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MEMORANDUM

TO: Mayor Mark D. Bogen

FROM: Rocio Blanco Garcia, Assistant County Attorney

DATE: May 8, 2019

RE: **Fundraising for the Benefit of Constituents and Residents Affected by Fires, Hurricanes, and Other Catastrophic Events**
CAO File: 19-04(E)

Item 53 on the April 16, 2019, County Commission meeting agenda approved the use of County Commission staff and in-kind resources (such as the telephone and e-mail systems, but nothing requiring an affirmative expenditure of public funds) to solicit funds or other aid to assist families that have experienced catastrophic loss. The item was placed on the agenda by you. Although the item initially applied only to your staff, the item was amended prior to approval to (i) cover staff in all nine (9) Commission districts and (ii) direct this Office to promptly prepare an amendment to the Code of Ethics for Elected Officials (Section 1-19, Broward County Code of Ordinances) (the "Ethics Code") to clarify the scope of the "Charitable Contribution Fundraising" provision, Section 1-19(c)(5)(a), Broward County Code of Ordinances. Since then, our Office has prepared four (4) versions of proposed amendments to Section 1-19(c)(5)(a), including one which, although it states it is sponsored by the Board, was coordinated with your Office ("the Board Amendment"). These amendments are expected to be set for public hearing next month.

Upon reviewing the Board Amendment, the Inspector General wrote a letter commenting on and expressing certain concerns regarding the Board Amendment. You have advised that since the April 16, 2019, County Commission meeting, you have personally solicited funds for certain individuals, including engaging in regional cooperation with the Mayor of Hialeah to assist a family that lost its home to a fire. You have communicated that your staff did not participate in such solicitation. You would like to know whether your solicitation comports with the requirements of the Ethics Code and whether the Inspector General's comments impact the opinion we previously issued on April 17, 2019.

As we communicated on April 17, 2019, nothing in the Ethics Code prohibits a Commissioner from personally soliciting funds for individuals in dire need or from directing his or her staff, including through the use of the County phone and e-mail systems, to

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directly assist residents in dire need, provided there is no quid pro quo (personal gain to any elected official or staff) and that the use of staff and in-kind resources serves a permissible public purpose. It is our opinion that the Ethics Code (as it currently stands prior to any amendments) requires no Board approval or disclosure when Commissioners are not raising money for charitable organizations but rather are seeking to assist those endangered by events causing catastrophic loss.

Therefore, your solicitation of funds and donations for a family that lost its home to a fire is not prohibited by the Code of Ethics. Furthermore, although you ultimately chose not to use County staff and in-kind resources to solicit such funds and donations, the Code of Ethics would not have prohibited you from doing so provided the above-referenced conditions were met. Finally, because Section 1-19(c)(5)(a) currently applies only to charitable organizations and, under the facts you have presented, you are not soliciting funds for a charitable organization, you need not disclose the solicitation. Even if the solicitation were of the kind for which a disclosure is required, here you need not disclose because the solicitation was formally approved by Board action on April 16, 2019. See 1-19(c)(5)(a)(4) (stating that the disclosure requirements, among other requirements, do not apply to actions approved by the governmental entity).

Please continue, wherever possible, to allow us to consider the specific facts in connection with other intended fundraising action prior to engaging in that action.

Please contact the County Attorney or me (ext. 8640) if we may be of further assistance on this matter.

/s/ Rocio Blanco Garcia
Rocio Blanco Garcia
Assistant County Attorney

c: Andrew J. Meyers, County Attorney