

City of Miami

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INDEPENDENT AUDITOR GENERAL



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October 11, 2022

Honorable Members of the City Commission
City of Miami
3500 Pan American Drive
Coconut Grove, FL 33133-5504

Re: Audit of Virginia Key Beach Park Trust
Report No. 23-02

Executive Summary

We have completed an audit of Virginia Key Beach Park Trust (Trust) for the period of October 1, 2016 through July 31, 2022. The audit was directed by an adopted resolution of the Miami City Commission. The audit was performed in order to provide the City Commission and management unbiased and relevant information for use in promoting accountability, stewardship, and improving the Trust's operations. For the fiscal years 2017 through 2021, the Trust received average annual revenues of \$1,166,840 and incurred annual average expenses of \$1,083,015.

As a result of our audit, we recommend the following to enhance internal controls, promote accountability, and to improve the Trust's operations:

- 1) Establish formal policies and procedures to ensure proper administration and billings of special events.
- 2) Establish internal controls to adhere to the City's Procurement Code and best practices.
- 3) Establish separate account codes to track all sources of operating revenues.
- 4) Improve the budget preparation process.
- 5) Adhere to monthly financial reporting requirements to the City Commission.
- 6) Comply with Florida Statutes, City Code, and Trust Policies and Procedures with respect to Sunshine Laws.
- 7) Monitor independent contractor performance and adhere to employee classification requirements.
- 8) Improve internal controls over the bank reconciliation process.

These and other findings are included on pages 3 through 17 of the report.

We wish to express our appreciation for the cooperation and courtesies extended to us by Trust personnel while conducting the audit.

Sincerely,



Theodore P. Guba, CPA, CIA, CFE
Independent Auditor General
Office of the Independent Auditor General

Cc: The Honorable Mayor Francis Suarez
Arthur Noriega, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Larry Spring, Chief Financial Officer/Assistant City Manager
Nzeribe Ihekweba, Assistant City Manager/Chief of Operations
Natasha Colebrook-Williams, Assistant City Manager
Erica Paschal, Director, Finance Department
Marie Gouin, Director, Office of Management and Budget
Angela V. Roberts, Director, Human Resource Department
Ann-Marie Sharpe, Director, Risk Management Department
Annie Perez, Director, Purchasing Department
Guy Forchion, Executive Director of Virginia Key Beach Park Trust
Virginia Key Beach Park Trust Board Members
Members of the Audit Advisory Committee
Audit Documentation File

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AUDIT OF VIRGINIA KEY BEACH PARK TRUST
OCTOBER 1, 2016 THROUGH JULY 31, 2022
REPORT NO. 23-02

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SCOPE, OBJECTIVES, AND METHODOLOGY

In accordance with the provisions of Section 48 of the City of Miami's Charter, and at the request of the City Commission, the Office of Independent Auditor General (OIAG) conducted an audit of the operations of Virginia Key Beach Park Trust (Trust), in order to provide the City Commission and management with unbiased, timely, and relevant information for use in promoting accountability, stewardship, and improving the Trust's operations.

The initial scope period included fiscal years 2017 through 2019 and selected transactions prior and subsequent to this period. Audit field work was substantially completed in March 2020. The completion of the audit was subsequently postponed due to the temporary closure of the Trust, other issues related to the Pandemic, as well as staffing and scheduling priorities. When we resumed the audit, additional procedures were performed to expand the scope period through July 2022. As a result, the audit period for this audit has been revised to be October 1, 2016 through July 31, 2022.

The scope and objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and safeguarding of assets, and identifying weaknesses in those controls.
- Ensure management is maximizing revenue potential.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit methodology included the following:

- Interviews and inquiries of appropriate personnel
- Reviews of written policies and procedures in order to gain an understanding of the internal controls
- Observations of current practices and processing techniques
- Tests of applicable transactions and records
- Other audit procedures as deemed necessary

BACKGROUND

Virginia Key Beach Park Trust (Trust) is a component unit of the City of Miami and is included in the City’s comprehensive annual financial report as a blended component unit. The Trust was established in December 2000 to manage and operate an 82.5-acre historical landmark called “Old County Park”. The governing board of the Trust consists of nine members of which the City Commission appoints the majority of the Trust’s Board of Trustees and approves its annual operating budget.

The purpose of the Trust is to preserve the 82.5-acre property in a manner consistent with the environmental health, public use, historical importance of the park and the aspirations of the African American community and shall propose policy, planning, and design to ensure maximum community utilization, enjoyment, and maintenance of the park as an open greenspace compatible with its historical and recreational characteristics and accessible to the public. The Trust shall endeavor to promote activities and functions at the park consistent with this purpose and with the nature of the park.

For the fiscal years 2017 through 2021, the Trust’s operating revenue ranged from \$417,495 to \$1,887,922 from special event facility rentals, ticket surcharges, pavilion rentals, park entrance fees, fundraising events, film & photo shoots, summer camp facility rentals, and smaller revenue sources such as cabana rentals and vending. The City also contributed funds to the Trust for operations, for the fiscal years 2017 through 2022, ranging from \$150,000 to \$300,000.

For the fiscal years 2017 through 2021, the Trust’s operating expenses ranged from \$850,725 to \$1,342,761 for salary & benefits, contractual services, and general park operations. Salary and benefits accounted for the majority of expenses ranging from \$419,512 to \$666,971 for the period. As of August 2022, the Trust employed 17 employees (eight full-time, eight part-time, and one temporary part-time). Another significant expense included three individuals hired as consultants-independent contractors. (See Financial Highlights below)

Financial Highlights					
Fiscal Years 2017 through 2021					
	2017	2018	2019	2020	2021
Revenue:					
Charges for services	\$ 643,091	\$ 632,468	\$1,887,922*	\$ 417,495	\$ 702,157
Intergovernmental	150,000	306,000	330,430	427,842	300,000
Interest, Investment, and other income	3,477	5,646	26,940	415	318
Total Revenue	\$ 796,568	\$ 944,114	\$ 2,245,292	\$ 845,752	\$ 1,002,475
Expenditures:					
Salaries and Benefits	\$ 419,512	\$ 445,170	\$ 586,789	\$ 666,971	\$ 653,228
Operating Expenditures	313,327	340,377	419,225	446,383	403,411
Independent Contractors	117,886	114,129	152,828	147,692	106,135
Capital Outlay				81,715	
Total Expenditures	\$ 850,725	\$ 899,675	\$ 1,158,842	\$ 1,342,761	\$ 1,162,774
Excess of revenues over expenditures / net change in fund balance	\$ (54,157)	\$ 44,439	\$ 1,086,450	\$ (497,009)	\$ (160,299)

* During the 2019 fiscal year the Trust received \$1 million from hosting the Ultra Music Festival, which is included in Charges for Services.

AUDIT FINDINGS AND RECOMMENDATIONS

As a result of our audit, we recommend the following to enhance internal controls, promote accountability, and to improve the Trust's operations.

Details of our findings and recommendations follow:

FINDING 1: ESTABLISH FORMAL POLICIES AND PROCEDURES TO ENSURE PROPER ADMINISTRATION AND BILLINGS OF SPECIAL EVENTS

The Trust organizes special events in the park which account for approximately 40% of the Trust's revenue.

For each special event, the event promoter is required to submit a Special Event Application, Use Agreement, Damage Deposit, Venue Fees, Vendor Surcharges, Insurance Certificate, Ticket Surcharges, Ticket Manifest, and any additional fees incurred as a result of the event.

The amount charged for use of the Trust Facilities is based on a Fee Schedule developed by park personnel. However, the fee schedule does not include expenses incurred by the Trust such as park employees which are paid \$20 per hour to service events.

The Use Agreement (Agreement) requires that payment be made to the Trust at least seven days prior to the event for venue fees, setup/breakdown days, vendor fees, damage deposits, and ticket surcharge with the final amount to be determined after the event. The Agreement also requires a damage deposit of \$1,000 to \$2,000 per day, which is intended to secure all user's obligations including damages, fees, or costs. If the Damage Deposit is insufficient to pay the balance, then the promoter shall pay the balance within 10 business days. The Agreement also requires that the promoter obtain adequate insurance coverage for the Use Period including naming the City of Miami and Virginia Key Beach Trust as Additional Insured.

Our examination of 16 special events disclosed the following:

Type of Exception	Frequency
Use Agreements were not completed prior to the Use Period	5 of 16
Damage Deposits were either insufficient to cover additional expenses or returned to the promoter prior to the Trust receiving payment in full.	11 of 16
Payments for the event were received after the Due Date	14 of 16
Venue Fees charged to promoters were less than the Fee Schedule	8 of 16
Promoters were not charged for expenses incurred by the Trust	14 of 16
Inadequate Insurance Coverage for Use Period	4 of 16
Ticket Surcharges not administered in accordance with City Code.	13 of 15

As a result of the above-mentioned deficiencies, the Trust did not achieve maximum revenues for special events and ticket surcharges and was not always sufficiently insured. It should be noted that prior to the conclusion of our audit the Trust obtained fully executed Use Agreements prior to the use period.

RECOMMENDATION 1:

We recommend that the Trust:

- 1) Complete Use Agreements on a timely basis prior to the use period.
 - 2) Establish a systematic process to assess the amount of damage deposit for events based on event characteristics such as attendees, area of use, and days used.
 - 3) Collect all estimated fees prior to allowing promoters to use the Trust's facilities.
 - 4) Establish a review process of invoices rendered to promoters to ensure the accuracy of charges.
 - 5) Enforce the contract provision by applying the damage deposit to outstanding fees owed to the Trust.
 - 6) Revise Fee Schedule, to include services provided by the Trust (i.e., Staffing).
 - 7) Invoice event promoters for expenses incurred due to the event.
 - 8) Establish controls to review insurance requirements.
 - 9) Assess Ticket Surcharges in accordance with the City Code.
 - 10) Include a "Right-to-Audit" provisions in all future use agreements with event promoters in order to ensure that the Trust's and City's interest are protected and that revenues are optimized.
- **Auditee Response:** The Trust agrees with the recommendations and will implement the following corrective actions:
 - The Trust will ensure that a Use Agreement is executed for all Special Events held at Historic Virginia Key Beach Park on a timely manner including the set-up and break-down days.
 - The Trust has implemented a new damage deposit policy increasing the \$1000 per event day. The Trust will assess damage deposits based on a percentage of the venue fees per day of the Use Period.
 - The Trust implemented a change in procedure to ensure that all fees are invoiced before the Use Period.
 - A final invoice for any outstanding fees will be sent to the Event Organizer immediately following the event.
 - The Trust will revise the fee schedule to include services (where applicable) provided by the Trust.
 - The Trust adjusted/increased Ticket surcharge fees in fiscal year 2019 in accordance with City Code. Those changes are reflected on all Special Event forms and fees will be collected accordingly for all events.
 - The Trust will collect ticket surcharge fees seven days prior to the Use Period.
 - The Trust will include a Right to Audit provision on all future use agreements.
 - **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.

FINDING 2: ESTABLISH INTERNAL CONTROLS TO ADHERE TO THE CITY’S PROCUREMENT CODE AND BEST PRACTICES

The Authority for the Trust to expend monies is set forth in City Code Chapter 18, Article III (Procurement Code), the Trust By-Laws, and in the Trust’s Policies and Procedures Manual.

While the Trust must adhere to the City’s Procurement Code, procurement policies and procedures have also been established by the Trust in their Policies and Procedures Manual. While the Manual mirrors the City Code, it has also established additional purchasing policies and procedures, including the use of “Travel and Miscellaneous Expense Report” and the “Entertainment and Business Gift Expense Report” in order to document details of expense transactions such as date, location, public purpose, nature of transaction, and authorization for the expense.

We reviewed the Trust’s procurement process for Contractual Services, Travel Expense Reimbursements, Miscellaneous Expense Reimbursements, and General Trust Expenses which disclosed the following:

Contractual Services

We examined eight vendors with payments totaling \$188,595 and found the following exceptions for all eight vendors:

- Not selected in accordance with City Code regarding bids, proposals, or solicitations.
- Purchase Orders were not supported with a proposal, quote, estimate, or contract. Alternatively, invoices for services rendered were used as support for the Purchase Orders.

Employee Travel Expense and Miscellaneous Expense Reimbursement

We examined 58 travel expenses reimbursements totaling \$16,154 and 75 Miscellaneous expense reimbursements totaling \$38,565. We noted that employees were reimbursed in their bi-weekly payroll checks, which is disbursed by an independent payroll company. Submitting reimbursements through the City’s Finance Department would provide an additional level of review. Additionally, for all Travel and Miscellaneous expense reimbursements reviewed, the required Travel and Miscellaneous Expense Report forms were not used to document the employee, place, public / business purpose, details of the expense, nor were there supporting documents reflecting that the expenses were reviewed or authorized. As result, a significant control deficiency existed to ensure expenses were for a public purpose in accordance with the purpose of the Trust. Although the Trust provided some notated invoices or receipts, there was a lack of complete documentation to support expenses, since key information required by the Travel and Miscellaneous Expense Report forms was not prepared. Examples of questionable expenses that lacked sufficient documentation are noted below:

Travel Expense Reimbursements Lacking Documentation	Frequency	Amount
Travel expense reimbursements unsupported with receipts or invoices	3	\$2,057
Reimbursement for a conference registration fee of \$575 with no receipt on 8/4/18. The same employee was reimbursed \$425 on 8/18/18 for the same conference with a receipt.	1	\$575
Milage Reimbursement for Personal Use	1	\$12
Misclassified Expenses (Non-Travel)	6	\$4,680

Miscellaneous Expense Reimbursements Lacking Documentation	Amount
Three unsupported journal entries.	\$4,979
500 Beach Balls, 1,000 Whistles, 500 cooling towels, 2 magnetic signs, 2 Tables runners	\$3,541
Three payments made to individuals by personal check, that may have required the issuance of Internal Revenue Service Miscellaneous Income Form 1099.	\$3,332
2,500 brochures, business cards with tote bag, letter head with envelopes, direct mailings, and custom holiday cards.	\$2,623
Holiday Gift Cards for employees and consultants: 9 Issued in 2017 and 16 issued in	\$2,500
Storage Rental: Unit #3056	\$2,335
Employee lunch at Ruth Chris Steakhouse (\$1,306.74 Food + \$200 Tip)	\$1,506
Photographer, printing, and framing of a photo.	\$1,430
Advance Deposit on Board Planning Retreat (No Public Notice and no public access) at The Betsy Hotel South Beach	\$1,255
Marketing and Advertising Services: email marketing service, targeted email, postal, and phone service, and advertisement	\$1,231
GoPro Camera \$500 with \$401 accessories and service contract	\$901
Three Verizon Hotspots charged to a personal cellular account (annual \$1,299)	\$325
Employee Lunch – Boston Market	\$230
2-year domain renewal for a website that was last updated in 2014.	\$81

General Trust Expenses

We examined 26 purchases totaling \$120,110 of general Trust expenses and noted that the Trust did not adhere to the City's Procurement Code related to the following four criteria:

Criteria	Exception	Number of Purchases
A	Transactions were artificially divided into two or more transactions (Split Transactions). 1) Purchases totaling \$13,669 from the same vendor on the same date divided into 4 transactions. 2) Purchases totaling \$3,830 from the same vendor on the same date divided into 2 transactions 3) Purchases totaling \$3,939 from the same vendor on the same date divided into 2 transactions.	3
B	The Trust did not adhere to the Procurement Code in administering the procurement process for bids/solicitations totaling \$84,890.	13
C	Required quotes, estimates, or contracts were not submitted with the purchase orders totaling \$35,478. Alternatively, invoices for services rendered or goods received was submitted with the purchase orders.	8
D	No document evidencing the public purpose for the expenses as follows: 1) \$22,356 – paid to one vendor for 3 dates for 20,000 paper hand fans, 10,000 Printed Plastic Cups, 710 T-shirts, and 500 Tote bags 2) \$400 – Tour Bus 3) \$1,436 – Purchase of 1,008 toy sea turtles	5

The Trust's internal controls over procurement is significantly deficient. Although the City and the Trust has established policies and procedures based on state law, the Trust did not adhere to established controls resulting in significant documentation and authorization concerns. Finally, it should be noted that management stated that they discontinued the practice of providing employees/independent contractors gift cards or holiday meals at restaurants.

RECOMMENDATION 2:

We recommend that the Trust:

- 1) The Trust's employees attend Procurement Training with the City's Procurement Department.
 - 2) Adhere to all City and Trust established policies and procedures for procurement, including but not limited to, obtaining bids/proposals/solicitations, required supporting documents for expenses, documentation of public purpose, and obtaining estimates, quotes, or contracts prior to procuring services or goods.
 - 3) Submit purchase orders for approval with required estimates, quotes, or contracts for goods and services.
 - 4) Complete Travel and Miscellaneous Expense Report forms to properly document key information for these expenses.
 - 5) Process employee reimbursements through the City Finance Department.
 - 6) Limit the use of personal credit cards and checks by obtaining a P-Card with controls to ensure only allowable purchases are made including per transaction and daily limits.
 - 7) Negotiate contracts with vendors for indeterminate number of repairs, parts, supplies, and services with specific monetary limits for use as blanket purchase orders. i.e. cleaning services, parking staffing, security guards, printing, etc.
 - 8) Restrict purchases that artificially divide transactions (Split Transactions).
- **Auditee Response:** The Trust agrees with the recommendations and will implement the following:
 - Trust employees will attend Procurement training with the City of Miami Procurement Department and adhere to all City and Trust established policies and procedures for procurement.
 - The Trust will require estimates or quotes (instead of invoices) prior to obtaining services or goods.
 - The Trust will complete the travel and miscellaneous expense report forms to properly document key information for these expenses.
 - The Trust will contact the City of Miami Finance Department for training on processing employee reimbursements.
 - The Trust will contact the City of Miami Procurement Department to discuss obtaining a P-Card. If P-card is approved, it will limit the usage of personal credit cards and personal checks.
 - The Trust will restrict purchases that are split transactions and get all quotes from the same vendor on one estimate.
 - **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.

FINDING 3: ESTABLISH SEPARATE ACCOUNT CODES TO TRACK ALL SOURCES OF OPERATING REVENUE

For the fiscal years 2017 through 2021, the Trust reported revenue ranging from \$796,600 to \$2,245,292 (includes \$1 million from hosting the Ultra Music Festival). The Trust's Standard Operating Procedures for posting to the general ledger requires that cash receipts be posted to

their corresponding general ledger account; and that a schedule of all revenues received and due at year-end be prepared. The current year's amounts should be compared to the prior year to evaluate and comment on any significant differences; a memorandum should be prepared for any new revenue accounts; and a schedule of revenues by type should be prepared for inclusion in the annual report.

The Trust earns operating revenue from special event facility rentals, ticket surcharges, pavilion rentals, park entrance fees, fundraising events, film and photo shoots, summer camp facility rentals, cabana rentals, and vending. The Trust's revenue projections in the adopted budget classifies revenue by these sources.

However, our review of revenue transactions disclosed that all revenue generating activities are comingled in either account 449000-CFS (Charges for Services), or account 469000 (Other Miscellaneous Revenues). According to the Finance Coordinator, for the period October 2016 through November 2017, account 449000-CFS (Charges for Services) was used for all revenue, then in December 2017, account 469000 (Other Miscellaneous Revenues) was used to account for parking revenue.

Also, the audited financials and the monthly income statements reported revenue as Charges for Services and did not provide the source of the revenue generating activity.

The Finance Coordinator stated that since the revenue is not identified by source when recorded, the Trust did not perform a revenue analysis, and they did not track the amount of revenue generated from each revenue source. However, it should be noted that prior to the conclusion of our audit, management has taken steps to manually track revenues.

RECOMMENDATION 3:

We recommend that the Trust implement an accounting software system to:

- 1) Record operating revenue in the general ledger based on its source or activity by establishing separate account codes.
- 2) Revise the monthly income statement to include revenue by its source.
- 3) Prepare a schedule of revenues by type for inclusion in the annual report.

- **Auditee Response:** The Trust agrees with the recommendations and will implement the following:

- The Trust will implement an accounting software to record operating revenue in the general ledger based on its source or activity by establishing separate revenue accounts.
- The Trust will revise the monthly income statement to include revenue by its source and not just under one account.
- The Trust has implemented a manual tracking system creating monthly Excel reports to track revenues. These reports will be more easily facilitated when the accounting software is implemented.

- **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.

FINDING 4: IMPROVE THE BUDGET PREPARATION PROCESS

The Trust's Accounting Policy (Policy), provides that, "An operating budget is twofold: first, it is a plan of action for future activity and, second it is a device for monitoring ongoing activity." The Policy provides that the previous year's actual results (recommends 3 years actual results) should be analyzed, then used to apportion the current year's budget according to the same profile, while taking into consideration external factors such as inflation, cost of living, etc. The Policy further provides that the budget be compared to monthly operating statements, which should be promptly prepared in detail so that variances can be readily identified, and immediate action can be taken to correct any deviations from the budget.

Our review of the budgets disclosed that they were not based on the previous years' actual results of the Trust as reported in the audited financial statements. Additionally, the FY 2019 and 2020 budgets, projected results were based on the prior year's adopted budgeted values rather than the year's actual performance.

Monthly income statements are prepared and provide a comparison with the prior year's revenue for the month. However, the income statement provides revenue as a one-line item from various park activities as noted in Finding No. 3, Page 7. As a result, revenue and expenses cannot be analyzed by source to identify and take action if a significant deviation from the budget were to occur.

The City Commission, the Board of Trustees, and the Budget Department, rely on timely, accurate, and concise information to make decisions in the best interest of the Trust. When presented with unsupported financial information, decisions based on the information may have undesirable consequences.

RECOMMENDATION 4:

We recommend that the Trust improve the budget preparation process by:

- 1) Utilizing the three prior year income statements to prepare the annual operating budget taking into consideration external factors such as inflation, cost of living, etc.
- 2) Monitoring and analyzing revenue and expenses monthly and explain any significant variances between actual, prior year, and budgeted amounts.

- **Auditee Response:** The Trust agrees with the recommendations and has implemented the following:
 - A procedure of using the three years income statements to prepare the annual operating budget.
 - A procedure to monitor and analyze revenue and expenses monthly.
- **Implementation Date:** Implemented.

FINDING 5: ADHERE TO MONTHLY FINANCIAL REPORTING REQUIREMENTS TO THE CITY COMMISSION

To comply with requirements of City Code and the Trust's Bylaw's, the Trust's Standard Operating Procedures for Management Reporting require that the Executive Director or designee periodically prepare and present to the Board, an Executive Director's Report relating to the Trust's financial condition, general administrative operations, and other information relating to the maintenance of the park. Furthermore, the Procedure requires that, monthly written status reports that include financial statements (balance sheet, income statement and cash flow statement) be prepared and submitted to the Miami City Commission after review by the Trust's Treasurer and/or Board of Trustees.

For 29 monthly reporting periods reviewed, we noted that none of the required monthly status reports relating to the Trust's financial condition were submitted to the City Commission. We also noted that while a monthly income statement is prepared, it does not provide the sources of income generated from Trust operations (see Finding 3, Page 7). Further, monthly balance sheets and cash flow statements were not prepared for any of the months reviewed. Of the income statements prepared, we found that 20 of the 29 (69%) were presented late to the Board (33 to 37 days after month-end), and 9 of 29 (31%) were not presented to the Board of Trustees for review.

Based on inquiry, the Executive Director and the Finance Coordinator stated that only the income statements are produced monthly, and no other monthly reports are produced nor sent to the City Commission. They further stated that the income statements are dependent upon the completion of the City's monthly closing process since they rely on Oracle for financial statement preparation rather than having an in-house accounting software system. However, based on the Trust's policies and procedures, the Trust should be able to generate these reports independent of the City's monthly closing process.

The City Commission and the Board of Trustees rely on timely and relevant information in order to make decisions in the best interests of the Trust. When presented with no or untimely information, the City Commission and the Board are unable to make informed decisions.

RECOMMENDATION 5:

We recommend that the Trust adhere to the monthly reporting requirements of the City Code, Trust Bylaws, and the Trust's Policies and Procedures. Also, implement an accounting software system to:

- 1) Close all transactions for the prior month within a few days after month-end.
- 2) Prepare an Executive Director's Report and Financial Statements (an income statement, balance sheet, and statement of cash flows).
- 3) Submit the Executive Director's Report and Financial Statements to the Board of Trustees prior to monthly Board meetings.
- 4) Submit the Executive Directors Report and Financial Statements to the City Commission after Board of Trustee's approval.

- **Auditee Response:** The Trust agrees with the recommendations and will implement the following:
 - The Trust will adhere to the City Code and Trust Bylaws.
 - The Trust will implement an accounting software to assist in the closing of the month.
 - The Trust will create an Executive Director Report with Financial statements.
 - The Trust compiles complete financial reports reconciled with the City of Miami monthly. Going forward the financials will be reconciled in-house using accounting software monthly, approved by the Trust Board of Trustees and reported to the City of Miami Clerk, City Commission, Mayor and Manager following the Board approval each month.
 - A monthly Executive Director's report will be prepared highlighting significant progress reports, Museum Project, Capital Improvements, Public Programs, Special Events, Volunteerism, Development, and Environmental Status updates. The Executive Director's Report will be provided to the Trust Board of Trustees for review prior to the next scheduled Board Meeting and subsequently approved by the Trust Board of Trustees. The Executive Director's monthly report will be shared with the City of Miami Clerk, City Commission, Mayor, and Manager each month.

- **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.

FINDING 6: COMPLY WITH FLORIDA STATUTES, CITY CODE, AND TRUST POLICIES AND PROCEDURES WITH RESPECT TO SUNSHINE LAWS

Florida's Government Sunshine Law (Sunshine Law) provides a right of access to governmental proceedings of public boards or commission at the local levels. The law is applicable to appointed boards and applies to any gathering of two or more members of the same board to discuss a matter which will foreseeably come before that board for action. There are three basic requirements of the Sunshine Law:

- 1) meetings of public boards or commissions must be open to the public.
- 2) reasonable notice of such meetings must be given; and
- 3) minutes of meetings must be taken and promptly recorded.

City Code specifically provides that the Sunshine Law is applicable to any City board or executive committee and minutes of each meeting shall be made available by the City Clerk to the public. Additionally, the City Code provides that, "All meetings of the Trust shall be public. Written minutes of the proceedings of all actions taken at the meeting of the Trust shall be maintained by the Trust and shall be promptly and properly recorded and submitted to the city clerk."

According to the Executive Director, all Board Members attend all meetings including the monthly Board Meetings, committee meetings, special meetings, and retreats. We reviewed 101 Board meetings which included the monthly Board Meetings, the Museum Planning and Audit/Budget/Development Committee, the Museum Planning and Historical Preservation and Nature/Environment Committee, the Museum Planning Committee, and special meetings.

We determined that the Trust is not in compliance with the Florida Sunshine Law or the City Code, concerning public access to meeting, public notice requirements, record keeping including meeting minutes, and submission of meeting minutes to the City Clerk Office for recording purposes. Our audit procedures disclosed the following:

- 7 instances (7%) where public notice of board meetings was not given.
- 79 instances (78%) where board meeting minutes were not taken or inaccurately taken.
- 101 instances (100%) where board meeting minutes were not submitted to the City Clerk for recording purposes.
- 101 instances (100%) where board meeting minutes were not approved by the Board or timely approved by the Board (6 were approved between 210 - 364 days after the meeting; 16 were not approved; 79 were not taken).

Based on inquiry, the Executive Director stated that minutes are only taken for the monthly Board Meetings and not committee meetings, special meetings, or board retreats. It should be noted that the Trust provided that they recently have reduced the number of meetings held as compared with earlier years.

Without adhering to the requirements of Florida Statute and City Code the City Commission has limited information to make decisions. Furthermore, the citizens do not always have the opportunity to attend meetings or to review meeting records.

RECOMMENDATION 6:

We recommend that the Trust comply with the Sunshine Law and City Code by:

- 1) Providing public notice for all meetings and conduct meetings within the City of Miami.
 - 2) Obtaining a transcription service to provide minutes of all meetings.
 - 3) Providing Board of Trustees members meeting minutes for approval prior to the next meeting.
 - 4) Promptly submitting the meeting minutes to the City Clerk for recording purposes.
- **Auditee Response:** The Trust agrees with the recommendations and will implement the following:
 - The Trust submits public notice for all Board of Trustee meetings at the start of each new year. Public notice requests are submitted to the City of Miami Clerk's Office and noticed on the City of Miami public calendar; any emergency meetings are requested individually through the Clerk's Office and publicly noticed. Going forward the Trust will create an internal two-step public notice and confirmation process coordinated with the Clerk's Office to ensure public notice of all meetings follows City Code.
 - All Trust Board of Trustee meetings will be held within the City of Miami.
 - Currently, the recording and transcription of all Board of Trustee meeting minutes are completed by the Trust Administrative Assistant and reviewed by the Executive Director. The Trust is investigating viable transcription services to complete this task to ensure accuracy and the timely delivery of all Board meeting minutes and meeting attendance records to satisfy City Code.

- Accurate and timely completion of the Board meeting minutes, and attendance records will ensure the delivery of these documents to each Board of Trustees member prior to the next scheduled meeting.
- **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.

FINDING 7: MONITOR INDEPENDENT CONTRATOR PERFORMANCE AND ADHERE TO EMPLOYEE CLASSIFICATION REQUIREMENTS

The City Code provides that “Persons retained as expert consultants means individuals acting as independent contractors retained by the city manager on a contract basis with a specific term for the purpose of performing specialized defined tasks that require knowledge, skills and training not otherwise available to the city by temporary or permanent members of the classified or unclassified service and which tasks, by their nature, require independent and autonomous judgment. Remuneration for the services of such persons shall not exceed one hundred twenty-five thousand dollars (\$125,000.00) in any one year and shall be payable on a per diem basis.”

The Trust has employed four individuals as independent contractors for personal services with payments totaling \$775,271 for the period of October 1, 2016 through July 31, 2022. The independent contractors were used as a Special Events Coordinator, Marketing and Community Relations Coordinators (two contractors), and Special Projects & Outreach coordinator. Although, they are contracted employees, their job functions are of a permanent basis, since all four have worked for the Trust for over four years (three current and one is no longer with the Trust). The independent contractors function as employees of the Trust and are provided use of Trust resources such as office space, equipment, software, subscriptions, purchasing of supplies & materials. They also supervise Trust employees and are required to work a specified amount of weekly hours. Additionally, the independent contractors present themselves as representatives of the Trust, including but not limited to, the use of city email addresses, by title, at events, and when working with vendors and the general public.

In addition, our audit procedures disclosed a lack of monitoring procedures to ensure that independent contractors comply with applicable contract terms and conditions and satisfactory receipt of services to support the payments made.

Based on our review of the Consulting Agreements and documents supporting payments made to or on behalf of the consultants, we noted the following:

- I. The Special Events Coordinator, who is responsible for special events (approximately 40% annually), the Trust’s largest revenue source. The consultant is responsible to assist in working and securing existing events to the park as well as work on securing new business for the park. Their current agreement provides for annual compensation of \$30,784 (\$37 per hour) for 16 hours per week plus 15% of net profit from new events or 7.5% of net profits for returning events. During the period of October 1, 2016 through July 31, 2022 the consultant was paid a total of \$356,048. Based on the agreement and special event commission payments reported to us, we estimate the consultant will be compensated \$58,086 for the 2022 fiscal year.

- We noted that all Special Events Revenue Reports submitted for Commission payout were based on gross revenue rather than net revenue (after expenses) for events, resulting in overpayments. However, we could not accurately quantify the overpayments.
- II. The Special Projects & Outreach Coordinator responsibilities include assisting in the planning, implementation, and completion of the Trust's Special Projects List, grants and funding source identification, grant writing, local chamber of commerce and community organization outreach and relationship building for the Trust. The current agreement provides for annual compensation of \$30,576 (\$49 per hour) for 12 hours per week. During the period of October 1, 2016 through July 31, 2022, the consultant was paid a total of \$203,455. Our audit procedures disclosed the following:
- Assigned responsibilities overlap with the Marketing coordinator, the Development Coordinator, and the Special Events Coordinator.
 - Required semi-monthly written event reports summarizing special event activities, upcoming calendar of events, major event prospects, event solicitation and special events office and City Services interactions, were unavailable for our review.
- III. The Marketing Coordinator responsibilities include updating the website, assisting in the planning, implementation and completion of the Trust's marketing special projects, coordinating with Trust grant writing, and local chamber of commerce and community organization outreach and relationship building for the promotion of the Trust. Their current agreement provides for annual compensation of \$42,432 (\$34 per hour) for 24 hours per week. During the period of October 1, 2016 through July 31, 2022, the consultant was paid a total of \$187,518. Our audit procedures disclosed the following regarding the performance of the consultant:
- Assigned responsibilities overlap with the Special Projects & Outreach Coordinator and the Development coordinator.
 - Responsible for updating the website. However, at the time of our audit procedures in October 2019, the website was not updated or reflected outdated information.
- IV. The Social Media Marketing Services/Community Relations Consultant. The Trust approved a proposal without a written contract for a Social Media Marketing Services/Community Relations consultant for the period of 9 months during 2015 at a rate of \$1,250 per month (total \$11,250) which was required to be paid in advance prior to services rendered. The consultant's responsibilities included Social media marketing, Newsletter, and Public Relations/Marketing. During fiscal years 2017 and 2018, the consultant was paid a total of \$28,250.
- Despite the proposal termination date of September 2015, the Trust continued to pay the consultant through April 2018 with no contract or agreement in place (3 years after the termination date of the proposal). For the period of January 2015 through April 2018, the consultant was paid a total of \$57,950 or \$46,700 more than the original approved amount of \$11,250.

Without having an established formal review of Independent Contractors' performance, the Trust may not be receiving the services agreed upon in the consulting agreement. Additionally, the Trust should ensure consulting agreements are in place for any consultant hired, which includes a contract begin/end date, specialized defined tasks, and procedures to document benchmark or milestones expected of the consultant.

Classification of consultants

As noted above, based on our review of the consulting agreements, payments made to the consultants, and the relationship created by the Trust with these consultants, our office requested a legal opinion from the City Attorney's Office on whether the consultants employed by the Trust should be classified as employees, rather than independent contractors. Their analysis was limited to the Special Events Coordinator, the Marketing Coordinator, and the Special Projects & Outreach Coordinator.

The City Attorney's Office provided a Brief Answer and Discussion that states, "Based on the information provided by your office, the consulting agreements at issue have created an employee-employer relationship with the Trust, for tax purposes only. It is important to note that the Internal Revenue Service takes a far broader view of employment than would be the case for other legal purposes. The Trust is free to contract with these individuals as independent contractors without triggering other employment related issues."

As a result, the City Attorney's Office concluded, "Based on the above analysis, the pertinent factors weigh heavily in favor of classification of the identified consultants as employees of the Trust for tax purposes. Particularly the degree of control factor, which is weighed very heavily in the analysis, would suggest employee status for each of the consultants at issue. The Office of the City Attorney would recommend that the Trust consult with the City's finance and/or payroll departments with respect to the most advisable course of action to process the taxes related to these consultants' compensation."

RECOMMENDATION 7:

- 1) The Trust should ensure consulting agreements are in place for any consultant hired which include a contract begin/end date, specialized defined tasks, and procedures to document milestones expected of the consultant.
 - 2) The Trust should independently review and document any invoice submitted by consultants to verify that the agreed upon services in the agreement are performed.
 - 3) The Trust should consult with the City's finance and/or payroll departments with respect to the most advisable course of action to process the taxes related to consultants' compensation.
- **Auditee Response:** The Trust agrees with the recommendations and will implement the following:
 - The Trust currently executes consultant agreements that include clear begin and end dates and identifies specialized tasks expected of the consultant. Going forward the Trust consultants' agreements will clearly identify the need for monthly progress reports and project milestones reviewed by the Executive Director that will ensure that the Trust receives the services identified in the contractual agreement and the desired performance expected by the Trust.

- All Trust consultants' invoices will be reviewed internally by the Trust Finance Coordinator and subject to a second review and approval by the Executive Director before payment is issued. This internal two-stage review and approval process by the Trust will ensure that the agreed upon services and desired performance of the consultant is met to the satisfaction of the Trust.
- The Trust will seek the advice of the City of Miami's Finance and Human Resources/Payroll departments regarding the potential tax status related to Trust consultants' compensation through a Legal Services Request (LSR); this will ensure the best policy and procedure going forward to adhere to City Code.
- **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.

FINDING 8: IMPROVE INTERNAL CONTROLS OVER BANK RECONCILIATION PROCESS

Trust Policies and Procedures requires that monthly bank reconciliations be performed to ensure that errors do not accumulate and can be readily and easily identified and attributed to a period. The Trust Policies and Procedures requires that a bank reconciliation process should be performed for bank accounts held by the Trust. For bank accounts held by the City, the reconciliation should be requested and reviewed for accuracy.

The Trust's operating funds are held by the City in the pooled cash account and the monthly reconciliation is performed by the City Finance Department. However, the Trust does not review the reconciliation in accordance with the Trust Policies and Procedures. The Trust has provided that while they attempt to reconcile expenses, they are unable to do so based on the reports received from the City Finance Department.

In addition, the Trust had three bank accounts with the Miami Foundation used to receive donations made to the Trust. One account remains with the Miami Foundation and a new account has been opened with The Key Biscayne Foundation. The financial statements report these account balances as Cash with fiscal agent and as of the end of fiscal year 2021, the balance totaled \$35,212. The Trust reviews these accounts annually but does not document the review.

Without reviewing the City's monthly bank reconciliation or documenting the review of the cash held with fiscal agents, there is an increased risk of revenue or expenses being misclassified, returned for insufficient funds, or missing deposits.

RECOMMENDATION 8:

We recommend that the Trust:

- 1) Perform bank reconciliations of all accounts held by the Trust.
 - 2) Obtain monthly reconciliation reports from the Finance Department and review for accuracy, and document monthly reviews of City Reconciliation Reports.
- **Auditee Response:** The Trust agrees with the recommendations and will implement the following:

- The Trust has implemented a biweekly and end of the month reconciliation.
 - The Trust is working as closely as possible with the City of Miami Finance Department.
 - The Trust has implemented an in-house expenditure report and performs a monthly reconciliation with the City of Miami Oracle reports.
- **Implementation Date:** Some of these policies and procedures have been implemented, however, all the recommendations will be in place and adhered to by November 1, 2022.