



Joseph M. Centorino, Inspector General

TO: Florida Department of Environmental Protection
FROM: Joseph Centorino, Inspector General

DATE: May 6, 2022

PROJECT: State Beachfront Management Agreement (#3595) Operational Audit Report
OIG No. 22-02

PERIOD: October 1, 2019 through September 30, 2020

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 Florida Department of Natural Resources. Amendment number 1, signed on August 9, 2007, extended the original terms for an additional twenty-five (25) years until February 7, 2032.

INTRODUCTION

State Beachfront Management Agreement No. 3595 requires the City of Miami Beach to remit a 25% "sand tax" from 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 the same to the Florida 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, 21st and 46th Streets, and Pier Park who pay for the use of the beachfront as per their respective contractual agreements with the City.
- Miami Beach hoteliers, apartments, and condominium associations located on the beachfront pay beach upland fees to the City annually based on the number of units and concurrent with their business tax receipt fees. This category also includes non-upland fee properties that have negotiated an agreement with nearby upland fee properties whereby their residents can use the beach amenities of the upland properties.
- Special Event Permits are granted to members of the public who run organized, usually one-time only events on beachfront space, which may also require the parking of essential vehicles on sand areas. Payments from these special events are remitted to the City's Tourism and Culture Department.
- Special event and Film and Print productions requiring the parking of essential vehicles on the beach or sand areas must purchase Vehicle Beach Access passes from the City's Tourism and Culture Department.

The City remitted the following four sand tax payments totaling \$418,681.51 to the State of Florida

based on the applicable revenues collected during the 2019/20 fiscal year:

Check Date	Period	Check Number	Check Amount
01/17/2020	Oct-Dec 2019	447718	62,532.69
04/20/2020	Jan-Mar 2020	451250	173,948.38
07/22/2020	Apr-Jun 2020	453868	163,960.31
09/30/2020	Jul-Sep 2020	456648	18,240.13
TOTAL			\$418,681.51

OVERALL OPINION

Based upon the City of Miami Beach Office of the Inspector General (OIG)'s examination of City records, it was determined that the City inadvertently underpaid the State of Florida by a total of \$18,605.94 during the October 1, 2019 through September 30, 2020 audit period.

PURPOSE

The purpose of this audit is to determine whether the City complied with State Beachfront Management Agreement No. 3595's terms by accurately calculating, timely remitting, and adequately 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.

FINDINGS AND RECOMMENDATIONS

The OIG reviewed every reported transaction occurring during the City's 2019/20 fiscal year that was recorded in sand tax general ledger account number 601-7000-229068, as well as all provided supporting documentation. In addition, follow-up testing was performed on all deficiencies identified during the 2018/19 fiscal year audit to verify that the State was accurately compensated. As a result, it was determined that the City owed the State a net total of \$18,605.94 (\$19,206.61 underpayment in finding #1 - \$600.67 overpayment in finding #2) due to the following sand tax underpayments and overpayments:

1. **FINDING:** Sand tax underpayments to the State of Florida totaling \$19,206.61
 - a. Incorrect billings by the Tourism and Culture Department Special Events Division resulted in twenty identified events in which \$468.96 in sand tax was not properly remitted to the State of Florida. The individual entities that comprise this underpayment are listed in Exhibit A located at the end of this audit report.
 - b. Beachfront upland fees were invoiced and collected by the Finance Department's Licensing Section, but sand tax was mistakenly not applied, resulting in a \$148.75 underpayment to the State of Florida. Refer to Exhibit B located at the end of this audit report.
 - c. The Facilities and Fleet Management Department did not include sand tax on the additional lump sum paid by Penrods Brothers Inc., which was necessary to satisfy

the required minimum guarantee, resulting in a \$4.52 underpayment to the State of Florida.

- d. The tested Boucher Brothers Inc.'s 21st and 46th Street concession payments were not adequately distributed among the City's general ledger accounts by the Facilities and Fleet Management Department. Consequently, the State of Florida was underpaid by \$14,853.13.

A review of the 1st Minimum Guarantee (MG) payment for the 2019/20 fiscal year remitted by Boucher Brothers Inc. on December 31, 2019 (invoice #23791) determined that sand tax was not applied. As a result, the State of Florida was underpaid by \$14,853.13. Once notified of the omission, the Asset Management Division Director took the appropriate corrective action and created journal entry #09-088 on June 8, 2021.

- e. Prior findings from the 2019/19 fiscal year audit were not accurately resolved, resulting in a \$3,731.25 sand tax underpayment. More detail on this underpayment is included in the following points:

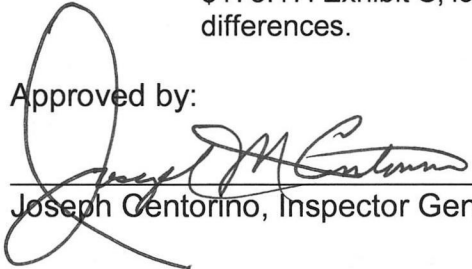
- Eight hoteliers (Crystal Beach Development Corp, Edition Management LLC, The Bath Club Entertainment LLC, Grand Beach Hotel, Carillon Hotel LLC, Shore Club Property Owners LLC, Setai Hotel, and The Palms South Beach Inc.) were inaccurately billed upland fees in the EnerGov system due to a systematic rounding error. As a result, these hoteliers were overbilled by \$2,712.00, and the State of Florida was overpaid by \$678.00 in sand tax. However, it was noted that the request for credit from the State was not correctly completed for the following three upland properties: (1) Shore Club Property Owners LLC, permit number: RL-10007078; (2) Setai Hotel, permit number: RL-10007896; and (3) The Palms South Beach Inc. permit number: RL-92162870 in the total sand tax amount of \$206.75.
- The Setai Hotel was incorrectly billed for 88 units for the fiscal year 2017 through 2020. According to the Miami-Dade County Property Appraiser's records, the property consists of two different addresses, with 267 units. OIG staff calculated that the Setai Hotel was underbilled by \$15,752.00 for the additional 179 units from 2017 through 2020. After collecting the total amount of revenue due to the City from Setai Hotel and completing the necessary adjusting journal entries, \$3,938.00 in sand tax amount should be added to the City's next quarterly sand tax payment to the State.

2. **FINDING:** Sand tax overpayments to the State of Florida totaling \$600.67.

- a. A comparison of the beachfront concession permit fees invoiced by the Finance Department's Licensing Section and the Signed Beachfront Concession Letter Agreements issued by the Facilities and Fleet Management Department revealed a net sand tax overpayment of \$425.50. Three permit fee transactions were incorrectly overbilled by \$2,553.00 and paid by the following: (1) East Atlantic Gardens Condominium, license number: RL-03000512; (2) King Richard Condominium, license number: RL-03000189; (3) Eden Roc, LLLP, RL-10004440. This resulted in a total sand tax overpayment to the State of Florida during the audit period in the amount of \$425.50 based on overbilled food and beverage permit fees.

- b. Incorrectly reported food and beverage sales from the beachfront concessionaire, Penrods Brothers Inc., resulted in a net overpayment of \$175.17 to the State of Florida. It was noted that November 2019's beach sales were incorrectly reported to the City. In addition, the City incorrectly calculated and recorded the sand tax due on the reported September 2019 figures. The general ledger account related to sand tax was overstated, and the State of Florida was overpaid by a net total of \$175.17. Exhibit C, located at the end of this audit report, provides a listing of these differences.


Approved by:



Joseph Centorino, Inspector General


05/06/2022
Date

Reviewed by:



Mark D. Coolidge, CPA, CIA, CIGA
Chief Auditor

05/06/2022
Date



Norman Blaiotta, CIA, CFE, CIGA
Deputy Chief Auditor

5/6/2022
Date

Completed by:



Tomas Valdes, CIGA Auditor

05/06/2022
Date

cc: Alina Hudak, City Manager
John Woodruff, Chief Financial Officer

**SCHEDULE OF DIFFERENCES
BEACHFRONT MANAGEMENT AGREEMENT
FISCAL YEAR 2019/20
EXHIBIT A**

REVENUE CATEGORIES	ENTITY/EVENT NAME	FEES BILLED *	OIG CORRECTED FEES AMOUNT	BEACH CONCESSION 25% DUE TO STATE	VEHICLE BEACH ACCESS 25% DUE TO STATE	SPECIAL EVENT SQ FT 25% DUE TO STATE	TOTAL 25% DUE TO STATE	REMITTED TO STATE	OWED TO STATE**
1	SPECIAL EVENTS	BB_Deco Productions-Cisco Beach	\$1,275.00	\$1,275.00	\$37.50	\$281.25	\$318.75	\$0.00	\$318.75
2	SPECIAL EVENTS	2019 Miami Beach Halloween Half Marathon & Freaky 4-Miler_	\$300.00	\$0.00	\$0.00	\$0.00	\$0.00	\$75.00	(\$75.00)
3	SPECIAL EVENTS	Eiwing Wedding	\$950.00	\$950.00	\$237.50	\$237.50	\$0.00	\$0.00	\$237.50
4	SPECIAL EVENTS	Milonga by KCC	\$450.00	\$0.00	\$0.00	\$229.00	\$0.00	\$229.00	(\$229.00)
5	SPECIAL EVENTS	SOHO House-Pre Art Basel Tent	\$1,673.75	\$1,690.00	\$418.44	\$418.44	\$418.44	\$406.25	\$12.19
6	SPECIAL EVENTS	SOHO House-Art Basel Tent	\$1,673.75	\$1,690.00	\$418.44	\$418.44	\$418.44	\$406.25	\$12.19
7	SPECIAL EVENTS	BB_Edition-Full moon watch party	\$1,628.69	\$1,644.51	\$407.17	\$407.17	\$395.31	\$0.00	\$11.86
8	SPECIAL EVENTS	BB_British Tobacco Beach Reception	\$1,081.50	\$1,092.00	\$270.38	\$270.38	\$270.38	\$262.50	\$7.88
9	SPECIAL EVENTS	BB_IMMUNOTEC/MONDOaquilia Beach BBQ	\$721.00	\$728.00	\$180.25	\$180.25	\$180.25	\$175.00	\$5.25
10	SPECIAL EVENTS	Black & Decker Annual Conference	\$3,360.37	\$3,393.00	\$840.09	\$840.09	\$840.09	\$815.62	\$24.47
11	SPECIAL EVENTS	BB_Tiger Risk	\$869.04	\$877.49	\$217.26	\$217.26	\$217.26	\$210.94	\$6.32
12	SPECIAL EVENTS	BB_Patron Spirits	\$824.00	\$832.00	\$206.00	\$206.00	\$206.00	\$200.00	\$6.00
13	SPECIAL EVENTS	Hakikian And Azulay Faena Beachfront Wedding	\$840.48	\$848.64	\$210.12	\$210.12	\$210.12	\$204.00	\$6.12
14	SPECIAL EVENTS	BB_Event consulting INTL	\$869.06	\$877.49	\$217.27	\$217.27	\$217.27	\$210.94	\$6.33
15	SPECIAL EVENTS	BB_360 Destination FOX	\$1,184.50	\$1,196.00	\$296.13	\$296.13	\$296.13	\$287.50	\$8.63
16	SPECIAL EVENTS	BB_Akoya Beach Reception	\$869.06	\$877.49	\$217.27	\$217.27	\$217.27	\$210.94	\$6.33
17	SPECIAL EVENTS	BB_VEVO Beach Reception	\$1,030.00	\$1,040.00	\$257.50	\$257.50	\$257.50	\$250.00	\$7.50

18	SPECIAL EVENTS	BB_EPIC TRAVEL EVENT	\$1,622.25	\$1,638.00	\$405.56	\$405.56	\$393.75	\$11.81
19	SPECIAL EVENTS	BB_YEXT Beach Reception	\$869.08	\$877.49	\$217.27	\$217.27	\$210.94	\$6.33
20	SPECIAL EVENTS	Kringstein and Sevin Wedding Ceremony	\$310.00	\$310.00	\$77.50	\$77.50	\$0.00	\$77.50
Total			\$22,401.53	\$21,837.11	\$5,297.90	\$5,412.90	\$4,943.94	\$468.96

*Total fees related to the deficiency excluding sales tax

**ANY NEGATIVE AMOUNTS LISTED ABOVE INDICATE THAT THE CITY OVERPAID THE STATE OF FLORIDA, WHILE ANY POSITIVE AMOUNTS MEAN THAT THE STATE WAS UNDERPAID FOR THE REVIEW PERIOD

**SCHEDULE OF BEACHFRONT UPLAND FEES
BEACHFRONT MANAGEMENT AGREEMENT
EXHIBIT B**

	UPLAND CONCESSIONAIRE	UPLAND AMOUNT	INVOICE NUMBER	UPLAND AMOUNT INVOICE	SAND TAX RATE	SAND TAX	SAND TAX PAID TO THE STATE	DIFFERENCE	NOTES
1	King Richard Condominium	\$ 600.00	00240510	\$ 600.00	25%	\$150.00	\$0.00	(\$150.00)	Underpaid
2	SoHo Beach House Hotel	\$ 1,150.00	00236452	\$ 1,155.00	25%	\$287.50	\$288.75	\$1.25	Overpaid
TOTAL						\$437.50	\$288.75	(\$148.75)	

* ANY NEGATIVE AMOUNTS LISTED ABOVE INDICATE THAT THE CITY UNDERPAID THE STATE, WHILE
ANY POSITIVE AMOUNTS MEAN THAT THE STATE WAS OVERBILLED AND IS DUE A REFUND

**SCHEDULE OF BEACHFRONT CONCESSION FEES
BEACHFRONT MANAGEMENT AGREEMENT
EXHIBIT C**

BEACH CONCESSIONAIRE	MONTH	RECEIPT NUMBER	AMOUNT SUBJECT TO SAND TAX	¹ SAND TAX DUE	² SAND TAX PAID	DIFFERENCE (2 - 1)
PENRODS BROTHERS INC	Nov-19	239153	\$1,495.08	\$373.77	\$316.90	(\$56.87)
PENRODS BROTHERS INC	Sep-19	228355	\$1,294.85	\$323.71	\$555.75	\$232.04
TOTAL						\$175.17