



OFFICE OF THE COUNTY ATTORNEY

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MEMORANDUM

DATE: October 17, 2019
TO: Sean Walter, Senior Manager, Convention and Visitors Bureau
THROUGH: Mitchell O. Palmer, County Attorney Approved by *M. Palmer 10-17-19*
FROM: Alexandria C. Nicodemi, Assistant County Attorney Approved by *A. Nicodemi 10-17-19*
RE: **Premier Sports Campus Sponsorship Agreement Amendment; CAO Matter No. 2019-0494**

This memorandum is in response to the above referenced Request for Legal Services in which you asked this office to draft a Resolution amending the Standard Form Sponsorship Agreement for Premier Sports Campus. As stated in your Request for Legal Services, you would like to amend the current standard form agreement to allow for further sponsorship and promotional opportunities at Premier Sports Campus. Per your request, I have drafted Resolution No. R-19-153 for your consideration. I have no objection from a legal standpoint to scheduling the adoption of this Resolution by the Board of County Commissioners.

This completes my response to your Request for Legal Services. If you have any further questions, comments, or concerns, please feel free to contact me.

Copies to: Cheri Coryea, County Administrator
John Osborne, Deputy County Administrator
Karen Stewart, Acting Deputy County Administrator
Elliott Falcione, Director, Convention and Visitors Bureau
Monica Luff, Sr. Admin. Specialist, Convention and Visitors Bureau

* Board Certified in Construction Law

** Board Certified in City, County, & Local Government Law

RESOLUTION R-19-153

A RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING TOURISM; AMENDING RESOLUTION NO. R-19-010 TO REVISE THE STANDARD FORM AGREEMENT FOR SPONSORSHIP SALES AT PREMIER SPORTS CAMPUS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Sections 125.01 and 125.0104, Florida Statutes, Manatee County owns and operates the facility known as the Premier Sports Campus (the "PSC") located at 5895 Post Boulevard, Lakewood Ranch, Florida 34211, for the purpose of providing a recreation sports venue and promoting tourism in Manatee County, Florida; and

WHEREAS, pursuant to Resolution No. R-19-010 (the "Prior Resolution"), a Standard Form Sponsorship Sales Agreement for the PSC has been adopted; and

WHEREAS, the Board of County Commissioners (the "Board") has determined that it is necessary and in the best interest of the County to amend the Standard Form Sponsorship Sales Agreement for further promotion opportunities of the PSC, as provided in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

SECTION 1. APPROVAL OF THE AMENDED STANDARD FORM AGREEMENT FOR SPONSORSHIP SALES AT THE PSC. The Board hereby approves the amended form of the following agreement for use in the sale of sponsorships at the PSC:

Exhibit (A) - Sponsorship Sales Agreement for the PSC (attached). Amended to allow for in-kind sponsorships for goods and/or services (highlighted text is added).

SECTION 2. CONFLICT. This Resolution supersedes any and all existing resolutions or portions thereof of the Board of County Commissioners which contain terms or provisions which are in direct conflict with and cannot be harmonized with the provisions of this Resolution. All provisions of the Prior Resolution not expressly amended hereby shall remain unaffected by this Resolution and remain in full force and effect.

SECTION 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Resolution.

SECTION 4. APPLICABILITY. The form of the agreement and general conditions approved herein shall apply and be utilized in all transactions entered into on or after the effective date hereof.

SECTION 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED with a quorum present and voting this ____ day of _____, 2019.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

ATTEST: ANGELINA M. COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
DEPUTY CLERK

EXHIBIT "A"

SPONSORSHIP AGREEMENT
for
PREMIER SPORTS CAMPUS

[INSERT NAME OF SPONSORSHIP LEVEL]

THIS SPONSORSHIP AGREEMENT (the "Agreement") is made and entered into as of this ___ day of _____, 2019, ("Effective Date") by and between [SPONSOR'S NAME], a [TYPE OF ENTITY] located at [ADDRESS] (the "Sponsor") and MANATEE COUNTY, a political subdivision of the State of Florida ("Manatee County" or "County") located at 1112 Manatee Avenue West, Bradenton, FL 34205.

RECITALS

WHEREAS, pursuant to Sections 125.01 and 125.0104, Florida Statutes, the County owns and operates the Premier Sports Campus ("PSC") located at 5895 Post Boulevard, Lakewood Ranch, Florida 34211, for the purpose of providing a recreation sports venue and promoting tourism in Manatee County, Florida; and

WHEREAS, Sponsor has expressed the desire to become a PSC sponsor by providing financial support for PSC in exchange for certain promotional rights to be provided by County; and

WHEREAS, the County is willing to so designate Sponsor for PSC on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the benefits to be received by the parties from the consummation of this Agreement, County and Sponsor do hereby agree as follows:

SECTION 1. FEE; PAYMENT STRUCTURE

Sponsorship rate, identified below, shall be considered a once per-year charge. The sponsorship rate shall be billed every twelve (12) months from the Effective Date of this Agreement. (*check appropriate box*)

<input type="checkbox"/> <u>Stadium Naming Rights Sole Sponsor</u>	\$100,000 - \$125,000 3-year Term commitment
<input type="checkbox"/> <u>Gold Sponsor</u>	\$5,000 - \$12,000 1-year Term commitment
<input type="checkbox"/> <u>Silver Sponsor</u>	\$1,500 - \$2,500

<input type="checkbox"/> <u>Parking Lot Sponsor</u>	1-year Term commitment \$1,800
<input type="checkbox"/> <u>Convention & Visitors Bureau Sole Sponsor</u>	3- year Term commitment \$100,000
<input type="checkbox"/> <u>Digital Marquee Sponsor</u>	1-year Term commitment \$10,000 - \$12,000
<input type="checkbox"/> <u>In-Kind Sponsor</u>	3-year Term commitment \$1,000 - \$5,000 worth of value for goods or services 1-year Term commitment

Payment shall be due and owing within thirty (30) days from the Effective Date of this Agreement. If Sponsor has selected an Agreement Term of greater than one (1) year, payment shall be due and owing within thirty (30) days from the day and month of the Effective Date, as identified above.

Sponsor shall pay a total of \$_____ every twelve (12) months throughout the Agreement Term, as defined below.

If payment is not made within thirty (30) days, this Agreement shall automatically terminate and be of no further effect. Sponsor’s contribution shall be paid by check and payable to “Manatee County Government.”

SECTION 2. TERM

Sponsor acknowledges and agrees that the term of this Agreement is dependent on Sponsor’s selected sponsorship level as identified above. Sponsor has selected [INSERT LEVEL]. The term of this Agreement (“Term”) shall be for a period of [INSERT TERM] years. The Term of this Agreement shall begin on the Effective Date set forth above.

SECTION 3. SERVICES; BENEFITS

In consideration for Sponsor’s contribution, the County agrees to provide Sponsor with the benefits that correspond with the specified level of contribution and as described in **Exhibit “A,”** Sponsorship Services and Benefits, of this Agreement. The County reserves the right to adjust such benefits or provide other benefits upon approval of the Sponsor.

Unless otherwise explicitly state in Exhibit A of this Agreement, County shall bear the initial responsibility for costs relating to the design and fabrication of signage associated with Sponsor’s sponsorship level as identified in Section 1 of this Agreement. Sponsor shall bear the cost of creating the artwork for all signage used in connection with this Agreement. Any additional promotional material costs as well as costs associated with any revisions, replacements,

maintenance, improvements, or other changes shall be the responsibility of the Sponsor. Benefits given to Sponsor shall be explicitly stated in Exhibit A of this Agreement.

SECTION 4. NON-EXCLUSIVITY

This Agreement and the provisions of benefits and services hereunder are nonexclusive. County reserves the right to enter into similar agreements with other entities.

SECTION 5. DISCLAIMER OF ENDORSEMENT

The execution of this Agreement or the establishment of this Agreement does not constitute an endorsement of Sponsor's organization, mission, products and/or services by Manatee County. Sponsor shall not publicize or circulate any materials (including advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts or any other publication) suggesting, expressly or implicitly, that Manatee County, or any of its officers or employees endorse(s) any brands, businesses, goods or services associated with Sponsor.

SECTION 6. PROHIBITIONS

Sponsorships at PSC are maintained as a nonpublic forum. Manatee County preserves its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship affiliations and messages. Manatee County possesses sole and final decision making authority for determining the appropriateness of a sponsorship relationship and reserves the right to refuse any offer of sponsorship for any reason that is not prohibited by law.

A. Eligibility. In general, entities that fall within one or more of the following categories are not eligible for sponsorships with Manatee County: (1) faith-based and political organizations; (2) companies whose business is substantially derived from the sale of alcohol, medical marijuana, tobacco or firearms; (3) sexually oriented businesses as defined in the Manatee County Code; (4) entities involved in litigation against the County; and (5) entities with which an actual or appearance of a conflict of interest would be created. Sponsor shall not, in any manner influence, or be perceived to influence, the day-to-day business of the County, nor shall sponsorship confer any personal benefit, directly or indirectly, to any County employee or official. Should Sponsor fall into any one or more of the above-stated categories, the Board of County Commissioners shall review and decide whether to approve said Sponsor prior to executing this Agreement.

B. Prohibited Material. PSC is a County owned facility intended for families and members of the Manatee County community. Misleading or deceptive advertising, naming, sponsorship, promoting, including explicit and implicit endorsements are prohibited. In addition, advocacy or encouragement of the following are prohibited:

1. The promotion of sale or consumption of tobacco products;
2. The promotion of the sale of alcoholic beverages;

If to County: Bradenton Area Convention & Visitors Bureau
 1 Haben Boulevard
 Palmetto, Florida 34221
 ATTN: Elliott Falcione

Notice of termination or withholding of payment shall be served by certified or registered mail, return receipt requested or by hand delivery. Either party may designate a different recipient or address by written notice to the other party.

SECTION 10. RENEWAL; DEFAULT; TERMINATION

A. Renewal. Sponsor shall have the first right of refusal to continue the sponsorship within thirty (30) days before the end of the Agreement Term.

B. Default. The failure of either party to comply with any provision of this Agreement shall place that party in default. Prior to terminating this Agreement, the non-defaulting party shall notify the defaulting party in writing, making specific reference to the provision that gave rise to the default. The defaulting party shall then be entitled to a period of ten (10) business days from receipt of such notice in which to cure the default. If the default is not cured within ten (10) business days, the non-defaulting party shall serve a written notice of termination on the defaulting party, which shall become effective ten (10) business days from that party's receipt of such notice. The failure of each party to exercise this right shall not be considered a waiver of such right in the event of any further default or non-compliance.

C. Termination. This Agreement may be terminated by either party for any reason or for no reason by giving the other party no less than thirty (30) days written notice of intent to terminate. County may terminate this Agreement immediately by delivery of written notice to Sponsor upon determining that Sponsor has failed to comply with the terms of this Agreement. The notice shall specify the manner in which Sponsor has failed to comply with the terms of the Agreement. If this Agreement is terminated, any right otherwise set forth herein to use the name, logos, and/or marks of the other party shall end immediately upon the date of termination. In the event that the County terminates this Agreement, sponsorship rate shall be prorated back to the Sponsor. Proration shall be calculated based upon the number of months remaining until the next annual payment becomes due. If no remaining annual payments are due under this Agreement, proration shall be calculated based upon the number of months remaining under the Agreement Term. In no event shall a party be liable for punitive or consequential damages.

SECTION 11. INDEMNIFICATION

To the extent permitted by law (and in the case of the County, the tort liability limitations set forth in Section 768.28, *Florida Statutes*, shall also apply to any actions to enforce this

Agreement, or any provisions herein) each of the parties hereto shall indemnify, defend, and hold harmless the other, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the indemnifying party and other persons employed or utilized by the indemnifying party in the performance of this Agreement. Sponsor shall maintain insurance policies in amounts and coverages necessary and sufficient to fund its obligations pursuant to this Section.

SECTION 12. CATASTROPHIC EVENTS

No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Agreement if such failure is caused directly by a hurricane, tornado, fire, earthquake, civil commotion or failure or disruption of utility services, or other like cause beyond the reasonable control of the party obliged to perform.

SECTION 13. CONSTRUCTION

A. **Entire Agreement.** This Agreement represents the full agreement of the parties and supersedes and replaces any and all prior agreements between the County and Sponsor regarding the matters addressed herein.

B. **Equal Construction.** Each of the parties hereto has had equal input into drafting of this Agreement such that no provision of this Agreement shall be construed strictly against one party as the drafter thereof.

C. **Headings and Captions.** The headings and captions of articles, sections, and 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 be taken into consideration in interpreting this Agreement.

SECTION 14. AMENDMENT

This Agreement may be modified only by written amendment executed by both parties. No alteration or variation of the terms of this Agreement shall be valid unless made by writing and signed by both parties.

SECTION 15. NO ASSIGNMENT

Sponsor shall not be authorized to assign this Agreement, or any portion hereof, without prior written consent of Manatee County, which consent may be withheld in Manatee County's solely exercised discretion.

SECTION 16. VALIDITY

Each of the County and Sponsor represents and warrants to the other its respective authority to enter into this Agreement.

SECTION 17. SEVERABILITY

The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid term or provision should not affect the validity of any term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent here thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

SECTION 18. GOVERNING LAW; VENUE

This Agreement shall be governed by the laws of the State of Florida. Venue for any action to enforce any of the provisions of this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Manatee County, Florida, or, to the extent any proceeding is removed to federal court, the United States District Court for the Middle District of Florida, Tampa Division.

SECTION 19. REMEDIES

Each party hereto shall have such remedies as are available pursuant to applicable law for any breach or non-performance by the other party.

SECTION 20. DISCLAIMER OF THIRD PARTY BENEFICIARIES

This Agreement is solely for the benefit of the parties hereto and no right or cause of action shall accrue, by reason hereof, or for the benefit of any third party not a party hereto.

SECTION 21. ATTORNEYS FEES AND COSTS

Each party hereto shall be solely responsible for paying its attorney's fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation, or pre-litigation negotiation arising under this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by an authorized representative as of the day and year first written above

[SPONSOR'S NAME]

By: _____
[NAME/ TITLE]

**MANATEE COUNTY, FLORIDA, a political
subdivision of the State of Florida**

By: its Board of County Commissioners

By: _____
Director, Convention & Visitors Bureau
Pursuant to Resolution R-19-010

**EXHIBIT A:
SPONSORSHIP SERVICES AND BENEFITS**

STADIUM NAMING RIGHTS SOLE SPONSOR- \$100,000-\$125,000

- 3-year Agreement Term
- Sole sponsorship opportunity
- Two Big Belly Can wrapped with logo – Stadium only
- Sign on Press Box Fence
- Logo stickers on concrete in front of Concessions
- Banner on North or West bleachers (Facing Main Entrance)
- Sign on East side of the stadium fence facing stadium field
- Ability to provide literature at on-site visitor center

GOLD SPONSOR \$5,000 – \$8,000

\$12,000 – for Exclusivity rights of like-product or service (i.e. only Beverage Company sponsor)

- 1-year Agreement Term
- Big Belly Can wrapped with logo at the field entrance
- Field signs (numbers and placement TBD)
- South bleacher banner (back facing fields)
- East bleacher banner (back facing fields)

SILVER SPONSOR - \$1,500-\$2,500

- 1-year Agreement Term
- Field signs (numbers and placement TBD)
- White fence sign

PARKING LOT SPONSOR - \$1,800

- 3- year Agreement Term
- Parking lot sign with brand recognition
- Color branding designating lot area

CONVENTION AND VISITORS BUREAU SOLE SPONSOR - \$100,000

- 1-year Agreement Term
- Sole sponsorship opportunity

- Field signs
- Large branded signs near fields
- Branded logo on concrete light poles (wrapped or flags)

DIGITAL MARQUEE SPONSOR - \$10,000-\$12,000

- 3-year Agreement Term
- Main entrance marquee showcasing events
- Company logo and message “Flashing Digital”
- Logo attached to sign

IN-KIND SPONSOR - \$1,000-\$5,000 value

- 1-year Agreement Term
- White fence sign
- Consist of goods or service only (i.e gift card, labor, rental equipment, promotional items etc..)

- *All Sponsors will be listed on the Premier Sports Campus Web site*
- *All Sponsors have the ability to provide literature in athlete “goodie” bags*
- *Signs to be created by and at the expense of Premier Sports Campus*
- *Sponsors must provide creative work for signs*