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MEMORANDUM

TO: Senator Steve Geller

FROM: Andrew J. Meyers, Chief Deputy County Attorney

DATE: March 3, 2017

RE: **Offer of Tickets to Orange Bowl Football Game**
CAO File: 17-02E (Gifts)

In late December, 2016, Lewis Swezy, a personal friend and former client, invited you and your wife to attend the 2016 Orange Bowl football game. At that time, you had asked whether you may accept the two tickets and, if you accepted them, whether you would have any reimbursement or disclosure obligation. This memorandum confirms what we stated to you at that time which is that, in our opinion, you may accept the tickets and do not have any reimbursement obligation, but that you must disclose the value of the two tickets on a state quarterly gift disclosure form (Florida Commission on Ethics Form 9) by March 31, 2017.

Under the state and County codes of ethics, there are two primary restrictions on the acceptance of gifts. The first is that no gift may be solicited or accepted if it may reasonably be perceived to have been given to encourage you to take any action in your official capacity. Section 112.313(4), Florida Statutes (2016). The second restriction caps the value of gifts that may be accepted from certain donors.

Under Section 112.3148(4), Florida Statutes, absent any applicable exception (none is applicable here), County Commissioners are “prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the [County] . . . or [from] a lobbyist who lobbies the [County Commission] or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100 . . .” Under state law, gifts exceeding \$100 in value may be accepted from most other sources, but such gifts must be disclosed on a quarterly basis. Section 112.3148(8)(a), Florida Statutes (2016).

The County ethics code is far more restrictive where a prospective donor lobbies or has business dealings with the County. Essentially, with few exceptions not applicable here, a Commissioner may only accept from a lobbyist or vendor a gift worth up to \$5. Section 1-19(c)(1), Broward County Code

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of Ordinances. However, as under state law, if the gift is from a friend who neither lobbies nor does business with the County, and is given and received purely in a personal capacity, there is no dollar cap on the amount of a gift which may be accepted.

We have checked our applicable databases and have determined that Mr. Swezy is not a County vendor, contractor, lobbyist, or principal or employer of a lobbyist. Because you explained that Mr. Swezy is a developer, we reviewed a state database (sunbiz.org) to identify entities with which he might be connected. We located approximately 250 entities (most of which appear to be single project development entities) listing him as registered agent or an officer. We are unaware of any of those entities doing (or having done) business with the County. Additionally, based on an inquiry made of Mr. Swezy (which occurred in an abundance of caution given the large number of entities), neither he nor any affiliated entity has had any matter pending before the County in years, he has not retained any lobbyist in connection with any County matter in years, and as of December 2016 (when the inquiry occurred) he had no current expectation that he would have any matter before the County in the foreseeable future. Based upon these collective facts, we determined that Mr. Swezy is not a County vendor, contractor, lobbyist, or principal or employer of a lobbyist.

Because the tickets were offered to you from a friend (who has no current or recent County dealings) in your purely personal capacity, we explained that you may accept the tickets without having any reimbursement obligation.

We further stated, however, that you are required to disclose the gift on or before the last day of the calendar quarter which follows the calendar quarter in which you receive the gift. Section 112.3148(8)(a), Florida Statutes (2016). Thus, the disclosure deadline is March 31, 2017. In terms of valuation, the value of a standard ticket to an event is based on the face value of the ticket. Florida Administrative Code Rule 34-13.500(5). However, if a booster contribution was required to access the tickets, a *pro rata* share of the booster contribution (based on all tickets received during the entire season as a result of the contribution) should be allocated to the two tickets you received. Other valuation principles apply to seating in boxes or suites. We are available to assist you in determining value and in preparing the required state disclosure.¹

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

/s/ Andrew J. Meyers

Andrew J. Meyers

Chief Deputy County Attorney

¹ If Mr. Swezy provided any food or beverages at the event, the value of those items should be included in the disclosure.