



Interoffice Memorandum

TO: Mayor Jerry L. Demings
And
Board of County Commissioners

FROM: Ray Walls, Manager, Fiscal & Operational Support
Orange County Convention Center
(407) 685-5684

DATE: July 16, 2019

SUBJECT: Consent Agenda Item for August 6, 2019 BCC Meeting
Sports Incentive Committee Funding Request

A handwritten signature in black ink, appearing to read "Ray Walls", is written over the "FROM:" field.

On November 1, 2016, the Board authorized consolidated sports funding under the Tourist Development Plan for incentivizing sporting events in Orange County venues. On October 31, 2017, the Board established the Tourist Development Tax Sports Incentive Committee (the "Committee") to serve in an advisory capacity to the Board with the professional assistance of Visit Orlando.

At its May 13, 2019 meeting, the Committee unanimously recommended approval of the Central Florida Sports Commission's (doing business as the Greater Orlando Sports Commission "GOSC") funding request for two payments of \$35,000 in sports incentive funds to pay bid fees to USA Volleyball for the 2022 and 2026 USA Volleyball Open National Championships and Corporate Annual Meetings to be staged at the Orange County Convention Center (the "Events").

Visit Orlando's evaluation of the request indicated that the Events will occur during a lower than average hotel occupancy time in late May that, with a "stay to play" requirement for participating teams, should benefit local hotels and have an estimated \$10 million economic impact.

If you have any questions, please contact me or Lila McHenry.

ACTION REQUESTED: Approval and execution of Agreement between Orange County, Florida and Central Florida Sports Commission, Inc. 2022 and 2026 USA Volleyball Open National Championships and Corporate Annual Meetings

c: Byron W. Brooks, AICP, County Administrator
Randy Singh, Deputy County Administrator
Lila McHenry, Senior Assistant County Attorney
Fred Winterkamp, Manager, Fiscal and Business Services Division

AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
CENTRAL FLORIDA SPORTS COMMISSION, INC.

**2022 and 2026 USA Volleyball Open National Championships and
Corporate Annual Meetings**

THIS AGREEMENT, made and entered into as of the date of last execution below, by and between ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, ("County"), and the CENTRAL FLORIDA SPORTS COMMISSION, INC. a not-for-profit corporation organized and existing under the laws of the State of Florida currently doing business as the Greater Orlando Sports Commission ("GOSC").

WITNESSETH:

WHEREAS, the County has previously found that encouraging and promoting the selection of the Orlando area as a venue for international, national, regional and local sports events, teams and sports-related businesses generates economic growth and enhances the overall quality of life of Orlando area residents; and

WHEREAS, on November 1, 2016, the Orange County Board of County Commissioners ("Board") enacted Ordinance 2016-23 which authorized consolidated sports funding under the Tourist Development Plan for incentivizing sporting events in venues located in Orange County ("Sports Incentive Funds"); and

WHEREAS, on August 1, 2017, the Board approved that certain Sixth Addendum to the Tourism Promotion Agreement between the County and Visit Orlando which provided for the professional assistance of Visit Orlando in evaluating sports incentive funding proposals and provided for the deposit of such Sports Incentive Funds with Visit Orlando ("VO Agreement"); and

WHEREAS, on October 31, 2017, the Board adopted Resolution No. 2017-M-43 which established the Tourist Development Tax Sports Incentive Committee to serve in an advisory capacity to the Board with the professional assistance of Visit Orlando; and

WHEREAS, on May 13, 2019, the County's Tourist Development Tax Sports Incentive Committee recommended approval of GOSC's request for two (2) payments of thirty-five thousand dollars (\$35,000), for an aggregate total of seventy-thousand dollars (\$70,000), in Sports Incentive Funds to pay bid fees to USA Volleyball, as the National Governing Body (NGB) for volleyball in the United States, for the 2022 and 2026 USA Volleyball Open National

Championships and Corporate Annual Meetings to be staged at the Orange County convention Center (collectively referred to as “Events”); and

WHEREAS, the Board now desires to approve an award of Sports Incentive Funds to GOSC for the purpose of paying the bid fees for such Events, in accordance with such terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the County and the GOSC agree as follows:

1. **Authorized Sports Incentive Fund Payments.** Subject to the below terms and conditions, the County authorizes Visit Orlando to disburse payments to GOSC in two separate disbursements of thirty-five thousand dollars (\$35,000) each for the 2022 and 2026 Event, respectively, with an overall total aggregate amount not to exceed seventy-thousand dollars (\$70,000), from available Sports Incentive Funds to pay the bid fee for each of the Events, as set forth in Schedule “A” attached hereto (“Allowable Expenses”). Sports Incentive Funds shall not be expended for Non-allowable Expenses set forth in Schedule “A.”

Each request for payment shall be submitted to the Deputy County Administrator and Visit Orlando, with a copy to the County Comptroller, at the notice addresses set forth in Section 13 below. After review and approval of a request for payment by the Deputy County Administrator, the Deputy County Administrator shall, by written direction (which may be delivered via email), instruct Visit Orlando to make the respective payment within ten (10) days thereafter as needed to timely pay the bid fee for each Event. Each payment, in an amount not to exceed thirty-five thousand dollars (\$35,000), may only be paid to GOSC after GOSC shall have submitted a request for payment signed by the GOSC Executive Director, containing the following statements:

- (i) that \$35,000 is the actual amount of the bid fee payable to USA Volleyball;
 - (ii) that Orlando has been selected to host the Event for which the bid fee is being requested;
 - (iii) that such bid fee is due and payable within thirty (30) days of such request for payment;
 - (iv) that, to the best of his knowledge, the staging of the Event will be consistent with the information contained in GOSC’s application for Sports Incentive Funds; and
 - (v) that following the staging of each Event, GOSC will provide a post-Event report on the Event to the Sports Incentive Committee containing such financial and program information as may be reasonably requested by the Committee Chair or the Deputy County Administrator.
2. **GOSC.** GOSC covenants and agrees that it will promote and host each such Event if the Orlando area is selected as the site for the Events. GOSC will promote the Orlando area through the staging of the Events and will utilize the

funds provided for herein solely for Allowable Expenses, pertinent provisions of Florida Law regarding expenditure of Tourist Development Tax revenues and the County's Tourist Development Plan.

GOSC specifically acknowledges that Sports Incentive Funds shall not be expended for non-allowable expenses. Non-allowable expenses include general and administrative expenses, capital costs including venue enhancements, equipment, debt, hospitality/social functions including food and beverages, banquets and admission tickets, travel, transportation and lodging. GOSC will submit requests for payment only for Allowable Expenses, as set forth above, with documentation of such Allowable Expenses sufficient to allow the County and the County Comptroller to verify such expenses to their sole satisfaction. GOSC shall, for each year during the term of this Agreement, annually cause audited financial statements of the GOSC to be prepared and shall timely submit such financial statements to the County and County Comptroller at the notice addresses below.

3. **Disbursement of Funds.** No payments shall be made if the Orlando area has not been selected as the location for each of the Events. The fees for each of the Events shall be payable only after receipt of the above-referenced requests and evidence, satisfactory to the County, that Orlando has been selected as the site for the Events and that such bid fees are due and payable to USA Volleyball within thirty (30) days of such requests. In the event that the VO Agreement shall expire during the term of this Agreement, any Sports Incentive Funds awarded but not yet disbursed hereunder shall remain on deposit with Visit Orlando for disbursement for Allowable Expenses, as set forth above, for a period not to extend beyond the date that is scheduled for the staging of the Events after which time any awarded, but not disbursed, Sports Incentive Funds shall revert to the general use and purpose of Sports Incentive Funds in general.
4. **Payment Contingency.** This Agreement and any payments provided for in this Agreement are contingent upon the availability of Sports Incentive Funds derived from the tax levied under Section 25-136 of the Orange County Code to make the payments hereunder. The County shall not cause Sports Incentive Funds to be unavailable as a result of dilution of the Sports Incentive Fund through funding other sports events.
5. **No Pledge of Tax Revenues.** Nothing in this Agreement shall constitute, or be deemed (i) a pledge of or lien upon tourist development taxes, any other source of County revenue, or any real or personal property of the County; (ii) an amendment to the County Tourist Development Plan; or (iii) a waiver of or contract to exercise the County's sovereign governmental powers.
6. **Nondiscrimination.** GOSC hereby certifies that it will provide the activities and programs associated with attracting and promoting each of the Events without regard to race, color, creed, sex, age, national origin, disability or marital status, and shall remain in compliance with Title VII of the 1964 Civil Rights Act, as

amended, and any and all other applicable federal, state or local laws, rules and regulations, whether presently existing or hereafter promulgated.

7. **Budget and Reporting Requirements.** As a condition of receiving funds pursuant to this Agreement, the GSOC acknowledges and agrees to comply with its reporting obligations and to timely provide the following to the Comptroller and County Administrator, at their respective notice addresses listed in Section 13 hereof:
- (i) a detailed line item revenue and expense budget of GOSC for each Event, to be submitted simultaneously with the submission of the initial request for payment to Visit Orlando and the County;
 - (ii) a comparison of budget to actual revenues and expenses relating to each Event within ninety (90) days after the staging of each Event, which comparison shall be reported to the County and County Comptroller in a form capable of being audited;
 - (iii) audited financial statements of the GOSC within sixty (60) days of completion of its audit, and such audit shall be completed within 180 days of the close of GOSC's fiscal year;
 - (iv) GOSC's IRS Form-990 filing with the Internal Revenue Service, to be submitted at the time of submission to the IRS; and
 - (v) program reports that include, at a minimum, the number of room nights, average daily rate, attendance, and economic impact generated by each of the Events and the source of that information.

At the County's or Tourist Development Council's or Sports Incentive Committee's request, GOSC shall provide a presentation to such boards, following each Event which will include financial and program summaries of its activities and each of the Events. The GOSC shall provide such additional presentations regarding each Event, as may be requested by the Sports Incentive Committee, Tourist Development Council or the County.

8. **Recordkeeping; Accounting; Audit.** GOSC will utilize accounting procedures and practices in the maintenance of the records of receipts and disbursements of the funds contributed by the County, through Visit Orlando, as well as all its receipts and disbursement of funds in connection with the pursuit of and hosting of each Event, and such procedures and practices shall be in accordance with generally accepted accounting principles. All such records shall be open to inspection and auditing by the County, the County's designee, or the County Comptroller during normal business hours during the term hereof, and for a period of five (5) years after the term of this Agreement. Any cost incurred by GOSC as a result of a County audit shall be the sole responsibility of and shall be borne by the GOSC. In addition, should GOSC provide any or all of the County's funds to sub-recipients, then and in that event, GOSC shall include, in all written agreements with such sub-recipients, a requirement that records of the sub-recipient be open to inspection and audit by the County or the County's designee for the term of the contract and for a period of five (5) years after the term of this Agreement. This provision shall survive termination of this Agreement.

9. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, this Agreement is required to contain the following provisions.
GOSC shall:

- a. Keep and maintain public records required by the County to perform the services performed under this Agreement.
- b. Upon request from the County, provide the County with a copy of the requested records, or allow the records to be inspected or copied, within a reasonable time at a cost that does not exceed the amount set by the County.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of this Agreement's term and following completion of this Agreement, if the GOSC does not transfer the records to the County.
- d. Upon completion or termination of this Agreement, transfer, at no cost to the County, all public records in possession of the GOSC to the County, or keep and maintain such public records required by the GOSC to perform the services, in accordance with Florida law.
- e. If the GOSC transfers all public records to the County upon completion of the Agreement, the GOSC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the GOSC keeps and maintains public records upon completion of this Agreement, the GOSC shall meet all applicable requirements for retaining public records, in accordance with applicable federal and Florida law.
- f. All records stored electronically shall be provided to the County, upon request from the County, in a format that is compatible with the information technology systems of the County.

IF THE GOSC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE GOSC'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PUBLIC RECORDS UNIT: PublicRecordUnit@ocfl.net, Office of Professional Standards, 450 E South Street, 3rd Floor, Orlando FL 32801. Phone (407) 836-5400.

10. **Defaults and Remedies.** The following events shall constitute an event of default under this Agreement: (a) if either party fails to comply with the terms

contained in this Agreement and such failure is not corrected within the period of time allotted for cure in a written notice from the non-breaching party; or (b) if at any time any material representation is made by GOSC in any communication submitted to the County in an effort to induce the expenditure of Sports Incentive Funds is determined by the County to be false, misleading, or incorrect in a material manner. Failure of either party to declare a default shall not constitute a waiver of any rights by the non-breaching party. Furthermore, the waiver of any default by the non-breaching party shall in no event be construed as a waiver of rights with respect to any other default, past or present.

Upon the occurrence of any event of default, or any other breach of this Agreement, the non-breaching party shall be free to terminate this Agreement; withhold all funding; demand repayment for amounts disbursed; and/or exercise all rights and remedies available to it under this Agreement, statutory law, equity, or common law. All remedies shall be deemed cumulative and, to the extent permitted by law, the election of one or more remedies shall not be construed as a waiver of any other remedy the non-breaching party may have available to it.

In the event the County elects to terminate this Agreement in the event of a default, the County may require GOSC to remit all, or a portion, of any Sports Incentive Funds disbursed pursuant to this Agreement. The remittance amount, if any, shall be determined by the County, in its sole discretion, and shall be received by the County within ninety (90) calendar days from the date of such termination for default.

11. **Term; Termination.** This Agreement shall become effective upon execution by both parties hereto and shall continue for a period of one (1) year after the staging of the 2026 Event. This Agreement may be earlier terminated pursuant to Section 10 hereof entitled "Default and Remedies." Sections 7, 8 and 9 hereof shall survive termination of this Agreement.
12. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. No other agreement whether verbal or written, with regard to the subject matter hereof shall be deemed to exist.
13. **Notices.** Any notices required or allowed hereunder shall be in writing and given by certified mail with return receipt requested, by email to the addresses below, or in person with proof of delivery to the addresses below, or such other address as either party shall have specified by written notice to the other party delivered in accordance herewith:

County:	Deputy Orange County Administrator 201 S. Rosalind Avenue, 5 th Floor Orlando, Florida 32801 Email: Randy.Singh@ocfl.net Email: Ray.Walls@occc.net
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GOSC: Greater Orlando Sports Commission
400 W. Church Street #205
Orlando, Florida 32801
Attention: Jason Siegel
Email: jsiegel@greaterorlandosports.com

Visit Orlando: Visit Orlando
6277 Sea Harbor Drive #400
Orlando, Florida 32801
Attention: COO/CFO
Email: larry.henrichs@visitorlando.com

Comptroller: Orange County Comptroller
Director of Finance & Accounting
201 S. Rosalind Avenue, 4th Floor
Orlando, Florida 32801
Email: phil.diamond@occompt.com
Email: eric.gassman@occompt.com

14. **Indemnification.** GOSC agrees to indemnify and save harmless the County and Visit Orlando from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees, and attorneys on appeal of any kind and nature arising or growing out of or in any way connected with the performance of this Agreement itself. This provision shall survive termination of this Agreement.
15. **No Assignment.** GOSC may not assign its rights hereunder, without the prior written consent of the County. Failure to comply with this section may result in immediate termination of this Agreement.
16. **No waiver.** Continued performance by either party hereto, pursuant to the terms of this Agreement, after a default of any of the terms, covenants or conditions herein shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.
17. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the

parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

18. **Governing Law; Venue.** Any litigation occurring as a result of this Agreement shall be held in the courts of Orange County, Florida. This Agreement shall be governed by the laws of the State of Florida.
19. **Headings.** The headings or captions of sections or paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.
20. **Counterparts.** This Agreement may be executed in separate counterparts, all of which taken together shall be deemed to constitute one and the same instrument.
21. **Third Party Beneficiary.** The parties acknowledge and agree that Visit Orlando is a third party beneficiary of this Agreement and as such shall have the right to rely upon, and to receive the rights and benefits provided in this Agreement but shall not otherwise be deemed to be a party hereto nor shall Visit Orlando have any obligation or liability hereunder and is and will at all times hereunder be acting solely at the direction of the County.

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Brynn Brooks*

JL Jerry L. Demings
Orange County Mayor

Date: 6 Aug 19



ATTEST:

Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Kate Smith*
Deputy Clerk

(SEAL)

CENTRAL FLORIDA SPORTS
COMMISSION, INC. d/b/a Greater
Orlando Sports Commission

By: _____

Its: _____

Date: _____

[Handwritten Signature]
CEO
July 10, 2019

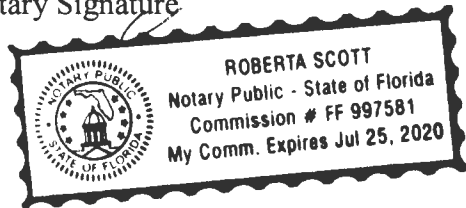
**STATE OF FLORIDA
COUNTY OF ORANGE**

I HEREBY CERTIFY, that on this 10th day of July, 2019, before me personally appeared Jason Siegel, CEO of the Central Florida Sports Commission, Inc., doing business as the Greater Orlando Sports Commission, to me known to be, or who has produced personally known as identification, and did (did not) take an oath, the individual and officer described in and who executed the foregoing conveyance and acknowledged the execution thereof to be his/her free act and deed as such officer thereunto duly authorized, and that the official seal of said corporation is duly affixed thereto, and the said conveyance is the act and deed of said corporation.

Witness my hand and official seal this 10th day of July, 2019.

(Notary Seal)

[Handwritten Signature]
Notary Signature



**Schedule "A" to
Agreement
between
ORANGE COUNTY, FLORIDA
and
CENTRAL FLORIDA SPORTS COMMISSION, INC.**

- Allowable expenses include:
 - Bid fees payable to USA Volleyball

- Non-allowable expenses include:
 - General and Administrative Expenses
 - Capital costs including venue enhancements, equipment etc.
 - Debt
 - Hospitality/Social Functions including food and beverages, banquets and admission tickets
 - Travel, transportation, lodging and other local costs.