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Public Hearing

MEMORANDUM

TO: Mayor Jerry L. Demings
and
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*
Whitney E. Evers, Senior Assistant County Attorney *WEE*
Contact: (407) 836-7320

DATE: November 2, 2023

RE: Public Hearing for Board Meeting on November 28, 2023
to Consider an Ordinance Pertaining to Taxation in Orange County,
Florida; Amending Article IV of Chapter 25 of the Orange County Code
Section 25-140, Tourist Development Plan; and Providing for an
Effective Date.

I. EXPLANATION & SUMMARY:

On October 3, 2023, the Board authorized the use of Tourist Development Taxes for multiple projects, including \$560 million for the Orange County Convention Center Phase 5A project; an increase from 3% to 5% of the first four cents for Arts and Cultural Affairs, in addition to a \$500,000 increase in the venue subsidy; \$15 million/year for five years (\$75 million) to the Application Review Committee ("ARC"), and up to \$10 million/year for nine years (\$90 million) to UCF Sports for its football stadium tower (collectively, the "TDT Projects").

Because certain of the TDT Projects are already set forth in the Tourist Development Plan (the "TDP"), only two of the TDT Projects require amendments to the TDP. The proposed amendments to the TDP are to specify the additional expenditure of funds for Arts and Cultural Affairs as well as the funding to UCF. The amendment to the TDP was presented to the Tourist Development Council ("TDC") on October 31, 2023, and the TDC unanimously recommended approval. The amendment authorizes the funding to UCF pursuant to the terms of a funding agreement between the County and UCF. The funding agreement will be submitted to the Board for consideration at a future Board meeting.

If you have any questions, please contact Carla Bell Johnson, Whitney Evers, or me.

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November 2, 2023
Re: Public Hearing (November 28, 2023)
TDT Plan Amendment
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II. ACTION REQUESTED:

**APPROVAL OF AN ORDINANCE
PERTAINING TO TAXATION IN
ORANGE COUNTY, FLORIDA;
AMENDING SECTION 25-140 OF
THE ORANGE COUNTY CODE
("TOURIST DEVELOPMENT
PLAN") TO UPDATE PRIORITIES
UNDER THE TOURIST
DEVELOPMENT PLAN; AND
PROVIDING FOR AN EFFECTIVE
DATE.**

WEE/rg
Attachment

c: Byron W. Brooks, AICP, County Administrator
Carla Bell Johnson, Deputy County Administrator
Stephanie Taub, Manager, Fiscal and Business Services Division

ORDINANCE NO. 2023-_____

2 AN ORDINANCE PERTAINING TO TAXATION IN
4 ORANGE COUNTY, FLORIDA; AMENDING SECTION 25-
6 140 OF THE ORANGE COUNTY CODE ("TOURIST
8 DEVELOPMENT PLAN") TO UPDATE PRIORITIES
UNDER THE TOURIST DEVELOPMENT PLAN; AND
PROVIDING FOR AN EFFECTIVE DATE.

10 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
ORANGE COUNTY:

12 *Section 1.* Chapter 25, Article IV, Section 25-140 of the Orange County Code, is
hereby amended, with additions being shown by underlines and deletions being shown by strike-
14 throughs:

Section 2. The Orange County Tourist Development Plan set forth in Section 25-140
16 of the Orange County Code is hereby amended to read as follows:

18 **Sec. 25-140. Tourist development plan.**

20 The tax revenues received pursuant to section 25-136 shall
be used to fund the county tourist development plan, which is
22 hereby adopted as follows:

24 TOURIST DEVELOPMENT PLAN

26 Under the provisions of the Local Option Tourist
Development Act, a two (2) percent tourist development tax was
28 and has been levied throughout Orange County beginning May 1,
1978. The anticipated net revenue for the twelve-month period
30 from May 1, 1978, through April 30, 1979, was two million four
hundred forty-seven thousand dollars (\$2,447,000.00). The
32 anticipated net revenue for the twelve-month period from May 1,
1979, through April 30, 1980, was two million six hundred thirty-
34 nine thousand dollars (\$2,639,000.00). Orange County issued
bonds, that are secured and will be liquidated by revenue from the
36 tax, the proceeds of which were used for the construction of
publicly owned facilities to be known as the "Orange County
Convention Center."

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As required by the local option tourist development act, the following is a list, in order of priority, of the proposed uses of the funds initially and currently available from the tourist development tax levied under section 25-136, including the approximate cost or expense allocation for each specific project or special use:

(1) *Initial priority.* The initial priority for the use of the revenues derived from the tourist development tax is payment of priority expenses of operations, maintenance and promotion of the convention center in each fiscal year in an amount up to four hundred thousand dollars (\$400,000.00) or, if higher, one and seventy-four hundredths (1.74) percent of the proceeds of the tourist development tax received by or on behalf of the county during the preceding fiscal year, such amount having been found by the board to be sufficient, together with available gross operating revenues of the convention center, so that no funding from other sources will be required. From time to time, the four hundred thousand dollars (\$400,000.00) and the one and seventy-four hundredths (1.74) percent may be adjusted to an amount and a rate determined by the board to reflect the correct anticipated priority expenses of operation, maintenance and promotion of the expanded convention center prior to the issuance of any bonds or other obligations to pay for such expansion. The convention center will be constructed and expanded in phases as funds become available from the tourist development tax or from the proceeds of revenue bonds issued in anticipation thereof.

(2) *Second priority.* The second priority of the plan, shall be payment of debt service on bonds secured under and compliance with that certain Second Amended and Restated Indenture of Trust dated as of July 15, 2000, as amended or supplemented from time to time, including but not limited to the Fifteenth Supplemental Indenture of Trust to Second Amended and Restated Indenture of Trust, dated as of July 1, 2017, between the County and U.S. Bank National Association, successor in interest to certain other banking institutions, as trustee (collectively, the "indenture").

(3) *Third priority.* The third priority of the plan is to provide additional funding from legally available unallocated prior or current year revenues as approved during the county budgetary process for expenses of operation, maintenance, necessary capital improvements and renovations to, and promotion of, the

82 convention center, including adequate transportation facilities and
84 improvements to support the convention center and activities
therein, including but not limited to parking, access roads and other
86 transportation related purposes.

88 (4) *Fourth priority.* The fourth priority of the plan is to
provide, subject to the terms and limitations of a tourism
90 promotion agreement approved by the board, to the
Orlando/Orange County Convention and Visitors Bureau, Inc.
92 (doing business as "Visit Orlando"), an amount of revenues
collected under section 25-136 of the Orange County Code
94 ("Code") which, when added to 50% of the tax collected
under section 25-136.2 of the Code, equals up to 30% of total tax
96 collections beginning in fiscal year 2019/20 and for all subsequent
fiscal years (such total tax calculation being inclusive of tax
98 collected under sections 25-136, 25-136.1 and 25-136.2 of the
Code).

100 (5) *Fifth priority.* The fifth priority of the plan is to
provide funding each year, beginning in fiscal year
102 ~~2001/02~~2023/24 and thereafter, in an amount equal to ~~three (3)~~five
(5) percent of tourist development tax revenues collected for such
104 year under subsections 25-136(a) through (d) and, beginning in
fiscal year ~~2019/20~~2023/24 and thereafter, subject to the terms and
106 limitations set forth in an agreement with United Arts of Central
Florida, Inc., up to an additional two million five hundred thousand
108 dollars (\$2,500,000), to the extent permitted by F.S. § 125.0104,
for: 1) arts and cultural activities, venues, services and events when
110 one (1) of the main purposes of such activities, venues, services
and events is to attract tourists; and 2) the acquisition, construction,
112 extension, enlargement, remodeling, repair, improvement,
maintenance, operation or promotion of auditoriums or museums
114 to be used primarily for arts and culture. The expenditure of all
revenues apportioned to this priority shall be governed by a
116 resolution to be adopted by the board that will, at a minimum,
provide or set forth the following:

118 a. The establishment of an advisory council to
120 be named the "arts and cultural affairs advisory council" (or
otherwise as the board may determine in the resolution);
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124 b. A direction to the council to study the
potential uses of the revenues apportioned hereunder, to review
requests for funding from the revenues apportioned hereunder, and

126 to make recommendations each year to the board with respect to
128 budgeting the revenues apportioned hereunder; and

130 c. Such other procedures, requirements,
132 restrictions, and directions as the board may determine to be
134 necessary or useful to the lawful and prudent use of the revenues
136 apportioned hereunder.

138 (6) *Sixth priority.* The sixth funding priority of the plan
140 is to provide funding annually from legally available unallocated
142 prior or current year revenues as approved during the county
144 budgetary process for expenses of operation, maintenance,
146 necessary capital improvements and renovations to, the Orange
148 County Regional History Center.

150 (7) *Seventh priority.* The seventh priority of the plan is
152 to provide funding, as set forth in an interlocal agreement between
154 the county, the City of Orlando and the City of Orlando
156 Community Redevelopment Agency (the "interlocal agreement")
158 for certain costs associated with the construction of a new
160 performing arts center and with the renovation and expansion of
162 the Citrus Bowl, in order to finance and estimate three hundred
164 fifty-two million dollars (\$352,000,000.00) in project costs plus
166 certain adjustments as further provided for and pursuant to the
168 terms and limitations of such interlocal agreement and to provide
170 additional funding in an amount not to exceed nineteen million
dollars (\$19,000,000.00) for project costs associated with the
completion of the performing arts center pursuant to the terms of a
funding agreement approved by the board.

(8) *Eighth priority.* The eighth priority of the plan is the
promotion of tourism through the staging of significant sporting
events in publicly-owned Orange County venues with major
economic impact as recommended for funding by the tourist
development council and subject to the amounts, terms and
conditions of funding agreements approved by the board.

(9) *Ninth priority.* The ninth priority of the plan is to
provide funding to Visit Orlando, subject to the terms and
limitations set forth in a funding agreement with Visit Orlando,
from legally available unallocated revenue in an annual amount not
to exceed four million dollars (\$4,000,000.00) for expenses
associated with promoting or incentivizing significant athletic
events in Orange County.

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(10) *Tenth priority.* The tenth priority of the plan is to provide funding in an amount not to exceed sixty million dollars (\$60,000,000) for project costs associated with the construction of improvements to the Camping World football stadium, as set forth in a funding agreement approved by the board.

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(11) *Eleventh priority.* The eleventh priority of the plan is to provide funding from legally available unallocated revenue in an amount determined by the board to be available for capital projects and events which shall be authorized pursuant to the application and evaluation process set forth in section 25-147 of the Code.

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(12) *Twelfth priority.* The twelfth priority of the plan is to provide annual funding beginning in fiscal year 2024/25, in an amount not to exceed ninety million dollars (\$90,000,000) total, to the University of Central Florida for project costs associated with the construction of a new stadium tower, provided, however, such funds shall only be paid from excess revenues in any applicable year as confirmed by the board, or its designee, all as set forth in a funding agreement between the county and the University of Central Florida.

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(123) *Amendments to plan.* The above and foregoing tourist development plan may not be amended except by ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the board.

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Section 3. Codification. The amendments to the Orange County Code set forth in Section 2 shall be codified. No other sections or parts of sections of this ordinance shall be codified.

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Section 4. Effective date. This ordinance shall become effective pursuant to general law.

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208 **ADOPTED THIS 28th DAY OF November, 2023.**

210 **ORANGE COUNTY, FLORIDA**
212 By: Board of Orange County Commissioners

214 BY: _____
216 Jerry L. Demings
 Orange County Mayor

218 **ATTEST: Phil Diamond, CPA County Comptroller**
220 **As Clerk of the Board of County Commissioners**

222 By: _____
 Deputy Clerk

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