



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph M. Centorino, Inspector General

DATE: August 1, 2024
PROJECT: Parking Impact Fees Audit
OIG No. 24-16
PERIOD: October 1, 2020, through September 30, 2023

The City of Miami Beach Office of the Inspector General (OIG) completed this audit which focused primarily on determining the timeliness, accuracy, and completeness of the Parking Impact Fees charged by the City Planning Department and collected from program participants during the October 1, 2020, through September 30, 2023, audit period. In addition, the assigned Auditors performed testing to determine whether the available enforcement provisions were appropriately imposed against non-compliant participants. All documents and transactions during the audit period related to Parking Impact Fees and provided to OIG Auditors were examined.

INTRODUCTION

The Parking Impact Fee program was created in 1989 pursuant to the City's comprehensive zoning ordinance. The program was initiated in response to a variety of issues associated with the previous practice of granting parking variances or requiring parking decals to be purchased by applicants on certain development projects in lieu of providing required parking spaces. The program calls for a property owner to pay to the City a Parking Impact Fee in lieu of providing some or all required parking spaces for a particular use. Parking Impact Fee revenues are to be used to help defray the costs of building additional parking spaces as well as transportation and mobility-related improvements and programs in the vicinity of the subject property.

The Parking Impact Fee rates charged to participants for one parking space (fee-in-lieu program) have increased as follows since its inception:

- \$5,000 or annual payment of \$300 (6% of the one-time payment) effective on October 1, 1989
- \$10,000 or annual payment of \$600 (6% of the one-time payment) effective on October 1, 1993
- \$15,000 or annual payment of \$600 (4% of the one-time payment) effective on December 25, 1999
- \$35,000 or annual payment of \$1,050 (3% of the one-time payment) effective on December 16, 2006
- \$40,000 or annual payment of \$800 (2% of the one-time payment) effective on September 17, 2014

Additional changes to the Parking Impact Ordinance include the following:

- City Ordinance No. 2014-28757 amended Section 130-132(d) to state that the amount determined to be the City's total average cost for land acquisition and construction of one parking space would be evaluated yearly each May by the Planning Director based upon the Consumer Price Index (CPI), whereupon the City Commission could amend the fee structure by resolution.
- City Ordinance No. 2016-4033 amended Sections 130-132 and 130-133 as follows, in pertinent part:
 - Section 130-132 - *Annual Evaluation (d): The amount determined to be the City's total average cost for land acquisition and construction of one parking space shall be evaluated by the City Commission based upon the Consumer Price Index (CPI). If determined appropriate, the City Commission may amend the fee structure in this section by resolution.*
 - Section 130-133 - *Fee Collection (a) (1) New Construction: For new construction, the fee in lieu of providing parking shall be paid in full prior to obtaining a full building permit.*
 - Section 130-133 - *Fee Collection (b) Existing Structures: For existing structures and those which elect a yearly payment plan, the first fee in lieu payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued.*
- City Ordinance No. 2023-4539, with an effective date of March 4, 2023, subsequently amended the City Code "Off Street Parking" Article V, Parking Impact Fee Program by modifying the parking requirements for restaurant, outdoor café or bar: *Notwithstanding the foregoing, for restaurant operating as of December 1, 2022 and located south of 10th Street, there shall be no parking requirements for an individual establishment of 150 seats or less. If the total number of seats exceeds 150, at any time, there shall be a minimum off-street parking requirement of one space per four seats or one space per 60 square feet of space not used for seating, for the entire restaurant.*

Based on the number of parking spaces required related to usage, designated Planning Department staff assess and bill Parking Impact Fees and maintain associated records and files. Within the North, South, and Middle districts, there were 33 participants for the 2020/21 fiscal year, 30 for the 2021/22 fiscal year, and 37 for the 2022/23 fiscal year in the Parking Impact Fee program. The City fiscal year is annually from October 1 through September 30, so the 2022/23 fiscal year would represent October 1, 2022, through September 30, 2023.

Parking Impact Fee gross revenues totaled \$1,381,207.41, compared to expenditures of \$1,502,589.55, resulting in a negative net balance of (\$121,382.18) during the three-year audit period. The overall available balance for the "Capital-contracts" general ledger account, used since the program's inception to record all related transactions, was \$2,089,569.23 as of September 30, 2023.

PURPOSE

This audit aimed to determine whether events, transactions, adjustments, and processing procedures are established, authorized, accounted for, economically and efficiently processed, accurately and promptly recorded, reported, and followed up in accordance with the various ordinances, resolutions, and departmental Standard Operating Procedures.

OVERALL OPINION

The OIG Auditors' examination of available records and information found some instances where Parking Impact Fee billings and collections of fee-in-lieu of parking payments were not adequately documented, correctly computed, or levied in compliance with the related City Code requirements. Some related internal controls need strengthening and better enforcement is necessary to achieve the desired outcomes. The following deficiencies were noted during the audit process which require corrective action:

1. Business Tax Receipts were issued to program participants before the fee-in-lieu of parking payment was received, contrary to City Code Section 102-374(c).
2. Some participants did not pay the required Parking Impact Fees within three months of the date on which it is due and continued to be part of the program, contrary to City Code Section 130-133(e).
3. No evidence was provided to the OIG Auditors during the audit period indicating the Planning Department conducted annual evaluations of the average cost of providing one parking space and timely submitted that information to the City Commission for evaluation.
4. The Planning Department did not timely issue some annual invoices to participants in the fee-in-lieu program.
5. Incorrect billings to six participants of the fee-in-lieu program resulted in a net overpayment of \$1,176.12 to the City.
6. Lack of documented departmental Standard Operating Procedures specifying the duties performed by designated staff involved in the Parking Impact Fee program.

SCOPE

1. Confirm that the Planning Department has established Standard Operating Procedures related to the administration and processing of Parking Impact Fees.
2. Confirm that Parking Impact Fees were correctly computed, and participants were timely invoiced.
3. Confirm that sampled Parking Impact Fee revenues were timely received pursuant to City Code Section 130-133. If not, determine whether interest and administrative fees were accurately assessed.
4. Confirm that all Parking Impact Fee revenues and expenditures were properly recorded in the City Financial System.
5. Confirm that sampled expenditures of Parking Impact Fee revenues were for authorized purposes and were pre-approved by the City Commission.
6. Confirm that the Planning Department conducted and submitted for evaluation to the City Commission annual evaluations of the City's average cost for land acquisition and construction of one parking space during the audit period.

FINDINGS, RECOMMENDATIONS, AND RESPONSES

1. **FINDING: BUSINESS TAX RECEIPTS WERE ISSUED TO PROGRAM PARTICIPANTS BEFORE THE FEE-IN-LIEU OF PARKING PAYMENT WAS RECEIVED, CONTRARY TO CITY CODE SECTION 102-374(c).**

City Code Section 102-374(c) states: *Renewed business tax receipts will not be issued until all delinquent payments for any business tax/fee imposed under this article: Code*

enforcement; special assessment lien and/or any other debt or obligation due to the city under state or local law has been paid in full.

The OIG Auditors reconciled the payments received by the City from fee-in-lieu of parking program participants during the audit period to the corresponding business licenses (now known as business tax receipts or BTRs) to determine whether any were incorrectly issued prior to receipt of the Parking Impact Fee payment. The OIG Auditors testing determined that 18 participants were issued annual BTRs before the City received the corresponding payments due, contrary to City Code Section 102-374(c). The following table summarizes the related exceptions by fiscal year:

Fiscal Year	Total Participant Payments	# of Participants Issued BTRs Before Parking Impact Fee Was Received	% of Total
20/21	34	6	17.6%
21/22	36	2	5.5%
22/23	34	5	14.7%
23/24	35	5	14.3%
Total	139	18	12.9%

Recommendation(s):

The Finance Department Director should instruct designated staff to not issue BTRs until all monies due, including any related to Parking Impact Fees, are received by the City. Among other internal control possible improvements, the OIG recommends the creation and usage of a documented checklist to help obtain compliance and to determine accountability for any erroneous issued BTRs, additional levels of supervisory review and/or automated checks within the City's information system.

Finance Department Response:

The Finance Department has reiterated and instructed designated staff to not issue BTRs until all monies due, including any related to Parking Impact Fees, are received by the City. Currently it is a manual process to search for unpaid invoices in Munis.

Parking Impact Fees are billed in Munis, where there is no parcel folio number automatically attached to invoices. Parcel numbers are entered manually in Munis and are not a required field. Most of the findings in this report could have been prevented had the Munis Parking Impact Fee invoices been associated with a parcel number; whereby the invoices would have been integrated into our Lien Research System (LRS) and picked up as a "hold" in the EnerGov system.

To further minimize errors, the Customer Service Division has added a field in EnerGov labeled "Munis Customer Number," and during our annual renewal process, staff are continuously reminded to review Munis customers for any pending balances due.

2. **FINDING: SOME PARTICIPANTS DID NOT PAY THE REQUIRED PARKING IMPACT FEES WITHIN THREE MONTHS OF THE DATE ON WHICH IT IS DUE AND CONTINUED TO BE PART OF THE PROGRAM, CONTRARY TO CITY CODE SECTION 130-133(e).**

City Code Section 130-133(b) states: *Existing structures. For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in*

full by June 1 as long as the use exists.

Furthermore, City Code Section 130-133(e) states: *Any participant in the fee-in-lieu program who has failed to pay the required fee within three months of the date on which it is due shall be regarded as having withdrawn from the program and shall be required to provide all parking spaces required by these land development regulations or cease the use for which such spaces were required.*

The OIG Auditors examined all Parking Impact Fee transactions recorded in the "Capital-contracts" general ledger account occurring during the October 1, 2020, through September 30, 2023, audit period. Testing determined that no fee-in-lieu of parking program participants opted to remit the one-time fee of \$40,000 per parking space during the audit period as all elected to pay \$800 per parking space per year.

OIG Auditors conducted a late payment analysis which determined that 33 of 134 tested Parking Impact Fee payments were remitted more than three months after the designated due dates. The Planning Department continued to bill those participants for the subsequent years without any evidence of enforcement actions, contrary to City Code Section 130-133(e). In addition, 15 participants still had outstanding balances as of April 8, 2024, which is well after the due dates specified in City Code Section 130-133(b), as summarized in the following table:

Fiscal Year	Due Date	Total Participant Payments	Participants Paid Over Three Months Late	% of Total	Transactions with Outstanding Balances
20/21	12/1/2020	33	6	18.2%	2
21/22	5/31/2021	30	3	10.0%	1
22/23	5/31/2022	36	12	33.3%	4
23/24*	5/31/2023	35	12	34.3%	8
Total		134	33	24.6%	15

* FY 2023/24 was included as part of the analysis since some corresponding payments were remitted to the City during the October 1, 2020, through September 30, 2023, audit period.

Recommendation(s):

The Planning Department Director should instruct designated staff to annually verify whether participants are compliant with all related Parking Impact Fee requirements in the City Code. If not, Parking Department staff should timely invoke any available enforcement actions, including City Code Section 130-133(e). The department may also consider distributing periodic reminders to program participants with detailed instructions on the payment process, ensuring its staff have the necessary training and resources to enforce all stated requirements, and presenting any recommended changes to the City Commission of any related City Code sections in need of revision.

Planning Department Response:

The Planning Department provides the Finance Department (BTR section) a list of the program participants that are delinquent, to prevent reissuance of BTRs and continued operations. The Planning Department relies on the withholding of issuance of BTRs for the business to come into compliance. Even though not required by the Land Development

Regulations of the City Code and in consideration to the city’s business community, the Planning Department also issues program participants monthly statements advising them of outstanding invoices to prompt payment and compliance.

3. FINDING: NO EVIDENCE WAS PROVIDED TO THE OIG AUDITORS DURING THE AUDIT PERIOD INDICATING THAT THE PLANNING DEPARTMENT CONDUCTED ANNUAL EVALUATIONS OF THE AVERAGE COST OF PROVIDING ONE PARKING SPACE AND TIMELY SUBMITTED THAT INFORMATION TO THE CITY COMMISSION FOR EVALUATION.

City Code Section 130-132(d) states: *The amount determined to be the city's total average cost for land acquisition and construction of one parking space shall be evaluated by city commission based upon the Consumer Price Index (CPI). If determined appropriate, the city commission may amend the fee structure in this section by resolution.*

OIG Auditors requested but did not receive documentation from the Planning Department indicating that it conducted annual evaluations of the average cost of providing one parking space during the audit period. The most recent known annual evaluation was conducted in 2014 and resulted in the adoption of Resolution No. 2014-28757, which increased the annual price of one parking space from \$35,000 to \$40,000, effective September 17, 2014.

The CPI for the 2020/21, 2021/22, and 2022/23 fiscal years was determined to be 7.1%, 9.9%, and 5.7%, respectively, as shown in the table below. Despite the significant increases in the CPI during this period, the Parking Impact Fees related to one parking space were apparently not presented to the City Commission for examination, and, therefore, the associated fee remained unchanged during this period.

FISCAL YEAR	CPI
2014/15	1.6
2015/16	2.9
2016/17	1.8
2017/18	2.9
2018/19	2.0
2019/20	1.1
2020/21	7.1
2021/22	9.9
2022/23	5.7

Source: U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for Miami-Fort Lauderdale-West Palm Beach, 12-month percentage changes.

Recommendation(s):

The Planning Department Director should designate staff to conduct, assess, and document annual evaluations to determine the City’s total average cost for land acquisition and construction of one parking space based on the CPI, with the related information presented annually to the City Commission. The OIG recommends that the Parking Impact Fee for one space to the CPI-U (rounded to the nearest dollar) be included in Exhibit A, which is approved annually by the City Commission, to ensure that it is evaluated annually.

Planning Department Response:

The Planning Department agrees that an annual recommendation regarding potential increases in the parking impact fee should be provided to the City Commission. Given the

rate of participation in the annual fee in lieu program, the department will analyze the current per-space value, methodology, and frequency of adjustment to update City Commission and receive direction. Since 2015, the City Commission has adopted three new parking districts and amended the LDRs to modify parking requirements several times. As such, and in compliance with the current regulations, the department will draft an updated recommendation to be presented to City Commission within six months of this response.

4. FINDING: THE PLANNING DEPARTMENT DID NOT TIMELY ISSUE SOME ANNUAL INVOICES TO PARTICIPANTS IN THE FEE-IN-LIEU PROGRAM.

City Code Section 130-133(a)(2) states: *Yearly fee. For those projects which are eligible for and elect a yearly payment plan, the first fee-in-lieu payment shall be [due] at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists.*

City Code Section 130-133(b) states: *Existing structures. For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists.*

The City Code does not require annual fee-in-lieu invoices to be disbursed to participants by a designated date; however, the timely disbursement of such invoices will help foster future compliance by reminding participants of its upcoming obligation and have the designated invoice due date align with the City Code. The OIG Auditors' related analysis determined that 14 invoices, corresponding to 13 participants in the fee-in-lieu program during the audit period, were issued by the Planning Department after June 1. The following table summarizes the results of the testing performed by fiscal year:

Fiscal Year	Invoice Due Date	Invoice Issue Date	Date Difference	# of Late Invoices
2022/23	6/1/2022	6/15/2022	14	1
2022/23	6/1/2022	7/21/2022	50	1
2022/23	6/1/2022	7/25/2022	54	8
2022/23	6/1/2022	7/28/2022	57	3
2022/23	6/1/2022	12/7/2022	189	1
Total				14

These 14 invoices contained a due date of thirty days after the invoice date. Any corresponding amounts paid prior to the invoice due date, although after the due date listed in the City Code, were not assessed late charges. Two were paid before the invoice due date; ten were paid after the invoice due date thereby incurring late charges; and the remaining two were still outstanding as of April 8, 2024 (late charges are to be assessed once payment is received).

Recommendation(s):

The Planning Department Director should instruct designated staff to prospectively create and distribute invoices timely, well in advance of the June 1 due date, to remind program participants of their upcoming obligations and to help foster better compliance with the City Code. In addition, the Parking Impact Fee invoice due date should be aligned with the due date specified in the City Code.

Planning Department Response:

During the aforementioned review period, the Planning Department was significantly short-staffed and focused on managing operations disrupted by the impact of the Covid 19 pandemic, as well as the challenges associated with recruitment for vacant positions. Calculations were reviewed in-between other priorities as staff became available. The department is now fully staffed and able to conduct all required analysis by the invoice date.

5. FINDING: INCORRECT BILLINGS TO SIX PARTICIPANTS OF FEE-IN-LIEU PROGRAM RESULTED IN A NET OVERPAYMENT OF \$1,176.12 TO THE CITY.

City Code Section 130-133(b) states: *Existing structures. For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists.*

City Resolution Nos. 2020-31237 and 2020-31390 specified that all active collection efforts were suspended between March 1 through November 30 with the following provisions: utility services not to be terminated for non-payment; late payment fees (including interest) and commercial lease payments to be waived.

The OIG Auditors conducted a billing analysis, which determined that six participants during the audit period were incorrectly billed, resulting in a net total overcharge of \$1,176.12. The first four participants in the table below were incorrectly billed late payment fees during the 2020/21 fiscal year when any related amounts due were waived pursuant to Resolution Nos. 2020-31237 and 2020-31390. The next participant (invoice number 36255) received an erroneous adjustment of \$120 as a late fee credit when it was included in its in-lieu payment (9 parking spaces x \$800 = \$7,200 - \$7,080 billed and paid = \$120 overcharge). The remaining participant (invoice number 43403) was mistakenly billed interest of \$200, although the payment was timely received on May 31, 2023.

Fiscal Year	Invoice Number	Payment Date	Payment Due Date	Amount Under/Over Billed
20/21	26392	10/14/2020	12/1/2020	\$640.00
20/21	26334	10/16/2020	12/1/2020	\$109.46
20/21	26382	8/10/2020	12/1/2020	\$213.33
20/21	26397	10/8/2020	12/1/2020	\$133.33
22/23	36255	5/31/2022	5/31/2022	(\$120.00)
23/24	43403	5/31/2023	5/31/2023	\$200.00
TOTAL				\$1,176.12

Recommendation(s):

The Planning Department Director should instruct designated staff to review the questioned billings totaling \$1,176.12. The OIG agrees to make available its supporting documentation including all pertinent calculations. Once a consensus is reached as to the existence of any inaccurate billings, the City should promptly revise the program participant's next invoice accordingly. Furthermore, the department should implement stronger internal controls (e.g., increased staff training, more supervisory oversight) to help prevent related prospective errors from occurring.

Planning Department Response:

- Resolutions 2020-31237 and 2020-31390 are intended to provide relief for interest and penalties for late payment or non-payment of resort taxes and **do not** apply to the Parking Fee in Lieu program.
- Resolution 2020-31226 does extend the due date for Annual Fee in Lieu Accounts from June 1, 2020 to August 1, 2020 and provides a waiver of the interest and penalties resulting from the extension. Invoices 26392, 26334, 26382, 26397, and 26382, noted in the table above, were invoiced for the amounts due with a note clearly advising the program participant that due date was extended to August 1, 2020 and that no interest and penalties would be due for the extension period. The Planning Department does not manage the software by which due dates or interest assessments are established. As such the Finance Department, who manages that process issued appropriate adjustments since payment was made on or before May 31st.
- Invoice 36255 was issued for \$7,200.00 and was paid in full by the due date of May 31, 2022. However, the interest and penalty applicability date established by the Finance Department in the financial software system assessed late payment and penalties in the amount of \$120.00 even though the customer paid on the due date. As a result, the program participant contacted the Planning Department and requested an adjustment to remove the interest and penalties. There was no overcharge, and the Finance Department reduced the principal amount by the \$120.00 charged for interest and penalties. The Finance Department can provide further details should there be any questions regarding this adjustment.
- Invoice 43403 was correctly issued and paid by the customer on May 31, 2023. However, the interest and penalty applicability date established by the Finance Department in the financial software system assessed late payment and penalties in the amount of \$200.00 even though the customer paid on the due date. Upon inquiring, the Planning Department was advised that the financial systems were set to "Net 30". The Planning Department will again request the applicability of interest and penalties be set based on the actual due date to avoid incorrect assessments.
- The Planning Department would be happy to participate in a meeting with the OIG and Finance Department to go over any outstanding questions regarding the aforementioned billing.

OIG Reply to the Planning Department's Response:

The OIG had several conversations with the Office of the City Attorney during 2020 related to whether late fees should be charged as the City Commission had adopted multiple City Resolutions including Resolution Nos. 2020-31237, 2020-31390, involving the waiving

and/or reduction of fees due to the City during the difficult COVID-19 outbreak. In response, the OIG was advised not to charge late fees on any projects containing deficiencies during the period of March 1, 2020, through November 30, 2020. The OIG has consistently followed this advice in all its subsequent projects.

In relation to this audit, the OIG properly waived any late fees due related to Parking Impact fees during the designated period, but incorrectly referenced City Resolution Nos 2020-31237 and 2020-31390 in support of its calculations. As such, the OIG commends the Planning Department for identifying and correcting the inaccurate reference, so that this report is factual.

6. **FINDING: LACK OF DOCUMENTED DEPARTMENTAL STANDARD OPERATING PROCEDURES SPECIFYING THE DUTIES TO BE PERFORMED BY DESIGNATED STAFF INVOLVED IN THE PARKING IMPACT FEES PROGRAM.**

Implementation of and adherence to documented Standard Operating Procedures (SOP) approved by management is a best practice. SOPs should be used as a framework and/or guidance by designated staff when calculating and invoicing Parking Impact fees and charging late payment fees, among other related activities. They also create consistency and predictability and save time. They remove the guesswork from a task, so there is no room for interpretation, as everyone follows the same procedure for the same duty every time. As a result, they also help prevent errors and establish accountability, among other benefits.

Despite several requests from the OIG Auditors, no documentation was provided indicating the existence and approval of related departmental SOPs. Instead, the Planning Department informed the OIG Auditors that it uses City Code Article 5 as its guide. Although City Code Article 5 is relatively specific and provides general guidance on assessing and collecting payment for the fee-in-lieu of parking program, it does not provide sufficient detail regarding the related tasks to be performed by departmental staff, among other shortcomings.

Recommendation

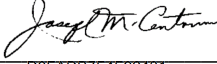
The Planning Department should create SOPs to better ensure compliance with the fee-in-lieu of parking program and document the responsibilities of all staff members involved in the Parking Impact Fee process. Once completed, it should be disbursed to all affected staff, so that its requirements can be followed, and accountability improved.

Planning Department Response:

The Planning Department follows the processes and requirements established in Chapter 5 (Off Street Parking) of the LDR's, and a link to this section of the Code was provided during the audit. The department has no objection to creating an SOP to reflect the applicable provisions for standard reference.

All management responses received will be included in the final report pursuant to City Code Section 2-256(h).

Respectfully submitted,

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Joseph Centorino, Inspector General

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cc: Eric Carpenter, City Manager
David Martinez, Assistant City Manager
Thomas Mooney, Planning Director
Jason Greene, Chief Financial Officer