



Interoffice Memorandum

TO: Mayor Jerry L. Demings
and
County Commissioners

THROUGH: Jessie J. Allen, Interim Executive Director, Convention Center

FROM: Ray Walls, Acting Chief Financial Officer, Convention Center
(407) 685-5684

DATE: April 9, 2019

SUBJECT: **Discussion Agenda Item for Board Meeting on April 23, 2019**
Central Florida Sports Commission, Inc. 2026 FIFA World Cup Pursuit
Funding Agreement

On November 1, 2016, the Board authorized consolidated sports funding under the tourist development plan for incentivizing sporting events in Orange County venues. Subsequently, on August 1, 2017, the Board approved an addendum to the tourism promotion agreement between the County and Visit Orlando, 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, establishing the Tourist Development Tax Sports Incentive Committee ("Committee") to serve in an advisory capacity to the Board with the professional assistance of Visit Orlando.

On February 11, 2019, the Committee recommended approval of up to \$1,000,000 in Sports Incentive Funds for the Central Florida Sports Commission d/b/a the Greater Orlando Sports Commission ("GOSC") to fund certain expenses associated with pursuit of the selection of Orlando as a host city for the 2026 FIFA World Cup Soccer Games ("2026 World Cup").

The funding agreement provides for pursuit funding to be disbursed to GOSC in installments by Visit Orlando from Sports Incentive Funds for payment of allowable expenses, after submission and approval by the County, of written requests for payment. Also, approval of a Ninth Addendum to the 2007 Tourism Promotion Agreement ("Addendum") with Visit Orlando to permit use of Sports Incentive Funds for the pursuit effort for the 2026 World Cup is being requested.

Jason Siegel, CEO of GOSC, will provide a presentation to the Board regarding the FIFA selection process for the 2026 World Cup.

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

ACTION REQUESTED: Approval and execution of Agreement between Orange County, Florida and Central Florida Sports Commission, Inc. 2026 FIFA World Cup Pursuit Funding.
-And-
Approval and execution of Ninth Addendum to 2007 Tourism Promotion Agreement between Orange County, Florida and Orlando/Orange County Convention & Visitors Bureau, Inc.

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

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

2026 FIFA WORLD CUP PURSUIT FUNDING

THIS AGREEMENT, made and entered into as of the date of last execution below, by and between ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, ("County"), and the CENTRAL FLORIDA SPORTS COMMISSION, INC. a not-for-profit corporation organized and existing under the laws of the State of Florida currently doing business as the Greater Orlando Sports Commission ("GOSC").

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 February 11, 2019, the County's Tourist Development Tax Sports Incentive Committee recommended approval of up to one million dollars (\$1,000,000) in Sports Incentive Funds to fund certain expenses associated with pursuit of the selection of Orlando as a host city for the 2026 FIFA World Cup Soccer ("Event"); and

WHEREAS, on the same date of approval of this Agreement, the Board also approved that certain Ninth Addendum to the VO Agreement which authorized Visit Orlando to expend Sport Incentive Funds for expenses related to pursuing the selection of Orlando as a host city for the Event; and

WHEREAS, the Board now desires to approve an award of Sports Incentive Funds to GOSC for the purpose of paying certain expenses relating to pursuing the selection of Orlando as a host city for the 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 GOSC agree as follows:

1. **Authorized Sports Incentive Fund Payments.** Subject to the below terms and conditions, the County authorizes Visit Orlando to disburse payments of up to a total aggregate amount not to exceed one million dollars (\$1,000,000) to GOSC from available Sports Incentive Funds for Allowable Expenses associated with pursuit of the Event. "Allowable Expenses" as well as non-allowable expenses are described on the attached Schedule "A." Sports Incentive Funds disbursed pursuant to this Agreement shall not be expended for non-allowable expenses.

Each 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 below. An initial request for payment in an amount not to exceed one hundred seventy-five thousand dollars (\$175,000) may only be authorized after GOSC shall have submitted a request for payment signed by the GOSC Executive Director, together with the following:

- (i) a signed statement that the requested amount is necessary for timely payment and/or reimbursement of Allowable Expenses under this Agreement;
- (ii) a statement that Orlando has not been eliminated by FIFA as a potential host city for the Event and Orlando continues to be a viable candidate in the host city selection process for the Event;
- (iii) a report summarizing all other local government and private sector contributions to the pursuit of the Event as of the date of the request for payment; and
- (iv) written confirmation that a full and complete accounting of all Sports Incentive Funds paid under this Agreement will be provided to the County within 60 days of the announcement of the list of host cities for the Event.

Each subsequent signed request for payment, which requests are estimated to be quarterly, shall state the amount requested, be accompanied by the above-described signed and updated statement and shall contain a signed affirmation by the Executive Director that previously disbursed Sports Incentive Funds have been spent down entirely on Allowable Expenses.

After review and approval of each such request, the County Administrator shall by written direction instruct Visit Orlando to make payment to GOSC within 10 days thereafter for the approved amount. Only after receipt of such written direction, which may be delivered via email, may Visit Orlando disburse such payment.

GOSC acknowledges and agrees that a portion of the total aggregate amount of Sports Incentive Funds authorized hereunder will be requested only in the event a "success fee" shall become due and payable under the terms of one of GOSC's contracts with its consultant. GOSC has represented to the County that one or more consultants will be entitled to a contractual "success fee" payment in varying amounts which depend upon Orlando's level of success in the FIFA selection process for the Event. In the event that all or a portion of such fee does not become payable then the total aggregate amount of Sports Incentive Funds authorized hereunder shall be reduced accordingly. GOSC further agrees that once a FIFA decision is made either eliminating Orlando from competition for the Event or selecting Orlando as a host city, GOSC shall immediately:

- (i) notify the County Administrator of such decision;
- (ii) cease further expenditures of Sports Incentive Funds paid hereunder;
- (iii) return any unobligated Sport Incentive Funds advanced hereunder to Visit Orlando;
- (iv) prepare a detailed accounting of all funds paid and expended hereunder;
- (v) within 60 days, submit such detailed accounting to the County Administrator and Comptroller and provide back-up or verifying documentation immediately upon their request.

2. **GOSC Use of Funds.** GOSC 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. GOSC specifically acknowledges that Sports Incentive Funds shall not be expended for non-allowable expenses. GOSC will submit requests for payment only for Allowable Expenses as set forth above. GOSC agrees to submit a full accounting and documentation of all expenditures of Sports Incentive Funds disbursed hereunder in detail sufficient to allow the County and the County Comptroller to verify such expenses to their sole satisfaction within 60 days of GOSC's notice of a decision regarding the selection of host cities for the Event. GOSC further covenants to make diligent and good faith efforts to secure and maximize private sector and other local government contributions, including monetary funding and in-kind contributions, towards the pursuit of the Event, and in the event Orlando is selected as a host city, towards the total cost of staging and hosting the Event.

3. **Disbursement of Funds.** No further payments shall be made if the Orlando area has been eliminated as a host city 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 December 31, 2021 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.** GOSC hereby certifies that it will provide the activities and programs associated with attracting and promoting the Event without regard to race, color, creed, sex, age, national origin, disability or marital status, and remain in compliance with Title VII of the 1964 Civil Rights Act as amended, and any and all other applicable federal, state or local laws, rules and regulations, whether presently existing or hereafter promulgated.
7. **Reporting Requirements.** As a condition of receiving funds pursuant to this Agreement, GOSC acknowledges and agrees to comply with its reporting obligations and to annually and timely provide the following to the Comptroller and County Administrator, at their respective notice addresses listed in Section 13 hereof:
 - (i) audited financial statements of GOSC for each of the fiscal years this Agreement is in effect within 60 days of completion of its audit, and each such audit shall be completed within 180 days of the close of GOSC's fiscal;
 - (ii) GOSC's IRS Form-990 filings with the Internal Revenue Service, to be submitted at the time of submission to the IRS; and
 - (iii) a detailed report of private sector and other local government contributions for the pursuit of the Event.

GOSC shall promptly provide a full and complete accounting of all expenditures of Sports Incentive Funds paid to GOSC hereunder 60 days following the selection of host cities for the Event. At the County's or Tourist Development Council's or Sports Incentive Committee's request, GOSC shall provide a presentation to such boards, following such selection. GOSC 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.** GOSC 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 GOSC as a result of a County audit shall be the sole responsibility of and shall be borne by GOSC. In addition, should GOSC provide any or all of the County's funds to sub-recipients, then and in that event GOSC 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.** To the extent required by Florida law, GOSC shall keep and maintain public records consistent with the provisions of Chapter 119.0701, Florida Statutes.
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 GOSC 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 GOSC 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 through December 31, 2021. 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, email or in person with proof of delivery to the addresses below, or at 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 Email: Byron.Brooks@ocfl.net Email: Randy.Singh@ocfl.net
GOSC:	Greater Orlando Sports Commission. 433 N. Mills Avenue Orlando, FL 32803 Attention: Jason Siegel Email: jsiegel@greaterorlandosports.com
Visit Orlando:	Visit Orlando 6277 Sea Harbor Drive #400 Orlando, Florida 32801 Attention: COO/CFO Email: larry.henrichs@visitorlando.com
Comptroller:	Orange County Comptroller Director of Finance & Accounting 201 S. Rosalind Avenue, 4 th Floor Orlando, Florida 32801 Email: phil.diamond@occompt.com Email: eric.gassman@occompt.com

14. **Indemnification.** GOSC 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.** GOSC 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.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as indicated below:



ATTEST:

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

By: Katie Smith
Deputy Clerk

(SEAL)

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: Byronne Brooks
Jerry L. Demings
Orange County Mayor

CENTRAL FLORIDA SPORTS
COMMISSION, INC.

By: [Signature]
Its: CEO
Date: 4/11/19

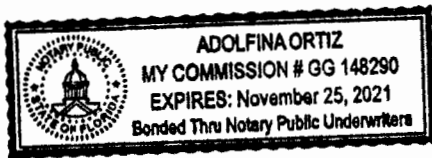
STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY, that on this 9th day of April, 2019, before me personally appeared Jason Siegel, _____ of the Central Florida Sports Commission, Inc., 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 9th day of April, 2019.

(Notary Seal)

[Signature]
Notary Signature



**Schedule "A" to
Agreement
between
ORANGE COUNTY, FLORIDA
and
GREATER ORLANDO SPORTS COMMISSION**

- Allowable Expenses include:
 - Sports Advisor contractual fees directly relating to selection of Orlando as a host city for 2026 FIFA World Cup Soccer Event ("Event")
 - Public Relations and marketing expenditures directly relating to pursuit of selection of Orlando as a host city for the Event including graphic design, signage and marketing fees
 - Expenditures directly related to FIFA representatives' site visits to Orlando
 - Commercially reasonable hospitality expenditures including hotel accommodations and meals directly related to and necessitated by such site visits in a total amount not exceeding 10% of the Sports Incentive Funds authorized under this Agreement

Non-allowable expenses include capital costs, including venue enhancements, equipment, debt, salaries and compensation for employees or executives of GOSC, hospitality and entertainment expenditures relating to casinos, gambling or any form of adult entertainment.

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

This **NINTH 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, August 1, 2017, September 18, 2018 and October 16, 2018 (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 to permit use of such funding for the pursuit of the opportunity to host certain 2026 FIFA World Cup Soccer matches in Orange County venues; 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. Sports Incentive Funds. Notwithstanding the guidelines set forth in the Agreement, Visit Orlando is hereby authorized to expend Sports Incentive Funds in an amount not to exceed one million (\$1,000,000.00) for the Central Florida Sports Commission, Inc. pursuant to the terms of a funding agreement approved by the Board for expenses related to pursuit of the selection of Orlando as a host city for the 2026 FIFA World Cup Soccer event.

Section 4. 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 5. 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 6. 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 7. 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 8. 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

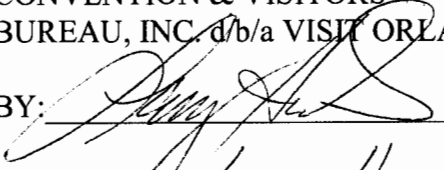
By: Byron W. Burks
for Jerry L. Demings
County Mayor

Date: 24 April 2019

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: Larry Henriksen

TITLE: COO/CFO

DATE: 4/8/19

ATTEST: 

TITLE: executive asst. to COO/CFO