

RESOLUTION NO. 2014-28638

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING CITY OF MIAMI BEACH RESOLUTION NO. 93-20694 WHICH ESTABLISHED THE CITY'S COMPLIMENTARY TICKET POLICY, AND SUBSTITUTING THEREFOR A COMPREHENSIVE POLICY STATEMENT OF THE CITY OF MIAMI BEACH REGARDING ITS USE AND DISTRIBUTION OF CITY TICKETS TO EVENTS AND PRODUCTIONS OCCURRING AT CITY-OWNED VENUES AND/OR CITY-SPONSORED EVENTS.

WHEREAS, in 1992, the Florida Commission on Ethics issued its Opinion No. 92-33, holding that City of Miami Beach elected officials could legally accept complimentary tickets from the City (obtained via negotiated 'public benefit' clauses in City contracts) to performances taking place at City-owned venues, subject only to the requirement that public disclosure of such ticket receipt be made by the recipient/Officials on quarterly gift disclosure forms; and

WHEREAS, in reliance upon this opinion of the State Ethics Commission, the City of Miami Beach adopted its Resolution No. 93-20694, in which the City Commission formally established a procedure for the City's distribution of its tickets to performances taking place at City-owned venues, whereby designated municipal officials and deserving members of the community would receive complimentary tickets to such productions; and

WHEREAS, as a result of a 2011 joint investigation by the Miami-Dade State Attorney's Office and the Miami-Dade County Commission on Ethics ("COE") of the City of Miami Beach's negotiations with the New World Symphony (finding no criminal wrongdoing), the COE scrutinized the above-referenced ticket distribution process of the City of Miami Beach as well as that of Coral Gables, Hialeah, Homestead, Miami and Miami-Dade County; and

WHEREAS, the COE consequently issued its "Guidelines and Recommendations regarding 'public benefit' clauses in certain government contracts", which although not legally binding upon the City of Miami Beach's ticket policy determination, have been stated by the COE as a suggested method of "ensuring conformance" with applicable ethics rules; and

WHEREAS, pursuant to the City of Miami Beach's continued commitment as a leader in government ethics, and in recognition of the requirement that municipal resources be devoted primarily to public purposes as determined by the Mayor and City Commission, the City has conducted public meetings for the purpose of evaluating its complimentary ticket policy with the COE's subject Recommendations; and

WHEREAS, having assessed citizen comment and public need, the Mayor and City Commission determine that the continued distribution of complimentary tickets to disadvantaged youths, senior citizens, non-profit organizations and other individuals who may not have the financial ability to purchase tickets to cultural events serves a public purpose, that public purpose is further served via the distribution of tickets to City employees officially recognized for exemplary service and members of the community recognized for making special contributions to the public welfare, and that the ability of designated City officials to attend such cultural events as official City representatives for the purpose of monitoring and evaluating such events

and the quality of performances therein, and/or monitoring and evaluating the value of City-sponsored events and their compliance with City policies, agreements and other requirements further serves a public purpose; and

WHEREAS, the City thus hereby establishes the following comprehensive municipal policy regarding its use and distribution of City tickets to events and productions occurring at City-owned venues and/or sponsored by the City, with said comprehensive policy serving as substitution for, and in repeal of, City of Miami Beach Resolution No. 93-20694.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH:

SECTION I. APPLICABILITY OF POLICY

In order to establish a fair, equitable and transparent process for the distribution of its complimentary tickets, the City of Miami Beach thus hereby establishes this Comprehensive Complimentary Ticket Policy. This policy shall apply to tickets or passes for admission to a facility, show, event or performance for an entertainment, recreational, amusement or similar purpose, which are provided to the City of Miami Beach: (i) pursuant to the terms of a contract/agreement/lease for the use of public property within the City's boundaries; (ii) because the City of Miami Beach controls the event; (iii) that is purchased by the City of Miami Beach at fair market value; (iv) or otherwise received from an outside source and which are provided without charge by the City of Miami Beach to personnel as designated herein. Tickets or passes purchased at full face value or fair market value of the ticket, as appropriate, by the official using the tickets are not subject to this Policy.

SECTION II. PUBLIC PURPOSE

The distribution of any ticket by the City of Miami Beach shall promote a public purpose, which purpose shall include those delineated in Exhibit "A" to this resolution.¹

SECTION III. DISTRIBUTION OF TICKETS

A. General Provisions.

Distribution of tickets shall be in accordance with the public purposes stated in Section II above, and be subject to the following:

1. Such tickets shall not be earmarked by the original donor for use by any particular recipient of tickets. Notwithstanding, any tickets provided to the City pursuant to a negotiated complimentary ticket program in a public benefits clause which delineates a

¹ The County Ethics Commission has issued an "Addendum" to its "Guidelines and Recommendations", outlining specific 'suggested permissible public purposes' for use of public benefits, which grounds are adopted and incorporated herein by reference. (See Exhibit "B", attached hereto.)

specific deserving organization or group as the recipient of such tickets in the lease, contract or agreement with the City, may be provided by the City to that specifically identified deserving organization or group.

2. The City of Miami Beach determines, in its sole discretion, which individual and/or entity shall receive the tickets, in accordance with the Distribution Process set forth below.
3. No person receiving tickets pursuant to this Policy shall sell or otherwise transfer any ticket, or receive any consideration for the value of any ticket. Nor may such ticket recipient use any ticket for political fundraising purposes. Notwithstanding the preceding the City may sell any tickets received pursuant to this Policy (if resale by the City is permitted by the donating entity) if the proceeds of such sale are intended for donation to programs and services rendered by community and other non-profit resources for the benefit of the community, including artistic and cultural organizations and institutions:
4. If a ticket recipient cannot use any ticket, that person must notify the City Manager's Office promptly and return the ticket to the City Manager's Office. Failure to do so will result in that recipient being ineligible to receive future tickets. Such returned tickets shall be distributed by the City Manager's Office to any of the persons/groups within the distribution categories set forth immediately below in III B.
5. All recipients of tickets must sign a form acknowledging the terms and conditions of the City of Miami Beach's Comprehensive Complimentary Ticket Policy, as reflected in this Resolution.

B. Distribution Process.

Tickets received by the City through a complimentary ticket program, or otherwise provided to the City for distribution, shall be distributed in accordance with established Administrative Guidelines, as may be amended from time to time. Such guidelines shall serve to ensure that the tickets distributed promote an established public purpose.

SECTION IV. DISCLOSURE REQUIREMENTS

A. City Disclosure.

The City Manager's Office shall maintain a log detailing the distribution of City tickets pursuant to this Policy. The log detailing the distribution of tickets shall be posted by the City Manager's Office, no less than once every quarter, on the City's website by no later than the 15th day of the month following such quarter. Such posting shall include the following information:

1. The name of the person receiving the tickets or passes, except that if the tickets or passes are distributed to a deserving organization and/or group, only the name, address and description of the deserving organization and/or group, and the number of tickets or passes provided to the deserving organization and/or group, may be posted in lieu of the names of individuals from the deserving organization and/or group that received the tickets;
2. A description of the event;
3. The date of the event;
4. The face value of the tickets provided; and
5. The number of tickets provided.

B. Recipient Disclosure.

1. City personnel receiving complimentary tickets shall disclose their receipt of tickets via the timely filing of gift disclosure forms, in accordance with State Commission on Ethics Opinion No. 92-33 (forms available through City Clerk's Office). City personnel shall be responsible for ensuring that the tickets received promote a public purpose, consistent with the City of Miami Beach's Complimentary Ticket Policy.
2. Tickets which are provided free of charge may have tax consequences for the recipient and may be reportable and taxable as regular income or as taxable fringe benefits to a recipient. All recipients of tickets must consult with their own tax advisers to determine the reporting requirements for income tax purposes, as well as the tax consequences of any tickets received.

SECTION V. EXCLUSIVITY OF CITY'S COMPREHENSIVE POLICY

A. The matters set forth in this Resolution shall serve as the City's Comprehensive Complimentary Ticket Policy, and it shall be referenced in all future "public benefits" clauses of all City contracts, and shall be further posted prominently on the City's website.

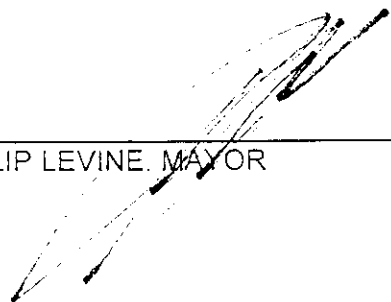
B. City of Miami Beach Resolution No. 93-20694, constituting the City's former policy governing complimentary tickets, is accordingly hereby repealed in its entirety.

PASSED AND ADOPTED THIS 11 day of June, 2014.

ATTEST:

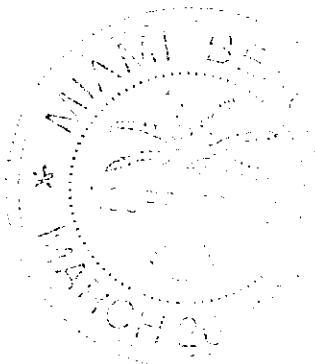


RAFAEL E. GRANADO, CITY CLERK

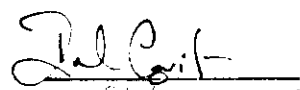



PHILIP LEVINE, MAYOR

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney 

5-22-14
Date

EXHIBIT A

ACCEPTABLE 'PUBLIC PURPOSE' USES (BY CATEGORY) OF CMB TICKETS

--PER CMB RESO NO 2014-28638

1. Economic development of the City, including the promotion/exposure to, marketing and awareness of tourism, nightlife, recreational, educational, and cultural facilities or attractions on City property or awareness of the City as a regional destination, economic asset or business opportunity;
2. Promoting or showing City appreciation for programs and services rendered by community and other non profit resources for the benefit of the community including artistic and cultural organizations and institutions;
3. Advertisement and promotion of City-controlled or City-sponsored events, activities, or programs, public facilities and resources;
4. Monitoring and evaluation of City venues and the quality of performances therein (in particular, attendance at opening day events of the facility at City-owned venues), and/or monitoring and evaluation of the value of City-sponsored events and their compliance with City policies, agreements and other requirements in response to a documented complaint specifically addressed to the attendee;
5. Information gathering and education regarding matters of local, regional and state wide concern that affect the City including enhancing intergovernmental relations through attendance at events with or by officials from other jurisdictions;
6. Promoting, encouraging and rewarding educational and athletic achievements by students and officials of local and regional educational institutions;
7. Promotion of City recognition, visibility and/or profile on a local, state, national or worldwide scale, including exchange programs with national and foreign officials and dignitaries, and as part of any marketing promotions with municipal marketing partners, or as may be required by contractual obligations with municipal marketing partners;
8. Attracting and retaining highly qualified employees in City service, including special recognition or reward of meritorious service by a City employee;
9. Performance of a ceremonial or official function on behalf of the City, not otherwise set forth above, including but not limited to the following:
 - a. Hosting leaders of community service organizations (organizations that serve the disadvantaged, senior citizens, disabled, ill, children, etc.), dignitaries from municipal, county, state and federal governmental entities, dignitaries and business leaders from other countries; youth groups, student leaders, and recipients of awards; and/or elderly, disabled or low-income City residents;
 - b. Hosting constituents as (a) a designated official appointed by the City Commission, or (b) upon invitation of the event(s) organizers or some other person or entity authorized to extend such invitation.
 - c. hosting groups of employees being specifically recognized for job-related achievements;
 - d. Being officially recognized by sponsors of event in a printed program or other public announcement;
 - e. Performance of one of the following functions in one's official capacity as (a) a designated official appointed by the City Commission or (b) an individual invited by the venue:
 1. Introducing organizers, participants or dignitaries;
 2. Recognizing the contributions of organizers or staff;
 3. Receiving or giving an award or other special recognition;
 4. Giving a speech;
 5. Greeting and welcoming attendees;
 6. Ribbon cutting;
 7. Leading the pledge of allegiance or national anthem;
 8. Acting as a Goodwill Ambassador, as designated by the City Commission;
 9. Assess facility needs, proposed changes and constituent concerns in response to a documented complaint specifically addressed to the attendee

NOTE: The Mere passive spectator attendance at an event will not be regarded as attendance in one's official capacity for a public purpose

EXHIBIT "B"

MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST:
ADDENDUM TO GUIDELINES AND RECOMMENDATIONS
REGARDING "PUBLIC BENEFIT" CLAUSES IN CERTAIN
GOVERNMENT CONTRACTS: PUBLIC PURPOSE
(PER CMB RESO NO. 2014-28638, II (n.1))

(see below)

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 these 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 articulable 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) a designated official by the Commission, Chairperson, Mayor or other person delegated that responsibility, or (b) an individual invited by the venue

- 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. 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;
 - d. Businesses and institutions which have contributed to the welfare of the County/City;
 - f. Visiting dignitaries or foreign officials.