

City of Miami

THEODORE P. GUBA, CPA, CIA, CFE
INDEPENDENT AUDITOR GENERAL



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April 30, 2019

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

Re: Audit of Compliance with Commercial Solid Waste Franchise Agreement -
Sunshine Recycling Services of S.W. Florida, LLC
Report No. 19-07

Executive Summary

We have completed an audit of records and selected financial transactions of Sunshine Recycling Services of S.W. Florida, LLC (Sunshine) primarily for the period from October 1, 2012 through September 30, 2018. The audit was performed to determine whether Sunshine complied with applicable sections of the City Code and the Commercial Solid Waste Franchise Agreement (Agreement). Additionally, we examined the internal control policies and procedures in the City's Solid Waste Department (SWD) to determine whether they were adequate and effective in administering and overseeing the operation of specialized waste services in the City. During the period, Sunshine reported Gross Receipts of \$1,619,763 for services provided within the City and remitted Franchise Fees totaling \$528,262 to the City.

Based on the results of our audit, we have concluded that improvement is needed to ensure that Fees are remitted timely, that Permit Fees are remitted for all accounts, and that all accounts located within the City are included in Gross Receipts and Fee remittances. **As a result of these deficiencies, Sunshine owes the City an additional \$14,464** (see Exhibit I, page 6).

We wish to express our appreciation for the cooperation and courtesies extended to us by Sunshine personnel and the City's Solid Waste, Finance, Risk Management and Procurement Departments while conducting the audit.

Sincerely,

A handwritten signature in cursive script that reads 'Theodore P. Guba'.

Theodore P. Guba, CPA, CIA, CFE
Independent Auditor General
Office of the Independent Auditor General

C: The Honorable Mayor Francis Suarez
Emilio T. Gonzalez, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Joseph Napoli, Deputy City Manager
Sandra Bridgeman, Assistant City Manager/Chief Financial Officer
Nzeribe Ihekwa, Assistant City Manager/Chief of Operations
Fernando Casamayor, Assistant City Manager
Erica Paschal, Director of Finance, Finance Department
Christopher Rose, Director, Office of Management and Budget
Mario Nunez, Director, Solid Waste Department
Jennifer Moy, Assistant Director, Solid Waste Department
Vanessa Giron, Fiscal Administrator, Solid Waste Department
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
Rory Amundson, Sunshine Recycling Services of S.W. Florida, LLC
Rick Rubio, Sunshine Recycling Services of S.W. Florida, LLC
Members of the Audit Advisory Committee
Audit Documentation File

Audit conducted by: Paulino Garcia, Staff Auditor

Audit reviewed by: Robyn Sachs, CPA, CIA, CISA, CFE, CISSP
Information Systems Audit Administrator

**AUDIT OF COMPLIANCE WITH COMMERCIAL SOLID WASTE FRANCHISE
AGREEMENT – SUNSHINE RECYCLING SERVICES OF S.W. FLORIDA, LLC**

**OCTOBER 1, 2012 THROUGH SEPTEMBER 30, 2018
REPORT No. 19-07**

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SCOPE, OBJECTIVES AND METHODOLOGY

The scope of the audit was to assess and report on whether Sunshine complied with the terms of the Agreement and with Chapter 22 of the City Code, which govern the operations 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 generally accepted accounting principles. The audit covered the period October 1, 2012 through September 30, 2018.

The primary objectives of the audit were:

- 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 the Agreement were properly computed and remitted to the City.
- 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 the Agreement.
- To follow-up on prior audit findings and determine the status of all unresolved and outstanding issues, if any.

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, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit methodology included the following:

- Interviews and inquiries of appropriate personnel.
- Reviews of written policies and procedures to gain an understanding of internal controls
- Reviews of accounts to determine whether the account activity pertained to recycling, construction and demolition hauling (C&D), or solid waste hauling.
- Reviewing the service addresses of Sunshine's accounts located in Miami-Dade County (unincorporated areas and other municipalities), then independently determining which accounts were located within the City by utilizing Sunshine's account address records; the Miami-Dade County Property Appraiser website; and Google maps.
- Tests of applicable financial transactions and records.
- Other audit procedures as deemed necessary.

BACKGROUND

Pursuant to request for qualifications No. 222246, the City executed a Non-Exclusive Commercial Solid Waste Franchise Agreement (Agreement) with selected haulers effective from October 1, 2010 through September 30, 2015, with three one-year renewal options through September 30, 2018. On March 14, 2016, the City executed an updated version of the Agreement with all haulers, including Sunshine, pursuant to request for qualifications No. 495344.

According to the Agreement, the City shall assess and collect the following fees and costs:

- Gross Receipts Franchise Fees – The greater of \$500 or 24% of the Gross Receipts, as defined in the Agreement, generated from accounts within the City, due monthly.
- Annual Franchise Fee – \$8,000 the first year under the Agreement, increased by \$500 each subsequent year, due October 1st of each fiscal year.
- Permit Per Account Fee – \$75 for each solid waste hauling account and permanent roll-off container active as of October 1st of each fiscal year, of which the franchisee may pass on \$38 to the customer. Temporary roll-off containers placed in service after October 1st must obtain permits valid for 90-day intervals at the prevailing per-account rate, and new accounts acquired after October 1st are subject to the per-account fee.
- Late Payment Penalty – All late payments of the above-listed fees will cause the franchisee a one and one half percent (1.5%) penalty per month on the balance payable to the City.

Other terms of the Agreement require the following:

- Insurance – Franchisee must maintain a public liability policy in the minimum amount of \$1,000,000; automobile liability insurance policy covering franchisee's operations with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage liability. Franchisee's certificate shall also include workers' compensation coverage. The City shall be listed as an additional insured for liability.
- Performance Bond – Franchisee agrees to maintain, for the term of the Agreement, a Performance Bond, executed by a surety company duly authorized to do business in the State of Florida, which shall be counter-signed by an agent for the company. The amount of the bond shall be the greater of \$25,000 or the franchisee's previous 12 months' franchise fees paid to the City.

According to Florida Statutes, source-separated recovered materials are exempt from Franchise Fees. However, the Agreement states that all other solid waste hauling activity, including C&D and grapple, is subject to Franchise Fees. During the fiscal year ended September 30, 2018, the haulers remitted a total of \$17,551,425 in fees to the City. Sunshine is one of the franchisees selected for audit in order to determine compliance with the provisions of the Agreement and City Code. A separate audit report will be issued for each of the franchisees audited.

AUDIT FINDINGS AND RECOMMENDATIONS

Based on the results of our audit, we have concluded that improvement is needed to ensure that Permit Fees are remitted for all accounts, that Fees are remitted timely, and that all accounts located within the City are included in Gross Receipts and Fee remittances. As a result of these deficiencies, Sunshine owes the City an additional \$14,464 (See Exhibit I, page 6).

Details of our findings and recommendations follow:

FINDING 1: UNREMITTED PERMIT PER ACCOUNT FEES

Section 5.6 of the Agreement states, “Franchisee agrees to remit to the City annually a Permit Per Account Fee in the amount of seventy-five (\$75.00) (due October 1st) for each account and each roll-off effective October 1st of every new fiscal year. All late payments of this fee will cause the Franchisee a one and one half percent (1.5%) penalty per month on the balance due.”

Sunshine did not remit the Permit Per Account Fees for two accounts in fiscal years 2013 and 2014. As a result, permit fees of \$150 and \$150, plus late payment penalties of \$180 and \$150 for fiscal years 2013 and 2014, respectively, totaling \$630 are due, as shown in Table 1.

| TABLE 1. PERMIT PER ACCOUNT AND LATE FEES DUE | | | |
|--|------------------------------------|-------------------------|------------------|
| Fiscal Year | Permit Per Account Fees Due | Late Penalty Due | Total Due |
| 2013 | \$150 | \$180 | \$330 |
| 2014 | \$150 | \$150 | \$300 |
| Total: | \$300 | \$330 | \$630 |

FINDING 2: LATE PAYMENTS OF MONTHLY AND ANNUAL FRANCHISE FEES

MONTHLY 24% FRANCHISE FEES

Section 5.2 of the Agreement states, “Franchisee agrees to remit monthly to the City, twenty four percent (24%) of its Gross Receipts, generated from accounts within the City limits, or \$500, whichever is greater. [...] Failure to remit by the last day of the following month will cause the Franchisee a one and one half percent (1.5%) penalty per month on the balance due.”

Sunshine paid the Monthly 24% Franchise Fees late during fiscal years 2013, 2014, 2015 and 2017. As a result, late fees totaling \$560 are due to the City, as shown in Table 2 below.

| TABLE 2. LATE FEES DUE ON MONTHLY FRANCHISE FEES | | | | |
|---|------------------------------|--------------------|------------------------|-------------------------|
| Month | Franchise Fees (Paid) | Months Late | Monthly Penalty | Late Penalty Due |
| January 2013 | \$1,767 | 1 | 1.5% | \$27 |
| February 2014 | \$12,004 | 1 | 1.5% | \$180 |
| June 2014 | \$6,867 | 1 | 1.5% | \$103 |
| August 2014 | \$3,974 | 1 | 1.5% | \$60 |
| October 2014 | \$4,200 | 1 | 1.5% | \$63 |
| July 2017 | \$8,477 | 1 | 1.5% | \$127 |
| Total: | | | | \$560 |

ANNUAL FRANCHISE FEE

Section 5.4 of the Agreement states, “Franchisee agrees to remit to the City annually (due October 1st) the sum of \$8,000 for the right to be a franchisee for Commercial Solid Waste Services within the City; said fee shall increase annually by \$500. Failure to remit the required annual franchise fee by the due date will cause the franchisee a one and one half percent (1.5%) penalty per month on the balance due.”

Sunshine remitted the Annual Franchise Fee late for fiscal years 2013 and 2015 by four months and one month, respectively. As a result, late fees of \$540 and \$150, totaling \$690, are due to the City, as shown in Table 3 below.

| TABLE 3. LATE FEES DUE ON ANNUAL FRANCHISE FEE | | | | |
|---|-------------------------------------|--------------------|------------------------|-------------------------|
| Fiscal Year | Annual Franchise Fees (Paid) | Months Late | Monthly Penalty | Late Penalty Due |
| 2013 | \$9,000 | 4 | 1.5% | \$540 |
| 2015 | \$10,000 | 1 | 1.5% | \$150 |
| Total: | | | | \$690 |

ANNUAL PERMIT PER ACCOUNT FEE

Section 5.6 of the Agreement states, “Franchisee agrees to remit to the City annually a Permit Per Account Fee in the amount of seventy-five (\$75.00) (due October 1st) for each account and each roll-off effective October 1st of every new fiscal year to those accounts and roll-offs booked as of October 1st. All late payments of this fee will cause the Franchisee a one and one half percent (1.5%) penalty per month on the balance due.”

Sunshine remitted the annual Permit Per Account Fee late in fiscal years 2013, 2014, 2015 and 2018. As a result, late fees of \$547 are due to the City, as shown in Table 4 below.

| TABLE 4. LATE FEES DUE ON ANNUAL PERMIT PER ACCOUNT FEE | | | | |
|--|---------------------------------------|--------------------|------------------------|-------------------------|
| Fiscal Year | Permit Per Account Fees (Paid) | Months Late | Monthly Penalty | Late Penalty Due |
| 2013 | \$2,625 | 1 | 1.5% | \$39 |
| 2014 | \$4,875 | 1 | 1.5% | \$73 |
| 2015 | \$6,450 | 2 | 1.5% | \$194 |
| 2018 | \$16,050 | 1 | 1.5% | \$241 |
| Total: | | | | \$547 |

FINDING 3: CITY OF MIAMI CUSTOMER ACCOUNTS WERE MISCODED AS EXISTING OUTSIDE THE BOUNDARIES OF THE CITY

Section 5.2 of the Agreement states, “Franchisee agrees to remit monthly to the City, twenty four percent (24%) of its Gross Receipts, generated from accounts within the City limits, or \$500, whichever is greater. [...] Failure to remit by the last day of the following month will cause the Franchisee a one and one half percent (1.5%) penalty per month on the balance due.”

Sunshine did not report seven customer accounts served within City boundaries and pay the corresponding Franchise Fees. Due to the omission of \$29,063 in Gross Receipts related to these two accounts, Sunshine owes the city \$7,003 in Monthly 24% Franchise Fees plus late payment penalties of \$2,769, totaling \$9,772. Also, pursuant to Section 5.6 of the Agreement, Permit Per Account Fees are owed on these accounts, in the amount of \$1,575 plus late payment penalties of \$690, totaling \$2,265.

Auditee Response: We have been informed of the amounts due to the City.

OVERALL RECOMMENDATION: FINANCE DEPARTMENT

We recommend that the City’s Finance Department bill and collect the total additional fees due to the City from Sunshine in the amount of \$14,464.

**AUDIT OF COMPLIANCE WITH COMMERCIAL SOLID WASTE FRANCHISE
AGREEMENT – SUNSHINE RECYCLING SERVICES OF S.W. FLORIDA, LLC**

**OCTOBER 1, 2012 THROUGH SEPTEMBER 30, 2018
REPORT No. 19-07**

| EXHIBIT 1. SCHEDULE OF FEES AND PENALTIES DUE TO THE CITY | | | |
|--|-----------------|-----------------------------------|------------------|
| Description | Fees Due | Late Payment Penalties Due | Total Due |
| Unremitted Permit Per Account Fees | \$300 | \$330 | \$630 |
| Monthly 24% Franchise Fees | - | \$560 | \$560 |
| Annual Franchise Fee | - | \$690 | \$690 |
| Annual Permit Per Account Fee | - | \$547 | \$547 |
| Miscoded Accounts – Monthly 24% Fees | \$7,003 | \$2,769 | \$9,772 |
| Miscoded Accounts – Permit Per Account Fees | \$1,575 | \$690 | \$2,265 |
| Total Due to the City: | \$8,878 | \$5,586 | \$14,464 |