February 14, 2024

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

Re: Audit of Skyviews Miami, LLC
    Audit No. 24-04

Executive Summary

We have completed an audit of records and selected financial transactions of Skyviews Miami, LLC (Skyviews), primarily for the period May 29, 2020 through April 30, 2023. The audit was performed to determine whether Bayside Marketplace, LLC (Bayside) and Skyviews complied with Percentage Rent payments and Ticket Surcharge requirements identified in the Fifth Amendment to Amend and Restated Lease Agreement between Bayside and the City of Miami (City), dated May 29, 2020. During the audit period, Skyviews made rent payments totaling $1,748,331 on $17,483,308 of reported gross receipts. The yearly rent payments ranged from approximately $106,000 to $941,000, while yearly gross receipts ranged from $1,000,000 to $9,410,000 for the period from May 29, 2020 through December 31, 2022 (percentage rent is paid annually). Also, Skyviews made Ticket Surcharge payments to Bayfront Park Management Trust (Bayfront) totaling $782,768 during the period from May 29, 2020 through April 30, 2023.

Overall, we concluded that controls over gross proceeds reporting were inadequate to ensure compliance with the lease. Improvement is needed to ensure that gross proceeds, which is the basis for the percentage rent are reported accurately. Additionally, deficiencies were noted in the payment of Ticket Surcharges owed on a monthly basis. Due to the deficiencies in gross proceeds reporting, Skyviews owes the City $135,074 in percentage rent (percentage rent of $126,830, and Florida sales tax of $8,244) for the period from May 29, 2020 through December 31, 2022. Additionally, Ticket Surcharges were underpaid to Bayfront in the amount of $257,997 for the period from May 29, 2020 through April 30, 2023.
We wish to express our appreciation for the cooperation and courtesies extended to us by Bayside Marketplace and Skyviews Miami's management as well as the City's Department of Real Estate and Asset Management, Department of Risk Management, and Bayfront Park Management Trust while conducting the audit.

Sincerely,

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

Cc: The Honorable Mayor Francis X. Suarez
     Arthur Noriega, City Manager
     Victoria Mendez, City Attorney
     George Wysong, Deputy City Attorney
     Todd Hannon, City Clerk
     Larry Spring, Assistant City Manager/Chief Financial Officer
     Nzeribe Ihekwaba, Assistant City Manager/Chief of Operations
     Natasha Colebrook-Williams, Assistant City Manager
     Miguel Ferro, Interim Executive Director, Bayfront Park Management Trust
     Andrew Frey, Director, Department of Real Estate and Asset Management
     Erica T. Paschal, Director, Finance Department
     Marie Gouin, Director, Office of Management and Budget
     Ann-Marie Sharpe, Director, Risk Management Department
     Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
     Joan Malkowski, General Manager, Bayside Marketplace, LLC
     Joy Pickett, Chief Financial Officer, Skyviews Miami, LLC
     Ben Pickett, Vice President, Skyviews Miami, LLC
     Members of the Audit Advisory Committee
     Audit Documentation File

Audit conducted by: Caridad Vasallo, CPA, Senior Staff Auditor
Work papers reviewed by: Raymond Ishmael, CPA, CFE, Audit Supervisor
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SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit was to determine if Skyviews Miami (Skyviews) was in compliance with the Fifth Amendment to Amend and Restated Lease Agreement between Bayside Marketplace, LLC (Bayside) and the City of Miami (City) regarding percentage rent payments to the City and Ticket Surcharge payments to Bayfront Park Management Trust (Bayfront).

The audit primarily covered the period May 29, 2020 through April 30, 2023, and focused on the following objectives:

- To determine if Skyviews accurately reported Gross Proceeds and Ticket Sales to the City and Bayfront for the audit period.
- To determine if Skyviews accurately remitted percentage rent to the City on a timely basis.
- To determine if Skyviews accurately remitted Ticket Surcharges to Bayfront on a timely basis.
- To determine whether rent payments were properly recorded in the City’s accounting system and deposited into the City’s Treasury.
- To determine whether all parties established adequate internal controls ensure compliance with the lease.
- Other audit procedures as deemed necessary.
- To recommend corrective actions for deficiencies noted.

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

Bayside entered into a lease agreement with Skyviews on February 25, 2020, to lease property in order to operate a Ferris wheel, a kiosk bar, and related food and drink concessions on the premises. The lease term is for a period of 15 years plus the period of time between the commencement date of the lease and the rent commencement date. Tickets to ride the Ferris wheel are sold per rider online or onsite.

The Fifth Amendment to the Lease Agreement between the City and Bayside, dated May 29, 2020, provides that 10% of gross receipts of ticket sales from the operation of the Ferris wheel shall be payable to the City by Skyviews as percentage rent within 90 days following the end of each calendar year. The Fifth Amendment also provides that the operation of a temporary Ferris wheel on the premises would be subject to Section 53-1 of the City of Miami Code of Ordinances, relating to Ticket Surcharge Fees.

On February 12, 2022, the City Manager sent a letter to Bayside stating that pursuant to Section 53-1 of the City of Miami Code of Ordinances, ticket sales associated with the Ferris wheel are subject to Ticket Surcharges, and that the Ticket Surcharge payments with related reports are currently being sent to the City. The letter further directs that all future Ticket Surcharge payments with related reports be sent to Bayfront.
AUDIT FINDINGS AND RECOMMENDATIONS

Based on the results of our audit, we have concluded that controls over gross proceeds reporting were inadequate to ensure compliance with the lease. Improvement is needed to ensure that gross proceeds, which is the basis for the percentage rent, are reported accurately. Additionally, deficiencies were noted in the payment of Ticket Surcharges owed on a monthly basis. Due to the deficiencies in gross proceeds reporting, Skyviews owes the City $135,074 in percentage rent (percentage rent of $126,830, and Florida sales tax of $8,244) for the period from May 29, 2020 through December 31, 2022. Additionally, Ticket Surcharges were underpaid to Bayfront in the amount of $257,997 for the period from May 29, 2020 through April 30, 2023.

Details of our findings and recommendations follow:

FINDING 1: UNDERSTATED GROSS RECEIPTS REPORTED TO THE CITY RESULTED IN UNDERPAYMENTS OF PERCENTAGE RENT TOTALING $135,074

Per the Fifth Amendment to Amended and Restated Lease Agreement (Retail Parcel), dated May 29, 2020, the City grants the Lessee, Bayside, the right to establish a temporary Ferris wheel with a maximum height not to exceed 180 feet above grade on the premises. The City shall receive ten percent (10%) of Gross Receipts for ticket sales from the operation of the Ferris wheel as percentage rent. Skyviews shall pay the City within 90 days following the end of each calendar year for the calculated ten percent (10%) of Gross Receipts from ticket sales.

In order to determine whether Skyviews paid the correct amount of percentage rent during the audit period, we performed reconciliations of Gross Receipts reported to the City to all cash deposited into various bank accounts held by Skyviews. During our audit, we requested documentation from the Department of Real Estate and Asset Management (DREAM) that would enable us to perform a reconciliation of Gross Receipts. However, the information on file from DREAM was insufficient for reconciliation purposes. Accordingly, we obtained all bank deposits from the various bank accounts held by Skyviews and adjusted for items that should be excluded from Gross Receipts, including returned items, transfers between bank accounts, and intercompany loans.

After applying these adjustments to obtain reconciled Gross Receipts subject to percentage rent, we determined that Skyviews underreported and underpaid the City $126,830 in percentage rent, and $8,244 in Florida sales tax for the period from May 29, 2020 through December 31, 2022. (See “Schedule 1: Reconciliation of Gross Receipts Reported to Bank Statements”). Underpayments of percentage rent were noted due to Skyviews incorrectly calculating gross receipts by excluding the percentage rent charged as an additional fee per ticket, and by excluding the required photo fee included with ticket sales.
SCHEDULE 1: RECONCILIATION OF GROSS RECEIPTS REPORTED TO BANK STATEMENTS

<table>
<thead>
<tr>
<th></th>
<th>05/29/20-12/31/20</th>
<th>01/01/21-12/31/21</th>
<th>01/01/22-12/31/22</th>
<th>Sub-Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Receipts per Auditee Reports</td>
<td>$1,006,654</td>
<td>$8,636,065</td>
<td>$7,840,589</td>
<td>$17,483,308</td>
</tr>
<tr>
<td>Less: Gross Receipts per Audit</td>
<td>1,063,887</td>
<td>9,417,810</td>
<td>8,269,909</td>
<td>18,751,606</td>
</tr>
<tr>
<td>Over (Under) Reported Gross Receipts</td>
<td>(57,233)</td>
<td>(78,1745)</td>
<td>(429,319)</td>
<td>(1,268,298)</td>
</tr>
<tr>
<td>Percentage Rent due to City Per Auditee Reports</td>
<td>100,665</td>
<td>863,606</td>
<td>784,059</td>
<td>1,748,331</td>
</tr>
<tr>
<td>Less: Percentage Rent due to City Per Audit</td>
<td>106,389</td>
<td>941,781</td>
<td>826,991</td>
<td>1,875,161</td>
</tr>
<tr>
<td>Over (Under) Reported Percentage Rent</td>
<td>(5,723)</td>
<td>(78,175)</td>
<td>(42,932)</td>
<td>(126,830)</td>
</tr>
<tr>
<td>Over (Under) Reported Percentage Rent, including Sales Tax</td>
<td>$(6,095)</td>
<td>$(83,256)</td>
<td>$(45,723)</td>
<td>$(135,074)</td>
</tr>
</tbody>
</table>

RECOMMENDATION 1.1: SKYVIEWS MIAMI, LLC

We recommend that Skyviews improve their internal control procedures to ensure that all Gross Receipts from ticket sales are accurately reported and the related percentage rent is remitted to the City. Skyviews should remit the unpaid percentage rent of $135,074 (percentage rent of $126,830, and Florida sales tax of $8,244) to the City.

- **Auditee Response**: We confirm that we agree with the recommendation noted.
- **Implementation Date**: Immediately upon receipt of invoice.

RECOMMENDATION 1.2: FINANCE DEPARTMENT

We recommend that the City’s Finance Department bill and collect the unpaid percentage rent due to the City from Bayside in the amount of $135,074 (percentage rent of $126,830, and Florida sales tax of $8,244).

RECOMMENDATION 1.3: DEPARTMENT OF REAL ESTATE AND ASSET MANAGEMENT (DREAM)

We recommend that the Department of Real Estate Asset Management (DREAM) adequately monitor all lease terms, ensure that lessee provides the appropriate monthly reports with supporting documentation, and reconcile monthly reports to payments received. Additionally, DREAM should ensure that they adequately maintain records of all documents and payments received.

- **Auditee Response**: We will comply.
- **Implementation Date**: Immediately and ongoing.
FINDING 2: INCORRECT APPLICATION OF TICKET SURCHARGE RATES RESULTED IN UNDERPAYMENTS TOTALING $257,997 TO BAYFRONT PARK MANAGEMENT PARK TRUST

Per Section 53-1 of the City of Miami Code of Ordinances, a Ticket Surcharge shall be imposed against all paid admissions to city-owned facilities. The rates of the Ticket Surcharge fee will be as follows:

<table>
<thead>
<tr>
<th>Price of Admission (or suggested donation)</th>
<th>Ticket Surcharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 - 14.99</td>
<td>$0.75</td>
</tr>
<tr>
<td>15.00 - 29.99</td>
<td>1.00</td>
</tr>
<tr>
<td>30.00 - 99.99</td>
<td>2.00</td>
</tr>
<tr>
<td>100.00 - 249.99</td>
<td>3.00</td>
</tr>
<tr>
<td>250.00 - 499.99</td>
<td>5.00</td>
</tr>
<tr>
<td>500.00 - 999.99</td>
<td>10.00</td>
</tr>
<tr>
<td>1,000.00 and up</td>
<td>12.00</td>
</tr>
</tbody>
</table>

To confirm the accuracy of the Ticket Surcharges distributed to Bayfront, we reviewed the total gross receipts and tickets redeemed per the Point of Sales reporting system used by Skyview’s Z Pass. A total of 1,089,852 tickets were sold, per our review of the Z Pass reporting system. Additionally, ticket prices ranged from $9.40 to $223.08 with approximately 17 ticket categories.

To arrive at the total underpayment of Ticket Surcharge Fees of $257,997, we applied the Ticket Surcharge rates as reflected in Section 53-1 of the City of Miami Code of Ordinances to each ticket price category from Skyview’s ticket price listing. To quantify the total Ticket Surcharge Fees per audit, the corrected Ticket Surcharge fee by category was applied to the number of tickets sold per the Z Pass reports. Underpayments were noted due to Skyview’s applying an outdated Schedule of Ticket Surcharge Fees to the total tickets sold, not properly including photo fees in ticket pricing when applying the Ticket Surcharge Fee, and the Z Pass system not properly updating applicable Ticket Surcharge Fees when prices were adjusted. This created a total underpayment of the Ticket Surcharge Fees during the audit period of $257,997. (See “Schedule 2: Summary of Ticket Surcharges Paid and Owed”).

<table>
<thead>
<tr>
<th>SCHEDULE 2: SUMMARY OF TICKET SURCHARGES PAID AND OWED</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/29/20-12/31/20 01/01/21-12/31/21 01/01/22-12/31/22 01/01/23-04/30/23 Sub-Total</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>Total Ticket Surcharges Paid</td>
</tr>
<tr>
<td>Less: Total Ticket Surcharges per Audit</td>
</tr>
<tr>
<td>Total Ticket Surcharges Owed</td>
</tr>
</tbody>
</table>
RECOMMENDATION 2.1: SKYVIEWS MIAMI, LLC

We recommend Skyviews apply the correct Ticket Surcharge fee per ticket price as outlined in Section 53-1 of the City of Miami Code of Ordinances. Additionally, we recommend that Skyviews remit the unpaid Ticket Surcharge Fees of $257,997 to Bayfront.

- **Auditee Response:** We confirm that we agree with the recommendation noted.
- **Implementation Date:** Immediately upon receipt of invoice.

RECOMMENDATION 2.2: BAYFRONT PARK MANAGEMENT TRUST

We recommend that Bayfront bill and collect the unpaid Ticket Surcharges due from Skyviews in the amount of $257,997. Additionally, we recommend that Bayfront adequately monitor the lease terms and Section 53-1 of the City of Miami Code of Ordinances to ensure that the lessee provides the appropriate reports monthly to support the Ticket Surcharges paid.

- **Auditee Response:** We confirm that we agree with the recommendation noted.
- **Implementation Date:** Immediately.