

1. We paid money to a contractor for the repair of the fountain and the contractor absconded. We are suing him and proofs of the ongoing court case were given to and explained to the auditors. That is why no further work was done on the fountain until the case is resolved. We do have contractors ready to complete the job.
2. With the winter we had, the garden walls concrete was slightly broken, and then fixed as soon as it was noticed by the ownership. After fixing the wall the photos were submitted to the comptroller before the exit conference.

The wall was damaged by vandals again in the month of July. We have once again repaired the wall (not from the escrow account, but from the restaurant's own account).

3. During the winter (as almost every year), we have damage to the wood of the gazebo, due to the extreme conditions by the marina. After seeing the damage we fixed it and will continue the upkeep as we do every year.
4. We have re-caulked the skylight area to ensure no more leaks.
5. We have submitted a quote to the Parks Department to redo all our ceilings and when the fall comes and business slows down, we will redo all water damaged ceiling areas and then repaint the ceiling and the walls so everything

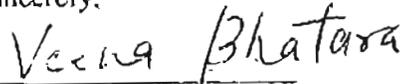


- matches. This is an old building and no matter how many repairs we do, it will always need patchwork
6. We do not have missing tiles. We were redoing those tiles as they are by the busy dishwashing area, and they needed to be redone. They were redone before the exit conference and the photos were submitted to the comptroller.
 7. The sprinkler is inspected every month and when we need new sprinkler heads, they are replaced by our company fire command. The missing sprinklers heads have been replaced.

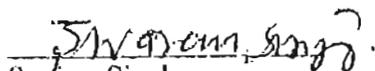
In conclusion, these are our responses to the auditors' final report. The management of The World's Fair Marina believes this audit may not have been conducted in a proper or accurate manner as evidenced by our accountant's statements and an independent CPA statement which are attached. We continue to stand by our statements that any concern and/or issue will be justified by the documents attached. The notion that our system is not adequate and insufficient to the audit procedures does not imply by default that the audit findings and conclusions are correct. The management of The World's Fair Marina has successfully operated this facility for over five years, we have followed every business rule, obliged to all business laws and have not been part of any unethical actions that will prove harmful to the business, any individuals or associations/organizations associated with the business. We look forward to growing The World's Fair Marina as a business by optimizing the business plan and continue building and nourishing our strong relationship with The Parks Department and other prominent NYC organizations.

Finally, we had paid the Parks Department the \$675 dollars stated in the previous report. Then without explanation to the World's Fair Marina or the Parks Department, that amount was increased to \$1,980. Whenever the Parks Department asks us for the remainder of this amount, we are ready to send the check.

Sincerely,



Veena Bhatara



Swaran Singh



J & S ASSOCIATES
Accountants & Tax Consultants

Vijay R. Patel, M.S., MBA
Shrikant Nadkarni, CPA
Vikrant Patel, Sr. Accountant

190 Jerusalem Avenue, Levittown, N.Y. 11756
Tel. (516) 796-6160 * Fax (516) 796-0214
E-mail: vijay@jnsassociates.com

July 6, 2009

Re: Audit of Food Craft, Inc. – DBA: World's Fair Marina

To Whom It May Concern:

I am the accountant for the World's Fair Marina, and I am familiar with the facts and circumstances of the present audit of my client's account

As confirmed by the accounting firm *Zuccarella, Zerillo & Company, Inc.*, the internal control methods utilized by my client were adequate for the purpose of running their business and accurately reporting revenue to NYC Parks Department. Since taking over the business, my client has increased the revenue of the business every year and sales are up more than 200% over the prior owners. The auditors failed to note this in the Audit and instead chose to highlight only the negative, contrary to the GAGAS directives. In light of the major improvements my clients have made in both the structure and the business of the World's Fair Marina, the audit should have provided the positive as well as the negative data. The premises are much improved since my clients have taken over, and the City has received twice as much revenue from my clients as from their predecessor. The Audit was conducted over a six month period and those conducting saw how few people actually came to utilize the restaurant services and they acknowledge that few came to the Restaurant. For the entire time that I have worked with the World's Fair Marina, their restaurant sales have been less than 2 percent of the business, a statistically insignificant number. However the Audit instead of focusing on a 200% increase in revenue, focuses on missing receipts for the Restaurant.

In response to the suggestion of the auditors and six months prior to the Final Draft, we have implemented many improvements in the accounting systems utilized, including but not limited to a POS system, Cash register, Quickbooks and we are willing to include and implement any other reasonable system suggested by the Comptroller's office. Had these systems been suggested earlier, they would have been implemented earlier. To put this in context, why would my clients spend more than \$300,000. in capital improvements at the request of the City, and not be willing to invest 10 or 15 thousand dollars in a POS system at the request of the City. The answer is clear, my clients are interested in working together with the City to maximize revenue and to increase accountability for now and for the future.

The auditors from the Comptroller's office alleged that my client was not in compliance with various issues and when I questioned them on the validity of their findings regarding internal control, their response was that it was weak and that there were many discrepancies. I showed them how to reconcile the system, and went over contract by contract with them, deposit by deposit. The auditors would not listen to our responses. The auditors refused to apply GAGAS to their audit, and instead were seeking to prove a foregone conclusion. Every fact we presented that did not go their way, was left out of the audit. . In my many years of practice, I have been involved with many audits by the government but never before have I been ignored as I was on this audit and during the audit exit conference with the NYC Comptroller's office. Throughout the years, I have dealt with auditors from various government agencies. The present audit reached a wrongful conclusion only because the auditors did not allow me to present or support my client's case. My client's are in compliance with the license requirements and have implemented all the systems suggested by the final draft long before its issuance. They are generating more money for the City than their predecessors by far, and are responsive to any and all suggestions for improvement of the business. The World's Fair Marina is receptive to having a monitor on a weekly or monthly basis if requested to confirm that the systems are in fact completely compliant with the Audit suggestions.

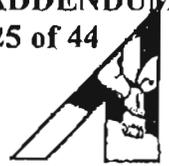
For the foregoing reasons, I respectfully request that my clients be allowed to implement the audit recommendations and continue their operations.

Sincerely,

Vikrant Patel

Vikrant Patel
Sr. Accountant

amar arts



Tel. 718.899.0301 • Fax. 718.899.6301
44-07, 69th STREET • WOODSIDE • NY 11377
amararts@aol.com

July 8th, 2009

TO WHOM IT MAY CONCERN

This is to certify that we did the printing for World Fair Marina's - Catering Contract in the binding forms for the #s 1 to 500 and rest with # stamped, 501 to 850 we print but in the loose forms because it cost more to print this and bind for the small quantity. At that time they don't want to order in large quantity because they want to start computerized forms later on.

Thanks.
Amar Arts

Mohammad Jafar
148-33 73rd Avenue
Flushing, NY
11366

Wednesday, August 5, 2009

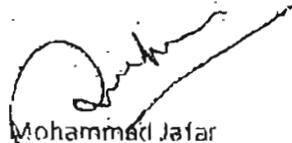
Dear Sir or Madame,

My name is Mohammad Jafar and I have done many events at the World's Fair, Marina Restaurant & Banquet in the past and as recently as June 21, 2009. They always do an outstanding job.

The World's Fair Marina Restaurant and Banquet charged me for food, service, and tax. I was told that the service charge was to cover the cost of operating the event along with requisite materials. I did not give management from the World's Fair Marina Restaurant and Banquet any tips or gratuities but I did tip the service staff myself at the end of the event

If you require any further information feel free to contact me. I hope this information is helpful.

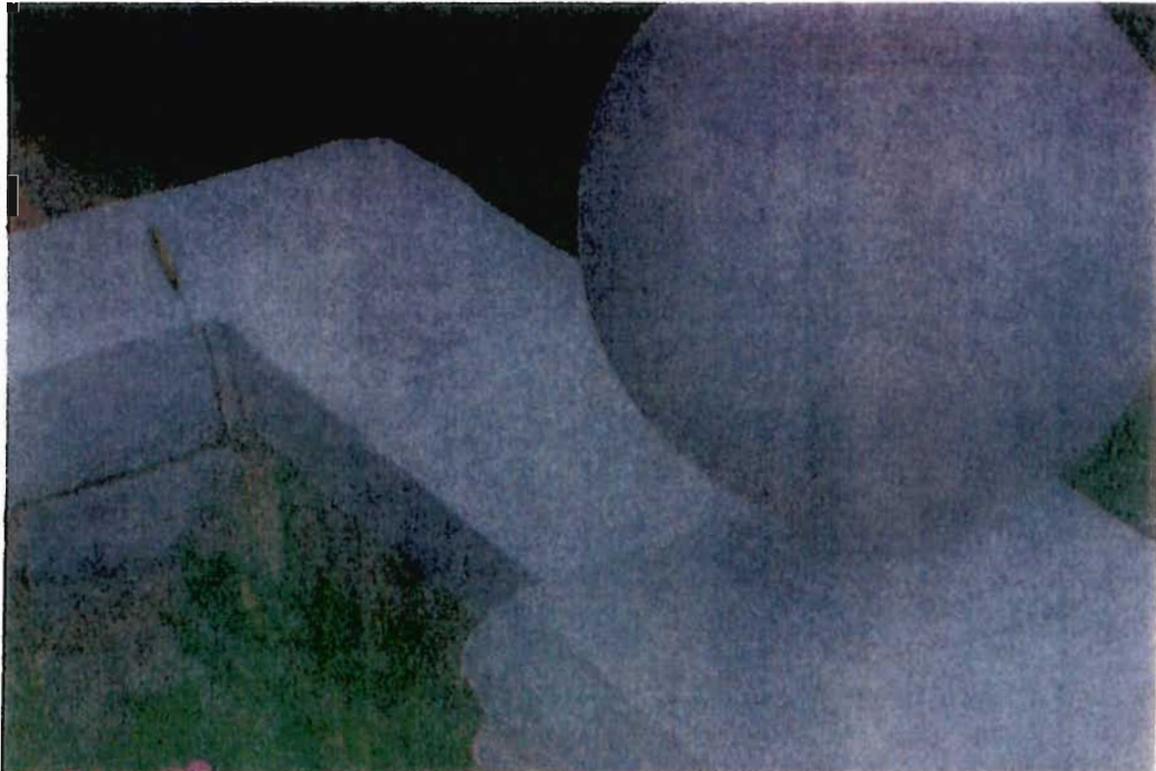
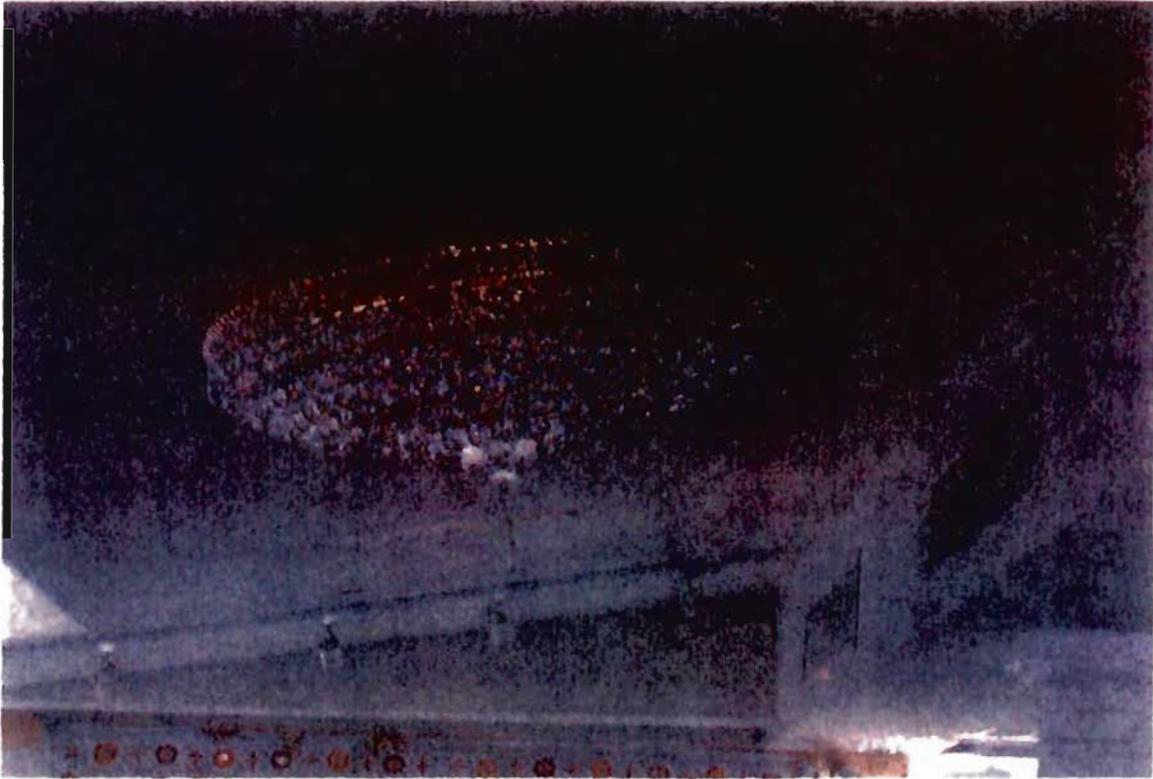
Sincerely,



Mohammad Jafar

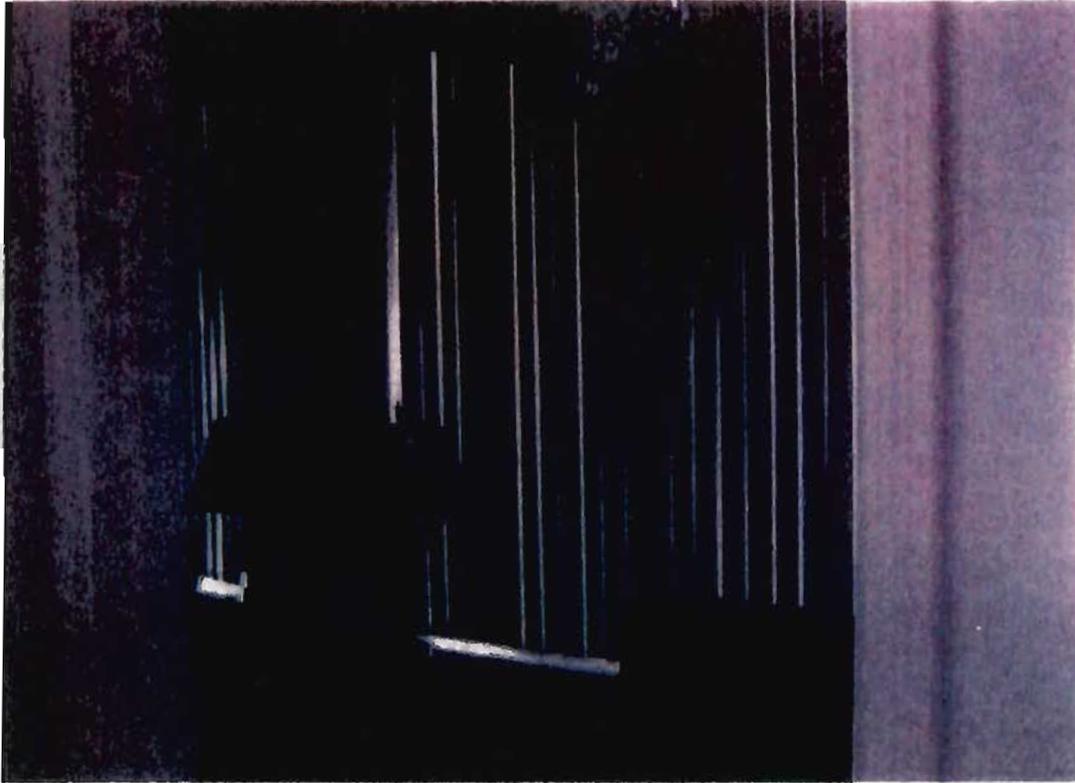
FOOD CRAFT INC	
WORLD FAIR MARINA RESTAURANT	
1 WORLD FAIR MARINA FLUSHING, NY 11368-1921	
DATE	8-07-09
5302	1-108210
PAY TO THE ORDER OF	New York City Parks & Recreation
	1000 Third and Avee New York City
	\$ 1305.00
FOR	View Bluffton Therese Scott
HSBC	Clear Oaks, NY 11003

2nd new lighting fixture on the second floor



3rd repair of garden wall

View of new bridal suite



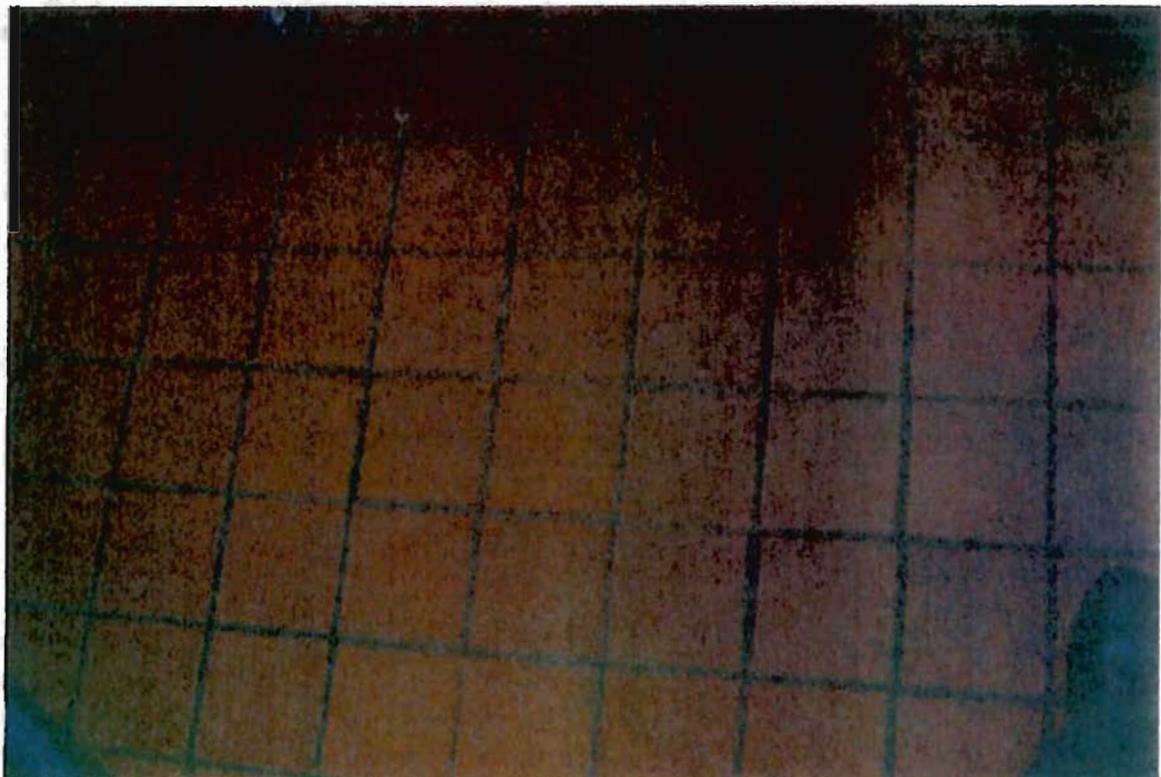
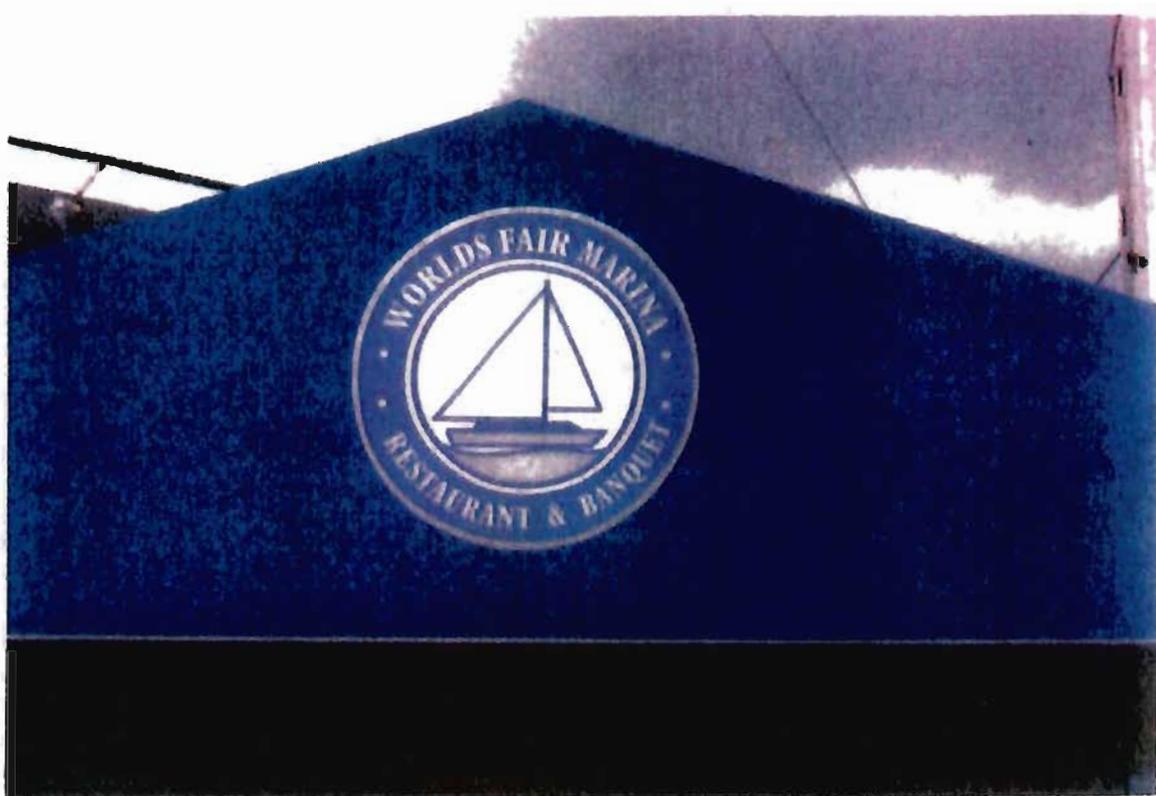
Caulking redone on skylights

Custom made front doors



Install new parapet wall and lighting

New awnings



New carpet



New chairs, tables, and exterior doors

New custom black bathroom tile



New covering for exterior HVAC units

New garden wall (done 3 times)



caterease

catering & event management software

INVOICE

1020 Goodlette Road North
Naples, FL 34102

Invoice #: **4242-01**

BILL TO:

Date Due: 4/12/2007

World Fair Marina Restaurant & Banquet Hall
1, World Fair Marina
Flushing, NY 11368

Description of Item	Amount Due	Amount Paid
Caterease Standard Version	\$2,395.00	\$0.00
2007 Annual Maintenance Agreement	\$550.00	\$0.00
Banquet Room(s)	\$200.00	\$0.00
Marketing Tools	\$500.00	\$0.00
Contact Manager	\$500.00	\$0.00
Initial Set Up	\$500.00	\$0.00
Quickbooks Interface	\$250.00	\$0.00
Prospect Manager	\$500.00	\$0.00
Discount	-\$600.00	\$0.00
Payment Received	\$0.00	\$1,000.00
Payment Received	\$0.00	\$1,500.00
Payment Received	\$0.00	\$1,500.00
Payment Received	\$0.00	\$795.00

Total due by 4/12/2007 **0.00**

BILLING INSTRUCTIONS:

Please remit Total Due On Account immediately upon receipt of invoice. All checks should be made payable to HORIZON BUSINESS SERVICES, INC., 1020 Goodlette Road North, Naples, Florida 34102 and include your customer number (0000004242) for prompt credit to your account.

Payable in U.S. Funds.

Any questions can be directed to the Account Receivable Department at (239) 261-5828.

From the desk of...

Accounts Receivables
Horizon Business Services, Inc
1020 Goodlette Road North
Naples, FL 34102
Phone: (239) 261-5828
Fax: (239) 261-0067
Email: accounting@caterease.com

ADDENDUM I
41 of 44

Horizon Business Services Inc.
All Transactions for 4242 World Fair Marina Restaurant
All Transactions

Customer	Date	Type	Pay Meth	Num	Amount	Open Balance
4242 World Fair Marina Restaurant	4/30/2009	Payment	Master Card		795.00	
4242 World Fair Marina Restaurant	9/19/2009	Payment	Master Card		1,500.00	
4242 World Fair Marina Restaurant	2/4/2009	Payment	Master Card		1,500.00	
4242 World Fair Marina Restaurant	4/12/2007	Invoice		11138	4,795.00	
4242 World Fair Marina Restaurant	4/12/2007	Payment	Master Card		1,000.00	
Total						

FOOD CRAFT INC
WORLD FAIR MARINA RESTAURANT
1 WORLD FAIR MARINA
FLUSHING, NY 11358 1001

5034
NY 1231P

DATE 4/27/03

PAY TO THE ORDER OF NYC WATER BOARD \$ 5000.00

Five Thousand dollars and 00/100 DOLLARS

HSBC
Chase Bank, N.Y. 11164
 FOR NYC Water Board # 309786300 Verona Bhatera

MICR line: ⑆ 309786300 ⑆
 MICR line: ⑆ 000005034 ⑆

NYC Water Board
 Local Water Fund - 02
 Penetration

Account Number	Date Posted	Card Ind	Check Number	Amount	Sequence Number	Open Code
	05/04/2003		000005034	5000.00		000000



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10065

Elizabeth W. Smith
Assistant Commissioner
Revenue and Marketing

(212) 360-1366/betsy.smith@parks.nyc.gov

August 7, 2009

Mr. John Graham
Deputy Comptroller
The City of New York / Office of the Comptroller
1 Centre Street
New York, NY 10007

Re: Comptroller's Draft Audit Report, Number FL09-067 A, on the Compliance of Food Craft, Inc. (World Fair Marina Restaurant and Banquet) with its License Agreement and Payment of License Fees due the City

Dear Mr. Graham:

This letter represents the response of the New York City Department of Parks & Recreation ("Parks") to the Recommendations contained in the New York City Comptroller's ("Comptroller") Draft Audit Report ("the Report"), dated July 24, 2009, on the compliance of Food Craft, Inc. ("Food Craft") with its License Agreement ("Agreement"). In response to the Report, Parks has issued Food Craft a Notice to Cure (NTC) requiring it to comply with the Report's Recommendations, as more fully described below.

As a first matter, we note that the Comptroller suggests that Parks consider terminating its Agreement with Food Craft. Parks concurs with the Comptroller as to the serious nature of the concerns regarding Food Craft's fitness. We will advise the Comptroller once a determination is made concerning termination or continuation of this Agreement.

At this juncture, Parks is consulting with the City's Department of Investigation (DOI) and is considering two possible options: 1) termination, and 2) the imposition of a City-selected monitor to ensure Food Craft's ongoing compliance with its responsibilities under the Agreement. Recognizing that an immediate termination that would result in a closure of a facility that is currently filling a useful role in the community, Parks may, in consultation with DOI, identify a suitable accounting consultant ("Financial Monitor") who would be paid for by Food Craft, but would report jointly to Parks and DOI, to oversee the implementation of improved internal controls by Food Craft for a period of time of no less than two years. During this monitorship, Parks would determine whether to terminate the Agreement and re-solicit for this concession or to permit Food Craft to continue as concessionaire for the remainder of the term of the Agreement, and if so, whether to continue a monitoring arrangement during such term. Parks will, however, terminate this Agreement forthwith, should DOI so advise, and/or if the Financial Monitor's reports in any manner document that termination is warranted.

The Financial Monitor would ensure that Food Craft implements the Report's recommendations concerning necessary internal controls, and that Food Craft actively enforces these controls throughout its



term under the Agreement. The Financial Monitor would perform regular reviews of Food Craft's internal controls and would report to Parks and DOI on a predetermined schedule, as well as when any issues arose, with recommendations for any additional measures that need to be taken by Food Craft to ensure a transparent and verifiable accounting operation.

Parks is considering the monitorship option because we believe that Food Craft has demonstrated an understanding of the seriousness of its previous shortcomings and has committed to address the Report's findings. Parks also believes that the World Fair Restaurant and Banquet currently serves as an important gathering place for the local community by specializing in affordable, quality events, and wishes to avoid any undue disruption to the community.

The following is Parks' response to each Recommendation contained in the Report. In most instances, Parks agrees with the Report's Recommendations and has already taken action to implement them. The report states that Food Craft should:

Recommendation 1 – Pay the City an additional \$1,980 in license fees and late charges assessed in this audit report.

On June 9, 2009 Food Craft submitted a payment to Parks in the amount of \$675 to begin to address the amount due in Recommendation 1 of the Preliminary Draft Report. In our NTC to Food Craft, Parks has demanded payment of the remaining amount of \$1,305 within thirty (30) days.

Recommendation 2 – Take immediate action to strengthen its internal controls over the financial operations of the restaurant, the bar, and banquet hall. These actions should include:

- **Creating and maintaining a complete and accurate cash receipts journal that records all individual transactions of receipts of cash that includes at least basic information such as the date cash was received, the dollar amount received, and the patron from whom the cash was received;**
- **Installing and maintaining a cash register, point of sale system, or other device to record its banquet and restaurant sales; and**
- **Issuing sequentially pre-numbered banquet contract, invoices, and restaurant guest checks.**

In its NTC, Parks has directed Food Craft to fully comply with Recommendation 2. Food Craft has already installed a point-of-sale system for its catering services, which automatically creates sequentially pre-numbered banquet contracts and invoices and provides an electronic banquet calendar to clearly indicate scheduled events. Food Craft has also improved its controls over its restaurant sales and is retaining all sequentially pre-numbered guest checks and is entering each restaurant sale through its cash register. Through the NTC, Parks is now also directing Food Craft to purchase a point-of-sale system to record its restaurant sales. These improvements represent but a beginning of the comprehensive internal control improvements that are called for in Food Craft's operations. As noted at the beginning of this letter, if Parks decides not to terminate this concession in the near term, Parks would instead direct Food Craft to hire a City-selected Financial Monitor, to ensure and verify that Food Craft fully implements Recommendation 2 in a timely manner, among other tasks.

Recommendation 3 – Distribute all service charges to its wait staff who worked at each function, in accordance with Labor Law Section 196-d, Division of Labor Standards, New York State Department of Labor.

Parks has referred to the Law Department the issues raised in Recommendation 3, and will make a determination covering said issues once it has received the Law Department's advice.

Recommendation 4 – Operate a restaurant at the facility, as required by its license agreement.

Food Craft is required by its Agreement to operate a restaurant, and Food Craft's management understands this responsibility. We have worked with Food Craft to establish a temporary operating schedule for lunch and dinner (which has been in place for several months) that Food Craft is mandated to follow and that Parks is monitoring for compliance. There is not a large public demand for walk-in dining at this facility due to its location. Therefore, there are times when Parks will allow, with appropriate notice, the Restaurant to be closed to walk-in diners if both the first and second floor dining areas are being substantially used for events by Food Craft customers.

Recommendation 5 – Immediately pay all outstanding water and sewer charges related to the licensed premises.

In its NTC, Parks has directed Food Craft to immediately (within 30 days) pay all outstanding water and sewer charges related to the licensed premises.

Recommendation 6 – Complete all capital improvement work.

In its NTC, Parks has reminded Food Craft that it must complete all capital improvement work in a manner that satisfies the requirements of the Agreement. Specifically, we have directed Food Craft to complete improvements to the fountain/pool area, to repaint the fountain/pool statue, provide new exterior lighting, and to restore partially damaged areas around the premises, such as the wood trim and railings at the gazebo. These improvements must be completed no later than September 18, 2009.

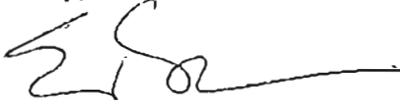
Recommendations 7 through 12 were directed to Parks. We have addressed Recommendation 7 by issuing an NTC to Food Craft requesting payment of the additional license fees and late charges due the City. We have also addressed Recommendations 8, 9 and 10, by issuing an NTC to Food Craft and by requiring, in the event that Parks decides not to terminate this concession in the near term, Food Craft to hire a DOI-approved Financial Monitor to ensure that it implements the Recommendations outlined in the Report.

Regarding Recommendation 11, Parks will continue to document any modifications to the capital improvement requirements. Any such changes must be approved by Parks in writing. Regarding Recommendation 12, we note that the subject matter of this Report was Food Craft's compliance with the existing Agreement, which contains a specific list of improvements to the premises for which Food Craft was responsible. While the Agreement denominates those as "capital" improvements, the critical factor for compliance purposes was whether or not Food Craft made the improvements, rather than what they are called. Parks remains willing to discuss with the Comptroller's Office any questions or differences it may have concerning the types of improvements that are defined as capital improvements in future concession agreements as they arise, but such matters are not relevant to Food Craft's current compliance

status. Parks will continue to ensure that Food Craft complies with all of its capital requirements as they are set forth in detail in the current Agreement.

We wish to thank the Comptroller's audit staff for their work and efforts in performing this review.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Smith', with a long horizontal flourish extending to the right.

Elizabeth W. Smith

Cc: Comm. Adrian Benepe, J. Kay (Mayor's Office of Operations), R. Garfola, A. Olivieri, B. Bernstein (Mayor's Office of Operations)