

CRC RESOLUTION NO. 2018-001

A RESOLUTION OF THE BROWARD COUNTY CHARTER REVIEW COMMISSION ADOPTING A PROPOSED AMENDMENT TO SECTION 10.01 OF THE CHARTER OF BROWARD COUNTY, FLORIDA, ENTITLED, “BROWARD COUNTY OFFICE OF INSPECTOR GENERAL”; PROVIDING FOR THE EXPANSION OF THE JURISDICTION OF THE BROWARD COUNTY OFFICE OF INSPECTOR GENERAL TO INCLUDE THE RECIPIENTS OF FUNDS FROM BROWARD COUNTY OR MUNICIPALITIES WITHIN BROWARD COUNTY FOR A SPECIFIED USE WITH RESPECT TO SUCH FUNDING, AS WELL AS LOBBYISTS WHOSE CONDUCT IS REGULATED BY THE BROWARD COUNTY CODE OF ETHICS FOR ELECTED OFFICIALS, WITH RESPECT TO SUCH CONDUCT; PROVIDING FOR CONSISTENCY THROUGHOUT ARTICLE XII OF THE BROWARD COUNTY CHARTER; PROVIDING FOR PRESENTATION TO THE ELECTORATE BY THE COUNTY COMMISSION AT A SPECIAL REFERENDUM ELECTION TO BE HELD IN CONJUNCTION WITH THE NOVEMBER 2018 GENERAL ELECTION; PROVIDING THE BALLOT TITLE AND SUMMARY OF THE CHIEF PURPOSE OF THE PROPOSED AMENDMENT; PROVIDING FOR THE COUNTY ATTORNEY TO RENUMBER AND RELETTER ARTICLES AND SECTIONS IN ORDER TO CONFORM THE AMENDMENTS TO THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in accordance with Section 6.02 of the Broward County Charter, after two (2) public hearings and by an affirmative vote of at least thirteen (13) of the nineteen (19) members, the Broward County Charter Review Commission may submit a proposal to the Board of County Commissioners to amend or revise the Broward County Charter; and

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 Words in underscored type are additions.**

WHEREAS, the Charter of Broward County, Florida mandates that all Charter amendments and revisions proposed by the Charter Review Commission must be submitted to the County Commission no later than the first Tuesday in June of the year in which the term of the Charter Review Commission shall expire; and

WHEREAS, the Charter of Broward County, Florida provides that all amendments and revisions proposed by the Charter Review Commission must be presented by the County Commission to the electorate at the next general election;

NOW, THEREFORE, BE IT RESOLVED BY THE BROWARD COUNTY CHARTER REVIEW COMMISSION:

SECTION 1: That pursuant to Section 6.02 of the Charter of Broward County, Florida, the County Commission is hereby directed to place on the ballot for presentation to the electorate, at a special referendum election to be held in conjunction with the November 2018 General Election, a special referendum issue, the subject of which is proposed to amend Section 10.01, entitled "Broward County Office of Inspector General," to provide for the expansion of the jurisdiction of the Broward County Office of Inspector General to include the recipients of funds from Broward County or municipalities within Broward County for a specified use with respect to such funding, as well as lobbyists whose conduct is regulated by the Broward County Code of Ethics for Elected Officials, with respect to such conduct, the full text of which is attached hereto and incorporated by reference as if fully set forth herein as **Exhibit "A"**.

SECTION 2: That the ballot title and summary for the proposed amendments/revisions as referred to above shall appear as follows:

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EXPANDING THE JURISDICTION OF THE BROWARD COUNTY

OFFICE OF INSPECTOR GENERAL

Shall the Broward County Charter be amended to expand the jurisdiction of the Broward County Office of Inspector General to include recipients of funds from Broward County, or any municipality within Broward County, when the funds are provided for a specified use, but solely with respect to such funding; as well as to include lobbyists whose conduct is regulated by the Broward County Code of Ethics for Elected Officials, with respect to such conduct?

YES FOR APPROVAL _____

NO FOR REJECTION _____

SECTION 3: That should a majority of electors voting on the above-referenced referendum election vote "YES," thereby approving the above ballot issue, attached **Exhibit "A"** shall become a part of the Charter of Broward County, Florida.

SECTION 4: That the County Attorney is hereby directed to insure that the appropriate numbers and/or letters are affixed to the Articles and Sections of the Charter in order to conform the Charter to the amendments if approved.

SECTION 5: That if any section, sentence, clause or phrase of this resolution is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

SECTION 6: That this resolution shall become effective immediately upon its adoption.

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Adopted this ____ day of _____, 20__.

Thomas McDonald, Chairperson

APPROVED AS TO LEGAL FORM:

Office of the General Counsel

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**RECORD OF VOTE
(CRC 2018-001)**

BUSCH	_____	McDONALD	_____
DAVIS	_____	MOSELEY	_____
DIPIETRO	_____	MOSKOWITZ	_____
FABRICIO	_____	NAVARRO	_____
FORMAN	_____	NORRIS-WEEKS	_____
GREENBERG	_____	PETTIS	_____
GUERRA	_____	REYES	_____
GUNZBURGER	_____	SMITH	_____
KANE	_____	WELLS	_____
MAYLOR	_____		

Resolution **CRC 2008-001** passed _____ on _____, 20__.

BROWARD COUNTY CHARTER REVIEW COMMISSION

Attest: _____
Carlos Verney, Executive Director

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EXHIBIT "A"

Sec. 10.01. –Broward County Office of Inspector General

...

B. Functions, Authority, and Powers.

(1) The authority of the Inspector General shall extend only over the following:

(a) All elected and appointed officials ("Officials") and employees ("Employees") of the Charter Government of Broward County ("County") and of all municipalities, including any city, town, or village duly incorporated under the laws of the state within Broward County ("Municipalities"); and

(b) All entities and persons (other than employees of the County or any Municipality) that receive funding for any specified use by or through the County or any Municipality (“Grantees”), but solely with respect to such funding, or that provide goods or services to the County or any Municipality under contract for compensation (“Providers”), but solely with respect to the provision of such goods or services. As used herein, “specified use” does not include activity by a Grantee that is a non-profit charitable organization, as defined under the Internal Revenue Code, that both (1) furthers the overall mission of the Grantee and (2) was not a condition of the funding.

(c) Lobbyists whose conduct is regulated by the Broward County Code of Ethics for Elected Officials, but only with respect to such conduct.

(2) The Inspector General shall commence an investigation if good cause exists that any entity or person over whom the Inspector General has authority~~Official, Employee, or Provider~~ has engaged in misconduct or gross mismanagement.

(3) The Inspector General may find good cause on his or her own initiative or based on a signed, verified complaint (as described below) stating allegations that, if true, would constitute misconduct or gross mismanagement.

(4) In addition to meeting the requirements of paragraph (3) above, a complaint may only serve as a basis for a good cause finding if it is signed by an identified person who verifies the contents of the complaint by including the following statement: "Under penalties of perjury, I declare that I have read the foregoing complaint and that based on my personal knowledge the facts stated in it are true." The Inspector

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General shall develop a complaint form consistent with the requirements of this paragraph.

- (5) Any complaint received by the Office that is made against a candidate for elected office, and received within sixty (60) days of the date of the election, shall be held in abeyance until the election is determined, or, if the complaint is made within sixty (60) days of a primary election, until the general election is determined if the individual against whom the complaint was filed remains a candidate in the general election.
- (6) In connection with an investigation, the Inspector General shall have the power to subpoena witnesses, administer oaths, and require (through subpoena or otherwise) the production of documents and records.
- (7) As part of any investigation, the Inspector General may audit any program, contract, or the operations of any division, department, or office of the County and Municipalities. The Inspector General may also audit the operations or performance of any Provider relating to the Provider's contract for compensation with the County or any Municipality.
- (8) The auditing referenced in paragraph (7) above shall be performed with the cooperation of the County Auditor. When conducting audits, the Inspector General shall have free and unrestricted access to Employees, Officials, records, and reports, and to the records and employees of Providers with respect to any Provider's contract for compensation with the County or any Municipality. The Inspector General may require Officials, Employees, and Providers to provide oral and written reports and to produce documents, files, and other records.
- (9) All ~~Officials, Employees, and Providers~~entities and persons over whom the Inspector General has authority shall fully cooperate with investigations conducted by the Inspector General.
- (10) As part of an investigation, the Inspector General shall interview all persons implicated by a complaint, and all persons implicated during the Inspector General's investigation.
- (11) As part of an investigation, the Inspector General (or his or her designee) may attend all duly-noticed local government meetings relating to the procurement of goods or services, and may pose questions and raise concerns consistent with the functions, authority, and powers of the Inspector General.

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(12) To the full extent provided under applicable law, including under Subsection 112.3188(2), Florida Statutes, as amended, the Inspector General's records related to active investigations shall be confidential and exempt from disclosure.

(13) In any case in which the Inspector General determines that a person has filed a complaint with a malicious intent to injure the reputation of an entity or person over whom the Inspector General has authority ~~Official's, Employee's, or Provider's reputation~~ with baseless, spurious, or false accusations, or with a reckless disregard for the truth of the allegations, the complainant shall be liable for all costs incurred by the Inspector General in the investigation of the complaint. Upon such a determination, the Inspector General shall issue a demand letter for reimbursement of such costs, which shall be sent to the complainant by certified mail and presumed received three (3) days after mailing. If the complainant objects in writing to the demand for reimbursement of costs within thirty (30) days of receipt of the demand, the matter shall be referred by the Inspector General to a Hearing Officer (as provided below) for adjudication, including a determination of whether the criteria for the imposition of such costs have been met. If there is no timely objection, the Inspector General's determination shall be deemed to be final, conclusive, and binding. Once final, the determination for reimbursement of costs may be enforced by the Inspector General by filing an appropriate action in a court of competent jurisdiction.

(14) An Official or Employee who prevails in full in any administrative hearing in connection with a complaint filed with the Office of Inspector General shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred in the defense against such complaint to the full extent the Official or Employee would be entitled to reimbursement in connection with a complaint filed under the Florida Code of Ethics for Public Officers and Employees.

C. Referral and Prosecution of Misconduct.

(1) After completing his or her investigation and determining that there is probable cause to believe misconduct has occurred, the Inspector General shall notify the appropriate civil, criminal, or administrative agencies charged with enforcement related to the alleged misconduct. If no civil, criminal, or administrative agency has jurisdiction over the alleged misconduct, the matter shall be referred to a Hearing Officer (as provided below) for quasi-judicial enforcement proceedings.

(a) The Inspector General shall refer findings of alleged criminal offenses to the Office of the State Attorney and/or the Office of the United States Attorney.

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- (b) The Inspector General shall refer findings of alleged civil offenses involving a violation of Chapter 112, Part III, Florida Statutes, to the Florida Commission on Ethics.
 - (c) The Inspector General shall refer findings of alleged violations of The Florida Election Code, Chapters 97 through 106, Florida Statutes, to the Florida Elections Commission (except as to alleged violations that may be criminal in nature, which shall be referred to the Office of the State Attorney).
 - (d) The Inspector General shall refer other alleged offenses to the appropriate civil, criminal, or administrative agency that would have jurisdiction over the matter.
- (2) Any civil infraction not covered by paragraphs (a) through (d) above shall be stated in a complaint brought in the name of the Inspector General. The Inspector General may retain legal counsel not employed by the County to represent the Inspector General in prosecuting a complaint. The Inspector General shall serve the complaint on the entity or person over whom the Inspector General has authority~~Official, Employee, or Provider~~ accused of misconduct in any manner deemed proper service under the Florida Rules of Civil Procedure. Concurrently with such service, the Inspector General shall refer the complaint to a Hearing Officer randomly chosen from the panel of Hearing Officers selected by the Selection-Oversight Committee (as described below). The accused person or entity shall file a response to the complaint within thirty (30) days after service.
- (3) Except to any extent inconsistent with any provision of this section, the Florida Rules of Civil Procedure and Florida Evidence Code, as amended, shall apply to all matters referred to a Hearing Officer under paragraph (2) above.
- (4) In addition to all other authority granted in this Section, the Hearing Officer shall have the authority to:
- (a) Issue scheduling orders, case-management orders, and briefing schedules;
 - (b) Issue notices of hearings;
 - (c) Hold hearings on any procedural or substantive matters related to the complaint;
 - (d) Administer oaths and affirmations;
 - (e) Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the production of documents and other items which may be used as evidence;

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- (f) Rule upon motions presented and offers of proof and receive relevant evidence;
 - (g) Issue appropriate orders to effectuate discovery;
 - (h) Regulate the course of the hearing;
 - (i) Dispose of procedural requests or similar matters; and
 - (j) Enter any order, consistent with his or her authority, to carry out the purposes of this Charter provision.
- (5) Within thirty (30) days after completion of the hearing process, the Hearing Officer shall issue a final order determining whether the Inspector General has proved the allegations of the complaint by a preponderance of the evidence. The final order shall contain detailed findings of fact and conclusions of law. If the Hearing Officer determines that misconduct has occurred, the final order shall specify the sanction(s) imposed, if any. The Hearing Officer may impose any of the following sanctions:
- (a) Fines.
 1. An entity or person over whom the Inspector General has authority ~~An Official, Employee, or Provider~~ determined to have committed misconduct shall be assessed a monetary fine of between two hundred and fifty dollars (\$250.00) and five thousand dollars (\$5,000.00) per violation.
 2. In determining the amount of the fine, the Hearing Officer shall consider:
 - a) The gravity of the violation;
 - b) Whether it was intentional; and
 - c) Whether it is a repeat offense.
 3. The Hearing Officer may determine that no fine shall be imposed upon making an affirmative, express finding that the violation was unintentional and de minimis.
 4. In addition to a fine, the Hearing Officer may order the Official, Employee, or Provider to pay restitution or to disgorge any sums wrongfully received (directly or indirectly) by that person or entity (or any related person or entity).

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- (b) Public Reprimand/Censure. An Official or Employee who is found to have violated any provision of this Code may be subject to public reprimand or censure.
- (6) All orders issued by the Hearing Officer, when final, are subject to judicial review as provided by applicable law.

D. Reports and Recommendations.

- (1) The Inspector General shall issue reports, including recommendations, in the following circumstances:
 - (a) At the conclusion of an investigation involving allegations of gross mismanagement; and
 - (b) At the conclusion of an investigation involving allegations of misconduct, if the Inspector General determines that a report will assist the County or any Municipality in preventing similar future misconduct. However, no report shall be issued if the Inspector General, in conjunction with the State Attorney or United States Attorney, determines that the issuance of such report may jeopardize a pending criminal investigation.
- (2) The Inspector General shall issue all reports as follows:
 - (a) Upon conclusion of an investigation described in paragraph (1) above, the Inspector General shall issue a preliminary report containing findings and recommendations to the County or Municipality and to the ~~Officials, Employees, or Providers~~entities and persons over whom the Inspector General has authority implicated in the report. The recipients of the preliminary report shall have thirty (30) days to respond to the preliminary report's findings and recommendations. The time to respond to a preliminary report may be extended by the Inspector General.
 - (b) Within thirty (30) days after the response deadline, the Inspector General shall issue a final report containing findings and recommendations to the County or Municipality and to the entities and persons over whom the Inspector General has authority ~~Officials, Employees, and Providers~~ implicated in the report. All responses to the Inspector General's preliminary report shall be considered in preparing the final report, and shall be appended to the final report.
- (3) The Inspector General may follow up on any recommendations he or she makes to determine whether such recommendations have been implemented.

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- (4) The Inspector General shall establish policies and procedures to monitor the costs of investigations undertaken.

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