

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF LOCAL GOVERNMENT  
& SCHOOL ACCOUNTABILITY

# Monroe County

## Golf Course Contract Management

Report of Examination

Period Covered:

January 1, 2012 — February 13, 2014

2014M-111



Thomas P. DiNapoli

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# **State of New York**

## **Office of the State Comptroller**

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### **Division of Local Government and School Accountability**

August 2014

Dear County Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and County governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of Monroe County, entitled Golf Course Contract Management. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*



# State of New York Office of the State Comptroller

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## EXECUTIVE SUMMARY

Monroe County (County) is located in western New York on the south shore of Lake Ontario. The County comprises 19 towns, 10 villages and the City of Rochester, and has a population of approximately 744,000 residents. The County Executive and 29-member County Legislature (Legislature) govern County operations. The County's operating budget for the 2014 fiscal year is approximately \$1 billion, primarily funded by real property taxes, sales tax and Federal and State aid.

The County Parks Department (Department) is headed by the Director of Parks. The Department includes three golf courses: Durand Eastman, Genesee Valley and Churchville. The County entered into an operating contract (Contract) with Tindale, Inc. (Operator) beginning January 1, 1997, whereby the Operator would operate, maintain and manage the golf courses and remit revenues to the County based on percentage calculations. The County and Operator renewed the Contract effective January 1, 2002 through December 31, 2007, but then executed an additional Contract amendment on October 17, 2003 which extended the contract through December 31, 2017. The amended contract required the Operator to contribute \$300,000 for a substantial clubhouse project at one course, and to make \$100,000 annually in other capital improvements. The County has given notice to the Operator that it is exercising its right to terminate the Contract, effective December 31, 2014.

The County received revenues from golf course operations of approximately \$286,000 in the 2012 fiscal year and \$266,000 in 2013.

### **Scope and Objective**

The objective of our audit was to evaluate the effectiveness of the County's oversight of the golf course operating contract for the period January 1, 2012 through February 13, 2014. We extended our scope period back to January 1, 2008 for review of the Operator's financial statements. Our audit addressed the following related question:

- Did the County effectively monitor and manage the golf course operating contract?

### **Audit Results**

County officials failed to properly manage or enforce the Contract despite ongoing complaints about the condition of the golf courses and relied on limited internal audits to monitor operations without taking any corrective action to address audit deficiencies. They did not receive or require interim and annual reports or a timely annual budget from the Operator, did not perform budget-to-actual analyses and did not enforce the contractual requirement for an indemnity bond or letter of credit as security for the Operator's fulfillment of contractual requirements. Because of this lack of oversight, the Operator

did not perform or pay for a number of required contractual duties as well as expenditures that the Operator implicitly expressed<sup>1</sup> to County officials that it would make and retained funds totaling over \$246,000<sup>2</sup> that should have been spent on the golf courses. For example, our review of the Operator’s capital expenditures listed for 2012 – out of a \$100,000 minimal contractual investment each year – found that \$58,660 was actually spent for non-capital purchases or regularly required maintenance items included in the Contract.

The County also did not enforce the contractual provision requiring daily deposits of golf-fee revenues into a County bank account and a daily report reconciling revenues and activities for each golf course. Instead, the Operator remitted payments to the County each month with a summary report. As a result, County officials cannot be sure that all moneys collected were properly recorded and deposited, or that the Operator’s calculations of payments due to the County – while mathematically correct – were based on a verified amount of money actually collected. Given that cash receipts are highly susceptible to loss or theft, provisions such as daily deposits are especially important to safeguard the County’s interests.

Further, County officials did not enforce contractual requirements related to staffing levels and qualifications; the Operator assigned one Superintendent to oversee all three golf courses instead of a Superintendent for each course, without formal County approval, and provided no staff listing or verification that a PGA or LPGA professional was assigned to each course. The combined lack of expenditures on facility improvement, maintenance and staffing contributed to the visible deterioration of golf course grounds and clubhouses.

Our review of the Operator’s audited financial statements identified indications of insolvency, including a \$150,000 line of credit and negative retained earnings of \$269,802 as of December 31, 2012. Had County officials regularly reviewed the Operator’s interim and annual financial statements and the level of maintenance work completed, they should have been able to identify and address the Operator’s declining financial status and the potential effect on the County’s golf facilities and operations. In June and July 2013, the Operator was unable to make its required monthly payments in full to the County when due, and the County subsequently gave notice to the Operator that it would end the contractual relationship effective December 31, 2014.

### **Comments of County Officials**

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally disagreed with our findings, but indicated they have implemented corrective action by terminating the Contract. Appendix B contains our comments on issues raised in the County’s response.

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<sup>1</sup> Within its contractually required marketing plan

<sup>2</sup> Our estimate based on capital and marketing expenditures

# Introduction

## Background

Monroe County (County) is located in western New York on the south shore of Lake Ontario. The County comprises 19 towns, 10 villages and the City of Rochester, and has a population of approximately 744,000 residents. The County Executive and 29-member County Legislature (Legislature) govern County operations. The County's operating budget for the 2014 fiscal year is approximately \$1 billion, primarily funded by real property taxes, sales tax and Federal and State aid.

The County Parks Department (Department) is headed by the Director of Parks (Director). The Department's mission is to provide an array of park services so visitors may enjoy recreational and educational opportunities offered by the natural, zoological, horticultural, historical and geological features of the Monroe County Parks System.

The Department includes three golf courses: Durand Eastman, Genesee Valley and Churchville. On December 22, 1995, the County issued a request for proposal (RFP) for the operation and management of the golf courses and related facilities. According to the RFP, each proposal submitted would be carefully analyzed and evaluated by a County staff committee convened by the Deputy County Executive. The committee would make a recommendation to the Director who would then make a recommendation to the County Executive with respect to the desirability of proceeding with the negotiation of an operating agreement. On June 21, 1996, the former Director wrote an analysis and recommendation,<sup>3</sup> outlining the top three potential candidates to enter into a contract with. Of these, Tindale, Inc. was the third in order of preference.

On November 4, 1996, the former County Executive signed a referral to the Legislature which recommended entering into a contract with Tindale, Inc. The County entered into an operating contract (Contract) with Tindale, Inc. (Operator) beginning January 1, 1997, whereby the Operator would operate, maintain and manage the golf courses and remit revenues to the County based on percentage calculations. The initial contract had a five-year term through December 31, 2001, with the option to renew for two additional five-year terms. The County and Operator renewed the Contract effective January 1, 2002 through December 31, 2007, but then executed an additional Contract amendment on October 17, 2003 which extended the contract through December 31, 2017. The amended contract required the Operator to

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<sup>3</sup> The recommendation was addressed to the Golf Course Task Force, attention of the former Deputy County Executive.

contribute \$300,000 for a substantial clubhouse project at one course and to annually make \$100,000 in other capital improvements. The County has given notice to the Operator that it is exercising its right to terminate the Contract, effective December 31, 2014. The County received revenues from golf course operations of approximately \$286,000 in the 2012 fiscal year and \$266,000 in 2013.

#### **Objective**

The objective of our audit was to evaluate the effectiveness of the County's oversight of the golf course operating contract. Our audit addressed the following related question:

- Did the County effectively monitor and manage the golf course operating contract?

#### **Scope and Methodology**

We examined Monroe County's management of the Contract for the period January 1, 2012 through February 13, 2014. We extended our scope period back to January 1, 2008 for review of the Operator's financial statements.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

#### **Comments of County Officials and Corrective Action**

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally disagreed with our findings but indicated they have implemented corrective action by terminating the Operating Contract. Appendix B contains our comments on issues raised in the County's response.

The County Executive and Legislature have the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk of the Legislature's office.

## Golf Course Contract Management

Best practices for managing contracts include negotiating the terms and conditions in contracts, ensuring compliance with the terms and conditions and formally documenting agreement on any changes that may arise during contract implementation or execution. Written contracts specify the mutually agreed-upon terms and conditions of the parties involved, such as the duration, description of goods and services to be provided and compensation to be received. It is essential that County officials effectively monitor compliance with contract provisions to ensure that contractors are providing the County with the goods and services specified by the contract.

County officials failed to properly manage the Contract. County officials indicated that they were unfamiliar with certain Contract provisions and chose not to enforce numerous other provisions, without properly amending the Contract. For example, County officials did not require daily deposits of golf-fee revenues into County bank accounts and did not require and review timely interim and annual reports from the Operator, as specified in the Contract. In addition, the County did not ensure that the Operator made all contractually required capital and maintenance expenditures annually or met all requirements related to staffing levels and the qualifications and training of the Operator's employees. As a result, the Operator did not perform or pay for a number of required contractual duties, as well as expenditures that the Operator implicitly expressed<sup>4</sup> to County officials that it would make, and retained funds totaling over \$246,000<sup>5</sup> that should have been spent on the golf courses. Further, the County failed to provide adequate oversight of the Operator's performance and operations to ensure that the County was receiving all revenues to which it was entitled based on the Operator's sales revenues. Given that cash receipts are highly susceptible to loss or theft, provisions such as daily deposits were especially important to safeguard the County's interests.

### County Oversight

Effective contract monitoring requires a firm understanding of and familiarity with the contract and the specific contractual obligations and the performance indicators against which the Operator's performance will be monitored to ensure quality service delivery and satisfactory performance.

Former County officials who executed the Contract ensured that it provided various means to effectively monitor and evaluate the

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<sup>4</sup> Within its contractually required marketing plan

<sup>5</sup> Our estimate based on capital and marketing expenditures

Operator's performance and ensure the County received the value and services to which it was entitled. For example, the Contract requires that specific detailed records of daily revenues and cash collections be prepared, maintained and made available for County inspection at all reasonable times. The County has the right during regular business hours to inspect and audit, either internally or by an independent CPA, all books, records and other papers and files of the Operator and any subcontractor that are related to gross revenues. In addition, the Contract requires the Operator to submit various financial reports to the County including an annual budget by August 1, an interim income statement by November 15, audited financial statements by March 1 of each ensuing year and a comprehensive annual marketing plan. An additional protection for the County is the contractual requirement for the Operator to deliver annually to the County a miscellaneous indemnity bond or irrevocable, unconditional letter of credit for \$250,000 as security for the full and faithful performance of the Contract terms, covenants and conditions.

County Audits – County officials told us that the predominant tools the County used to monitor the Contract were internal audits performed by the County Finance Department. The County provided us with reports for audits performed in 2006, 2007 and 2010. The 2006 audit reviewed criteria and performance in seven sections<sup>6</sup> of the Contract and identified various exceptions. These included findings that the Operator did not make daily deposits into a County-designated bank account as required and instead made monthly payments to the County, and the County did not receive interim income statements from the Operator as of September 30 annually. During our audit, we found that these exceptions remain and the Department did not take corrective action to address the identified deficiencies on behalf of the County.

Further, the County has never taken steps to verify that adequate controls are in place at the golf courses to ensure that all cash receipts are recorded in the Operator's sales system and deposited and that all revenues recorded by the Operator are indeed included on monthly reports to the County. The two most recent audits performed in 2007 and 2010 were narrower in scope and did not address Contract oversight or the Operator's internal controls over cash collection. They focused on the monthly reports provided to the County, the calculation of County revenues – which was based on unverified revenue amounts reported by the Operator – and the County funds in which monthly checks were deposited. While the audits found no fault with the calculations based on the monthly reports provided from the Operator, none of the County audits included a documented assessment of the Operator's controls over the cash collections

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<sup>6</sup> There are 46 sections in the Contract.

process at the golf courses, which only accept cash payments, or of the systems used to record cash collections. Given the inherently high risk of cash operations, the calculation of revenues based solely on the Operator's monthly reports without independent verification of the reported amounts collected is not reliable even if the calculations themselves are accurate (see comments in "Revenues" section).

Although the County relied on its internal audits as a key oversight control, the audits were ineffective because the County did not initiate corrective action to address identified deficiencies, and the audits did not incorporate methodologies to assess the Operator's internal controls over cash collections.

Financial Reports – The County provided us with the Operator's budgets and audited financial statements for the last five fiscal years. However, County officials told us that they do not perform a budget-to-actual analysis and did not provide any documentation of any review or analysis of the reports. The audited financial statements also did not contain a management letter or any assessment of internal controls in place over the Operator's financial systems and operations. Further, the County could not provide any interim income statements (through September 30) from the Operator or any indication that it had ever received these reports, which were required by November 15 each year.

Our analysis of the audited financial statements found that the Operator reported a liability in the form of a \$150,000 line of credit and negative retained earnings totaling \$269,802 as of December 31, 2012, a strong indicator of insolvency. In addition, the Operator incurred an average net operating loss of \$13,855 annually from 2008 through 2012. Given the Operator's weak financial position over the last five years, there is substantial risk that the Operator would be unable to perform all contractual maintenance and capital improvements and that, as a result, the County's assets would deteriorate and in turn produce less revenues for the County. Furthermore, the County could not provide any documentation of monitoring the maintenance work completed or ensuring that the Operator performed all routine and periodic maintenance required by the Contract. Had County officials regularly reviewed the Operator's interim and annual financial statements and the level of maintenance work completed, they should have been able to identify and address the Operator's declining financial status and the potential effect on the County's golf facilities and operations, much earlier.

Security – County officials said they have not required the Operator to provide an indemnity bond or letter of credit in accordance with the Contract and that, until mid-2013, when the Operator failed to remit

full payments, they had no reason to enforce the provision. However, failure to enforce this provision has left the County susceptible to loss of value on the Contract, including any future payments the Operator cannot make and the costs the Operator was allowed to avoid by not complying with all contract provisions.<sup>7</sup> In addition, the Operator's poor financial position underscores the need to enforce this provision for the life of the Contract.

## Revenues

A well-designed system of internal controls is necessary to ensure that all money received by the golf courses is safeguarded and properly deposited, recorded and reported to the County, accurately and in a timely manner, in accordance with Contract provisions. It is the responsibility of County officials to ensure that the Operator has established internal controls that are operating effectively. Accordingly, the County must continuously monitor and enforce Contract requirements and exercise its contractual rights to assess controls over cash collections, review detailed daily and monthly sales and revenue records and perform independent reconciliations to amounts reported by the Operator.

In accordance with the Contract, the County receives revenues from the Operator based on three calculations from sales. The Operator must pay to the County 19.5 percent of all golf fees, including collections for season passes, discount golf permits, discount ticket books and regular golf fees, to be deposited into the County's trust fund.<sup>8</sup> The Operator must also pay the County an annual "License Fee," amounting to the greater of \$75,000 (guaranteed amount) or 5 percent of gross revenues<sup>9</sup> (after deducting any moneys from the trust fund calculation). The third component of the County's share of golf course revenues, introduced in the third Contract amendment, provides that the County receive 50 percent of the revenues generated from the rate increase approved by the Legislature on October 17, 2003 and effective January 1, 2004.<sup>10</sup> The County received revenues from golf course operations totaling \$286,517 for the 2012 fiscal year and \$266,210 for 2013.<sup>11</sup>

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<sup>7</sup> As further discussed in "Cost Avoidance" section

<sup>8</sup> These funds are used by the County solely to pay for capital improvements to the golf course facilities.

<sup>9</sup> Gross revenues shall include but not be limited to golf fees; all cart, equipment and locker rentals; all merchandise, food and beverages sold; and all golf club repairs. Exclusions from the License Fee calculation include sales taxes; any discounts, exemptions or allowances approved in writing by the County; and golf lesson revenues.

<sup>10</sup> These revenues are transferred to the County Parks operating budget.

<sup>11</sup> The 2012 revenues comprised \$258,272 for trust and licensing fees and \$28,245 to the operating fund for the rate split. The 2013 revenues comprised \$241,974 for trust and licensing fees and \$24,136 to the operating fund for the rate split.

Former County officials included specific Contract provisions to help ensure the availability of the County's contractual share of golf course revenues, as follows:

- By midnight of each business day, the Operator shall deposit 25 percent of each day's golf fee revenues into the County's designated bank account.
- By 5:00 p.m. the next day, the Operator shall mail to the Director a copy of the deposit slip together with a daily report for each golf course reconciling gross revenues and golf activity.
- By the 20th of the following month, the Operator shall provide to the County a monthly report of gross revenues for the golf facilities and make an adjustment to payments already made, if necessary, based on a reconciliation of the total daily deposits to the sum of the trust fund and license fee percentage share due for that month.

County officials confirmed that the Operator never deposited funds daily into a County-designated bank account or sent a daily report the next day reconciling revenues and activities for each golf course. The officials also indicated that they never enforced this Contract provision. Instead, the Operator remits full payment of all revenues due to the County by the 20th of each ensuing month with a monthly summary report. Failure of the County to enforce the Contract provision for daily deposits has left the County susceptible to potential losses of revenues. Further, without a reconciliation of daily revenues with golf course activities, County officials have no assurance that the Operator's calculations of payments to the County are based on the amount of money actually collected.

We reviewed the Operator's monthly sales and summary reports provided to the County and copies of the monthly checks. The amounts remitted to the County were calculated correctly based on the revenues in these reports. However, with the County's lack of assessment and monitoring of internal controls over the Operator's cash receipts and revenue reporting,<sup>12</sup> we could not confirm that revenues reported were complete, accurate and deposited intact (in the same form as received). Because the County allows the Operator to remit payments, reports and reconciliations on a monthly basis instead of daily as stipulated in the Contract, there is increased risk and opportunity for the Operator to post changes to its cash receipts

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<sup>12</sup> An assessment of the Operator's internal controls was not within the scope of our audit.

system and understate the actual revenues collected on reports provided to the County.

For example, on two separate occasions, the Operator contacted the County about errors in its monthly payments. On May 22, 2012, the Operator issued three additional checks totaling \$1,475 to the County to correct the April revenue remittance, with comments that a computer error resulted in the omission of sales data for April 13 to April 25, 2012. Further, on September 8, 2013, the Operator informed the County that incorrect figures had been input for the July 2013 report, resulting in a \$918 credit back to the Operator. Had County officials exercised their contractual authority and enforced the daily deposit and reconciliation requirements, they may have caught the errors or irregularities earlier. Instead, they allowed the Operator to notify the County of the errors at its discretion after a full month had passed. As a result, there is a significant risk that all revenues were not reported and that the County did not receive all the revenues to which it was entitled. Furthermore, enforcement of these provisions would have helped prevent, or forewarn the County of, the Operator's inability to make full timely payments for June and July 2013, as further discussed in this report.

### **Cost Avoidance**

Because the revenues received by the County from the Operator are based on percentage calculations of total golf course revenues, there is a strong correlation between the performance of the golf courses and the benefit to the County. Golf courses are business-type activities for which performance can be measured using profits and losses and profit margins. As with most businesses, regular maintenance and capital investments play a large role in the quality and upkeep of the golf courses and their related facilities. Periodic review of financial reports allows owners and operators to keep a careful watch on the performance and results of the business activities. Further, the Contract lays out strict performance measures in terms of capital investments to be made at the courses and facilities and the minimum maintenance standards to maintain. The failure to properly maintain assets to ensure that industry and customer standards are satisfied would increase the likelihood of poor financial performance, decrease patronage to the courses and increase the risk that the County's lands and facilities lose value. Further, the County's failure to monitor and enforce contractual maintenance and capital improvements allows the Operator to avoid making and paying for improvements it has contractually agreed to provide. As a result, the Operator retained funds totaling over \$246,000<sup>13</sup> that should have been spent on the golf courses, and the County did not receive these improvements to its property.

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<sup>13</sup> Our estimate based on capital and marketing expenditures

Capital Investments vs. Maintenance Costs – The second Contract amendment required the Operator to make capital investments totaling \$100,000 each year beginning in 2003 to improve golf course facilities. The Contract stated that all replacement, construction, alterations, renovations and installation done within, at or on the golf course facilities may be completed only after submitting to the Director detailed plans, specifications and cost estimates and obtaining prior approval. In addition, the Contract addressed the minimum maintenance standards that the Operator must meet for the golf courses including mowing, seeding, aeration, chemical applications, fertilizer applications, pest management and irrigation, and made the Operator responsible for all drainage problems that arise due to an act of nature. While the Contract provides little to no criteria for capital investments, the County’s Chief Financial Officer confirmed that the capital investments were to be in addition to any required maintenance expenditures. In the absence of clear and concise criteria, generally accepted accounting principles define capital expenditures as expenditures that create future benefits beyond the current year and are found in the cash flow statement, usually under an investment section.<sup>14</sup>

According to County officials, there is no preapproval of any plans, specifications or lists of capital work to be performed each year. Instead, at the end of the year, the Operator provides a list of capital improvements or purchases that had been made during the year, but does not provide enough detail to identify the scope and cost of each project completed or to verify that the expenditures were capital in nature. Department officials told us on September 19, 2013 that the County Finance Department was reviewing the appropriateness of the 2012 capital investment list from the Operator. The Finance Department removed several items from the capital list which it deemed to be maintenance items, totaling \$3,912, pertaining to painting and repair of benches, markers and tee signs; purchases of flags and towels; and irrigation maintenance, leaving a remaining total investment of \$107,809.

We reviewed the 2012 list and identified expenditures totaling \$10,297 that did not appear to be capital-related, including the ineligible items identified by the Finance Department and other items such as flatware, vases, tablecloths and coolers. In addition, \$48,363 in expenditures – nearly half of the expenditures listed as capital investments – were regularly required maintenance items included in the Contract: \$27,841 for expenditures relating to seed, stone, soil, top dressing and tree clearing, \$8,800 for irrigation maintenance; and \$11,722 for equipment parts and maintenance. We identified

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<sup>14</sup> <http://investing.answers.com/types-of-investments/the-definition-of-capital-expenditures-according-to-gaap>

expenditures totaling \$53,061 as capital purchases for equipment that may legitimately be included as capital expenditures, including a new fairway mower, sand spreader, golf carts and server room air conditioning. Similarly, the Operator's 2012 audited statement of cash flows included \$49,660 in capitalized expenditures<sup>15</sup> for the year (far less than the required \$100,000 minimum investment required by the Contract), a disparity of \$50,340.

We reviewed the Operator's audited financial statements provided to the County for the last five years<sup>16</sup> and found a significant disparity each year, resulting in a total capital investment loss of \$236,735. The 2006 County internal audit used this same methodology for identifying the Operator's capital investments.

**Table 1: Operator's Statement of Cash Flows From Investing Activities**

	Capitalized Expenditures <sup>a</sup>	Minimum Contractual Investment	Difference
2008	\$25,893	\$100,000	\$74,107
2009	\$79,590	\$100,000	\$20,410
2010	\$60,903	\$100,000	\$39,097
2011	\$47,219	\$100,000	\$52,781
2012	\$49,660	\$100,000	\$50,340
<b>Totals</b>	<b>\$263,265</b>	<b>\$500,000</b>	<b>\$236,735</b>

<sup>a</sup> Per the Operator's audited financial statements

The County failed to ensure that the Operator invested \$100,000 annually, as stipulated in the Contract, in addition to not ensuring that the Operator performed the required maintenance. As a result, the County will need to invest additional funds into the golf courses that should have been covered by the Operator. For example, during our walkthrough of the golf courses, we observed various benches, gazebos and pathways that were in disrepair; a partially submerged golf cart in a course pond; and downed trees. In addition, the appearance of the Genesee Valley and Churchville clubhouses indicated a lack of significant investment; given the amount of money the Operator should have invested in the facilities, the clubhouses should have had visible improvements. The loss on investment stresses the importance of the County requiring an indemnity bond or letter of credit to ensure faithful performance to comply with the Contract and its amendments.

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<sup>15</sup> The notes to the financial statements state that “expenditures for renewals and betterments are capitalized. Expenditures for repairs and maintenance are charged to operations as incurred.”

<sup>16</sup> As of April 2014, the County had not received the Operator's audited financial statements for the 2013 fiscal year, which were contractually required by March 1.

Personnel – The Contract states that the Operator shall provide adequate staffing levels to deliver all services required by the Contract. The Contract specifically requires a pro shop manager, restaurant manager and director of maintenance (Superintendent) on site at each golf course. The pro shop managers must be qualified PGA or LPGA members experienced in teaching and management, with five years of experience in the operation and maintenance of golf courses. In addition, the Superintendent must have a degree from a four-year college or university accredited in agronomy or related fields with a minimum of five years' previous golf course supervisory experience. The Operator shall prepare job procedures and work methods for all employees and establish a formal training program for the County's approval.

The County did not provide us with a staff list for any of the golf courses or with evidence that the Operator employed a PGA or LPGA professional and a Superintendent with the required qualifications assigned to each golf course. County officials stated that in 2013 the Operator switched to having one Superintendent oversee all three golf courses without formal County approval. When we inquired how County officials know or verify that there is adequate staffing, they responded that they received no complaints to indicate otherwise. However, we have documentation of extensive complaints related to golf course conditions that were referred to the Department, Legislature and County Administration as early as 2003. The County also had no documentation approving a formal training program for golf course employees and could not provide documented job procedures.

The failure to ensure that the Operator provides adequate staffing levels according to the Contract, and the reliance on an informal and undocumented system of complaints, reflects poor oversight by the County and increases the costs that are being avoided by the Operator. The failure to ensure that properly qualified staff is maintaining County assets could result in the loss or serious deterioration of the assets.

Marketing Plan – The Contract states that the Operator shall submit an updated and revised detailed marketing plan annually by December 31. In addition, on request by the County, the Operator shall prepare a written report to the County as to the costs, result, impact and success or failure of the marketing program and activities.

The County provided the marketing plans submitted by the Operator for 2012 and 2013, which included marketing and advertising budgets of \$10,000 and \$15,000, respectively. We reviewed these plans and found that they varied insignificantly in content from one year to

the next. The County did not provide us with any written reports of the costs, result, impact and success or failure of the marketing plans. According to the Operator's 2012 audited financial statements, advertising expenses were \$291, with a disparity of \$9,709 from the \$10,000 budgeted to be invested in the marketing plan. County officials stated that they do not request a report of actual marketing expenditures and do not require the Operator to meet the budgeted expenditures laid out in the plans. Thus, it seems likely that 2013 advertising and marketing expenditures fell far short of the increased budget of \$15,000.<sup>17</sup>

By not requiring the Operator to complete its contractually required marketing activities or determining their effectiveness, the County is not providing adequate oversight of a company hired to promote patronage and increase value in the County golf courses.

Ancillary Costs – The Contract provides that the Operator conduct activities customarily associated with the operation of a privately-owned public golf course including, without limitation, sale and rental of golf-related merchandise, rental of golf carts, furnishing of golf instruction and leagues, sale and service of food and beverages, and ancillary activities, and no other purpose without the prior written approval of the County. Golf course facilities and pro shops shall be open daily from dawn until dusk beginning May 1 and ending no later than the first week of November of each year, except in times of inclement weather. Changes in dates or hours of operation must be approved by the Director. Restaurants may be open for shorter periods or hours which shall be approved by the Director.

During our walkthrough at the golf courses on October 17, 2013, we observed sections that were closed for the season.<sup>18</sup> The County could not provide documentation authorizing the early closings of these facilities. In addition, we identified multiple concerns with the golf course facility services: pro shops at the Churchville and Durand Eastman courses carried little to no inventory, while Genesee Valley had an extensive selection; the snack shop was not open at the Genesee Valley location; the Churchville location had limited snacks; and the concession building at the Durand Eastman course was closed. The County could not provide any documentation of notification and approval of the early closing of food services. County officials stated that they do not believe they should require the Operator to spend resources for inventory it may not sell.

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<sup>17</sup> We asked the County for the Operator's 2013 audited financial statements on April 2, 2014 and as of May 16, 2014 had not received them.

<sup>18</sup> One of the two 18-hole courses at Genesee Valley and the nine-hole course at Churchville were closed, leaving one 18-hole course open at each location.

Contract Assignment – When any service under the Contract is carried out pursuant to a service contract, such contract shall be executed with a company approved by the County. The Operator shall perform and insure that any subcontractor perform all required work in a professional, competent and workmanlike manner and complies with the Contract and all government laws, rules, and regulations, including provisions for licenses and permits.

According to the Operator's audited financial statements, the food services at Durand Eastman were subcontracted to another entity. The County could not provide documentation approving the subcontractor and contended that the entity was an employee; however, this claim could not be supported. In addition, County officials said the Operator subcontracts with another contractor for chemical application services, but, likewise, could not provide documentation approving this subcontractor. Failure to ensure that subcontractors are appropriately approved puts the County at risk of receiving substandard services and puts the Operator in default of the Contract, another reason for enforcing the indemnity bond or letter of credit to ensure full faithful performance of the Contract.

Termination – In June and July 2013, the Operator failed to make its complete monthly payment by the 20th of the ensuing months.<sup>19</sup> Both monthly payments were short by \$20,000. While the Operator was able to make full payments within 30 days, discussions were held between the Operator and County officials regarding the viability of operations. On August 22, 2013, the Operator sent a letter to the County indicating intent and notice to terminate the Contractual relationship on August 31, 2014, stating that the reason for termination was the Operator's financial difficulties in sustaining the Contract expectations. On August 30, 2013, the County sent a letter to the Operator stating that the Contract does not give the Operator an option to terminate, but that the option remains with the County, and that it would not be feasible to end the Contract in the middle of a golf season. Therefore, the County exercised its option to terminate and gave the Operator a notice of termination to end the contractual relationship on December 31, 2014.

Had County officials properly monitored the stability of the Operator's financial position throughout the Contract term, they would have been aware of its growing financial difficulties earlier and could have addressed those difficulties and applicable Contract provisions in a timely manner. Further, because the Contract was extended without ensuring that all Contract provisions were being followed, the County incurred significant losses in its golf course investment.

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<sup>19</sup> According to County officials, these were the first late or missed payments since the Contract's inception.

## **Recommendations**

County officials should:

1. Actively monitor the Contract, be familiar with all provisions, and establish procedures to enforce and periodically review the Contract and assess Operator compliance with contractual deliverables.
2. Exercise the County's rights to inspect and audit detailed daily cash receipts and revenue records, including an assessment of the Operator's internal controls over cash collections and the systems used to record cash collections and revenues.
3. Ensure that the Operator provides the required financial reports in a timely manner and in the proper format, and develop and implement procedures for analyzing financial documents provided by contractual operators to determine performance and better monitor compliance with contractual obligations.
4. Require the Operator to deliver a miscellaneous indemnity bond or an irrevocable, unconditional letter of credit for \$250,000 as security for the full and faithful performance of the terms for the remaining year of operation.
5. Require the Operator to make daily deposits of 25 percent of each day's golf-fee revenue into a County-designated bank account and to provide reconciliations of daily deposits to daily revenue reports.
6. Require the Operator to submit annual capital improvement plans for prior approval and final reports of improvements actually made, with supporting documentation, to determine and address any shortfalls in capital improvements that were contractually due to the County.
7. Implement procedures to ensure all contractual maintenance work was adequately completed for each year.
8. Ensure that the Operator fulfills operational requirements and document their approval of any necessary closings or variances from operational Contract provisions.
9. Obtain and maintain sufficient documentation to ensure that adequate staffing levels are maintained by the Operator and that qualified employees are on staff in accordance with Contract requirements.

10. Require the Operator to effectively implement marketing plans provided and follow up on their effectiveness in a consistent and timely manner.
11. Approve all subcontractors in accordance with the Contract and document such approval to ensure that Contract provisions are complied with and that the County receives quality services and products.

## **APPENDIX A**

### **RESPONSE FROM COUNTY OFFICIALS**

The County officials' response to this audit can be found on the following pages.



# Department of Parks

Monroe County, New York

**Maggie Brooks**  
*County Executive*

**Lawrence A. Staub, Jr.**  
*Director*

July 9, 2014

Mr. Edward V. Grant, Jr.  
Office of the State Comptroller  
The Powers Building  
16 West Main Street – Suite 522  
Rochester, NY 14614-1608

Re: Monroe County Golf Course Contract Management

Dear Mr. Grant,

Monroe County is in receipt of the draft report entitled, “Monroe County Golf Course Contract Management” sent from your Office on June 10, 2014.

Although the draft report contains some misstatements of fact and a broader misunderstanding of government accounting standards, we thank you and your staff for attempting to identify opportunities for improvement in the management of the Genesee Valley, Durand-Eastman and Churchville Park courses. It is important to note, however, that nearly all of these issues have been addressed through the County’s August 2013 decision to terminate the current course operator’s contract as of December 31, 2014, amend the current operator’s 2014 course management contract, and select a new vendor to provide golf course management services upon termination of the current operator’s contract. We also note with disappointment the lengths to which the draft report goes to portray the courses in a poor light. Although more than 580,000 rounds of golf were played on the three courses during the extended five-year examination period, the draft quite literally questions the number of snack items available at course concession stands. We will address each of these concerns in turn below.

See  
Note 1  
Page 24

See  
Note 2  
Page 24

See  
Note 3  
Page 24

See  
Note 2  
Page 24

Each of the recommendations listed in the draft report concern the County’s contractual relationship with the course operator. These matters have already been addressed by the County’s decision to restructure course operations and select a new vendor to manage course services. The County Parks Department will resume full maintenance responsibilities at the courses for the start of the 2015 season and hopes to have the new vendor secured and transitioning before the close of 2014.

See  
Note 3  
Page 24

In all instances raised in the report where operator performance varied from the terms of the original contract, the discrepancy reflects either pragmatic adjustments to the County-vendor relationship to better reflect changing trends in the golf industry or long-standing practice predating the current administration. Although its

See  
Note 4  
Page 24

terms were not amended to reflect the minutia of these operating realities, the contract was always managed in the best interest of local taxpayers and in a manner consistent with the dictates of the Legislature resolution authorizing it. Indeed, the draft notes the review “found no fault” in payments made to the County by the operator.

See  
Note 5  
Page 24

Any golf management professional understands that turning a profit in the field has become increasing difficult in recent years – a challenge that is only heightened by the constraints of operating a public course. Despite repeated requests from the operator to raise rates to offset increased operating costs, greens fees have increased by only one dollar at the three courses since 2004 as a result of the County’s commitment to affordable public golf. The draft report suggests the County should have assumed an adversarial relationship with the operator and not have allowed for practical adjustments to ensure the courses remained available to local golfers. On the contrary, it was clearly in the County’s best interest to work collaboratively with the operator to overcome challenges in a productive manner and maintain affordable public golf for course users.

See  
Note 6  
Page 24

Your report contains the inaccurate estimate that the operator retained over \$240,000 intended for course improvements. The draft report notes that the operator’s financial statements for the five-year extended examination period reflect \$263,000 in capitalized expenditures per the Generally Accepted Accounting Principles (GAAP) definition, yet it is commonly understood there are different standards for capital investments as they pertain to local governments and the mutually-agreed upon interpretation of existing contracts. The draft states, “In the absence of clear and concise criteria, [GAAP] define[s] capital expenditures as [...].” Yet, in this case, clear and concise criteria do exist to govern the definition. Local governments generally adhere to the standards delineated under General Municipal Law, in addition to mutual contract interpretation, and the enclosed 2004 guidelines [Exhibit A] from the County Controller sets clear standards for capital improvements under the contract. Itemized reports submitted by the operator to the County’s Finance Department – documents that were shared with your review staff – also demonstrate that the annual capital investment milestones set by the contract were met. Please see the enclosed chart [Exhibit B] for a year-by-year summary. Furthermore, we are troubled by the report’s extension of the capital investment analysis three years beyond its purported period of examination, which seems to deviate from established auditing principles and your own set audit scope to sensationalize any findings for dramatic effect.

See  
Note 7  
Page 25

The County is also disappointed with the lengths to which the draft goes to portray the courses in a poor light, particularly as it pertains to the walkthrough of the courses performed near the end of the golf season on October 17, 2013. The draft notes:

See  
Note 8  
Page 25

See  
Note 9  
Page 25

See  
Note 10  
Page 25

See  
Note 2  
Page 24

See  
Note 4  
Page 24

“[The] pro shops at the Churchville and Durand Eastman Courses carried little to no inventory [...] the snack shop was not open at the Genesee Valley location; the Churchville location had limited snacks; and the concession building at Durand Eastman course was closed.”

If seasonal weather differs between Monroe County and the Office of the Comptroller's Albany headquarters, we feel obligated to share a fundamental fact about Rochester in October – it is often cold. As one would expect, when temperatures drop, so does course use. Any well-managed public or private course should plan for a reduction in concessions and sales as the season draws to a close, and reduce its supply accordingly. Criticism of the levels of stock at the concessions and pro-shops during the month of October seems misguided at best and desperately critical at worst. Moreover, had your review staff possessed the requisite experience in the field of golf management, your office may have been able to avoid injecting predictable bias into what should have been the most straightforward of audits.

See  
Note 11  
Page 25

Thank you again for your staff's assistance in attempting to identify opportunities for improvement in the management of the Genesee Valley, Durand-Eastman and Churchville Park courses. We look forward to implementing our pre-existing plan to restructure course management and select a new vendor to provide golf course management services in the near future.

Sincerely,

Lawrence A. Staub, Jr.  
Director of Parks

Robert Franklin  
Chief Financial Officer

Xc: Maggie Brooks, Monroe County Executive  
Daniel Delaus, Deputy Monroe County Executive

## APPENDIX B

### **OSC COMMENTS ON THE COUNTY OFFICIALS' RESPONSE**

#### **Note 1**

During our exit discussion, County officials did not point out any inaccuracies in the draft report. A primary purpose of the exit discussion is to allow officials an opportunity to refute findings or provide additional information.

#### **Note 2**

We reviewed the County's enforcement of specific provisions of the Contract with the Operator and identified multiple significant instances of failure to enforce Contract requirements, which benefitted the Operator and resulted in loss of value to the County and its taxpayers.

#### **Note 3**

Even though the County has severed its relationship with this Operator effective December 31, 2014, County officials should ensure that the Operator complies with the Contract through the termination date and use the guidance in this report to help ensure that future contracts are managed more effectively.

#### **Note 4**

The County can best demonstrate its management of the Contract in the best interest of taxpayers by documenting approvals of all agreed-upon changes to, or deviations from, Contract provisions, through formal Contract amendments or other appropriate documentation as provided for in the Contract. County officials did not provide us with such documentation of Contract amendments either during our fieldwork or at the exit conference.

#### **Note 5**

The cited language was referring to the internal audits performed by the County Finance Department, which we noted were ineffective. Our report stated "...with the County's lack of assessment and monitoring of internal controls over the Operator's cash receipts and revenue reporting, we could not confirm that revenues reported were complete, accurate and deposited intact..."

#### **Note 6**

Our report does not suggest an adversarial relationship between the Operator and the County, but recommends a relationship governed by the written terms agreed upon by both parties. We address deviations from the Contract, which requires documentation and approvals of such deviations. The County provided no documentation of approvals for the identified deviations from numerous Contract provisions or an explanation of why these deviations were in the County's interest.

#### Note 7

This section of the draft refers to the financial statements and accounting and reporting procedures of the Operator, which should comply with GAAP, as confirmed by the Operator's external accountant in its audited financial statements.

#### Note 8

It appears that the County's response is referencing the definition of "capital improvement" in General Municipal Law (GML) Section 6-c. That section defines "capital improvement" for purposes of capital reserve funds established by municipalities. We found no indication that the parties to the agreement intended to apply this definition to the Contract. Moreover, in our view, the recent purchase of items such as flatware, vases and tablecloths, not related to the original clubhouse construction, would not constitute a "capital improvement" for purposes of GML Section 6-c.

The County did not provide the referenced 2004 guidelines (Exhibit A) with its response, or during our audit fieldwork, despite multiple requests for documentation and meetings about the topic of capital improvement criteria.

#### Note 9

As discussed in the report, several items on the capital investments list submitted to the County were already required maintenance items as included in the Contract (Appendices F and G). We did not receive an Exhibit B with the County's response.

#### Note 10

We clearly stated our extension of the audit scope to review the Operator's financial statements for five years for financial trend analysis, which is common and well within our audit procedures and GAGAS.

#### Note 11

We understand that the common need to reduce service or concession levels at certain points in the golf season is the reason that former County officials included Contract provisions for authorization of early closures. However, these contractual provisions were not followed.

## **APPENDIX C**

### **AUDIT METHODOLOGY AND STANDARDS**

To accomplish the objective of this audit and obtain valid evidence, we reviewed the Contract for Golf Course Management and the internal controls put in place by the County for the period January 1, 2012 through February 13, 2014. We expanded our scope period back to January 1, 2008 to review and perform an analysis of the Operator's financials.

To accomplish the objective of the audit and obtain valid audit evidence, our procedures included the following steps:

- We interviewed County officials to determine what internal controls were in place to monitor the Contract.
- We reviewed the Contract and its amendments and any available documentation to determine if the Operator was in compliance and how the County enforced the provisions.
- We reviewed County internal audits for 2006, 2007 and 2010 to determine the scope of the reviews and if corrective action was taken.
- We took a tour of the golf courses and facilities on October 17, 2013.
- We reviewed the Operator's financial reports, budgets, monthly summary reports, monthly detail reports and copies of the checks provided to the County by the Operator for 2012 and 2013.
- We performed an analysis of the Operator's financial statements from January 1, 2008 through December 31, 2012 to determine financial stability and capital investments.
- We reviewed complaints received by our office from golf course patrons.
- We reviewed the 2012 capital investment list provided by the Operator to determine if expenditures were appropriate and supported. We requested a 2013 list, which was not available as of the conclusion of fieldwork on February 13, 2014.
- We performed a budget-to-actual analysis of the Operator's financials.
- We reviewed the Operator's annual marketing plan for 2012 and 2013 and inquired of County officials as to how they monitored compliance and determined effectiveness.

We conducted this performance audit in accordance with 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.

## **APPENDIX D**

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# APPENDIX E

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