CITY OF MIAMI
OFFICE OF INDEPENDENT AUDITOR GENERAL

AUDIT OF THE CITY OF MIAMI’S PARKING SURCHARGE FEES

AUDIT REPORT NO. 09-006

Prepared By
Office of Independent Auditor General

Victor I. Igwe, CPA, CIA
Independent Auditor General

LAIWAN MCGINNIS, STAFF AUDITOR
September 29, 2009

Honorable Members of the City Commission
City of Miami
3500 Pan American Drive
Coconut Grove, FL 33133-5504

Re: Audit of City of Miami’s Parking Surcharge Fees
Audit No. 09-006

Pursuant to Section 48 of the City of Miami’s (City) Charter and the Fiscal Year 2009 Audit Plan, we have examined the revenues/accounting records of a sample of parking facilities. The audit was performed to determine whether selected parking facilities complied with Chapter 35 of the City Code; and also whether The Parking Network (TPN) complied with the professional service agreement between the City and TPN.

Additionally, we examined the internal control policies and procedures of the City’s Finance Department and the TPN to determine whether they were adequate and effective in administering and overseeing the parking surcharge program.

The audit covered the period October 1, 2006 through September 30, 2008 and selected controls/transactions prior and subsequent to this period.

Sincerely,

Victor I. Igwe, CPA, CIA
Independent Auditor General
Office of Independent Auditor General
C: The Honorable Mayor Manuel A. Diaz
Pedro G. Hernandez, Chief Administrator/City Manager
Members of the Audit Advisory Committee
Bill Anido, Assistant City Manager, Office of the City Manager
Larry M. Spring, Chief Financial Officer
Michael J. Boudreaux, Chief of Strategic Planning, Budgeting and Performance
Peter W. Korinis, Chief Information Officer, Information Technology Department
Julie Bru, City Attorney, City Attorney’s Office
Priscilla A. Thompson, City Clerk, City Clerk’s Office
Diana M. Gomez, CPA, Director, Finance Department
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
Frank Laso, Director, The Parking Network
Arthur Noriega, Executive Director, Miami Parking Authority
Scott Simpson, Chief Financial Officer, Miami Parking Authority
Arnie Paniagua, Corporate Controller, Jackson Memorial Hospital
Ricardo Mentrall, American Car Parks
Al Arias, Ampco Parking
Sandi Chamberlain, Central Parking
Michael Meyers, Consolidated Parking
Charles Tavares, Miami River Park Marina
John Daniels, Omni Parking
Wes Smith, One Parking
Greg Mirmelli, Park West Parking
Arturo Evans, U.S. Parking
Audit Documentation File
# AUDIT OF THE CITY OF MIAMI PARKING SURCHARGE FOR THE PERIOD OCTOBER 1, 2006 THROUGH SEPTEMBER 30, 2008

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Florida Statute § 166.271 authorizes the governing body of any municipality with a resident population of more than 200,000 with over twenty percent (20%) of its real property exempt from ad valorem taxes and located in a county with a population greater than 500,000 to impose and collect a per vehicle surcharge of up to fifteen percent (15%). The surcharge is to be assessed on the amount charged for the sale, lease, or rental of space at parking facilities which are open to the general public and applies to all parking revenues derived from parking transactions within the City, with the exemption of airports, seaports, county administration buildings, and residential parking. The Statute requires that a percentage of the surcharge proceeds to be used to reduce the City’s ad valorem tax millage and improve transportation.

Pursuant to Florida Statute § 166.271, on July 22, 2004 the City Commission enacted Ordinance No. 12563 (Ordinance) which amended Chapter 35, Article IX of the City Code and granted the City the authority to impose and collect a 15% surcharge on all parking revenues derived from any charge or fee for the parking of a motor vehicle in or on any parking facility in the City for which a charge or fee is made on a hourly, daily, weekly, monthly, yearly, event, validation programs, valet, or any other basis. Section 35-346 (b) of the City Code requires that the operator of every parking facility remit to the City Manager the funds collected, net of any refunds, no later than the twentieth (20th) day of each calendar month for the preceding calendar month’s parking surcharge collections.

The following terms are commonly used when referring to the issues pertaining to the parking surcharge. Section 101of the City’s Parking Surcharge Regulations and Section 35-344 of the City Code entitled Definitions defines them as:

- Operator – Any individual, partnership, association, corporation, or other entity which owns, controls, conducts, leases, operates, or causes to be operated a parking facility which offers parking accommodations for a fee, charge or exchange. The intent of this definition is to place the burden for collection of the
surcharge on the owner of the facility not the entity which operates the facility if different from the owner.

- Parking facility – Any use in whole or in part of any space, plot, place, lot, parcel, yard, enclosure, parking lot, garage, street, building or structure that is open to the general public at which motor vehicles may be housed, stored, kept, or parked for which any fee or charge is made, no matter how the fee or charge is collected.

- Revenues – Any and all revenue, to include the entire amount of compensation in whatever form, exchange or otherwise, to be determined according to generally accepted accounting principles, derived directly or indirectly from or in connection with the Parking operation of the parking facility.

The City Manager is responsible for administering the Parking Surcharge program. However, pursuant to Section 35-346 (f)(3) of the City Code, the City Manager is granted the authority to delegate any of the duties and functions in connection with the collection of the parking surcharge, as well as retain the services of persons or entities with parking related collection experience to collect the surcharge. As stipulated in the Introduction Section of the Parking Surcharge Regulations, the Director of the City’s Finance Department is charged with the principal responsibility for administering the Parking Surcharge program. These responsibilities include, but are not limited to ensuring the monitoring of the Parking Surcharge Program and the analysis of the revenues generated thereof, and performing audits of parking facilities; and ensuring that all parking/valet facilities in the City are identified and included in the parking surcharge database, in order to maximize the collections of the parking surcharge remitted to the City. On May 15, 2000 the City executed a Professional Services Agreement (Agreement) which vested the monitoring and related responsibilities to the Parking Network (TPN). The Agreement was subsequently amended/revised on October 1, 2005. In accordance with the Agreement, incentive fees are paid to TPN in order to encourage maximum revenue collection and to further compensate TPN and its employees for actual work performed.
The financial accounting records maintained by the City’s Finance Department disclosed that approximately $28.7 million of surcharge revenues was remitted to the City during the audit period October 2006 through September 2008. A Property Listing Report database maintained by TPN indicated that 398 parking facilities collected and remitted parking surcharge revenues during fiscal years 2006-2008. The 70 (or 18%) of the 398 parking facilities tested as part of our sample, collected and remitted approximately $9.9 million (or 35%) of the $28.7 million to the City during the audit period.

This audit report describes whether the City, TPN, and selected parking operator’s complied with the provisions of the Professional Service Agreement relative to the assessment, collection and remittance of surcharge fees to the City.
SCOPE AND OBJECTIVES

This audit was performed pursuant to the authority set forth in Section 48 of the City’s Charter entitled, “Office of Independent Auditor General” (OIAG), and was conducted in accordance with the OIAG’s Fiscal Year 2009 Audit Plan. This audit focused primarily on whether the selected parking facilities complied with the provisions of Ordinance No. 12563; and also whether The Parking Network (TPN) complied with the terms of the Professional Services Agreement (Agreement) between the City and TPN. The audit also included examinations of various financial transactions between the City and TPN to determine whether they were executed in accordance with the Service Agreement.

The audit covered the period October 1, 2006, through September 30, 2008, and selected transactions prior and subsequent to this period. In general, our audit of the parking surcharge focused on the following audit objectives:

- To evaluate the reliability and integrity of financial and operating information used to identify, classify, and report parking surcharge fees.
- To determine whether all applicable parking surcharge fees as stipulated in Ordinance No. 12563 were properly computed and remitted to the City.
- To determine whether adequate internal controls were maintained.
- To determine whether the amounts remitted to the City were properly recorded in the City’s financial accounting system and deposited into the City’s treasury.
- To determine whether TPN complied with all major provisions of the Agreement.
- To determine whether parking facilities were operating with certificates of use and local business tax receipts.
- Other audit procedures as deemed necessary.
METHODOLOGY

We conducted this performance audit in accordance with Generically Accepted Government Auditing Standards. Those standards require that we plan and perform the audit, to obtain sufficient, appropriate evidence in order to provide a reasonable basis for our findings and conclusion 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. The audit methodology included the following:

- Reviewed applicable Florida Statutes, City resolutions, ordinances, other legislative documents, City policies and procedures, in order to gain an understanding of the internal controls, assess control risk, and plan audit procedures.
- Interviewed and made inquiries of appropriate City/TPN personnel, and selected parking operators; analyzed parking data; reviewed parking surcharge remittances; and tested compliance with the related Professional Service Agreement.
- Performed substantive testing consistent with the audit objectives, including but not limited to the examination, on a test basis, of applicable transactions and records.
- Drew conclusions based on the results of the testing, made corresponding recommendations, and obtained auditee responses and corrective action plans.
- Performed other audit procedures as deemed necessary.
OVERALL AUDIT CONCLUSION

Based upon various tests performed and the audit findings noted, we conclude that adequate internal controls were not in place to ensure that:

- Parking surcharge revenues generated from parking facilities were properly assessed and remitted due to the City.

- Parking surcharge revenues generated from Pay and Display Machines (PAD) are collected and remitted to the City.

- Parking surcharge revenues from two County agencies are collected and remitted to the City.

- Adequate records relative to parking surcharge revenues are maintained and retained by operators of parking facilities.

- Parking facilities have valid Certificates of Use and/or Business Tax Receipts.

Based upon various test performed and the audit findings noted, we conclude that adequate internal controls were in place to ensure that:

- Parking Surcharge Fees remitted to the City were properly recorded in the City’s accounting system and deposited in to the City’s Treasury.

- The payments made to TPN were in accordance with the provisions of the Professional Services Agreement.

Overall, we conclude that the internal control policies and procedures in place at TPN and at the parking facilities could be enhanced to maximize parking surcharge fees collections and remittance to the City.
SUMMARY OF AUDIT FINDINGS

SELECTED PARKING FACILITIES AND THE PARKING NETWORK

ADDITIONAL PARKING SURCHARGE FEES DUE TO THE CITY

Our audit tests determined that additional parking surcharge fees (including penalty and interest) totaling $17,211.10 are due from 17 parking facilities. Upon audit inquiry, $5,132.22 of the total amount due was remitted to the City. Also, our audit determined that a total of $174,048.04 of interest and penalties due from Jackson Memorial Hospital were never assessed and collected as authorized in Section 35-346(e) of the City Code.

PARK WEST PARKING AND OMNI PARKING OPERATORS

RECORDS SUPPORTING PARKING SURCHARGE REVENUES WERE NOT MAINTAINED

Our audit fieldwork disclosed that 10 (or 14%) of the 70 parking facilities tested did not properly maintain parking records as required and the parking surcharge fees due and payable to the City could not be determined and/or verified. Nine (9) of the ten (10) parking facilities were operated by Park West Parking and one (1) of the ten (10) was operated by Omni Parking. For example, Kluger Lot operated by Omni Parking had hand-written notations indicating that only two (2) vehicles used Kluger parking lot (with a parking capacity of 45 parking spaces) on April 6, 2007 as compared to fifty-one (51) vehicles on April 7, 2007. Also, bank deposits slips, cancelled checks, breakdowns for parking revenues received and sales taxes paid in connection with parking revenues generated at parking facilities operated by Park West and Omni Parking were never provided as requested by the auditor for any of the 10 parking facilities (lots).
DEPARTMENT OF OFF-STREET PARKING

PARKING SURCHARGE REVENUES GENERATED FROM PAY & DISPLAY MACHINES ARE NOT BEING ASSESSED, COLLECTED AND REMITTED TO THE CITY

Our audit determined that the Department of Off-Street Parking (DOSP) replaced its on-street parking meters with a new form of on-street parking accessory known as Pay and Display (PAD) in 2004. However, we noted that the required 15% parking surcharge is not being assessed on revenues charged to the users of the PAD machine operated by DOSP. We estimate that approximately $1.1 million of parking surcharge revenues were not assessed and remitted to the City during the period June 2004 through September 30, 2008.
CITY MANAGER’S OFFICE AND MIAMI-DADE COUNTY

TWO COUNTY AGENCIES ARE NOT REMITTING PARKING SURCHARGE REVENUES TO THE CITY

Our audit determined that in 2004 the Miami-Dade County (County) stopped remitting the 15% parking surcharge payments to the City relative to fourteen (14) parking facilities (lots) operated by its General Services Administration (GSA) and the Transit agencies. We were informed that the Parking Network had made unsuccessful attempts to collect past due parking surcharge from the County’s GSA and Transit parking facilities that is estimated at approximately $973,000. Upon further audit inquiry, the City’s Chief Financial Officer (CFO) stated that the past due parking surcharge was discussed at the City Commission meeting held on April 2, 2009 and during said discussion the City Manager indicated that he would pursue the matter directly with the County’s Administration for resolution. He (CFO) noted that if no amicable resolution is reached, the City will consider legal action.

PENALTY AND INTEREST FROM LATE PAYMENTS WERE NOT ASSESSED AND COLLECTED

Our review of pertinent accounting and parking records disclosed that Jackson Memorial Hospital (JMH) never remitted parking surcharge fees in a timely manner as required by Section 35-346 (e) since 2004. Our audit determined that the time (in days) that elapsed between the official due date for surcharge fees and the actual receipt date ranged from 13 to 85 days; and the amount of penalty and interest due from JMH totaled $174,048.04 during the audit period. Upon audit inquiry, we were informed that the decision not to charge JMH for any interest and penalty for the period 2004 through 2009, relative to late payments was made by City management in 2004 as authorized by Section 35-346 (f) (2) of the City Code. However, we were not provided with any supporting document to evidence the basis (good and sufficient cause) for the management decision that
exclusively waived unlimited interest and penalties fees for JMH and not for other parking facilities. It is unclear whether Section 35-346 (f) (2) of the City Code grants the City Manager the sole authority to waive reoccurring/unlimited amounts of interests and penalties totaling $174,048 for the period 2004 through 2009 without making such recommendation to the City Commission for approval. For example, in Section 18-85 of the City Code, all bid awards in excess of $50,000.00 must be approved by the City Commission upon recommendation by the City Manager.
FINANCE DEPARTMENT AND THE PARKING NETWORK

MONITORING OF THE OPERATIONS AND ACTIVITIES OF PARKING FACILITIES CAN BE ENHANCED

The monitoring of the operations and activities of the parking facilities can be enhanced as it relates to:

- More audits to detect unremitted surcharge revenues.

- Appropriate parking records to substantiate related parking revenues generated by all parking operators.

- More efforts to ensure that all parking operators comply with the Parking surcharge Ordinance, including but not limited to, operators maintaining a database that includes all information and specific information applicable to each parking facility such as property location and operator related information, valid Business Tax Receipt and Certificate of Use.
SELECTED PARKING FACILITIES AND THE PARKING NETWORK

ADDITIONAL PARKING SURCHARGE FEES DUE TO THE CITY

Chapter 35, Article IX., of the City of Miami Code, entitled, Parking Facilities Surcharge grants the City the authority to impose and levy a surcharge on the sale, lease, or rental of space at parking facilities in the City at a rate of fifteen percent (15%) of the revenues derived from any charge or fee for the parking of a motor vehicle in or on any parking facility in the City. City Code, Section 35-346 (b), entitled Collection of the parking facilities surcharge, requires the Operator of every parking facility to remit to the City the parking surcharge imposed no later than the twentieth (20th) day of each calendar month for the preceding month’s parking surcharge collections. If the Operator fails to collect or remit the surcharge imposed within the time limit, Section 35-346 (e) of the City Code states that interest at the rate of one percent (1%) per month or any fraction thereof, and a penalty of ten percent (10%) of the surcharge due on uncollected or unremitted amounts will be assessed in addition to the parking surcharge fees due to the City.

Our audit included procedures that tested various facilities on a sample basis to determine whether the appropriate percentage of parking revenues was remitted to the City as required. The auditor judgmentally selected 70 (or 18%) of the 398 parking facilities from the database maintained by TPN. During our audit period the 398 parking facilities collected and remitted approximately $28.7 million in surcharge fees to the City. The 70 parking facilities we tested as part of our sample collected and remitted approximately $9.9 million, which represents approximately 35% of the $28.7 million to the City.

Our review of pertinent accounting and parking records disclosed that 20 (or 29%) of the 70 parking facilities tested did not fully comply with Chapter 35 of the City Code as it relates to the collection and remittance of parking surcharge fees. Our audit tests determined that additional parking surcharge fees (including penalty and interest) totaling
$17,211.10 are due from 17 parking facilities. Upon audit inquiry, $5,132.22 of the total amount due was remitted to the City as shown in Exhibit 1 on page 53 and the following responses were provided:

- Our review of Central Parking (operator) records disclosed a revenue line item classified as “other income” on its profit and loss statement. We determined that “other income” included $4,469.72 of rental income generated during the audit period from a mobile car wash operator that provided car wash services at its Courvoisier Center located at 647 Brickell Key Drive. We noted that parking surcharge revenues totaling $670.46 ($4,469 multiplied by 15%) was never paid to the City for the rental income generated for the exclusive right to use certain designated parking spaces for car wash purposes. Upon audit inquiry, Central Parking’s representative stated that said rental income should not be subject to parking surcharge assessment based on Central Parking’s interpretation of the related provisions in the City Code. Please see pages 46 through 49. Also, in a conference call held on September 11, 2009, the Central Parking representative stated that the mobile car wash operator never used parking spaces where automobiles could be parked. However, upon onsite visit to the parking facility, we observed that three (3) parking spaces are used exclusively by the mobile car wash operator. Therefore, a total of $903.01 ($670.46 + $232.55) of parking surcharge including interest and penalties is due and payable to the City. Additionally, a review of the City’s ARCV system that maintains license information for businesses operating in the City indicated that the mobile car wash operator never obtained the required proper Certificate of Use and Business Tax Receipt prior to conducting its business at the parking facility operated by Central Parking.

- Also, we were informed that “other income” as discussed above includes late payment fees generated from monthly parking customers that remitted their monthly parking fees late. However, in several instances we were not provided with any supporting documents indicating the names of the monthly parking customers, the period for which the late fees were assessed, and/or any records to
substantiate/validate this claim. Article IV, Section 401 of the City’s Parking Surcharge Regulations requires that parking records to be kept shall consist of, but not limited to the following: 1) A monthly daily revenue summary showing the starting and ending ticket number, 2) Trial balance report for each parking facility, 3) Bank Deposit slips and Bank Statements for each location, and 4) Other records such as a General Ledger, Profit and Loss Statement (P&L), daily record sheets and ticket stubs. Therefore, absent supporting documents to validate this claim, additional parking surcharge including interest and penalty totaling $2,068.16 is due and payable to the City. Upon audit inquiry, Central Parking’s representative stated that late payment fees generated from monthly parking customers that remitted their monthly parking fees late should not be subject to parking surcharge assessment based on Central Parking’s interpretation of the definition of a “charge, fee, or exchange” as provided in the City Code. However, Section 101of the City’s Parking Surcharge Regulations and Section 35-344 of the City Code entitled defines “parking revenues” as any and all revenue, to include the entire amount of compensation in whatever form, exchange or otherwise, to be determined according to generally accepted accounting principles, derived directly or indirectly from or in connection with the Parking operation of the parking facility.

- Our review of Consolidated Parking (operator) records disclosed that additional parking surcharge revenues including penalty and interest totaling $3,451.92 ($1,753.20 + $1,698.72) are due to the City. In a written response Consolidated Parking agreed to pay $1,753.20 and requested that the City waive the penalty and interest totaling $1,698.72. However, if an Operator fails to collect or remit the surcharge imposed within the time limit, Section 35-346 (e) of the City Code states that interest at the rate of one percent (1%) per month or any fraction thereof, and a penalty of ten percent (10%) of the surcharge due on uncollected or unremitted amounts will be assessed in addition to the parking surcharge fees due to the City. Therefore, interest and penalty totaling $1,698.72 is due and payable to the City.
Also, our audit determined that a total of $174,048.04 of interest and penalties due from Jackson Memorial Hospital were never assessed and collected as authorized in Section 35-346(e) of the City Code. Please see page 22 and 23 for details of audit finding.

**Recommendation**

We recommend that the Finance Department bill and collect the additional parking surcharge including interests and penalties totaling $12,078.88 ($17,211.10 - $5,132.22) as determined by this audit.

**Auditee Response and Action Plan**

The auditee’s concurred with the audit findings with the exception of Central Parking and Consolidated Parking as discussed above and also as indicated in written responses shown on pages 46 through 52.
RECORDS SUPPORTING PARKING SURCHARGE REVENUES WERE NOT MAINTAINED

As part of the requirements of operating a parking facility in the City of Miami, an operator must comply with the City’s Parking Surcharge Rules and Regulations, as well as, comply with the provisions of Chapter 35, Article IX of the City Code, entitled Parking Facilities Surcharge. Article IX, Section 35-346 (c) of the City Code stipulates that every operator of a parking facility shall keep complete and accurate records of all motor vehicles parked on an hourly, daily, monthly, yearly, event, validation program, valet or any other basis in the parking facility together with the amount of the surcharge collected from all the transactions and shall keep all pertinent records and documents as are necessary to determine the amount of the surcharge due. Article IV, Section 401 of the City’s Parking Surcharge Regulations requires that parking records to be kept shall consist of, but not limited to the following: 1) A monthly daily revenue summary showing the starting and ending ticket number, 2) Trial balance report for each parking facility, 3) Bank Deposit slips and Bank Statements for each location, and 4) Other records such as a General Ledger, Profit and Loss Statement (P&L), daily record sheets and ticket stubs.

However, our audit fieldwork disclosed that 10 (or 14%) of the 70 parking facilities tested did not properly maintain parking records as required and the parking surcharge fees due and payable to the City could not be determined and/or verified. Nine (9) of the ten (10) parking facilities was operated by Park West Parking and one (1) of the ten (10) was operated by Omni Parking. For example, Kluger Lot operated by Omni Parking had hand-written notations indicating that only two (2) vehicles used said parking lot (with a parking capacity of 45 parking spaces) on April 6, 2007 as compared to fifty-one (51) vehicles on April 7, 2007. Also, bank deposits slips, cancelled checks, breakdowns for parking revenues received and sales taxes paid in connection with parking revenues generated at parking facilities operated by Park West and Omni Parking were never provided as requested by the auditor for any of the 10 parking facilities (lots).
Section 35-346 (d) of the City Code authorizes the City to use estimates or otherwise compute the amount of surcharge owed to the City. We estimate that Omni owe additional parking surcharge fees (including penalty and interest) totaling $1,230.43 to the City.

Recommendation

We recommend that Park West and Omni comply with provisions of Article IV, Section 401 of the City’s Parking Surcharge Regulations. In addition, we also recommend that TPN enforce said provisions.

Auditee Response and Action Plan

The auditee’s concurred with the audit finding and recommendation.
DEPARTMENT OF OFF-STREET PARKING

PARKING SURCHARGE REVENUES GENERATED FROM PAY & DISPLAY MACHINES ARE NOT BEING ASSESSED, COLLECTED AND REMITTED TO THE CITY

In accordance with the provisions of Florida Statute §166.271, the City is granted the authority to establish and adopt a parking surcharge to be assessed on the sale, lease, or rental of space at parking facilities in the City. Pursuant to this Statute only the airports, seaports, county administration buildings, and residential parking are exempt from this surcharge assessment. The Department of Off-Street Parking (DOSP) also known as Miami Parking Authority is a component unit of the City. DOSP provides parking in the City for approximately 6 million vehicles annually and its operating costs are financed from the revenues generated from on and off-street parking facilities located throughout the City. Although the operations of DOSP are legally separate from the operations of the City, the City Commission retains the final authority for approving DOSP’s operating budget, for confirming new members to the DOSP board, for authorizing the issuance of revenue bonds, and for establishing of parking rates at DOSP parking facilities throughout the City. DOSP is required to collect and remit the 15% parking surcharge of all revenues charged to users of parking facilities operated by DOSP in the City.

Our audit determined that DOSP replaced its on-street parking meters with a new form of on-street parking accessory known as Pay and Display (PAD) in 2004. Upon parking, the user pays for the anticipated duration of use by inserting money or credit card information into the PAD. The PAD machine generates a dated and timed receipt that is displayed on the vehicle’s dashboard. However, our audit determined that the 15% parking surcharge is not being assessed on revenues charged to the users of the PAD machine operated by DOSP citywide.

Based on the financial data contained in DOSP’s Comprehensive Annual Financial Report (CAFR), we conservatively estimate that approximately $7.5 million of parking revenues has been generated from all PAD machines located citywide since its inception.
(June 2004) through September 30, 2008. Therefore, the parking surcharge revenues not assessed and remitted to the City is conservatively estimated at approximately $1.1 million ($7.5 multiplied by 15%) for said period.

In response to our request for legal opinion, the City Attorney affirmed that parking revenues generated from PAD machines are subject to the 15% surcharge (see page 34). Upon audit inquiry, the City Manager stated that the intent of the Ordinance was not to subject on-street parking to the parking surcharge (see page 36). However, given the increasing cost of providing municipal services and the current budget shortfalls confronting all municipalities, including the City of Miami, it is very important that all potential revenue sources available to the City be tapped.

Recommendation

We recommend that the City Manager reconsider his decision not to assess and collect this recurring revenue stream, particularly given the current budget shortfalls as noted above.

Auditee Response and Action Plan

The City Manager stated that the intent of the Ordinance was not to subject on-street parking to the parking surcharge. Please see written response on pages 36 and 37.
CITY MANAGER’S OFFICE AND MIAMI-DADE COUNTY

TWO COUNTY AGENCIES ARE NOT REMITTING PARKING SURCHARGE REVENUES TO THE CITY

Florida Statute § 166.271 states that the parking surcharge is to be assessed on the amount charged for the sale, lease, or rental of space at parking facilities which are open to the general public and applies to all parking revenues derived from parking transactions within the City, with the exemption of airports, seaports, county administration buildings, and residential parking.

Three (3) Miami-Dade County (County) agencies, namely the General Service Administration (GSA), the Transit, and the Public Health Trust/Jackson Memorial Hospital (JMH), operate 30 parking facilities within the City. At the inception of the Parking Surcharge Program, the Miami-Dade County (County) contended that all County parking facilities should not be subject to the parking surcharge. However, the County did not prevail at the Courts. In accordance with the enabling legislation, four (4) of the 30 parking facilities are County administrative buildings and therefore exempt from the parking surcharge. Subsequent to the Court ruling, the County started remitting parking surcharge payments for the twenty-six (30 minus 4) remaining properties in October 2002.

However, sometime in 2004 the County stop remitting parking surcharge payments to the City for fourteen (14) of the parking facilities (lots) that it operates. The fourteen (14) parking facilities operated by the General Services Administration (GSA) and the Transit are not used for administrative purposes but rather are used primarily by the general public. Although we noted that the County stopped remitting parking surcharge for GSA and Transit in 2004, it continued to remit to the City the parking surcharge fees for the 12 parking facilities operated by JMH. However, we noted that said remittances are not made on a timely manner. The time (in days) that elapsed between the official due date and the actual receipt date ranged from 13 to 85 days during the audit period (see the audit finding on pages 22 and 23). We were informed that the Parking Network had made unsuccessful attempts to collect past due parking surcharge from the County’s GSA.

20
and Transit parking facilities that is estimated at approximately $973,000. Additionally, a memorandum dated February 7, 2000 from an Assistant City Attorney to the City’s Finance Director in response to Miami-Dade County’s claim that its GSA and Transit parking facilities were exempt from parking surcharge fees, concluded that said facilities were subject to said fees (see page 44). We were informed that the Parking Network had made unsuccessful attempts to collect past due parking surcharge from the County’s GSA and Transit parking facilities that is estimated at approximately $973,000.

Upon further audit inquiry, the Chief Financial Officer (CFO) for the City stated that issues noted above were discussed during City Commission meeting on April 2, 2009 and he stated that the City Manager indicated that he would pursue the matter directly with the County Administration for resolution. He (CFO) stated that if no amicable resolution is reached, the City will consider legal action (see pages 39 through 43). In connection with this observation, we were provided with a letter written by an Assistant County Attorney dated August 12, 2009 in response to TPN’s request for payment. Said letter stated that pursuant to Florida statutes 125.011 and 125.015 public mass transportation facilities and ancillary facilities owned by Miami-Dade County are within the exclusive jurisdiction of Miami-Dade County, and as such, are not subject to the City’s 15% parking surcharge (see page 45).

Recommendation

We recommend that the City Manager’s Office consult with the Office of the City Attorney and take the appropriate legal actions.

Auditee Response and Action Plan

In a written response the CFO stated that the City Manager indicated that he would pursue the matter directly with the County Administration for resolution and if no amicable resolution is reached, the City will consider legal action. Please see written response on pages 39 through 43.
Chapter 35, Section 35-346 (e) of the City Code, entitled *Collection of the parking facilities surcharge*, states that the City Manager (or delegated designee) shall assess the operator the amount of surcharge due, plus interest at the rate of one percent (1%) per month or any fraction thereof, and a penalty of ten percent (10%) of the surcharge due on uncollected or unremitted amounts. Our review of pertinent accounting and parking records disclosed that Jackson Memorial Hospital (JMH) has never remitted parking surcharge fees in a timely manner as required by Section 35-346 (e) since 2004. Our audit determined that the time (in days) that elapsed between the official due date surcharge fees and the actual receipt date ranged from 13 to 85 days; and the amount of penalty and interest due from JMH totaled $174,048.04 during the audit period.

In response to a memorandum sent by the Office of the Independent Auditor General to JMH relative to this audit observation, the Chief Financial Officer (CFO) sent a letter to JMH and reiterated that JMH was not subject to past interests and penalties because all interests and penalties including the $174,048.04 as noted above were waived by City management. However, the CFO in his letter to JMH stated: “in order for the parking surcharge collections initiatives to be systematically implemented and uniformly applied to all parking operators for the upcoming fiscal year, effective November 20, 2009 (October 2009 payment), the PHT must adhere to the parking surcharge requirements regarding parking surcharge payments due dates as stipulated by the parking surcharge ordinance. All PHT’s payments received after 20th will be considered late and subject to a ten percent (10%) penalty and a one percent (1%) monthly interest……” (See page 38)

We noted that Section 35-346 (f) (2) of the City Code grants the City Manager the authority to: “compromise disputed claims in connection with the surcharge and for good and sufficient cause shown to waive interest and penalty.” Upon audit inquiry, we were informed that the decision not to charge JMH for any interest and penalty for the period 2004 through 2009 was made by City management in 2004 as authorized by Section 35-
346 (f) (2) of the City Code. However, we were not provided with any supporting
document to evidence the basis (good and sufficient cause) for the management decision
that exclusively waived unlimited interest and penalties fees for JMH and not for other
parking facilities. It is unclear whether Section 35-346 (f) (2) of the City Code grants the
City Manager the sole authority to waive reoccurring/unlimited amount of interests and
penalties totaling $174,048.04 for the period 2004 through 2009 without making such
recommendation to the City Commission for approval. For example, in Section 18-85 of
the City Code, all bid awards in excess of $50,000.00 must be approved by the City
Commission upon recommendation by the City Manager.

Recommendation

We recommend that the City Manager present to the City Commission for consideration
and approval all decisions to waive interests and penalties in excess of $50,000. All such
management decisions should be supported with appropriate evidence (good and
sufficient cause).

Auditee Response and Action Plan

Please see written responses on page 38.
MONITORING OF THE OPERATIONS AND ACTIVITIES OF PARKING FACILITIES CAN BE ENHANCED

The Professional Services Agreement (Agreement) executed on May 15, 2000 and subsequently amended/revised on October 1, 2005, vested monitoring and related responsibilities to TPN. The contractual responsibilities of TPN include but are not limited to monitoring the operation and activities of all parking facilities; ensuring that parking surcharge fees are properly assessed, collected and remitted to the City; performing audits of parking facilities; ensuring that all parking/valet facilities in the City are identified, included in the parking surcharge database, and monitored for compliance.

Since the inception of the Agreement, the Office of the Independent Auditor General (OIAG) has performed and issued two audit reports relative to the City’s Parking Surcharge Program. Said audits (audit report numbers #01-001 and #07-004) identified approximately $275,000 of additional parking surcharge revenues due and payable to the City. The current audit of 70 parking facilities determined that additional parking surcharge fees (including penalty and interest) totaling $17,211.10 are due from 17 parking facilities. In each audit report, the OIAG made certain recommendations to enhance compliance with the City Code and Agreement, such as the implementation of a comprehensive multi-year audit plan that would ensure that audits are performed periodically on all parking facilities by TPN.

During the audit period, approximately $28.7 million of surcharge fees were generated and remitted to the City. TPN was paid professional service fees totaling $1,290,157.74 (4.5% of the $28.7 million). As noted above, part of TPN’s contractual responsibilities include ensuring that parking surcharge fees are properly assessed, collected and remitted to the City. During our current audit fieldwork, we noted that 5 of the 70 parking facilities tested as part of this audit were previously audited by TPN. However, our audit determined that additional parking surcharge revenues totaling $9,450.88 are due from the 5 parking facilities that had been audited by TPN. Also, as noted on pages 16 and 17,
10 (or 14%) of the 70 parking facilities tested did not properly maintain parking records relative to revenues generated from parking operations as required and as such parking surcharge fees due and payable to the City could not be determined and/or verified. Furthermore, we noted that information relative to Business Tax Receipt identification numbers were not reflected on the Property Listings Report for 102 (or 26%) of the 398 parking facilities listed on the report; and also the information relative to Certification of Use identification numbers were not reflected on Property Listings Report for 178 (or 45%) of the 398 parking facilities listed on the report. (See pages 26 and 27). Our audits should not be a substitute for more effective procedures for monitoring parking surcharge assessments, remittance of the appropriate fees collected to the City, and compliance with all applicable provisions of the City Code and Agreement. Upon audit inquiry, the Director of TPN stated that a “Test Audits Program” was developed as part of the Agreement’s requirements. The program includes Field Audits, Field Survey’s, and Field Observations that were conducted by TPN staff and will continue to implement additional measures that would ensure that parking operators/facilities are complying with all the provisions of the Parking Surcharge Ordinance.

Recommendation

We recommend that TPN enhance its monitoring of the operations and activities of all parking facilities to ensure that audits are performed frequently and in a timely manner in order to maximize the collections of the parking surcharge fees being assessed and remitted to the City, pursuant to the enabling legislation. In addition, TPN should enhance its effort to ensure that parking facility operators maintain appropriate parking records/documentation supporting all assessment and collection of parking revenues.

Auditee Response and Action Plan

Please see written responses on pages 30 through 33.
Attachment A of the Agreement between the City and TPN requires that TPN maintain a database that includes information and specific information applicable to each parking facility such as property location and operator related information. During our review of TPN’s records and database, TPN provided our office with a Property Listings for all the parking facilities that paid parking surcharge fees to the City during fiscal year 2007-2008. Said Property Listings, which was generated from its database, included information such as: the parking facility’s unique property ID number, address, geographical location, payment status, Certificate of Use (CU) identification number, and the Business Tax Receipt (BTR) identification number (formerly known as Occupational License).

Upon review of the Property Listings Report (Report), we noted that information/data relative to BTR identification numbers were not reflected on the Report for 102 (or 26%) of the 398 parking facilities listed on the Report; and also the information relative to CU identification numbers were not reflected on Report for 178 (or 45%) of the 398 parking facilities listed on the Report. We also noted that TPN did not indicate the reasons why information/data relative to the BTR and/or CU identification numbers were not reflected in the database, as required. However, upon audit inquiry we were informed that said information/data were not reflected on the report because the parking facility operators did not provide the required information/data on the monthly “Surcharge Remittance Reports” and/or the “Annual Registration Forms” that were submitted to TPN. The Director of TPN stated that his office works together with the City’s Finance Department in reconciling the information submitted to TPN by parking facility operators on their “Annual Registration Forms” with the City’s records relative to the BTR and CU. A similar audit finding was noted in Audit Number 07-004 dated March 30, 2007.
Recommendation

We recommend that the Finance Department and TPN continue to ensure that the parking surcharge database is continuously updated with the appropriate and accurate information and also ensure that parking facility operators are in full compliance with the City Code. In the event information is missing or incomplete, we recommend that proper notations are used to clearly identify the reasons why the specific information as required by the City Code was not reflected on the reports.

Auditee Response and Action Plan

In a written response the Director of TPN stated that TPN’s database now indicates why the specific information as required by the City Code was not reflected on the reports. Please see written responses on pages 30 through 33.
Article III, Section 301, titled *Occupational License and Certificate-of-Use* of the City’s Parking Surcharge Regulations states that, “Every owner and operator who begins or intends to begin to operate a nonresidential parking facility shall apply for an occupational license and a certificate-of-use before commencing operation of the parking facility.” Attachment A of the Professional Services Agreement between the City and the Parking Network, Inc. (TPN) dated May 15, 2000 and subsequently amended/revised on October 1, 2005, requires TPN to maintain a complete database of all parking facilities/operators that are subject to parking surcharge fees. We noted that during the audit period, TPN maintained a Parking Facilities (Property) listing spreadsheet, which documents information such as, the addresses of each parking facility, geographical locations, payment status, and occupational license/certificate-of-use identification numbers. A total of 398 parking facilities were listed on the Property listing spreadsheet. Our audit fieldwork disclosed that 12 (or 17%) of the 70 parking facilities tested, did not have valid a BTR issued by the City as required. We also noted that 44 (or 63%) of the 70 parking facilities did not obtain a CU and therefore not in compliance with Article III, Section 301 of the Parking Surcharge Regulations. Upon audit inquiry, the Finance Department stated they are working on resolving all issues of non compliance. A similar audit finding was noted in Audit Number 01-004 dated January 22, 2001 and Audit Number 07-004 dated March 30, 2007.

The proper assessment and collection of these fees, which are due to the City, would enhance the City’s recurring revenue stream. Also, when these facilities are allowed to operate without valid BTRs and/or CUs, the City cannot be assured that all the necessary infrastructure and public safety issues were properly considered and resolved prior to the use of the facility by the general public.
Recommendation

We recommend that the Finance Department and TPN continue to ensure that all parking facilities obtain the required BTRs and CUs. Those facilities not in compliance should be referred to the Code Enforcement Department for appropriate actions and disposition.

Auditee Response and Action Plan

The parking facilities concurred with the findings.

In a written response, the Finance Department Director stated that she works with City Code Enforcement officials and Fire Inspectors to ensure that businesses are complying with the City Code. Upon notification of non compliance, the Finance Department follows up with the business to ensure they are brought into compliance. Please see written responses on pages 30 through 33.
September 10, 2009

Ms. Lai-Wan E. McGinnis  
Staff Auditor  
City of Miami, Office of Independent Auditor General  
444 SW 2nd Avenue, 7th Floor  
Miami, Florida 33128

Dear Ms. McGinnis:

The Parking Network (TPN) appreciates the effort by the City of Miami, Office of Independent Auditor General to help TPN improve the operations and collections of the parking surcharge. The following is TPN's response to the audit findings:

**Monitoring Of The Operations And Activities Of Parking Facilities Can Be Enhanced.**

According to your audit, it disclosed $18,531 in additional surcharge revenue. TPN conducted 419 record and field audits and numerous field surveys and field observations from October 2006 to September 2008. The record audits produced $150,965 in surcharge. During the current fiscal year, TPN has conducted 240 records and field audits and numerous field surveys and field observations. The record audits have generated $78,847 in additional surcharge. In addition, TPN has discovered 79 new properties from October 2006 to July 2009. These new properties have paid $612,880 in parking surcharge.

**Record Supporting Parking Surcharge Revenues Were Not Maintained**

TPN assessed administrative fines to 4 of the 10 parking facilities properties which did not maintain proper parking records. Of these properties were operated by Park West and were not fined because TPN did not audit these properties. These five properties were scheduled to be audited in January 2009, but had to be rescheduled because the Office of Independent Auditor General was auditing these properties.

- TPN has assessed $24,500 in administrative fines since October 2006.

In addition to the assessment of the administrative fine to the operator who fails to maintain complete and accurate records as stipulated by the ordinance, TPN prepares a revenue estimation based on field surveys and field audits to ensure that the correct amount of surcharge is reported to the City of Miami. TPN also sends an instruction letter advising the operator of the specific audit findings, as they relate to record keeping requirements, and is informed that a follow up record will be conducted within 90 days to ensure compliance. If the operator continues not to be in compliance, the operator will be considered to be a scofflaw and thereby required to adhere to stricter reporting requirements.
TPN continues to implement the “Test Audit Program” that was developed as a contract requirement to monitor the “Parking Surcharge Revenue at Risk” given the heavy cash nature of the parking business. This program consists of Field Audits, Field Surveys, and Field Observations.

As of today, there are 398 parking surcharge accounts of which 257 or 64% are accounts that do not have automated revenue controls. The parking surcharge paid by these accounts from October 2006 to July 2009 is $11,811,867 which represents 30.12% of the total surcharge collected. TPN’s parking surcharge collections experience has proven to no surprise, that operators who do not have automated revenue controls do not remit their appropriate share of parking surcharge and do not keep accurate records or keep no records at all. A full audit of records for this type of operation does not fully reflect the real potential surcharge revenue loss.

Because of this, TPN has continued to conduct field audits, and field surveys to ensure that these accounts are paying not only the correct amount of surcharge, but are also issuing parking tickets in sequential order, have the rates signs posted, and last but not least make sure that operators understand the record keeping requirements, so when TPN audits these accounts they have the proper records.

TPN has conducted field audits and record audits in 201 of these accounts during this period. Another 56 properties are scheduled to be audited next year.

In regards to your recommendation about requiring the parking operators to maintain unified parking records, the City of Miami Parking Regulations Article IV Records and Compliance already stipulates the recordkeeping requirements including the type of parking revenue reports and specific information that each operator is required to maintain. As stated previously, the scofflaws are required to adhere to stricter reporting requirements including registering the parking tickets with TPN on a monthly basis and submit the monthly recap report with the monthly remittance report.

Parking Surcharge Related Information/Data Were Not Reflected In TPN’s Database As Required

The Parking Network’s database now indicates (Ref.City) when the Business Tax Receipt and/or Certificate Of Use information has not been provided by the operator.

Parking Facilities Operated Without Required Business Tax Receipt (BTR) And Certificate Of Use (CU)

The Parking Network, Inc (TPN) agrees that Attachment A of the Professional Services Agreement between the City of Miami and TPN requires TPN to maintain a database that includes all revenue surcharge generators. TPN is in compliance with the agreement as our Database includes all reference information and specific information, including property location, number of spaces, types of customers, and proximity to special events or weekend customers. TPN has expanded the database to include parking rates, commissioner districts, areas, zip codes, types of property, operators and properties with and without parking revenue control equipment. In addition, TPN provides the City with
parking surcharge collection reports by Office Buildings, Entertainment, Hotels, and the largest parking surcharge payers.

TPN works together with the City of Miami Finance Department in reconciling the information submitted to TPN by operators on their annual parking surcharge registrations. TPN has continually informed the City verbally as well as in writing of the properties that do not have Business Tax Receipt and/or Certificate of Use for proper action.

As part of the reconciliation process, we submit a report of the annual registrations along with copies of the registrations to the City of Miami Finance Department. This report includes a list of the properties that have CUs and BTRs as well as the ones that did not provide this information. However, as mentioned in the last audit, it is ultimately the City of Miami’s responsibility to ensure business licenses compliance. In addition, TPN has sent several letters to all parking surcharge payers advising them of their obligation to submit all required information in the annual registrations and monthly remittance reports.

TPN will continue to work together with the City of Miami Finance Department to update this information on a regular basis.

The Parking Network appreciates the opportunity to respond to the audit conducted by the Office of Independent Auditor General. TPN is looking forward to continue its positive and collaborative relationship with your office. If you require additional information, please contact me at (305) 571-1951.

Sincerely,

Franklin I. Aso
The Parking Network, Inc.

Cc: Pete Chircutt, Treasurer, City of Miami
    Diana Gomez, Finance Director, City of Miami
    Victor Itwe, CPA, Auditor General, City of Miami
    Larry Spring, CFO, City of Miami
    Clyde Wilson, Principal, Parking Network, Inc.
FINANCE DEPARTMENT

CITY OF MIAMI, FLORIDA
INTER-OFFICE MEMORANDUM

TO:       Lai-Wan McGinnis
           Staff Auditor

DATE:     September 17, 2009

FROM:     Diana Gomez
           Finance Director

SUBJECT:  Response to MOU Parking Surcharge

REFERENCES:

In response to your memorandum of understanding regarding the audit of the City of Miami’s Parking Surcharge Program, please find the response:

MONITORING OF THE OPERATIONS AND ACTIVITIES OF PARKING FACILITIES CAN BE ENHANCED

The Finance Department has procured the services of The Parking Network (TPN) to monitor the operations and activities of parking facilities within the City of Miami. The Finance Department, in turn, monitors the efforts of TPN on a regular basis. There is constant communication regarding issues on at least a weekly basis between the City and TPN in order to ensure that the best service is provided to the City.

PARKING SURCHARGE RELATED INFORMATION/DATA WERE NOT REFLECTED IN TPN’S DATABASE AS REQUIRED

All required information that exists on a parking facility is properly maintained in TPN’s database as required. Also, TPN stores information above and beyond what is required, because it is useful information to the City. A business that does not possess a BTR or CU cannot be listed in the database as having such information. Going forward, TPN will include a reference as to why certain information is not in the database.

It is important to note that TPN is not responsible for ensuring that parking facilities are in compliance with CU’s and BTR’s; that is the City’s responsibility. The Finance Department monitors all businesses (approximately 26,000) within the City (not just parking facilities) to ensure compliance with BTR’s as required by the City Code/Charter, however, we do not have the resources to ensure that every business has its required BTR/CU at all times. The Finance Department works with Code Enforcement and Fire Inspectors to ensure businesses are complying with the City’s Code. We also obtain information from TPN as to businesses found to not have valid a BTR/CU. Upon notification of non-compliance, Finance follows up with the business to ensure they are brought into compliance. The information provided by TPN through their annual registration as well as their constant monitoring of parking facilities within the City of Miami is a tremendous help to the Finance Department to ensure compliance with BTR’s/CU’s. Considering the high turnover in ownership of parking facilities, it is not unusual to have businesses operating without the required BTR/CU.

Should you need any additional information, please do not hesitate to contact me.

cc. Victor Igwe, Auditor General
    Larry Spring, CFO
    Pete Chircut, Treasurer
    Frank Laso, Director – The Parking Network
CITY OF MIAMI
OFFICE OF THE CITY ATTORNEY
MEMORANDUM - #09-001

TO: Victor I. Igwe, Independent Auditor General
FROM: Julie O. Bru, City Attorney
DATE: April 20, 2009
RE: Legal Opinion - Applicability of the Parking Surcharge Ordinance to Pay and Display Machines; Matter ID: 09-1072

You have requested a legal opinion on the following issue:

WHETHER PARKING REVENUES DERIVED FROM THE USE OF PAY AND DISPLAY MACHINES ARE SUBJECT TO THE PARKING SURCHARGE.

The answer to the question is in the affirmative.

ANALYSIS

Pay and Display ("PAD") machines are machines that are used throughout the City of Miami ("City") to regulate parking. Customers purchase tickets from the machines using either a credit card or cash and display the ticket on the dashboard of the vehicle. The ticket usually includes the location of the PAD machine, the amount of the fee paid, the time the fee was paid, and the time the ticket expires. PAD machines are replacing parking meters that have historically been used throughout the City.

Florida Statute §166.271 authorizes certain municipalities, subject to referendum approval by voters, to charge a surcharge "of the amount charged for the sale, lease, or rental of space at parking facilities within the municipality which are open for use to the general public." The monies that are collected as a result of the parking surcharge are then used to reduce the municipality’s ad valorem tax millage and improve transportation in the municipality.

Pursuant to Florida Statute §166.271, the City enacted Chapter 35, Article IX of the City of Miami Code\(^1\) to collect the parking surcharge from parking facilities within the City. The City collects a 15% surcharge on all revenues derived from parking transactions in parking facilities located within the City. \(^{2}\)See Section 35-342 of the City of Miami Code. Pursuant to Section 35-345 of the City of Miami Code, the surcharge applies to all parking in parking facilities in the City except for residential parking.\(^3\) The surcharge is collected at the time the parking transaction occurs and the operator of the parking facility submits the surcharge to the City no later than the 20th day of each calendar month. \(^{2}\)See Section 35-346 of the City of Miami Code.

The operative issue in the question presented is whether parking spaces regulated by PAD machines are parking facilities subject to the parking surcharge. Section 35-344 of the City of Miami Code defines a parking facility as:

any use in whole or in part of any space, plot, place, lot, parcel, yard, enclosure, parking lot, garage, street, building or structure that is open to the general public at which motor

\(^1\) Chapter 35, Article IX of the City of Miami Code is currently pending amendments before the City Commission. The proposed amendments do not affect the analysis of the issue presented in this legal opinion.

\(^2\) The proposed amendment to Chapter 35, Article IX also exempts airports, seaports, and county administration buildings pursuant to Florida Statute § 166.271.
vehicles may be housed, stored, kept, or parked for which any fee or charge is made, no matter how the fee or charge is collected.

(Emphasis added). Accordingly, pursuant to Section 35-344, revenues received from a PAD machine for the use of a parking space are subject to the parking surcharge.

Chapter 35, Article IX of the City of Miami Code also grants the City Manager certain powers to enforce the parking surcharge. Specifically, Section 35-346 of the City of Miami Code authorizes the City Manager to collect the surcharge and adopt or amend any rules and regulations to assist in the collection of the surcharge. This section also authorizes the City Manager to delegate the duties and functions concerning the collection of the surcharge to another entity. Pursuant to Section 35-346, the City Manager has authorized The Parking Network, Inc. ("TPN") to collect the parking surcharge on behalf of the City.

In its rules and regulations which are reprinted on its website, www.miamisurcharge.com, TPN states that the parking surcharge "does not apply to meters on the public right of way (streets) but all other meters are subject to the surcharge." The decision by TPN to have this exemption listed on its website and in its regulations was pursuant to discussions with the City Administration. Previously, the Administration imposed a policy that the parking surcharge shall not apply to parking metered spots located on the street, including PAD machines. This policy was previously adopted because of (1) difficulties in enforcing the surcharge on parking meters and (2) the Administration’s belief that parking metered spots on the street, including PAD machines, did not meet the definition of a parking facility.

CONCLUSION

While Florida Statute §166.271 as well as Chapter 35, Article IX of the City of Miami Code authorize revenues received from PAD machines to be subject to the parking surcharge, pursuant to policy decisions made by the City Administration, the surcharge is currently not collected from said parking revenues.

PREPARED BY:  
Barnaby L. Min  
Assistant City Attorney

REVIEWS BY:  
Rafael O. Diaz  
Assistant City Attorney

cc: Honorable Mayor and Members of the City Commission  
Pedro G. Hernandez, City Manager  
Diana M. Gomez, Director of Finance  
Franklin Laso, The Parking Network, Inc.

2 This language was recently removed from TPN’s website after discussions with the City Administration. TPN is currently amending its rules and regulations based on the proposed amendments to Chapter 35, Article IX of the City of Miami Code pending before the City Commission.

Doc. No.: 167807
CITY OF MIAMI
OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: Victor I. Igwe, Independent Auditor General
FROM: Pedro G. Hernandez, City Manager
DATE: June 29, 2009
RE: Applicability of the Parking Surcharge Ordinance to Pay and Display Machines

I have reviewed the Legal Opinion issued by the City Attorney concerning the above-referenced matter. From my understanding, this Legal Opinion was requested by your office as you are in the process of reviewing a potential increase to this revenue source. While I agree with the City Attorney’s analysis in her Legal Opinion, I believe this memorandum is necessary to inform you of the Administration’s concerns.

I have met with members of my staff, the Office of the City Attorney, and individuals with institutional knowledge on this subject. At the time the parking surcharge ordinance was first enacted, the intent of the ordinance was to collect the parking surcharge from off-street parking. Off-street parking included parking lots, parking garages, and parking meters. The intent of the ordinance was not to subject on-street parking to the parking surcharge.

Regardless, as stated, as the ordinance is currently written, I concur with the City Attorney’s Legal Opinion that on-street parking, while not originally intended to be subject to the surcharge, is in fact subject to the surcharge. I believe, however, that any attempts to collect the parking surcharge from on-street parking will not increase revenues for the City; rather, the City will have increased expenditures. Specifically, revenues obtained from on-street parking have been collected by the Miami Parking Authority (“MPA”). Of the revenues that MPA collects, it deducts its fees, costs, and expenses, and distributes the remaining funds to the City.

The parking surcharge is collected by The Parking Network, Inc. (“TPN”). TPN collects all parking surcharges, deducts its fees, costs, and expenses, and distributes the remaining funds to the City.

If the parking surcharge is collected from on-street parking, MPA’s fees, costs, expenses will remain the same. The parking surcharge will then be collected from the remaining funds that are distributed to the City from MPA. Of those funds, TPN will then deduct its fees, costs, and expenses. Accordingly, the funds distributed to the City from MPA will actually decrease and the fees the City pays to TPN will increase.

My recommendation is that the parking surcharge not be collected from on-street parking. Alternatively, if the parking surcharge is to be collected from on-street parking, the City Commission would have to consider increasing parking fees for on-street parking in order to cover the costs that will result for the fees that will have to be paid to TPN.

1 Chapter 35, Article IX of the City Code.
2 Chapter 35, Article IV of the City Code details the parking rates in the City of Miami.

Doc. No.: 177639 (2)
If you would like to further discuss, please feel free to call or see me.

c: Honorable Mayor and Members of the City Commission
   Julia O. Brau, City Attorney
   Larry Spring, Chief Financial Officer
   Dina M. Gomez, Director of Finance
   Arthur Noriega, Miami Parking Authority
   Franklin Lusk, The Parking Network, Inc.

Doc. No.: 177639 (2)
August 14, 2009

Mr. Arnie Paniagua  
Corporate Controller  
Public Health Trust  
General Accounting  
Alfred DuPont Building  
169 E. Flagler Street  
Miami, FL 33131

Dear Mr. Paniagua:

This correspondence is regarding the Memorandum of Understanding (M.O.U) received by your office from the City of Miami Office of Independent Auditor General dated August 3, 2009 specifically about the parking surcharge late fees in the amount of $174,267.38. The City of Miami regrets this misunderstanding. The PHT has not been charged penalty and interest for late payments because the City made the administrative decision in 2004 not to charge these fees to the PHT and as such there are no amounts due to the City.

However, in order for the parking surcharge collections initiatives to be systematically implemented and uniformly applied to all parking operators for the upcoming fiscal year, effective November 20, 2009 (October 2009 payment), the PHT must adhere to the parking surcharge requirements regarding parking surcharge payments due dates as stipulated by the parking surcharge ordinance. All PHT’s payments received after the 20th will be considered late and subject to a ten percent (10%) penalty and a one percent (1%) monthly interest. However, if the 20th falls on a Saturday, Sunday, or Federal or State holiday, returns are timely if postmarked on the first working day following the 20th. If you require additional information, please contact me at (305) 416-1011.

Sincerely,

[Signature]

Larry Sapien
Chief Financial Officer
City of Miami

Cc:
Mark Aprigiano, Director Public Safety, PHT
Pete Chirico, Treasurer, City of Miami
Frank J. Barrett, Executive Vice President and CFO, PHT
Diana Gonzalez, Finance Director, City of Miami
Franklin Lazo, The Parking Network.
Date: August 27, 2009

To: Victor Igle, Independent Auditor General
    Office of the Independent Auditor General

From: Larry M. Spring Jr., Chief Financial Officer
      Office of the City Manager

Subject: Audit of the City of Miami's Parking Surcharge Program
         Audit Report #09-006

In response to your memorandum dated July 22, 2009 regarding Audit of City of Miami Parking Surcharge Program Audit Report #09-006, we acknowledge awareness of this issue consistent with your observation. In addition the issue was discussed as part of the City Commission consideration of the changes to the Parking Surcharge Ordinance on April 2, 2009. During that discussion the City Manager Pedro Hernandez, committed to pursue the matter directly with the County Administration and “if they don’t agree with our position, then the next step would be to go through the legal process, which between governments involves a dispute resolution”. A copy of the variation minutes has been included as an attachment to this response. To date the City Manager’s Office is still attempting to schedule time with the County Manager to resolve this issue. If the matter is not resolved then it will be referred to the City Attorney for further follow-up. This process and determination will be made by September 30, 2009.

CC. Pedro G. Hernandez, City Manager
    Julie Bru, City Attorney, Office of the City Attorney
    Maria Chiaro, Assistant City Attorney
    Diana Gomez, Director, Finance Department
ORDINANCE - FIRST READING

FR.1  09-00292

Department of Finance

ORDINANCE

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 35 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "MOTOR VEHICLES AND TRAFFIC," MORE PARTICULARLY BY AMENDING ARTICLE IX ENTITLED "PARKING FACILITIES SURCHARGE," BY CLARIFYING EXISTING LANGUAGE AND ADDING DEFINITIONS; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

09-00292 Legislation SR.pdf, 09-00292 Summary Form SR.pdf, 09-00292 Legislation FR.pdf, 09-00292 Summary Form FR.pdf

MOVED:  Angel González
SECONDED:  Michelle Spence-Jones
UNANIMOUS

Motion that this matter be PASSED ON FIRST READING PASSED by the following vote.

AYES:  Commissioner González, Sarnoff, Sanchez, Regalado and Spence-Jones

Chair Sanchez:  We move on to FR.1, FR.1, our first readings. We have an ordinance on FR.1, and that is the parking facility surcharge, and that comes to us by the Department of Finance.

Diana Gomez:  Diana Gomez, Finance director. This is an ordinance amending Chapter 35 of the City Code, specifically amending Article IX, entitled "Parking Facilities Surcharge," by clarifying existing language to ensure compliance with the state statute and adding definitions to clarify the provisions of the surcharge. The proposed changes are administrative in nature and do not impact or change the rate structure of the surcharge, how it is collected or who’s subject to the surcharge. They are -- the changes are just clarifying definitions. Specific changes include clarifying the definition of “open to the general public”; clarifying the definition of “revenues” subject to the ordinance, and clarifying “exemptions,” as outlined in the state statute. The balance of the changes are cosmetic in nature, including capitalization and punctuation.

Chair Sanchez:  All right. So this does not change the rate for the parking surcharge --

Ms. Gomez:  No.

Chair Sanchez:  -- whatsoever. Basically, you’re just clarifying some of the language --

Ms. Gomez:  Clearing up definitions.

Chair Sanchez:  -- that’s there.

Ms. Gomez:  Um-hum.

Chair Sanchez:  And the reason you’re clarifying the language is to what, meet state --?

Ms. Gomez:  To make it more in compliance with the state --

Chair Sanchez:  Compliance with state statute.

Ms. Gomez:  -- statute, to clarify it to make sure there’s no disagreements in
Chair Sanchez: All right. But another issue was that we wanted to make sure that the City had the rights to inspect all the records.

Ms. Gomez: That's correct.

Chair Sanchez: Under this language, does it clearly state that we have the right?

Ms. Gomez: Yes. There is a specific change to providing access to the records of the parking facility's records. Hold on. Yeah. You know, clarifying access of the parking facility by the City.

Chair Sanchez: All right. Any questions on this? Commissioner Regalado.

Commissioner Regalado: Thank you. Mr. Manager, Diana, and Madam City Attorney, recently the City Commission passed -- I think it was an ordinance that would create parking lots near big facilities in steps, so -- but from day one, people will be parking there, so when do we consider a -- for the purpose of the surcharge -- parking? From the minute that it's open to the public or from the minute that it gets all the issues that need to be resolved?

Julie D. Bru (City Attorney): The parking surcharge is collected when the facility is operating.

Pedro G. Hernandez (City Manager): Right. So irrespective of the improvements that they have to complete over a certain number of years, like paving, drainage, lighting, et cetera, from the moment that they charge for parking, they have to pay the surcharge.

Commissioner Regalado: And all those temporary parkings are also included?

Mr. Hernandez: Yes, they do.

Commissioner Regalado: Okay.

Chair Sanchez: All right. We need a motion and a second, then we'll continue the discussion of the item.

Commissioner González: Motion.

Vice Chair Spence-Jones: Second for discussion.

Chair Sanchez: Motion has been proffered by Commissioner González. It has been second by the Vice Chair for the purpose of discussion. It is an ordinance on first reading. Anyone from the public wishing to address this item, please step forward. Seeing no one, for the record, the public hearing is closed, coming back to the Commission for discussion. Vice Chair Spence-Jones, you're recognized for the record.

Vice Chair Spence-Jones: Yes, Diana. I just wanted to understand. It is my understanding that we're not collecting the surcharges currently on the GSA (General Services Administration)-related --

Ms. Gomez: We are --

Vice Chair Spence-Jones: I'm talking about GSA and transit properties.

Ms. Gomez: Right.

Vice Chair Spence-Jones: Is that correct?

Ms. Gomez: We are attempting to collect. We have issued collection notices and going through the process of collecting. As far as whether or not they have paid, that's a
different -- they have not paid --

Vice Chair Spence-Jones: Okay.

Ms. Gomez: -- for quite some time.

Vice Chair Spence-Jones: Only reason I'm asking -- I just want to have a clear understanding of how much is that actually outstanding that is owed to the City?

Ms. Gomez: For all the GSA and transit properties, it's approximately $43,000.

Vice Chair Spence-Jones: Nine hundred and forty-three thousand dollars.

Ms. Gomez: They have -- they --

Vice Chair Spence-Jones: And then my next question is, how long has it been since we've been trying to collect? And I'm scared to hear that answer.

Ms. Gomez: From October 1, 2004, the County -- these County properties have --

Vice Chair Spence-Jones: Four -- over --


Vice Chair Spence-Jones: -- four years.

Ms. Gomez: These County properties have decided that they are not subject to the surcharge, and they have not been paying. We have continued with collection efforts since then.

Vice Chair Spence-Jones: Okay. So Madam City Attorney, what are we doing to get our $43,000?

Ms. Gomez: Approximately.

Ms. Bru: Obviously, there's a dispute between the entities as to whether or not the parking surcharge is -- whether the City can lawfully impose that surcharge. You know, there are certain terms used in the enabling legislation adopted by the Florida Legislature, and we're in dispute. At this point we have not been directed to undertake any kind of legal action. It's being handled administratively. Should you at any time wish for us to take legal action, then we will proceed accordingly.

Vice Chair Spence-Jones: Can -- I'm just curious, Diana. Are there any instances where the City pays a surcharge to the County for something?

Ms. Gomez: On this? No.

Vice Chair Spence-Jones: No, no, not on this. Just --

Ms. Gomez: Oh.

Vice Chair Spence-Jones: -- in general.

Ms. Gomez: I'm not aware.

Vice Chair Spence-Jones: Do you know what I mean --

Ms. Gomez: Yeah, but I'm not aware.

Vice Chair Spence-Jones: -- Mr. CFO (Chief Financial Officer)? Because I'm sure if the City owed the County something, we would be paying, so that would be my question.
Larry Spring (Chief Financial Officer): Larry Spring --

Vice Chair Spence-Jones: Is there an instance where the City has to pay a fee for something to the County for our usage?

Mr. Spring: -- chief financial officer. Commissioner, like right off the top of my heard, the only one I can think of is the administrative fee that the County assesses against collecting our ad valorem taxes.

Vice Chair Spence-Jones: That's the only one you can think --

Mr. Spring: That's the only one I can think of off the top of my head. It's a 2 percent fee.

With regards to this matter --

Vice Chair Spence-Jones: We pay that, right?

Mr. Spring: We -- we'll they take it.

Vice Chair Spence-Jones: Oh, okay,

Mr. Spring: It's not even a pay. I don't send a check. They -- when they collect it, they deduct it, and then they send the balance. With regards to this issue, it has staff and Parking Network, which is our -- the company that collects and assesses the surcharge - - for -- on behalf of the City -- has gone through all of the administrative steps that they can. Actual letters have been sent to the County manager directly. We've had a few discussions with him directly regarding this matter, you know. Because of all of the other intergovernment [sic] transactions we've been dealing with, I think it's just been kind of slid, you know, to the backburner a little bit, but this is one of those situations where like the reverter lawsuit, where we may have to just go ahead and pursue legal action. We've been -- you know, we've been trying to work with our intergovernmental partner as much as we can, but -- the other thing about the issue that we're being trying to be very mindful of it because of the collections at the Public Health Trust. They've -- which is also, you know, Jackson, but they've been remitting on those, so you know, if I'm hearing you correctly, you're right, and we need to, unfortunately, take that next step.

Chair Sanchez: All right. Mr. City --

Vice Chair Spence-Jones: Thank you.

Chair Sanchez: -- Manager, I --

Mr. Hernandez: If I may, Mr. Chair. I was discussing the matter on the slide here with the City Attorney, and I think that it would be prudent to contact or meet with County Administration, the County manager; and if they don't agree with our position, then the next step would be to go through the legal process, which between governments involves a dispute resolution; and if that's the only course of action, I recommend that we initiate it.

Chair Sanchez: All right. Okay. The public hearing was opened and closed. The item is under discussion. There was a motion and a second. Any further discussion on FR.17? Hearing no further discussion, Madam Attorney, read the ordinance on first reading into the record, followed by a roll call.

The Ordinance was read by title into the public record by the City Attorney.

Chair Sanchez: Roll call.

Priscilla A. Thompson [City Clerk]: Roll call.

A roll call was taken, the result of which is stated above.

Ms. Thompson: The ordinance has been passed on first reading, 5-0.
TO: Diana M. Gomez, Director
FROM: Gail Ash Dotson, Assistant City Attorney
DATE: February 7, 2008
RE: Miami-Dade County GSA and Transit - Clarification on payment of parking surcharge
Matter ID No.: 07-2410

The argument that the County's public parking garages in the City of Miami ("City") are exempted from the surcharge according to Article 2.2(a,b,c) in the McGrath settlement agreement ("settlement agreement") fails for the following reason:

While Article 2.2(c) does provide that the City will discontinue imposition of the surcharge pursuant to the ordinance and/or amended statute effective October 1, 2004, Article 2.2(a) is more specific. The aforementioned provision specifies that the City is no longer imposing the surcharge at the Airport, Seaport and three (3) GSA downtown parking facilities (the Cultural Center Garage, 50 NW 2nd Avenue, Hickman Garage, 250 NW 2nd Avenue and the 140 West Flagler Street Garage) which is consistent with § 166.271(1), Fla. Stat. Therefore, since the other GSA and Transit garages are open to the public and are not exempted as specifically stated in Article 2.2(a) of the settlement agreement, the surcharge is applicable.
August 12, 2009

Franklin Laso
Project Team leader
The Parking Network, Inc.

Dear Mr. Laso:

Your correspondence dated July 20, 2009 has been forwarded to me for review.

Please be advised that pursuant to Florida Statute 125.011 and 125.015, public mass transportation facilities and ancillary facilities owned by Miami-Dade County are within the exclusive jurisdiction of Miami-Dade County and not within the jurisdiction of the City of Miami.

As such the 15% surcharge the City of Miami is seeking to impose is inapplicable for the five Metrorail station parking garage/parking lots at issue (Coconut Grove, Allapattah, Douglas Road, Overtown/Historic Lyric Theater, Santa Clara and Vizcaya).

If you have any further questions, please do not hesitate to contact me at 305-375-2150.

Sincerely,

Bruce Libhaber
Assistant County Attorney

cc: Harpal Kapoor
    Marjan Mazza
    Joelle Janvier
    Linnette Hayle
Date: July 14, 2009

To: Nancy Diaz
   Central Parking

From: Lai-Wan E. McGinnis, Staff Auditor

Subject: Audit of the City of Miami's Parking Surcharge Program

Dear Mrs. Diaz:

In connection with our ongoing audit of the assessment and remittance of revenue collections relative to City of Miami's Parking Surcharge Program for the period October 1, 2006 through September 2008, and selected transactions prior and subsequent to this period, we examined accounting and parking records relative to the parking surcharge collected by Central Parking (Central) for the following locations:

- Watt's Garage located at 26 SE 1st Street (October 2006 through April 2008)
- Courvoisier Center located at 647 Brickell Key Drive (September 2006 through October 2007)

Our audit, however, was limited to only the period that Central was responsible for the operations of the parking facilities at the locations listed above. Our audit disclosed that additional fees totaling $2,971.17 ($2,108.20 + $862.96) are due to the City as summarized below:

OFFICE OF THE INDEPENDENT AUDITOR GENERAL
444 S.W. 2nd Avenue, Suite 715, Miami, FL 33129
ADDITIONAL PARKING SURCHARGE REVENUES DUE TO THE CITY

A. Chapter 35, Article IX., of the City of Miami Code, entitled, Parking Facilities Surcharge grants the City the authority to impose and levy a surcharge on the sale, lease, or rental of space at parking facilities in the City at a rate of fifteen percent (15%) of the revenues derived from any charge or fee for the parking of a motor vehicle in or on any parking facility in the City. Based on an examination of pertinent accounting and parking records, our audit determined that during the audit period Central generated parking revenues totaling $2,658,108.30. However, we noted that only $2,644,053.60 was reported to the City. Therefore, an additional $2,108.20 ($2,658,108.30 - $2,644,053.60 = $14,054.69 multiplied by 15%) is due to the City.

☐ I Agree ☐ I Disagree Please Initial

Explanation: Explanation was sent to auditor, attached.

B. City Code, Section 35-346 (b), entitled Collection of the parking facilities surcharge, requires the Operator of every parking facility to remit to the City the parking surcharge imposed no later than the twentieth (20th) day of each calendar month for the preceding month’s parking surcharge collections. Furthermore, Section 35-346 (e) states in the event the Operator fails to remit to the City the surcharge imposed within the specified time limit, the City Manager shall assess the Operator the surcharge due, plus interest at the rate of one percent (1%) per month or any fraction thereof, and a penalty of ten percent (10%) of the surcharge due on uncollected or unremitting amounts. Therefore, based on the additional parking surcharge revenues due to the

OFFICE OF THE INDEPENDENT AUDITOR GENERAL
444 S.W. 2nd Avenue, Suite 712 Miami, FL 33131
City as described above, $862.96 ($253.68 + $609.28) of penalty and interest are also due to the City.

☐ I Agree ☐ I Disagree Please Initial

Explanation: Explanation was sent to auditor via email on 9/4/09. See copy attached.

Please confirm our understanding by signing on the space provided below and returning this memorandum to us. In the event that you disagree with any of the items listed above, please provide your explanation and attach all supporting documentation by July 28, 2009.

Supporting schedules are attached for your reference. If you have any questions, please feel free to contact me at 305-416-2043 or by email at lmcginnis@miamigov.com.

Thank you for your attention to this matter.

Nancy Diaz
Date 9/13/09

Sandi Chamberlain, Tax Director
Central Parking Corp

OFFICE OF THE INDEPENDENT AUDITOR GENERAL
444 S.W. 2nd Avenue, Suite 725/Miami, FL 33128

48
Chamberlain, Sandi

From: Chamberlain, Sandi
Sent: Friday, September 04, 2009 1:51 PM
To: McGinnis, Lai-Wan
Cc: Tedrick, Andrew
Subject: RE: Revenue detail and descriptions

Lai-Wan,

As I indicated, we do not agree with your application of the surcharge to these items. Applying the Miami Parking Surcharge to these items is in direct conflict with the literal wording, and the obvious intent, of the City of Miami Parking Surcharge Regulations. Each of the items that we disagree with is explained further below.

Car Wash Revenue:
This is revenue we received from the operator of a car wash business. We received this revenue in exchange for allowing the car wash operator the privilege to enter the premises and conduct his business there. The car wash operator conducted business directly with parkers at the facility. The parkers in the facility were under no obligation to utilize the car wash services. If they chose to do so, they paid the car wash operator directly. The car wash operator set his own prices for his services, and we received no part of this compensation, and were not involved in collecting it, or in the operation of the car wash business.

As stated in Section 202 of the City of Miami Parking Surcharge Regulations, "A Surcharge is imposed upon each User entering into a parking transaction" (italics added).

Section 101-s defines User as, "any person who drives a Motor Vehicle to, into or upon a Parking Facility for the purpose of parking". While Section 101-r defines Transaction to be, "the parking, storing, housing or keeping of a Motor Vehicle in a Parking Facility".

The car wash operator is clearly not a User, as defined in Section 101-s, and this revenue is not consideration for a Parking Transaction as defined in Section 101-r. Therefore, it is not subject to the Miami Parking Surcharge.

Late Fees:
This is a charge imposed on monthly parkers for failure to pay their parking fee on time.

Further clarification of the intent of the Surcharge is reflected in Section 101-c, which states, “The intent of this definition is to impose the Surcharge on all consideration paid by the User as a condition to the entering into a Parking Transaction” (italics added).

The late fees are not consideration paid as a condition to entering into a parking transaction. They are a fee for failure to pay on time - effectively a cost of money charge, similar to interest. Accordingly, not subject to the Miami Parking Surcharge.

Both of the arguments reflected in your email of 8/17 below are irrelevant to the application of the Parking Surcharge. I see no reference in the Miami Surcharge Statute that would apply the surcharge to rent, or to items subject to state sales tax.

If you have additional questions or would like to discuss further, please don’t hesitate to contact me.

9/15/2009
CONSOLIDATED PARKING

City of Miami

To: Michael Meyers,
Consolidated Parking, LLC.

From: Lai-Wei E. McGinnis, Staff Auditor
Office of the Independent Auditor General (OIAG)

Subject: Audit of the City of Miami's Parking Surcharge Program

Date: August 17, 2009

Dear Mr. Myers:

In connection with our ongoing audit of the assessment and remittance of revenue collections relative to City of Miami's Parking Surcharge Program for the period October 1, 2006 through September 2008, and selected transactions prior and subsequent to this period, we examined accounting and parking records relative to the parking surcharge collected by Consolidated Parking, LLC (Consolidated) for the following locations:

- Seybold Valet located at 36 NE 1st Street
- Gilbert Lot located at 151 NE 1st Street
- Dupont Parking located at 170 NE 1st Street

Our audit, however, was limited to only the period (August 2007 through September 2008) that Consolidated was responsible for the operations of the parking facilities at the locations
listed above. Our audit disclosed that additional parking surcharge totaling $3,451.92 ($1,753.20 + $1,698.72) are due to the City as summarized below:

**ADDITIONAL PARKING SURCHARGE FEES DUE TO THE CITY**

A. Chapter 35, Article IX., of the City of Miami Code, entitled, *Parking Facilities Surcharge* grants the City the authority to impose and levy a surcharge on the sale, lease, or rental of space at parking facilities in the City at a rate of fifteen percent (15%) of the revenues derived from any charge or fee for the parking of a motor vehicle in or on any parking facility in the City. Based on an examination of pertinent accounting and parking records, our audit determined that during the audit period Consolidated generated parking revenues totaling $1,058,899.68. However, we noted that only $1,047,301.67 was reported to the City. Therefore, an additional $1,753.20 ($1,058,899.68 - $1,047,301.67 = $11,688.01 multiplied by 15%) is due to the City.

☐ I Agree ☐ I Disagree Please Initial

Explanation


B. City Code, Section 35-346 (b), entitled *Collection of the parking facilities surcharge*, requires the Operator of every parking facility to remit to the City the parking surcharge imposed no later than the twentieth (20th) day of each calendar month for the preceding month’s parking surcharge collections. Furthermore, Section 35-346 (e) states in the event the Operator fails to remit to the City the surcharge imposed within the specified time limit, the City Manager shall assess the Operator the surcharge due, plus interest at the rate of one percent (1%) per month or any fraction thereof, and a penalty of ten percent (10%) of the surcharge due on uncollected or unremitting amounts. Therefore, based on the additional parking surcharge revenues discovered

OFFICE OF THE INDEPENDENT AUDITOR GENERAL
444 S.W. 2nd Avenue, Suite 714/Miami, FL 33130
during the audit, penalty and interest totaling $1,698.72 ($703.06 + $995.66) is due to the City.

☐ I Agree  ☐ I Disagree  Please Initial ______________

Explanation: Request a waiver of Penalty and Interest. Penalty and interest was paid on the right time. Issue resolved.

Please confirm our understanding by signing on the space provided below and returning this memorandum to us. In the event that you disagree with any of the items listed above, please provide your explanation and attach all supporting documentation by August 21, 2009.

Supporting schedules are attached for your reference. If you have any questions, please feel free to contact me at 305-416-2043 or by email at lmcginnis@miamigov.com.

Thank you for your attention to this matter.

[Signature]  
Michael Meyers  
9/10/09  Date

C: Victor I. Igwe, CPA, CIA, Auditor General, Office of the Independent Auditor General
### EXHIBIT I: TOTAL PARKING SURCHARGE FESS DUE TO THE CITY

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***City Management waived this penalty, see page 38.