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MEMORANDUM

TO: Board of County Commissioners

FROM: Neil K. Sharma, Assistant County Attorney

DATE: January 24, 2019

RE: **Invitation to Become a Volunteer Income Tax Assistance (VITA) Program Champion**
CAO File: 19-01(E)

We understand that Hispanic Unity of Florida, or another participating entity, has contacted several (perhaps all) Commission offices to invite Commissioners to become Volunteer Income Tax Assistance (VITA) Champions for the 2019 tax season, which essentially involves VITA using the Commissioners' affiliation to make constituents aware of the free tax preparation service VITA offers to qualifying families based on annual income. Commissioners accepting this invitation may have their photo added to a VITA webpage and their names included in VITA press releases and social media posts. As explained below, this raises potential gift concerns. However, as also explained below, it is our opinion that you may accept this invitation if you wish but further advise that, in an abundance of caution, those accepting comply with the below-described disclosure requirement.

A gift is something "accepted by a donee...for which equal or greater consideration is not given within 90 days." §112.312(12)(a), Fla. Stat.; § 1-19(b), Broward Cnty. Code of Ords. The Florida Commission on Ethics has opined that receiving publicity, under certain circumstances, may be considered a gift. We have researched the applicable opinions and do not believe, under these specific facts, that the potential placing of a photo on the VITA webpage, or potential references to Commissioners in press releases or social media posts, rise to the level of constituting a gift (of publicity).

To the extent the invitation could arguably constitute a gift, it is our opinion that VITA (and not Hispanic Unity of Florida) is the donor. VITA is not a County vendor or lobbyist. We further believe the value is less than the \$50 limit you are allowed to accept from non-vendors, non-lobbyists under the County's Code, and less than the \$100 threshold requiring disclosure under Florida law. However, because gifts of publicity are difficult to value, if you accept the VITA invitation, we advise that, in an abundance of caution, you

Board of County Commissioners
January 24, 2019
Page 2

should file a Form 9 disclosing your participation as a VITA Champion and describing the gift received as publicity. The deadline for filing a Form 9 is the last day of the calendar quarter that follows the calendar quarter in which the gift is received. Thus, for gifts received in January or February, the disclosure would be required by June 30.

We are available to assist in preparing or reviewing a proposed Form 9. Please feel free to contact the County Attorney, Assistant County Attorney Rocio Blanco Garcia (extension 8640), or me (extension 7118) with any questions or concerns or if we can be of further service on this matter.

/s/ Neil K. Sharma _____
Assistant County Attorney

cc: Andrew J. Meyers, County Attorney
Rocio Blanco Garcia, Assistant County Attorney