
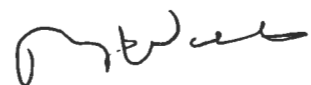




## Interoffice Memorandum

To: Mayor Jerry L. Demings  
-And-  
County Commissioners

Through: David Ingram, Acting Executive Director   
Orange County Convention Center

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

Date: September 16, 2019

Subject: Consent Agenda Item for October 8, 2019 BCC Meeting  
Sports Incentive Committee Funding Request - 2020 and 2021 NFL Pro Bowl

On November 1, 2016, the Board authorized consolidated sports funding under the tourist development plan for incentivizing sporting events in Orange County venues. Subsequently, on August 1, 2017, the Board approved an addendum to the tourism promotion agreement between the County and Visit Orlando to provide for the professional assistance of Visit Orlando in evaluating sports incentive funding proposals and the deposit of sports incentive funds with Visit Orlando. On October 31, 2017, the Board adopted Resolution No. 2017-M-43, establishing 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 July 22, 2019 meeting, the Committee recommended approval of a request made by Florida Citrus Sports to pay two bid fees of \$2,700,000 each to the National Football League (the "NFL") contingent upon the 2020 and 2021 NFL Pro Bowl games being held at Camping World Stadium. During this meeting, Florida Citrus Sports reported that, based on a third-party study, the 2019 Pro Bowl resulted in a \$45 million economic impact to the region.

The funding agreement incorporates the sports bid fund framework guidelines that were included in the tourism promotion agreement addendum with Visit Orlando. If approved, Visit Orlando will be directed to disburse Sports Incentive Funds in accordance with the terms of the funding agreement.

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

**ACTION REQUESTED:** Approval and execution of Agreement between Orange County, Florida and Florida Citrus Sports Events, Inc. 2020 and 2021 NFL Pro Bowl TDT Sports Incentive Agreement.

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

BCC Mtg. Date: October 08, 2019

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

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**2020 and 2021 NFL PRO BOWL  
TDT SPORTS INCENTIVE AGREEMENT**

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THIS AGREEMENT, made and entered into as of the date of last execution by the parties 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 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**, the Board has entered into an agreement between the County and Visit Orlando which provides for the professional assistance of Visit Orlando in evaluating sports incentive funding proposals, the deposit of such Sports Incentive Funds with Visit Orlando and disbursement of such funds by Visit Orlando (the current or any subsequent agreement are hereinafter referred to as the "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 July 22, 2019, the County's Tourist Development Tax Sports Incentive Committee recommended approval of a request from FCSE for two bid fees in the amount of two million seven hundred thousand dollars (\$2,700,000) each in Sports Incentive Funds to pay the National Football League ("NFL") for the 2020 NFL Pro Bowl and 2021 NFL Pro Bowl football games (individually, an "Event" or collectively, the "Events") at Camping World Stadium in Orlando; and

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**WHEREAS**, the Board now desires to approve an award of Sports Incentive Funds to FCSE for the purpose of incentivizing the NFL, as Event Owner, to stage the Events at Camping World Stadium in Orlando 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 Sports Incentive Fund Payments.** Subject to the conditions stated herein, including that the Event Owner has contractually committed to stage the Events at Camping World Stadium in Orlando, the County hereby authorizes Visit Orlando to disburse the amounts below to FCSE from available Sports Incentive Funds to pay bid fees for the 2020 and 2021 Events (“Allowable Expenses”) as set forth in Schedule “A” attached hereto. Prior to such disbursements, requests for payment must be submitted to the Orange County Convention Center Manager of Fiscal & Operational Support (the “OCCC”) and Visit Orlando with a copy to the County Comptroller at the notice addresses set forth in Section 15 hereof. After review and approval of each request for payment, the OCCC shall by written direction instruct Visit Orlando to make payment within 10 days thereafter as needed to pay the bid fee for the Event

Prior to each Event, FCSE shall submit a signed request for payment of one half of the bid fee for the applicable Event which includes the following: (i) the total amount of the bid fee requested for the Event; (ii) confirmation that the Event is expected to be staged at Camping World Stadium in Orlando; and (iv) confirmation that such payment shall be used solely for the bid fee payment to the Event Owner. The second half of the bid fee may be paid to FCSE only after: (i) FCSE shall have submitted a signed request for payment; (ii) the Event shall have occurred at Camping World Stadium; and (iii) the OCCC shall by written direction have instructed Visit Orlando to make such payment. FCSE and Visit Orlando shall follow the same process for each Event. The County anticipates that payments will be requested on the following dates:

|                  |             |
|------------------|-------------|
| November, 2019 - | \$1,350,000 |
| February, 2020 - | \$1,350,000 |
| November, 2020 - | \$1,350,000 |
| February, 2021 - | \$1,350,000 |

2. **FCSE.** FCSE will facilitate the Events at Camping World Stadium in Orlando in a manner intended to promote and increase tourism within Orange County. FCSE shall advertise, promote and market the Pro Bowl in conjunction with the NFL and other funding and event partners including Visit Orlando and Walt Disney World. 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 Pro Bowl in programs and promotional media, web pages and other promotional materials for the Pro Bowl and shall display such sponsorship with prominence commensurate with the level of the County’s financial contribution. FCSE will

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utilize the funds provided for herein solely for the above bid fee for Event Owner and in conformance with pertinent provisions of Florida Law regarding expenditure of Tourist Development Tax revenues and the County's Tourist Development Plan.

FSCE 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. FSCE will submit requests for payment only as set forth above with documentation sufficient to allow the County and the County Comptroller to verify such expenses to their sole but reasonable satisfaction.

3. **Disbursement of Funds.** No payments shall be made if the Orlando area has not been selected as the location for an Event. Funds shall be payable only after receipt, review and approval of the above-referenced requests for payment. 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 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.** 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.
7. **Reporting Requirements.** The parties hereby acknowledge that FCSE is performing its services for the benefit of the Central Florida community, will incur expenses and allocate resources on behalf of this community project and

will not share in revenues derived from ticket sales, sponsorships, parking concessions, merchandising and food and beverage sales in connection with the Pro Bowl game. FCSE agrees that it shall, no later than sixty (60) days after the staging of each Event, and as a condition of the County's willingness to enter into this Agreement, deliver to the County and County Comptroller, the following:

- (i) The number of tickets available for sale for the Event and the number of tickets actually sold for the Event;
- (ii) The estimated attendance for the Event;
- (iii) The estimated TV ratings for the Event; and
- (iv) The estimated economic impact of the Event including the estimated number of visitors to Central Florida, room-nights generated and average daily rate (it is acknowledged that a formal economic impact study shall not be required).

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

8. **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 in the course of 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.

9. **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 24 hour 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.

10. **Maintenance of Records.** For a period ending five 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.
11. **Additional Reporting.** Following receipt of the bid fee 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 proceeds and disbursements 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.
12. **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 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.

13. **Term; Termination.** This Agreement shall become effective upon execution by both parties hereto and shall continue for a period of one year after the staging of the 2021 Event. This Agreement may be earlier terminated pursuant to Section 12 hereof entitled "Default and Remedies." Sections 7, 8, 9 and 10 hereof shall survive termination.

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14. **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.
15. **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:

OCCC:                   Manager, Fiscal & Operational Support  
Orange County Convention Center  
9800 International Drive  
Orlando, Florida 32819  
[Ray.Walls@OCCC.net](mailto:Ray.Walls@OCCC.net)

Copy to:               Deputy County Administrator  
201 South Rosalind Avenue  
Orlando, Florida 32801  
[Randy.Singh@ocfl.net](mailto:Randy.Singh@ocfl.net)

FCSE:                   Florida Citrus Sports Events, Inc.  
One Citrus Bowl Place  
Orlando, Florida 32805  
[Shogan@fcsports.com](mailto:Shogan@fcsports.com)

Copy to:               Richard J. Fildes, Esq.  
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.  
215 N. Eola Drive  
Orlando, Florida 32805  
[Richard.fildes@lowndes-law.com](mailto:Richard.fildes@lowndes-law.com)

Visit Orlando:       Visit Orlando  
6277 Sea Harbor Drive #400  
Orlando, Florida 32801  
Attention: COO/CFO  
[Larry.henrichs@visitorlando.com](mailto:Larry.henrichs@visitorlando.com)

Comptroller:           Orange County Comptroller  
Director of Finance & Accounting

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201 S. Rosalind Avenue, 4<sup>th</sup> Floor  
Orlando, Florida 32801  
[Eric.gassman@occompt.com](mailto:Eric.gassman@occompt.com)

16. **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 performance of this Agreement itself.
17. **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.
18. **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.
19. **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.
20. **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.
21. **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.
22. **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.
23. **Counterparts.** This Agreement may be executed in separate counterparts, all of which taken together shall be deemed to constitute one and the same instrument.

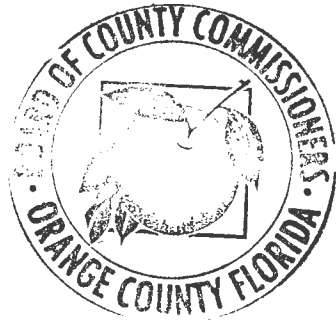


24. **Third Party Beneficiary.** The parties acknowledge and agree that Visit Orlando is a third party beneficiary of this Agreement and as such shall have the right to rely upon, and to receive the rights and benefits provided in this Agreement but shall not otherwise be deemed to be a party hereto 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.

**[SIGNATURES APPEAR ON FOLLOWING PAGES]**

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



**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

By: *Jerry L. Demings*  
*JLD*  
Jerry L. Demings  
Orange County Mayor

Date: *8 Oct 19*

ATTEST:

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

By: *Neelva Perry*  
*for* Deputy Clerk

(SEAL)

**FLORIDA CITRUS SPORTS  
EVENTS, INC.**

By: *Kenneth D. Robinson*  
Its: President  
Date: 9-5-17

**STATE OF FLORIDA  
COUNTY OF ORANGE**

I HEREBY CERTIFY, that on this 5<sup>th</sup> day of Sept., 2017, before me personally appeared Kenneth D. Robinson, President of the Florida Citrus Sports Events, Inc., to me known to be, or who has produced 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 5<sup>th</sup> day of September, 2017

(Notary Seal)



*LuAnn McCollum*  
Notary Signature

**Schedule "A" to  
Agreement  
between  
ORANGE COUNTY, FLORIDA  
and  
FLORIDA CITRUS SPORTS EVENTS, INC.**

- Allowable expenses include:
  - Bid fees and direct incentive payments
  
- 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.

