



**COUNTY ATTORNEY'S OFFICE**  
**JEFFREY J. NEWTON, County Attorney**

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**Consent Agenda Item**

**MEMORANDUM**

**TO:** Mayor Teresa Jacobs  
and  
County Commissioners

**FROM:** Jeffrey J. Newton, County Attorney  
Lila I. McHenry, Senior Assistant County Attorney  
Contact: (407) 836-7320

**DATE:** September 14, 2018

**RE:** **Consent Agenda Item for Board Meeting on September 18, 2018**  
Approval of Seventh Addendum to 2007 Tourism Promotion Agreement  
between Orange County, Florida and Orlando/Orange County  
Convention & Visitors Bureau, Inc.

**I. EXPLANATION & SUMMARY:**

Since 1983, Orange County has promoted tourism in Central Florida through a contract with the Orlando/Orange County Convention & Visitors Bureau, Inc., currently known as "Visit Orlando." Visit Orlando is a not-for-profit corporation organized for the purpose of advertising and marketing Central Florida and its convention facilities and is funded through the County's Tourist Development Plan and a portion of the Sixth Cent Tourist Development Tax (collectively, "TDT").

This addendum extends the County's 2007 Tourism Promotion Agreement with Visit Orlando, as previously amended (the "Agreement") for one year. County staff will negotiate a new replacement agreement next fiscal year. The addendum continues all existing requirements under the Agreement including the Sports Incentive Funding which the Board approved in 2016. In addition, the addendum allows Visit Orlando to pay up to \$200,000 from Sports Incentive Funds for administrative expenses for the Central Florida Sports Commission ("CFSC"). A funding agreement for the CFSC will be submitted to the BCC at a future meeting.

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

**II. ACTION REQUESTED:**

Approval and execution of Seventh Addendum to 2007 Tourism Promotion Agreement between Orange County, Florida and Orlando/Orange County Convention & Visitors

*Deputy County Attorney*  
Joel D. Prinsell

*Senior Assistant County Attorneys*

Elaine M. Asad  
Lila McHenry

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Cristina T. Berrios  
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Erin E. Hartigan  
Georgiana Holmes  
Katherine W. Latorre  
Scott McHenry  
Sawsan Mohiuddin  
Scott Shevenell  
Adolphus Thompson  
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*Legal Administrative Supervisor*

Anna M. Caban

*Senior Paralegal*  
Kimberly Cundiff

*Paralegals*  
Melessia Lofgren  
Maria Vargas, ACP  
Gail Stanford

September 14, 2018  
Re: Consent Agenda Item (September 18, 2018)  
7<sup>th</sup> Addendum to 2007 Tourism Promotion Agreement  
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Bureau, Inc.

Attachment

c: Ajit Lalchandani, County Administrator  
Eric Gassman, Deputy County Administrator  
Fred Winterkamp, Manager, Fiscal and Business Services Division

BCC Mtg. Date: September 18, 2018

**SEVENTH ADDENDUM  
TO  
2007 TOURISM PROMOTION AGREEMENT  
*between*  
ORANGE COUNTY, FLORIDA  
*and*  
ORLANDO/ORANGE COUNTY CONVENTION  
& VISITORS BUREAU, INC.**

This **SEVENTH ADDENDUM TO 2007 TOURISM PROMOTION AGREEMENT** (this "Addendum") amends and modifies that certain "Orange County, Florida and Orlando/Orange County Convention & Visitors Bureau, Inc. 2007 Tourism Promotion Agreement," dated September 11, 2007, as amended on May 28, 2009, July 31, 2012, October 22, 2013, February 10, 2015, June 28, 2016 and August 1, 2017 (collectively, the "Agreement") by and between **Orange County, Florida**, a charter county and political subdivision existing under the laws and Constitution of the State of Florida (the "County") and the **Orlando/Orange County Convention & Visitors Bureau, Inc.**, a Florida not-for-profit corporation, currently doing business as **Visit Orlando** ("Visit Orlando"). This Addendum will be effective as of the date of last execution below.

**PREMISES:**

- A. The County and Visit Orlando have heretofore entered into the Agreement in order to provide funding to Visit Orlando in furtherance of Visit Orlando's privately-established mission to promote and market tourism in Orange County; and
- B. The parties now wish to amend this Agreement to modify Sports Incentive Funding guidelines for fiscal year 2018-19 and to extend the term of the Agreement for a one year term; and
- C. Pursuant to Section 4.4 of the Agreement, amendments thereto may be made by written instrument expressly approved by the Board and duly executed by both the County and Visit Orlando.

**NOW, THEREFORE,** in consideration of the foregoing and other valuable consideration, the parties hereto agree as follows:

**Section 1. Defined Terms.** Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

**Section 2. Premises Incorporated by Reference; Form of Amendments.** The premises hereof are incorporated in this Addendum by reference as if they were made a part hereof.

**Section 3. Payments under the Sixth Cent Ordinance.** Paragraph 1.2 of Section 1 of the Agreement is hereby amended by the insertion after subparagraph (b) of the following new subparagraph (c):

For actual tax collections related to the County's fiscal year 2018/19, fifty percent (50%) of the total monthly amount of Sixth Cent Funds collected related to fiscal year 2018/19. For accounting purposes, amounts paid under this clause are treated on an accrual basis and match to the tax dealer collection month.

**Section 4. Sports Incentive Fund Payment.** Within thirty days of the effective date of this Addendum, the County shall pay two million dollars (\$2,000,000) to Visit Orlando, with such Sports Incentive Fund payment to be held and expended by Visit Orlando in accordance with the terms set forth in the Sixth Addendum to the Agreement, dated August 1, 2017 ("Sixth Addendum") and this Addendum.

**Section 5. Sports Incentive Fund Guidelines.** Notwithstanding the guidelines set forth in Subsection 2.13 of the Sixth Addendum, Visit Orlando is hereby authorized to expend Sports Incentive Funds in fiscal year 2018/19 in an amount not to exceed two hundred thousand dollars (\$200,000.00) for administrative expenses for the Central Florida Sports Commission, Inc. pursuant to the terms of a funding agreement approved by the Board.

**Section 6. Statutory Requirements.** The inclusion of the statements and provisions below shall not be construed to imply that the parties have agreed that Visit Orlando has been delegated any governmental decision making authority, governmental responsibility or governmental function or is otherwise acting as an agent of or on behalf of the County, all as contemplated under Sections 119.0701 and 119.011(2), Florida Statutes. The parties have agreed that, if and to the extent Section 119.0701, as interpreted under Florida law, shall be determined to apply to Visit Orlando, Visit Orlando shall, with respect to funds provided hereunder:

- 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 Visit Orlando 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 Visit Orlando or keep and maintain public records required by Visit Orlando to perform the services in accordance with Florida law.
- e. If Visit Orlando transfers all public records to the County upon completion of the Agreement, Visit Orlando shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Visit Orlando keeps and maintains public records upon completion of this Agreement, Visit Orlando 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 VISIT ORLANDO HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO VISIT ORLANDO'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PUBLIC RECORDS UNIT: [PublicRecordUnit@ocfl.net](mailto:PublicRecordUnit@ocfl.net), Office of Professional Standards, 450 E South Street, 3rd Floor, Orlando FL 32801. Phone (407) 836-5400.**

**Section 7. Contract Term.** The Agreement shall remain in effect for a one year term commencing October 1, 2018 and ending September 30, 2019, provided that Section 6 hereof shall survive termination.

**Section 8. Agreement.** All other terms, conditions and obligations of the County and Visit Orlando arising from the Agreement not hereby modified or amended shall remain unaltered and in full force and effect.

**Section 9. No Waiver.** Nothing contained in this Addendum, waives any covenant or other default or any event that would become a default with the passage of time or the giving of notice, under the Agreement.

**Section 10. Severability.** The provisions of this Addendum are declared by the parties to be severable. However, the material provisions of the Agreement, as amended hereby, are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Addendum. Therefore, should any material term, provision, covenant or condition of this Addendum or the 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 the litigation.

**Section 11. Governing Law; Venue.** This Addendum shall be governed by and construed in accordance with the laws of the State of Florida, and venue for any action arising out of or related to this Addendum shall be in Orange County, Florida.

**Section 12. Right to Contest.** In the event that there is a dispute with respect to the applicability or enforcement of the provisions of Section 6 hereunder and Visit Orlando is contesting the same, the parties agree that any such failure or alleged failure to comply with such provisions shall not be deemed to be a default hereunder.

**Section 13. Headings.** The headings or captions of sections or paragraphs used in this Addendum 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 Addendum.

**[Signatures Appear on Following Pages]**

WHEREFORE, this Addendum is entered into as of the latest date and year of execution below.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *T. J. Dalchanda*

Teresa Jacobs

County Mayor

Date: 9.18.18

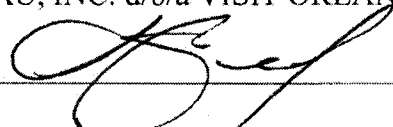
ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk to the Board of County Commissioners

By: *Katie Smith*

Deputy Clerk



ORLANDO/ORANGE COUNTY  
CONVENTION & VISITORS  
BUREAU, INC. d/b/a VISIT ORLANDO

BY: 

NAME GEORGE AGUEL

TITLE: PRES & CEO

DATE: 9.14.15

ATTEST: 

TITLE: COO/CEO