

# City of Miami

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



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August 6, 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/  
Load it Away, LLC  
Report No. 19-13

## Executive Summary

We have completed an audit of selected financial records and transactions of Load it Away, LLC (LIA) primarily for the period from October 1, 2013 through September 30, 2016. The audit was performed to determine whether LIA complied with applicable sections of the Commercial Solid Waste Franchise Agreement (Agreement). Additionally, we examined relevant internal control policies and procedures in the City's Solid Waste Department to determine whether they were adequate and effective in enforcing the provisions of the Agreement. During the audit period, LIA reported Gross Receipts of \$226,924 for services provided to City customers and remitted Franchise Fees totaling \$99,720 to the City.

Based on the results of our audit, we have concluded that transactions tested were, for the most part, in compliance with the Agreement. However, improvement is needed at LIA to ensure that payments are remitted in a timely manner. **As a result of this deficiency, LIA owes the City an additional \$152** (See Exhibit I, page 4).

We wish to express our appreciation for the cooperation and courtesies extended to us by LIA and City personnel 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 Ihekwebaba, Assistant City Manager/Chief of Infrastructure  
Fernando Casamayor, Assistant City Manager/Chief of Operations  
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  
Gaetano Alessi, Jr., Load It Away  
Christina Alessi, Load It Away  
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 THE COMMERCIAL SOLID WASTE  
FRANCHISE AGREEMENT  
LOAD IT AWAY, LLC**

**OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2016  
REPORT No. 19-13**

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## **SCOPE, OBJECTIVES AND METHODOLOGY**

The scope of the audit was primarily to assess and report on whether Load it Away, LLC (LIA) and the City's Solid Waste Department (SWD) complied with the terms of the Commercial Solid Waste Franchise Agreement (Agreement) which, along with Chapter 22 of the City's Code, govern the operation of commercial solid waste collection services in the City. The audit covered the period October 1, 2013 through September 30, 2016 and the objectives 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 verify whether the appropriate public liability insurance and bonds were obtained as required by the Agreement.
- 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 determine whether selected financial transactions were processed in accordance with generally accepted accounting principles.
- 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.
- Observations of current practices and processing techniques.
- Reviewing the service addresses of LIA's accounts located in Miami-Dade County, then independently determining which accounts were located within the City by utilizing LIA's account address records; the Miami-Dade County Property Appraiser website; and Google maps.
- Tests and examinations 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. In 2016, the City executed an updated version of the Agreement with all haulers, including LIA, pursuant to request for qualifications No. 495344.

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

- Gross Receipts Franchise Fees – The greater of \$500 or 24% of the Gross Receipts generated from accounts within the City, due monthly.
  - Gross Receipts are defined in the Agreement as all monies collected from customers resulting from all transactions and activities in the Franchisee’s regular course of business and trade, including recycling with the exceptions of recovered materials at commercial establishments as defined in the Florida Statutes.
- Annual Specialized Waste Handling Fee – \$6,500 the first year under the Agreement (2016), increased annually by \$500 for the right to provide specialized waste handling services.
- Permit Per Account Fee – \$75 for each account booked as of October 1<sup>st</sup> of every new fiscal year and for each new account and roll-off box acquired after October 1<sup>st</sup>.
- 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.

During the fiscal year ended September 30, 2018, the franchisees remitted a total of \$17,551,425 in fees to the City. During the audit period, LIA reported Gross Receipts of \$226,924 for services provided to City customers and remitted Franchise Fees totaling \$99,720 to the City. LIA is one of the franchisees selected for audit in order to determine compliance with 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 transactions tested were, for the most part, in compliance with the Agreement. However, improvement is needed at Load It Away (LIA) to ensure that payments are remitted in a timely manner. As a result of this deficiency, LIA owes the City an additional \$152 (See Exhibit I, page 4).

Details of our findings and recommendations follow:

### **FINDING 1: ANNUAL AND MONTHLY FEES WERE REMITTED LATE**

Section 5.5 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 1<sup>st</sup>), [...] 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.”

LIA paid the annual permit per account fee of \$675 (nine accounts) three months late in fiscal year 2015. **As a result, a late payment penalty of \$30 is due.**

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.”

LIA remitted the following monthly 24% franchise fee payments late:

<b>Table 1. Late Payment of Monthly 24% Franchise Fees</b>		
<b>Payment Month</b>	<b>Months Late</b>	<b>Late Penalty Due</b>
July 2014	1	\$8
September 2014	1	\$8
July 2015	1	\$60
October 2015	1	\$10
September 2016	1	\$36
<b>Due on Late Payments of Monthly Fees:</b>		<b>\$122</b>

The total due on late remittances of annual and monthly fees is \$152, as shown in Exhibit I on Page 4.

**Auditee Response:** We reviewed your findings and agree.

### **OVERALL RECOMMENDATION: FINANCE DEPARTMENT**

We recommend that the City’s Finance Department bill and collect the total additional fees due to the City from LIA in the amount of \$152.

**AUDIT OF COMPLIANCE WITH THE COMMERCIAL SOLID WASTE  
FRANCHISE AGREEMENT  
LOAD IT AWAY, LLC**

**OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2016  
REPORT No. 19-13**

**EXHIBIT I**

**SCHEDULE OF AMOUNTS DUE TO THE CITY**

<b>Description</b>	<b>Late Payment Penalties Due</b>	<b>Total Due</b>
Late Payment of Permit Per Account Fee (Fiscal Year 2015)	\$30	\$30
Late Payment of Monthly 24% Franchise Fees:		
July 2014	\$8	\$8
September 2014	\$8	\$8
July 2015	\$60	\$60
October 2015	\$10	\$10
September 2016	\$36	\$36
<b>Total Due to the City:</b>	<b>\$152</b>	<b>\$152</b>