



**Joseph M. Centorino**, Inspector General

## **FINAL AUDIT REPORT**

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

DATE: April 4, 2023  
AUDIT: AES Portable Sanitation, Inc. Roll-off Permit Fee Revenues Audit  
OIG No. 23-04  
PERIOD: January 1, 2017 through May 31, 2022

This report stems from an audit performed of the roll-off permit fees charged, collected, and remitted by AES Portable Sanitation, Inc. (AES Portable) during the January 1, 2017 through May 31, 2022 audit period. The City of Miami Beach Office of the Inspector General (OIG) Sanitation Tax Auditor examined the roll-off contractor's compliance with selected provisions in the City Code, including the contractor's obtaining annual business tax receipts (BTRs), filing required reports, and maintaining sufficient insurance coverage. The performance of City staff responsible for monitoring AES Portable and processing all payments received from the contractor was also reviewed.

As AES Portable and J & M Scaffolds of Florida, Inc. (J & M Scaffolds) had the same ownership with some overlapping Miami Beach roll-off work, audits of both companies were performed simultaneously. Although the assessed amounts are relatively minor in comparison with other recent roll-off contractor audits, there is value in reading both audit reports to gain insight into the difficult issues inherent in the City's monitoring of contractor reporting. These include the City's difficulties in timely detecting noncompliant contractors through its established processes; the value of using the OIG's subpoena power to obtain the records needed to conduct audits of non-compliant contractors; the City's current overreliance on audits to determine contractor compliance; the frequency of unquestioned late or non-existent monthly filings; and the need for future process and City Code revisions.

## **INTRODUCTION**

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 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.

EnerGov, the City licensing and permitting system, listed seventeen roll-off contractors on November 2, 2022 with their 2022/23 fiscal year BTRs in "active" status, two roll-off contractors in "temporary" status, and seven contractors in "pending" status. "Temporary" status means that the BTR will remain active if the contractor complies with agreed-upon terms. "Pending" status means that the BTR is not yet valid or active and missing needed documentation and/or payment.

The number of roll-off contractors frequently changes, mostly due to enforcement efforts leading to contractors' complying with City's guidelines and obtaining their BTRs, or as contractors merge or stop conducting business in Miami Beach and do not renew their BTRs.

Roll-off contractors operating in Miami Beach are required to follow the terms outlined in the City Code, which include the monthly remittance of roll-off permit 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 monthly reports, accompanied by payment of any owed fees, to 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 roll-off permit fees owed for August 2022 are due by September 30, 2022. Any unpaid or not timely received fees are subject to penalties of 10% per month up to a maximum of 50%, plus interest of 1% per month from the date the permit fee first became delinquent until paid.

When the roll-off 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 for the preceding fiscal year prepared by an independent Certified Public Accountant. These statements of annual gross receipts are to be furnished within sixty days following the close of the roll-off contractor's fiscal year pursuant to City Code Section 90-278(4). AES Portable did not exceed this annual threshold during the audit period and, therefore, was not required to submit this statement.

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

## NEED FOR ADDITIONAL RECORDS AND ISSUED SUBPOENAS

The OIG Sanitation Tax Auditor noted several roll-off containers placed by J & M Scaffolds and AES Portable servicing Miami Beach properties while conducting unannounced field observations during June 2022. A subsequent review of the State of Florida Division of Corporations website, [dos.myflorida.com/sunbiz](https://dos.myflorida.com/sunbiz), found that AES Portable and J & M Scaffolds were owned by the same individual and contained different federal identification numbers. Although it was determined that J & M Scaffolds had obtained the required annual BTRs and filed monthly roll-off permit fee returns with the City, AES Portable had not done so and was noncompliant.

Given this information, the OIG Sanitation Tax Auditor made multiple requests to the business owner over many months for the records needed to perform concurrent audits of both companies. These requests were either ignored or requested time extensions were granted by the OIG. The business owner asserted that AES Portable did not perform roll-off services in Miami Beach, as it only supplied portable toilets while J & M Scaffolds performed all related roll-off services.

The OIG issued and served two subpoenas to AES Portable and J & M Scaffold. Thereafter, the business owner began providing the requested records, but still failed to provide all needed documentation. A meeting was then held with the OIG on June 13, 2022, in which the business owner provided AES Portable invoices confirming that it was performing roll-off services in Miami Beach during the audit period. In addition, the owner remitted a good faith payment of \$14,294.81 to the City for unreported roll-off permit fees due by AES Portable, as calculated solely by the contractor.

## OVERALL OPINION

The website, [aesportable.com](https://aesportable.com), reports that AES Portable began operating in 1991, and, among other functions, specializes in roll-off and storage containers from 10 feet to 30 feet long and services from Jupiter, FL to Key West, FL. After numerous requests and receipt of two subpoenas from the OIG, AES Portable representatives provided the documentation needed to adequately perform this audit. The following deficiencies, separated by the deficient party(ies), were identified during the audit process:

### A. Findings pertaining solely to AES Portable

1. AES Portable did not report gross receipts totaling \$85,809.80 to the City during the audit period, which resulted in unpaid roll-off permit fees due of \$28,070.37 (including penalties and interest). In addition, the contractor owes the City \$1,949.85 in associated audit costs pursuant to City Code Section 90-278(6).
2. AES Portable records provided to the OIG confirmed that roll-off services were performed at 21 Miami Beach locations during the audit period without its obtaining the required permits, contrary to City Code and with no Notices of Violation being issued.
3. AES Portable did not timely obtain its 2017/18, 2018/19, 2019/20, 2020/21, and 2021/22 fiscal year business tax receipts related to roll-offs. Although the Code Compliance Department issued four Notices of Violation or NOVs to the contractor related to performing roll-off services in Miami Beach with a valid BTR (CC2021-10851, CC2021-12274, CC2022-12490 and CC2022-13288) during the 2020/21 and 2021/22 fiscal years, the contractor was not issued any Notices of Violations

for operating on Miami Beach during the 2017/18, 2018/19 and 2019/20 fiscal years.

B. Findings pertaining solely to the City

4. AES Portable was assigned two different contact numbers in the City's EnerGov system.

## PURPOSE

The purpose of this audit was to determine whether tested roll-off contractor filings were complete and accurate; whether corresponding remittances were correctly calculated using the City Commission approved roll-off permit fee rate; whether filings and monies due 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 roll-off contractor maintained sufficient records to verify whether its tested permit fee billings were correct, and whether its corresponding Miami Beach gross receipts were accurately computed.
2. Determine whether the roll-off contractor timely submitted its tested monthly reports of gross receipts and remitted full payment of roll-off 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-c).
3. Determine whether the roll-off contractor timely obtained its required annual BTRs during the audit period.
4. Determine whether the roll-off contractor complied with reporting requirements listed in City Code Section 90-278.
5. Determine whether the roll-off contractor maintained the required insurance coverage pursuant to City Code Section 90-196.
6. Determine whether tested roll-off fee payments remitted monthly were accurately recorded in the City's Financial System.

## FINDINGS AND RESULTS/RECOMMENDATIONS

The findings below are separated by those pertaining solely to the roll-off contractor and those pertaining solely to the City.

### Findings Pertaining Solely to AES Portable

1. ***Unreported Roll-off Permit Fees Totaling \$28,070.37 (Including Penalties and Interest) And \$1,949.85 In Audit Costs Are Due To The City.***  
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." City Code Section 90-278(4) states, "Each contractor shall deliver to the City's finance department a true and correct monthly report of gross receipts generated during the previous month (from



accounts within the City) on or before the last day of each month. This monthly report shall include the customer names, service addresses, account numbers, and the actual amount collected from each customer. Payments of any fees required in this section shall be made monthly to the finance department, on or before the last day of each month, for gross receipts of the previous month."

In addition, City Code Section 90-278(6)(a-c) states that any late remittances are subject to penalties of ten percent per month with a maximum of fifty percent and interest at the highest legal rate permitted by law (12% per annum was charged), exclusive of penalties, from the date on which the permit fee first became delinquent until paid.

During an unannounced May 24, 2021 field review, the OIG Sanitation Tax Auditor found that AES Portable placed a roll-off container at 727 N Shore Drive in Miami Beach. It was determined that the contractor had not obtained a BTR to provide roll-off services, had not received a roll-off permit from the Sanitation Division, and had not filed any Roll-Off Permit Fee returns or submitted any monies due to the Finance Department. The Code Compliance Department was promptly notified to issue any warranted NOVs, and the contractor was selected for audit by the OIG.

The OIG Sanitation Tax Auditor examined all contractor furnished documentation to determine the amount of monthly roll-off gross receipts within the City by AES Portable during the January 1, 2017 through May 31, 2022 audit period. As the contractor did not report or remit any roll-off permit fees, all identified amounts were considered taxable unless sufficient evidence was provided to the contrary. The contractor furnished supporting documentation verifying that some AES Portable transactions were reported on its May 2022 monthly roll-off fee return related to J & M Scaffolds, and these amounts were not included in the assessment levied.

In sum, it was concluded that 172 unreported taxable Miami Beach roll-off transactions occurred. As a result, it was calculated that \$28,070.37 in roll-off permit fees are due to the City (including penalties and interest), as shown in the table below.

<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>Jan. 2017 – Dec. 2017</i>	\$28,972.31	18%	\$5,215.06	\$2,607.57	\$3,066.31	<b>\$10,888.94</b>
<i>Jan. 2018 – Dec. 2018</i>	\$8,936.21	18%	\$1,608.52	\$804.28	\$776.18	<b>\$3,188.98</b>
<i>Jan. 2019 – Oct. 5, 2019</i>	\$3,129.54	18%	\$563.32	\$281.66	\$197.36	<b>\$1,042.34</b>
<i>Oct. 6, 2019 – Dec. 2019</i>	\$1,350.00	20%	\$270.00	\$135.00	\$82.41	<b>\$487.41</b>
<i>Jan. 2020 – Dec. 2020</i>	\$14,399.29	20%	\$2,879.87	\$199.68	\$66.30	<b>\$3,145.85</b>
<i>Jan. 2021 – Dec. 2021</i>	\$29,022.45	20%	\$5,804.51	\$2,865.10	\$647.24	<b>\$9,316.85</b>
<b><i>Totals</i></b>	<b>\$85,809.80</b>		<b>\$16,341.28</b>	<b>\$6,893.29</b>	<b>\$4,835.80</b>	<b>\$28,070.37</b>

\* City Commission approved roll-off permit fees equaled 18% from the beginning of the audit period, January 1, 2017, through October 5, 2019, and 20% from October 6, 2019 through the end of the audit period, May 31, 2022.

\*\* Penalties and interest were waived and not charged for late payments received during the period of March 1, 2020 through November 30, 2020 pursuant to City Resolution Nos. 2020-31237 and 2020-31390.

AES Portable was assigned two different customer numbers, 9681 and 2882, in the Munis system, the City enterprise resource planning system. Further analysis determined that no transactions were recorded for customer number 9681. The City Finance Department created invoice #37536 to process the \$14,294.81 good faith payment remitted by the contractor during the audit, and it represented the only transaction recorded to customer number 2882.

In addition, City Code Section 90-278(6) states, "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." As a result, it was calculated that the City is due \$1,949.85 in audit costs related to the completion of this audit by the OIG Sanitation Tax Auditor.

Results/Recommendations:

After deducting the contractor's \$14,294.81 estimated payment received in June 2022, the City Finance Department should invoice AES Portable \$13,775.56 (\$28,070.37 - \$14,294.81 payment received) due in unreported/unpaid roll-off fees, including penalties and interest. The City Finance Department should also invoice the contractor \$1,949.85 in audit costs through November 8, 2022, pursuant to City Code Section 90-278(6). Once these invoices are received, the roll-off contractor should timely remit full payment to avoid additional disciplinary actions under the City Code. Lastly, AES Portable should consistently and accurately file its future monthly roll-off fee returns to the City.

It is recommended that all roll-off related transactions should be recorded under only one customer number in the Munis system to facilitate billing inquiries and payment confirmation.

Finance Department Response:

The Finance Department has invoiced (# 41725, 02/10/23) AES Portable Sanitation, Inc. as follows:

Roll-off Fees Due	\$	9,400.49
Penalties		3,422.83
Interest		952.24
Audit Costs		<u>1,949.85</u>
Total	\$	15,725.41

Finance researched the number of customer IDs this vendor has in the Munis system database and found two. One ID was noted to be an old Customer ID # 9681 assigned from a previous accounting system no longer in use. This Customer ID number is no longer utilized and has been deactivated. The current configuration of the Munis system allows for multiple IDs to facilitate the needs of the various departments. If one single ID is utilized the system would improperly apply cash payments based on age of balances as opposed to purpose or function of the payment. As a result, each department creates a unique ID to track revenues and/or compliance requirements.

- 2. Records Provided By AES Portable To The OIG Indicated That It performed Roll-Off Services At 21 Miami Beach Locations During The Audit Period Without Its Obtaining The Required Permits, Contrary To City Code And With No Notices of Violation Being Issued.***

City Code Section 90-193 states, "The city manager shall require, and will issue, a permit for each garbage facility, recycling, hazardous and biohazardous waste, rolloff and portable container, for all solid waste accounts in the City serviced by a private waste contractor. The permit for solid waste collection and disposal shall be issued by the city manager after the contractor has complied with all requirements for obtaining a business tax receipt; any and all other requirements prescribed by this chapter; and has been cleared by the City's finance department. Rolloffs, portable containers and containers for recycling or hazardous and biohazardous wastes shall be included, except that all recycling containers situated in a single location on a property shall require only one permit."

City Code Section 90-277 states, "No rolloff container, dumpster or portable container shall be placed or located within the city without a permit from the city. Failure to obtain a permit will result in a penalty of \$100.00 per location. No permit for rolloff containers, dumpsters, or portable containers shall be issued to a rolloff contractor unless the requirements in section 90-276 have been met." Roll-off permits are issued to contractors by the Sanitation Division upon satisfying all the designated requirements. If contractors perform roll-off services without timely obtaining the required permit, then each address is subject to the issuance of a Notice of Violation or NOV by the Code Compliance Department.

Upon reviewing the documentation furnished by AES Portable, the OIG Sanitation Tax Auditor determined that the contractor performed roll-off services at the following 21 Miami Beach addresses without obtaining the required permits from the Sanitation Division:

- |                         |                          |
|-------------------------|--------------------------|
| 1) 100 21 Street        | 12) 403 E Di Lido Drive  |
| 2) 1231 15 Terrace      | 13) 44 Star Island Drive |
| 3) 1406 Lenox Avenue    | 14) 4530 Alton Road      |
| 4) 150 S Pointe Drive   | 15) 4573 Prairie Avenue  |
| 5) 1700 Cleveland Road  | 16) 4740 Alton Road      |
| 6) 2001 Collins Avenue  | 17) 5470 La Gorge Drive  |
| 7) 254 Palm Avenue      | 18) 5750 Collins Avenue  |
| 8) 300 S Pointe Drive   | 19) 5775 Collins Avenue  |
| 9) 321 W 63 Street      | 20) 7755 Noremac Avenue  |
| 10) 38 S Hibiscus Drive | 21) 9 Island Avenue      |
| 11) 40 S Pointe Drive   |                          |

The Code Compliance Department is primarily complaint driven and no evidence was found indicating that it was notified of the unpermitted job sites. The City Attorney's Office confirmed in a May 25, 2022 email, related to a prior audit, that NOV's related to addresses without a roll-off permit could be retroactively issued to the contractor. As indicated below, Code Compliance did issue the violations when provided with the OIG finding.

Results/Recommendations:

The Code Compliance Department should issue 21 NOV's for \$100 each to AES Portable for unpermitted work at the listed addresses. Once received, the roll-off contractor should promptly remit the corresponding monies due to avoid possible additional penalties. AES Portable should comply with the City Code and timely obtain the required roll-off permits for future Miami Beach addresses serviced or be subject to receiving NOV's from the Code Compliance Department.

Code Compliance Department Response:

Code Compliance Department issued all the violations.

3. ***AES Portable Did Not Timely Obtain Its 2017/18, 2018/19, 2019/20, 2020/21, And 2021/22 Fiscal Years BTRs Related To Roll-Offs, For Which No Notices of Violation Were Issued During The 2017/18, 2018/19 And 2019/20 Fiscal Years.***

City Code Section 102-356 defines business tax as the fees charged for which the City grants the privilege of engaging in or managing any business, profession, or occupation within the City's jurisdiction. Furthermore, Section 102-360 states, "Each business tax receipt shall be valid for one year. Tax receipts shall be issued beginning October 1 of each year and shall expire on September 30 of the following year," and, as Section 102-370 explains, "(a) The City shall endeavor to notify all business tax receipt holders that their business tax receipts are due for renewal. However, if the taxee does not receive a renewal notification, the taxee is responsible to renew the business tax prior to October 1 to avoid delinquent charges."

In addition, Section 90-192 states, "(a) No person shall engage in the business of disposal and/or collection of any kind of solid waste, or recyclable material within the city without first having been approved by the city manager, and having secured a current business tax receipt for such activity." Section 90-276 states, "Except as provided elsewhere in this chapter, no person shall engage in the business of removing or disposing of construction and demolition debris or large quantities of trash from any premises within the city limits without first securing a permit for such activities from the city by: (1) Paying the business tax receipt amount as set forth in chapter 18. However, franchise waste contractors shall not be required to obtain a separate business tax receipt to service rollofts or portable containers within the city". Section 90-278(7) states, "In order to effectively provide for the collection of the permit fee by the contractor to the city, any person seeking to renew his/her annual business tax receipt pursuant to the provisions of chapter 102, article V, in addition to the requirements contained therein, shall provide to the finance director evidence of payment of all outstanding permit fees, fines and other charges as a condition to reissuance or renewal of the business license." Lastly, Section 102-377 states, "(a) Any person who shall carry on or conduct any business for which a tax receipt is required by this article without first obtaining such tax receipt shall be issued a violation for the offense which shall have a civil fine of \$1,000.00. The enhanced enforcement for this violation shall be pursuant to subsection 102-377(d) herein. (d) In addition to the above, a continued violation of subsection 102-377(a) for a period of 30 days or more without first obtaining a tax receipt, shall be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed \$500.00 or both."

The EnerGov system did not indicate any BTRs issued to AES Portable during the audit period. The Code Compliance Department issued four NOVs to the contractor related to performing roll-off services in Miami Beach without a valid BTR during the 2020/21 and 2021/22 fiscal years (CC2021-10851, CC2021-12274, CC2022-12490 and CC2022-13288). The Office of the City Attorney confirmed in a May 25, 2022 email to the OIG that if a roll-off contractor performed services without a BTR in a specific fiscal year, a NOV for operating in the City without a valid BTR can be issued retroactively by the Code Compliance Department.

Results/Recommendations:

The contractor should immediately obtain its 2017/18, 2018/19, 2019/20, 2020/21, and 2021/22 fiscal year BTRs from the Finance Department Licensing Section and resolve any



outstanding NOV. In addition, the Code Compliance Department should issue NOV to the contractor of \$1,000 each related to its failure to timely obtain required BTRs for the 2017/18, 2018/19, and 2019/20 fiscal years. AES Portable should comply with the City Code and timely obtain its future BTRs or be subject to receiving NOV from the Code Compliance Department.

Finance Department Response:

AES Portable has yet to comply with the City Code and obtained its Local Business Tax Receipt (BTR) in a timely manner. If currently operating, they are subject to receiving continued and additional Notice of Violations from the Code Compliance Department. As of February 21, 2023, AES Portable Sanitation has not applied for a BTR, with the Finance Department Licensing Section, for the audit periods of fiscal years 2017/18 through 2021/22.

**Findings Pertaining Solely to the City**

**4. *Two Contact Numbers Were Issued To AES Portable In The City EnerGov System.***

The Tyler Technologies EnerGov system Citizen Self Services (CSS) portal is the web-based interface that customers use to engage with related City needs. Customers, such as AES Portable, create password-protected contact numbers through the CSS portal containing all its relevant information.

Individuals and businesses with email accounts can, and often do, create numerous contact numbers, as there are 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, obsolete or outdated numbers are not inactivated. Examples include the following: several individuals interacting separately with the City but working at the same property address; failure of a customer to remember a selected password; and a customer acquiring a new email account. Regardless of the reason, the number of contact numbers has grown substantially over time, significantly complicating the search process and the determination of outstanding balances.

The creation of more than one contact number in the EnerGov system can cause confusion, as roll-off permits, Code Compliance violations, or outstanding balances may be entered under any of the contact numbers. Consequently, the reviewer must be aware of all contact numbers and examine them in totality to accurately represent the individual or company's status.

The OIG Sanitation Tax Auditor's review of the EnerGov system determined that AES Portable obtained two contact numbers (ID-000105462 and ID-000119187) as of March 30, 2023. As no BTRs or permits were issued to the contractor during the audit period, there were no links for either contact number.

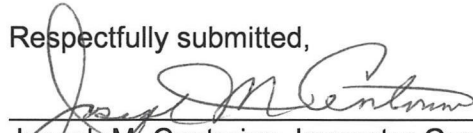
Results/Recommendation(s):

Only one active contact number is recommended to be assigned to each address, whenever possible, to facilitate effective and accurate searches. It is also recommended that the City's 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 should be addressed. The Information Technology Department should also contact Tyler Technologies Inc. to determine whether sub-contact numbers could be linked to the main contact number issued to the property or business owner.

All written responses received by the OIG from affected persons or entities related to the disbursed draft report were included in this final report, in accordance with Section 2-256(h) of the City of Miami Beach Code.

Respectfully submitted,

  
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Joseph M. Centorino, Inspector General

04/04/2023  
Date

  
\_\_\_\_\_  
Mark D. Coolidge, Chief Auditor

04-04-2023  
Date

- cc: Alina T. Hudak, City Manager  
Eric Carpenter, Deputy City Manager  
Joe Gomez, Public Works Department Director  
Bradford Kaine, Sanitation Division Director  
Jason Greene, Chief Financial Officer  
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