

OFFICE OF THE NASSAU COUNTY COMPTROLLER



**Limited Review of the
Nassau County Department
of Public Works
Calculation of Charges and Fees for
Out of District Sewer Connections
*SEPTEMBER 24, 2018***

**JACK SCHNIRMAN
COMPTROLLER**

OFFICE OF THE NASSAU COUNTY COMPTROLLER

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NOTE: This audit was started under the previous Comptroller's administration.

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OFFICE OF THE NASSAU COUNTY COMPTROLLER
CALCULATION OF CHARGES AND FEES FOR OUT OF DISTRICT SEWER CONNECTIONS
REPORT SUMMARY

WHY WE DID THIS REPORT

This audit was initiated by the previous Comptroller when questions surfaced regarding how Nassau County calculated “Out of District” sewer connection charges. Upon taking office on January 1, 2018, the current Comptroller deployed the required resources to complete this report.

WHAT WE FOUND

- The largest charge/fee associated with Out of District sewer connections, the “Equalization Charge,” is negotiated by DPW and the developer, using a convoluted formula. DPW has used differing methods to determine the property values used to calculate Equalization Charges. Depending upon the method chosen, developers can save thousands and possibly millions of dollars at taxpayers’ expense.
- At the 10/19/15 General Meeting of the Nassau County Legislature, two Out of District sewer contracts were approved which used two differing methods to calculate Equalization Charges.
- DPW did not always follow County ordinance, for example agreeing to allow a developer to provide site inspections.
- Contract terms were not consistent throughout Out of District contracts.

WHAT WE RECOMMEND

- The Legislature should adopt a consistent valuation policy for calculating Equalization Charges for Out of District sewer agreements.
- DPW should cease from individually negotiating Equalization Charges for Out of District sewer agreements.
- DPW should follow all County ordinances and not allow developers to provide their own inspections due to lack of County inspectors.
- All fees and charges related to Out of District sewer charges should be posted clearly on the Nassau County website and DPW should not deviate from established fees and rates.

WHAT WAS THE RESPONSE?

- DPW agrees that it would be beneficial to have both a standardized, legislatively approved process for calculating Out of District Equalization Charges, and a consistent valuation policy for calculating Equalization Charges.
- DPW also agrees that the County website should be consistent with terminology, formulas, calculation, and approved fee ordinances as it relates to Out of District sewer connections, and that agreements should be drafted in a consistent manner.

WHY IS THIS REPORT IMPORTANT?

- This report found that a County Department was individually negotiating certain charges with developers, when in fact a decision regarding something like how to calculate Equalization Charges should be legislatively set and not left to departmental negotiation. The change in calculating the Equalization Charges could result in \$2.6 million less in fees being paid to the County.
- Audits such as this are an important tool to identify weaknesses in departmental operations and recommend corrective action. Nassau taxpayers deserve a County government that provides a fair playing field for all.

Executive Summary

Purpose:

The objective of this review was to perform an independent evaluation of the methodology used in the calculation of charges and fees for Nassau County “Out of District” sewer connections.

Introduction:

The Nassau County Charter Section 1234 allows individuals or corporations not located within a County sewage collection district (“Out of District”) to contract with the County to dispose of sewage originating on such property into county sewage facilities. The contracts include certain fees and charges.

One such charge is called an **Equalization Charge** imposed as a proportional “catch-up” contribution by the contracting entity to connect to existing County sewer infrastructure which was previously paid for by the taxpayers.

The Department of Public Works (“DPW”) estimates there are 16 known agreements for Out of District and/or Out of County sewer connections with municipalities and private entities.

Executive Summary

Summary of Audit Findings and Recommendations

Audit Finding	Audit Recommendation(s)
1 The Valuation Methodology Chosen by DPW Will Lead to an Estimated \$2.6 Million Less in Sewer Hookup Equalization Fees for the County	<p>a) DPW should adopt a consistent valuation policy for calculating Equalization Charges and have it approved by the Nassau County Legislature, which has the responsibility to set fees.</p> <p>b) The approval of the pending OHEKA Castle contract and any other future contracts, should be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.</p>
2 Negotiations by DPW Led to Disparate Agreements and Inconsistent Charges: OHEKA Castle Would Save \$4.3 Million in Fees by Connecting its Primarily Suffolk County Situated Property to Nassau County Sewers	DPW should cease from negotiating with developers and use one methodology for calculation of the Equalization Charge that has received Legislative approval.
3 The Pending OHEKA Castle Contract Does Not Include the 'Ordinance Required' Per Unit Inspection Fee that the Other Developers were Charged	<p>a) As DPW ordinances require County inspectors to be onsite to protect the County's interest, DPW should ensure that this is done or that the ordinances are changed. Any pending or future contracts should include this language.</p> <p>b) DPW should immediately remedy the lack of an inspection fee before the pending Cold Spring Hills Development, LLC contract for the OHEKA Castle project proceeds.</p>
4 Lack of Approval for Written Procedures Resulted in Varying and Ambiguous Charges	<p>a) DPW management should review and approve written Standard Operating Procedures for sewer connections.</p> <p>b) DPW management should institute financial controls over fee uniformity and collections.</p> <p>c) DPW should use consistent terminology in their contracts and on their website.</p> <p>d) The formula and methodology used to calculate Equalization Charges should be approved by the Legislature and posted on the DPW website.</p> <p>e) DPW should update fees on an ongoing basis in the SOP and website every time there is approval of a DPW fee ordinance.</p> <p>f) The formula and methodology used to calculate the prevailing rate be approved by the Legislature and posted on the DPW website.</p> <p>g) Procedures should be developed to apply usage levels to the prevailing rate to ensure proper calculation and billing for ongoing future usage charges.</p>
5 DPW Did Not Follow the County Ordinance in the Four Contracts Examined and Inconsistently Negotiated Contract Terms	DPW should adhere to the County Legislative approved ordinances for language and terms to be used in the contracts and to treat all developers in a fair and consistent manner.
6 Current Accounting Methods Do Not Segregate Various Out of District Sewer Revenue Receipts	<p>a) DPW should establish a clearly labeled Equalization Charge general ledger account.</p> <p>b) DPW should correctly identify and post future deposits.</p>
7 Inconsistent Contract Clauses Were Used in Out of District Sewer Contracts Approved on the Same Day	<p>DPW's legal representative should:</p> <p>a) consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses under both contracts to determine if the clauses are comparable and adequately protect the County; and</p> <p>b) explain why DPW has an emergency equipment procurement on the first page of a request to the Legislature involving a sewer connection fee.</p>

Executive Summary

The matters covered in this report have been discussed with the officials of the Department of Public Works. On June 18, 2018 we submitted a draft report to the Department of Public Works for their review. An Exit Conference was held on July 12, 2018. The Department of Public Works provided their response on August 3, 2018.

Their response and our follow up to their response are included at the end of this report.

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Introduction

Background

Section 1234 of the Nassau County Charter allows individuals or corporations not located within a County sewage collection district to dispose of sewage originating on such property into County sewage facilities subject to the terms and conditions of the County.

New York State Law provides that a county may establish a scale of charges for the collection, conveyance, treatment and disposal of sewage, wastewater or refuse to be determined on any equitable basis subject to confirmation by the county legislature¹.

One of the costs associated with Out of District sewer connections is an “Equalization Charge,” which is calculated by formula. The Equalization Charge formula² is designed to proportionally share the cost of the existing sewer system based on theoretical assessed values. Per the former Chief Public Works Sanitary Engineer³ and the former DPW Commissioner⁴, it was “**intended to establish a condition of equality between those who have incurred the expense for the construction of the sewage facilities and those benefiting from but not participating in the cost⁵**” of building these facilities.

DPW estimates there are 16 known agreements for Out of District sewer connections that involve not-for-profits, municipalities and private entities. Not-for-profits and municipalities⁶ do not incur an Equalization Charge.

Private entities enter into an Out of District Sewer Service Agreement which delineates fees and charges to be paid. Section 1234 of the County Charter established that charges may be included in the agreements. Charges and Fees related to Out of District Sewer Service Agreements include the following five categories:

1. Equalization Charges
2. Sewer Permit **Fees**
3. Site Work Permit **Fees**
4. Industrial Waste **Fees**
5. Wastewater Service Charge

¹ NY County Law, Article 5A, §266 (2017).

² The Equalization formula is calculated by determining a Debt Ratio of Estimated Debt Service with the applicable sewer system to the total assessed value of the service area. The Debt Ratio is then multiplied by the estimated assessed value (EAV) of the properties to be developed to determine the charge.

³ The Auditors interacted with the Chief Public Works Sanitary Engineer at the time, who resigned on 01/10/18.

⁴ The Auditors interacted with the DPW Commissioner at the time, who resigned on 01/01/18.

⁵ Information provided by the former Chief Public Works Sanitary Engineer to the Auditors at the initial meeting, and as per a letter written by the former DPW Commissioner to Glenwood Landing, dated June 12, 2013.

⁶ Municipalities have Inter-Municipal Agreements (“IMA”) with Nassau County – including Cedarhurst, Lawrence, Roslyn and Jones Beach State Park.

Introduction

The three **fees** listed above are described on Nassau County's website, while the Equalization Charge and Wastewater Service Charges are included in the contracts and are listed in DPW's Out of District Sewer Service Agreement Standard Operating Procedures.

Nassau County's Equalization Charge Formula is calculated based on a theoretical Estimated Assessed Value assigned to the actual property or surrounding properties while Suffolk calculates its Equalization Charge based on estimated daily gallon usage.

Audit Scope, Objectives and Methodology

The objective of the review was to perform an independent evaluation of the methodology used in the determination and calculation of sewer connection fees, permit fees and related charges.

The Auditors reviewed several connection fee agreements and contracts, County Ordinances and also interviewed DPW officials as to the methodology or formulas used to determine County sewer hook-up fees. Full vendor and project names are identified in Exhibit I below:

Exhibit I

Department of Public Works Out of District Sewer Connection Contracts Reviewed			
<u>Vendor Name</u>	<u>Project Name</u> ⁽¹⁾	<u>In Nassau</u>	<u>Out of District</u>
Cold Spring Hills Development, LLC	Residences at "Oheka Castle" ⁽²⁾	Partially	Yes
Glen Harbor Partners, LLC	"Glenwood Landing" Development	Yes	Yes
One Robert Lane, LLC	"Glen Head Commons"	Yes	Yes
Triangle Equities 496 West Jericho	"Kensington" Estates at West Hills	Partially	Yes
Engel Burman at Jericho, LLC	"Bristol Assisted Living" ⁽³⁾ at Jericho	Yes	Yes

⁽¹⁾ See **Appendix A** for a list of Contract numbers associated with these Projects.

⁽²⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

⁽³⁾ Bristol Assisted Living is different than the other projects listed above as it is a 314 bed Assisted Living Facility while the other projects are made up of individual residential units.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

Findings and Recommendations

Audit Finding (1)

(1) The Valuation Methodology Chosen by DPW Will Lead to an Estimated \$2.6 Million Less in Sewer Hookup Equalization Fees for the County

After review and discussion with DPW staff, the Auditors determined that the theoretical **Estimated Assessed Values** used in the County's formula to calculate Equalization Charges were **inconsistently estimated and applied. This will result in the County collecting approximately \$2.6 million less in revenue, which includes \$1.3 million for a project awaiting legislative contract approval.**

Per DPW, the Estimated Assessed Values used by DPW in their Equalization Charge formulas were initially based on average values of existing similar developed properties located near a project, identified as the *Anticipated Future Assessed Value*. At some point, the specific date unknown to DPW, a policy decision⁷ was made to change the valuation method used to the lower *Pre-Development Value* of the actual property being developed. The later valuation method essentially uses much lower undeveloped land values resulting in substantially lower Equalization Charges.

The Equalization Charge formula⁸ is designed to proportionally share the cost of the existing sewer system based on theoretical assessed values. The County established the **Equalization Charge** as a proportional catch-up contribution for Out of District properties to connect to existing County sewer infrastructure. Per the former Chief Public Works Sanitary Engineer and the former DPW Commissioner⁹, it was "**intended to establish a condition of equality between those who have incurred the expense for the construction of the sewage facilities and those benefiting from but not participating in the cost**" of building these facilities.

The Equalization formula was not set by the Legislature or codified in the ordinances which enabled DPW to create the Equalization Charge.

DPW used two different valuation methods to calculate the Estimated Assessed Values ("EAV") for the Equalization Charge formula for Out of District Projects. Both methods are explained below:

Anticipated Future Assessed Value ("AFAV") establishes the Estimated Assessed Value (EAV) using the existing average assessed value of similar surrounding developed properties.

⁷ Information provided by the former Chief Public Works Sanitary Engineer to the Auditors at the initial meeting, and as per a letter written by the former DPW Commissioner to Glenwood Landing, dated June 12, 2013.

⁸ The Equalization formula is calculated by determining a Debt Ratio equal to the Estimated Debt Service associated with the applicable sewer system to the total assessed value of the service area. The Debt Ratio is then multiplied by the estimated assessed value (EAV) of the properties to be developed to determine the charge.

⁹ Information provided by the former Chief Public Works Sanitary Engineer to the Auditors at the initial meeting, and as per a letter written by the former DPW Commissioner to Glenwood Landing, dated June 12, 2013.

Findings and Recommendations

Pre-Development Value (“PDV”) establishes the Estimated Assessed Value (EAV) using the actual current value of the property to be developed, essentially using the undeveloped land value.

Exhibit II lists the assessed values used by DPW for four similar Out of District properties reviewed by the Auditors. Of the four properties, only one property was calculated using a formula based on AFAV, which provides a reasonable basis for determining the future value for the properties to be developed. **The other three properties used the PDV in the formula and as a result did not take into account the actual current value of already developed surrounding properties, but instead used the much lower pre-development (land) value of the undeveloped project.**

Exhibit II

Out of District Projects Assessed Values Used in DPW Calculations					
Project Name	Assessed Value used by DPW	Units	Per Unit Assessed Value	Valuation Method	
Kensington	\$ 211,235	83	\$ 2,545	AFAV	
OHEKA Castle ⁽¹⁾	\$ 122,210	191	\$ 640	PDV	
Glenwood Landing	\$ 25,797	60	\$ 430	PDV	
Glen Head Commons	\$ 19,005	53	\$ 359	PDV	
⁽¹⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.					

DPW used a GIS map to determine the assessed value of Kensington, shown above as \$2,545 per unit. This map did not include any supporting details or valuation date for this amount, but the amount was used in the Equalization Charge calculation sheet dated June 28, 2012.

To determine the net effect of the policy change, Auditors requested the equivalent GIS maps for the other three properties to recalculate what the Equalization Charge would have been had all four used AFAV. DPW did not have comparable GIS maps for all of the properties for the same time period.

As a result, for consistency purposes, in Exhibit III on the next page, the Auditors applied Kensington’s assessed value to each formula and used the applicable Debt Services rates to estimate an Equalization Charge. By applying the estimated AFAV consistently to all four properties, the Auditors **determined the County will collect approximately \$2,559,169 less in Equalization Charges.**

Findings and Recommendations

It should be noted that at a later time, DPW provided GIS maps on 2017/18 values for Glen Head Commons, which showed a substantially higher mean assessed value of \$5,769 per unit, therefore the analysis is conservative.

Exhibit III

Estimated Impact of Inconsistent Valuation Methodology						
Project Name	Units	Average Assessed Value ⁽¹⁾	Debt Service Rate ⁽²⁾	Equalization Charge		Estimated Less Revenue ⁽⁵⁾
				Estimated (Applied AFAV) ⁽³⁾	Actual ⁽⁴⁾	
Kensington	83	\$ 211,235	4.589	\$ 969,442	\$ 969,318	\$ 124
OHEKA Castle ⁽⁶⁾	191	\$ 486,095	3.453	\$ 1,678,292	\$ 425,000	\$ 1,253,292
Glenwood Landing ⁽⁷⁾	60	\$ 152,700	5.403	\$ 824,962	\$ 139,400	\$ 685,562
Glen Head Commons ⁽⁸⁾	53	\$ 134,885	5.352	\$ 721,891	\$ 101,700	\$ 620,191
				\$ 4,194,587	\$ 1,635,418	\$ 2,559,169

⁽¹⁾ Since DPW could not provide a complete set of comparable GIS maps for all properties, this figure was calculated using the applicable number of units multiplied by the same average assessed value of \$2,545 per unit used for Kensington's Equalization Charge based on AFAV.

⁽²⁾ Actual Debt Service Rate for that portion of Nassau County.

⁽³⁾ Estimated each Equalization Charge based on DPW's GIS Average Assessed Value for Kensington.

⁽⁴⁾ Actual Equalization Charge calculated by DPW to be paid by the Development, rounded in the contract.

⁽⁵⁾ Estimated Less Revenue as a result of DPW applying an inconsistent assessed value methodology to the Equalization Charge Formula.

⁽⁶⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

⁽⁷⁾ No GIS valuation amount was provided for Glenwood Landing. DPW supplied a 2017/2018 GIS map for OHEKA Castle that included a much smaller sample than was used for the nearby Kensington project.

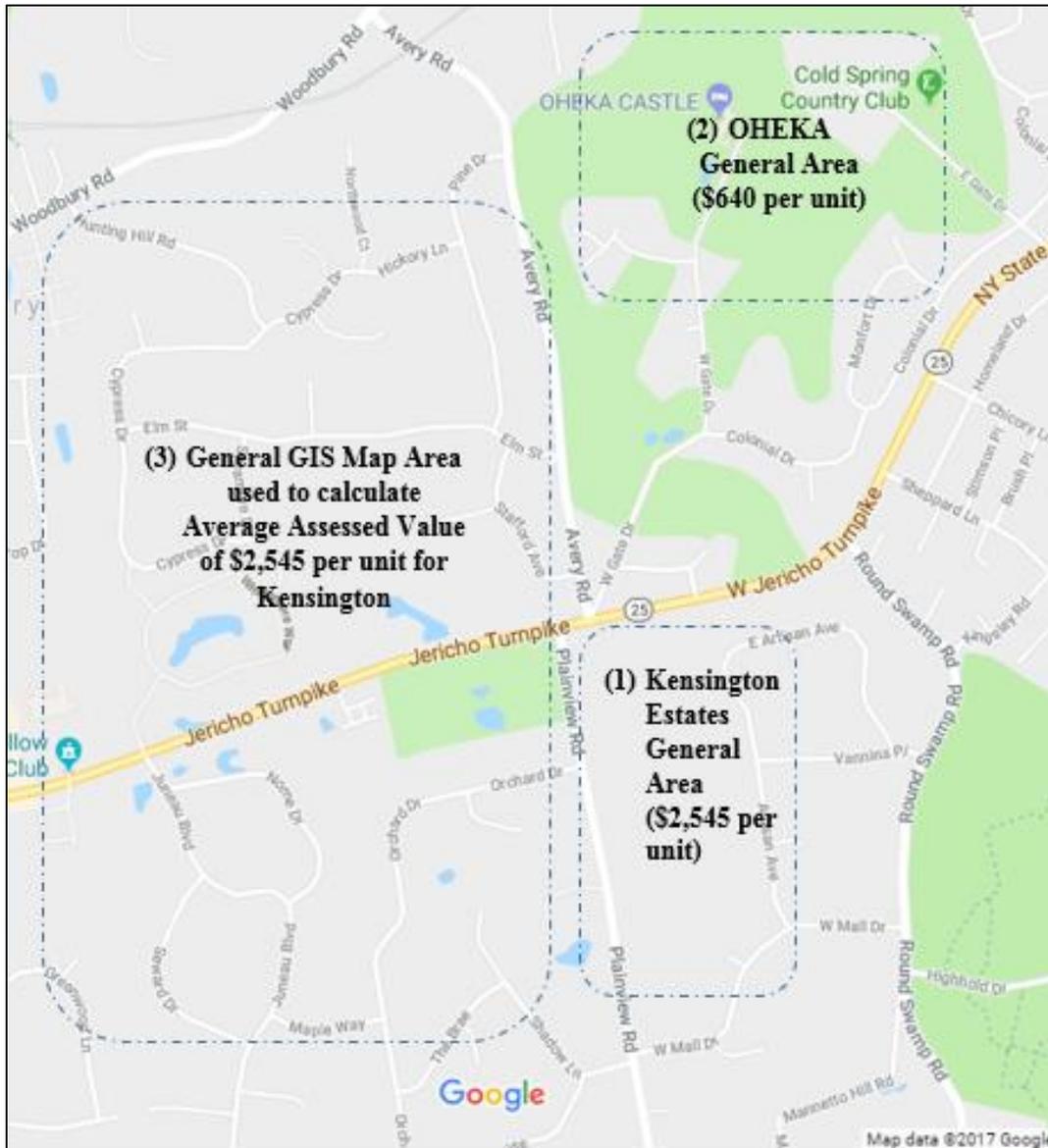
⁽⁸⁾ DPW later provided GIS maps based on 2017/2018 values for Glen Head Commons that showed a substantially higher mean assessed value of \$5,769 which would have increased the reduction in revenue by an additional \$1,016,220 to \$3,575,389.

To further illustrate the disparate difference in using PDV pre-developed land value versus AFAV, current average assessed value of surrounding properties, to calculate the Equalization Charge, we considered the proximity of Kensington to OHEKA Castle and determined that they are literally across the street from one another, see Exhibit IV. Yet for the OHEKA Castle calculation, DPW used an average per unit assessed value of \$640 (see Exhibit II) while for the Kensington calculation DPW used \$2,545 per unit a nearly **400% per unit valuation difference**.

Exhibit IV on the next page illustrates the close proximity of OHEKA Castle to Kensington. Both are nearly equal in proximity to the GIS Map used for surrounding developed properties to calculate Kensington's current average assessed value, and ultimately its Equalization Charge. However, this DPW GIS Map was not used to calculate OHEKA Castle's assessed value, resulting in a much lower Equalization Charge.

Findings and Recommendations

Exhibit IV



As shown in Exhibit V on the next page, the intended “condition of equality” was clearly not applied. Kensington has only 83 units, while OHEKA Castle¹⁰ has 191 units, a restaurant, catering facility and a country club, and is:

- 2.3 times the estimated Fair Market Value of Kensington;
- expected to generate 72% more sewage volume annually than Kensington; and

¹⁰ OHEKA Castle is located within West Hills, NY (Huntington Township). The pending project will contain 1, 2, 3, and 4 bedroom condos and includes a combination of both Nassau and Suffolk properties, which are not within the boundaries of the Nassau County Sewer and Storm Water Resources District (SSWRD) or any Suffolk County Sewer District.

Findings and Recommendations

- anticipated to pay 50% less than Kensington for the Equalization Charge.

Exhibit V

Comparison of Fair Market Value, Sewage Volume and Actual Equalization Charge				
Project	Units	Estimated Fair Market Value ⁽¹⁾	Estimated Gallons of Sewage Per Year ⁽²⁾	Actual Equalization Charge ⁽³⁾
Kensington	83	\$ 84,494,000	15,768,000	\$ 969,318
OHEKA Castle ^{(4),(5)}	191	\$ 194,438,000	56,940,000	\$ 425,000
Glenwood Landing ⁽⁶⁾	60	\$ 61,080,000	6,935,000	\$ 139,400
Glen Head Commons ⁽⁶⁾	53	\$ 53,954,000	5,803,500	\$ 101,700

⁽¹⁾ Estimated using the same \$2,545 Avg. Assessed Value used by DPW for Kensington multiplied by the number of units in the development and divided by the County's Level of Assessment of .0025 to convert properties to a comparable Fair Market Value.

⁽²⁾ Gallons per day per contract multiplied by 365 days.

⁽³⁾ Actual Equalization Charge calculated by DPW to be paid by the Development, rounded in the contract.

⁽⁴⁾ The estimated fair market value used is consistent with news reports, from January 2018, where a real estate broker expects the units to be "seven figure housing units."

⁽⁵⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

⁽⁶⁾ DPW could not provide a comparable GIS Map for these properties so the same GIS value was used to calculate estimated Fair Market Value for comparison purposes.

Audit Recommendations:

We recommend that:

- a) DPW adopt a consistent valuation policy for calculating Equalization Charges and have it approved by the Nassau County Legislature, which has the responsibility to set fees; and
- b) the approval of the pending OHEKA Castle contract and any other future contracts, be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.

Findings and Recommendations

Audit Finding (2)

(2) Negotiations by DPW Led to Disparate Agreements and Inconsistent Charges: OHEKA Castle Would Save \$4.3 Million in Fees by Connecting its Primarily Suffolk County Situated Property to Nassau County Sewers

DPW did not present a standard **Equalization Charge formula** to be approved by the Legislature, nor was it disclosed on the DPW website, **making it possible for DPW to negotiate the rates used in each contract**. There are 26 fees, including the three other Out of District Fees, listed in the Permits & Fees schedule on the DPW website that were approved by the Legislature through ordinance.

New York State Law provides that such charges be determined on an equitable basis subject to confirmation by the county legislature¹¹. The Government Finance Officers Association recommends that governments “provide information on charges and fees to the public.”¹² There should be opportunities for feedback, “particularly when new rates are introduced or when existing rates are changed.” A Legislative review will provide an open forum with feedback on how the Equalization Charges should be set.

Exhibit VI on the next page compares, by project, Legislative approval dates and assessed value methods used as part of the Equalization Charge formula:

¹¹ NY County Law, Article 5A, §266 (2017)

¹² GFOA Committee on Governmental Budgeting and Fiscal Policy, Best Practices on Establishing Government Charges and Fees, (2014)

Findings and Recommendations

Exhibit VI

Listing of Approval Dates for the Nassau County Department of Health, the Legislature and Applicable Assessed Value Methods Used by Project

Project	DATES				Assessed Value Method
	Project Approved by Department of Health	Contract Signed by Developer ⁽¹⁾	Contract Approved by the Legislature	Contract Signed by County Executive's Office ⁽²⁾	
Glenwood Landing	10/24/11	11/18/13	02/24/14	04/08/14	PDV
Glen Head Commons	05/11/09	08/14/15	10/19/15 ⁽³⁾	12/22/15	PDV
Kensington	01/21/09	08/21/15	10/19/15 ⁽³⁾	12/22/15	AFAV
Bristol Assisted Living ⁽⁴⁾	11/15/16	11/17/16	01/23/17	03/01/17	PDV
OHEKA Castle	1/6/2015	04/27/17	Pending ^{(5),(6)}	Pending	PDV

⁽¹⁾ In a June 12, 2013 letter, the former DPW Commissioner accepted Glenwood Landings offer to change the Equalization Charge calculation to the lower PDV formula.

⁽²⁾ Signed by Deputy or Chief County Executive.

⁽³⁾ Approved on the same day by the Nassau County Legislature using two different Assessed Valuation Methods.

⁽⁴⁾ Bristol Assisted Living was not used in other comparisons because it is a 314 bed Assisted Living Facility and not made up of separate condominium units. It is inserted here to illustrate that DPW has not applied a consistent Assessed Value Method.

⁽⁵⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

⁽⁶⁾ The Town of Huntington adopted resolution 2012-91 on 3/12/12 regarding a zoning change application for the Residences at OHEKA Castle, which approved the application subject to a number of conditions, including connecting to the Nassau County public sewer system, or if that did not occur, a plan must be developed and implemented in accordance with Suffolk County Department of Health Services requirements to address discharge.

The Auditors' review noted that Glen Head Commons' and Kensington's sewer hookup agreements were both approved by the Legislature **on the same day, October 19, 2015**. However:

- DPW used two separate methods to calculate the respective Estimated Assessed Values; and
- DPW charged a total Equalization Charge to Kensington that was approximately 10 times greater as a whole and 6 times greater by unit than Glen Head Commons (see Exhibit V).

DPW used the significantly lower formula for Glenwood Landing than the formula applied to Kensington, even though the Glenwood Landing project was approved by the Nassau County Legislature 19.5 months prior to Glen Head Commons and Kensington.

This disparity is a direct result of the lack of disclosure and clarity with respect to the formula used by DPW and at which point during the process the valuation should be applied. The Equalization Charge is the only charge related to Out of District sewer connections that is not clearly disclosed on the DPW website or approved by the Legislature. (See recommendation in Finding (4)).

Findings and Recommendations

Suffolk County's Methodology

Suffolk County labels its Equalization Charge as a connection fee. **The Suffolk County Code¹³ clearly identifies a connection fee of \$30 per gallon of daily usage for connections from outside the geographical boundaries of any Suffolk County Sewer District** which receives approval from the County to connect.

Suffolk rates are pursuant to NY County Law¹⁴ and are subject to the review and approval of the Suffolk County Legislature. By setting a specific connection fee formula, approved by its Legislature, Suffolk essentially eliminated the need for negotiating the fee for Out of District sewer connections in order to “represent a purchase of capacity.”

Nassau County's Inconsistent Methodology

It appears that the former DPW Commissioner had been negotiating Equalization Rates with developers. As previously noted, the Equalization Charge formula was not set by County Ordinance. It is also not clear how DPW decided which value would be applied in the formula, the higher AFAV or the lower PDV.

Per DPW, none of the four projects mentioned in Finding (1) have broken ground, as of December 2017, and discussions and negotiations have been occurring simultaneously over a period of years.

As an example of DPW's discretion in determining an Equalization Charge, the negotiations bulleted below show the following: a developer making a proposal; the former DPW Commissioner's acceptance of the developer's offer; and the former DPW Commissioner's conclusion to the developer that the change is a significant reduction in charges (resulting in less revenue to the County).

- An August 22, 2012 letter to the former DPW Commissioner from Glenwood Landing, offers an “alternative that the connection fee utilized should be based on the current undeveloped value” instead of the “anticipated future value.”
- In a May 14, 2013 letter to the former Nassau County Deputy County Executive of Finance from the attorney for Glenwood Landing, the attorney states “It has been DPW's position that the hookup fee is necessary and appropriate but as something like this has not previously been done, they do not know what that fee should be.”
- In a letter dated June 12, 2013 to Glenwood Landing, the former DPW Commissioner references receiving a copy of the May 14, 2013 letter and proceeds to accept the developer's August 22, 2012 offer to change the Equalization Charge calculation. The acceptance resulted in changing from using an average current assessed value of surrounding properties (AFAV) to the much lower pre-developed value (PDV). The letter stated, “we are agreeable to basing the Equalization Charge on the current assessed value of the properties to be served by the County's sewer facilities. This is a significant reduction from the previously proposed charge based upon the anticipated future assessed value of the developed property.”

¹³ Suffolk County, NY Sewer Charges, Assessments and Fees, <https://ecode360.com/14954937> § 740-38 User Charges and Connection Fees.

¹⁴ NY County Law, Article 5A, §266 (2017).

Findings and Recommendations

Had DPW created a standard unit fee or initially submitted one Equalization Charge formula to the Legislature for approval and disclosed it along with other fees approved by the Legislature, found on the website, these disparate negotiations may not have occurred.

Comparative Analysis: Nassau County versus Suffolk County Comparative Charges

In Exhibit VII below, the Auditors compared Nassau's actual charges with the equivalent charges using Suffolk County's Methodology, noting the following:

- Kensington's charges using current assessed valuation are comparable when compared to Suffolk County's methodology.
- The three Out of District projects, which used the negotiated PDV, paid significantly less in Nassau than had they been connected as Out of District to Suffolk sewers.
- The OHEKA Castle project will save \$4,255,000 in fees by connecting its primarily Suffolk County property to Nassau County Sewers.

Exhibit VII

Comparison of Nassau and Suffolk Equalization Charge Methodologies						
Project	Units	Estimated Gallons Per Day ⁽¹⁾	Equivalent Suffolk Equalization Charge ⁽²⁾	Actual Nassau Equalization Charge	Difference	% Savings Nassau vs Suffolk
Glenwood Landing	60	19,000	\$ 570,000	\$ 139,400	\$ (430,600)	309%
Glen Head Commons	53	15,900	\$ 477,000	\$ 101,700	\$ (375,300)	369%
OHEKA Castle ⁽³⁾	191	156,000	\$4,680,000	\$ 425,000	\$(4,255,000)	1001%
Kensington	83	43,200	\$1,296,000	\$ 969,318	\$ (326,682)	34%

⁽¹⁾ Per the contract.

⁽²⁾ Amount equals the estimated gallons per day multiplied by Suffolk's \$30/gallon rate.

⁽³⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

Audit Recommendation:

We recommend that DPW cease from negotiating with developers and use one methodology for calculation of the Equalization Charge that has received Legislative approval.

Findings and Recommendations

Audit Finding (3)

(3) The Pending OHEKA Castle Contract Does Not Include the ‘Ordinance Required’ Per Unit Inspection Fee that the Other Developers were Charged

Nassau County could lose \$76,209 in General Permit Sewer Inspection Fees from OHEKA Castle because DPW did not follow the Ordinance in writing the contract.¹⁵

A review of the contracts found that OHEKA Castle will not be charged **\$76,209 for Inspection Fees** that other Developments will be required to pay. The pending OHEKA Castle contract only includes a \$23,000 (rounded) permit fee calculated using \$120 per unit. The contract does not include a standard inspection fee of \$399 per unit totaling \$76,209 for 191 units.

Exhibit VIII below shows the General Permit Fees per County Ordinance¹⁶.

Exhibit VIII

General Permit Fees	
<u>Permit Type</u>	<u>Fee per Unit</u>
General	\$ 120
Sewer Inspection	\$ 399
	<hr/> <hr/> \$ 519

According to DPW employees, OHEKA Castle will not be charged the Per Unit \$399 Sewer Permit Inspection Fee because the developer’s engineer would perform onsite inspections upon project completion and provide Professional Engineer (“PE”) seals to certify the inspections, eliminating the need for the County to perform and bill for inspections.

As shown in Exhibit IX on the next page, a review of the other three Development contracts noted that those contracts required the whole \$519 per unit fee be paid, including the \$399 Inspection fee.

¹⁵ Nassau County Ordinance No. 74-2014, §9.1.

¹⁶ Ibid.

Findings and Recommendations

Exhibit IX

OHEKA Castle General Permit Undercharge					
Project	Units	Per Unit Fee Charged	Total Contract Fee	Auditor Calculated Fee based on \$519/Unit	Difference
OHEKA Castle ⁽¹⁾	191	\$ 120	\$22,920	\$ 99,129	\$ (76,209)
Kensington	83	\$ 519	\$43,077	\$ 43,077	\$ -
Glenwood Landing	60	\$ 519	\$31,140	\$ 31,140	\$ -
Glen Head Commons	53	\$ 519	\$27,507	\$ 27,507	\$ -

⁽¹⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

The Auditors reviewed Section 9.1 of Nassau County Ordinance 74-2014, which states the fee for a General Permit shall be \$120 payable upon filing the application **and** each permit holder shall also be required to pay a fee of \$399 as a sewer permit inspection fee, yet the pending contract does not require OHEKA Castle to pay Nassau County the sewer permit inspections.

Nowhere in Section 9.1 does it state that this fee can be avoided or negotiated. Section 9.8 of Emergency Resolution No. 52-2001 allows fees to be waived where the applicant is a municipal corporation, which OHEKA Castle is not.

In this situation, the developer’s engineer will certify the connections. The certification of the connection is usually provided by County employees and charged back to the developer as a County Inspection Fee. This process lacks an independent inspection and reduces revenues to the County.

Further, DPW violates several Ordinances¹⁷ which all state “No work will commence until County inspectors are on the job site,” by allowing someone other than a County or Town Representative or an inspection agent of another municipality to inspect these connections. The Auditors asked a DPW employee in the Sewer permit office about having a County inspector on site and he indicated they would prefer these inspections be performed by the County, but since the staff has been reduced, DPW is accepting these outside certified inspections.¹⁸

¹⁷ Ordinances 266-1985, 187-2010, 74-2014 and Emergency Resolution 52-2001.

¹⁸ The Auditors were informed by a DPW employee that inspector staffing had been reduced from over 25 inspectors to six inspectors and that starting pay for an inspector is only \$35,000. Hiring one inspector would pay for itself in inspection fees collected while ensuring the work is properly performed.

Findings and Recommendations

Audit Recommendation(s):

We recommend that:

- a) As DPW ordinances require County inspectors to be onsite to protect the County's interest, DPW should ensure that this is done or that the ordinances are changed. Any pending or future contracts should include this language; and
- b) DPW immediately remedy the lack of an inspection fee before the pending Cold Spring Hills Development, LLC contract for the OHEKA Castle project proceeds.

Audit Finding (4)

(4) Lack of Approval for Written Procedures Resulted in Varying and Ambiguous Charges

Upon our request, DPW provided a copy of their Standard Operating Procedures ("SOP") for Out of District sewer service agreements. The SOP given to the Auditors was dated October 26, 2017 which was subsequent to the commencement of our audit, and after a news article on this matter.

In December 2017, the former Chief Public Works Sanitary Engineer acknowledged he had "formally committed the process to paper only within the past year or so." Hence, no formal procedures existed regarding the calculation and application of Out of District sewer connection fees and Equalization Charges even though one contract was signed in 2014 (Glenwood Landing) and two others were signed in 2015 (Glen Head Commons and Kensington).

DPW's SOP for the Out of District Sewer Service agreements were not standardized in 2014 and not applied consistently throughout the four contracts covered in this report.

The SOP for the Out of District Sewer Service agreements lists the procedures for Equalization Charges, Sewer Connection Permits, Site Work Permits & Inspection Fees, Industrial Waste Survey and Permit as well as a Wastewater Service Charge (annual fee).

The Auditors reviewed the SOP provided by DPW noting:

- The SOP includes a procedure for calculating the "Current Assessed value of property(ies), to be developed" through an "Assessment Property Search," which uses a GIS mapping tool. The procedure is ambiguous and unclear and does not specify which properties should be used to determine a value for the properties to be developed;
- no evidence of a supervisory approval of the procedure was provided;
- no controls were included with regard to supervisory review and approval of calculations;
- self-certification fees are listed in the SOP but not listed in the contracts, the fee schedule on the County website or the County Ordinances; and
- there are no specific guidelines with respect to the timing of property valuations and when fees or charges are to be applied.

Findings and Recommendations

The Auditors compared the fees per the SOP to DPW’s website and to the County Ordinances, noting that:

- the current Sewer Permit Fee (\$140) and Sewer Permit Inspection Fee (\$460) listed on the DPW website are not approved by the Legislature; and
- there are inconsistencies with terms and amounts (see Exhibit X).

Exhibit X below illustrates the different fees shown in the County Ordinance, on the County’s DPW website and in DPW’s SOP for Sewer Permit Fees.

Exhibit X

Sewer Permit Fee Comparison			
Sewer Permit Fee Type	Sources		
	Ordinance 74-2014 ⁽¹⁾	County DPW Website	Out of District SOP ⁽²⁾
General	\$ 120	\$ 140	\$ 160
Inspection	\$ 399	\$ 460	\$ 460
Total	\$ 519	\$ 600	\$ 620

⁽¹⁾ The fee amounts from the 74-2014 ordinance are presented above because the 176-2015 ordinance did not update these specific fees, therefore both \$120 general fee and the \$399 inspection fee still pertain.

⁽²⁾ The Standard Operating Procedure ("SOP") only shows the total fee of \$620. The SOP does not break it out as \$160 for the Sewer General Permit Fee and \$460 for the Sewer Permit Inspection Fee.

The contracts we reviewed included a sum total amount labeled “Sewer Permit” which was calculated using amounts from Ordinance 74-2014 which is for the **General Permit**.

We also noted inconsistencies in the terminology used for **Special Permits**. The SOP refers to Special Permits as Site Work Permits, which is inconsistent with the website which labels them Special Permits in accordance with Section 9.2 of Ordinance Number 74-2014. Through discussions with DPW, the Auditors determined that the term ‘Site Work Permit’ is synonymous with ‘Special Permits.’

Further, as shown in Exhibit XI on the next page, the website shows a Special Permit as \$160-\$800 **“and”** 2% of estimated construction cost, whereas the SOP shows \$620 for self-certification **“or”** 2% construction cost, leaving the developer to negotiate which fee will be paid.

Findings and Recommendations

Exhibit XI

Comparison of Terms DPW SOP Versus DPW Website			
DPW SOP	<u>Site Work Permit</u> If Self-Certification by PE, Flat Fee of \$620	<u>OR</u>	<u>DPW Inspection Fee</u> 2% of Construction Cost
DPW Website	<u>Special Permits</u> \$160 to \$800	<u>AND</u>	<u>Construction Cost</u> 2% of Estimated Construction Cost

Additionally, terminology in the contracts does not coincide with the DPW website listing of fees and the SOP. For instance, the contracts refer to *Sewer Construction Inspections*, which are called *Site Work Permits* in the SOP and *Special Permits* on the website.

If the SOP had been reviewed and all fees approved, these inconsistencies would have been avoided. This lack of consistency impedes equitable contract terms.

There are no controls to ensure payment and collection of fees for Out of District sewer connections. No procedures have been developed to ensure that future annual Wastewater Service Charges based on usage are properly billed, collected and accounted.

A clause found in the other contracts reviewed, not found in the pending OHEKA Castle contract or Kensington's contract, calls for the "Inclusion in the County wide Sewer and Stormwater Resources District", reserving the County's right to include the property in the tax levy. Including a property in the tax levy ensures that the property is paying its share of the current and future expenses.

Procedures are necessary to ensure that properties not listed on the tax roll are charged at the appropriate usage levels at the correct prevailing rate, protecting the Nassau County taxpayers within the Sewer District from paying for the excess capacity used by Out of District Nassau County or Suffolk County properties.

Audit Recommendations:

We recommend that:

- a) DPW management review and approve written Standard Operating Procedures for sewer connections;
- b) DPW management institute financial controls over fee uniformity and collections;
- c) DPW use consistent terminology in their contracts and on their website;

Findings and Recommendations

- d) the formula and methodology used to calculate Equalization Charges be approved by the Legislature and posted on the DPW website;
- e) DPW update fees on an ongoing basis in the SOP and website every time there is approval of a DPW fee ordinance;
- f) the formula and methodology used to calculate the prevailing rate be approved by the Legislature and posted on the DPW website; and
- g) procedures be developed to apply usage levels to the prevailing rate to ensure proper calculation and billing for ongoing future usage charges.

Audit Finding (5)

(5) DPW Did Not Follow the County Ordinance in the Four Contracts Examined and Inconsistently Negotiated Contract Terms

The Auditors' review of four Out of District sewer contracts determined that DPW contract terms were inconsistent and did not always conform to the law, see Exhibit XII on the next page.

Findings and Recommendations

Exhibit XII

Comparison of Ordinance and Contract Terms for Four Selected Projects						
Descriptions		Nassau County Ordinance 74-2014	Kensington (83 units)	OHEKA Castle ⁽¹⁾ (191 units)	Glenwood Landing (60 units)	Glen Head Commons (53 units)
General Terms	Term	Not Applicable	Commence upon date executed by County Executive, terminate 5 years from that date	Commence upon date executed by County Executive, terminate when both parties fulfilled obligations	Commence upon date executed by County Executive, terminate when both parties fulfilled obligations	Commence upon date executed by County Executive, terminate when both parties fulfilled obligations
	Termination	Not Applicable	The earlier of mutual written agreement of the parties or a stated termination date	Each has right to terminate upon 1 year written notice prior to commencement of construction	Each has right to terminate upon 1 year written notice prior to commencement of construction	Each has right to terminate upon 1 year written notice prior to commencement of construction
Calculation Terms	Equalization Formula	Not Mentioned in Ordinance or Contract	Used Higher AFAV ⁽²⁾	Used Lower PDV ⁽³⁾	Used Lower PDV ⁽³⁾	Used Lower PDV ⁽³⁾
	Standard Property Valuation Date	Not Mentioned in Ordinance or Contract	Unclear	2012/2013	Unclear but Requested 2012/2013	Unclear
Payment Terms - When Due To County	Equalization Charge	Not Mentioned in Ordinance	Payment Schedule	Due upon execution of agreement	25% @ Execution 75% @ Submission	25% @ Execution 75% @ Submission
	Sewer Permit ⁽⁴⁾	Payable on Filing Application	Payment Schedule	Due upon submission of Sewer connection plan	Due upon submission of Sewer connection plan	Due upon submission of Sewer connection plan
	Industrial Waste Review	Payable on Filing Application	Upon Execution of Agreement	Due upon submission of Sewer connection plan	Due upon submission of Sewer connection plan	Not Required-Solely Residential
	Sewer Construction Inspections ⁽⁵⁾	Payable Before Issuance of Permit	Payment Schedule	Payable prior to commencement of construction	Payable prior to commencement of construction	Payable prior to commencement of construction
Key Dates	Signed by Developer	Not Applicable	08/21/15	04/27/17	11/18/13	08/14/15
	Approved by the Legislature	Not Applicable	10/19/15	Pending	02/24/14	10/19/15
	Signed by County Executive	Not Applicable	12/22/15	Pending	04/08/14	12/22/15

⁽¹⁾ A pending contract was filed with the Clerk of the Nassau County Legislature for legislative action, but as of the date of this report the matter remains tabled.

⁽²⁾ Used Higher existing Average Assessed Value of Similar Surrounding Properties.

⁽³⁾ Used Lower Pre-Developed Land Value of property to be developed.

⁽⁴⁾ Labeled General Permit per Ordinance 74-2014.

⁽⁵⁾ Labeled Special Permit per Ordinance 74-2014.

We noted the following differences:

- None of these contracts agree with the County Ordinance with respect to the payment due dates for Sewer Permit, Industrial Waste Review and Sewer Construction Inspection.
- The County Ordinance and DPW contracts do not mention or describe the Equalization Formula which DPW inconsistently used between the higher AFAV (Anticipated Future Assessed Value of surrounding properties) and the lower PDV (Pre-Development Value).

Findings and Recommendations

- The County Ordinance does not mention an applicable valuation date of the property and these projects can take as many as nine years to break ground.
- The County Ordinance does not state when the Equalization payment is due to the County, resulting in the use of three inconsistent methods:
 1. Kensington’s equalization payment is arranged as a payment plan with payments due throughout various construction phases;
 2. OHEKA Castle equalization payments are due upon the execution of the agreement; and
 3. Glenwood Landing and Glen Head Commons equalization payments are split into two payments: a 25% payment due at execution of the agreement and a 75% payment due at submission of sewer connection plan.
- Kensington and Glen Head Commons were approved by the County Executive on the same date despite multiple contract differences.
- Kensington’s rate was based on the original DPW formula despite signing the agreement 21 months after Glenwood Landing signed their agreement and 26 months after DPW accepted Glenwood Landing’s offer¹⁹ to change Glenwood Landing’s formula.

Audit Recommendation:

We recommend that DPW adhere to the County Legislative approved ordinances for language and terms to be used in the contracts and to treat all developers in a fair and consistent manner.

Audit Finding (6)

(6) Current Accounting Methods Do Not Segregate Various Out of District Sewer Revenue Receipts

Upon review of the DPW account postings in the Nassau Integrated Financial System, (“NIFS”), the Auditors noted inconsistencies with accounting for Out of District Equalization Charges, as follows:

- two of the Equalization Charges received, totaling \$60,275, were posted to an account labeled Contractual Services; and
- two Equalization Charges received, totaling \$456,368, were posted to an account labeled Misc. Receipts.

¹⁹ In a letter dated June 12, 2013 to Glenwood Landing, the former DPW Commissioner accepts the developer’s August 22, 2012 offer to change the Equalization Charge calculation.

Findings and Recommendations

These account titles do not clearly identify Equalization Charges.

The New York State Comptroller’s Accounting and Reporting Manual states that the “coding of accounts facilitates the classification of data on source documents and the posting of entries in the accounting records. **It enables identification of transactions quickly and provides consistency in reporting.**”

Section 1234 of the Nassau County Charter regarding connections for Service Outside of Districts states that “Charges required to be paid pursuant to such contracts shall be collected and enforced in the same manner as provided for the collection and enforcement of service charges and unpaid contract charges shall be subject to the same rate of interest as unpaid service charges. When collected, such charges shall be apportioned and credited to the appropriate sewage collection or disposal district or districts.”

In order for charges to be easily identified and accurately apportioned, the Equalization Charges received need to be posted to the same account. The account title needs to be clearly labeled to identify Out of District Equalization Charges and accounted for separately from other DPW fees in order to ensure that the Equalization Charges that have not been paid in full will be collected appropriately.

Audit Recommendations:

We recommend that DPW:

- a) establish a clearly labeled Equalization Charge general ledger account; and
- b) correctly identify and post future deposits.

Audit Finding (7)

(7) Inconsistent Contract Clauses Were Used in Out of District Sewer Contracts Approved on the Same Day

The Glen Head Commons contract for the development of 53 units and the Kensington contract for 83 units were approved by the County Legislature Rules Committee **on the same date, October 19, 2015** (see Finding 2, Exhibit VI), but include several different notable contract terms.

Other than the Equalization Charge and permit fees discussed earlier in the report, the primary contract term differences include additional clauses, additional paragraphs and reworded sentences in the Kensington contract that are not found in the Glen Head contract.

The Glen Head contract did not include the following items included in the Kensington contract:

- An “Insurance and Bonding” clause which includes requirements for Commercial General Liability Insurance and a \$25,000 performance bond. This was not required in the Glen Head contract or any of the other contracts.

Findings and Recommendations

- An additional paragraph in the “Indemnification, Defense, Cooperation” clause along with ambiguously reworded sentences.
- A more specifically worded “Termination” clause adding three additional paragraphs with details on (1) procuring all required permits, (2) public health emergencies, and (3) the County’s requirement for written notice of termination, return of sums posted and letters of credit.
- Additional paragraphs in the “Assignment; Amendment; Waiver; Subcontracting” clause on Kensington’s right to transfer the Agreement to a Home Owners Association or third party.

It was also noted that the Legislative resolution cover page for Glen Head included additional wording that was not in Kensington’s resolution and does not appear to have anything to do with sewer connection contracts specifically:

- “Whereas the district is interested in **procuring rescue extraction equipment for emergency response**” (see a copy of the actual cover page below):

Glen Head Contract Excerpt

RESOLUTION NO. 267 2015

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO
EXECUTE AN AGREEMENT BETWEEN THE COUNTY OF NASSAU ACTING ON
BEHALF OF THE NASSAU COUNTY DEPARTMENT OF PUBLIC WORKS AND
ONE ROBERT LANE, LLC

Passed by the Rules Committee
Nassau County Legislature
By Voice Vote on 10/19/15
VOTING:
yea 7 nays 0 abstained 0 recused 0
Legislators present 7

APPROVED AS TO FORM
[Signature]
Deputy County Attorney

WHEREAS, the County of Nassau has negotiated an agreement with One Robert Lane, LLC, a copy of which is on file with the Clerk of the Legislature, and

WHEREAS, such agreement will allow One Robert Lane, LLC to connect to an existing Nassau County sanitary sewer for wastewater treatment and disposal services; and

WHEREAS, the District is interested in procuring rescue extraction equipment for emergency response (the “Project”); and

WHEREAS, such agreement is authorized by Section 1234 of the Nassau County Charter; now, therefore, be it

Findings and Recommendations

Kensington Contract Excerpt

RESOLUTION NO. 262 2015

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN AGREEMENT BETWEEN THE COUNTY OF NASSAU ACTING ON BEHALF OF THE NASSAU COUNTY DEPARTMENT OF PUBLIC WORKS AND TRIANGLE EQUITIES 496 WEST JERICO TURNPIKE, LLC

Passed by the Rules Committee
Nassau County Legislature
By Voice Vote on 10/19/15

VOTING:
aye: 7 nays: 0 abstained: 0 recused: 0
Legislators present: 7

WHEREAS, the County of Nassau has negotiated an agreement with Triangle Equities 496 West Jericho Turnpike, LLC, a copy of which is on file with the Clerk of the Legislature, and

WHEREAS, such agreement will allow Triangle Equities 496 West Jericho Turnpike, LLC to connect to an existing Nassau County sanitary sewer for wastewater treatment and disposal services; and

WHEREAS, such agreement is authorized by Section 1234 of the Nassau County Charter; now, therefore, be it

APPROVED AS TO FORM
[Signature]
Deputy County Attorney

In summary, it appears there are additional clauses designed to protect Nassau County not found in the Glen Head contract that are required in the Kensington contract.

Audit Recommendations:

We recommend that DPW's legal representative:

- a) consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses under both contracts to determine if the clauses are comparable and adequately protect the County; and
- b) explain why DPW has an emergency equipment procurement on the first page of a request to the Legislature involving a sewer connection fee.

Appendix A – Department of Public Works Contracts Reviewed

Department of Public Works Contract ID List

<u>Vendor Name</u>	<u>Contract ID</u>
Cold Spring Hills Development, LLC	CQPW17000002; Legislative Clerk Item #330-17
Glen Harbor Partners, LLC	CQPW14000001; Legislative Clerk Item #65-14
One Robert Lane, LLC	CQPW15000013; Legislative Clerk Item #E-208-15
Triangle Equities 496 West Jericho Turnpike, LLC	CQPW15000012; Legislative Clerk Item #E-209-15
Engel Burman at Jericho, LLC	CQPW16000013; Legislative Clerk Item #7-17

Appendix B – Laws and Ordinances

The following eleven legal references are consolidated into Appendix B, in the order shown below, as a separate attachment to the report.

Nassau County Charter, Section 1234 (May 31, 2017, page 121)	1 Page
Nassau County Emergency Resolution No. 52-2001	9 Pages
Nassau County Ordinance No. 266-1985	30 Pages
Nassau County Ordinance No. 187-2010	7 Pages
Nassau County Ordinance No. 74-2014	7 Pages
Nassau County Ordinance No. 176-2015	7 Pages
Nassau County Resolution No. 267-2015	2 Pages
Nassau County Resolution No. 268-2015	2 Pages
New York County Law, Section 266	4 Pages
Suffolk County Code, Section 740-38	1 Page
Town of Huntington Resolution No. 2012-91	29 Pages

Appendix C – Auditor’s Follow-Up Comments on DPW Response

DPW Response: Introductory Paragraphs

“The Department has completed its review of the above referenced audit findings. As discussed at our exit interview that took place on July 12, 2018, many of the findings identified deal with the inconsistency of agreements between parties.

This was a result of the fact that at this time each agreement was individually negotiated, reviewed by the County Attorney, authorized by the Administration and then approved by the Legislature and Office of the Comptroller. The Department is in agreement with the audit that moving forward a standardized, Legislative approved process and equalization fee for out-of- district is required.

The Department has completed a review of the similar fee imposed by Suffolk County and we have looked at implementing a similar flat equalization fee. While this flat fee can be set, the Department believes that setting such a fee without the consideration of waivers associated with economic development incentives or environmental protection considerations is short sighted. Over the next few weeks these discussions will take place before presenting an ordinance to the Legislature.”

Auditor’s Comments to Introductory Paragraphs in DPW’s Response

We are pleased that DPW is considering a standardized equalization fee with Legislative approval to eliminate the disparity in the contract negotiations.

The Department states that “...each agreement was individually negotiated, reviewed by the County Attorney, authorized by the Administration and then approved by the Legislature and Office of the Comptroller.” While the County Charter requires legislative approval of certain contracts, the Legislature’s approval of these contracts is not comparable to the Legislature setting or codifying a method for determining the Equalization Rates by way of ordinance. The review of contracts by the Office of the Comptroller includes, but is not limited to, a legal review and examination for correctness. It is through formal audits, such as the one conducted here, that irregularities (such as the inconsistently applied Equalization Rate) may be revealed.

As discussed in the Exit Conference, while economic development and environmental protection are important, this is a policy matter for the County Executive and Legislature to deliberate upon.

DPW Response to Background Paragraph 4 on Page 1

“As discussed at the exit interview please change; "DPW estimates there are approximately sixteen (16) agreements for Out of District sewer connections that involve not-for-profits, municipalities and private entities." DPW has reviewed their records and has indicated that there are sixteen (16) known agreements for Out of District sewer connections that involve not-for-profits, municipalities and private entities.”

Appendix C – Auditor’s Follow-Up Comments on DPW Response

Auditor’s Comments to DPW’s Response to Background Paragraph 4 on Page 1

At the time of our field work, the former Chief Public Works Sanitary Engineer estimated that there were 16 Out of District Sewer Connection agreements. DPW’s review of the records cited in their response was done “post audit.”

At the Exit Conference we agreed to add the word “**known**” and page 1 of the report has been revised to state: “DPW estimates there are 16 known agreements for Out of District sewer connections that involve not-for-profits, municipalities and private entities.”

Audit Finding (1)

(1) The Valuation Methodology Chosen by DPW Will Lead to an Estimated \$2.6 Million Less in Sewer Hookup Equalization Fees for the County

Audit Recommendations:

We recommend that:

- a) DPW adopt a consistent valuation policy for calculating Equalization Charges and have it approved by the Nassau County Legislature, which has the responsibility to set fees; and
- b) the approval of the pending OHEKA Castle contract and any other future contracts, be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.

DPW Response to Audit Finding 1

“The Department agrees that a consistent valuation policy for calculating Equalization Charges is beneficial. The Department is currently assessing the application of a flat fee methodology, similar to that of Suffolk County as referenced in the audit or a hybrid methodology inclusive of assessed value that would establish the entities cost share of a mature system of building infrastructure and collection system.

Page 3; The Department disagrees with the following statement, “The Equalization formula was not set by the Legislature or codified in the ordinance which enabled DPW to create the Equalization Charge .” It should be noted that the Legislative approval occurred when each Out of District Agreement was reviewed and approved by the Office of the County Attorney, authorized by the Office of the County Executive and approved by the County Legislature.

Page 4; The following statement is misleading “DPW could not provide comparable GIS maps for all the properties for the same time period” and as discussed at the exit interview should be modified to indicate that the GIS data could not be recreated because the data on the system is now only showing the current year assessment data.”

Appendix C – Auditor’s Follow-Up Comments on DPW Response

Auditor’s Comments to DPW’s Response to Finding 1

We are pleased that DPW agrees with our recommendation that DPW adopt a consistent valuation policy for calculating Equalization Charges. We encourage them to complete their assessment of the new methodology and to have the final decision approved by the Nassau County Legislature.

The response does not address recommendation b) “We reiterate that DPW should contact the Legislature to ensure the approval of the pending OHEKA Castle contract, and any other pending or future contracts, be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.”

With regard to DPW’s disagreement with the statement on page 3, “**The Equalization formula was not set by the Legislature or codified in the ordinances which enabled DPW to create the Equalization Charge,**” the Legislature did not approve a standard **formula**. The **charges** may have effectively been approved by the Legislature through approval of the contracts. **However, DPW did not clearly disclose to the Legislature that the two contracts submitted together for approval on the same day, used two different formulas to calculate the same charges.** We reviewed the Full Legislative Meeting and Rules Committee Meeting minutes for that day, noting that there was no mention about the formulas used to calculate the Equalization Charges or that they were different. This includes our review of the Rules Committee minutes that were incorrectly dated October 19, 2014 instead of October 19, 2015.

We do not agree with DPW that the sentence stating, “DPW could not provide comparable GIS maps,” was misleading. The Auditors had requested GIS maps dated as of the time of contract talks, which DPW could not provide. To satisfy DPW’s concern, we adjusted the sentence as discussed and agreed upon during the Exit Conference. The sentence now reads: “DPW did not have comparable GIS maps for all of the properties for the same time period.”

Audit Finding (2)

(2) Negotiations by DPW Led to Disparate Agreements and Inconsistent Charges: OHEKA Castle Would Save \$4.3 Million in Fees by Connecting its Primarily Suffolk County Situated Property to Nassau County Sewers

Audit Recommendation:

We recommend that DPW cease from negotiating with developers and use one methodology for calculation of the Equalization Charge that has received Legislative approval.

DPW Response to Audit Finding 2

“The current agreements were negotiated on a case by case basis and circumstances of the individual projects caused adjustments to the calculated formula amount. However, all agreements were authorized by the County Executive and approved by the Legislature contrary to the report finding which states that there is a lack of disclosure or lack of Legislative and County approvals.”

Appendix C – Auditor’s Follow-Up Comments on DPW Response

Auditor’s Comments to DPW’s Response to Finding 2

We stand behind our recommendation and reiterate that DPW cease from negotiating the Equalization Charge with developers and use one methodology approved by the Legislature.

DPW did not present a standard Equalization Charge formula to be approved by the Legislature, nor was it disclosed on the DPW website, making it possible for DPW to change the formula and effectively negotiate the rates used in each contract.

Audit Finding (3)

(3) The Pending OHEKA Castle Contract Does Not Include the ‘Ordinance Required’ Per Unit Inspection Fee that the Other Developers were Charged

Audit Recommendations:

We recommend that:

- a) As DPW ordinances require County inspectors to be onsite to protect the County’s interest, DPW should ensure that this is done or that the ordinances are changed. Any pending or future contracts should include this language; and
- b) DPW immediately remedy the lack of an inspection fee before the pending Cold Spring Hills Development, LLC contract for the OHEKA Castle project proceeds.

DPW Response to Audit Finding 3

“The OHEKA agreement was drafted but not approved by the legislature although the revenue was collected the contract was not executed. As discussed, current agreements were negotiated on a case by case basis and circumstances of the individual projects caused adjustments to the calculated formula amount. The standard inspection fee that was waived of \$399 per unit for 191 totaling \$76,209. The fee was waived according to agreed terms that the developer's engineer agreed to perform onsite inspections upon project completion and provide a professional engineer seal to certify the inspections, eliminating the need for the County to perform the work and hence charge for the inspection. As Departmental personnel continues to diminish the Department must seek alternative methods to carry its mission or eliminate functions. Along with the possibility of establishing a new flat rate or other methods the Department is also assessing whether outsourcing inspections and or other functions as well as expedited services charges can be assessed or credited as a fixed formula is viable. Therefore, the Department agrees with the recommendation and will seek to change the ordinance to allow the flexibility.”

Auditor’s Comments to DPW’s Response to Finding 3

We stand by our recommendations and reiterate the need for DPW to require County inspectors to be onsite, per the current ordinance, to protect the County’s interests.

Appendix C – Auditor’s Follow-Up Comments on DPW Response

The pending OHEKA Castle contract does not include the \$76,209 Inspection Fee required by County ordinance that the other developers had in their contracts. Allowing OHEKA’s engineer to inspect the sewer connections lacks independence.

DPW’s response explains that DPW’s engineering staff has diminished and they must seek alternative methods to carry on its mission. As an alternative to outsourcing, the Administration should consider that the lost revenue of \$76,209 from this one inspection fee would more than pay for one full time County inspector. Not only would this employee provide independent assurance of the connection, he/she would also be able to absorb other County work duties.

Audit Finding (4)

(4) Lack of Approval for Written Procedures Resulted in Varying and Ambiguous Charges

Audit Recommendations:

We recommend that:

- a) DPW management review and approve written Standard Operating Procedures for sewer connections;
- b) DPW management institute financial controls over fee uniformity and collections;
- c) DPW use consistent terminology in their contracts and on their website;
- d) the formula and methodology used to calculate Equalization Charges be approved by the Legislature and posted on the DPW website;
- e) DPW update fees on an ongoing basis in the SOP and website every time there is approval of a DPW fee ordinance;
- f) the formula and methodology used to calculate the prevailing rate be approved by the Legislature and posted on the DPW website; and
- g) procedures be developed to apply usage levels to the prevailing rate to ensure proper calculation and billing for ongoing future usage charges.

DPW Response to Audit Finding 4

“The Department agrees with the recommendations of the audit findings that will review and approve written Standard Operating Procedures for out of district sewer connections. As stated previously the lack of a written procedure was associated with the fact that each Out of District Agreement was negotiated individually.

The Department agrees that a consistent valuation policy for calculating Equalization Charges is beneficial.

Appendix C – Auditor’s Follow-Up Comments on DPW Response

The Department agrees that the County website should be consistent with terminology, formulas, calculations, approved fee ordinances as it relates out of district sewer connections and be reconciled and maintained for future changes.

The Department currently use the NIFS accounts receivable module to send out bills and we will continue to do so.”

Auditor’s Comments to DPW’s Response to Finding 4

We are pleased DPW agrees with recommendations a) through f), and encourage them to:

- review and approve written standard operating procedures for out of district sewer connections;
- apply a consistent valuation policy for calculating Equalization Charges; and
- ensure the website contains consistent terminology, formulas, calculations, approved fee ordinances and that they are reconciled and maintained for future changes.

Sewer usage is absorbed in the Sewer District’s levy for In-District sewer connections and is billed on an equitable basis through property taxes based on assessed value. Out of District properties are not part of that calculation and instead are to be billed separately for actual usage. Therefore, we reiterate the need, in recommendation (g), to develop procedures for the billing of wastewater service charges (for out of district sewer connections) to ensure proper calculation and billing for ongoing future usage charges.

The County has the ability to add properties (located within the County, but not the Sewer District) to the Zone of Assessment for the Sewer District enabling the property to participate in the tax levy and not be billed separately. Where applicable, we encourage DPW to invoke a contract’s “Inclusion” clause (quoted below), to minimize the need for separate billing.

“Inclusion in the Countywide Sewer and Stormwater Resources District

The County reserves the right to include the properties within the Project in a zone of assessment in the Countywide Sewer and Stormwater Resources District. Once the properties within the Project are included in a Zone of Assessment and the sewer charges are paid pursuant to a tax levy the Annual Service Fee will be terminated by the County.”²⁰

²⁰ This clause is typically found in contracts where the property is within the county, but not within the Sewer District. An example can be found in Section 9 of the Glen Harbor Partners, LLC contract.

Appendix C – Auditor’s Follow-Up Comments on DPW Response

Audit Finding (5)

(5) DPW Did Not Follow the County Ordinance in the Four Contracts Examined and Inconsistently Negotiated Contract Terms

Audit Recommendation:

We recommend that DPW adhere to the County Legislative approved ordinances for language and terms to be used in the contracts and to treat all developers in a fair and consistent manner.

DPW Response to Audit Finding 5

“Department agrees with the recommendation to draft agreements in a consistent manner and language so that the County Legislative approved ordinances for language and terms in the contracts and apply fees consistently.”

Auditor’s Comments to DPW’s Response to Finding 5

We concur with DPW’s response that they accept our recommendation to adhere to the County Legislative approved ordinances for language and contract terms and to apply terms consistently.

Audit Finding (6)

(6) Current Accounting Methods Do Not Segregate Various Out of District Sewer Revenue Receipts

Audit Recommendations:

We recommend that DPW:

- a) establish a clearly labeled Equalization Charge general ledger account; and
- b) correctly identify and post future deposits.

DPW Response to Audit Finding 6

“The Comptroller's Office by Charter is the keeper of the chart of accounts, therefore, any change can be requested by DPW but must be executed by the Comptroller's Office. The Department consistently used code R0813 CONTRACTUAL SERVICES to book out of district revenues. OHEKA was booked in R0801 MISC RECEIPTS (Miscellaneous receipts) and then reversed because the agreement was never executed, but the check was cashed. Once the Department establishes a flat fee methodology, similar to that of Suffolk County as referenced in the audit or a hybrid methodology inclusive of assessed value so that it can be applied consistently and uniformly. This new structure may include different components at which time the Department want to capture separately and may ask the Comptroller's office to establish new coding structure to capture the revenue separately, other than being booked to code R0813 CONTRACTUAL SERVICES.

Appendix C – Auditor’s Follow-Up Comments on DPW Response

The recommendation requesting that the Department reclassify prior postings to these newly established accounts is not feasible and the Department does not agree with the recommendation. The prior postings are part of the audited results of the CAFR and cannot be changed once the fiscal year is closed. Once new coding is established the Department will establish policies and procedures to book receipts consistently to the new codes.”

Auditor’s Comments to DPW’s Response to Finding 6

We reiterate the need for DPW to establish a clearly labeled Equalization Charge general ledger account; and correctly identify and post future deposits. This would require the Department of Public Works to submit a request to the Comptroller’s Office.

We disagree with DPW’s statement that they “consistently used code RO813 CONTRACTUAL SERVICES to book out of district revenues.” Had DPW consistently used the code, all 4 payments received from separate developers would have been posted to Contractual Services. Instead, two of the four were posted inconsistently to Miscellaneous Receipts and two were posted to Contractual Services.

As agreed to at the Exit Conference, the recommendation to reclassify prior postings to the new account has been removed from the report.

We are pleased that once new coding is established, DPW will create policies and procedures to book receipts consistently to those new codes.

Audit Finding (7)

(7) Inconsistent Contract Clauses Were Used in Out of District Sewer Contracts Approved on the Same Day

Audit Recommendations:

We recommend that DPW’s legal representative:

- a) consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses under both contracts to determine if the clauses are comparable and adequately protect the County; and
- b) explain why DPW has an emergency equipment procurement on the first page of a request to the Legislature involving a sewer connection fee.

DPW Response to Audit Finding 7

“The Department agrees with the recommendation that insurance, termination and additional indemnification clauses under all contracts are comparable and consistent to adequately protect the County. We will work with County Attorney to avoid the inclusion of language that does not pertain to agreement at hand, as cited in the audit. Additionally, DPW cannot explain why there

Appendix C – Auditor’s Follow-Up Comments on DPW Response

is a reference in the resolution related to Emergency Equipment. DPW does not draft the resolution but we believe that the inclusion was a typo left over from a previous project.”

Auditor’s Comments to DPW’s Response to Finding 7

We are pleased that DPW is in agreement with our recommendation; and that they will consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses to determine if the contract clauses are comparable and adequately protect the County.

We appreciate DPW’s efforts to explain why an emergency equipment procurement request would be included in a sewer connection contract and concur with their efforts to work with the County Attorney to avoid the inclusion of unrelated language into the Legislative records that does not pertain to the contracts being voted upon.

Appendix D –DPW Response

LAURA CURRAN
NASSAU COUNTY EXECUTIVE



KENNETH G. ARNOLD, P.E.
COMMISSIONER

COUNTY OF NASSAU
DEPARTMENT OF PUBLIC WORKS
1194 PROSPECT AVENUE
WESTBURY, NEW YORK 11590-2723

August 2, 2018

Kim G. Brandeau
Deputy Comptroller for Administration & Operations
240 Old Country Road
Mineola, NY 11501

Re: Limited Review of Nassau County Department of Public Works calculating of charges & fees for Out-of-District Sewer Contract

Dear Ms. Brandeau:

The Department has completed its review of the above referenced audit findings. As discussed at our exit interview that took place on July 12, 2018, many of the findings identified deal with the inconsistency of agreements between parties.

This was a result of the fact that at this time each agreement was individually negotiated, reviewed by the County Attorney, authorized by the Administration and then approved by the Legislature and Office of the Comptroller. The Department is in agreement with the audit that moving forward a standardized, Legislative approved process and equalization fee for out-of-district is required.

The Department has completed a review of the similar fee imposed by Suffolk County and we have looked at implementing a similar flat equalization fee. While this flat fee can be set, the Department believes that setting such a fee without the consideration of waivers associated with economic development incentives or environmental protection considerations is short sighted. Over the next few weeks these discussions will take place before presenting an ordinance to the Legislature.

Please find below the Department's specific responses to the audit:

Page 1; As discussed at the exit interview please change; "DPW estimates there are approximately sixteen (16) agreements for Out of District sewer connections that involve not-for-profits, municipalities and private entities." DPW has reviewed their records and has indicated that here

Appendix D –DPW Response

Page 2

Re: Limited Review of Nassau County Department of Public Works calculating of charges & fees for Out-of-District Sewer Contract

are sixteen (16) known agreements for Out of District sewer connections that involve not-for-profits, municipalities and private entities.”

Audit Finding One - The valuation methodology chosen by DPW when compared to the alternate method will lead to an estimate \$2.6 million less in sewer hookup equalization fees for the County.

Response - The Department agrees that a consistent valuation policy for calculating Equalization Charges is beneficial. The Department is currently assessing the application of a flat fee methodology, similar to that of Suffolk County as referenced in the audit or a hybrid methodology inclusive of assessed value that would establish the entities cost share of a mature system of building infrastructure and collection system.

Page 3; The Department disagrees with the following statement, “The Equalization formula was not set by the Legislature or codified in the ordinance which enabled DPW to create the Equalization Charge.” It should be noted that the Legislative approval occurred when each Out of District Agreement was reviewed and approved by the Office of the County Attorney, authorized by the Office of the County Executive and approved by the County Legislature.

Page 4; The following statement is misleading “DPW could not provide comparable GIS maps for all the properties for the same time period” and as discussed at the exit interview should be modified to indicate that the GIS data could not be recreated because the data on the system is now only showing the current year assessment data.

Audit Finding Two - Negotiations by DPW led to disparate agreements and inconsistent charges: OHEKA Castle would save \$4.3 million in fees by connecting its primarily Suffolk County Situated property to Nassau County sewers.

Response - The current agreements were negotiated on a case by case basis and circumstances of the individual projects caused adjustments to the calculated formula amount. However, all agreements were authorized by the County Executive and approved by the Legislature contrary to the report finding which states that there is a lack of disclosure or lack of Legislative and County approvals.

Audit Finding Three - The OHEKA contract did not include the ordinance required per unit inspection fee that the other developers were charged.

Response - The OHEKA agreement was drafted but not approved by the legislature although the revenue was collected the contract was not executed. As discussed, current agreements were negotiated on a case by case basis and circumstances of the individual projects caused adjustments to the calculated formula amount. The standard inspection fee that was waived of \$399 per unit for 191 totaling \$76,209. The fee was waived according to agreed terms that the developer’s engineer agreed to perform onsite inspections upon project completion and provide a professional engineer seal to certify the inspections, eliminating the need for the County to perform the work and hence charge for the inspection. As Departmental personnel continues to

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Appendix D –DPW Response

Page 3

Re: Limited Review of Nassau County Department of Public Works calculating of charges & fees for Out-of-District Sewer Contract

diminish the Department must seek alternative methods to carry its mission or eliminate functions. Along with the possibility of establishing a new flat rate or other methods the Department is also assessing whether outsourcing inspections and or other functions as well as expediated services charges can be assessed or credited as a fixed formula is viable. Therefore, the Department agrees with the recommendation and will seek to change the ordinance to allow the flexibility.

Audit Finding Four - Lack of approval for written procedure resulted in varying and ambiguous chargers.

Response - The Department agrees with the recommendations of the audit findings that will review and approve written Standard Operating Procedures for out of district sewer connections. As stated previously the lack of a written procedure was associated with the fact that each Out of District Agreement was negotiated individually.

The Department agrees that a consistent valuation policy for calculating Equalization Charges is beneficial.

The Department agrees that the County website should be consistent with terminology, formulas, calculations, approved fee ordinances as it relates out of district sewer connections and be reconciled and maintained for future changes.

The Department currently use the NIFS accounts receivable module to send out bills and we will continue to do so.

Audit Finding Five - DPW did not follow the county ordinance in four contracts examined and inconsistently negotiated.

Response - Department agrees with the recommendation to draft agreements in a consistent manner and language so that the County Legislative approved ordinances for language and terms in the contracts and apply fees consistently.

Audit Finding Six - Inconsistent accounting methods were used for recording revenue received from equalization charges.

Response - The Comptroller's Office by Charter is the keeper of the chart of accounts, therefore, any change can be requested by DPW but must be executed by the Comptroller's Office. The Department consistently used code R0813 CONTRACTUAL SERVICES to book out of district revenues. OHEKA was booked in R0801 MISC RECEIPTS (Miscellaneous receipts) and then reversed because the agreement was never executed, but the check was cashed. Once the Department establishes a flat fee methodology, similar to that of Suffolk County as referenced in the audit or a hybrid methodology inclusive of assessed value so that it can be applied consistently and uniformly. This new structure may include different components at which time the

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Appendix D –DPW Response

Page 4

Re: Limited Review of Nassau County Department of Public Works calculating of charges & fees for Out-of-District Sewer Contract

Department want to capture separately and may ask the Comptroller's office to establish new coding structure to capture the revenue separately, other than being booked to code R0813 CONTRACTUAL SERVICES.

The recommendation requesting that the Department reclassify prior postings to these newly established accounts is not feasible and the Department does not agree with the recommendation. The prior postings are part of the audited results of the CAFR and cannot be changed once the fiscal year is closed. Once new coding is established the Department will establish policies and procedures to book receipts consistently to the new codes.

Audit Finding Seven - Inconsistent contract clauses were used in out of district sewer contracts approved on the same day.

The Department agrees with the recommendation that insurance, termination and additional indemnification clauses under all contracts are comparable and consistent to adequately protect the County. We will work with County Attorney to avoid the inclusion of language that does not pertain to agreement at hand, as cited in the audit. Additionally, DPW cannot explain why there is a reference in the resolution related to Emergency Equipment. DPW does not draft the resolution but we believe that the inclusion was a typo left over from a previous project.

The Department appreciates the extension to August 3, 2018, to respond to these findings. If you or your staff have any questions or requires any further clarifications on our response, please contact this office.

Very truly yours,



Kenneth G. Arnold, P.E.
Commissioner of Public Works

KGA:jm

c: Jack Schnirman, Comptroller
Helena Williams, Chief Deputy County Executive
Brian Schneider, Deputy County Executive for Parks & Public Works
Roseann D'Alleva, Deputy Commissioner of Public Works
Vincent Falkowski, Deputy Commissioner of Public Works
Joann Greene, Field Audit Director

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