

RESOLUTION NO. R2014-68

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL
OF THE CITY OF NORTH MIAMI BEACH, FLORIDA,
ESTABLISHING A POLICY GOVERNING CHARITABLE
DONATIONS MADE BY THE MAYOR AND CITY
COUNCIL.**

WHEREAS, in September 2012, the City Council approved Resolution 2012-72 establishing policies and procedures for community non-profit groups to request and receive public funds from the City of North Miami Beach; and

WHEREAS, the City Council is concerned with the current charitable donation policy and recognizes the potential for misuse of public funds with insufficient oversight and policies; and

WHEREAS, the North Miami Beach City Council wishes to review and revise its existing charitable donation policy; and

WHEREAS, the Miami-Dade County Commission on Ethics (COE) and the City Attorney have made recommendations regarding the expenditure of public funds (see Exhibit "A" *Miami-Dade County Commission on Ethics & Public Trust Guidelines and Recommendations Regarding "Public Benefit" Clauses in Certain Government Contracts* and Exhibit "B" *City Attorney Memorandum on Elected Officials Allowable Travel Expenses*); and

WHEREAS, the COE has concluded that "public benefits should benefit the public; they should not be used by elected officials to ingratiate themselves with supporters [and that] it is unethical ... for officials to dole out benefits meant for the public-at-large in a manner that serves the official's interests rather than the public's interest."; and

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WHEREAS, in response to the identified weaknesses of the existing policy and the recommendations of the COE and City Attorney, the City Council desires to create a policy that avoids political pandering, avoids the appearance of impropriety and minimizes the opportunity for misuse of public funds; and

WHEREAS, the City Council has determined that the policy to fund community non-profit groups created in Resolution No. 2012-72 is insufficient to insure transparency, accountability and minimizing opportunities for misuse of public funds; and

WHEREAS, the charitable donation policy provided for herein implements the recommendations of the COE and City Attorney and provides for proper public purposes, a neutral, non-political process, and transparency by posting the donations and accompanying documentation on the City's website; and

WHEREAS, the Mayor and City Council hereby establish the following Comprehensive Policy for the Mayor and City Council Governing Charitable Donations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida:

Section 1. The aforementioned recitals are true and correct.

Section 2. APPLICABILITY OF POLICY.

In order to establish a fair and transparent process for the distribution of charitable donations, the City of North Miami Beach hereby establishes this Comprehensive Policy for the Mayor and City Council Governing Charitable Donations. This policy shall apply to any group, organization, or person requesting public funds.

Section 3. PUBLIC PURPOSE.

The donation of any public funds by the City of North Miami Beach shall promote a valid public purpose that directly benefits the North Miami Beach residents and property owners. Donations in excess of one hundred dollars (\$100.00) shall only be made to a charitable non-profit 501(c) organization. The 501(c) organization is as defined in the Internal Revenue Code Title 26, Section 501 (2012).

Section 4. COMPREHENSIVE POLICY GOVERNING CHARITABLE DONATIONS BY THE MAYOR AND CITY COUNCIL.

Charitable donations shall be in accordance with the public purposes stated in Section 3. *Public Purpose*. Charitable donations shall be subject to the below guidelines. The eligibility requirements for the donation of any public funds are:

- For donations in excess of one hundred dollars (\$100.00) the group/organization must be duly organized under the Internal Revenue Code and the laws of State of Florida as a 501(c) tax exempt organization; and
- The solicitation request shall be for a public purpose as provided for in Section 3. *Public Purpose*; and
- The solicitation request must be accompanied by a completed application and all required documentation; and
- Upon final approval of a solicitation request in excess of one hundred dollars (\$100.00), the group/organization will be required to complete and sign a contract provided by the City Manager in consultation with the City Attorney.
- All charitable donation requests shall be submitted on the application forms available with the City Clerk.

- Completed application forms for donations with supporting documentation shall be submitted to the City Clerk no later than the posted deadline, as determined by the City Manager.
- The City Council may schedule a review of the applications received, either at a regularly scheduled council meeting or a special meeting scheduled for that purpose.
- The applications, supporting documentation and City Council determination shall be placed on the City's website.

Section 5. FUNDING AWARDS.

In preparing the annual budget, City staff will budget for awards to the organization(s) which have been approved by the City Council. This appropriation may include a discretionary fund for late, special or emergency requests to be approved by the City Council. Discretionary funds can be used for charitable donations sponsored by a City Council member. Any funds appropriated for donations and not spent for such purpose during the then current fiscal year, shall revert to the General Revenue Fund at the end of the fiscal year.

Section 6. AUTHORIZATION.

The Mayor and the City Council of the City of North Miami Beach hereby approve, in substantially the attached form (attached hereto as Exhibit "C"), the application documents with the stated criteria, acknowledgements, and required documentation

Section 7. EXCLUSIVITY.

The matters set forth in this Resolution shall serve as the City's Comprehensive Policy Governing Charitable Donations for the Mayor and City Council, and it shall be posted prominently on the City's website.

Section 8. REPEAL.

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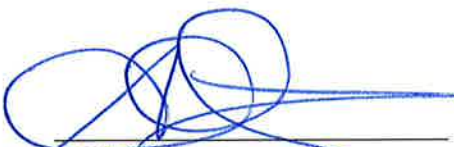
The City of North Miami Beach Resolution No. 2012-72 creating a policy and process to fund community non-profit groups is hereby repealed.

APPROVED AND ADOPTED by the City of North Miami Beach City Council at the regular meeting assembled this **16th day of December, 2014**.

ATTEST:



PAMELA L. LATIMORE
CITY CLERK
(CITY SEAL)



GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION



JOSE SMITH
CITY ATTORNEY

Sponsored by: Mayor & Council

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EXHIBIT "A"

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



Guidelines and recommendations regarding "public benefit" clauses in certain government contracts.

Pursuant to the Ethics Commission's enabling ordinance¹ the purpose of the Ethics Commission is to serve as the guardian of the public trust by, among other things, educating the public...elected and appointed officials and other public servants as to the required standards of ethical conduct. The Ethics Commission is empowered to exercise all powers either specifically granted or necessary in the exercise of those enumerated powers. Accordingly, after the conclusion of a joint investigation by the Public Corruption Unit of the Miami-Dade State Attorney's Office (SAO) and the Commission on Ethics (COE); we felt it appropriate to follow up on concerns identified during the investigation and suggest recommendations and guidelines to address those concerns. The investigation involved a grant dispute between the City of Miami Beach (CMB) and the New World Symphony (NWS). The initial complaint was made by a prominent local attorney and former Miami Beach mayor who was also the Chairman of the Board of Trustees of the NWS. The allegation was that the CMB was refusing to pay the NWS monies due under a Grant-in-Aid Agreement (GIAA) unless the NWS provided the Mayor, Commissioners, and CMB Senior Administrative staff with complimentary tickets to NWS performances. The SAO Close-Out memo is attached hereto as Exhibit 1.

Although the joint investigation did not uncover any violation of criminal laws, it did expose flawed policies that have resulted in unwarranted and inappropriate benefits for elected and appointed officials. Elected and appointed officials can exploit these policies which provide them with thousands of dollars worth of tickets to coveted events sponsored by private entities that have a contractual relationship with the local governments which these officials serve. Moreover, further investigation has shown that several other municipalities engage in similar

¹ Section 2-1066 of the Code of Miami-Dade County.

ticket distribution plans. These distribution plans sometimes amount to no more than a thinly disguised form of political favoritism used by elected officials to curry favor with supporters and to build political support. The Commission on Ethics and Public Trust finds these practices troublesome and urges all local governments to consider the recommendations set forth in this report.

The City of Miami Beach:

The investigation found that the practice by the City of receiving complimentary tickets to City-owned venues was officially sanctioned with the passage of CMB Resolution 93-20694, which reads as follows:

A Resolution of the City Commission of the City of Miami Beach, Florida, providing that complimentary tickets for performances and events at TOPA² and the Convention Center which would otherwise be received by the Mayor, City Commissioners, and City employees, shall hereafter be made available to disadvantaged youths, disabled persons, senior citizens and other individuals who do not have the financial ability to purchase tickets for cultural events...

Now, therefore, be it resolved by the City Commission of the City of Miami Beach, Florida, that:

1) The following City officials shall receive a maximum of four (4) complimentary tickets for one performance of all new productions or events at TOPA and the Convention Center:

- (1) Mayor and members of the City Commission*
- (2) City Manager*
- (3) City Attorney*

The following City officials shall receive a maximum of two (2) complimentary tickets for one performance of all new productions or events at TOPA and the Convention Center for which such tickets are available:

- (1) Senior Assistant City Manager, Contract Administrator*
- (2) Chief Deputy City Attorney*

2) Any and all remaining tickets shall be donated to disadvantaged youths, disabled persons, senior citizens of Miami Beach and other individuals who do not have the financial ability to purchase tickets for cultural events.

3) The City administration shall develop guidelines and appropriate procedures with regard to the administration of this program and shall submit said guidelines and appropriate procedures to the City Commission for final

² Theater of the Performing Arts.

approval... (emphasis added)

While CMB Resolution 93-20694 allows for the receipt of complimentary tickets to events at only the TOPA and the Convention Center, both City-owned facilities, this resolution has been used by CMB Commissioners and employees to justify the receipt of complimentary tickets to many events at CMB venues including the NWS.

In 1993, the then City Manager established a "Promotional Ticket Policy." The policy mirrored the resolution's eligibility requirements, stating that the complimentary tickets be first given to the Mayor, the Commission, the City Attorney, the Assistant City Managers, the Chief Deputy City Attorney, and the Contract Administrator, and that any remaining tickets be donated to disadvantaged youths, disabled persons, and senior citizens. The policy also established the following guidelines:

- 1) A committee appointed by the City Manager shall meet to establish a list of organizations and/or groups eligible to receive promotional tickets... the list shall be updated every quarter.*
- 2) A current list of local organizations or civic groups shall be maintained from which a rotation of recipients shall exist.*
- 3) Donated promotional tickets may be used by organizations solely to promote fundraisers...*
- 4) No more than ten (10) promotional tickets shall be issued to any one organization for one show/event.*
- 5) When a representative from an organization receives the tickets he/she will sign a receipt. Organizations will be given a form to be completed and returned to the City Manager's office within two weeks of the show/event... If the organization does not return the completed form, then the City Manager will not issue any more tickets to that organization...*

It should be noted that virtually none of the CMB employees or elected officials (except for one Assistant City Manager) interviewed during the investigation, were aware of the City's own "Promotional Ticket Policy." Not even the current City Manager, who, according to the policy, is responsible for managing the "Promotional Ticket Program," was aware of its existence. Apparently, the only part of the policy implemented was the distribution of complimentary tickets to the Mayor, Commissioners, and CMB senior staff. No record of the appointment of a ticket distribution committee, nor the creation of a list of organizations authorized to receive tickets, was found.

The investigation found that the CMB City Manager acts as the distribution point for all complimentary tickets received by the City. Once tickets come to his office, they are then distributed among the Mayor and City Commissioners. A distribution log is maintained. Once the tickets get into the hands of the elected officials, however, they then have unfettered discretion to do with them what they please. The investigation revealed that many Commissioners kept certain tickets for their personal use. Often, however, Commissioners gave their allotted tickets away to friends, family, staff or other constituents. Certain anecdotal evidence gathered during the course of the investigation suggests that, quite often, the recipients are targeted groups of senior citizens who are made well aware of which Commissioner's beneficence is responsible for the free tickets. The political goodwill derived from these acts of taxpayer subsidized generosity can itself be perceived as a "gift" to the elected official. Utilized by elected officials, this practice is likely to lead to political pandering, including the currying of favor with blocks of potential voters and/or other influential individuals within the electorate.

It is clear that the CMB is not adhering at all to the spirit of its own resolution (93-20694) in that few of the intended recipients i.e. disadvantaged youths, disabled persons, senior citizens of Miami Beach and other individuals who may not have the financial ability to purchase tickets for cultural events, end up benefiting from these free tickets. "Public Benefits" should, in our view, benefit the actual public at large. It is clear that the primary beneficiaries of these "public benefits" are the government officials; this needs to end. Moreover, this type of ticket distribution system appears to be the same type of system, that the Florida State Ethics Commission (FSEC) opined, results in "gifts" being given to elected officials.

Distribution of tickets obtained through "public benefit" clauses:

We recommend that elected official be entirely removed from the process involving distribution of complimentary tickets. All local government entities that have contractual relationships wherein their municipality receives "public benefits," including, but not limited to, event tickets, should adopt a policy or procedure that insulates elected and appointed officials from involvement in the distribution process of the benefits, and limits their receipt of complimentary tickets to occasions when there is a public purpose served by their attendance.

We underscore that, when public power is executed through government contracts to extract a benefit, such as complimentary tickets, from a private party, there can be no permissible purpose for such a benefit other than a public one. Such publicly obtained assets do not differ in character from any other public property such as tax revenue or public buildings. Use of such assets for anything other than public purposes is ethically and legally problematic.

In light of the City of Miami Beach investigation, the Ethics Commission surveyed the “public benefit” practices in several other municipalities. We learned that, in the City of Miami, tickets are routinely provided to elected officials and the City Manager for events at, among other locales, the James L. Knight Center, Bayfront Park and the Sony Ericsson Tennis Tournament (SETT), through a similar distribution procedure.

An Assistant City Manager advised the COE that in 2011, Commissioners, the Mayor and the City Manager each received two (2) tickets per session for a total of twenty-two (22) sessions plus a parking space for the SETT. A City official advised the COE that the SETT tickets are provided as part of an agreement between the City’s Department of Asset Management and Miami-Dade County for use of the Marine Stadium parking lot. One elected official in the City advised that he gives the tickets away to “friends...and other important people.” Thus, we see another example of elected officials using the so-called “public benefits,” in a manner that inures to their personal or political benefit. In practice, the “public” derives little, if any, benefit, from such a self-interested mode of distribution.

Inquiry into similar practices by the City of Homestead (COH) revealed that COH has lease agreements for the Homestead Sports Complex and the Homestead Speedway (the “Lease Agreements”). For each event held at the complex (pursuant to the City’s lease agreement with La Ley Sports at the City of Homestead, Inc.), COH receives: the use of a designated skybox, forty (40) skybox tickets, and twenty (20) parking passes. Pursuant to COH’s agreement with Homestead Motorsports Joint Venture, COH has been granted: eighty (80) complimentary general admission tickets, the use of two (2) skyboxes, and complimentary tickets for each seat in the skyboxes for each event held at the speedway. In addition, employees of COH are granted a twenty-five percent (25%) discount off of the face value of a ticket to all motorsports events held at the speedway. Each eligible employee may purchase a maximum of two (2) discounted tickets.

One COH official advised the COE that such tickets are routinely left in his office and that he then distributes those tickets to City officials. This individual said he would appreciate formal guidance from the Ethics Commission on this issue.

As another example of the often times inappropriate use of these "public benefits," in 2008, a COH Councilperson was advised by the COE that it would be inappropriate for a Councilperson to offer a candidate running for State office the opportunity to hold a fundraiser at the designated City skybox and only be charged the discounted City rate.

An inquiry into the policies of Miami-Dade County's related policies was also made. According to a representative of the Adrienne Arsht Center (AAC), there is no policy that requires the Performing Arts Center to provide a certain number of tickets to each performance to County officials. However, if the Arts Center/AAC has, what they term, "excess inventory," they do contact County Commissioners' offices to obtain the names of non-profit and/or other charity type organizations they can donate the excess inventory tickets to. The tickets themselves do not pass through the hands of County officials. Once again, however, we find that the practice of making the tickets available to a private, non-profit, group upon the mere designation by a single elected official, rather than a neutral, non-political person or entity, is similarly questionable and problematic.

COE interviewed the County's Director of Cultural Affairs who advised that he "scrupulously avoids" having any type of "public benefit" clauses in any of the contracts between the County and any of the cultural arts groups that perform at various County owned facilities. He further advised that many arts groups themselves often provide tickets directly to underprivileged groups on their own but his office does not engage in any distribution of tickets to elected officials nor requires that any number of tickets be provided contractually.

The City of Coral Gables (CG) was asked about its policy concerning the issuance of tickets under similar agreements. The COE found that the Actors Playhouse (Miracle Theater) in CG manages to avoid interference from elected officials in their distribution of public benefit tickets. The Executive Director of the Miracle Theater advised that the Playhouse has a management agreement with CG. In the agreement, the Playhouse agrees to give 500 tickets to the community. According to the Executive Director, the Playhouse gives away thousands of tickets every year to not-for-profit agencies, schools, and other groups that represent individuals

who cannot afford to buy tickets. She advised that the Playhouse recently gave away 60 tickets to Northwestern High School students (value of more than \$1,000.00).

The decision as to which tickets to give away and to whom ultimately lies with the Executive Director. The Executive Director claimed that CG does not interfere with the Playhouse's distribution of the tickets. The City does not monitor the Playhouse's distribution of complimentary tickets. She advised that no tickets go to the City.

When such benefits are provided wholly through the discretion of a non-governmental entity that is not performing a government function, there is no legal prohibition to consider pursuant to the Miami-Dade County Conflict of Interest and Code of Ethics ordinance, provided that there is no connection between the acceptance of the proffered tickets and any action to be taken by the recipients in his or her public role. The acceptance of such tickets by a public official does, of course, subject the official to the gift reporting requirements where the value of the tickets exceeds \$100.00.

Attendance as part of official city/county business:

Investigation also determined that, in addition to the myriad number of tickets provided pursuant to "public benefit" clauses, elected and appointed officials are invited to attend numerous events as a matter of "official city business."

Attendance at "official city business" events generally does not require gift disclosure as long as the elected/appointed official is, in fact, performing some bona fide official function at the event (see generally, FSEC opinion 01-019). However, it should be noted that mere attendance at an event by an elected official does not magically transform the event into official city business. "Official functions" can include, but are not limited to: participating in a ribbon cutting, giving a speech, or leading the pledge of allegiance.

There may also be occasions when, due to the presence of visiting dignitaries or other special invited guests, it will be appropriate for officials to attend an event to socialize with such persons as representatives of the local government. Such occasions, however, should be limited to special occasions rather than regularly scheduled events, and ought to include some official designation by the county/city government to those officials in attendance.

It is unlikely that mere, passive attendance by an elected official to such an event, without either some official role in the event, or, at a minimum, recognition as part of an official program of the event, can be considered attendance at an "official function."

Ramifications under gift rules:

Irrespective of the method of distribution employed by a government entity, elected officials must be cognizant of State and local gift rules when accepting tickets to an event. As previously discussed, if an elected official is attending a function as official city/county business, the value of the ticket or function is not considered a gift and therefore, the elected official is not required to disclose it as such.

It is important to note, however, that in CEO-92-33, the FSEC held that City Commissioners have received a gift, not a benefit of office, when the city gives them a block of tickets to performances at a municipally-owned theater, which tickets the City receives as a condition of its lease agreement with the producers. Where a City, by contract, receives tickets to events at the City-owned theater, and where the tickets are divided among the members of the City Commission for either their personal use or to distribute to others at their discretion, the members of the City Commission receive gifts which are subject to gift acceptance and disclosure provisions.

Also, a ticket received directly from a non-government entity outside of any previous agreement between the entity and the local government, is subject to the disclosure requirements set out in Section 2-11.1(e) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (reproduced below in its entirety).

Lastly, pursuant to Section 112.3148(4), Florida Statutes:

"A reporting individual³ ...is prohibited from knowingly accepting, directly or indirectly, a gift...from a lobbyist who lobbies the reporting individual's...agency...if he or she knows or reasonably believes that the gift has a value in excess of \$100..."

³ "Reporting individual" includes "(a) (1.) Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office." Section 112.3145(1), Florida Statutes.

Thus, it is important that elected officials exercise extreme caution in accepting tickets from an individual registered to lobby in their particular government as State law outright prohibits the acceptance of such, if the value is in excess of \$100.00.

Relevant Ordinances:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Miami-Dade County Code Section 2-11.1 states in pertinent part:

“(e) Gifts.

(1) *Definition.* The term “gift” shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(2) *Exceptions.* The provisions of Subsection (e) (1) shall not apply to: (a) Political contributions specifically authorized by state law; (b) Gifts from relatives or members of one’s household; (c) Awards for professional or civic achievement; (d) Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature; (e) Gifts solicited by County employees or departmental personnel on behalf of the County in performance of their official duties for use solely by the County in conducting its official business; (f) Gifts solicited by Commissioners on behalf of the County in performance of their official duties for use solely by the County in conducting its official business; (g) Gifts solicited by Commissioners, or their staff members, on behalf of any nonprofit organization for use solely by that organization where neither the Commissioner nor his or her staff receives any compensation as a result of the solicitation. As used in this subsection, a “nonprofit organization” shall mean any entity described in section 501(c) (3) of the Internal Revenue Code (the “Code”) that is tax exempt under section 501(a) of the Code. As used in this subsection, “compensation” means any money, gift, favor, political contribution, thing of value or other financial benefit.

(3) *Prohibitions.* A person described in Subsection (b) (1) through (6) 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 person included in the term defined in Subsection (b) (1) through (6) or for any person included in the term defined in Subsection (b) (1) through (6) 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 included in the term defined in Subsection (b) (1).

(4) *Disclosure.* Any person included in the term defined in Subsection (b) (1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioners simultaneously with the filing of the form with the Secretary of State."

City of Miami Code, Section 2-613 states in pertinent part:

"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."

Conclusion:

It is important to note that the problem we perceive i.e. the unfair advantage provided to elected officials utilizing these tickets as an extension of their self-promotional or campaign activities, is not an issue the Ethics Commission has ever addressed in the past. It appears though that there is simply no good reason why event tickets received by a municipality through a contractual "public benefits" clause or through any other understanding between the municipality and a private entity, should pass through the hands of elected officials. It is recommended that these tickets be distributed to the public by an objective, non-political mechanism. Such a neutral process would remove any suggestion of political or other non-public benefit to the officials. This recommendation is not intended to suggest that distribution of complimentary tickets by public officials is an automatic or per se violation of the ethics ordinance or other applicable ethics rules. It is conceivable that some public officials distribute such benefits in a manner that is non-political and otherwise appropriate. However, the temptations that are inherently likely to cause ethical problems are heightened by any policy that allows such discretionary distribution without oversight or accountability. The difficulty in fashioning an ethically unassailable policy under those circumstances has led to the recommendations contained in this report.

One of the ways we suggest that tickets be made available to the public is to post an announcement on the city/county's website or other publicly advertised medium, notifying the public of when tickets are available and allowing individuals interested in obtaining them to seek them from a non-political source, for example, the City/County Clerk's office. The tickets could be either given away or sold at a discounted rate. Another method might be to follow the Promotional Ticket Policy that the City of Miami Beach adopted but never implemented. This method would seem to ensure that youth organizations, seniors or low income groups get to reap the majority of the public benefit, consistent with the true intention of such contract provisions. It would deny elected officials the undeserved opportunity to grandstand or otherwise use the giveaway of tickets to further their personal or political agendas. Yet another suggested process is to follow CG's example and remove the government entity from the process entirely.

Again, we reiterate that "public benefits" should not inure to the personal, private benefit of elected and appointed officials. These "public benefit" clauses should not be interpreted as another opportunity for elected and appointed officials to reap "perks of office" or be utilized by them for political or other self-aggrandizing purposes. Public benefits should truly benefit the public-at-large, not just certain influential or well-connected individuals.

We understand that the SEC has opined that officials may receive tickets pursuant to "public benefit" clauses, as long as they report them pursuant to the gift reporting requirements. We want to underscore, by this policy statement, that we believe that elected and appointed officials should have no need to report benefits received under "public benefit" clauses because they should not be the recipients of these benefits in the first place, unless they are being used by them in their official roles, as previously described.

Public benefits should benefit the public; they should not be used by elected officials to ingratiate themselves with supporters. It is unethical, in our view, for officials to dole out benefits meant for the public-at-large in a manner that serves the officials personal interests rather than the public's interest.

We hope that local governments will take these recommendations seriously and expeditiously implement changes in accordance with this report. The frequency with which the issue of distribution of "public benefits" has arisen in the past and continues to arise, including inquiries to this agency, has led to this attempt to clarify and explain the ethical issues involved.

To that end, we hereby resolve to adopt as a set of "best practices" the recommendations set forth in this report.

Moreover, we will continue to examine the ticket distribution policies of local governments to ensure that they are in conformance with applicable ethics rules. While such policies need not be identical, we believe that adherence to the guidelines and recommendations herein would insure such conformance. Further, we will investigate any instance brought before us, where it appears that "public benefits" are being exploited for the benefit of elected or appointed officials for possible violations of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance. In sum, we recommend as follows:

1. Municipalities and local governments may have "public benefit" clauses in contracts between certain entities and the respective cities. The "public benefits" however, should benefit the public-at-large.
2. Tickets or other "public benefits" should be distributed in a non-political, neutral manner with no interference from local officials.
3. If local officials are the recipient of tickets or other benefits, and the value of the benefits exceed \$100.00, the official must comply with gift disclosure rules.
4. Local officials may not accept tickets with a value in excess of \$100.00 from any person registered to lobby the government which they serve. This is prohibited pursuant to Section 112.3148(4), Florida Statutes:

A reporting individual⁴...is prohibited from knowingly accepting, directly or indirectly, a gift...from a lobbyist who lobbies the reporting individual's...agency...if he or she knows or reasonably believes that the gift has a value in excess of \$100..."

5. If an official is appearing at an event in his or her official capacity, for a public purpose, the official need not report the attendance at the event as a gift. However, mere passive, spectator attendance at an event will not be regarded as attendance in one's official capacity for a public purpose. Attending an event merely to "be seen" by your constituency is not, in our view, a "public

⁴ "Reporting individual" includes "(a). (1.) Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office." Section 112.3145(1), Florida Statutes.

purpose". Attendance at "official city business" events generally does not require gift disclosure as long as the elected/appointed official is, in fact, performing some bona fide official function at the event. Although the Miami-Dade County Ethics Commission may not have specifically opined in this area in a formal way, we agree with the rationale of the State Ethics Commission's opinions in FSEC opinions 91-46 and 01-019. Those opinions hold that a public or local officer who claims that [a] trip is not a gift is not relieved of the responsibility of determining that he is in fact giving quid pro quo, that is, that the value of his time and services are equal to or greater than the value of the trip.

EXHIBIT "A"

EXHIBIT "B"



City of North Miami Beach Memorandum

CITY ATTORNEY'S OFFICE
Phone: (305) 948-2939
Fax: (305) 787-6004

TO: Honorable Mayor George Vallejo
Members of the City Council

CC: Ana Garcia, City Manager
Pamela Latimore, City Clerk

FROM: Jose Smith, City Attorney

DATE: July 18, 2014

A handwritten signature in black ink, appearing to read "Jose Smith", written over the "FROM:" line.

RE: Elected Officials Allowable Travel Expenses

I. Need for Travel Expense Policy.

In 2008, the Miami-Dade County Commission on Ethics and Public Trust conducted an extensive audit of the policies and procedures (or lack thereof) used by the County and all 35 municipalities with regard to reimbursement of travel expenses. The audit found that these policies "often reveal less-than perfect systems, which are poorly administered and lacking sufficient oversight and review to insure taxpayer dollars are properly spent by officials only on official business."

Therefore, the Ethics Commission strongly recommended that:

" ... Miami-Dade County and each municipality should maintain clear guidelines outlining the specific policies, rules and procedures concerning expenses for "city-related business" and establishing proper limits for expenditures. Failure to do so invites repeated complaints from citizens and repeated transgressions. While there may always be the occasional "grey" area between what constitutes a legitimate government business expense, made for a "public purpose" and what a personal expense is, the vast majority of expenses are easily distinguishable and clearly identifiable."

A copy of the audit is attached.

II. Legal Memorandum

A. "Public Purpose" Council's Policy Determination

What constitutes a valid purpose is a question for the City Council as the legislative body to determine and its opinion carries a presumption of validity. ¹ State v. Housing Finance Authority of Polk County, 376 So.2d 1158, 1160 (Fla. 1979). The question of "public purpose" involves the exercise of legislative judgment and is a matter peculiarly within the province of the City Council. ² The determinative factors are the identity of the officer in question, the nature and scope of the particular duties and functions imposed by law upon that officer (both express and necessarily implied), and the purpose of the travel as detailed on the travel voucher and related forms. An officer's travel expenses may be paid from public funds only when the travel is for a public purpose authorized by law to be performed by the agency or official in question, is necessary for the conduct of official business of the city, and is necessary for the performance of the officer's official duties. Fla. AGO 79-105.

B. Travel as "Public Purpose".

Where a public benefit to the city is not shown,³ the travel expense must be disallowed. Travel expense payment by the public agency is allowed where public duties are performed by the official at an appropriate location consistent with the following directive from Joe Centorino, Executive Director of the Ethics Commission:

"... If the trip services a legitimate public purpose connected to the official's official duties, then it is properly reimbursable. as are expenses directly

¹ If legally challenged, the City Council's opinion will be deemed correct unless so "clearly erroneous as to be beyond the power of the legislature". Wald v. Sarasota County Health Facilities Authority, 360 So. 2d 763 (Fla. 1978) Nohr v. Brevard County Educational Facilities Authority, 247 So. 2d 304 (Fla. 1971); Price v. City of St. Petersburg, 29 So. 2d 753 (1947); State v. Monroe County, 3 So. 2d 754 (Fla.1941). All doubts as to the propriety of means used in the exercise of an undoubted municipal power will be resolved in favor of the municipality. State v. Tampa Waterworks Co., 47 So. 358 (Fla. 1908).

² In its opinion #78-101, the Florida Attorney General recognized that: "...it is to be presumed that such approval will not be given in a perfunctory manner and that it will reflect the agency head's special knowledge of the authority and official duties imposed by law upon his agency and of what is necessary to carry out such prescribed duties and functions of that agency". (Emphasis added.)

³ Examples in which travel of an elected official has been held not to constitute a "public purpose" include:

- Peterson v. Florida State Commission on Ethics, COE Complaint #09-153, per curiam affirmed (Fla. 2DCA 2013): Secretary of the Florida Department of Juvenile Justice misused his State-paid travel by incurring excessive travel costs. Mr. Peterman claimed that while he was at the Wildwood office that he met with children and parents of children concerning the care provided concerning the care provided by DJJ, met with staff in the various facilities in the middle region of Florida, and talked with persons waiting in the lobby of his office. However, Mr. Peterman's calendar did not account for a large amount of the time that he purportedly spent at the Wildwood office, and his testimony was vague, characterized by generalities rather than specifics.
- Costage v. Florida Commission on Ethics: COE Complaint #91-37: Safety Harbor City Commissioner Costage used public funds for his personal financial benefit to pay for his wife's travel with the commissioner, with no stated public with no stated public purpose for the trips, and he further failed to strictly enforce travel reimbursement policies of the City.
- Former Opa-Locha City Commissioner Terrence Pinder was arrested in 2006 for alleged misuse of his City-issued credit card to pay for 'non-City' hotel stays (some of the charges were later dropped and a settlement was reached for payment of fines).
- A former Mayor of South Miami was charged in 2006 with misuse of City funds for payment of her son's travel expenses in accompanying her to Tallahassee for "Dade Days".

related to the official. Most of the time this should not create much controversy, since these trips are known and arranged in advance by the city. However, the decision of an elected official, on his or her own, to take a side trip during a scheduled trip may raise questions regarding whether the side-trip is purely a personal trip or one connected to the official's duties. I think this is where some local practice or regulation should be adopted to clarify the procedure to be used. My own opinion (only an opinion, not a requirement) is that the best way to handle these matters is to have the City Commission officially sanction any city trip, preferably in advance, but at least at some point to say that this was a trip connected with official city business. Otherwise, it puts the Mayor on the spot to be approving these things, without really knowing for sure what was going on during the trip (if it was taken by another official) and, possibly, being exposed to criticism from someone questioning whether the trip was appropriate. In situations where a portion of the trip is purely recreational, and there are extra expenses incurred for that portion, then, of course, the practice should be to have that portion borne by the official rather than the city.⁴

III. RECOMMENDATIONS

1. Enact a Resolution establishing policies and procedures for allowable travel expenses.
2. Such travel expenses are reimbursable where there is a legitimate identifiable public purpose. Only reasonable and necessary expenses incurred while performing official duties that directly benefit residents and property owners in North Miami Beach shall be eligible for reimbursement.
3. Suggested permissible public purposes should be specifically identified in the Resolution. These may include but are not limited to Dade Days, Chamber of Commerce Conferences, Sister Cities Delegations, promoting economic and business development and other similar events. Any other purpose may only be authorized by a majority vote of the City Council.
4. The existing city "Travel Policy" dated November 7, 2012, along with the "Travel Authorization Form" should be amended and revised to comply with Florida Statute 166.021(9)(c) and require from the public official a signed acknowledgement that:

"The expenses were actually incurred by the traveler as necessary travel expenses in the performance of official duties and shall be verified by a written declaration that it is true and correct as to every material matter; and any person who willfully makes and subscribes any such claim that he or she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation of such a claim that is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such claim, commits a misdemeanor of the second degree, punishable as provided in

⁴ (April 1, 2013 email from Executive Director to City Attorney Jose Smith)

s.775.082 or s.775.083. Whoever receives an allowance or reimbursement by means of a false claim is civilly liable in the amount of the overpayment for the reimbursement of the public fund from which the claim was paid... Travel expenses of travelers shall be limited to those expense necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed in his section.”

5. For transparency purposes, all travel reimbursements and supporting documents should be posted on the City’s website.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jose Smith", written in a cursive style.

Jose Smith, City Attorney

Introduction:

In July 2008, Coral Gables City Manager David Brown was charged with a civil violation of State Public Records Law for trying to keep public records from a local reporter who had uncovered questionable charges on Brown's city-issued credit card. Brown claimed he tried to keep receipts from his credit card statements from the reporter until he could add two new receipts for expensive lunches that were backdated to show he had reimbursed the city months earlier. As part of a settlement, Brown paid a \$500 fine and \$2,100 investigative costs.

A few months earlier, then-Miami City Attorney Jorge Fernandez was charged with a misdemeanor criminal offense stemming from, among other things, his use of \$1,500 from his city expense account to pay for his son's birthday party. Fernandez resigned from his position.

In November 2006, former Opa-Locka City Commissioner Terence Pinder was arrested and charged with three counts of Grand Theft and one count of Petit Theft. In July 2007 Pinder was further charged with three counts of Unlawful Compensation, one count of Official Misconduct and one count of Petit Theft. These criminal charges arose, in part, from Pinder's excessive misuse of his city-issued credit card to pay for personal meals, hotel stays and other "non-city business related" expenses.

In April 2006, a former South Miami Mayor was cited in an ethics complaint for using funds from her city "expense account" to pay the airfare for her minor son to accompany her to the "Dade Days" political event in Tallahassee.

Improprieties and transgressions regarding government-issued credit cards and expense accounts are not only problematic in Miami-Dade County. Last year, in Broward County's Cooper City, the City Commission was criticized for spending tax-payers' money on food and cocktails during "pre-Commission meeting" gatherings.

Earlier this year a report by the Government Accountability Office examined spending controls across the Federal government following reports of credit card abuse at departments including Defense, Homeland Security and Veterans Affairs.

The review of credit card spending at more than a dozen Federal departments from 2005 to 2006 found that 41% of roughly \$14 billion in credit-card purchases, whether legitimate or questionable, did not follow procedure — either because they were not properly authorized or because they had not been signed for by an independent third party as called for in federal rules to deter fraud. For purchases over \$2,500, nearly half — or 48% — were unauthorized or improperly received.

Frequently, the Miami-Dade County Commission on Ethics and Public Trust receives complaints from various citizens about how elected officials in their respective municipalities are using and, in citizens' minds abusing, their "expense accounts" or city issued credit cards.

Inquiries by the commission's Independent Advocate into different cities' policies often reveal less-than-perfect systems, which are poorly administered and lacking sufficient oversight and review to ensure taxpayer dollars are properly spent by officials only on official business.

These lax systems, often coupled with a reluctance on the part of management to seriously question the expenses of elected officials, facilitate not only the temptation to intentionally intermingle "personal" and "city" expenses, but can also snare the unwary as well.

Often the mere perception of impropriety shakes the public's trust and confidence in its elected officials. In light of what the Independent Advocate has observed as pervasive actual and/or perceived systemic waste and outright misuse of tax payers money by elected and other government officials on their own personal items, he has undertaken a countywide audit and review of the various policies utilized by the county as well as each of the 35 municipalities within the county in order to:

- A: Increase transparency for citizens as to the policies and procedures used by their local governments to provide elected officials with salaries, expense accounts, credit cards and other benefits.
- B: Examine the strengths and weaknesses, efficiencies and inefficiencies of the various policies used.
- C: Provide suggestions and feedback to the various governments where problems or potential deficiencies are identified.
- D: Provide notice to elected officials as to what pitfalls to avoid, as well as the inherent danger of commingling personal and city business expenses, so as to avoid ethical missteps and "appearance of impropriety" problems.

Florida Statute, section 112.061, recognizes that elected officials and government employees often incur travel related and other expenses in the performance of their official duties. It makes sense that whenever there is a proper "public purpose" associated with a public officials travel or other authorized expenses incurred in the performance of their official duties, they be entitled to reimbursement.

"Expense accounts", also called "expense allowances," are plans under which companies (and governments) reimburse employees for business-related expenses. These expenses include travel, entertainment and other expenses related to the employer's business activity. Generally, a company's expense account plan is either "accountable" or "non-accountable."

In an "accountable" plan, the expense must have a "business connection." The expenses must be substantiated (usually through a receipt) and any amount received by an employee in excess of actual expenses must be returned to the employer. "Substantiation" means that the employer must be able to identify the specific nature of each expense and determine that the expense was business-related.

If a company's plan is, in fact, an "accountable plan," then all money received by an employee under the plan is excluded from the employee's gross income. It is not reported as wages or other compensation, and it is exempt from withholding.

Companies that do not require employees to substantiate their expenses or allow employees to retain amounts in excess of substantiated expenses are considered by the IRS to have "non-accountable" plans. Funds that employees receive under "non-accountable" plans are treated as income and subject to withholding taxes. Such expenses are deductible by the employee only as a miscellaneous itemized deduction if they exceed 2 percent of the employee's adjusted gross income.

In the private sector, "non-accountable" plans are not objectionable as it is the right of each private business to allow these types of expense accounts if the individuals managing the company choose to do so. The individuals running the private company are the same individuals who are impacted financially by this type of policy and therefore the final decision rightfully rests in their hands.

It should be pointed out that it is not illegal to utilize a "non-accountable" plan in the public realm; however, such plans are objectionable. They clearly do not provide the transparency and accountability that should exist in government. These plans do not require elected officials to account for how money is spent. There is no mechanism in place to ensure that "non-accountable" expense money is spent on "government related business" only or, for that matter, is spent at all.¹ Tax-payers have the right to ensure their dollars are spent only on public matters and by these officials only in the performance of their public duties.

Furthermore, use of "non-accountable" expense accounts can be misused as a mechanism to circumvent Charter mandates regarding salaries paid to elected officials. Giving elected officials a taxable "non-accountable" expense account, for all intents and purposes, translates into a "salary" often passed as a resolution or as part of an overall budget. This practice can be easily perceived as a "back-door" method of providing salary supplements to elected officials in those jurisdictions where elected officials' compensation is determined by the Charter and an increase in salary requires voter approval.

Credit cards:

¹ "Non-accountable" plans allow an elected official or government employee recipient to simply take the "non-accountable" expense account money and put it in the bank or otherwise invest it for their own personal benefit.

Use of personal credit card for city purchases:

It is fairly obvious that you can not make personal purchases with your government issued credit card; however, the opposite is also problematic. The Ethics Commission's Independent Advocate has encountered at least two circumstances in the past where municipal government employees (usually involved with procurement) utilized their personal credit card to make city-related purchases. These were not just occasional, incidental purchases, but in fact were frequent, recurring and substantial -- sometimes involving hundreds of dollars. These individuals would, after receiving their personal credit card monthly statements, arrange either reimbursement to themselves for the city-related charges or have a city check issued to their credit card companies.

In emergency situations, it is understandable that an occasional city-related expense may be charged on a personal credit card and then later reimbursed to the employee. However, prolonged and consistent use of personal credit cards to purchase city related products raises a multitude of problems and is not recommended.

For example, by purchasing large quantities of government supplies on a personal credit card, the individual "benefits" by an improved credit rating since the government entity timely pays the substantial bills. Also, many times personal credit cards accumulate benefits like frequent flyer miles or "reward points" based on the amounts charged. Thus, an individual can amass significant personal benefits by charging government supplies and purchases on their personal credit cards.

Moreover, if the government employee is terminated or otherwise separates themselves from government employ at a time between monthly credit card statements, the employee could be liable for official charges incurred on the credit card prior to their separation from employment.

In another case, a municipal employee established a "business" credit card account in her own name and jointly in the name of the municipality. This employee utilized the card for city related purchases; however, the card was in her name and there was no oversight by the municipality as to her use of it. The monthly bill was sent to the City.

Frequently, we have encountered situations where officials and/or employees charged personal items on their government-issued credit cards and then later reimbursed the city once their monthly statement arrived.

In the opinion of the Ethics Commission's Advocate, this is an improper use of a city-issued credit card, regardless of the fact that reimbursement is timely made. Charging personal items on government issued credit cards is a misuse of the credit card. In addition, it amounts to a "loan" to the elected official. For the period of time between making the charge and paying back the city, the government entity essentially "fronted" the money to the official. The best practice to follow is to ensure that personal charges and government-related expenses are not commingled. Frankly, it is not all that difficult to keep personal credit cards separate from government credit cards. Accordingly, there is really no excuse for charging personal expenses on a government card. The line between personal expenses and government-related expenses should be so obvious to the average person that defining it seems redundant. Unfortunately, that is not always the case. Certainly no government officials should be utilizing their expense accounts or government credit cards to defray their everyday costs of living. Paying for a child's birthday party with

expense account money is clearly an abuse of an expense account as any rational and reasonable person would conclude that the overriding purpose of having a birthday party for your child is "personal" and not "business." In Florida State Ethics Commission (SEC) case NO. 93-0313EC, the SEC held that it was improper for an elected official to use expense account funds to pay \$11.25 for the dry cleaning of a necktie that was stained while the official was attending a city-related dinner.²

Similarly, if the elected official is traveling on legitimate government related business, it is improper to utilize "expense account" funds to pay for the travel of a friend, spouse or family member who might be accompanying the government official. The purpose of the official's trip is business *for them* while the purpose for the guest's trip is clearly not.

Miami-Dade County and each municipality should maintain clear guidelines outlining the specific policies, rules and procedures concerning expenses for "city-related business" and establishing proper limits for expenditures. Failure to do so invites repeated complaints from citizens and repeated transgressions. While there may always be the occasional "grey" area between what constitutes a legitimate government business expense, made for a "public purpose" and what is a personal expense, the vast majority of expenses are easily distinguishable and clearly identifiable.

It is highly recommended that all elected officials sign an acknowledgment indicating that they have received, read and understood the policies regarding credit card and expense account usage with respect to their individual governments. These signed acknowledgements should be on file with the respective clerks of each city. "Non-accountable" expense accounts should not be utilized by government entities.

Conclusion:

In closing, the citizens of Miami-Dade County as well as those of all the cities contained within the County ought to be aware of the policies and procedures used by their local governments to provide elected officials with salaries, expense accounts, credit cards and other benefits. Citizens are entitled to know how their money is spent.

Our examination of the various "expense account" methods utilized throughout the county leaves us to conclude that "non-accountable" expense accounts offer the least transparency and, in fact, when treated simply as taxable income, may be perceived as "salary supplements" in those jurisdictions where officials' salaries are mandated by their charter.

There is an inherent danger in commingling personal and city business expenses. Thus, individuals and governments should take steps to provide their officials with clear guidelines so as to avoid ethical missteps, "appearance of impropriety" problems and, as is occurring with more and more frequency, criminal prosecutions.

² This SEC ruling was later overturned by the Third District Court of Appeal in *Kinzer v. State of Florida Commission on Ethics*, 654 So.2d 1007 (3rd DCA 1995). This case highlights the problems inherent in not having clear guidelines as to what is or is not a reimbursable expense.

Local Government Compensation Packages:

The following represents a breakdown of the various salary and benefits paid to elected officials throughout Miami-Dade County along with the methods utilized for expense allowances and reimbursements. This information was obtained directly from the administrators within each city and the county.

CITY OF AVENTURA

The City of Aventura's mayor receives a base salary of \$10,000 per fiscal year. The commissioners receive compensation in the amount of \$7,500 per fiscal year.

The mayor and commissioners receive reimbursement for authorized travel and per diem expenses incurred in the performance of their official duties in accordance with State law.

In 2007, the mayor received \$4,662.56 in taxable expense reimbursements. Commissioners received taxable expense reimbursement ranging from a low of \$1,169.79 to a high of \$4,702.56.

VILLAGE OF BAL HARBOUR

The Village of Bal Harbour's mayor received a salary of \$1,800 in 2007. The council members received a salary of \$1,200 in 2007.

Neither the mayor nor council members received any reimbursements, taxable or non-taxable, in 2007.

There are no allowances or expense accounts given to council members or the mayor. The Village Manager is authorized to purchase Medicare supplement insurance policies for council members so as to provide Medicare supplement insurance coverage for any council member who leaves the Village Council after two consecutive terms of office and is eligible for Medicare at the time of leaving the council. The Village's cost for purchasing such coverage is limited so that such cost is not greater than the Village's then prevailing cost for providing group health insurance coverage to individual council members. (This graf seems extraneous.)

BAY HARBOR ISLANDS

Bay Harbor Island's mayor receives a salary of \$1.00 per year, which is donated in a ceremonious gesture. The council member's receive a salary of \$1.00 as well. It is also donated in a ceremonious gesture. They do not have any allowances or expense accounts.

Council members and staff are reimbursed only when traveling on behalf of the town, as follows:

1. The maximum reimbursement for meals is \$50 per day;
2. Mileage is paid pursuant to the rate established by the IRS for the calendar year in which travel occurs;
3. The maximum reimbursement for rental cars, if necessary, shall be no more than the standard mid-size car rate;

4. The maximum reimbursement for lodging is no more than the group rate set by the conference or other organizers. If no group rate exists, lodging shall be no more than the standard room rate at a moderately priced hotel; and
5. All incidental travel expenses such as bridge, road tolls, taxi fares, parking fees, etc., shall be reimbursed at full cost.

Requests for travel shall be submitted in advance, whenever possible, for council approval. All of the aforementioned expenses shall be submitted to the town in writing and each expense shall be separately enumerated. Said writing shall contain the following sworn statement: "The Expenses were actually incurred by the traveler as necessary travel expenses in the performance of official duties and are true and correct as to every material matter." The writing must also have attached to it a receipt for each expense item. This section must be fully complied with as a condition precedent to reimbursement for travel expenses.

VILLAGE OF BISCAYNE PARK

In 2007, the Village of Biscayne Park's mayor received a salary of \$6,000. Commissioners Anderson, Mallette and Morris received a salary of \$3,000 and Commissioner Bernard received a salary of \$750 since he took office in the last quarter of the year. None of the elected officials received reimbursement for expenses.

The mayor and commissioners receive reimbursement in accordance with state law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties. None of the elected officials receive any allowances, expense accounts or credit cards for use in village-related business.

CITY OF CORAL GABLES

The City of Coral Gables' mayor receives a salary of \$32,000, the vice mayor a salary of \$28,000 and each of the commissioners a salary of \$26,000. All increases in compensation for elected officials are tied to the annual increase in the Consumer Price Index (CPI) for urban wage earners and clerical workers from the preceding July, and shall be ratified by the commission at a public hearing, with such increase retroactive to the beginning of the fiscal year.

Each commissioner receives an expense allowance of \$400 per month (\$4,800 per annum), and the Mayor receives an expense allowance of \$500 per month (\$6,000 per annum).

The travel allowance for each commissioner is fixed at \$1,200 per annum, and travel expenses for the Mayor are fixed at \$1,800 per annum. In 2007, the mayor incurred and was reimbursed for \$1,591.48 in travel expenses. The mayor was the only elected official who received reimbursement for travel.

The mayor's office allowance for secretarial, telephone, postage and like expenses is fixed at \$100 per month.

TOWN OF CUTLER BAY

In 2007, the Town of Cutler Bay's mayor received a salary of \$12,000. Each council member received a salary of \$5,000. Salary payments are increased by the CPI annually.

Council members also received \$1,200 in the form of an annual expense allowance.

Elected officials and authorized employees of the town receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties.

In 2007, the mayor received non-taxable reimbursements totaling \$422.68. Council Member Sochin received non-taxable reimbursements totaling \$3,967.68. Council Member Meerbott received non-taxable reimbursements totaling \$650.18. And Council Member Bell received non-taxable reimbursements totaling \$2,761.50.

CITY OF DORAL

The City of Doral's mayor receives compensation in the amount of \$50,000 per fiscal year. Council members receive compensation in the amount of \$12,000 per fiscal year. Compensation for council members and the mayor shall be increased each calendar year consistent with the CPI. The council also receives reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties.

The mayor and council members do not receive either vehicle or travel allowance. There is no "personal" public relations budget for the mayor or for the council members.

The city pays all cell phone invoices for the mayor and the council members. Government credit cards are provided to the mayor and council members.

In 2007, the mayor received \$25,342.92 in taxable expense reimbursements and \$1,005 in non-taxable expense reimbursements. Council members Ruiz and Van Name received \$13,228 in taxable expense reimbursements. Council Member Ruiz received \$772 in non-taxable expense reimbursements and Council Member Van Name received \$675. Council members DiPietro and Cabrera received \$12,735 in taxable expense reimbursements. Council Member DiPietro received \$540 in non-taxable expense reimbursements and Council Member Cabrera received \$1,953 in non-taxable expense reimbursements.

VILLAGE OF EL PORTAL

The Village of El Portal's mayor and village council members receive an annual salary of \$1,000, as set by ordinance. They receive another \$1,000 yearly as reimbursement for expenses. According to the city manager, these funds are treated as regular income, and no vouchers are required to justify expenses -- in other words, a "non-accountable" expense account system.

In addition, the mayor receives \$150 a month as a cellular phone allowance, for a total of \$1,800 yearly. Council members receive \$70 a month as a phone allowance, or \$840 yearly.

According to the city manager, these three budgetary items are treated as income for commissioners and they receive the appropriate tax documents. In sum, the mayor receives yearly compensation totaling \$3,800 and each city council member receives compensation totaling \$2,840.

Neither the mayor nor council members drive city vehicles, nor are they issued city credit cards. Each elected official does have a "discretionary account" of \$1,000 that can be allocated to support constituent causes. However, the city manager controls those accounts and will not issue a check unless the request is supported by a memo from the elected official.

The city manager controls additional monies budgeted for travel for the mayor and council members totaling about \$3,500 so that officials may attend League of Cities meetings and other such events.

FLORIDA CITY

Florida City's "strong mayor" makes a base salary of \$127,231, as set by the charter and resolution. He also receives an annual expense allowance of \$5,600, which is taxable, for total compensation package of \$132,831.

The mayor also has a cellular phone plan with unlimited minutes, a city vehicle and a city credit card with a \$3,000 spending limit. All of the mayor's expenditures are reviewed by the city's finance director.

Florida City council members receive annual pay of \$5,600 and an expense allowance of \$3,600 – for a total package of \$9,200 each. That amount is treated as taxable income. The charter establishes that compensation of elected officials is set by resolution and fixed in the annual budget. The expense allowance system utilized appears to be of the "non-accountable" type.

Council members must submit their own deductions for expenses when they file their tax returns with the IRS each year.

As for non-taxable items, the City pays \$48.88 for a monthly cellular phone plan containing 1,000 minutes for each council member. If the council member exceeds that allotment, the cost of any overages is deducted from the council member's salary. Council members must share a single vehicle and do not receive a separate car allowance.

Another \$7,000 was budgeted for public relations events in fiscal year 2008. This line item is set aside for all council members and must be approved during council meetings. Funds are also budgeted for travel which is controlled by the city's finance director.

In addition, council members are issued city credit cards with a spending limit of \$1,500, used mainly for travel. There is no written policy, but the finance director personally reviews all expenditures to ensure they are legitimate city business. Officials can not make themselves loans or cash advances with the cards.

TOWN OF GOLDEN BEACH

The Town of Golden Beach's mayor receives an annual salary of \$1, which is taxable. The mayor is not provided with a vehicle or cell phone allowance, procurement card, or a public relations budget. However, in 2007 the mayor did receive a \$70 non-taxable travel reimbursement.

Each council member receives an annual \$1 taxable salary. Council members are not provided with a vehicle or cell phone allowance, procurement card, or a public relations budget. Council members did receive a \$140 nontaxable travel reimbursement in 2007.

The charter of the Town of Golden Beach sets forth the policy governing elected officials' reimbursement for government-related expenses. Specifically, Section 2-258 (f) of the charter states the following:

"Notwithstanding any of the foregoing restrictions and limitations, the Mayor and other Council Members may be reimbursed for reasonable expenses incurred by them in performance of their duties, in maximum amounts to be set by resolution, provided that:

- (1) The activities in which the expenses were incurred are of identifiable benefit to the Town; and,
- (2) receipts are provided to substantiate each expense.”

Section 2-258 (g) of the Town Charter allows for advancements to be authorized and made by the town manager to cover anticipated costs of travel. According to Section 2-258 (i) of the charter, the town manager is responsible for “prescribing such forms and procedures necessary to effectuate the purpose of this portion of the Town Charter.”

The town’s finance department provides internal accounting services to the Town of Golden Beach. This includes preparing the annual budget, accounts payable, accounts receivable and payroll. The finance director stated there are no written policies and procedures for the payment of officials’ expense reimbursements; however, the town is in the process of creating a written document for this purpose. In the meantime, elected officials must complete a travel expense form and submit supporting receipts prior to the approval and reimbursement of any government-related business expenditure.

CITY OF HIALEAH

In 2007, the City of Hialeah’s mayor received a taxable salary of \$154,655 in 2007 and the council members received a taxable salary of \$2,474 each.

The city provides an “unvouchered” expense account to its mayor and each council member, which is included in the elected official’s taxable income. In other words, this amounts to a “non-accountable” system for expense allowances. In 2007, the total taxable unvouchered expense account for the mayor was \$68,928. For council members, the unvouchered expense account included in each council member’s taxable income was \$40,161.

Additionally, the mayor received a taxable travel allowance of \$38,237 in the year 2007 and is provided with a leased vehicle paid for by the city. The mayor does not receive a cellular phone allowance; rather, the city provides the mayor with a Blackberry and pays the monthly invoice. The mayor is also issued a government credit card, but any expenditure incurred and paid for by the city is deducted from either the mayor’s unvouchered travel or expense allowance. Lastly, the mayor does not receive a personal public relations budget.

Council members do not receive a cellular phone allowance; rather, the city provides each official with a Blackberry and pays the monthly invoice. Council members are not provided with a vehicle allowance or a leased vehicle, nor are they provided with a government credit card or a personal public relations budget.

The City Charter of the City of Hialeah, Section 2.02 (e), Compensation, and Hialeah Code, Article I, Section 30-1, Compensation, sets forth the policy governing compensation and expenses incurred by the City’s elected officials. Section 2.02 (e), states that: “The annual salary of city council members shall be approved as an annual budgetary item...” Additionally, Hialeah Code Section 30-1, Compensation, states the following:

- (a) "The salary compensation of the mayor shall be set each year by the adoption of the annual budget, and shall be payable biweekly in equal installments.
- (b) All expenses incurred by the mayor in performing official duties for the city shall be set each year by the adoption of the annual budget, approved by the city council, payable biweekly in equal installments.
- (c) The salary compensation of the members of the city council shall be set each year by the adoption of the annual budget, and shall be payable biweekly in equal installments.
- (d) All expenses incurred by the city council members in performing official duties for the city shall be set each year by the adoption of the annual budget, approved by the city council, payable biweekly in equal installments.
- (e) In addition, per diem and traveling expenses of elected officials, public officers and employees shall be governed by State law."

According to the city clerk, state law governs the per diem and traveling expenses of all elected officials, public officers, and employees (Section 30-1 of the Hialeah Code.) In October 2006, the mayor of Hialeah issued a memorandum to all council members stating that if the elected official attends a convention, conference, seminar, meeting or training program as part of their government related position, the City would pay for the registration fee charged to the elected official. However, expenses for all other activities incurred while attending such programs are not reimbursed by the city as such expenditures are to be paid using the official's unvouchered travel and/or expense account.

The city clerk also advised that there are no written policies and procedures for the payment of government officials' expenses nor are elected officials required to complete a travel expense form in order to receive the expense or travel allowance, as this is included in taxable income as either a travel or unvouchered expense allowance.

CITY OF HIALEAH GARDENS

In 2007, the mayor of Hialeah Gardens received a taxable salary of \$100,800 in and council members received a taxable salary of \$10,500 each.

The city utilizes a "non-accountable" expense allowance system. The Mayor receives a bi-weekly expense allowance of \$2,798.02, which is treated as taxable compensation income and reported on the mayors' W-2 wage statement. With regards to other benefits provided, the city provides its mayor with a city-issued vehicle and cell phone, which the city pays for. However, the mayor does not have a travel allowance, a city issued procurement card or a public relations allowance.

Council members also receive a monthly expense allowance of \$2,134.62, which is taxable compensation income and is reported on their W-2 wage statements. council members

are *not* given a vehicle allowance, travel allowance, government issued credit card or a personal public relations budget. However, council members are provided with a city-issued cell phone.

Additionally, the city of Hialeah Gardens does provide *nontaxable* reimbursements to each elected official for expenses incurred while conducting official city business. Based on discussion with the city finance director, the city requires that the elected officials complete a travel reimbursement request form and submit supporting documents, such as receipts and invoices, in order to receive any reimbursements.

Reimbursements for expenses including travel, parking, seminars, conventions and incidental items are processed through the Finance Department by submitting a voucher for reimbursement which requires supporting receipts or documentation for payment.

Lastly, Hialeah Gardens does not have written policies and procedures for the payment of a government official's expenses, per say. However, the finance director documented in memo format the process that is to be followed by the elected official prior to receiving travel expense reimbursements.

In Article III, Section 4A. & 4B, the city charter sets forth the policy governing compensation and expenses incurred by the city's elected officials. Specifically, Section 4, rate of compensation of the city council and the mayor, states the following:

- (a) "The rate of compensation paid to Councilpersons shall be set by ordinance, provided, however, that there shall be at least a required four-fifths vote of the Council for adoption of any such ordinance."
- (b) "The rate of compensation paid to the Mayor shall be set by ordinance, provided, however, that there shall be at least a required four-fifths vote of the Council for adoption of any such ordinance."

CITY OF HOMESTEAD

Homestead's mayor received a taxable salary of \$4,975 in 2007 and council members received a taxable salary of \$4,800 each, in the same calendar year. All salary compensation is set forth in the city charter.

In 2007, the total taxable expense allowance for the mayor was \$13,471. The mayor also received \$11,271 in the form of a taxable vehicle allowance, a \$360 taxable cell phone allowance and a \$4,000 *non-taxable* public relations budget. The city does not provide its mayor with a government-issued procurement card.

For each council member, the total taxable expense allowance was \$13,325. Council members also received \$11,125 in the form of a taxable vehicle allowance, a \$360 taxable cell phone allowance and a \$4,000 *non-taxable* public relations budget. The City does not provide its officials with a government issued procurement card.

Section 2.06, Compensation, of the City Charter Homestead sets forth the policy governing compensation for its elected officials. Specifically, the charter states the following:

- (f) "The compensation of the Council Members shall be fixed by ordinance. No Council Member shall receive compensation, either directly or indirectly, from the City, except such compensation as provided by ordinance.
- (g) An ordinance increasing the compensation to any or all Council Members shall not take effect until after the next election. This restriction shall not be construed to apply to insurance programs of the city."

With regards to the ordinance governing expense allowances and benefits for elected officials, the city clerk explained that both compensation and expense allowances are included in the city's annual budget process. The ordinance that sets the compensation and benefits of elected officials for the fiscal year 2008 is Ordinance 2007-09-35. Travel allowances are governed by City Ordinance 2007-08-33, "Payment of Subsistence and Travel Expenses," which also addresses the travel reimbursement policy for the City of Homestead.

Lastly, it should be noted that no travel allowances are provided to any elected official in the city. According to the city clerk, travel expenses are paid as incurred, as a travel reimbursement, the governing authority of which is set forth in City Ordinance 2007-08-33, "Payment of Subsistence and Travel Expenses."

The executive assistant to the council prepares the expense reimbursements for the mayor and council. An expense report form is completed with supporting receipts attached to the report. Prior to payment of the expense reimbursement, the expense form is approved by the city manager and/or the assistant city manager.

VILLAGE OF INDIAN CREEK

In the Village of Indian Creek neither the mayor nor any of the village's council members receive a salary or any form of compensation.

Section 3.04, Compensation, of the Village of Indian Creek charter sets forth the policy regarding compensation for its elected officials. Specifically, the charter states that, "Council members shall serve without compensation."

With regards to the governing authority for expense reimbursements, Resolution No. 501 establishes the expense reimbursement guidelines. Out of pocket expenses legitimately incurred while conducting village business or furthering its interests are covered. Such expenses include the purchase of meals while on village business; monies expended for travel necessary for attending village council meetings; common carrier fare (bus, air, and rail); registration fees for conferences, seminars, schools, or similar functions; road and bridge tolls; storage and vehicle parking fees; among other similar types of expenses.

Additionally, the resolution requires that documentation in the form of paid receipts must accompany the reimbursement requests in order to substantiate the claim for actual expenses.

Also, the village clerk stated there is an official reimbursement request form that must be completed and the supporting paid receipts must be attached to this form.

Lastly, the village's reimbursement checks require dual signatures. Therefore, the village manager and village clerk have been assigned the responsibility of signing all reimbursement checks.

VILLAGE OF KEY BISCAYNE

No elected official in the municipality of Key Biscayne receives a salary or any form of compensation. Additionally, according to the village clerk neither the mayor nor council members receive a vehicle allowance, travel allowance, cellular telephone allowance, nor a government credit card or a personal public relations allowance.

With regards to reimbursement for authorized village-related travel, the village clerk explained that state law governs reimbursements for authorized travel and per diem expenses incurred in performance of the elected official's civic duties.

TOWN OF MEDLEY

In 2007, the mayor of the Town of Medley received a taxable salary of \$179,276.01 and the council members received a taxable salary of \$35,258.98.

With regards to expenses of the elected officials, the city attorney cited the town's budget Resolution No. C-996 and indicated that for the fiscal year 2007, the mayor's taxable expenses totaled \$693. The mayor is provided with a credit card issued in the mayor's name and is to be used solely for government expenses. According to the town's finance director, there are no personal expenditures charged on the mayor's credit card. Also, the mayor is provided with a government-issued cell phone and is taxed on his share of personal calls per Internal Revenue Service (IRS) rules. Lastly, the town's attorney stated that non-taxable expense reimbursements are provided to the mayor for town-required travel and these expenses are reimbursed dollar-for-dollar per IRS rules.

Similarly, council members are provided with a government-issued cell phone. Personal cell phone calls made by the council members are taxed as income on the elected official's W-2 in accordance with IRS rules. Additionally, the town attorney stated that non-taxable expense reimbursements are provided to the council members for all official government-related travel and are reimbursed on a dollar-for-dollar basis, per IRS rules.

Lastly, Medley does not provide either the mayor or any council member with a vehicle allowance, travel allowance, or a personal public relations budget.

CITY OF MIAMI

In Miami, Resolution R-05-0745 establishes the salary and compensation for the mayor. Specifically, Section 2 of this resolution states that "Mayor Manny Diaz shall be paid an annual salary of One Hundred and Fifty Thousand Dollars (\$150,000)." Thus, for calendar year 2007, the mayor was paid a taxable salary of \$149,999.91, according to the W-2 information provided to the Commission on Ethics (COE).

On Nov. 4, 2003, Charter Amendment No. 2 was passed increasing the compensation of each city commissioner from \$5,000 to \$58,200 annually, to be paid in monthly installments. Resolution R-03-1133 officially accepted Charter Amendment No. 2, which was adopted by the city commission on Nov. 13, 2003. Therefore, the W-2 information provided to the COE by the city finance director, Ms. Diana Gomez, showed that each city commissioner received an annual salary of \$58,200 for the year 2007.

With regards to taxable annual expense allowances, the mayor and city commissioners each receive taxable annual expense allowances as follows:

- 1) Separate vehicle allowance in the amount of \$10,800;
- 2) Cell phone allowance of \$3,600; and,
- 3) Other expense allowance³ of \$30,000.

Lastly, the finance director stated that the mayor and city commissioners are not issued government credit cards nor do elected officials receive a travel allowance. Travel reimbursements are paid when the travel expenses are incurred and reimbursement is requested by the elected official. Such expense reimbursements are non-taxable.

CITY OF MIAMI BEACH

In Miami Beach, City Code Section 2.02, Term and Compensation, establishes the compensation for the mayor and commissioners. Specifically, the City Code states:

"The annual compensation for the Office of Commissioner shall be six thousand dollars (\$6,000.00) and the compensation for the Office of Mayor shall be ten thousand dollars (\$10,000.00); any increase in salary for Mayor and/or Commissioner shall require approval of a majority of the electorate voting at a City election."

Based on COE inquiry of the city clerk, the total taxable compensation for the mayor was \$10,000 and \$6,000 each for the city commissioners in the calendar 2007.

With regards to taxable annual expense allowances, the mayor and commissioners each receive a \$6,000 taxable vehicle allowance. These funds are authorized annually via the city's annual budget.

Additionally, through its annual budget process, the city authorizes nontaxable expense allowances to its elected officials in the following amounts:

- 1) Total nontaxable expense allowance for the mayor in 2007 was \$24,000.
- 2) Total nontaxable expense allowance for each city commissioner in 2007 was \$18,000.

Elected officials are also provided with a government-issued cell phone, which is paid for by the city on a monthly basis; therefore, there is no taxable cell phone allowance. Lastly, the city clerk stated that neither the mayor nor the commissioners are provided with a government credit card or a public relations allowance.

MIAMI-DADE COUNTY

Miami-Dade County's "strong mayor" receives a base salary of \$235,922, set by county ordinance and adjusted by the CPI. He also gets an annual vehicle allowance of \$9,600 (\$800 a month), expense allowance of \$42,000 (\$3,500 a month), "executive benefits" of \$10,000, deferred compensation of \$20,500 and \$1,500 toward a retirement account. The mayor's total annual salary and benefits package equals \$319,522, according to analysts.

County commissioners receive a base salary of \$6,000 as established by the county's charter. They have a total benefit package worth in excess of 10 times this base salary, however. According to budget analysts, commissioners are also paid \$9,600 for vehicle-related expenses (\$800 a month), an expense allowance of \$24,000 (\$2,000 a month), \$10,000 in "executive benefits" and \$11,500 towards a retirement account. These items - totaling \$61,500 - are treated as taxable income or as deferred earnings in the case of the retirement funds, according to budget analysts.

The mayor and county commissioners are also eligible to receive a county purchasing card (known as "P-cards") to be used mainly for travel-related expenses. The cards may not be used for any personal items or cash advances.

Eleven out of 13 commissioners used the P-cards in fiscal year 2007, with expenditures ranging from a low of \$2,380 to a high of \$26,399 according to analysts.

CITY OF MIAMI GARDENS

Miami Gardens' mayor receives an annual salary of \$42,000, under the City Charter at § 2.6. Each of the six council members receives \$12,000 annually, also under the city charter.

The mayor and council members may be reimbursed in accordance with applicable law or as otherwise provided. None of the expenses paid to the mayor or council members are taxable. Only actual, substantiated expenses are reimbursed.

In 2007, the city reimbursed the mayor and six council members a total of \$46,009. The range of individual expense reimbursements varied between \$4,770 and \$9,515. The breakdown of the total expenses incurred by the council and mayor was \$26,642 for travel; \$16,182 for public relations; \$1,125 for educational seminars; and \$2,060 for memberships and dues.

TOWN OF MIAMI LAKES

The Town of Miami Lakes' mayor receives an annual salary of \$18,000. The City Charter § 2.6 (b) states that the city council may establish by ordinance the salary for the mayor.

Each of the six council members as well as the mayor may receive \$4,800 annually "as reimbursement for expenses incurred in the performance of their official duties." The charter further allows the payment to be increased each year by an amount "equal to the percentage increase, if any, in the CPI for the Miami area, all categories." With this adjustment, in 2007, the mayor's and council members' annual expense reimbursements totaled \$40,204.

Additionally, the city budget shows that a total of \$12,000 was dispersed in travel expenses for elected officials, plus an additional \$6,500 for total annual cell phone reimbursements. The mayor received a car allowance totaling \$7,200.

VILLAGE OF MIAMI SHORES

The Village of Miami Shores' mayor and each council member receives a salary of \$1 per year, as per the Village Ordinance § 2-32.

Reimbursement is limited to travel expenses, based on receipts, under Village Ordinance § 2-18. In 2007, one council member traveled to the League of Cities conference. Conference fees and hotel charges were paid directly to the League and hotel. The council member was personally reimbursed for additional expenses totaling \$418.25. These broke out as \$218.25 for personal vehicle use; \$175, which represented a 5-day (\$35/day) per diem reimbursement; and \$25 for toll charges.

CITY OF MIAMI SPRINGS

Miami Springs' mayor received a salary of \$7,800; he was not reimbursed for any expenses. Each of the four council members received compensation of \$6,000. Under the City Charter at § 5.03, compensation includes *both* a salary and a fixed allowance for expenses.

The mayor did not receive any expense reimbursement, taxable or nontaxable, in 2007. According to the city budget, which is posted on line, it appears that the city paid travel and related expenses of approximately \$9,500 directly to the travel providers. Miscellaneous expenses paid directly to the city council totaled under \$1,000. Of that amount, each of the four council members received \$91 in taxable reimbursement and \$147 in nontaxable reimbursement.

The city does not provide an allowance for vehicle use or personal public relations budgets and does not provide cell phones or government credit cards.

CITY OF NORTH BAY VILLAGE

The City of North Bay Village's mayor receives a salary of \$7,500 per year and each of the four commissioners receives a salary of \$6,000, based on the City Charter at § 3.04.

General city policies and procedures allow for the mayor and each of the four commissioners to be reimbursed for expenses up to \$5,000 each, with proof of receipts. Additionally, in 2007, the elected officials incurred a total of \$25,000 in expenses traveling to

conferences and meetings. Again, reimbursement is predicated on receipts. Four elected officials receive government cell phones. None have government credit cards.

CITY OF NORTH MIAMI

The City of North Miami has recently revised its policy on salaries and expenses following an inquiry posed last year by the Ethics Commission's Independent Advocate.

The City Charter at § 7 originally established the mayor's salary at \$4,200 per year and each of the four council members at \$3,600 per year. This year, however, the City Council voted to increase the mayor's salary to \$48,000 per year and each council member's salary to \$36,000 per year.

Within the past year, the city also changed its expense policy to comply with the City Charter at § 7, which states that elected officials may "receive actual expenses incurred in the performance of their duties of office." As a result, elected officials now submit monthly expense reports on an approved form, accompanied by receipts, following the month in which the expenses were incurred. Reimbursement is given for costs incurred to attend local government-related meetings and dinners, but not for phones and autos expenses and not for any other local, travel-related expenses. When outside the county on city business, officials may use city procurement cards for travel expenses.

Prior to this newly instituted policy, elected officials had been given *taxable fixed* (i.e. non-accountable) amounts to cover expenses. The mayor received an annual expense account of \$14,400, an annual auto allowance of \$3,000, and an annual cell phone allowance of \$1,440. Each council member received an annual expense account of \$10,800, an annual auto allowance of \$3,000, and an annual cell phone allowance of \$1,200.

CITY OF NORTH MIAMI BEACH

The City of North Miami Beach's mayor receives an annual salary of \$3,600, in accordance with the 2007 budget adopted in Ordinance No. 2007-11. Council members receive an annual salary of \$3,000 annually.

In actuality, the mayor and the six council members each receive a taxable expense fund, for which there is no accounting, of \$13,720 annually. The \$13,720 expense allowance is broken out as follows—\$5,520 for auto allowance and \$8,200 for executive allowance. Additionally, in 2007, elected officials received nontaxable travel reimbursement, based on receipts provided. Individual nontaxable reimbursements were dispersed in the following amounts: \$110; \$495; \$2,090; \$715; \$275; and \$495. The city does not provide cell phones, government credit cards, or a personal public relations budget.

CITY OF OPA-LOCKA

The City of Opa-Locka's mayor receives an annual salary of \$6,600 yearly. In addition they receive a separate yearly expense allowance of \$2,400 a year. Their total taxable income is \$9,000 yearly.

In addition, commissioners and the mayor are each provided a city car, free gas at the city's public works depot and a cellular telephone.

Elected officials are also issued a city credit card with a spending limit of \$3,500. The city revised its credit card policy in 2007 following the arrest of former Vice Mayor Terence Pinder for allegedly abusing his credit card privileges. The new policy expressly forbids using city cards for cash advances or personal items, and calls for repayment within 30 days for any expenditure deemed to be of a personal nature, whether in whole or in part.

CITY OF PALMETTO BAY

The City of Palmetto Bay's mayor receives a salary of \$24,000 yearly. Council members receive a salary of \$12,000 yearly.

Elected officials do not receive a vehicle allowance, but are provided with a cellular phone and/ or a Blackberry for city business. He said they do not receive a separate expense allowance.

The mayor receives a monthly cellular phone allowance of \$150 and council members get \$75 a month for cellular phones. The mayor and two council members also have a Blackberry, the cost of which is \$52.55 monthly. These items are not treated as taxable income, he said.

Only the mayor has a city credit card for travel, and must provide receipts and other information detailing the nature of the expense "for audit purposes."

VILLAGE OF PINECREST

The Village of Pinecrest's mayor and council members and mayor do not receive a salary or expense allowance of any kind. City officials are only reimbursed for expenses linked to legitimate city business or travel. The village pays officials at the state rate for meals and per diems.

CITY OF SOUTH MIAMI

The City of South Miami's mayor receives a salary of \$14,000 annually. City commissioners are paid a yearly salary of \$12,000.

They do not receive expense allowances or other taxable items. Commissioners can use their own cellular phones and receive reimbursements of up to \$962.40 a year, or have the city provide them with a phone. The mayor receives up to \$1,150 for cellular phone usage.

The mayor receives a \$500 yearly vehicle allowance. The item is not treated as taxable income. Commissioners do not receive either a car allowance or mileage reimbursement. Commissioners are provided a non-taxable discretionary fund of \$1,500 a year for local events and charities, while the mayor has a similar fund of \$2,000. The City manager's office controls all spending from the funds.

The city also budgets \$5,000 for travel for elected officials so they can attend Dade Days in Tallahassee, League of Cities meetings and other official events.

CITY OF SUNNY ISLES BEACH

The City of Sunny Isles Beach's mayor receives a salary of \$16,110 yearly. Council members receive a salary of \$12,888 yearly.

Council members and the mayor each receive a yearly expense allowance of \$4,405. The allowance is not treated as taxable income, and officials are only reimbursed upon providing receipts for the expenses.

Council members and the mayor do not receive a vehicle or allowance, though they are reimbursed for mileage and legitimate expenses. The city does provide cellular phones for elected officials, officials said.

TOWN OF SURFSIDE

The Town of Surfside's mayor receives an annual salary of \$1 per year, as do Commissioners.

Commissioners, including the mayor and vice mayor, are eligible for a monthly expense allowance of \$500. That amount is treated as regular income (\$6,000 annually). At present only one commissioner receives the expense allowance, officials said.

Officials must use their own cell phones and vehicles, and that all expenses must be approved by the manager's office on an as-needed basis. No town credit cards are issued to elected officials.

CITY OF SWEETWATER

The City of Sweetwater's "strong mayor", receives annual salary of \$50,108, and has a vehicle allowance of \$7,480 for a base package of \$57,588 in fiscal year 2008. The mayor also has an annual expense allowance of \$7,913 – the remainder of which at year's end is also treated as income. A separate travel allowance of \$7,000 has also been budgeted for the mayor.

In 2007, city commissioners received \$5,738 in salary, an expense allowance of \$7,700, a vehicle allowance of \$6,600 and another \$2,240 for gas. The total yearly compensation package for commissioners equals \$22,278 – or roughly four times base salary.

W-2s were issued for the above items, but that any legitimate, documented expenses were deducted from the expense allowance prior to preparing these tax documents. Some commissioners submitted their expense items; others didn't.

According to the mayor, commissioners do not have city-issue credit cards, but he does have a city credit card, along with some departmental directors. He said the city does not have a formal policy for the use of its credit cards, but rather follows a "common sense" policy.

VILLAGE OF VIRGINIA GARDENS

The Village of Virginia Gardens' mayor is paid a yearly salary of \$10,000 along with a lump sum of \$3,150 to cover expenses. This amount – \$13,150 – is treated as taxable income. The mayor is provided a city-issued cellular phone, and like the council members can purchase office supplies with a city credit card.

Council members are paid \$350 a month for a total salary of \$4,200 yearly. They are not given a cellular phone or city vehicle. They do not have an expense allowance. They may only purchase supplies with a city credit card reserved for that purpose. The card is in the city's name, according to village officials.

The city's charter states that elected officials shall receive compensation of \$175 a month, but officials said the charter is superseded by the budget process.

All travel and meals for elected officials are reimbursed at the rate set by state law.

CITY OF WEST MIAMI

The City of West Miami's mayor and council members receive a salary of \$1,200 yearly. They also receive as much as \$600 a year for meeting attendance.

The city charter established that elected officials receive \$20 for each meeting they attend. Funds are budgeted for up to 30 meetings a year, or \$600.

Officials each have a budget of \$2,400 for expenses and personal representation, but that commissioners are reimbursed only when receipts are provided. This money is not treated as taxable income.

Officials are not issued city credit cards, and that the city manager's office makes all arrangements for out-of-town travel. In such cases, the City Manager uses her personal American Express card and seeks reimbursement afterward. She said she does not accept any awards points in connection with official city business.

Acknowledgements:

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Michael Murawski, Advocate
Miriam Ramos, Assistant Advocate
Karl Ross, Investigator
Christina Seymour, Auditor

EXHIBIT "C"

City of North Miami Beach
Charitable Donation Request Application
*** REQUESTED FUNDS MORE THAN \$100.00 ***

Requesting Organization's Name: _____	
Address: _____	
City, State, Zip Code: _____	
Phone: _____	Email: _____
Contact Person Name: _____	Phone: _____
Federal Tax Identification Number: _____	
501(c) (): _____ Yes _____ No (if yes, IRS exemption letter dated within the previous two years must be attached)	
Pursuant to Chapter 496, Florida Statutes, Do you have a Solicitation License from the Florida Department of Consumer Affairs?	

1. Give a brief description of your agency including the mission statement: _____

2. Type of service provided: _____

3. How much is this funding request for? _____
4. What is the time period you are requesting these funds for? _____
5. Describe the purpose of the request, the services to be provided and how it relates to the City of North Miami Beach? _____

6. Number of years in operation: _____

7. Total agency annual operating budget: _____
8. How many individuals does your organization serve? _____
9. How many individuals did your organization serve in the last calendar year? _____
10. Of the persons served, how many were City of North Miami Beach residents or property owners?

11. How many City of North Miami Beach residents or property owners does your organization project to serve in the upcoming year? _____

12. Have you requested funds from the City before? ____ Yes ____ No
If yes, please provide amount and purpose of donation: _____

13. Is this funding request to assist in meeting a required match to fund existing programs or services, or for new services? Please explain: _____

14. Attach a list of all Owners/Directors/Principals.

15. Budget:

Description	Existing Project Funding	Amount Requested
Salaries		
Operating Expenses (ie., phones, rent)		
Non Operating Expenses (ie., consultants, etc.)		
Total		

Please list all attachments (The IRS exemption letter dated within previous two years, the organizations most recent tax returns, and a list of all owners/directors/principals must be included with the application): _____

I hereby certify that I have read and understand the charitable donation request guidelines and that the information provided is true and correct. I understand that the approval and denial of all charitable donation requests is in the sole discretion of the City of North Miami City Council and that if the request is approved a charitable grant agreement is required prior to the distribution of any funds.

Printed Name
Organization's Authorized Representative

Signature
Organization's Authorized Representative

Date

Are the Requested Funds Approved in Budget:

____ Yes ____ No

For Internal Use Only:

IRS Exemption Letter _____ Yes ____ No

List of Agency Directors _____ Yes ____ No

Agency's Most Recent Tax Return _____ Yes ____ No

Signature

Date

City Attorney Review

Public Purpose _____ Yes ____ No

Signature

Date

Council Approval Required ____ Yes ____ No

Yes, if the requested funds are not approved in the budget OR if the City Attorney checks "No".

If yes, please attach meeting agenda and decision of the City Council.

City Council Member Sponsorship: _____

**City of North Miami Beach
Charitable Donation Request Application**

*** REQUESTED FUNDS LESS THAN \$100.00 ***

Requesting Organization/Person Name: _____	
Address: _____	
City, State, Zip Code: _____	
Phone: _____	Email: _____
Contact Person Name: _____	Phone: _____

1. How much is this funding request for? _____
2. What is the time period you are requesting these funds for? _____
3. Describe the purpose of the request, the services to be provided and how it relates to the City of North Miami Beach? _____

4. Is the recipient a City of North Miami Beach resident/s or property owner/s?

5. Have you requested funds from the City before? ____ Yes ____ No
If yes, please provide amount and purpose of donation: _____

I hereby certify that I have read and understand the charitable donation request guidelines and that the information provided is true and correct. I understand that the approval and denial of all charitable donation requests is in the sole discretion of the City of North Miami City Council.

Printed Name

Signature

Date

For Internal Use Only

Are the Requested Funds Approved in Budget:

____ Yes ____ No

Signature

Date

City Attorney Review

Public Purpose

____ Yes ____ No

Signature

Date

Council Approval Required ____ Yes ____ No

If yes, please attach meeting agenda and decision of the City Council.

City Council Member Sponsorship: _____