July 31, 2014

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

Re: Review of the Bayfront Park Management Trust Use Agreement with Event Entertainment Group, Inc. (Ultra Music Festival)
Review No. 14-019

Executive Summary

We have completed a review of the Bayfront Park Management Trust (Trust) Use Agreement with Event Entertainment Group, Inc. (EEG) at the request of a City Commissioner. Specifically, we were requested to account for and review the propriety of distributing complimentary (comp) tickets for the Ultra Music Festival (Ultra) by the Trust and EEG.

Our review procedures included, but were not limited to, reviewing the March 6, 2014 Use Agreement (Agreement) between the Trust and EEG, as well as applicable City, County and State “gift law” policy/legislation. Also, we reconciled all tickets sold and comp tickets used for admission into Ultra; and, we recalculated and analyzed the ticket surcharge paid to the Trust for the three day event.

As a result of our review, we noted the following:

- EEG provided forty (40) VIP comp tickets to the Trust, of which a total of fourteen (14) tickets were distributed by the Trust to an Assistant City Attorney and six (6) Bayfront Park Trust Board Members. We recommended that the City Attorney render an opinion as to whether or not the distribution of tickets was in accordance with various legislation. Their response is currently pending.
- A total of twelve (12) VIP comp tickets were distributed by the Trust to other individuals affiliated with the Trust. One individual is a “Red Bull” event promoter who sponsors free events at Bayfront Park (Park); two individuals perform construction work for Museum Park, which is managed by the Trust; one individual is an event promoter who markets events for the Trust; the two remaining individuals provide services at the Park (i.e. one provides free Brazilian martial art lessons and one is a certified arborist who services the Park trees).
• The Agreement does not include a “Right-to-Audit” clause and does not require EEG to provide a list of the recipients of comp tickets that they distribute. As a result, we were unable to determine if other City officials and/or employees received comp tickets, in order to verify compliance with “gift law” policy/legislation.

• We accounted for all event tickets and recalculated the ticket surcharge paid to the City without exception ($295,980); however, we noted that the ticket surcharge ordinance on paid admissions to events has not been updated since 2005. **We estimate that applying a flat 5% surcharge on tickets of $40 and up would generate additional recurring revenue of over $637,000 from the three day Ultra event.**

We wish to express our appreciation for the cooperation and courtesies extended to us by all City employees and outside personnel while conducting the review.

Sincerely,

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

CC: The Honorable Mayor Tomas Regalado
Daniel J. Alfonso, City Manager
Todd Hannon, City Clerk
Victoria Mendez, City Attorney
Alice Bravo, Deputy City Manager/Chief of Infrastructure
Fernando Casamayor, Assistant City Manager/Chief Financial Officer
Nzeribe Ihekwaba, Assistant City Manager/Chief of Operations
Jose M. Fernandez, Director, Finance Department
Christopher Rose, Director, Office of Management and Budget
Mark Burns, Interim Director, Department of Public Facilities
Barnaby Min, Deputy City Attorney
George Wysong III, Assistant City Attorney, Supervisor
Timothy Schmand, Executive Director, Bayfront Park Trust
Angel A. Cortiñas, Counsel to EEG
Members of the Audit Advisory Committee
Audit Documentation File

Review conducted by: Mala Khilnani, CPA, CISA, Senior Staff Auditor
Review reviewed by: Lewis Blake, CPA, CIA, Audit Manager
REVIEW OF THE BAYFRONT PARK MANAGEMENT TRUST USE AGREEMENT WITH EVENT ENTERTAINMENT GROUP, INC. (ULTRA MUSIC FESTIVAL)

Review No. 14-019

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SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the review was to confirm that Event Entertainment Group, Inc. (EEG) complied with various aspects of the Bayfront Park Management Trust (Trust) Use Agreement (Agreement). The review covered the time period surrounding the March 2014 Ultra Music Festival, and focused on the following objectives:

- Accounting for and reviewing the propriety of distributing complimentary tickets for the event by the Trust and EEG.
- Reconciling all tickets sold and complimentary tickets used for admission into the event and recalculating the ticket surcharge paid to the Trust.
- Reviewing the adequacy of the provisions of the Agreement to fully protect the Trust’s and the City’s interests.

We conducted the review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient and appropriate evidence in order to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives. The review methodology included the following:

- Interviews and inquiries of appropriate personnel
- Reviews of the City Charter and Code, and Miami-Dade County and State of Florida legislation
- Tests of applicable transactions and records
- Other review procedures as deemed necessary
BACKGROUND

Bayfront Park Management Trust (Trust) is a discrete component unit of the City of Miami responsible for managing and operating the events held at Bayfront and Bicentennial Park. Each fiscal year, the Trust prepares and submits an annual budget to the City Commission for its approval. The governing body of the Trust consists of nine (9) members appointed by the City Commission for terms of one to three years.

Ultra Music Festival (Ultra) is an annual outdoor electronic music festival held in downtown Miami at Bayfront Park. In 2014, the event was held over three (3) days from March 27-29. On March 6, 2014 the Trust entered into a Use Agreement with Event Entertainment Group, Inc. (EEG), a Florida for-profit corporation for the purpose of conducting Ultra.

The Agreement stipulates that EEG shall have the right to distribute up to 1,040 complimentary (comp) tickets per each event day for promotional use without payment of a ticket surcharge. The 1,040 comp tickets include up to forty (40) VIP tickets to be provided to the Trust for each event day with the remaining 1,000 tickets distributed by EEG directly to other recipients. Each VIP ticket is valued at $849.95 and provides admission for each of the three (3) days of the Ultra event. Each General Admission (GA) ticket is valued at $399.95 and also provides admission for each of the three (3) days of the event.
PROCEDURES PERFORMED

REVIEW OF COMPLIMENTARY TICKET DISTRIBUTION

In order to ascertain the propriety of distributing complimentary (comp) tickets for the Ultra Music Festival (Ultra) by the Trust and EEG, we requested the Trust and EEG to provide names of the individuals/entities to whom the comp tickets were distributed. The Trust provided us with the requested information for the forty (40) VIP tickets; however, EEG’s legal counsel refused to provide us the information for the additional comp ticket recipients because said information is “confidential, proprietary and constitutes a trade secret.”

REVIEW OF CITY, COUNTY AND STATE LEGISLATION REGARDING THE RECEIPT OF GIFTS BY CITY EMPLOYEES/OFFICERS

Based on our review of the individuals/entities who received the forty (40) VIP comp tickets from the Trust, we reviewed the section of the City Charter which addresses the receipt of gifts, including comp tickets, by City employees/officers. According to Section 4(c) of the City Charter:

“No mayor, city commissioner, or other officer or employee of said City shall accept any frank, free ticket, pass or service directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor. Such prohibition of free service shall not apply to police or fire personnel in uniform or wearing their official badges, where same is provided by ordinance.”

In addition, we reviewed the City Training and Development Policy APM 1-10 that requires all City employees to attend the mandatory Professionalism and Ethics (Ethics) training program every three (3) years. Section 112.313 of Florida Statutes, Section 2-11.1(e) of the County Code and Section 2-613 of the City Code are specifically covered in the “gift law” section of the Ethics training, which cites tickets and entry fees to events as one of the examples of gifts that City employees and City agency board members are expressly prohibited from accepting when a contract is awarded to the person/firm. Excerpts from City, County, and State Legislation regarding the receipt of gifts are as follows:

Section 2-613 of the City Code states:
“Every officer, official or employee of the City including every member of any board, commission or agency of the City, is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the City.”

Section 2-11.1(e) of the Municipal Code for Miami-Dade County (County Code) states:
“A person (commissioner, board member, departmental personnel or employee) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any (commissioner, board member, departmental personnel or employee), or for any (commissioner, board member, departmental personnel or employee) to accept or agree to accept from another person or entity, any gift for or because of:

a) An official public action taken, or to be taken, or which could be taken
b) A legal duty performed or to be performed, or which could be performed; or
c) A legal duty violated or to be violated, or which could be violated by any person.”

Section 112.313 of the Florida Statutes states:
“...the term ‘public officer’ includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body....No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.”

RECONCILIATION, RECALCULATION, AND ANALYSIS OF TICKET SURCHARGE REVENUE

According to the Agreement, EEG is not required to pay the $2 ticket surcharge on the 1,040 comp tickets used per each event day (i.e. 1,040 tickets x 3 days = 3,120 tickets x $2 ticket surcharge = $6,240 surcharge revenue forgone by the Trust). However, the ticket surcharge should be paid on every ticket sold as well as on every comp ticket used in excess of the 1,040 exempted comp tickets. We noted that during the three (3) day Ultra event, EEG scanned 4,974 comp tickets in excess of the daily 1,040 comp tickets exempted from the surcharge thus resulting in $9,948 ticket surcharge due. In addition, we noted that 47,672 (3-day) tickets were sold thus resulting in $286,032 (i.e. 47,672 tickets x 3 days = 143,016 tickets x $2 ticket surcharge) ticket surcharge due. As stipulated in the Agreement and in accordance with Section 53-2 of the City Code and City Ordinance 10509, as amended, EEG agreed to pay surcharges on the additional (un-exempted) comp tickets used, as well as on all tickets sold totaling $295,980.

We reviewed the total ticket surcharge amount of $295,980 paid to the Trust for propriety and accuracy. To do so, we agreed the surcharge amount to comp tickets and tickets sold and traced such tickets to the Trust’s Box Office Statement and to EEG’s “Scans by Event” Report which provides a breakdown of tickets scanned each day.

Finally, we reviewed Section 53 of the City Code: “Ticket surcharge on paid admissions to events”. We noted that the ticket surcharge was last increased in July 2005 (rates were previously unchanged since 1988). Currently, the rate of ticket surcharge is dependent upon the admission charged to attendees of a given event and the maximum surcharge is $2 for admission tickets $30 and up.

FINDINGS AND RECOMMENDATIONS

FINDING 1: VIP COMPLIMENTARY TICKETS WERE DISTRIBUTED TO A CITY EMPLOYEE AND TRUST BOARD OF DIRECTORS

Based on our review of the forty (40) VIP complimentary (comp) tickets (valued at $849.95/ticket) provided by EEG to the Trust, we found that the Trust distributed two (2) VIP tickets to the Assistant City Attorney who reviewed the Agreement, and twelve (12) VIP tickets to six (6) Trust Board of Directors (BOD) members. We noted that the Assistant City Attorney
also received two (2) tickets to the 2013 Ultra Festival, which was then a two-weekend event. In addition, the former City Attorney and former Deputy City Attorney received tickets in 2013, and five (5) Trust BOD members received twenty (20) tickets to the festival (i.e. two [2] tickets each for each weekend).

Upon inquiry, we were informed by the Trust Executive Director that the acceptance of the Ultra VIP comp tickets by the Trust BOD members and the Assistant City Attorney is consistent with the “Addendum to Guidelines and Recommendations Regarding “Public Benefit” Clauses in Certain Government Contracts: Public Purpose” (Addendum), provided by the Miami-Dade Commission on Ethics and Public Trust (See Attachment I). The Trust Executive Director referenced the Addendum section regarding “Other Permissible Uses of Public Benefit” which states, “Unelected members who serve without pay on County/City boards; County, State, and/or federal officials or local officials from other cities in recognition of significant assistance to the local government” and cited that the Trust BOD members serve without pay and that the Assistant City Attorney “provided significant assistance in developing Ultra Use-Agreement and whose attendance deepens her understanding of the event.” (See Attachment II)

However, the Addendum appears to contradict Section 4(c) of the City Charter which states: “No...other officer or employee of (the City of Miami) shall accept any...free ticket, pass...directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor.”

In addition, we noted that the Assistant City Attorney who received the comp tickets, and who has worked in the Office of the City Attorney since March 2007, did not attend mandatory ethics training as required by City policy APM 1-10. However, we noted that all Trust BOD members have attended mandatory ethics training.

It should also be noted that this matter will be referred to the Miami-Dade County Commission on Ethics and Public Trust to determine whether any ticket recipients were obligated to comply with statutory reporting requirements.

**RECOMMENDATION 1: OFFICE OF THE CITY ATTORNEY / CITY MANAGER**

We recommend that the Office of the City Attorney (OCA) render an opinion as to whether or not the distribution of comp tickets to the BOD members and City employees was in accordance with Section 4(c) of the City Charter; and whether or not provisions of the City Charter regarding “gift laws” supersede State Statutes and County and City Code. OCA should also recommend further action, if necessary, and ensure that all of its employees attend mandatory training programs every three (3) years.

We also recommend that if it is determined City employees/others are solely governed by Section 4(c) of the City Charter, the mandatory training program eliminate references to State Statutes and County Code in the “gift law” Section of Ethics training.

- **City Attorney’s Response:**
  
  Response is pending.
• **City Manager’s Response:** Section 2-613 of the City Code states: “Every officer, official or employee of the City including every member of any board, commission or agency of the City, is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the City.”

However, Section 4(c) of the City Charter states: “No mayor, city commissioner, or other officer or employee of said City shall accept any frank, free ticket, pass or service directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor. Such prohibition of free service shall not apply to police or fire personnel in uniform or wearing their official badges, where same is provided by ordinance.”

The City Management defers to the City Attorney’s Office to opine on this legal question of whether there exists a conflict between the language in the City Code and the City Charter. If so, additional measures will be taken to resolve the conflicting language.
FINDING 2: PROVISIONS OF THE AGREEMENT DO NOT INCLUDE A “RIGHT-TO-AUDIT” CLAUSE

The Agreement does not expressly include an overall “Right-to-Audit” provision which would protect the City’s interests in ensuring compliance with all aspects of the Agreement including mitigating the risk of not obtaining ticketing documentation that supports ticket surcharge payments. In addition, the Agreement does not include a provision that requires EEG to provide a list of the recipients of comp tickets for the Ultra event. We requested the list from EEG to determine whether any City employees received comp tickets in order to verify compliance with the “gift laws”. However, EEG’s legal counsel refused to provide us with the list of comp ticket recipients because said information is “confidential, proprietary and constitutes a trade secret.”

In addition, EEG’s legal counsel stated that our inquiry was “...outside the contract requirements”; and they questioned our “…legal authority to conduct this type of investigation” (i.e. verifying City employee compliance with “gift laws”). (See Attachment III) However, Section 48(c)1 of the City Charter states that the Independent Auditor General (IAG) shall have the power and authority to “…provide budget and legislative analysis …as deemed necessary by the IAG or as may be required by the City Commission.” Consequently, conducting legislative analysis is permissible under the Charter, which includes ascertaining compliance with “gift laws”, as well as other legislation pertinent to an audit or investigation; however, legal opinions are deferred to the OCA.

RECOMMENDATION 2: TRUST EXECUTIVE DIRECTOR

We recommend that the Trust include “Right-to-Audit” provisions in all future use agreements with EEG and all other event promoters in order to ensure that the Trust's and the City's interests are protected and that revenues are optimized. We also recommend that if information that is deemed to be fully confidential, proprietary and a trade secret is integral to completing audit procedures in accordance with Section 48 of the City Charter, or other legislation, that agreements should stipulate such information will be timely provided but will be excluded from our audit work papers as public records.

- Trust Executive Director’s Response: Bayfront Park Management Trust agrees that a “right-to-audit” should be included in all future agreements for events which are ticketed. And, in the future, if information deemed to be confidential, proprietary and a trade secret is integral to completing audit procedures in accordance with Section 48 of the City Charter, or other legislation, that agreements should stipulate such information will be timely provided but will be excluded from the audit work papers.
FINDING 3: TICKET SURCHARGE RATES SHOULD BE REEVALUATED – FLAT 5% SURCHARGE ON TICKETS GREATER THAN $40 WOULD GENERATE OVER $637,000 IN ADDITIONAL REVENUE

According to Section 53 of the City Code: “Ticket surcharge on paid admissions to events”, current ticket surcharge rates are as follows and have remained unchanged since 2005:

<table>
<thead>
<tr>
<th>Ticket Price Ranges</th>
<th>Ticket Surcharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 to $14.99</td>
<td>$0.75</td>
</tr>
<tr>
<td>$15.00 to $29.99</td>
<td>$1.00</td>
</tr>
<tr>
<td>$30.00 and up</td>
<td>$2.00</td>
</tr>
</tbody>
</table>

During our analysis of ticket surcharge revenue applicable to the Ultra 2014 event, we noted that ticket sales totaled $18.49 million and there were 143,016 tickets sold which generated $286,032 in ticket surcharge. The average ticket price was $129 and most of the tickets sold (142,701 tickets) ranged from $50 to $283 per day. Ticket sales for this group totaled $18.48 million with an average percentage of ticket surcharges to ticket price of 1.55%. We also noted that as ticket prices increased, the percentage of surcharge to ticket price decreased (e.g. the percentage was 4% for a $50 ticket and .71% for a $283 ticket). As a result, the City’s current surcharge structure is regressive in nature such that the applicability of the surcharge is not shared equally by all ticket purchasers.

Our research indicated that common methods used to collect the surcharge relative to ticket price include: a) a flat fee per ticket sold, with a tier based on ticket price ranges; and, b) a percentage of ticket prices with or without a cap. Operational costs, including the ticket surcharge, are an important factor that event promoters consider when selecting a venue for an event. However, given the popularity of Ultra, adjusting the ticket surcharge upwards by a small amount would generate significant additional funds for the City without affecting ticket sales.

We noted that other cities have ticket surcharges far greater than the effective rate the City charges for the Ultra event (1.55%). For example, Sacramento, CA charges a 5% fee on tickets to all arena events; Rio Rancho, NM requires a 12% surcharge on ticket sales at their municipal event center; and, Jackson, MS, adds a $5 per ticket surcharge for events at their municipal auditorium.

If Section 53 of the City Code were amended to provide a flat ticket surcharge of 5% on tickets of $40 and up (for special events and concerts), the 2014 Ultra event would have generated $924,000 in surcharge revenue ($18.48 million x .05), or an increase of $637,968 ($924,000 - $286,032 generated from 2014 tickets sold). In addition, applying a 5% surcharge to the four (4) other events/concerts held at Bayfront Park in 2013 (for which the average ticket price was $40 and up and from which the surcharge revenue totaled $47,703), would generate additional revenue for the Trust. Such additional monies could be used to provide additional event security and/or for capital improvements such as the installation of a protective cover for the Bayfront Park amphitheater which would shelter patrons from inclement weather.
RECOMMENDATION 3: CITY MANAGER

We recommend that the Department of Public Facilities, with the assistance of the City Attorney’s Office, explore the possibility of drafting/proposing an Ordinance to update Section 53 of the City Code: “Ticket surcharge on paid admissions to events.” Changing the City’s ticket surcharge rates/structure in order to facilitate an increase of ticket surcharge would generate revenue that could be used to fund additional security and necessary capital improvements at Bayfront Park.

- **City Manager’s Response:** The City Management is willing to explore the possibility of drafting/proposing an Ordinance, with the assistance of the City Attorney’s Office, to update Section 53 of the City Code “Ticket surcharge on paid admissions to events.” If the City Commission votes to adopt such a change then the Administration would implement the Ordinance.
ADDENDUM TO GUIDELINES AND RECOMMENDATIONS REGARDING
“PUBLIC BENEFIT” CLAUSES IN CERTAIN GOVERNMENT CONTRACTS:

PUBLIC PURPOSE

It is the intent of these guidelines and recommendations concerning the distribution of
tickets and other public benefits, obtained by governmental entities through contractual
negotiation or other exercise of public authority, to assure that those benefits, which are public
property, shall be used and distributed for a public purpose. The overriding principle behind
these suggestions is to curtail the private use of these public benefits by government officials
and employees for their own personal benefit, directly or indirectly. In addition, these
guidelines are established to provide guidance to such officials and their employees, as well as
their advisors, in order to avoid possible future misuse of such public resources. It is hoped
that this will also increase public confidence in the integrity of government in its use of such
resources, as well as help to remove the perception that elected and other government officials
distribute these public benefits with unfettered discretion and for purposes inconsistent with
the proper disposition of public property. Further, it is the intent of these guidelines and
recommendations to make clear that public benefits may be utilized under certain permissible
circumstances by elected and other government officials and employees where there is a
genuine, legitimate and articulate public purpose involved. To that end, we have set forth
below a list of suggested permissible public purposes for government officials, staff and
employees to consider when it is appropriate to use, for themselves or others, public benefits
contemplated by these guidelines. The foregoing list is not exhaustive. The Commission on
Ethics is always available to provide an opinion to an inquiring public official or employee
regarding whether any particular use or method of distribution is ethically acceptable.

A. PERMISSIBLE PUBLIC PURPOSES FOR OFFICIALS, STAFF AND
EMPLOYEES

1. Host business leaders to promote economic development;
2. Host leaders of community service organizations (e.g. organizations that serve
   the disadvantaged, senior citizens, disabled, ill, children, etc.);
3. Host dignitaries from municipal, state and federal governmental entities;
4. Host dignitaries and business leaders from other countries;
5. Host youth groups, student leaders and recipients of awards;
6. Host elderly Miami-Dade County residents;
7. Host disabled residents;
8. Host low-income residents;
9. Host constituents as: (a) a designated official by the Commission, Chairperson,
   Mayor or some other person delegated that responsibility, or (b) upon
   invitation of the event organizer(s) or a person or entity authorized to extend
   such invitation;
10. Host group(s) of governmental employees being specially recognized for job-
   related achievements;
11. Being officially recognized by the sponsors of event in a printed program or
    other public announcement.
12. Performing one of the following functions in one’s official capacity as: (a)
    designated official by the Commission, Chairperson, Mayor or other person
delegated that responsibility, or (b) an individual invited by the venue

1
a. Introducing organizers, participants, or dignitaries;
b. Recognizing the contributions of the organizers or staff;
c. Receiving or giving an award or other special recognition;
d. Giving a speech;
e. Greeting and welcoming attendees;
f. Ribbon cutting;
g. Leading the pledge of allegiance or national anthem;
h. Acting as a goodwill ambassador designated by the Commission/Council, Chairperson, Mayor or other person qualified to delegate that responsibility;
i. Assess facility needs, proposed changes and constituent concerns in response to a documented complaint specifically addressed to the attendee;
j. Attending the opening day game or performance of a County/City-owned facility.

B. OTHER PERMISSIBLE USES OF PUBLIC BENEFITS
1. Distribution to residents on a publicly-advertised first-come, first-served basis or by lottery;
2. Sell to members of the public, if permissible, with the proceeds going to the general fund or a specially-designated public purpose;
3. Return to donor in exchange for monetary value, with the approval of the governing body of the County/City;
4. Allocations to:
   a. Non-profit agencies for distribution to individuals served by the organizations;
   b. Schools/students or youth athletic leagues;
   c. Bona fide organizations that represent needy individuals, which organizations have no affiliation with the public official providing the benefits or the official’s immediate family;
   d. Community based organizations for distribution to individuals served by the organizations.
5. Allocations to the following based upon their contributions to the community or local government:
   a. Employees, as part of an employee recognition program with defined criteria;
   b. Residents who have made special contributions to the community, as established by defined criteria;
   c. Unselected members who serve without pay on County/City boards; County, State and/or federal officials or local officials from other cities, in recognition of significant assistance to the local government;
   d. Businesses and institutions which have contributed to the welfare of the County/City;
   f. Visiting dignitaries or foreign officials.
May 14, 2014

To: Mala Khlani, CPA, CISA
Senior Staff Auditor
Office of Auditor General

From: Timothy F. Schmand
Executive Director

Re: Ultra Music Festival Comp Ticket Report

Consistent with the “Addendum to Guidelines and Recommendations Regarding “Public Benefit” Clauses in Certain Government Contracts: Public Purpose,” of the 40 complimentary tickets received by the Bayfront Park Management Trust (Trust) for the 2014 Ultra Music Festival, 26 were distributed, as follows:

A. Permissible Public Purposes for Officials, Staff and Employees

1) Host business leaders to promote economic development
   - Red Bull promoter (two tickets) — brings business to Bayfront Park, from which the Trust has realized $79,834 in net revenue
   - Event Star staff (two tickets) — brings business to Bayfront Park, from which the Trust has realized $263,704 in net revenue

B. Other permissible Uses of Public Benefit
   b. Residents who have made special contributions to the community, as established by a defined criteria
   - Capoeira Class Volunteer Instructors (two tickets) — instructors provide free, weekly Capoeira classes in Bayfront Park

   c. Unselected members who serve without pay on County/City boards; County, State and/or federal officials or local officials from other cities in recognition of significant assistance to the local government
   - Bayfront Park Management Trust board members (two tickets to six board members) — board members serve without pay
   - Assistant City Attorney (two tickets) — provided significant assistance in developing Ultra Use Agreement and whose attendance deepens her understanding of the event

   d. Businesses and institutions which have contributed to the welfare of the County/City;
   - Contractors (two tickets for two contractors) — cooperated with Trust at facility under construction
   - Arborist (two tickets) — advises Trust staff with regards to tree growth and maintenance

Please let me know if you require additional information.

Cc: file

BAYFRONT PARK MANAGEMENT TRUST
301 North Biscayne Boulevard Miami, FL 33132 (305) 358-7550
Attachment III

VIA OVERNIGHT MAIL

Mala Khilnani, CPA, CISA
Senior Staff Auditor
City of Miami, Office of Auditor General
444 S.W. 2nd Avenue
Miami, FL 33130

Re: Use Agreement between Event Entertainment Group and City of Miami

Dear Ms. Khilnani,

As you know, I represent Event Entertainment Group, Inc. (“EEG”) as to certain issues regarding the Use Agreement with the Bayfront Park Management Trust (the “Trust”). Your request to Sandy York, EEG’s General Counsel for additional complimentary ticket information regarding the 2014 Ultra Music Event, has been referred to me for a response.

Your recent email refers to Paragraph 10(c) of the Use Agreement, which concerns the 40 complimentary tickets issued by EEG to the Trust. This paragraph also requires that a ticket manifest be provided to the Trust and allows the Trust’s Box Office Auditor or Manager to audit certain items covered in Paragraph 10(c).

As you know, your Office requested the 2014 ticket manifest. Without waiving any of EEG’s legal rights, Ms. York promptly provided you with the 2014 ticket manifest. Your office also requested 2014 complimentary ticket information, and, once again, without waiving EEG’s legal rights, Ms. York provided you with the complimentary ticket information showing the number of tickets issued including the 40 complimentary tickets issued to the Trust. It was explained that the additionally requested information concerning EEG’s complimentary tickets was confidential, proprietary, and constituted a trade secret. In your May 2, 2014 response to Ms. York, you acknowledged that “the complimentary ticket list is confidential and proprietary information.”

Nevertheless, after providing all of the information covered under Paragraph 10(c) of the Use Agreement, you have stated that you and your Office still “need[s] to inspect/ review the list (including the names of recipients) in order to determine if any City of Miami employees received Ultra comp. tickets and complied with the City, County and State ‘gift laws.’” Respectfully, this latest request is not only outside the contract requirements, but your Office also does not have the legal authority to conduct this type of investigation. I would respectfully request that you review City of Miami Attorney Opinion 07-012 and the applicable
code regarding the scope of the duties of your office.

The City of Miami Attorney Opinion 07-012, which I am attaching, clearly provides that it is not within the IAG’s scope of authority to conduct investigations and issue opinions or express conclusions regarding the conduct of individual City employees with respect to potential violations of the code of ethics. It would also appear that under applicable law, it is not within the purview of your office to investigate ethics issues.

In two recent emails dated May 13, 2014, you separately requested details concerning complimentary tickets distributed for the Ultra 2013 and 2014 events to determine whether they were used for a “public benefit” and refer us to the Miami-Dade Commission on Ethics. For the same reasons as are detailed in this letter as well as City of Miami Attorney Opinion 07-012, it is not within the purview of your office to investigate ethics issues.

Likewise, the procurement provisions of the ordinances cited in your email do not apply to your request for the foregoing reasons, and also do not apply because the Use Agreement is exempt under the exemptions in the ordinance itself, and because the Use Agreement is not a “procurement” as defined by the ordinance.

I am copying Victoria Mendez, City Attorney and Timothy Schmand, the Trust’s Executive Director, on this letter as a courtesy. If either the City Attorney or Trust disagrees with our position or the contents of this letter, I would request that I be advised in writing as soon as possible. Otherwise, I will assume that my client has fully complied with your requests and the applicable obligations under Paragraph 10(c) of the Use Agreement.

EEE sincerely looks forward to continue working with the Trust in continuing to produce one of the world’s premier music festivals, the Ultra Music Festival, at Bayfront Park.

Yours very truly,

[Signature]

Angel A. Corinhas, Esq.
Counsel to Event Entertainment Group, Inc.

AAC/tgs.
Encl.

cc: Miami City Attorney, Victoria Mendez, Esq.
BPMT Executive Director, Timothy F. Schmand