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MEMORANDUM

TO: Commissioner Chip LaMarca

FROM: Andrew J. Meyers, Chief Deputy County Attorney

DATE: December 13, 2016

RE: **Proposed Service as a Member of the Board of Directors of the Museum of Discovery and Science**
CAO File: 16-13E (Outside Employment)

In October, you alerted us that you were being considered for membership on the Board of Directors of the Museum of Discovery and Science (the "Museum"), a private, nonprofit Section 501(c)(3) organization. At that time, you asked whether anything in the state ethics code or County ethics code prohibits you from such service, for which you would not receive any compensation. We provided verbal guidance at that time. This memorandum formalizes that guidance. If any of the facts stated in this opinion are inaccurate, please let us know as it might affect our opinion. For the reasons stated below, serving on the Museum's Board of Directors is permissible.

Section 112.313(7), Florida Statutes, which is part of the state ethics code, provides:

No public officer . . . shall have or hold any employment or contractual relationship with any business entity or any agency which is . . . doing business with . . . an agency of which he or she is an officer . . . ; nor shall an officer . . . of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

We must first determine whether serving as an uncompensated member of the Museum's Board of Directors constitutes an employment or contractual relationship with the Museum. It does not. See *e.g.* Florida Commission on Ethics Opinions 91-29 and 96-30 (there is no employment or contractual relationship where the board service is not compensated).

Because your position with the Museum would not be considered an employment or contractual relationship, you would also not be holding any employment or contractual relationship that would

create a continuing or frequently recurring conflict between your private interests and public duties or that would impede the full and faithful discharge of your public duties. In an abundance of caution, we reviewed the Museum's dealings with the County. It appears that the last substantive County action involving the Museum was the approval of grant funding almost four (4) years ago. Thus, there is no basis to conclude that your service would create or involve any continuing or frequently recurring conflict. Nor is there any basis to conclude that your service would impede the full discharge of your public duties. If anything, the contrary would appear true as the Museum, which benefits the community's cultural offerings and tourism, would appear to have a unity of interest with the County.

The County ethics code does not add to our analysis. The County code's primary restriction on outside employment, which involves the ability of elected officials to lobby certain other governmental entities, is not applicable here.

While nothing prohibits your proposed service, please be mindful that such service might create issues involving gifts, voting conflicts, or disclosures (for example, if you become active in fundraising activities for the Museum). We are available to analyze any issues brought to our attention that result from your service on the Museum's board.

Finally, while this Office can provide binding guidance under the County ethics code, our guidance under the state ethics code is only advisory. While we have carefully researched this issue under the state ethics code, and are confident in our conclusion, please be advised that the Florida Commission on Ethics is available to issue binding guidance.

If we can be of further assistance regarding this matter, please let us know.

/s/ Andrew J. Meyers

Andrew J. Meyers

Chief Deputy County Attorney