



Interoffice Memorandum

June 26, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Eric D. Gassman, Deputy County Administrator

SUBJECT: Sports Incentive Funding Agreements
CONSENT AGENDA ITEM – JULY 10, 2018

On November 1, 2016, the Board of County Commissioners (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 the 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 sports incentive funds with Visit Orlando. 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.

At the May 29 meeting, the Sports Incentive Committee recommended approval of four funding requests after hearing presentations from the Arnold Palmer Invitational, the Central Florida Sports Commission (CFSC), and the YMCA Aquatic Center. Visit Orlando staff provided an evaluation of each proposal.

The first request is for \$2,000,000 over four years \$500,000 per year to pay allowable expenses associated with the 2019 through 2022 Arnold Palmer Invitational golf tournaments (the “API”) at Bay Hill. The intended use of the funds is for promotion, advertising and programming to grow attendance and reach a broader audience. This event is forecasting 46,000 room nights and a \$62 million economic impact in 2019.

The second request is for \$1,700,000 to pay two \$850,000 bid fees to Feld Entertainment associated with the annual Monster Jam World Finals monster truck events at Camping World Stadium in 2019 and 2020. The 2018 event was held in Las Vegas. The CFSC forecasted the 2019 event to generate over 44,000 room nights and an economic impact over \$44 million.

The third request is for \$25,000 to pay the hosting fee to the United States Table Tennis Association Inc. associated with the 2018 USA Table Tennis US Open at the Orange County Convention Center in December 2018. The CFSC forecasted this event to generate 6,000 room nights and an economic impact of approximately \$4.2 million.

The fourth request was for \$50,000 and was reduced by the Sports Incentive Committee to \$25,000 and limited to allowable expenses associated with the 2018 Pan American Masters Championship aquatic events at the YMCA Aquatic Center. The event budget is projected to be staged at a loss by the Aquatic Center with the hope of attracting future events. The event was not forecasted by Visit Orlando to have an incremental financial impact.

The funding agreements incorporate 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 agreements.

If you have any questions, please contact Lila McHenry at (407) 836-7320 or me at (407) 836-7383.

ACTION REQUESTED: Approval and execution of Agreements between Orange County, Florida and:
(1) Arnie's Army Charitable Events Foundation d/b/a Arnold Palmer Invitational Arnold Palmer Invitational in the amount of \$2,000,000;
(2) Central Florida Sports Commission, Inc. 2019 & 2020 Monster Jam World Finals in the amount of \$1,700,000; (3) Central Florida Sports Commission, Inc. 2018 USA Table Tennis US Open in the amount of \$25, 000; and (4) Central Florida Young Men's Christian Association, Inc. Pan American Masters Championships in the amount of \$25, 000.

EDG/rm

C: Ajit Lalchandani, County Administrator
Jeffrey Newton, County Attorney
Lila McHenry, Senior Assistant County Attorney
Fred Winterkamp, Manager, Fiscal and Business Services Division

AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
ARNIE'S ARMY CHARITABLE EVENTS FOUNDATION INC. d/b/a
ARNOLD PALMER INVITATIONAL

ARNOLD PALMER INVITATIONAL

THIS 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"), and ARNIE'S ARMY CHARITABLE EVENTS FOUNDATION INC. d/b/a ARNOLD PALMER INVITATIONAL, a not-for-profit corporation organized and existing under the laws of the State of Florida ("API").

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 29, 2018, the County's Tourist Development Tax Sports Incentive Committee recommended approval of the API's request for two million dollars (\$2,000,000) in Sports Incentive Funds to pay expenses associated with the annual Arnold Palmer Invitational golf tournament in Orlando ("Events") for the years 2019 through 2022; and

WHEREAS, the Board now desires to approve an award of Sports Incentive Funds to API for the purpose of paying certain allowable expenses 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 API agree as follows:

1. **Authorized Sports Incentive Fund Payments.** The County hereby authorizes and directs Visit Orlando to disburse payments to API in a total aggregate amount not to exceed two million dollars (\$2,000,000) from available Sports Incentive Funds to pay specific allowable expenses of the Events. "Allowable expenses" are set forth on the attached Schedule "A." 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. Sports Incentive Funds shall not be expended for non-allowable expenses.

All requests for payment shall be submitted to the County Administrator and Visit Orlando with a copy to the County Comptroller at the notice addresses set forth in Section 13 hereof. After review and approval of each request for payment, the County Administrator shall by written direction (which may be delivered via email) instruct Visit Orlando to make payment within 10 days thereafter and as needed to timely fund Allowable Expenses associated with the upcoming annual Event. Only after execution by both parties hereto and written direction from the County Administrator to Visit Orlando may installments in an amount up to five hundred thousand dollars (\$500,000) be paid to API and only after API shall have submitted a signed request together with a budget for the upcoming Event in sufficient detail to adequately demonstrate the need for Sports Incentive Funds for Allowable Expenses in the amount requested. After the initial payment, subsequent payments may only be made after review and approval of requests for payment, accompanied by the above-described current budget for the next ensuing Event together with proof of actual expenditures of all previously disbursed Sports Incentive Funds on Allowable Expenses. The above-described payments may be made in the following not to exceed amounts and on the approximate dates listed below:

January, 2019 - \$500,000

January, 2020 - \$500,000

January, 2021 - \$500,000

January, 2022 - \$500,000

Adjustments to the above payment schedule and amounts may be approved by the County Administrator after receipt of a written request from API, accompanied by an adjusted budget and documentation of the reasons for such adjustments, provided that the total aggregate amount of Sports Incentive Funds disbursed shall not exceed two million dollars (\$2,000,000). If so approved, the County

Administrator shall timely provide written directions to Visit Orlando to make such payment adjustments.

2. **API.** The API will promote the Orlando area through the staging of the Events and will utilize the funds provided for herein solely for Allowable Expenses, and in conformance with pertinent provisions of Florida Law regarding expenditure of Tourist Development Tax revenues and the County's Tourist Development Plan.

API 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. API 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. API shall for each year during the term of this Agreement annually cause audited financial statements of the API 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.** 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.** The API hereby certifies that it will provide the activities and programs associated with attracting and promoting the Events 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. **Budget and Reporting Requirements.** As a condition of receiving funds pursuant to this Agreement the API 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 the API for each Event, to be submitted simultaneously with the submission of the respective request for payment to Visit Orlando and the County;
 - (ii) a comparison of budget to actual and to the prior year's revenues and expenses relating to the Events within 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 API within 60 days of completion of its audit, and such audit shall be completed within 180 days of the close of the API's fiscal year;
 - (iv) the API'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 the Events and the source of that information.

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

8. **Recordkeeping; Accounting; Audit.** The API 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 the Events, 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 the API as a result of a County audit shall be the sole responsibility of and shall be borne by the API. In addition, should the API provide any or all of the County's funds to sub-recipients, then and in that event the API shall include in 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 contract. This provision shall survive termination of this Agreement.

9. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, this contract is required to contain the following provisions.
The API 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 API 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 API or keep and maintain public records required by the API to perform the services in accordance with Florida law.
- e. If the API transfers all public records to the County upon completion of the Agreement, the API shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the API keeps and maintains public records upon completion of this Agreement, the API 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 API HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE API'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 the API 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 the API 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 Events. This Agreement may be earlier terminated pursuant to Section 10 hereof entitled "Default and Remedies." Sections 7, 8 and 9 hereof shall survive termination.
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 if provided, 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

API: Arnie's Army Charitable Events Foundation d/b/a
 Arnold Palmer Invitational
 9000 Bay Hill Boulevard

Orlando, FL 32819
Mdoyle@arnoldpalmerinvitational.com
Attention: CEO

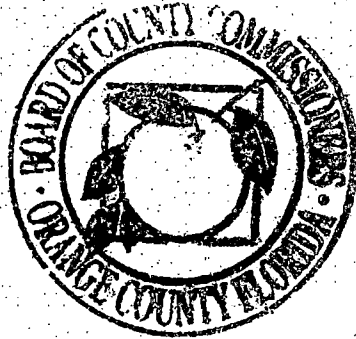
Visit Orlando: Visit Orlando
6277 Sea Harbor Drive #400
Orlando, Florida 32801
Attention: COO/CFO

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

8. 14. **Indemnification.** The API 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.** The API 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: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor
9/2

ATTEST:

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

By: *Katie Smith*
Deputy Clerk

(SEAL)

ARNIE'S ARMY CHARITABLE
EVENTS FOUNDATION INC. d/b/a
ARNOLD PALMER INVITATIONAL

By: [Signature]
Its: CSO
Date: 6/20/18

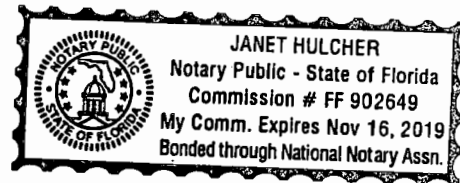
STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY, that on this 20th day of June, 2018, before me personally appeared MARCI DOYLE, CSO of the Arnie's Army Charitable Events Foundation Inc. d/b/a Arnold Palmer Invitational, to me known to be, or who has produced _____ 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 20th day of June, 2018.

(Notary Seal)

[Signature]
Notary Signature



**Schedule "A" to
Agreement
between
ORANGE COUNTY, FLORIDA
and
ARNIE'S ARMY CHARITABLE EVENTS FOUNDATION d/b/a
ARNOLD PALMER INVITATIONAL**

- Allowable expenses include:
 - Promotional, marketing, programming expenses
 - Paid advertising and media buys
 - Event losses related to site fees, venue rentals, staffing costs, etc. provided however that event losses may only be awarded in a not to exceed amount to be paid after an event has taken place following revenue/expense reconciliation and shall be payable only in the event an actual loss has taken place and only on the basis of venue and site fees or rental rates calculated on the basis of the rates and fees offered to "most favored clients".
- 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.

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

2019 & 2020 MONSTER JAM WORLD FINALS

THIS 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"), THE CENTRAL FLORIDA SPORTS COMMISSION, INC., a not-for-profit corporation organized and existing under the laws of the State of Florida ("CFSC").

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 29, 2018, the County's Tourist Development Tax Sports Incentive Committee recommended approval of the CFSC's request for one point seven million dollars (\$1,700,000) in Sports Incentive Funds to pay the bid fees for the 2019 and 2020 Monster Jam World Finals motor sports events in Orlando at Camping World Stadium ("Events"); and

WHEREAS, the Board now desires to approve an award of Sports Incentive Funds to CFSC 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 CFSC agree as follows:

1. **Authorized Sports Incentive Fund Payments.** On the condition that Orlando is selected as the site for the Events and that the Orlando destination is tied to the Event owner's promotion of the Events, the County hereby authorizes Visit Orlando to disburse payments to CFSC in a total aggregate amount not to exceed one million seven hundred thousand dollars (\$1,700,000) from available Sports Incentive Funds to pay the bid fees for the Events ("Allowable Expenses") as set forth in Schedule "A" attached hereto.

All requests for payment shall be submitted to the County Administrator and Visit Orlando with a copy to the County Comptroller at the notice addresses set forth in Section 13 hereof. After review and approval of each request for payment, the County Administrator shall by written direction (which may be delivered via email) instruct Visit Orlando to make payment within 10 days thereafter as needed to timely pay the bid fee to Feld Entertainment, Inc. for the upcoming Event. Only after execution by both parties hereto and written direction from the County Administrator to Visit Orlando may an initial installment in an amount up to the bid fee for the 2019 Event be paid to CFSC and only after CFSC shall have submitted a signed request stating the actual amount of the bid fee payable to Feld Entertainment, Inc., together with evidence that: (i) Orlando has been selected to host the 2019 Event; (ii) that such bid fee is due and payable within 30 days of such request for payment; and (iii) that Feld Entertainment Inc. has committed to tie its promotion of the Event to the Orlando destination. The second installment in an amount equal to the bid fee for the 2020 Event may be paid to CFSC solely for payment to Feld Entertainment, Inc. after CFSC shall have submitted a second signed request for payment for the year 2020 which meets the above requirements and after the County Administrator shall by written direction (which may be delivered via email) have instructed Visit Orlando to make the second payment within 10 days thereafter as needed to timely pay the bid fee.

2. **CFSC.** The CFSC covenants and agrees that it will promote and host the Events if the Orlando area is selected as the site of the Events. The CFSC will promote the Orlando area through the staging of the Events and will utilize the funds provided for herein solely for Allowable Expenses and in conformance with pertinent provisions of Florida Law regarding expenditure of Tourist Development Tax revenues and the County's Tourist Development Plan.

CFSC 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. CFSC will submit requests for payment only as set forth above with documentation of Allowable Expenses sufficient to allow the County and the County Comptroller to verify such expenses to their sole satisfaction. CFSC shall for each year during the

term of this Agreement annually cause audited financial statements of the CFSC 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.** For both the 2019 and 2020 Events, respectively, no payments shall be made if the Orlando area has not been selected as the location for the Events. 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.** The CFSC 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. **Budget and Reporting Requirements.** As a condition of receiving funds pursuant to this Agreement the CFSC 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 the CFSC for the Events, 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 the Events within 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 CFSC within 60 days of completion of its audit, and such audit shall be completed within 180 days of the close of the CFSC's fiscal year;
- (iv) the CFSC'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 the Event and the source of that information.

At the County's or Tourist Development Council's or Sports Incentive Committee's request, CFSC shall provide a presentation to such boards, following each Event which will include financial and program summaries of its activities and the Events. The CFSC 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.** The CFSC 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 the Events, 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 the CFSC as a result of a County audit shall be the sole responsibility of and shall be borne by the CFSC. In addition, should the CFSC provide any or all of the County's funds to sub-recipients, then and in that event the CFSC shall include in 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 contract. This provision shall survive termination of this Agreement.
9. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, this contract is required to contain the following provisions.
The CFSC 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 CFSC 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 CFSC or keep and maintain public records required by the CFSC to perform the services in accordance with Florida law.
- e. If the CFSC transfers all public records to the County upon completion of the Agreement, the CFSC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CFSC keeps and maintains public records upon completion of this Agreement, the CFSC 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 CFSC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE CFSC'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 the CFSC 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 the CFSC 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 two (2) years after the staging of the Events. This Agreement may be earlier terminated pursuant to Section 10 hereof entitled "Default and Remedies." Sections 7, 8 and 9 hereof shall survive termination.
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:	Orange County Administrator 201 S. Rosalind Avenue, 5 th Floor Orlando, Florida 32801
CFSC:	Central Florida Sports Commission 400 W. Church Street #205 Orlando, Florida 32801 Attention: CEO
Visit Orlando:	Visit Orlando 6277 Sea Harbor Drive #400 Orlando, Florida 32801 Attention: COO/CFO
Comptroller:	Orange County Comptroller Director of Finance & Accounting 201 S. Rosalind Avenue, 4 th Floor Orlando, Florida 32801

14. **Indemnification.** The CFSC 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.** The CFSC 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: *Teresa Jacobs*
Teresa Jacobs
fu
Orange County Mayor

ATTEST:

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

By: *Kathie Smith*
Deputy Clerk

(SEAL)

**CENTRAL FLORIDA SPORTS
COMMISSION, INC.**

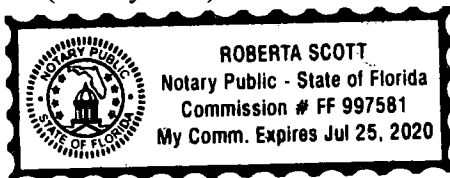
By: [Signature]
Its: CEO
Date: June 15, 2018

**STATE OF FLORIDA
COUNTY OF ORANGE**

I HEREBY CERTIFY, that on this 15th day of June, 2018, before me personally appeared Jason Siegel, CEO of the Central Florida Sports Commission, Inc., 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 15th day of June 2018.

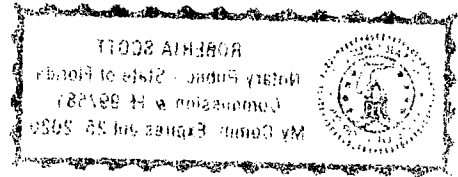
(Notary Seal)



[Signature]
Notary Signature

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



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

2018 USA Table Tennis US Open

THIS 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, hereinafter referred to as the "County", THE CENTRAL FLORIDA SPORTS COMMISSION, INC., a not-for-profit corporation organized and existing under the laws of the State of Florida (the "CFSC").

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 29, 2018, the County's Tourist Development Tax Sports Incentive Committee recommended approval of the CFSC's request for twenty five thousand dollars (\$25,000) in Sports Incentive Funds to pay the hosting fee for the 2018 USA Table Tennis US Open sports entertainment event in Orlando ("Event"); and

WHEREAS, the Board now desires to approve an award of Sports Incentive Funds to CFSC for the purpose of paying the hosting fee for such Event 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 CFSC agree as follows:

1. **Authorized Sports Incentive Fund Payments.** On the condition that Orlando is selected as the site for the Event, the County hereby authorizes and directs Visit Orlando to disburse payments to CFSC in a total aggregate amount not to exceed twenty five thousand dollars (\$25,000) from available Sports Incentive Funds to pay the hosting fee for the Event as set forth in Schedule "A" attached hereto ("Allowable Expenses").

Request for payment shall be submitted to the County Administrator and Visit Orlando with a copy to the County Comptroller at the notice addresses set forth in Section 13 hereof. After review and approval of such request for payment, the County Administrator shall by written direction (which may be delivered via email) instruct Visit Orlando to make payment within 10 days thereafter as needed to timely pay the host fee for the Event. Only after execution by both parties hereto and written direction from the County Administrator to Visit Orlando may payment in an amount not to exceed twenty five thousand dollars (\$25,000) be paid to CFSC and only after CFSC shall have submitted a signed request stating the actual amount of the host fee payable to United States Table Tennis Assoc. Inc., together with evidence that: (i) Orlando has been selected to host the Event and (ii) that such host fee is due and payable within 30 days of such request for payment.

2. **CFSC.** The CFSC covenants and agrees that it will promote and host such Event if the Orlando area is selected as the site of the Event. The CFSC will promote the Orlando area through the staging of the Event 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.

CFSC 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. CFSC 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. CFSC shall for each year during the term of this Agreement annually cause audited financial statements of the CFSC 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 the Event. The fee for the Event shall only be payable only after receipt of the above-referenced request and evidence satisfactory to the County that Orlando has been selected as the site for the Event and that such bid fee is due and payable to United States Table Tennis Assoc., Inc. within 30 days of such request. 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.** The CFSC 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. **Budget and Reporting Requirements.** As a condition of receiving funds pursuant to this Agreement the CFSC 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 the CFSC for the 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 the Event within 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 CFSC within 60 days of completion of its audit, and such audit shall be completed within 180 days of the close of the CFSC's fiscal year;
- (iv) the CFSC'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 the Event and the source of that information.

At the County's or Tourist Development Council's or Sports Incentive Committee's request, CFSC shall provide a presentation to such boards, following each Event which will include financial and program summaries of its activities and the Events. The CFSC 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.** The CFSC 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 the 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 the CFSC as a result of a County audit shall be the sole responsibility of and shall be borne by the CFSC. In addition, should the CFSC provide any or all of the County's funds to sub-recipients, then and in that event the CFSC shall include in 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 contract. This provision shall survive termination of this Agreement.
9. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, this contract is required to contain the following provisions.
The CFSC 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 CFSC 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 CFSC or keep and maintain public records required by the CFSC to perform the services in accordance with Florida law.
- e. If the CFSC transfers all public records to the County upon completion of the Agreement, the CFSC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CFSC keeps and maintains public records upon completion of this Agreement, the CFSC 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 CFSC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE CFSC'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 the CFSC 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 the CFSC 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 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.
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:	Orange County Administrator 201 S. Rosalind Avenue, 5 th Floor Orlando, Florida 32801
CFSC:	Central Florida Sports Commission 400 W. Church Street #205 Orlando, Florida 32801 Attention: CEO
Visit Orlando:	Visit Orlando 6277 Sea Harbor Drive #400 Orlando, Florida 32801 Attention: COO/CFO
Comptroller:	Orange County Comptroller Director of Finance & Accounting 201 S. Rosalind Avenue, 4 th Floor Orlando, Florida 32801

14. **Indemnification.** The CFSC 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.** The CFSC 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: *Teresa Jacobs*

Teresa Jacobs

Orange County Mayor

ATTEST:

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

By: *Kari Smith*

Deputy Clerk

(SEAL)

**CENTRAL FLORIDA SPORTS
COMMISSION, INC.**

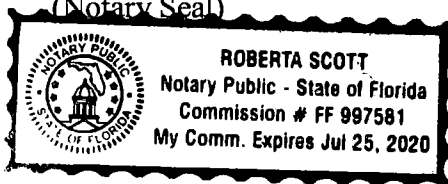
By: [Signature]
Its: CEO
Date: June 15, 2018

**STATE OF FLORIDA
COUNTY OF ORANGE**

I HEREBY CERTIFY, that on this 15th day of June, 2018, before me personally appeared Jason Siegel, CEO of the Central Florida Sports Commission, Inc., 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 15th day of June, 2018.

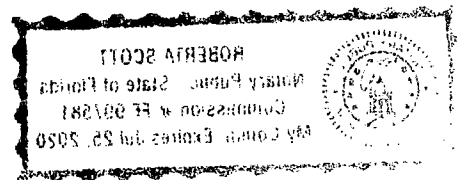
(Notary Seal)



[Signature]
Notary Signature

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

- Allowable expenses include:
 - Host/ 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.



AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
CENTRAL FLORIDA YOUNG MEN’S CHRISTIAN ASSOCIATION, INC.

PAN AMERICAN MASTERS CHAMPIONSHIPS

THIS 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”), and the CENTRAL FLORIDA YOUNG MEN’S CHRISTIAN ASSOCIATION, INC. a not-for-profit corporation organized and existing under the laws of the State of Florida (“YMCA”).

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 29, 2018, the County’s Tourist Development Tax Sports Incentive Committee recommended approval of twenty five thousand dollars (\$25,000) in Sports Incentive Funds to pay certain allowable expenses associated with the 2018 Pan American Masters Championship aquatic competition at the YMCA Aquatic Center in Orlando (“Event”); and

WHEREAS, the Board now desires to approve an award of Sports Incentive Funds to the YMCA for the purpose of paying certain allowable Event expenses 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 YMCA agree as follows:

1. **Authorized Sports Incentive Fund Payments.** On the condition that Orlando is selected as the site for the Event, the County hereby authorizes and directs Visit Orlando to disburse payments to the YMCA in a total aggregate amount not to twenty five thousand dollars (\$25,000) from available Sports Incentive Funds to pay specific allowable expenses of the Event. "Allowable expenses" are set forth on the attached Schedule "A." 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. Sports Incentive Funds shall not be expended for non-allowable expenses.

Request for payment shall be submitted to the County Administrator and Visit Orlando with a copy to the County Comptroller at the notice addresses set forth in Section 13 hereof. After review and approval of such request for payment, the County Administrator shall by written direction instruct Visit Orlando to make a one-time payment not to exceed twenty five thousand dollars (\$25,000) to the YMCA. Only after execution by both parties hereto and written direction from the County Administrator to Visit Orlando may payment in an amount not to exceed twenty five thousand dollars (\$25,000) be paid to the YMCA after the YMCA shall have submitted a signed request for payment, together with: (i) evidence that the Event was staged at the YMCA Aquatic Center and (ii) the items described in Section 7 (i) and (ii) hereof relating to the Event. After review and receipt of the above request the County Administrator shall by written direction (which may be delivered via email) instruct Visit Orlando to make payment within 10 days thereafter and as needed to fund Allowable Expenses associated with the Event.

2. **YMCA.** The YMCA covenants and agrees that it will promote and host such Event if the Orlando area is selected as the site of the Event. The YMCA will promote the Orlando area through the staging of the Event 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.

The YMCA 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. The YMCA 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. The

YMCA shall for the year of the staging of the Event cause audited financial statements of the YMCA 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 the Event. 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 Event 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.** The YMCA 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. **Budget and Reporting Requirements.** As a condition of receiving funds pursuant to this Agreement the YMCA 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 the YMCA for the 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 the Event within 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 YMCA for the fiscal year in which the Event is staged within 60 days of completion of its audit,

and such audit shall be completed within 180 days of the close of the YMCA's fiscal;

- (iv) the YMCA's IRS Form-990 filing with the Internal Revenue Service, to be submitted at the time of submission to the IRS; and
- (v) a program report within 90 days of the staging of the Event that includes at a minimum the number of room nights, average daily rate, attendance and economic impact generated by the Event and the source of that information.

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

8. **Recordkeeping; Accounting; Audit.** The YMCA 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 the 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 the YMCA as a result of a County audit shall be the sole responsibility of and shall be borne by the YMCA. In addition, should the YMCA provide any or all of the County's funds to sub-recipients, then and in that event the YMCA shall include in 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 contract. This provision shall survive termination of this Agreement.

9. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, this contract is required to contain the following provisions.

The YMCA 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 YMCA 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 YMCA or keep and maintain public records required by the YMCA to perform the services in accordance with Florida law.
- e. If the YMCA transfers all public records to the County upon completion of the Agreement, the YMCA shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the YMCA keeps and maintains public records upon completion of this Agreement, the YMCA 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 YMCA HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE YMCA'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 the YMCA 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 the YMCA 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 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.
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, 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

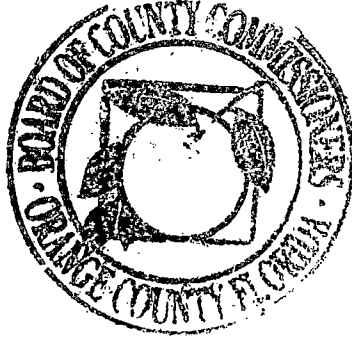
YMCA: Central Florida YMCA, Inc.
433 N. Mills Avenue
Orlando, FL 32803
Attention: Rowdy Gaines

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

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

14. **Indemnification.** The YMCA 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.** The YMCA 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: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

ATTEST:

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

By: *Katie Smith*
Deputy Clerk

(SEAL)

CENTRAL FLORIDA YOUNG MEN'S
CHRISTIAN ASSOCIATION, INC.

By: Colleen K Marahan
Its: CFO
Date: 6/20/18

STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY, that on this 20 day of June, 2018, before me personally appeared Colleen Marahan, CFO of the YMCA of Central Florida, to me known to be, or who has produced _____ 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 20 day of June, 2018.

(Notary Seal)



Jess Ganson
Notary Signature

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

- Allowable expenses include:
 - Promotion, Marketing, programming
 - Paid advertising and media buys
 - "Event losses" related to site fees, venue rentals, event staffing costs etc.; provided however that any grant for event losses may only be awarded in a not to exceed amount to be paid after an event has taken place following revenue/expense reconciliation and shall be payable only in the event an actual loss has taken place and only on the basis of venue and site fees or rental rates calculated on the basis of the rates and fees offered to "most favored clients".
- 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.