

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, December 05, 2016 10:39 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Xavier Alban, Asst. City Atty., City of Miami, RE: Inquiry - Contractual Language - Complimentary Tickets and Access to Event; Gifts (e); INQ 16-268
Attachments: COE Ticket Policy.pdf; COE Ticket Policy addendum.pdf; City of Miami Inquiry re Bayfront's NYE 2014.pdf; INQ 15-287 Haber.pdf; INQ 15-287 Haber.pdf; INQ 14-155 Mendez.pdf; INQ 14-119 Blake.pdf; INQ 15-39 Mendez.pdf

INQ 16-268 Alban

From: Perez, Martha D. (COE)
Sent: Monday, December 05, 2016 9:51 AM
To: 'Alban, Xavier E.' <XEAlban@miamigov.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Xavier Alban, Asst. City Atty., City of Miami, RE: Inquiry - Contractual Language - Complimentary Tickets and Access to Event; Gifts (e); INQ 16-268

Dear Xavier,

Please review City's 2014 Inquiry response from Mike Murawski and INQ 15-287 (collectively, the Inquiries) attached herein, which address the distribution of complimentary tickets for the New Year's Eve event(s) at Bayfront Park. The Inquiries as well as the "Guidelines & Recommendations Re 'Public Benefit' Clauses..." and its "Addendum", should provide sufficient information for the City in drafting the appropriate language in the subject agreement.

Upon review of the proposed contractual language with the Executive Director of the Ethics Commission, it is suggested that you add: *any complimentary ticket distribution plan under the terms of the agreement will be subject to review and approval by the Executive Director of the Miami-Dade County Commission on Ethics & Public Trust.* Otherwise, you should include the following information in the City's ticket distribution provision(s):

- A definition of "public purpose" (For example, the Florida Administrative Code at Section 34-13.320(2)(b), defines "public purpose" as *that which promotes the public health, safety, and welfare of the citizens of the State or a political subdivision therein, rather than the welfare of a specific individual or class of persons...*) or, language to the effect that: *any question on whether a purpose constitutes a "public purpose" will be referred to the Miami-Dade County Commission on Ethics & Public Trust for determination.* The fact that an event conducted by a private entity is being co-sponsored with the City does not automatically transform the presence of city officials and employees at such an event into "official" participation. *See* INQ 15-39;
- When there is a demonstrable and permissible public purpose attached to the receipt of a ticket, there is no reporting requirement under Section 2-11.1(e)(4) of the County Ethics Code;
- Any of the City's 50 complimentary tickets given to City officials or employees for a permissible public purpose do not extend to the official's or employee's family and/or friends. *See* INQ 15-287; INQ 14-119; INQ 14-155
- Clarification that the duties and responsibilities of the Members of the TRUST and supportive CITY personnel having access to the premises satisfy a governmental purpose;

- The distribution of “up to 1,000 VIP tickets for promotional use” must be consistent, not only with applicable State, County and local laws but also with the COE’s Guidelines and Addendum attached herein. Consequently, the distribution of VIP promotional tickets, with a value in excess of \$100, to an event conducted or sponsored/co-sponsored by a City vendor, must be restricted to non-City officials or employees. Notwithstanding, USER should be put on notice that the City has more stringent restrictions in its gift ordinance. *See* Sec. 2-613, City of Miami Code - Accepting gifts, etc., from persons contracting, etc., with city. *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.* ; and
- Procedures must be in place to account for the distribution of these complimentary tickets

As stated in the COE’s “Addendum”, “ 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.”

Best regards,

Martha D. Perez
 Staff Attorney
 MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
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 Miami, FL 33130
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From: Alban, Xavier E. [<mailto:XEAlban@miamigov.com>]
Sent: Thursday, December 01, 2016 4:29 PM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Cc: Ethics (COE) <ethics@miamidade.gov>
Subject: Inquiry - Contractual Language - Complimentary Tickets and Access to Event

Good afternoon Martha,

The Bayfront Park Trust will be entering into an Agreement with a production company to hold a New Year’s Event at the Bayfront Park. The City reviewed the Miami-Dade Commission on Ethics and Public Trust’s [“Guidelines and Recommendations regarding ‘public benefit’ clauses in certain government contracts”](#) and its [“Addendum clarifying ‘official function.’”](#), in addition to the relevant statutory and code provisions. Based on our review, the City drafted the language below. We are asking that you review the language and advise if such language is acceptable so that we may use the same language in future agreements where events are being held on City-owned property.

We are available to answer any questions and discuss this matter further at your convenience. Thank you for your assistance in this matter.

DRAFT LANGUAGE

b. COMPLIMENTARY TICKETS DISTRIBUTION & EVENT MONITORING:

USER shall have right to distribute up to 1,000 VIP tickets for the EVENT for promotional use without payment of a ticket surcharge. USER shall only pay a ticket surcharge on complimentary tickets actually used at the EVENT in excess of the 1000 tickets authorized herein. USER shall not pay a ticket surcharge on complimentary tickets issued in excess of the 1000 tickets authorized per event day, but not used. USER shall provide the City of Miami fifty (50) complimentary tickets for the EVENT. USER shall provide the City Manager, or his designee, the fifty (50) complimentary tickets five (5) days prior to the EVENT. The fifty (50) complimentary tickets shall be distributed for permissible public purposes pursuant to applicable State, County, and local laws. Members of the TRUST or supportive CITY personnel shall have access to the premises to monitor and facilitate the EVENT. However, nothing herein shall affect any gift reporting or disclosures required by law.

Xavier E. Albán

Assistant City Attorney



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