



Joseph M. Centorino, Inspector General

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

DATE: May 29, 2024
AUDIT: G7 Holdings, Inc. d/b/a Garbageman.com Permit Fee Revenues Audit
OIG No. 24-08
PERIOD: November 1, 2017, through April 30, 2021

INTRODUCTION

This report stems from an audit of the permit fees charged, collected, and remitted by G7 Holdings, Inc. d/b/a Garbageman.com during the period of November 1, 2017, through April 30, 2021. The City of Miami Beach Office of the Inspector General (OIG) Sanitation Tax Auditor examined the contractor's compliance with selected provisions in the City Code, including obtaining annual business tax receipts (BTRs), filing required reports, and maintaining sufficient insurance coverage. The performance of City staff responsible for monitoring G7 Holdings, Inc. and processing all payments received from the contractor was also reviewed.

This audit took several years to complete due, among other factors, to delays in receiving requested records leading to the issuance of an OIG subpoena¹ to obtain sufficient records to complete the audit. A substantial volume of records was subsequently furnished by the contractor and its related franchisee (David G. Services, LLC), that created confusion and disagreement surrounding the taxability of some of the contractor's roll-off transactions due to ambiguities in the Miami Beach City Code.

As a result, the OIG held multiple meetings with representatives from the City Administration, Office of the City Attorney, as well as discussions with the contractor and its legal counsel to resolve the issues. The course of the audit changed due to the June 28, 2023, adoption by the City Commission of Resolution No. 2023-32654, which affected the legal landscape of the audit by directing an interpretation of the definition of a roll-off container that differed from the one previously provided by the Office of the City Attorney. This audit and its companion audit of David G. Services LLC should be read concurrently to better understand each contractor's compliance with tested requirements in the City Code.

CITY CODE PROVISIONS

¹ Refer to the Addendum located at the end of this report for further information regarding the challenges encountered during the completion of this audit.

A roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. Contractors use these containers to collect and dispose of construction and demolition (C&D) debris and/or large quantities of trash and/or bulky waste, but not garbage or commercial refuse. Bulky waste represents large items of household refuse, such as appliances, furniture, accumulations from major tree cutbacks, large crates and like articles, while commercial refuse consists of all solid waste produced by commercial establishments.

An examination of the EnerGov system, the City licensing and permitting system, indicated 27 roll-off contractors on September 30, 2023, with their 2022/23 fiscal year BTRs in "active" status, and two roll-off contractors in "pending" status. "Pending" status means that the BTR is not yet valid or active and missing needed documentation and/or payment. 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.

Roll-off contractors operating in Miami Beach are required to follow the terms outlined in Sections 90-278 (1) and (2) of the City Code, which include the monthly remittance of roll-off fees equal to the City Commission approved rate (18% from the beginning of the audit period through October 5, 2019 and 20% for the remainder of the audit period) multiplied by the total gross receipts for each contractor's City operations. City Code Section 90-221 defines gross receipts as the entire amount of fees collected by the contractor (whether wholly or partially collected) for solid waste collection and disposal within the City, excluding any taxes, and gross receipts from servicing roll-off and portable containers.

City Code Section 90-278(3) requires that each roll-off contractor provide the City Manager with a current list of the names and addresses of each account upon its initial application. Upon any application for renewal of its permit, each contractor must provide the frequency of service, the permit number and capacity of each roll-off container or dumpster for each account, and the address serviced by each roll-off container or dumpster. This list of accounts is typically furnished concurrently with the monthly report to the Finance Department. It is an essential document to verify the accuracy of the roll-off contractor's filings during the audit process.

City Code Section 90-278(4) requires that monthly reports, accompanied by payment of any owed fees, be submitted to the City Finance Department by all authorized contractors at the end of the month after the month in which the gross receipts were generated. For example, the monthly report and any associated permit fees owed for December 2023 are due by January 31, 2024. Any unpaid permit fees that are not timely received are subject to penalties of 10% per month up to a maximum of 50%, plus the highest legal rate of interest permitted by law on the amount of the fee, exclusive of penalties, from the date the permit fee first became delinquent until paid.

When the contractor has annual gross receipts reported to the City greater than \$200,000.00, the contractor is required to deliver to the City Finance Department a statement of annual gross receipts generated from accounts within the City prepared by an independent Certified Public Accountant (C.P.A.). These statements of annual gross receipts are to be furnished within sixty days following the close of the contractor's fiscal year pursuant to City Code Section 90-278(4). G7 Holdings, Inc. exceeded this annual threshold consistently during the examined period, and, therefore, was required to submit this statement for all three examined fiscal years.

Lastly, City Code Section 90-196 details the required insurance coverage to be maintained by qualified licensed roll-off contractors, and Section 90-193 addresses the need to obtain permits for all accounts serviced in the City.

OVERALL OPINION

The OIG made multiple requests to the contractor over many months for the records needed to perform the audit. Initially, the contractor ignored some requests or requested time extensions for varying reasons. As a result, the OIG served subpoena number 21-17 to G7 Holdings, Inc. representatives to obtain the records needed for the audit. In response to this subpoena and subsequent OIG Sanitation Tax Auditor requests, the contractor provided a large volume of documents, including most requested invoices.

The contractor did not file any Roll-Off Permit Fee returns or remit any associated monies to the City during the period of October 1, 2020, through April 30, 2021. However, the contractor did remit a good faith payment of \$183,008.00 during the audit process for monies due on taxable transactions occurring during the audit period, but not reported, including some occurring during these seven months of non-filing.

The following deficiencies, separated by the deficient party(ies), were identified during the audit process:

A. Findings pertaining solely to G7 Holdings, Inc.

1. Penalties and interest totaling \$73,669.40 are due to the City related to the late payment of permit fees after deducting the \$183,008.00 voluntarily paid by the contractor in December 2021 in anticipation of the audit findings. In addition, associated audit costs may also be due pending further guidance received from the Office of the City Attorney.
2. G7 Holdings, Inc. d/b/a Garbage.com with FEIN 65-1037789 has improperly shared its Miami Beach issued business tax receipt with David G. Services LLC d/b/a Garbage.com FEIN 47-1733962.

B. Findings pertaining solely to the City

3. Five customer number accounts were issued to G7 Holdings, Inc. in the City Munis system, the City enterprise resource planning system.
4. Multiple contact numbers were issued to G7 Holdings, Inc. in the City EnerGov system, the City licensing and permitting system.

C. Findings pertaining to both G7 Holdings, Inc. and the City

5. G7 Holdings, Inc. did not file its 2018, 2019 and 2020 annual statements of gross receipts prepared by an independent CPA as required by City Code Section 20-278(4), and no evidence was provided by City staff indicating that any were requested.
6. G7 Holdings, Inc. did not timely submit its lists of accounts to the City Manager pursuant to City Code Section 90-278(3), and no evidence was provided by City staff indicating that any were requested.

PURPOSE

The purpose of this audit was to determine whether tested required contractor filings were complete and accurate; whether corresponding remittances were correctly calculated using the City Commission approved permit fee rate; whether filings and monies were timely received and correctly recorded by the City Finance Department; and whether the contractor was compliant with other designated City Code sections.

SCOPE

1. Determine whether the contractor maintained sufficient records to determine the taxability of identified Miami Beach transactions.
2. Determine whether the contractor timely submitted tested monthly reports of gross receipts and remitted full payment of any corresponding permit fees due to the City. If not, determine whether the appropriate penalties and interest charges were assessed pursuant to City Code Section 90-278(6)(a-d).
3. Determine whether the contractor timely obtained its required annual BTRs during the audit period.
4. Determine whether the contractor complied with other tested reporting requirements listed in City Code Section 90-278.
5. Determine whether the contractor maintained the required insurance coverage pursuant to City Code Section 90-196.
6. Determine whether tested monthly permit fees remitted by the contractor were accurately recorded in the City Financial System.

FINDINGS, RESULTS/RECOMMENDATIONS, AND RESPONSES

The findings below are separated by those pertaining solely to the contractor, those pertaining solely to the City, and any pertaining to both the contractor and the City.

A. Findings Pertaining Solely to G7 Holdings, Inc.

1. ***Penalties And Interest Totaling \$73,669.40 Are Due To The City Related To The Late Payment of Permit Fees After Deducting the \$183,008.00 Voluntarily Paid By The Contractor In December 2021 In Anticipation Of The Audit Findings.***

City Code Section 90-221 defines gross receipts as "the entire amount of the fees collected by the contractor (whether wholly or partially collected) for solid waste collection and disposal within the city and including, without limitation, but excluding any taxes, and gross receipts from servicing roll-off and portable containers."

The OIG Sanitation Tax Auditor examined all documentation provided by the contractor to determine that G7 Holdings, Inc. had unreported roll-off gross receipts occurring within the City during the audit period totaling \$849,100.22. These taxable transactions were primarily related to permit fees separately listed on Miami Beach customer invoices that were subsequently collected from its customers but not remitted to the City.

As of November 30, 2021, the OIG Sanitation Tax Auditor calculated that \$256,677.40 in permit fees were due to the City (including penalties and interest), as shown by period, in the table below. During the audit process, G7 Holdings, Inc. voluntarily made a good faith payment of \$183,008.00, in anticipation of the audit findings, for unreported taxable Miami Beach transactions occurring during the audit period. This payment remitted shortly after the completion of a forensic audit commissioned by and paid for by the contractor from the independent accounting firm, Berkowitz Pollack Brant. In response, the City Finance Department issued invoice #34468 for the requested amount on December 15, 2021, which was applied against the payment received from the contractor.

<i>Period</i>	<i>Unreported Gross Receipts</i>	<i>Roll-Off Fee Rate *</i>	<i>Roll-Off Fees Due</i>	<i>Penalties **</i>	<i>Interest **</i>	<i>Total Amount Due</i>
<i>Nov. 2017 - Dec. 2017</i>	\$26,392.20	18%	\$4,750.55	\$2,375.45	\$2,246.06	\$9,372.06
<i>Jan. 2018 - Dec. 2018</i>	\$192,997.07	18%	\$34,738.85	\$17,371.09	\$14,358.67	\$66,468.61
<i>Jan. 2019 - October 5, 2019</i>	\$184,066.55	18%	\$33,131.97	\$16,567.22	\$9,421.98	\$59,121.17
<i>October 6, 2019 - Dec. 2019</i>	\$30,356.76	18%***	\$5,464.14	\$2,732.30	\$1,275.80	\$9,472.24
	\$24,651.28	20%	\$4,930.25	\$2,465.36	\$1,115.72	\$8,511.33
<i>Jan. 2020 - Dec. 2020</i>	\$28,840.75	18%***	\$5,191.31	\$427.55	\$171.86	\$5,790.72
	\$245,185.84	20%	\$49,037.16	\$8,989.63	\$3,084.64	\$61,111.43
<i>Jan. 2021 - Apr 2021</i>	\$116,609.77	20%	\$23,321.94	\$11,661.55	\$1,846.35	\$36,829.84
Totals	\$849,100.22		\$160,566.17	\$62,590.15	\$33,521.08	\$256,677.40

- * City Commission approved roll-off permit fees equaled 18% from the beginning of the audit period, November 1, 2017, through October 5, 2019, and 20% from October 6, 2019, through the end of the audit period, April 30, 2021.
- ** Penalties and interest were waived and not charged for deficient payments received during the period of March 1, 2020, through November 30, 2020, pursuant to City Resolution Nos. 2020-31237 and 2020-31390.
- *** The contractor had invoices issued prior to October 6, 2019 that were paid by its customers (cash basis) after the rate was increased.

Results/Recommendations:

The OIG recommends that the City Finance Department invoice G7 Holdings, Inc. \$73,669.40 (\$256,677.40 due including interest and penalties - \$183,008.00 paid on December 15, 2021, by the contractor). If desired, the OIG will provide all its related calculations to the Finance Department to determine whether it agrees with the stated figures before creating the invoice.

The amount due was calculated as of December 15, 2021, and stems from penalties and interest related to permit fees collected by the contractor but not remitted during the examined period of November 1, 2017, through April 30, 2021. Although the City Administration may choose to update these calculations and increase the amount due, the OIG recommends that the invoice not be updated because of the complexities associated with this audit, not all of which were caused by the taxpayer.

Upon receipt of the invoice from the City Finance Department, the contractor should timely remit the corresponding fees due to avoid additional penalties available under the City Code. G7 Holdings, Inc. should also consistently and accurately file its future monthly Roll-off Permit Fee returns to the City and timely remit all associated monies due, pursuant to City Code Section 90-278(4).

Lastly, the Finance Department may also invoice the contractor for audit-related costs under City Code Section 90-278(6), pending further guidance from the Office of the City Attorney.

G7 Holdings, Inc. Response:

Please see Exhibits A and B located at the end of this report

City Administration Response:

The Finance Department will invoice G7 Holdings, Inc \$73,669.40 for unpaid taxes, penalties, and interest related to the permit fees still owed to the City for the audit period of November 1, 2017, through April 30, 2021.

The Finance Department will bill the contractor for audit-related costs/fees once it receives further recommendations/instructions to do so.

2. G7 Holdings, Inc. Improperly Shared Its Miami Beach Issued BTR With Another Business Entity.

City Code Section 102-371, Application procedures, provides as follows: *(a) Procedures for issuance. No license shall be issued or granted to any person to engage in any business named, identified or encompassed by this article unless an application is filed with the city manager or his designee on forms provided for that purpose...*

City Code Section 102-378, Lapse of insurance bond, provides as follows: *(a) Those occupations requiring insurance as a prerequisite to the issuance of a tax receipt must submit an original certificate of insurance at the time of application, to be approved by the risk manager. It is the taxee's responsibility to ensure that an updated original certificate of insurance is forwarded to the city's business tax section prior to the expiration date of the certificate currently on file. If, at any time during the tax year, a taxee fails to maintain the insurance and/or bonds required by this article for the taxed business, the tax receipt issued to such business shall become null and void. Such businesses that continue operating without a valid tax receipt shall be subject to enforcement procedures set forth in section 102-377, including business tax revocation.*

The OIG Sanitation Tax Auditor determined that David G. Services LLC d/b/a Garbageman.com with Federal Employer Identification Number or FEIN 47-1733962 has submitted monthly Roll-off Permit Fee returns under G7 Holdings, Inc. d/b/a Garbageman.com with FEIN 65-1037789 and Munis customer ID 17666. Despite being a separate business entity operating on Miami Beach, David G. Services LLC had not submitted the required BTR application or certificate of insurance to the City as of October 31, 2023.

Mr. Davis, owner of G7 Holdings, Inc. verbally informed the OIG Sanitation Tax Auditor that he provided a franchise to David G. Services LLC. Following the OIG's report of this situation to the City Code Compliance Department, NOVs numbered CC2021-10844 (operating without a valid BTR) and SV2021-14636 (operating without a valid roll-off permit) were issued to David G Services LLC.

Recommendations:

G7 Holdings, Inc. should not share its BTR with any other business entity. Each legal entity performing roll-off services within Miami Beach should comply with all requirements in the City Code, including, but not limited to, obtaining BTRs and permits, maintaining sufficient insurance coverage, timely filing Roll-off Permit Fee returns and remitting all associated monies due to the City.

The Federal Employer Identification Number (assigned by the Internal Revenue Service-IRS) should be listed for each Munis customer number account to help prevent similar deficiencies from occurring. Adding the FEIN to each customer number account in the Munis system should help to ensure that a unique account for each contractor is entered into the Munis system.

G7 Holdings, Inc. Response:

Please see Exhibits A and B located at the end of this report

B. Findings Pertaining Solely to the City

3. Five Customer Number Accounts Were Issued To G7 Holdings, Inc. In The City Munis System.

Examination of the Munis system indicated that G7 Holdings, Inc. was assigned the following customer numbers: 236, 2487, 17666, 27516, and 27810. This multiplicity of customer numbers could cause confusion as City employees may inadvertently not review each of the assigned accounts for outstanding balances due. As a result, BTRs or permits may be mistakenly issued to contractors owing the City money. Upon further examination of these customer numbers, the OIG Sanitation Tax Auditor determined the following:

- Customer number accounts 236, 27516, and 27810 had no associated transactions.
- Customer number account 2487 was used for a single transaction, specifically for an off-duty police fee.
- Customer number account 17666 was used for permit fee payments made to the City since May 2016.

Recommendations:

The Finance Department should eliminate the customer numbers associated with no transactions. It is also recommended that each roll-off contractor only have one active customer number and that it be linked to a unique identifier like its Federal Employer Identification Number (FEIN) in the Munis system. If followed, it should help mitigate the risk that prospective BTRs and/or permits are issued to contractors owing monies to the City.

City Administration Response:

The Finance Department will eliminate the customer numbers associated with no transactions.

The billing process for the City is decentralized which enables various departments the ability to produce customer numbers as part of the customer set up and bill processing. This functionality may create the opportunity for multiple customer numbers to be generated. The Finance Department will inquire of the City's Information Technology Department as to the ability of the City's ERP to utilize FEIN numbers to minimize customers being assigned multiple numbers.

4. Multiple Contact Numbers Were Issued To G7 Holdings, Inc. In The City EnerGov System.

The Tyler Technologies EnerGov system Citizen Self Services (CSS) portal is the web-based interface customers use to engage with the City. The portal allows contractors to create password-protected contact numbers containing their relevant information.

Individuals and businesses with email accounts often create numerous contact numbers due to insufficient internal controls to limit the number of contact numbers in the EnerGov system. Although there may be many reasons why multiple contact numbers were issued to the same individual or corporation, outdated numbers are often not inactivated. Some examples are several individuals interacting separately with the City but working at the same property address, a customer failing to remember a selected password, and a customer acquiring a new email account. Regardless of the reason, the number of contact

numbers has grown significantly over time, complicating the search process and the determination of outstanding balances.

When multiple contact numbers are created in the EnerGov system, it can create confusion as roll-off permits, Code Compliance violations, and outstanding balances may be entered under any of the issued contact numbers. Consequently, the reviewer must be aware of all contact numbers and examine all of them to determine the individual or company's status accurately.

During a review of the EnerGov system, it was noted that G7 Holdings, Inc. and its officers were issued 59 contact numbers. The contractor's issued business tax receipt, numbered BTR000758-05-2016, was linked to the following three contact numbers: 461032, C000049594, and ID-000003874. The other 56 contact numbers had no links to an active BTR. All the contact information is needed to avoid duplicate contacts and to add the respective links with the contractor's BTR (or additional records available in EnerGov).

Results/Recommendation(s):

The OIG recommends that only one active contact number be entered in the EnerGov system for each address related to roll-offs to facilitate effective and accurate searches. It is also recommended that the City Information Technology Department begin a database debug by deleting these multiple contact numbers and transferring any corresponding transactions to a contact number under the control of the property or business owner. The OIG understands that this is a time-consuming and labor-intensive task but believes that this issue needs to be addressed. Finally, Code Compliance Department information related to violations should include a contact number linked to the customer's BTR and any relevant permits.

City Administration Response:

The Information Technology Department has advised that multiple contact numbers assigned to a single record are a result of duplicative contacts created within EnerGov by manual processes. Multiple contacts for a single "contact" can be addressed by using the merge function in EnerGov. The Finance Department will implement moving forward.

Findings Pertaining to Both G7 Holdings, Inc. and the City

5. ***G7 Holdings, Inc. Did Not File Its Annual Statements of Gross Receipts Certified by an Independent Certified Public Accountant as Required by City Code Section 20-278(4) And No Evidence Was Provided From City Staff Indicating Any Were Requested.***

City Code Section 90- 278(4), Monthly report, provides as follows:

Contractors having annual gross receipts reported to the city over \$200,000.00 shall, on or before 60 days following the close of their fiscal year, deliver to the finance department a statement of annual gross receipts (generated from the city) certified by an independent certified public accountant, reflecting gross receipts within the city for the preceding fiscal year.

G7 Holdings, Inc. exceeded the threshold amount for requiring certified statements of gross receipts for the 2018, 2019, and 2020 calendar years, but the required documents were not submitted to the City as of November 17, 2023. Furthermore, no evidence was

presented by City staff to the OIG Sanitation Tax Auditor indicating that the contractor was notified of this deficiency. The furnishing of these required statements, verified by an independent certified public accountant, would allow City staff to determine the accuracy of a contractor's reporting and lessen the City's reliance on audits performed by the OIG Sanitation Tax Auditor.

Recommendation(s)

G7 Holdings, Inc. should comply with City Code Section 90-278(4) requirements by timely submitting its certified annual statement of gross receipts for each year that it exceeds the designated threshold. The Finance Department should designate employees to monitor each contractor's annual gross receipts to ensure that all are compliant with Section 90-278(4). If the notified contractor does not take timely corrective action, then the City may apply all disciplinary actions available under the City Code.

Furthermore, Finance Department staff should reconcile the reported revenues in the annual statement of gross receipts with the total amount of the Roll-Off Permit Fee returns forms filed by the contractor. Any unsubstantiated differences should result in the issuance of an invoice for the amount of the deficiency plus interest and penalties.

The OIG also recommends that the City Code be revised to include a provision allowing the levying of penalties, interest, and/or other actions against related non-compliant contractors that do not timely file the required annual audited statements of gross receipts. This would lead to greater compliance with this requirement and reduce the City's reliance on audits for oversight of this process.

The affected City departments should examine their related internal processes and procedures and implement internal controls aimed at timely detecting unreported permit fee revenues, including the implementation of electronic filing (or electronic records submission). This could produce greater efficiencies and significant City revenues, particularly in light of the increased number of contractors obtaining BTRs.

G7 Holdings, Inc. Response:

Please see Exhibits A and B located at the end of this report

Finance Department Response:

The Finance Department has designated employees who are responsible for the monitoring of reported and unreported roll-off customers and related filings.

In FY 2023, the Finance Department instituted an internal control process including an analysis of reported filings which are reviewed for timeliness and accuracy. Included in this process is a review of those customers with receipts in excess of \$200,000 that are required to comply with the submission of their annual statements of gross receipts certified by an independent Certified Public Accountant. A comparison of total monthly receipts and annual reported receipts is performed to ensure completeness of reported receipts.

As part of the internal process a list of all roll-off customers who have obtained a roll-off BTR with the City is reviewed and customers with delinquent filings are notified of unreported filings with the City and applicable fines and fees are billing accordingly.

In addition, the Finance Department along with the City's Information Technology Department has initiated the process to implement an electronic filing system for monthly roll-off submissions. This project is currently ongoing.

The Finance Department enforces compliance of code regulations related to fees, fines, interest, and penalties.

6. *G7 Holdings, Inc. Did Not Timely Submit Its Lists Of Accounts To The City Manager Pursuant To City Code Section 90-278(3) And No Evidence Was Provided From City Staff Indicating Any Were Requested.*

City Code Section 90-278(3), List of accounts, provides as follows: Each contractor shall provide the city manager with a current list of the names and addresses of each account, upon initial application, and upon any application for renewal, of its permit, the frequency of service, and the permit number and capacity of each roll-off container or dumpster as per account and the address serviced by each roll-off container or dumpster. No property owner may share an account with another property owner.

G7 Holdings, Inc. did not provide the City Manager with its required lists of accounts during the audit period, nor was evidence found indicating that any were requested by City staff. Upon request, the roll-off contractor provided the lists of accounts to the OIG Sanitation Tax Auditor. These listings are essential in verifying the accuracy of the roll-off contractor's filings during the audit process, as its customer data is subsequently reconciled with the supporting documentation provided.

The lists of accounts furnished were used to prepare and mail positive confirmation letters to G7 Holdings, Inc. customers, requesting a listing of all Miami Beach roll-off transactions with the contractor during the specified period. The OIG Sanitation Tax Auditor's corresponding reconciliation of all returned confirmation letters with the furnished list of accounts revealed material differences.

Results/Recommendation(s):

G7 Holdings, Inc. should prospectively comply with City Code Section 90-278(3) and timely submit its lists of accounts to the City Manager. The OIG recommends that the City Code be revised to establish a due date for the submittal of lists of accounts and to allow the charging of fines or other penalties to non-compliant contractors.

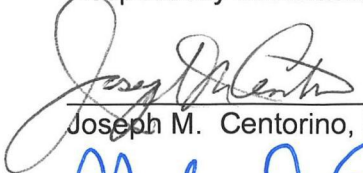
G7 Holdings, Inc. Response:

Please see Exhibits A and B located at the end of this report

All auditee responses received pursuant to City Code Section 2-256(h) are included in the issued final report. Those received via email from the City Administration were included after each pertinent finding and recommendation in the body of this report due to its format.

Since the email received from Michael Band, Esq. submitted on behalf of G7 Holdings, Inc., and containing its response to the draft report were not finding specific, they have been included in their entirety in Exhibit A, located at the end of this report. The OIG has added its own reply to the contractor's response (see Exhibit B).

Respectfully submitted,



Joseph M. Centorino, Inspector General

05/29/2024
Date



Mark D. Coolidge, Chief Auditor

05/29/2024
Date



Norman Blaiotta, Deputy Chief Auditor

5/29/24
Date

cc: Rickelle Williams, Interim City Manager
Eric Carpenter, Deputy City Manager
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ADDENDUM:

The Notice of Audit letter was sent on March 17, 2020, and the contractor, G7 Holdings, Inc., requested additional time, due to the pandemic, to provide the needed records to the OIG Sanitation Tax Auditor. The contractor provided its General Ledger and monthly Roll-Off Permit Fee returns by March 13, 2021, for the period of November 1, 2017, through September 30, 2020. During examination of the General Ledger, it was noted that the contractor was also a licensed general contractor performing demolition removal services in the City. Questions then arose whether the associated demolition income stemming from the removal of construction and demolition debris (C&D) was subject to taxation by the City.

After examining the records and conducting third-party verification, it was discovered that a related entity, David G. Services LLC d/b/a Garbageman.com, was providing similar services within the City. This business entity shared the same d/b/a, logo, and business address as G7 Holdings, Inc. Consequently, a Notice of Audit letter was similarly sent to David G. Services LLC to request its records to verify that all its taxable Miami Beach transactions were reported to the City. The findings related to David G. Services LLC are included in a separate audit report, as it is different business entity than G7 Holdings, Inc.

G7 Holdings, Inc. did not renew its BTR for the 2020/21 fiscal year. On April 30, 2021, the OIG Sanitation Tax Auditor received the following email from G7 Holdings, Inc. representatives: *After seeing the work City of Miami Beach is making toward a better Roll Off Franchise, starting May 1, 2021 my company G7 Holdings, Inc. will be active with Roll Off permitting and dump trailers and submit monthly reports and Franchise Fees.* However, G7 Holdings, Inc. provided roll-off services on Miami Beach without a valid BTR from October 1, 2020, through April 30, 2021.

A third-party verification of records was performed by requesting sampled contractor customers to provide invoices (or other records) of transactions with G7 Holdings, Inc. During this third-party verification of records it was noted that the contractor performed some roll-off services within the City that could not be found on its General Ledger, causing the OIG Sanitation Tax Auditor to question whether the contractor's accounting records were complete.

On August 17, 2021, Michael Band, Esq. representing G7 Holdings, Inc., informed OIG staff that the independent CPA firm of Berkowitz Pollack Brant was hired to review the contractor's accounting records. On September 3, 2021, the OIG issued subpoena 21-17 requesting additional invoices related to known unreported transactions. On September 21, 2021, the requested invoices were provided by Gregory Davis, owner of G7 Holdings, Inc. Mr. Band then informed the OIG Sanitation Tax Auditor on November 22, 2021, that the forensic audit conducted by Berkowitz Pollack Brant was completed. The OIG was not provided copies by the contractor of the completed forensic audit.

Upon examining the additional financial transactions, it was determined that some collected permit fees from Miami Beach customers had not been remitted to the City. A thorough review of the auditee's records and furnished customer invoices showed some inconsistencies (highlighted); while customer invoices, identified by matching invoice numbers, presented identical total amounts with detailed breakdowns, including roll-off fees, the records submitted by the auditee showed these totals as lump sums without itemizing the roll-off fees. Given these findings, the OIG engaged in further investigation.

On November 22, 2021, the contractor admitted the existence of some unreported transactions containing permit fees collected but not remitted to the City. The contractor emailed reports of unreported transactions to the OIG Sanitation Tax Auditor. The contractor filed the monthly Roll-Off Permit Fee return on a cash basis of accounting. Chapter 90 does not address whether cash or accrual basis accounting methods should be used for reporting.

On December 13, 2021, based on a contractor inquiry, Office of the City Attorney staff provided legal guidance related to the permit fees owed by grapple service and roll-off contractors, indicating that the use of grapple service by a contractor to conduct construction and debris removal, even without the use of a traditional roll-off container, would fall within the City Code provisions for taxation.

On December 15, 2021, at the contractor's request, the Finance Department issued invoice #34468 in the amount of \$183,008.00 to the contractor to cover the amount proffered by the contractor in anticipation of the audit findings for the unreported transactions of permit fees collected but not remitted to the City. However, the contractor did not fully explain or provide documentation indicating the breakdown of how the \$183,008.00 permit fees due was calculated.

On February 27, 2022, the Office of the City Attorney provided the OIG with legal guidance related to the taxability of grapple service, the use of roll-off containers by different types of contractors, and roll-off requirements linked to the removal of C&D. During the course of 2023, the OIG sought detailed and specific guidance from the Office of the City Attorney on several issues related to roll-off permits and fees.

On March 24, 2022, the contractor provided the General Ledger related to the missing period of October 1, 2020, through April 30, 2021.

Several discussions were held with the contractor and Office of the City Attorney representatives related to the taxability of the removal of construction and demolition debris during the performance of demolition contracts pursuant to Section 90-280, Use restrictions, which provides as follows: *Rolloff, portable containers, or dumpsters are to be used for the **removal of construction and demolition debris** or for the removal of large quantities of bulky waste. Construction and demolition debris, and bulky waste, is never to be stored directly on the ground, as rolloff and portable containers must be used at all times. Rolloff and portable containers shall not be used for the removal of garbage or commercial waste.* [Emphasis added.]

On March 10, 2023, and April 11, 2023, meetings were conducted with various representatives from the Office of the City Attorney and City Administration, whereby it was concluded that City Code Chapter 90 needs updating and clarification. In the course of these discussions, imposition of the City's sanitation tax on the removal of C&D by demolition contractors without the use of roll-off containers was also deemed by the City Administration to be infeasible given the current wording in the City Code.

On July 17, 2023, the contractor provided invoices related to the period of October 1, 2020, through April 30, 2021.

On June 28, 2023, Resolution No. 2023-32654 was approved by the City Commission limiting the application of roll-off fee requirements in C&D removal to a contractor's use of a 10-yard or more metal container without wheels. This effectively removed the wheeled containers exclusively used by G7 Holdings, Inc., from being included in taxable roll-off transactions, despite the City Attorney's Office's prior interpretation that included them. This limitation, based on the equipment used rather than on the nature of the transaction, is expected to significantly decrease the future collection of roll-off fees by the Sanitation Department. Additional guidance will be needed from the Office of the City Attorney.

During an examination of the contractor's General Ledger, it was noted that the contractor had recorded roll-off revenues in several revenue accounts like Aggregate, Broward County Franchise, Broward Division, Collier County Franchise, Consulting Services, Dade County Franchise, David G Services Franchise, Demolition – Other, Dirt-Other, Disposal Service, Dump Truck Service-Other, Franchise Fee Income, General Contracting Services, Hauling Income, Labor, Leon County Franchise, Machine Rental, Roll-Off Container Service, Sales-Other, Sales Tax Payable, Subcontractors-Other, Trailer Services, Transportation Division, Undeposited Funds, and USW Demolition.

Most of the transactions found in the accounts listed above were not reported by the contractor to the Finance Department in its filed monthly Roll-Off Permit Fee returns. Having roll-off revenue from the same invoice or sale description split up into several revenue accounts with other names (not related to roll-off or C&D removal) is confusing and may result in errors in calculating the monthly permit fees due. It also significantly increases the corresponding difficulty of performing the audit by requiring the assigned auditor to spend additional time determining which revenue accounts are related to permit fees and which specific transactions from each revenue account may be related to permit fees.

G7 Holdings, Inc. failed to report roll-off transactions to the Finance Department related to several addresses found on its General Ledger income transactions and invoices. As the City Code Compliance Department is primarily complaint driven, and no related complaints were known to have been received, G7 Holdings, Inc. was not issued any Notices of Violation or NOVs regarding any unpermitted work during the audit period. On September 2, 2021, Mr. Band also stated via email that (G7 Holdings, Inc.) "Greg's "accounting system" does not meet his needs nor the needs of the city" and that they were in the process of remedying this situation.

During the audit period, G7 Holdings, Inc. filed monthly Roll-Off Permit Fee returns resulting in an average of \$1,653.74 being remitted to the City, which increased to an average of \$12,238.07 during the 2021/22 and 2022/23 fiscal years (740% average monthly increase). However, G7 Holdings, Inc. had not filed any monthly Roll-Off Permit Fee returns since May 2023, which corresponds with the June 28, 2023 City Commission adoption of Resolution No. 2023-32654. If true (these months were not included in the audit), the OIG Sanitation Tax Auditor estimates that the Sanitation Division incurred estimated lost revenues of \$146,856.84 ($\$12,238.07 \times 12$ months) for the 2023/24 fiscal year from G7 Holdings, Inc., due to the Commission's decision to limit the interpretation of roll-off containers to non-wheeled containers.

At the request of the OIG for an interpretation of Resolution No. 2023-32654, the Office of the City Attorney provided an email on September 1, 2023, opining that it applied to all OIG audits not yet finalized. Consequently, its limiting terms were extended to both current

and prospective audits of all contractors, including those using wheeled containers, dump trucks and grapple services and previously considered by the Office of the City Attorney to be covered by existing City Code provisions. As a result of the adoption of Resolution No. 2023-32654 and the received legal opinion, the OIG believes the following results are likely to occur:

- Contractors who do not use “conventional” roll-off containers to remove construction and demolition debris and/or bulky waste will have an unearned competitive advantage, at least in the short term, due to their exclusion from the roll-off container definition.
- More contractors may be expected to transition to non-taxable means to collect construction and demolition debris and/or bulky waste instead of conventional roll-offs to avoid having to remit any related permit fees to the City.
- Fewer BTRs related to roll-off activities will be required, thereby decreasing City regulation and oversight of the process.
- The Sanitation Division, which is funded primarily through service fees, will lose revenue, its customer-based fees may have to be increased to offset the lost revenue, or currently filled Sanitation employee positions may be downgraded and/or lost.

Lastly, City Code Section 90-278(6), Failure to pay permit fee; penalties for late payment, provides as follows: *Failure to pay permit fee; penalties for late payment. If the contractor fails to timely pay the full permit fee as set forth in subsections (1) and (2) of this section, the contractor shall pay any and all of the city's expenses for collection of such fees, including, but not limited to, court costs, audit costs and reasonable attorney fees.*

Audit costs related to the completion of this audit may be due to the City pending further guidance received from the Office of the City Attorney. At the conclusion of this process, the Finance Department will be notified of the final determination of audit costs for billing purposes.

During the examination, it was noted that 814 invoices included on the monthly Roll-Off Permit Fee returns had such additional items as fuel & environmental fees and disposal per ton that were not included and totaled \$48,194.53. Resolution No. 2023-32654 released G7 Holdings, Inc. from the requirement to file these transactions with an additional loss to the City in the amount of \$8,954.45 in permit fees excluding penalties and interest.

Also, the effect of Resolution No. 2023-32654 excluded the contractor from having to file all the gross receipts associated with the removal of C&D related to its demolition contracts in the amount of \$1,802,700. This resolution had a higher impact in this case related to the contractor's significant removal of C&D debris.

Exhibit A (Response received from G7 Holdings, Inc.)

From: michael@bandlawfirm.com <michael@bandlawfirm.com>

Sent: Monday, April 22, 2024 2:33 PM

To: Centorino, Joseph <JosephCentorino@miamibeachfl.gov>

Subject: G7 Holdings, Inc. Response to the Audit Report

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Dear Mr. Centorino:

Initially, allow me to thank you for the extension of time in which to reply. I appreciated your consideration.

I write in response to the Inspector General's Draft Audit Report relating to my client G7 Holdings, Inc. d/b/a Garbageman.com for the Audit Period of November 1, 2017 through April 30, 2021. While we dispute the findings in your Report I believe that we both can agree that the city's confused and contradictory – and we believe wrongful - position interpreting the ordinance led to an unfair application of said ordinance which has cost my client and his customers tens of thousands of dollars.

It is our position that G7 Holdings should never have been obligated for the payment of franchise fees for Rolloff services while not using a Rolloff, that is, the franchise fees were never due. Simply put, it is our position that G7 Holdings should never have been obligated for the payment of franchise fees for Rolloff use while not using a Rolloff. G7 Holdings is a Certified General Contractor (CGC1519552) that uses a fleet of Florida registered trucks and trailers to remove construction and demolition debris from ongoing projects on Miami Beach and for select customers. Since 2000 G7 Holdings has worked on providing Rolloff alternatives. The space requirements of a Rolloff do not fit every project. An example is the 1111 Lincoln Road parking garage residence, where G7 Holdings took a dump trailer into and up to the 6th floor to remove garbage during the residence buildout. We provide live load service on Ocean Drive, Collins Ave, and Lincoln Road where leaving a Rolloff is unfeasible. Live Load is where the truck and driver stop in alleyway and allow the laborers to load out the stockpiled debris, without permanently blocking traffic. G7 Holdings has never self-performed Rolloff services, and therefore the franchise fees were never due. Further, "garbage services" represents less than 20% of G7's business revenues and is not its core business.

Again, the OIG suggestion that the adoption of Resolution No. 2023-32654 in June of 2023 changed the landscape for the collection is generous but inaccurate. The adoption of the ordinance provided a more accurate statement of the law which allowed for the collection of fees moving forward. The collection of fees prior to the inauguration of the ordinance should be viewed as an unlawful expropriation of funds from my client without legal authority. While my client's payment of those fees based upon the city's muddled explanation was made, it now should be viewed or might be considered as a charitable contribution to the city's coffers.

G7 Holdings never performed Rolloff services in the city of Miami Beach. The OIG's conclusion that my client exceeded the annual threshold (\$200,000) is wrong and no amount of fees were ever owed nor was the company required to submit a financial statement. The OIG's finding that the company owes \$160,566.17 plus interest and penalties is illogical. As the CMB and the OIG clearly know now, G7 Holdings, Inc never performed Rolloff services. In good faith, during the audit process, G7 Holdings, Inc. voluntarily made a payment of \$183,008.00, in anticipation of the audit findings, for unreported taxable Miami Beach transactions occurring during the audit period. This payment, remitted shortly after the completion of a forensic audit commissioned by and paid for by the contractor based upon a review from the independent accounting firm, Berkowitz Pollack Brant. In response, the City Finance Department issued invoice #34468 for the requested amount on December 15, 2021.

This payment and all payments and collected by the City for Rolloff Franchise Fees were made in error by both G7 Holdings, Inc and City. The Audit Report should be re-considered by the OIG in light of the ordinance change and the tortured history of its application.

We stand willing to address any questions the OIG may have and look forward to working with the City to update Chapter 90 so that the City can properly and legally collect the Franchise Fee due on Rolloff from other methodology of hauling and removing garbage.

Finally, the statements contained within this response are made without waiver of any of G7 Holdings, Inc. d/b/a Garbageman.com's rights, claims, or defenses regardless of whether they are expressly stated herein.

Let us know your thoughts.

Regards,

Michael

Michael R. Band, P.A.

attorney and counselor at law

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Exhibit B (OIG's Reply to Response received from G7 Holdings, Inc.)

Prior to the initiation of this audit, the contractor billed and collected the required sanitation roll-off permit fees from its customers on its own and without any prodding from the City. It was the fact that the contractor had not submitted the substantial fees it collected from its customers to the City that led to its voluntary agreement in December 2021 during the course of the audit to pay \$183,008 on account to the City as an estimate of what the contractor acknowledged it owed to the City.

The contractor has no right to keep funds paid by its Miami Beach customers to the contractor for remission to the City for roll-off fees. The contractor's acknowledgement of the fees owed is demonstrated by invoices issued by it for services rendered in Miami Beach, which contained a separate line item entitled "Miami Beach Fee" charging customers an additional 18% or 20% (depending on the date of transaction) of the applicable gross amount collected, the same percentage as the City Commission adopted roll-off permit fee for the audit period.

The amount now due from the contractor pursuant to Finding #1 in this audit report--\$73,669.40--stems from penalties and interest related to permit fees collected but not remitted during the audit period. The OIG contends that the contractor charged and collected the roll-off permit fee from its Miami Beach customers, and obviously has no intention of returning any funds to its originating customers. Therefore, the City should retain the \$183,008 paid by the contractor. In addition, the City Finance Department should invoice the contractor for any other unremitted fees collected by it and the associated interest and penalties specified in the City Code related to the late payment of roll-off permit fees.

