

City of Miami

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



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August 18, 2021

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

Re: Audit of Load It Away, LLC
Report No. 21-13

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, 2019 through September 30, 2020. 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 and Finance 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 \$194,753 for services provided to City customers and remitted Franchise Fees totaling \$63,054 to the City.

Based on the results of our audit, we have concluded that improvement is needed at LIA to ensure that permits are obtained for all temporary roll-off/containers and that franchise fees are remitted in a timely manner. **As a result of these deficiencies, LIA owes the City an additional \$3,438.** (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
Art Noriega, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Nzeribe Ihekweba, Deputy City Manager
Fernando Casamayor, Assistant City Manager/Chief Financial Officer
Natasha Colebrook-Williams, Assistant City Manager
Erica Paschal, Director of Finance, Finance Department
Leon Michel, Interim Director, Office of Management and Budget
Wade Sanders, 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, Load It Away, LLC
Members of the Audit Advisory Committee
Audit Documentation File

Audit conducted by: Paulino Garcia, Staff Auditor

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

AUDIT OF LOAD IT AWAY, LLC
OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020
REPORT No. 21-13

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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 and Finance Department 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, 2019 through September 30, 2020 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 March 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 Franchise Fee – \$10,500 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 1st of every new fiscal year and for each new account and roll-off box acquired after October 1st.
- 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, 2020, the franchisees remitted a total of \$16,548,913 in fees to the City. During the audit period, LIA reported Gross Receipts of \$194,753 for services provided to City customers and remitted Franchise Fees totaling \$63,054 to the City. LIA is one of the franchisees selected for audit 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 improvement is needed at LIA to ensure that permits are obtained for all temporary roll-off/containers and that franchise fees are remitted in a timely manner. **As a result of these deficiencies, LIA owes the City an additional \$3,438.** (See Exhibit I, page 4).

Details of our findings and recommendations follow:

FINDING 1: ROLL-OFF CONTAINER PERMIT FEES WERE NOT REMITTED

Section 5.5 of the Agreement requires payment of temporary roll-off/container permit fees, stating, “for each new commercial account and new roll-off box or container acquired after October 1st, the Franchisee agrees to remit a fee of \$75 for each account acquired during any month of the contract 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.”

Also, City Code, Article I, § 22-1 states, “temporary roll-off/container permit fee” shall mean the charge paid every 90 days the account remains active, per account to the city for each large container and/or roll-off utilized by franchisees to provide contracted removal and disposal of waste from commercial constructions and demolition, renovation and other similar accounts which are of a temporary nature.

LIA did not obtain temporary roll-off/container permit fees for 32 containers or remit the applicable fees. As a result, permit fees of \$2,400, plus late fees of \$716, totaling \$3,116 are due.

FINDING 2: ANNUAL PERMIT PER ACCOUNT 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 1st), which shall be prorated the first year of each account according to the month of account inception, pursuant to a fee scale provided by the City, for each account effective October 1st of every new fiscal year to those accounts booked as of October 1st of every new fiscal year with whom they contract for the provision of commercial solid waste services.” “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 remitted the Annual Permit Per Account Fee for fiscal year 2020, totaling \$3,150, in two payments: \$1,150 in December 2019 and \$2,000 in June 2020. These payments were three (3) and six (6) months late, respectively. As a result, late fees of \$52 and \$270 are due, respectively, totaling \$322.

Auditee Response: We have 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 \$3,438.

AUDIT OF LOAD IT AWAY, LLC

OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020

REPORT No. 21-13

EXHIBIT I

SCHEDULE OF FEES DUE TO THE CITY	
Description	Amount Due
Roll-Off Container Permit Fees Were Not Remitted (Finding 1, Page 3) 32 Unpaid Temporary Roll-Off Container Permits Late Fees on Unpaid Permits	\$2,400 716
Annual Permit Per Account Fees Were Remitted Late (Finding 2, Page 3) Late Payment Penalties on Annual Permit Per Account Fees	322
Total Due to the City:	\$3,438