



Memorandum No. 23-047

City Attorney's Office

To: Commissioner John Herbst

From: D'Wayne M. Spence, Interim City Attorney
Kimberly Cunningham Mosley, Assistant City Attorney

Date: May 3, 2023

Re: **23rd Annual Riverwalk Tribute – Ethics Opinion**

Question Presented:

You have asked whether your acceptance of an invitation to attend the 23rd Annual Riverwalk Tribute from Eugenia Ellis would violate the Broward County Code of Ethics for Elected Officials.

Short Answer:

For the reasons stated below, it is my opinion that acceptance of tickets to the 23rd Annual Riverwalk Tribute from the president of Riverwalk Fort Lauderdale, Inc. would not be a violation of the Broward County Code of Ethics for Elected Officials provided the you file a disclosure form within fifteen (15) days after receiving such tickets disclosing the name of the donor, the value of the tickets received, and the date and location of the event and reimburse the cost of food and beverage, except for non-alcoholic beverage, consumed by you at the event within 30 days of the event.

Discussion:

On May 30, 2023, you indicated that Eugenia Duncan Ellis extended an invitation for you to attend the 23rd Annual Riverwalk Tribute to be held at the Riverside Hotel on Thursday, May 4, 2023. This event honors a group of individuals who have made a significant impact in the City of Fort Lauderdale and with Riverwalk. Riverwalk is a Florida Not for Profit Corporation, of which Eugenia Duncan Ellis is listed as the president on Sunbiz.org the official website of the Florida Department of State, Division of Corporations. Pursuant to the link provided in the flyer, the cost for a General Admission (Non-Member) ticket is \$150.00 and the cost for a VIP (Non-Member) cost is \$200.00, to attend this event and also provides an option for donations. Mrs. Ellis has indicated that this is a charity event and the cost of food will be \$35.00 per person.

Pursuant to Section 1-19(c)(1), of the Broward County Code of Ethics for Elected Officials, *Acceptance of Gifts*.

OFFICE OF THE CITY ATTORNEY

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- a. *No Elected Official or relative, registered domestic partner, or governmental office staff of any Elected Official, shall accept any gift, directly or indirectly, with a value in excess of \$5.00, from lobbyists registered with the governmental entity on whose behalf they (or their registered domestic partner or relative) serve, or from any principal or employer of any such registered lobbyist, or from vendors or contractors of such governmental entity. In order to effectuate this provision, no lobbyist shall engage in any lobbying activity prior to registering as a lobbyist with the applicable governmental entity. For purposes of this paragraph, neither Broward County, any municipality within Broward County, or any other governmental entity shall be considered a registered lobbyist, a principal or employer of a registered lobbyist, or a vendor or contractor of any governmental entity within Broward County.*

Section. 1-19(b)(1) defines a contractor as any person or entity currently under contract with the applicable local governmental entity, and Section. 1-19(b)(13) defines a vendor as a person or entity that is currently supplying any goods or services to the applicable local governmental entity, that has supplied any goods or services to the applicable local governmental entity within the current or prior two (2) calendar years, or that has, by submitting a response to a currently-open competitive solicitation, expressed an interest in supplying any goods or services to the applicable governmental entity. Commencing January 1, 2017, "Vendor" shall also include a person or entity that submitted a response to a competitive solicitation during the current or prior two (2) calendar years. Riverwalk is both a contractor and vendor to the City of Fort Lauderdale.

Notwithstanding that Riverwalk is both a vendor and a contractor as defined by the Broward County Code of Ethics for Elected Officials, Section 1-19(c)(1)e.4. of the Broward County Code of Ethics for Elected Officials provides an exception to the gift limitation in Sec. 1-19(c)(1) a. for admission tickets to charitable events available to the public. Sec. 1-19 (c) (1) e.4. of the Broward County Code of Ethics for Elected Officials provides as follows:

(c) Standards of Conduct. In addition to the provisions of Chapter 112, Part III, Florida Statutes, Code of Ethics for Public Officers and Employees; Chapters 838 and 839, Florida Statutes; Title 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward County Code of Ordinances, Section 26-67, et seq., the following Standards of Conduct shall apply to each Elected Official.

(1) Acceptance of Gifts.

...

e. When not otherwise permitted by this part (c)(1), "Acceptance of Gifts," the following items may be accepted to the full extent permissible under state law:

...

3. Nonalcoholic beverages; and

4. Admission tickets to charitable events available to the public, provided that any Elected Official or governmental office staff of the Elected Official who receives such tickets shall:

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- a. *Within fifteen (15) days after receiving such tickets, files for public inspection a disclosure form stating the name of the donor, the value of the tickets received, and the date and location of the event; and*
- b. *Within thirty (30) days after the event, reimburses the donor for the value of the food and beverages consumed by the person(s) using the tickets.”*

Commissioner, if you choose to accept the tickets and attend the event you must file the attached “Acceptance of Admission Tickets to Charitable Event” form with the City Clerk’s Office within fifteen (15) days of receipt the tickets. A link to the form can be found at the following web address: <https://www.broward.org/Legal/Documents/AdmissionToPublicCharitableEventDisclosureForm.pdf>. You are also required to reimburse the donor for the value of food and beverages you consume at the event with the exception of nonalcoholic beverages. The cost of the food is \$35 and the cost of the beverage will vary.

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Code of Ethics, and may be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Within fifteen (15) days of receiving this opinion, a copy must be sent in a searchable “pdf” format to ethicsadvisoryopinions@broward.org for inclusion in the searchable database of advisory opinions maintained by the County.

If you have any questions or concerns, please let me know.