

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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September 20, 2022

Via email to expedite delivery:

To: Stephen Martell, President and CEO, North American Vehicle Rescue Association

Re: Solicitation of Miami Dade Fire Rescue Department Vendors as Sponsors for NAVRA's Annual Florida Rescue Challenge 2022; INQ 2022-137

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance on the solicitation and acceptance of event sponsorships from Miami Dade Fire Rescue Department vendors for the North American Vehicle Rescue Association Annual Florida Rescue Challenge 2022.

Facts:

You are the Chief Executive Officer and President of the North American Vehicle Rescue Association (NAVRA), a Florida non-profit corporation that provides a platform for rescue personnel to share and advance rescue science and technology. NAVRA is a training and networking association that prepares today's firefighters and road rescuers for the extrication challenges of tomorrow: through training, education, and competition. As president of NAVRA, you preside over all NAVRA board of director and general body meetings; you represent NAVRA at meetings of the other corporations or organizations in which the NAVRA is a member and executes discretionary or restricted proxies, as required; you have the authority to execute all authorized deeds and contracts; you are responsible for securing the services of an outside accounting agency to assist with the timely corporate filings and any and all other obligations in the name NAVRA, as well as any other powers and duties as may be prescribed by the Board of Directors.

As the Chief Executive Officer of NAVRA, you preside over the day to day operations of NAVRA which includes being the lead point of contact and NAVRA representative with other agencies such as the World Health Organization and United Nations sub-committees; coordinating of efforts to promote charitable networking with outside public and corporate organizations functioning under the guidelines as deemed lawful in the State of Florida and 501(c)(3) of the Internal Revenue Service Codes and in accordance with the NAVRA's Charitable status; organizing NAVRA training events, travel arrangements, lodging and travel expenses accounts; and preparing the NAVRA annual budget to be approved by a majority vote by the Executive Committee. In total your commitments to NAVRA are approximately 20-30 hours per week. While you are not directly compensated for your work with NAVRA as President and CEO, you are however reimbursed for any out-of-pocket expenses you incur for travel and accommodations when away from home.

In the role of President of NAVRA, you do not participate in the solicitation of sponsors and vendors, as was confirmed by this writer via the Florida Department of Agriculture and Consumer Services Division of Consumer Services "Annual Charitable Organization and Sponsors Registration Application" filed on April 11, 2022, by NAVRA. Moreover, you have also informed this writer that if you are engaged in any form of communication with a NAVRA vendor or sponsor, you only use your title as the President of NAVRA. In addition, Liz Demetriou, an officer of NAVRA and a person who is not employed by Miami Dade County, handles the solicitation work for NAVRA.

You are also a Captain in the Miami Dade Fire Rescue Department, and are stationed in the North Miami Beach, Fl area. As Captain, you are responsible for training and preparing the station crew for duty, and you handle administrative personnel matters for the station crew.

NAVRA has planned their Annual Florida Rescue Challenge (The Challenge) for November 19 & 20, 2022. The Challenge is an annual event where rescue professionals from all over North America who will participate in team-based scenario training exercises designed to promote good team dynamics, improve communication, and increase rescue scene proficiency, as well as compete in competitions through their vehicle extraction teams, rapid intervention teams, and the

ALS medical teams. The Challenge also involves a Safety Village, Touch a Truck opportunities, food, and family activities. The Challenge will be held at the Miami Dade Fire Rescue Training Facility in Doral, Florida. The Challenge is being produced in partnership with the Miami Dade Fire Rescue Department (MDFR). In addition to providing the event site, MDFR's role in this event partnership is providing some resources and support. NAVRA would like to obtain the MDFR vendor list in order to solicit and accept event sponsorship funds for The 2022 Challenge. The Chief of the Miami Dade Fire Rescue has informed you that as long as there is no Ethics violation, he has no objection with NAVRA's solicitation of sponsors, donors and/or vendors for The Challenge.

Issue: Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code") prohibits NAVRA from utilizing the Miami Dade Fire Rescue Department vendor list to solicit and accept event sponsorship funds for the North American Vehicle Rescue Association Annual Florida Rescue Challenge 2022.

Discussion:

First, The list of Miami Dade County vendors or those that provide services exclusively or primarily to MDFD is a generally publicly information. Access to this information is not being provided to you or NAVRA based on any special privilege or accommodation due to your position with MDFR.

Second, Section 2-11.1(e)(3) of the County Ethics Code provides that "persons described in subsection (b)(1) through (b)(6) shall neither solicit nor demand any gift." However, the exceptions portion of the gifts ordinance in Section 2-11.1(e)(2)e of the County Ethics Code allows County employees and departmental personnel to solicit gifts on behalf of the County for use solely by the County in conducting its official business. The Ethics Commission has interpreted this provision to permit the solicitation of donations which serve a public purpose.

In prior ethics opinions, the Ethics Commission has found that solicitations of donations in support of business or professional association events that promote business expansion in the community or otherwise highlight the community serve a public purpose. *See* INQ 14-155 (solicitation of

funds in support of “tech week” events by a city are permissible and constitute a public purpose and attendance by officials constitute performance of official duties in connection with the city’s official business); INQ 14-278 (solicitation of sponsorships in support of a port authorities association event serves a clear public purpose); and INQ 16-02 (solicitations for a city’s sponsorship of a mayor’s conference is permissible since the solicitation is for a city function and of significant public benefit to the city).

While it is clear that Mr. Martell does not plan to solicit for NAVRA or the NAVRA event, since this is a MDFR-sponsored/produced event, then his involvement in solicitation activities for the event would have be permissible under Section 2-11.1(e)(2)(e) since the solicitation would be for a function that would amount to use of the funds raised for the event by the MDFR in the course of its official business. The benefits of the training and educating rescue professionals, as well as the public, on new rescue techniques and technology would be a benefit to the public, thereby justifying the exception. However, to be clear, Mr. Martell should not receive any personal, private benefit from the event.

The Ethics Commission has consistently discouraged direct, targeted solicitations of County vendors and lobbyists for any special cause, even when such solicitations are not prohibited, to avoid an appearance of impropriety where the County or one of its agencies may appear to be applying pressure to one of its vendors or contractors to accede to a request for a contribution to an event in exchange for its continued business relationship with the County. Rather, any solicitation that include agency vendors should also be made to the whole community and be done in a general fashion as part of an overall fundraising campaign. *See* RQO 06-05; INQ 13-70; INQ 18-89; INQ 18-193.

Third, Section 2-11.1(e)(3) entitled *Gifts solicited on behalf of the County*, was recently updated to include the following language (as indicated by *italicization*): “The solicitation and acceptance of gifts on behalf of the County for use solely by the County in conducting its official business is permissible. *It is provided, however, that soliciting and accepting such gifts shall be undertaken or authorized only by Commissioners, the County Mayor, the County Mayor's chiefs and deputies, or department directors.*” Pursuant to this new language, you should seek to ensure

that the County Mayor's Chief Public Safety Officer, in addition to the chief of the MDFR, approve of your solicitation regarding the NAVRA Challenge event.

While there is no clear conflict of interest based on the facts presented, there are some limitations set out in the County Ethics Code that all County employees are reminded to follow:

- Section 2-11.1(g) prohibits a County employee from using his or her position to secure special privileges or exemptions for himself/herself or others.

- Section 2-11.1 (h) prohibits a County employee from disclosing confidential information acquired by reason of his or her official position; and,

The County Ethics Commission does not have the authority to interpret or enforce the Florida Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes (State Ethics Code). Nevertheless, a comment on section 112.3148, Florida Statutes, is merited. That section prohibits you or any other person acting on your behalf from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the County, a political committee, or a lobbyist who lobbies the County, 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.

However, the facts of this circumstance appears to fall within the exemptions in Sections 112.3148(3) and Section 112.3148(4), Florida Statutes, from the prohibitions against soliciting gifts from agency vendors or lobbyists, or accepting gifts in excess of \$100 from such vendors or lobbyists, since any gift received from the solicitation is not intended to personally benefit any individual official or employee and would be accepted instead on behalf of Miami-Dade County or MDFR and NAVRA (a charitable organization).

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on

Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Commission on Ethics or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.