MIAMIBEACH

INTERNAL AUDIT REPORT

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov
Office of Internal Audit
Tel: 305-673-7020

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

DATE: April 25, 2018
AUDIT: State Beachfront Management Agreement (#3595) Financial Review
PERIOD: October 1, 2016 through September 30, 2017

This audit report is being submitted in compliance with the audit reporting requirement of subparagraph (2) of the original State Beachfront Management Agreement No. 750-0006 dated February 3, 1982, which was subsequently reassigned No. 3595 by the State Department of Natural Resources. Furthermore, amendment number 1 was signed on August 9, 2007 extending the original terms for an additional twenty-five years until February 7, 2032.

INTRODUCTION

State Beachfront Management Agreement No. 3595 requires the City of Miami Beach to remit 25% ("sand tax") of any and all monies collected from private concessionaires or other private concerns for the use of State beachfront property to the Florida Department of Environmental Protection. Also, in accordance with state statutes, the City collects 7% sales tax along with the beachfront rental revenue, and remits same to the State's Department of Revenue.

There are currently four categories of beachfront property users:

- Operators of concessions seaward of Lummus Park, Ocean Terrace, North Shore Open Space Park, Pier Park, 21st Street and 46th Street (Boucher Brothers and Penrods Brothers) who pay for the use of the beachfront as per their respective contractual agreements with the City.
- Miami Beach hoteliers, apartments and condominium associations, which pay beach upland fees to the City annually based on the number of units, concurrent with their business tax receipt fees. This category also includes any known non-upland fee properties that have negotiated an agreement with nearby upland fee properties whereby their residents can use the other's beach amenities.
- Members of the public who run organized, usually one time only events on the beach such as weddings, volleyball tournaments and corporate affairs. These are called special events and payments are remitted to the City's Tourism, Culture and Economic Development Department.
- Productions requiring to park essential vehicles on the beach or sand areas of Miami Beach may purchase vehicle beach access passes from the City's Tourism, Culture and Economic Development Department. The cost of the pass is $150, per vehicle, per event. Event producers may purchase a maximum of ten (10) vehicle access permits per event, unless additional passes are approved by the City Manager or his designee.

The City remitted the following four sand tax payments totaling $334,837.62 to the State of Florida based on the applicable revenues collected during the 2016/17 fiscal year:

Check Number	Check Date	Check Amount
409737	01/20/17	$ 79,131.96
412927	04/18/17	$201,224.60
416181	07/18/17	$11,534.00
419327	10/17/17	$42,947.06
Total		$334,837.62

OVERALL OPINION

Based upon our examination of City records, it has been determined that during the audit period of October 1, 2016 through September 30, 2017, the City inadvertently underpaid the State of Florida by a net total of $6,896.11 ($964.25 overpayment in finding #1 plus a $7,860.36 underpayment in finding #2).

PURPOSE

The purpose of this audit is to determine whether the City complied with State Beachfront Management Agreement No. 3595 by accurately calculating, timely remitting and properly recording sand tax monies to the Florida Department of Environmental Protection equal to 25% of any and all revenues collected from private concerns for the use of State beachfront property.

FINDING AND RECOMMENDATION

1. Finding: *The State of Florida was Overpaid by a Net Total of $964.25 upon Review of All Reported 2016/17 Fiscal Year Sand Tax General Ledger Transactions*
Office of Internal Audit staff reviewed every reported transaction occurring during the 2016/17 fiscal year for accuracy that was recorded in the sand tax general ledger account number 601-7000-229068. The table below summarizes our calculations concerning the amounts of sand tax (under)over paid to the State:

Revenue Categories by Beachfront Property User	Total Revenues Collected	Sand Tax Payments*	Sand Tax Due	Sand Tax Difference
Beachfront Concessions	$945,550.31	$236,367.58	$236,387.58	**($20.00)**
Upland Fees	$179,047.50	$44,096.13	$44,761.88	**($665.75)**
Special Events	$141,816.00	$37,105.50	$35,454.00	**$1,651.52**
Vehicle Beach Access Fees	$44,098.00	$11,023.00	$11,024.50	**($1.50)**
Subtotal	$1,310,511.81	$328,592.21	$327,627.96	**$964.25**
Adjustment	$24,981.56	$6,245.39	$6,245.39	**$0.00**
Total	**$1,335,493.37**	**$334,837.60**	**$333,873.35**	**$964.25**

The individual entities that comprise this $964.25 underpayment can be found in Exhibit A located at the end of this audit report.

Recommendation(s):
This $964.25 overpayment was subsequently deducted from City check #424958 dated April 5, 2018 for $119,650.78 payable to the State of Florida covering January 1, 2018 through March 31, 2018.

2. Finding: *A Concessionaire's Estimated Revenues Subject to Sand Tax of their Upfront Minimum Guarantee Payments were Not Adjusted to Actuals at Year End (March 2017) which Resulted in an $7,860.36 Underpayment to the State of Florida*
A concessionaire that has both non-beachfront (food and beverages prepared and sold at off-beach location) and beachfront operations (chair and umbrella rentals) remits upfront minimum guarantee payments at designated times during the year with the requirement to submit actual sales information and a true-up payment (if actual sales exceed the minimum guarantee) at year's end each March. Unaware of the actual sales subject to sand tax until each March, the City estimates the amount of the minimum guarantee sales to be occurring on the beach and subject to sand tax. These estimates are to be revised to reflect actuals once the year end actual sales information is furnished by the concessionaire.

There was no true-up due in March 2017 as actual sales did not exceed the minimum guarantee amounts previously remitted to the City but the projected beachfront sales were mistakenly not adjusted to actuals. As a result, Office of Internal Audit staff performed the corresponding calculations and determined that the State of Florida was inadvertently underpaid by $7,860.36 ($26,160.36 owed - $18,300 paid).

Recommendation(s):
The Office of Real Estate has agreed to correct the $7,860.36 underpayment via journal entry. Once completed, the sand tax account will be adjusted accordingly and the $7,860.36 is to be included in the City's next quarterly payment to the State of Florida.

cc: John Woodruff, Chief Financial Officer

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SCHEDULE OF FEES COLLECTED
BEACHFRONT MANAGEMENT AGREEMENT
FISCAL YEAR 2016/17
EXHIBIT A

	CONCESSIONAIRE		TOTAL FEES *	75 % OF TOTAL	25% DUE TO STATE	REMITTED TO STATE	OWED TO STATE
1	13th Floor Media	Vehicle Beach Access (MCR)	$1,650.00	$1,237.50	$412.50	$412.50	$0.00
2	1500 Ocean Drive Condo Association	Upland Fees	$2,352.00	$1,764.00	$588.00	$588.00	$0.00
3	3201 Hotel LLC	Special Events	$2,175.00	$1,631.25	$543.75	$543.75	$0.00
		Vehicle Beach Access Special Event	$750.00	$562.50	$187.50	$187.50	$0.00
4	ABC Studios	Vehicle Beach Access (MCR)	$450.00	$337.50	$112.50	$112.50	$0.00
5	Advantage Destination	Special Events	$2,490.52	$1,867.89	$622.63	$622.63	$0.00
		Vehicle Beach Access Special Event	$900.00	$675.00	$225.00	$225.00	$0.00
6	Alexander Condominium	Upland Fees	$2,354.00	$1,765.50	$588.50	$588.50	$0.00
7	Appleseed's	Vehicle Beach Access (MCR)	$300.00	$225.00	$75.00	$75.00	$0.00
8	Art Fairs Unlimited LLC	Special Events	$33,806.48	$25,354.86	$8,451.62	$8,451.62	$0.00
		Vehicle Beach Access Special Event	$2,249.96	$1,687.47	$562.49	$562.49	$0.00
9	BAM	Vehicle Beach Access (MCR)	$600.00	$450.00	$150.00	$150.00	$0.00
10	Beach Hotel Associates LLC	Upland Fees	$4,368.00	$3,276.00	$1,092.00	$1,092.00	$0.00
11	Best Western Atlantic Beach	Upland Fees	$4,488.00	$3,366.00	$1,122.00	$1,122.00	$0.00
12	Boucher Brothers Miami Beach 21 & 46 Street	Beachfront Concessionaire	$883,427.28	$662,570.46	$220,856.82	$220,837.15	($19.67)
		Special Events	$6,319.00	$4,739.25	$1,579.75	$1,561.00	($18.75)
13	Brian Pincus	Vehicle Beach Access (MCR)	$300.00	$225.00	$75.00	$75.00	$0.00
14	Calvary Chapel Miami Beach	Special Events	$5.00	$3.75	$1.25	$1.25	$0.00
15	Coldwell Banker Real Estate LLC	Special Events	$0.00	$0.00	$0.00	$1,670.25	$1,670.25
16	Creative State Marketing LLC	Special Events	$962.52	$721.89	$240.63	$240.63	$0.00
17	Crystal Beach	Upland Fees	$1,764.00	$1,323.00	$441.00	$441.00	$0.00
18	Danton Condominium	Upland Fees	$829.52	$622.14	$207.38	$207.38	$0.00
19	Days Inn Oceanside	Upland Fees	$2,926.00	$2,194.50	$731.50	$731.50	$0.00
20	Dean Woods	Vehicle Beach Access (MCR)	$750.00	$562.50	$187.50	$187.50	$0.00
21	Deco Production	Special Events	$3,900.00	$2,925.00	$975.00	$975.00	$0.00
		Vehicle Beach Access Special Event	$750.00	$562.50	$187.50	$187.50	$0.00
22	Decoplage	Upland Fees	$10,000.00	$7,500.00	$2,500.00	$2,500.00	$0.00
23	Diversified Production Services	Special Events	$7,455.00	$5,591.25	$1,863.75	$1,863.75	$0.00
		Vehicle Beach Access Special Event	$1,500.00	$1,125.00	$375.00	$375.00	$0.00
24	East Atlantic Gardens Condominium	Upland Fees	$2,150.00	$1,612.50	$537.50	$537.50	$0.00
25	Eden Roc Renaissance Resort	Upland Fees	$27,133.00	$20,349.75	$6,783.25	$6,783.25	$0.00
26	Faena Arts, Inc.	Special Events	$3,800.00	$2,850.00	$950.00	$950.00	$0.00

State Beachfront Management Agreement Financial Review (#3595)
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	CONCESSIONAIRE		TOTAL FEES *	75 % OF TOTAL	25% DUE TO STATE	REMITTED TO STATE	OWED TO STATE
27	Fair Play Outdoor Sports, LLC	Special Events	$1,436.00	$1,077.00	$359.00	$359.00	$0.00
28	First Shot	Vehicle Beach Access (MCR)	$1,950.00	$1,462.50	$487.50	$487.50	$0.00
29	FIU Sports	Special Events	$325.00	$243.75	$81.25	$81.25	$0.00
30	Fontainebleau Hilton Resort	Upland Fees	$15,000.00	$11,250.00	$3,750.00	$3,750.00	$0.00
31	Four Points by ITT Sheraton	Upland Fees	$4,752.00	$3,564.00	$1,188.00	$1,188.00	$0.00
32	Go Scout Inc.	Vehicle Beach Access (MCR)	$900.00	$675.00	$225.00	$225.00	$0.00
33	H2O Foundation	Special Events	$10.00	$7.50	$2.50	$2.50	$0.00
34	Hello Florida Destination Management	Special Events	$3,612.52	$2,709.39	$903.13	$903.13	$0.00
		Vehicle Beach Access Special Event	$750.00	$562.50	$187.50	$187.50	$0.00
35	HG Producers	Vehicle Beach Access (MCR)	$3,600.00	$2,700.00	$900.00	$900.00	$0.00
36	HHLP Miami Beach Associates	Upland Fees	$7,455.00	$5,591.25	$1,863.75	$1,863.75	$0.00
37	Holiday Inn Miami Beach	Upland Fees	$5,456.00	$4,092.00	$1,364.00	$1,364.00	$0.00
38	Il Villaggio Condominium	Upland Fees	$8,128.00	$6,096.00	$2,032.00	$1,365.25	($666.75)
39	Irie Weekend	Vehicle Beach Access Special Event	$600.00	$450.00	$150.00	$150.00	$0.00
40	King Richard Condo	Upland Fees	$1,144.00	$858.00	$286.00	$286.00	$0.00
41	Kreative Kontent	Vehicle Beach Access (MCR)	$300.00	$225.00	$75.00	$75.00	$0.00
42	La Tour Condominium	Upland Fees	$1,474.00	$1,105.50	$368.50	$368.50	$0.00
43	Life Time Fitness Athletic	Vehicle Beach Access Special Event	$3,000.00	$2,250.00	$750.00	$750.00	$0.00
44	Logistics Management Group	Special Events	$3,034.00	$2,275.50	$758.50	$758.50	$0.00
		Vehicle Beach Access Special Event	$900.00	$675.00	$225.00	$225.00	$0.00
45	Luti Media	Vehicle Beach Access (MCR)	$525.00	$393.75	$131.25	$131.25	$0.00
46	MAPS	Vehicle Beach Access (MCR)	$1,200.00	$900.00	$300.00	$300.00	$0.00
47	Markus Muller	Vehicle Beach Access (MCR)	$748.00	$561.00	$187.00	$185.50	($1.50)
48	Marriott Courtyard	Upland Fees	$3,728.00	$2,796.00	$932.00	$932.00	$0.00
49	Mc Cray Martin Proud	Vehicle Beach Access (MCR)	$300.00	$225.00	$75.00	$75.00	$0.00
50	Metropolitan by Como Hotel	Upland Fees	$1,554.00	$1,165.50	$388.50	$388.50	$0.00
51	Mishu Music	Vehicle Beach Access Special Event	$900.00	$675.00	$225.00	$225.00	$0.00
52	MKM Productions	Vehicle Beach Access (MCR)	$600.00	$450.00	$150.00	$150.00	$0.00
53	Mobile Arts	Vehicle Beach Access (MCR)	$150.00	$112.50	$37.50	$37.50	$0.00
54	Mosaic on Miami Beach	Upland Fees	$1,806.00	$1,354.50	$451.50	$451.50	$0.00
55	Ocean Walk on South Beach Condominium	Upland Fees	$1,716.00	$1,287.00	$429.00	$429.00	$0.00
56	P Studio	Vehicle Beach Access (MCR)	$450.00	$337.50	$112.50	$112.50	$0.00
57	Penrod Brothers Inc.	Beachfront Concessionaire	$62,123.04	$46,592.28	$15,530.76	$15,530.43	($0.33)
		Vehicle Beach Access Special Event	$300.00	$225.00	$75.00	$75.00	$0.00
58	Perry South Beach	Upland Fees	$15,000.00	$11,250.00	$3,750.00	$3,750.00	$0.00
59	Pro One Productions	Vehicle Beach Access (MCR)	$2,175.00	$1,631.25	$543.75	$543.75	$0.00
60	Production Factory	Vehicle Beach Access (MCR)	$600.00	$450.00	$150.00	$150.00	$0.00
61	Pulse Productions	Vehicle Beach Access (MCR)	$1,500.00	$1,125.00	$375.00	$375.00	$0.00

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	CONCESSIONAIRE		TOTAL FEES *	75 % OF TOTAL	25% DUE TO STATE	REMITTED TO STATE	OWED TO STATE
62	Quadrum Miami Beach LLC	Special Events	$4,300.00	$3,225.00	$1,075.00	$1,075.00	$0.00
		Vehicle Beach Access Special Event	$600.00	$450.00	$150.00	$150.00	$0.00
63	Redrock Entertainment Services	Vehicle Beach Access Special Event	$1,500.00	$1,125.00	$375.00	$375.00	$0.00
64	Richmond Hotel	Upland Fees	$4,601.00	$3,450.75	$1,150.25	$1,150.25	$0.00
65	Sagamore	Upland Fees	$966.00	$724.50	$241.50	$241.50	$0.00
66	Scope Art Fair Inc	Special Events	$29,210.00	$21,907.50	$7,302.50	$7,302.50	$0.00
		Vehicle Beach Access Special Event	$3,000.00	$2,250.00	$750.00	$750.00	$0.00
67	Seagull Hotel Miami Beach	Upland Fees	$3,212.00	$2,409.00	$803.00	$803.00	$0.00
68	Shake Prod	Vehicle Beach Access (MCR)	$600.00	$450.00	$150.00	$150.00	$0.00
69	Shelly Skyrock	Vehicle Beach Access (MCR)	$900.00	$675.00	$225.00	$225.00	$0.00
70	SLS South Beach	Special Events	$2,000.00	$1,500.00	$500.00	$500.00	$0.00
		Vehicle Beach Access Special Event	$150.00	$112.50	$37.50	$37.50	$0.00
71	Soho Beach House LLC	Upland Fees	$1,100.00	$825.00	$275.00	$275.00	$0.00
		Special Events	$1,950.00	$1,462.50	$487.50	$487.50	$0.00
		Vehicle Beach Access Special Event	$450.00	$337.50	$112.50	$112.50	$0.00
72	Sparktacular Inc.	Vehicle Beach Access Special Event	$600.00	$450.00	$150.00	$150.00	$0.00
73	Sullivan Productions	Vehicle Beach Access (MCR)	$900.00	$675.00	$225.00	$225.00	$0.00
74	The Georgian Condo Association	Upland Fees	$6,321.00	$4,740.75	$1,580.25	$1,580.25	$0.00
75	The Miami Beach Edition Hotel	Upland Fees	$12,642.00	$9,481.50	$3,160.50	$3,160.50	$0.00
76	The Mimosa Hotel	Upland Fees	$1,320.00	$990.00	$330.00	$330.00	$0.00
77	The Raleigh Hotel	Upland Fees	$2,508.00	$1,881.00	$627.00	$627.00	$0.00
78	The Ritz Carlton South Beach	Upland Fees	$8,272.00	$6,204.00	$2,068.00	$2,068.00	$0.00
79	The Savoy on South Beach	Upland Fees	$1,474.00	$1,105.50	$368.50	$368.50	$0.00
80	The Surf Condominium	Upland Fees	$315.00	$236.25	$78.75	$78.75	$0.00
81	Tops Equestrian Events	Special Events	$35,025.00	$26,268.75	$8,756.25	$8,756.25	$0.00
		Vehicle Beach Access Special Event	$3,750.00	$2,812.50	$937.50	$937.50	$0.00
82	Townhouse Hotels, LLC	Upland Fees	$4,481.00	$3,360.75	$1,120.25	$1,121.25	$1.00
83	Triton Tower Condominium	Upland Fees	$6,258.00	$4,693.50	$1,564.50	$1,564.50	$0.00
	Subtotal		$1,310,511.81	$982,883.86	$327,627.96	$328,592.21	$964.25
	Prior Sand Tax Audit Corrections		$24,336.76	$18,252.57	$6,084.19	$6,084.19	$0.00
	1st Quarter Adjustment		$644.80	$483.60	$161.20	$161.20	$0.00
	Subtotal		$24,981.56	$18,736.17	$6,245.39	$6,245.39	$0.00
	Grand Total		**$1,335,493.37**	**$1,001,620.03**	**$333,873.35**	**$334,837.60**	**$964.25**

***Excludes sales tax**

ANY NEGATIVE AMOUNTS ABOVE INDICATE THAT THE CITY UNDERPAID THE STATE OF FLORIDA, WHILE ANY POSITIVE AMOUNTS MEANS THAT THEY WERE OVERPAID