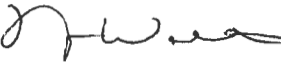




Interoffice Memorandum

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Ray Walls, Deputy Director, OCCC 
Contact: (407) 685-5684

DATE: September 14, 2023

RE: **BCC Consent Agenda Item – September 26, 2023**
Significant Sporting Event TDT Funding Requests

On October 22, 2019, the Board approved an update to the Tourist Develop Plan that created a specific funding category for “*significant sporting events in publicly-owned Orange County venues with major economic impact as recommended for funding by the Tourist Development Council.*” Funding and agreements for events that fall into this category are intended to be handled on a case-by-case basis outside of the funding and process dedicated to those relatively smaller funding requests for events that get reviewed by the Sports Incentive Committee managed by Visit Orlando, so as to avoid depleting the fund of money available through that process.

At its June 23, 2023 meeting, the Tourist Development Council (TDC) heard and recommended approval of one funding request for a “significant sporting event” after hearing a presentation from the applicant.

2024 NFL Pro Bowl Games

The TDC recommended approval of Florida Citrus Sports’ (FCS) request of \$2,700,000 to be used as a bid fee to incentivize the 2024 NFL Pro Bowl Games that will be held at Camping World Stadium over the days of January 30 – February 4, 2024. Pro Bowl Week is expected to encompass various community events, practices, a skills showdown, and a flag football game featuring NFL players. The most recent games held in Las Vegas this year attracted 58,331 fans and another 34.2 million TV viewers. FCS provided estimates of 39,000 room nights and a \$45 million economic impact resulting from the last Pro Bowl game held in Orlando in 2019. The 2022 Pro Bowl in Las Vegas resulted in an economic impact of \$54.7 million and 29,975 out-of-town-visitors. It is estimated that the impacts of the 2024 Pro Bowl Games would be near this same range.

ACTION REQUESTED: Approval of the Tourist Development Council’s recommendation to fund the 2024 Pro Bowl Games as a “significant sporting event” in the amount of \$2,700,000 to Florida Citrus Sports to be used for payment of bid fees and approval and execution of 2024 NFL Pro Bowl Games Funding Agreement between Orange County, Florida and Florida Citrus Sports Events, Inc.

c: Byron W. Brooks, AICP, County Administrator
Jeffrey J. Newton, County Attorney
Mark Tester, Executive Director, OCCC
Fred Winterkamp, Manager, Fiscal and Business Services Division

RW/ru

BCC Mtg. Date: September 26, 2023

AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
FLORIDA CITRUS SPORTS EVENTS, INC.

**2024 NFL PRO BOWL GAMES
FUNDING AGREEMENT**

THIS FUNDING AGREEMENT, made and entered into as of the date of last execution below, by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida, (“County”), FLORIDA CITRUS SPORTS EVENTS, INC., a not-for-profit corporation organized and existing under the laws of the State of Florida (“FCSE”).

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 Orange County area residents; and

WHEREAS, on October 22, 2019, the Orange County Board of County Commissioners (“Board”) enacted Ordinance No. 2019-16 which authorized funding for the promotion of tourism through the staging of significant sporting events in publicly owned Orange County venues with major economic impact, as recommended by the Orange County Tourist Development Council (“TDC”); and

WHEREAS, on June 23, 2023, the TDC recommended approval of a request by the FCSE for Tourist Development Tax (“TDT”) funding to support its bid for the 2024 NFL Pro Bowl Games (“the Event”); and

WHEREAS, the Board now desires to approve an award of TDT funds to FCSE for the purpose of incentivizing the NFL to stage the 2024 Pro Bowl Games in Orange County, Florida at Camping World Stadium on January 30 through February 4, 2024, in accordance with the terms and conditions set forth herein.

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

1. **Authorized Significant Sporting Event Payment.** Subject to the conditions stated herein, the County hereby agrees to contribute to FCSE Two Million Seven Hundred Thousand and no/100 Dollars (\$2,700,000.00) solely from available TDT funds to support FCSE’s bid for the Event (“County Contribution”). The County Contribution shall be disbursed in one payment following FCSE submitting a written request for payment to the County Administrator or

designee, with a copy to the County Comptroller at the notice addresses set forth in Section 14 hereof. After review and approval of the request for payment, the County Administrator shall, by written direction (which may be delivered via email), instruct the Comptroller to make payment to FCSE within 20 business days thereafter.

2. **FCSE.** FCSE will facilitate the Event at Camping World Stadium in Orlando, Orange County, Florida in a manner intended to promote and increase tourism within Orange County. FCSE shall advertise, promote, and market the Event in conjunction with the NFL and other funding and event partners. To the extent possible, FCSE shall, subject to restrictions and limitations imposed by the NFL, endeavor to show the County as one of the sponsors of the Event in programs and promotional media, web pages and other promotional materials for the Event and shall display such sponsorship with prominence commensurate with the level of the County's financial contribution. FCSE will utilize the funds provided herein solely for the above bid fee for the Event and in conformance with pertinent provisions of Florida law regarding expenditure of TDT revenues and the County's Tourist Development Plan.

FCSE specifically acknowledges that TDT 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.

3. **Payment Contingency.** This Agreement and any payments provided for in this Agreement are contingent upon the availability of TDT funds.

4. **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.

5. **Nondiscrimination.** FCSE hereby certifies that it will provide the activities and programs associated with attracting and promoting the Event without regard to race, color, creed, sex, age, national origin, disability, or marital status, and 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.

6. **Reporting Requirements.** The parties hereby acknowledge that FCSE is performing its services for the benefit of the Central Florida community and will incur expenses and allocate resources on behalf of this community project. The parties further acknowledge that 100% of the County's contribution to FCSE of Two Million Seven Hundred Thousand and no/100 Dollars (\$2,700,000.00) from available TDT funds will exclusively be used for a pass through "bid fee" payment to the NFL. FCSE will further assume risk by attempting to raise sufficient funds to offset expenses associated with hosting the Pro Bowl Games. FCSE agrees that it shall, no later than sixty (90) days after the conclusion of the Event, and as a condition of the County's willingness to enter into this Agreement, deliver to the County and County Comptroller, the following:

- (a) The number of tickets available for sale for the Event and the number of tickets sold for such Event;
- (b) The estimated attendance for the Event;
- (c) The estimated TV ratings for the Event; and
- (d) Calculation of economic impact with detail on methodology, sorted by purchaser zip code if available (it is acknowledged that a formal economic impact study shall not be required).

At the request of the Board and/or the TDC, FCSE shall provide a presentation to such board following the Event, which will include financial and program summaries of its activities and the Event. FCSE shall provide such additional presentations regarding the Event as may be requested by the Board and/or the TDC.

7. **FCSE to Act as Independent Contractor.** FCSE shall perform its obligations hereunder as an independent contractor, not as an agent of the County. FCSE shall have no authority to obligate the County and shall not hold itself out or give any third-party reason to believe otherwise. Similarly, the County shall have no authority to act or direct FCSE with respect to the Event and related activities. Any contracts for goods or services required during FCSE's performance under this Agreement shall be entered into by FCSE for its own account or on behalf of the NFL, not the County's. FCSE shall keep its own books and accounts, shall be custodian of its own funds, and shall be solely liable for and shall discharge its own debts. Neither the County nor any of its officers or employees shall (i) directly or indirectly perform or direct the performance of any FCSE services under this Agreement, (ii) manage, supervise, or assist or direct the performance of any FCSE employee in the course of performing his or her employment duties for FCSE, (iii) be responsible either to FCSE or to the County for any failure of FCSE's employees to fulfill FCSE's obligations hereunder, or (iv) be required to report to FCSE any negligence, unsatisfactory performance, misfeasance, malfeasance, or nonfeasance of any of FCSE's employees, agents or contractors.

8. **Right to Audit and Inspect Accounts.** During the term of this Agreement, FCSE shall permit County staff and the Orange County Comptroller and his staff at any time during normal working hours the limited right to inspect FCSE's records, books and accounts specifically and directly maintained for the Event, insofar as they relate to this Agreement and only to the extent necessary in good faith to ensure proper compliance by the parties with the provisions of this Agreement, provided that at least three (3) business days notice is given to FCSE prior to any such inspection. The foregoing shall be in addition to any other rights the Comptroller and his staff may have in this Agreement or any other agreement with respect to the inspection of FCSE's books and accounts.

9. **Maintenance of Records.** For a period ending five (5) years after the expiration or termination of this Agreement, FCSE shall make all records and documents relating to this Agreement available for inspection by the County or any agent designated by the County and the Orange County Comptroller, and during such period the County may copy such records and documents as necessary to support its audit and the conclusions therefrom.

10. **Additional Reporting.** Following receipt of the County Contribution by FCSE, FCSE will provide to the County and the Comptroller: (i) an examination report in accordance with American Institute of Certified Public Accountants attestation standards of the schedule of revenues and expenses relating to the Event processed by FCSE within 60 days of completion with such examination report being completed within 180 days of the close of FCSE's fiscal year; and (ii) FCSE's Public Disclosure Copy of IRS Form-990 filing with the Internal Revenue Service, to be submitted at the time of submission to the IRS.

11. **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 greater of thirty (30) days or 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 FCSE in any communication submitted to the County in an effort to induce the expenditure of TDT 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.

12. **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 Event. This Agreement may be earlier terminated pursuant to Section 11 herein. Sections 6, 7, 8, and 9 hereof shall survive termination.

13. **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.

14. **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: Orange County Administrator
201 S. Rosalind Avenue, 5th Floor
Orlando, Florida 32801

FCSE: Florida Citrus Sports Events, Inc.
Attn: Steve Hogan

One Citrus Bowl Place
Orlando, Florida 32805

Copy to: Richard J. Fildes, Esq.
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 N. Eola Drive
Orlando, Florida 32805

Comptroller: Orange County Comptroller
Director of Finance & Accounting
201 S. Rosalind Avenue, 4th Floor
Orlando, Florida 32801

15. **Indemnification.** The FCSE agrees to indemnify and save harmless the County from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and cost of actions, arising or growing out of or in any way connected with the Event and/or the performance of this Agreement itself.

16. **No Assignment.** FCSE 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.

17. **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.

18. **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.

19. **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.

20. **Attorney's Fees.** In any judicial proceeding arising out of this Agreement, each party shall bear its own attorney fees and costs, including fees and costs incurred on appeal.

21. **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.

22. **Counterparts.** This Agreement may be executed in separate counterparts, all of which taken together shall be deemed to constitute one and the same instrument.

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

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings,
Orange County Mayor

Date: September 26, 2023

ATTEST:

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

By: *Jennifer Ann Kinney*
Deputy Clerk



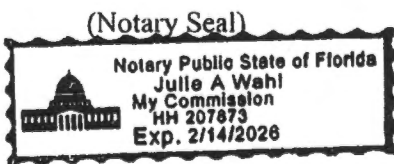
**FLORIDA CITRUS SPORTS
EVENTS, INC.**

E-Signed : 08/29/2023 04:53 PM EDT
By: *Steven Castino*
It's steven.castino@rehmann.com
IP: 68.202.192.139 Sertif Electronic Signature
DocID: 20230829154455992

Date: _____

**STATE OF FLORIDA
COUNTY OF ORANGE**

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 29th day of August, 2023 by Steven Castino as President, of Florida Citrus Sports Events, Inc., a Florida not for profit corporation. S/He is personally known to me or has produced _____ as identification.



Julie A. Wahl
Notary Signature
Julie A. Wahl

Printed Notary Name
Notary Public in and for
the county and state aforesaid.
My commission expires: 2-14-2026