

CITY OF MIAMI
OFFICE OF INDEPENDENT AUDITOR GENERAL



GENERAL HAULING SERVICE, INC.

AUDIT REPORT NO. 09-018

Prepared By

Office of Independent Auditor General

Victor I. Igwe, CPA, CIA
Independent Auditor General

PAULINO GARCIA, STAFF AUDITOR

City of Miami

VICTOR I. IGWE, CPA, CIA
INDEPENDENT AUDITOR GENERAL



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August 11, 2009

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

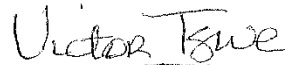
Re: Audit of General Hauling Service, Inc.
Audit No. 09-018

Pursuant to Section 48 of the City of Miami's (City) Charter and the Fiscal year 2008 audit plan, we have examined the billing records of General Hauling Service, Inc. (GHS). The audit was performed to determine whether GHS complied with applicable Sections of the City Code and the Commercial Solid Waste Franchise Agreement (Agreement) between the City and commercial solid waste hauling companies. Chapter 22 of the City Code and said Agreement regulates the operation of commercial solid waste services in the City.

Additionally, we examined the internal control policies and procedures in the City's Solid Waste Department to determine whether they were adequate and effective in administering and overseeing the operation of commercial solid waste services in the City.

The audit covered the period October 1, 2007 through September 30, 2008 and selected financial transactions that were processed 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
Ben Bush, President General Hauling Service, Inc.
Roger Hernstadt, Assistant City Manager, Office of the City Manager
Bill Anido, Assistant City Manager, Office of the City Manager
Larry M. Spring, Assistant City Manager/Chief Financial Officer
Peter W. Korinis, Chief Information Officer, Information Technology Department
Michael J. Boudreaux, Director, Budget Department
Julie O. Bru, City Attorney, City Attorney's Office
Mario A. Soldevilla, Director, Solid Waste Department
Priscilla A. Thompson, City Clerk, City Clerk's Office
Diana M. Gomez, CPA, Director, Finance Department
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
Audit Documentation File

**AUDIT OF GENERAL HAULING SERVICE, INC.
OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008**

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INTRODUCTION

On July 25, 2002, and October 14, 2004, the City Commission passed and adopted Ordinance Numbers 12258 and 12599 respectively, amending Chapter 22, Articles I, II, and III of the City Code. A total of 25 firms signed the Commercial Solid Waste Franchise Agreement (Agreement), which authorized them to operate commercial solid waste hauling services in the City of Miami for the period starting November 1, 2004 through September 30, 2009, with a three year renewal option period through September 30, 2012. The option to renew the Agreement for an additional three year period will be at the sole discretion of the City.

Article V of the Agreement titled “Franchise Fees” stipulates that the following fees be assessed and collected.

- **Gross Receipts Franchise Fees.** In accordance with Article II, Section 2.2 of the Agreement, the term “Gross Receipts” shall mean, “all monies whether paid by cash, check, debit or credit, collected from customers for garbage, solid waste, fuel surcharge, construction and demolition debris, roofing materials, trash, litters, refuse and/or rubbish collection removal and disposal services rendered, or from any other source related directly from waste collection services by the FRANCHISEE, exclusive of taxes as provided by law, whether wholly or partially collected within the CITY, less bad debts.” During the period October 1, 1999 through September 30, 2004, the franchisee was required to remit to the City 20% of the gross receipts generated. Effective October 1, 2004, the rate increased to 22%. A one and one-half percent (1-1/2%) late payment penalty fee would be assessed per month on any balance due.
- **Annual Franchise Fee.** The sum of \$5,000 (increased annually by \$500, thus \$6,500 was due for the audit period 2007-2008) for the right to provide commercial solid waste handling services within the City limits. Failure to remit

the required annual fee by the due date will result in a one and one-half percent (1-1/2%) per month on the balance due to the City.

- Annual Specialized Waste Handling Service Fee. The sum of \$1,000 (increased annually by \$500, thus \$2,500 was due for the fiscal year 2007/2008) for the right to provide “Specialized Waste Handler” services within the City. Ordinance 12258, Section 22-1 defines “Specialized Waste Handlers” as companies whose primary business is limited to collecting and disposing of solid waste that requires special handling and management including, but not limited to, white goods (appliances), waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, biomedical and biological waste. A one and one-half percent (1-1/2%) late payment penalty fee is assessed monthly on any balance due.
- Permit Per Account Fee. The franchisee is required to pay \$50 for each account contracted within the City for commercial solid waste services and/or specialized waste handling services including each container and/or roll-off utilized by franchisee in the course of providing solid waste services. The franchisee may only pass on an amount not to exceed \$24 of paid Permit Per Account Fee to each contracted customer. This fee is not transferable. A one and one-half percent (1-1/2%) late payment penalty fee is assessed monthly on any balance due.

During the fiscal year, October 1, 2007 through September 30, 2008 the twenty five franchisees remitted a total of \$13,334,898 to the City. General Hauling Service, Inc. (GHS) is one of the franchisees selected for audit to determine compliance with the provisions of the Franchise Agreement. A separate audit report will be issued for each of the franchisees audited.

The Solid Waste Department (SWD) is responsible for ensuring that commercial solid waste service accounts and applicable fees/transactions are properly assessed and paid to the City. The SWD is also responsible for monitoring the operations of the commercial

solid waste franchisees. This audit report describes whether GHS and the SWD complied with the terms of the Agreement and applicable Sections of the City Code.

SCOPE AND OBJECTIVES

This audit was performed pursuant to the authority set forth in Section 48 of the City's Charter titled, "Office of the Independent Auditor General", and was conducted in accordance with the Fiscal Year 2008/2009 Audit Plan. As part of our oversight responsibilities, the Office of the Independent Auditor General performs financial and operational audits to determine the extent of compliance with terms of contracts, programs, and/or lease agreements between the City and private companies. This audit focused primarily on whether General Hauling Service, Inc. (GHS) and the City's Solid Waste Department (SWD) complied with the terms of the Commercial Solid Waste Franchise Agreement (Agreement) and with Chapter 22 of the City's Code, which govern the operation of commercial solid waste collection services in the City. The audit also included examinations of various transactions to determine whether they were processed in accordance with the generally accepted accounting principles. The audit covered the period October 1, 2007 through September 30, 2008 and focused on the following broad objectives:

- To ascertain whether all customer accounts located in the City were properly identified, coded, and assessed the appropriate fees.
- To determine whether all the applicable franchise fees as stipulated in Article V of the Agreement were properly computed and remitted to the City.
- To review the annual statement of gross receipts that was prepared by an independent Certified Public Accountant retained by General Hauling Service, Inc. (GHS). Additionally, to determine whether said statement was submitted to the Solid Waste Department (SWD) within 60 days after the end of the fiscal year.

- To ascertain whether the fees remitted to the City were properly recorded in the City's accounting system and deposited into the City's treasury.
- To verify whether the appropriate public liability insurance and bonds were obtained as required by Article VII of the Agreement.
- To examine the internal control policies and procedures of General Hauling Service, Inc., and the City's Solid Waste Department and determine whether they were adequate and effective in administering and overseeing the operation of commercial solid waste hauling services in the City.
- To follow-up on prior audit findings and determine the status of all unresolved and outstanding issues.

METHODOLOGY

We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence in order to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit methodology included the following:

- Interviewed and inquired of appropriate personnel; reviewed and observed applicable written policies and procedures in order to gain an understanding of the internal controls; assessed control risk; and planned substantive testing.
- Performed substantive testing consistent with the audit objectives.
- Examined, on a test basis, applicable transactions and records.
- Determined compliance with all the objectives noted on pages 4 and 5.
- Performed other audit procedures as deemed necessary.
- Drew conclusions based on the results of the testing, made corresponding recommendations, and obtained the auditee's responses and corrective action plans.

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:

- All customer accounts located in the City were properly identified, coded, and assessed the appropriate fees.
- Annual Franchise Fee and Permit Per Account Fee were remitted to the City in a timely manner.
- All accounts active as of October 1, 2007 were identified and included in the Per Account Fee list submitted to the City.
- The required amount of Letter of Credit was obtained as provided in the City Code and Agreement.
- A list of customer's names and addresses were included along with the monthly remittances as required by the Agreement.
- The CPA report was submitted in a timely manner.
- All the franchise fees generated from accounts within the City were reported and remitted to the City.
- The statement of annual gross receipt is prepared by an independent CPA.

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

- Franchise Fees remitted to the City were properly recorded in the City's accounting system and deposited in the City's Treasury.
- Appropriate public liability insurance was obtained as required by Article VII of the Agreement.
- The SWD obtained vehicle insurance certificates as required by the City Code and the Agreement.

Overall, we conclude that the internal control policies and procedures in place at General Hauling Service, Inc. (GHS) and at the City's Solid Waste Department (SWD) could be

enhanced to ensure a more effective operation of commercial solid waste hauling services in the City.

SUMMARY OF AUDIT FINDINGS

GENERAL HAULING SERVICE, INC., THE CITY'S SOLID WASTE AND FINANCE DEPARTMENTS

COMPLIANCE WITH CERTAIN SECTIONS OF THE CITY CODE AND THE FRANCHISE AGREEMENT

We conducted various audit tests, on a sample basis, to determine compliance with certain provisions of the City Code, the Commercial Solid Waste Franchise Agreement, and other guidelines. Our tests disclosed that General Hauling Service, Inc. (GHS), the City's Solid Waste Department (SWD), and the Finance Department (FD) materially complied with the following:

- The FD properly recorded the sampled payments from GHS to the City. The sampled payments received by the FD were also traced to the City's treasury.
- GHS complied with the vehicle insurance requirement as stipulated by Section 22-47 (4a) of the City Code.
- The SWD obtained vehicle insurance records as stipulated by Section 22-47(4) a of the City Code.

GENERAL HAULING SERVICE, INC. (GHS)

ADDITIONAL FEES DUE TO THE CITY

Article V, Section 5.2 of the Agreement titled “Franchise Fees” stipulates certain fees the franchisee is required to remit to the City. Our review of General Hauling Service’s (GHS) accounting and billing records disclosed that \$23,799.58 is due to the City from the franchise fee transactions assessed during the audit period. See detailed discussions on pages 11 through 15.

LACK OF COMPLIANCE WITH THE COMMERCIAL SOLID WASTE FRANCHISE AGREEMENT AND THE CITY CODE.

Our audit disclosed non-compliance relative to the following:

- A list of customer’s names and addresses were not included along with the monthly remittances as required by the Agreement.
- The independent CPA who prepared the statement of annual gross receipt (statement) also responded to audit inquiries during our field work. Said statement was not submitted to the city in timely manner.
- The appropriate amount of Letter of Credit was only obtained as required by Article VII, Sections 7.2 of the Agreement, upon audit inquiry.

AUDIT FINDINGS AND RECOMMENDATIONS

GENERAL HAULING SERVICE, INC.

ADDITIONAL FEES DUE TO THE CITY

Article V, Section 5.2 of the Commercial Solid Waste Franchise Agreement (Agreement) titled "Franchise Fees" stipulates the various franchise fees (FF) to be remitted to the City. General Hauling Service, Inc. (GHS) generated total gross receipts of \$1,981,538.47 for services provided within the City during the audit period (fiscal years 2007-2008). The total gross receipts include revenues generated from commercial solid waste and specialized waste handling services. The total FF remitted to the City during the audit period was \$424,827.17. Our audit of GHS's accounting and billing records disclosed that \$23,799.58 is due and payable to the City from the franchise fee transactions assessed during the audit period, as itemized below:

ANNUAL FEES

Article V, Section 5.4 of the Commercial Solid Waste Franchise Fee Agreement (Agreement) stipulates that franchisee agrees to remit to the City annually (due October 1) the sum of \$5,000.00 (increased annually by \$500, thus \$6,500.00 was due for the audit period) for the right to provide Solid Waste Handling Services within the City limits. Failure to remit the required annual fee by the due date will result in a one and one-half percent (1-1/2%) per month on the balance due to the City. Our audit determined that the annual franchise fee was not remitted in a timely manner during the audit period. As a result of the late remittance, a late payment penalty totaling \$97.50 is due to the City.

PERMIT PER ACCOUNT FEES

Article V, Section 5.6 of the Agreement requires the franchisee to remit to the City annually (October 15th) a permit per account fee (PPAF) in the amount of \$50 for each account contracted for commercial solid waste handling services within the City, including each container and/or roll-of utilized by the franchisee. Failure to remit the required PPAF by the due date will result in a late payment penalty of one and one-half percent (1-1/2%) per month on the balance due to the City. Our audit determined that the PPAF was not remitted in a timely manner during the audit period. Our audit disclosed that:

- The PPAF for the audit period was not remitted in a timely manner. As a result of the late remittance, a late payment penalty totaling \$452.25 is due to the City.
- GHS's records indicated that it serviced two (2) accounts within the City during the audit period that the related PPAF were not assessed and remitted to the City as required. As a result, the unremitted PPAF and the applicable late/penalty fees totaling \$130 are due to the City.

FRANCHISE FEES (22%)

Article V, Section 5.2 of the Commercial Solid Waste Franchise Agreement (Agreement) requires the Franchisee to remit monthly to the City 22 percent (22%) of the Gross Receipts generated from accounts within the City limits, or \$500 whichever is greater. The remittance of the previous month's collection should be received by the City on or before the last day of each month. Accompanying the remittance, FRANCHISEE must provide the CITY with a list of the customers' names, addresses and total amount collected. Failure to remit payment by the last day of the following

month will result in a one and one-half percent (1-1/2%) penalty per month on the balance due. Our audit disclosed that:

- The 22% franchise fees and the related permit per account fees (PPAF) generated from five (5) customer accounts was not remitted to the City as required. The un-remitted 22% franchise fees, the related PPAF and the applicable late payment penalty fees totaling \$8,094.61 (\$6,260.29 + \$1,337.57 + \$496.75) are due to the City.
- The list of customers' names and addresses were not included along with the monthly remittances as required. Upon audit inquire; City's Finance Department's staff confirmed that monthly check remittances were not accompanied by said customer listings.

STATEMENT OF ANNUAL GROSS RECEIPT CERTIFIED BY A CPA

Article V, Section 5.3 of the Agreement stipulates that the franchisee shall, on or before 60 days (November 30th) following the close of each fiscal year (FY), deliver to the Director of the SWD, a statement of its annual gross receipts (Statement) generated from accounts within the City for the preceding fiscal year. Such statement must be prepared by an independent Certified Public Accountant (CPA). Our audit disclosed that:

- The Statement as certified by an independent CPA indicated that GHS generated a total of \$1,981,538.47 from accounts within the City during the audit period. However, the total gross receipt reported to the City by GHS was \$50,505.84 less than the amount certified by the CPA. As a result, the unremitted 22% franchise fees and the applicable late/penalty fees totaling \$13,055.44 (\$11,111.31 + \$1,944.13) are due to the City.

- The statement which was due November 30, 2008 was submitted on February 28, 2009 (3 months late).
- As disclosed in our two prior audits (audit report #s 08-008 and 08-017), the independent CPA that prepared GHS's statement of annual gross receipts (Statement) also served as the liaison on behalf of GHS in this audit engagement. As GHS's liaison, during the audit field work, said the independent CPA provided financial records and responded to auditors' inquiries relating to franchise fee collections, customer listings, and other related transactions. Article V, Section 5.3 of the Agreement clearly states that said Statement of annual gross receipts must be prepared by an independent CPA. These dual roles that were undertaken by the independent CPA appear to have compromised her independence. However, in response to this audit observation, the independent CPA stated that GHS has agreed to staffing reassignment to avoid any future conflict issues. Please see written response on pages 26 and 27.

AUDIT FEES

Article VI, Section 6.2 of the Agreement stipulates that: "If a City Audit reveals that FRANCHISEE under reported gross receipts, and results in additional revenue due to the City in the amount of \$20,000.00 (per Fiscal Year) or more, FRANCHISEE agrees to pay for the cost of said Audit." Our audit for the fiscal year 2007/2008 disclosed that the amount due to the City before including the audit fee is \$21,829.80. Therefore, the related audit fee is \$1,969.78.

Recommendation:

We recommend that the Finance Department bill General Hauling Service, Inc. (GHS) for the total amount of \$23,799.58 due and payable to the City. Also, we recommend that GHS enhance its internal control procedures to ensure that service accounts located within the City boundaries are properly identified and properly coded and that the appropriate fees are remitted to the City in a timely manner as required.

Auditee's Response and Action Plan:

Auditee concurred with all the findings. See written response on pages 18 through 24.

FAILURE TO OBTAIN THE REQUIRED AMOUNT OF LETTER OF CREDIT

Article VII, Section 7.2 of the Agreement stipulates that franchisee agrees to maintain, a Performance Bond, executed by a surety company duly authorized to do business in the State of Florida. The amount of the bond shall be equal to the franchisee's previous 12 month franchise fees paid to the City (including the annual franchise fee, monthly 22% franchise fee, annual per account fee, and any other franchise fees paid to the City) or a minimum of \$25,000, whichever is greater, as security for the faithful performance of the Agreement. In lieu of a Performance Bond, the franchisee may submit an irrevocable letter of credit (LC), cash, certified check, treasurer's check or cashier's check issued by responsible bank or trust company payable to the City of Miami.

Our audit determined that in lieu of a performance bond, GHS submitted an irrevocable LC for \$409,201.87. However, the annual franchise fee, the monthly 22% franchise fee, the annual per account fee, and other franchise fees due and payable to the City during the previous 12 months totaled \$461,377.17. Upon audit inquire the amount of the Letter of Credit was increased to the required amount on July 29, 2009.

Recommendation:

We recommend that at the end of each fiscal year, GHS should review its records and determine the total amount of franchise fees it remitted to the City (including the annual franchise fee, the 22% monthly franchise fee, the annual permit per account fee, and any other franchise fees paid to the City) during the previous 12 months. Upon such determination GHS should obtain any additional surety bond necessary to comply with the requirements stipulated in Article VII, Section 7.2 of the Agreement.

Auditee's Response and Action Plan:

Auditee concurred with all the findings. See written response on page 23.

City of Miami

VICTOR I. IGWE, CPA, CIA
INDEPENDENT AUDITOR GENERAL



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July 22, 2009

Mr. Ben Bush, President
General Hauling Service, Inc.
1451 NW 20th Street
Miami, Florida 33142

RE: Audit of General Hauling Service, Inc. (GHS)
Audit No. 09-018

Dear Mr. Bush:

Our audit of General Hauling Service, Inc. (GHS) for the period October 1, 2007 through September 30, 2008, and selected transactions prior and subsequent to this period, has determined that additional franchise fees totaling \$23,799.58 (W/P T-7) is due to the City as summarized below:

- I. Article V, Section 5.4 of the Commercial Solid Waste Franchise Fee Agreement (Agreement) stipulates that franchisee agrees to remit to the City annually (due October 1) the sum of \$5,000.00 (increased annually by \$500, thus \$6,500.00 was due for the audit period) for the right to provide Solid Waste Handling Services within the City limits. Failure to remit the required annual fee by the due date will result in a one and one-half percent (1-1/2%) per month on the balance due to the City. Our audit determined that the annual franchise fee was not remitted in a timely manner during the audit period. As a result of the late remittance, a late payment penalty totaling \$97.50 is due to the City. (W/P T-8)

Page 2 of 7
Mr. Ben Bush
July

I agree I disagree _____ Please initial: BB
Explanation _____

II. Article V, Section 5.6 of the Agreement requires the franchisee to remit to the City annually (October 15th) a permit per account fee (PPAF) in the amount of \$50 for each account contracted for commercial solid waste handling services within the City, including each container and/or roll-off utilized by the franchisee. Failure to remit the required PPAF by the due date will result in a late payment penalty of one and one-half percent (1-1/2%) per month on the balance due to the City. Our audit determined that the PPAF was not remitted in a timely manner during the audit period. Our audit disclosed that:

- The PPAF for the audit period was not remitted in a timely manner. As a result of the late remittance, a late payment penalty totaling \$452.25 is due to the City. (W/P T-13)
- GHS's records indicated that it serviced two (2) accounts within the City during the audit period that the related PPAF were not assessed and remitted to the City as required. As a result, the unremitted PPAF and the applicable late/penalty fees totaling \$130 are due to the City.

I agree I disagree _____ Please initial: BB
Explanation: These were due to clerical errors and are relatively small in nature.

III. Article V, Section 5.2 of the Commercial Solid Waste Franchise Agreement (Agreement) requires the Franchisee to remit monthly to the City 22 percent (22%) of the Gross Receipts generated from accounts within the City limits, or \$500 whichever is greater. The remittance of the previous month's collection should be received by the City on or before the last day of each month. Accompanying the remittance, FRANCHISEE must

Page 3 of 7
Mr. Ben Bush
July

provide the CITY with a list of the customers' names, addresses and total amount collected. Failure to remit by the last day of the following month will result in one and one-half percent (1-1/2%) penalty per month on the balance due. Our audit disclosed that:

- The 22% franchise fees and the related permit per account fees (PPAF) generated from five (5) customer accounts was not remitted to the City as required. The unremitted 22% franchise fees, the related PPAF and the applicable late payment penalty fees totaling \$8,094.61 (\$6,260.29 + \$1,337.57 + \$496.75) are due to the City. (W/P T-124)

I agree I disagree _____ Please Initial BB

Explanation: _____

- The list of customers' names and addresses were not included along with the monthly remittances as required. Upon audit inquiry, City's Finance Department's staff confirmed that monthly check remittances were not accompanied by said customer listings.

I agree I disagree _____ Please initial BB

Explanation: We will make this available on an inquiry basis only.

IV Article V, Section 5.3 of the Agreement stipulates that the franchisee shall, on or before 60 days (November 30th) following the close of each fiscal year (FY), deliver to the Director of the SWD, a statement of its annual gross receipts (Statement) generated from accounts within the City for the preceding fiscal year. Such statement must be prepared by an independent Certified Public Accountant (CPA). Our audit disclosed that:

Page 4 of 7
Mr. Ben Bush
July _____

- The Statement as certified by an independent CPA indicated that GHS generated a total of \$1,981,538.47 from accounts within the City during the audit period. However, the total gross receipt reported to the City by GHS was \$50,505.84 less than the amount certified by the CPA. As a result, the unremitted 22% franchise fees and the applicable late/penalty fees totaling \$13,055.44 (\$11,111.31 + \$1,944.13) are due to the City. (W/P T-59). (W/P T-40/T-41)
- The statement which was due November 30, 2008 was submitted on February 28, 2009 (3 months late). (W/P T-60)
- As disclosed in our two prior audits (audit report #s 08-008 and 08-017), the independent CPA that prepared GHS's statement of annual gross receipts (Statement) also served as the liaison on behalf of GHS in this audit engagement. As GHS's liaison, during the audit field work, said the independent CPA provided financial records and responded to auditors' inquiries relating to franchise fee collections, customer listings, and other related transactions. Article V, Section 5.3 of the Agreement clearly states that said Statement of annual gross receipts must be prepared by an independent CPA. However, the dual roles that were undertaken by the independent CPA appear to have compromised her independence. (See Note on W/P T-60)

I agree _____ I disagree x Please initial: BB

Explanation: Separately addressed. Report was late in receipt. CPA report did disclose shortfall which will be remitted in the future.

(See Ms. WEITHORN, CPA, EXPLANATION on SWD MOU.)

V Article VI, Section 6.2 of the Agreement stipulates that: "If a City Audit reveals that FRANCHISEE under reported gross receipts, and results in additional revenue due to the City in the amount of \$20,000.00 (per Fiscal Year) or more, FRANCHISEE agrees to pay for

Page 5 of 7
Mr. Ben Bush
July

the cost of said Audit." Our audit for the fiscal year 2007/2008 disclosed that the amount due to the City before including the audit fee is \$21,829.80. Therefore, the related audit fee is \$1,969.78. (WP T 7.1)

I agree X ^(BB)

I disagree

Please Initial BB

Explanation: We will remit shortfall, if any, from auditors report to avoid future such fees. This was the largest portion of what is due.

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Mr. Ben Bush
July _____

FAILURE TO OBTAIN THE REQUIRED AMOUNT OF LETTER OF CREDIT

Article VII, Section 7.2 of the Agreement stipulates that franchisee agrees to maintain, a Performance Bond, executed by a surety company duly authorized to do business in the State of Florida. The amount of the bond shall be equal to the franchisee's previous 12 month franchise fees paid to the City (including the annual franchise fee, monthly 22% franchise fee, annual per account fee, and any other franchise fees paid to the City) or a minimum of \$25,000, whichever is greater, as security for the faithful performance of the Agreement. In lieu of a Performance Bond, the franchisee may submit an irrevocable letter of credit (LC), cash, certified check, treasurer's check or cashier's check issued by responsible bank or trust company payable to the City of Miami.

Our audit determined that in lieu of a performance bond, GHS submitted an irrevocable LC in lieu of performance bond for \$409,201.87. However, the annual franchise fee, monthly 22% franchise fee, annual per account fee, and any other franchise fees due and payable to the City during the previous 12 months totaled \$461,377.17. Accordingly, the required amount of LC needs to be increased by \$52,175.30. (W/P T-35)

I agree x I disagree _____ Please Initial BB

Explanation: Corrective action has been taken


Page 7 of 7
Mr. Ben Bush
July _____

Please confirm our understanding by indicating whether you agree or disagree with each of the observations described above by checking the appropriate box and include your initials on the space provided for each observation. Also, sign on the space provided below and return this memorandum to us. In the event that you disagree with any of the items listed above, please provide your written explanations and attach all supporting documents/records. Please respond by August 1, 2009.


A summary schedule is attached for your reference. If you have any questions, please feel free to contact me at (305) 416-2047 or Victor Igwe (the Independent Auditor General) at (305) 416-2044.

Thank you for your attention to this matter.

Sincerely,


Fabiano Garcia
Staff Auditor
Office of Independent Auditor General

I have read this Memorandum of Understanding and responded accordingly in the spaces provided for.


Ben Bush, President

8/5/09
Date

- C: Mario E. Soldevilla, Director, Solid Waste Department
- Steven Margolis, Principal Auditor, Solid Waste Department
- Victor Igwe, CPA, CIA, Independent Auditor General

SOLID WASTE DEPARTMENT (SWD)

INADEQUATE MONITORING AND ENFORCEMENT OF THE PROVISIONS OF THE COMMERCIAL SOLID WASTE FRANCHISE AGREEMENT

The Solid Waste Department (SWD) is responsible for administering, monitoring, and enforcing provisions of Chapter 22 of the City Code and the Commercial Solid Waste Franchise Agreement (Agreement) between the City and the franchisees. However, as we have previously reported in prior audit reports, adequate internal control procedures have not been implemented to ensure that the provisions of said agreement are properly monitored for compliance as summarized below:

- As discussed on pages 16 and 17 of this report, the required amount of the surety bond was only obtained upon audit inquiry.
- As discussed on page 14 of this report, the statement of the annual gross receipt was submitted three (3) months late.
- As discussed on page 14 of this report, the dual roles that were undertaken by the independent CPA appear to have compromised her independence.


Recommendation

We recommend that the SWD enhance its internal control procedures to ensure that franchisees comply with all applicable provisions of the City code and the franchise Agreement.

Auditee's Response and Action Plan:

Auditee concurred with the findings. See written response on page ____.

CITY OF MIAMI, FLORIDA
INTER-OFFICE MEMORANDUM

TO:	Paulino Garcia, Staff Auditor Office of Independent Auditor General	DATE:	July 31, 2009	FILE:	
FROM:	 Mario E. Soldevilla, Director Department of Solid Waste	SUBJECT:	Response to Memo of Understanding-Gen. Hauling	REFERENCES:	Audit #09-018
		ENCLOSURES:			

I. Letter of Credit:

Our Department instructed General Hauling Services, Inc., to amend and increase their Letter of Credit to \$461,377.17 produced by Wachovia Bank. Please see the attached Irrevocable Standby Letter of Credit Number SM235338W in the amount of \$461,377.17. The issue date of the letter of credit is July 29, 2009 and expiry date of June 03, 2010.

II. CPA Statement:

We contacted the CPA -- Deede Weithorn, who explained her role in the auditing process of General Hauling Services, Inc. She explained to us that her only involvement was to gather additional items needed, at the end of the auditing process. In addition, she informed us that this should be her last year on this job, as it has been reassigned to others in the firm. Please see the attached email from Deede Weithorn, wherein General Hauling Services, Inc., has agreed to the staffing reassignment.

c: Steven H. Margolis, Staff Auditor
Joe Tang, Fiscal Administrator

Margolis, Steven

From: Deede Weithorn [dweithorn@bdpb.com]
Sent: Friday, July 31, 2009 1:21 PM
To: Margolis, Steven
Subject: RE: GHS - SWD MOU -20-2009

Steve,

The report was issued by my firm Berkowitz, Dick Pollack and Brant which has over 200 professionals. I did not work on the report, it was done under the supervision of the audit department where I am NOT a partner. My involvement on the audit was primarily at the end to get additional items needed by Mr. Garcia from General Hauling. In all cases, I was simply a conduit to provide information. This should be my last year on this job as it has been reassigned to others in the firm.

I am an associate director here and do not engage in any areas of management. In the past, in my prior firm I was the partner on this engagement (I am not at the new firm).

General Hauling did nothing wrong. They agreed to the staffing reassignment to avoid any conflict issues.

Deede Weithorn
Associate Director
Berkowitz Dick Pollack & Brant
Certified Public Accountants & Consultants, LLP
200 S Biscayne Boulevard, Sixth Floor
Miami, FL 33131-2310
305-379-7000, ext. 1720
305-960-1201 - main fax
305-960-8920 - direct
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From: Margolis, Steven [mailto:smargolis@ci.miami.fl.us]
Sent: Friday, July 31, 2009 1:14 PM
To: Deede Weithorn
Subject: FW: GHS - SWD MOU -20-2009

We have to answer # 11. Write me something and I will submit it. Thanks, Steven. Cell # 954-709-8886.

From: Garcia, Paulino
Sent: Wednesday, July 22, 2009 11:59 AM
To: Soldevilla, Mario
Cc: Margolis, Steven
Subject: GHS - SWD MOU -20-2009

7/31/2009

EXHIBIT I

**GENERAL HAULING SERVICE, INC.
SCHEDULE OF FEES DUE TO THE CITY
OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008**

DESCRIPTION	ITEMIZED AMOUNT	TOTAL FEES DUE
	\$	\$
<u>Annual Franchise Fee</u>		
1.50% Penalty on Late Remittance		97.50
<u>Permit Per Account Fee</u>		
1.50% Penalty on Late Remittance	482.25	
Unreported Accounts (2)	<u>100.00</u>	582.25
<u>22%Franchise Fees</u>		
Unremitted Franchise Fees	11,111.31	
Late Fee Penalty	<u>1,944.13</u>	13,055.44
<u>Miscoded Accounts</u>		
Unremitted Franchise Fees	6,260.29	
Unremitted Permit Per Account Fees	400.00	
Late Fee Penalty	<u>1,434.32</u>	8,094.61
<u>Cost of Audit</u>		1,969.78
TOTAL DUE TO THE CITY		<u><u>\$ 23,799.58</u></u>