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TO: Jimmy L. Morales, City Manager *JM*
 VIA: Mark D. Coolidge, Interim Internal Auditor *MDC*
 FROM: Jessica Romero, Auditor *JRL*

DATE: June 22, 2018
 AUDIT: Tiger Natural Gas – Utility Tax Audit
 PERIOD: April 1, 2014 – February 28, 2018

This report is the result of a regularly scheduled audit of the Public Service Tax (Utility Tax) collected and remitted to the City by Tiger Natural Gas between April 1, 2014 and February 28, 2018.

INTRODUCTION

Article III entitled “Public Service Tax” (Utility Tax) of the City Code details the terms and conditions concerning the charging, collecting and remitting of utility taxes on all purchases in the corporate limits of the City of electricity, metered gas, bottled gas, and fuel oil. More specifically, section 102-152 states that the seller is to collect and remit ten (10) percent, exclusive of governmental charges and taxes, of the total amount shown on such bill on account of the purchase of electricity, metered gas and bottled gas, and four (4) cents per gallon on fuel oil. Other terms listed include the requirement of remitting any monies owed by the 20th day of each month for revenues incurred during the prior month, submitting a semiannual listing (June 30th and December 31st) of all deliveries for resale within Miami Beach, the charging of interest on any late payments, etc. Lastly, City Code Section 102-155 requires records of taxable sales transactions to be kept by the seller for inspection by the City and allows for enforcement of rules and regulations pertaining to Article III of the City Code.

Tiger Natural Gas is a company that sells natural gas to end use customers. A review of the City’s Financial Systems (Eden for all payments remitted prior to April 2016 and Munis for all subsequent payments) showed that Tiger Natural Gas reported and remitted the amounts below to the City for the stated periods:

	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	
	Apr - Sept	Oct - Sept	Oct - Sept	Oct - Sept	Oct - Feb	Total
Taxable Sales Reported	\$ 83,763.17	\$ 261,027.17	\$ 270,172.05	\$ 252,979.19	\$ 81,863.85	\$ 949,805.43
Utility Tax 10%	\$ 8,376.32	\$ 26,102.72	\$ 27,017.21	\$ 25,297.92	\$ 8,186.39	\$ 94,980.54
Adjustments*	\$ (4.06)	\$ (19.00)	\$ -	\$ -	\$ -	\$ (23.06)
Total Utility Tax Due	\$ 8,372.27	\$ 26,083.72	\$ 27,017.21	\$ 25,297.92	\$ 8,186.39	\$ 94,957.49
Utility Tax Paid as per Munis and Eden	\$ 8,372.25	\$ 26,083.73	\$ 27,017.20	\$ 25,321.93	\$ 8,186.39	\$ 94,981.50

* Since Tiger Natural Gas remitted utility taxes based on their billings, when a customer did not pay, they recognized those transactions as non-payment and deducted the taxes previously remitted to the City.

OVERALL OPINION

A review of Tiger Natural Gas's invoices confirmed that tested gross receipts were properly charged and collected during the audit period. Although Tiger Natural Gas has generally complied with the City Code provisions during the audit period, the following deficiencies were noted:

- Tiger Natural Gas mistakenly included \$24.01 in utility taxes from a December 2016 transaction occurring in Palm Beach County in their monthly remittance to the City.
- 30 of 47 tested utility tax payments, or 63.83%, were submitted after City Code Section 102-155(b)'s specified due date of the 20th day of the following month in which the natural gas was purchased by Miami Beach customers. The Finance Department did not invoice Tiger Natural Gas for interest on any of these late payments which totaled \$68.17 due primarily to the fact that they were received on average only two (2) days late.

PURPOSE

The purpose of the audit was to determine Tiger Natural Gas's compliance with the rules and regulations set forth in Article III, entitled "Public Service Tax", of the City Code with a primary focus on whether the utility taxes paid were accurately calculated, fully collected and timely remitted to the City during the audit period.

SCOPE

1. Review Tiger Natural Gas's records and documentation to confirm that tested utility taxes were accurately calculated and fully collected.
2. Confirm that all tested monthly utility tax collections were timely remitted and correctly recorded in the City's Financial System.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – *Tiger Natural Gas Mistakenly Included \$24.01 in Utility Taxes from a December 2016 Transaction Occurring in Palm Beach County in their Monthly Remittance to the City*
City Code Section 102-155(b) requires companies such as Tiger Natural Gas that sell natural gas to customers within Miami Beach to submit a statement setting forth the amount of such public service tax to which the City became entitled under the provisions of this section on account of bills paid by purchasers during the preceding month. As a result, Tiger Natural Gas's tax liability was calculated using provided documentation (customer invoices, sales reports, etc.) and compared to the amounts recorded in the City's Financial System (Eden for all payments remitted prior to April 2016 and Munis for all subsequent payments). In addition, confirmation letters were mailed to selected customers with any responses received compared to the reported amounts.

The only exception noted was that \$24.01 in utility taxes was mistakenly paid to the City from a December 2016 transaction occurring on Yamato Drive in Palm Beach County. Under Section 166.234(4)(b), 2017 Florida Statutes, Tiger Natural Gas may apply to the City for a refund for any overpayments submitted. Overpayment to a municipality means and includes all remittances of public service tax, interest, or penalty which was not due to the municipality, including amounts properly collected but remitted to the incorrect municipality.

Recommendation(s):

Tiger Natural Gas should better ensure that all future utility tax remittances are accurately calculated on transactions originating from within Miami Beach's boundaries in compliance with City Code Section 102-155(b).

2. Finding – *30 of 47 Tested Months' Utility Tax Payments, or 63.83%, were Submitted on Average Two (2) Days after City Code Section 102-155(b)'s Specified Due Date of the 20th Day of Each Month*

City Code Section 102-155(b) summarized requires Tiger Natural Gas to execute and file monthly statements accompanied by the amount of utility tax owed no later than the 20th day of each month to the City's Finance Department for relevant purchases made during the previous month. Furthermore, City Code Section 102-157(b) states "*In addition to any penalties imposed in subsection (a) of this section, any seller who fails to remit or is delinquent in remitting tax due under this article shall pay interest at the rate of ten percent per annum or the rate as specified by F.S. § 687.01, whichever is higher, on the unpaid amount of tax from the date on which the tax first became delinquent until paid.*"

An analysis of Tiger Natural Gas's monthly payment dates recorded in the City's Financial Systems with Section 102-155(b)'s designated due dates found that 30 of the 47 tested utility tax payments, or 63.83%, were received late ranging from one (1) to twelve (12) days with an average of two (2) days. Although interest of \$68.17 is due on these late payments using a 10% per annum interest rate, the City's Finance Department did not invoice Tiger Natural Gas any interest during the audit period.

Recommendation(s):

The Finance Department should create a City Bill invoicing Tiger Natural Gas a total of \$68.17 in interest. Tiger Natural Gas should remit their future utility tax payments timely or be subject to interest charges in accordance with the City Code.

Lastly, the City should consider revising City Code Section 102-157 to reflect interest and/or penalty measures used in some other Florida municipal and county governments to better incentivize companies to pay their utility taxes timely:

- Interest shall be assessed, for failure to pay any tax when due or to file any required return, at a rate of 1 percent per month of the delinquent tax from the date the tax was due until paid.
- Penalties shall be assessed at a rate of five percent per month of the delinquent tax, not to exceed a total penalty of twenty-five percent. In no event shall the penalty for failure to file a return be less than fifteen dollars (\$15.00).
- Sellers filing fraudulent returns or willfully attempting to evade payment of the tax shall be liable for a specific penalty of one hundred (100) percent of the tax.

EXIT CONFERENCE

Audit findings were emailed to Tiger Natural Gas on June 22, 2018 which agreed with the stated findings.

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cc: John Woodruff, Chief Financial Officer
Jennifer St. Clair, Comptroller, Tiger Natural Gas