

Meeting Date
08/23/16



AGENDA	
Section	CONSENT
Item No.	I, B, 5.

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	Early Cancellation of Sports Promotion and Development Contract effective September 30, 2016
DEPT/OFFICE:	Community Services Group / Tourism Development

**Requested Action:**  
Board approval of the early cancellation of Tourism's Sports Promotion and Development Contract effective September 30, 2016

**Summary Explanation & Background:**

The Brevard County Tourism Development Office (TDO) and Buchanan Company request the Brevard County Board of County Commission approve the early cancellation of the Sports Promotion and Development Agreement between the TDO and Buchanan Company (TDC Agreement # 3151-10-2015 -9-2018) effective September 30, 2016, due to the desired resignation of Rusty Buchanan. The contract is scheduled to cancel on September 30, 2018, however, Rusty Buchanan has requested a mutual agreement to terminate the service contract to the County effective the end of this fiscal year (attached). This will allow for a seamless transition and finish the commitments of this contract for this fiscal year. The Tourism Development Office will look to replace the sports recruitment role of the contract and will continue future fiscal year commitments already in place. The Tourist Development Council (TDC) unanimously approved the early cancellation of the Sports Promotion and Development contract at the July 2016 meeting. The Tourism Development Office (TDO) is also in agreement of the early cancellation date and is confident in its sports promotion and development future going forward.

The mutual consent by Mr. Buchanan/Buchanan Company, TDC and TDO for early termination of the contract at the conclusion of this fiscal year, September 30, 2016, waives the contract provision for a 180 day notice of termination.

There is no fiscal impact for FY2015/16.

Contact: Eric Garvey, TDO Director  
Phone/e-mail: 433-4470, eric.garvey@brevardfl.gov

**Clerk to the Board Instructions:**

**Exhibits Attached:** Letter of resignation from Rusty Buchanan / Buchanan Company, contract

<b>Contract /Agreement (If attached):</b> Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Assistant County Manager, Frank Abbate		Department Director / Extension			
Stockton Whitten		Assistant County Manager, Venetta Valdengo					



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

August 24, 2016

MEMORANDUM

TO: Eric Garvey, Tourism Development Office

RE: Item II.B.5., Early Cancellation of Sports Promotion and Development Contract Effective September 30, 2016

The Board of County Commissioners, in regular session on August 23, 2016, approved the early cancellation of Tourism's Sports Promotion and Development Contract effective September 30, 2016.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cm

cc: Contracts Administration

# THE BUCHANAN COMPANY

Mr. Garvey,

It is with mixed emotion that I send this letter. For the past 25 years I have lead the effort to not only develop Sports Tourism on the Space Coast but to develop an industry. When we started in 1991 there was no other organization in the state doing what we do. Today there are 27 sports agencies across the state and hundreds across the country. My ground floor involvement has led to many opportunities for me, many of which in turn benefited our efforts here on the Space Coast. I am proud of what we have accomplished and with the arrival of USSSA in 2017, the future looks bright.

To get to this point I have had to wear many hats and juggle my time between responsibilities.

As you know I now serve as the 1<sup>st</sup> Vice President of the Amateur Athletic Union (AAU) of the United States. The AAU connection has long been a positive one for the Space Coast. You may not know however, I was just last week put on the Board of Directors for the United States Bobsled and Skeleton Federation, the body with oversight of our Olympic Athletes.

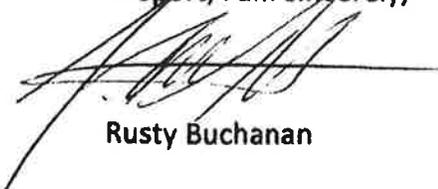
Along with recruiting events for the county and in some instances overseeing the management and operations my plate has become very full. This has created a tremendous amount of personal pressure and something had to give somewhere.

My solution would be to mutually agree to terminate my service contract to the county effective the end of this fiscal year.

This will allow me to continue to operate events already here on the Space Coast and allow the TDC to place someone else in the recruitment role. Hopefully someone we could work closely with. This will also allow me to wear my other hats without worry.

This is the best possible outcome for all. I am not leaving, simply shifting roles, and as I said the future looks bright.

In sport, I am sincerely,



Rusty Buchanan



ORLANDO'S CLOSEST BEACHES  
[www.visitSpaceCoast.com](http://www.visitSpaceCoast.com)

TO: SCOTT ELLIS, CLERK OF THE COURT  
FROM: STACY DELANO, TOURISM CONTRACT MANAGER JD  
DATE: OCTOBER 13, 2015  
SUBJ: SPORTS COMMISSION CONTRACT, BUCHANAN CO., INC.

Attached is the proposed agreement between the BoCC and Buchanan Company, Inc. to act as the TDO's Sports Commission and handle the TDO's Sports Promotion and Development. The County RFP process was utilized, Buchanan Company, Inc. was the only company that bid and the TDC evaluated and recommended Buchanan Company, Inc. at their October 22, 2014 meeting. The previous contract ended September 30, 2015.

The terms of the contract are: three year contract from October 1, 2015 through September 30, 2018, with one two-year option; specifications are included in Exhibit "A," Sports Commission Event Report is included in Exhibit "B," and Room Night Accountability Procedures are included in Exhibit "C."

Please review and approve with signature. If you have any questions, please call the Contract Manager, Stacy DeLano at 433.4470.

**SPACE COAST OFFICE OF TOURISM**

430 Brevard Avenue • Suite #150 • Cocoa Village, Florida 32922 • Phone: (877) 57-BEACH or (321) 433.4470 • Fax: (321) 433.4476

**COCOA BEACH • MELBOURNE BEACHES • PALM BAY • TITUSVILLE**



TO: ROBIN FISHER, COUNTY COMMISSIONER

FROM: STACY DELANO, TOURISM CONTRACT MANAGER *DD*

DATE: OCTOBER 9, 2015

SUBJ: SPORTS COMMISSION CONTRACT, BUCHANAN CO., INC.

Attached is the proposed agreement between the BoCC and Buchanan Company, Inc. to act as the TDO's Sports Commission and handle the TDO's Sports Promotion and Development. The County RFP process was utilized, Buchanan Company, Inc. was the only company that bid and the TDC evaluated and recommended Buchanan Company, Inc. at their October 22, 2014 meeting.

The terms of the contract are: three year contract from October 1, 2015 through September 30, 2018, with one two-year option; specifications are included in Exhibit "A," Sports Commission Event Report is included in Exhibit "B," and Room Night Accountability Procedures are included in Exhibit "C."

Please review and approve with signature. If you have any questions, please call the Contract Manager, Stacy DeLano at 433.4470.



ORLANDO'S CLOSEST BEACHES  
www.VisitSpaceCoast.com

**TOURIST DEVELOPMENT COUNCIL  
OCTOBER 22, 2014 – 2:00 P.M.  
RADISSON RESORT AT THE PORT, CAPE CANAVERAL**

The Tourist Development Council met on October 22, 2014 at 2:00 p.m. The meeting was held at the Radisson Resort at the Port, Cape Canaveral. Members present were: Chairman Bob Baugher, Commissioner Mary Bolin Lewis, Tom Williamson, Jim Ridenour, Mayor Williamson Capote, Tim Deratany. Absent members were: Vice Chairman Laurilee Thompson, City Councilman Walt Johnson, Eddie Thompson. TDC Staff present: Rob Varley, Bonnie King, Kalina Person, Tom Bartosek, Candace Narmore, Deidre Jackson, Stacy Delano, Danny Czerwinski.

**WELCOME AND INTRODUCTIONS – CHAIRMAN BOB BAUGHER**

Guests present were: Eric Garvey, Incoming TDC Director (effective November 5); Becky Behl-Hill, Assistant County Attorney; Mary Anderson, Ray Nau, Melbourne International Airport; Bob Majka, City of Cocoa Beach; Rusty Buchanan, Space Coast Sports; Neta Harris, Brevard Nature Alliance; Kathy Engerran, Brevard Cultural Alliance; Dave Berman, *Florida Today*; Sarah Cooksey, Kate Sprinkle, *Orlando Sentinel*; Linda Brandt, Brandt Ronat; Wayne Belden, John Belden, *Space Coast Fun Guide*; Tom Hermansen, Ocean Partners; Mike McBride, Chip Eickmann, Rebecca Crisafulli, McBride Marketing Group; Emily Kruse, Kim Isemann, Lorri Shaban, TWsquared; Tim Michaud, Julie Korountchev, International Palms; David Poston, Port Canaveral; Lori Helton, Brevard County Commission Office; Mike McGarry, Office of Natural Resources; Mathew Kent, Best Western/Days Inn; Jenn Sugarman, Linda Webster, Cocoa Beach CVB; Gary McCann, Runaway Country; Pat Looney, Residence Inn; Debra Green, Hilton Cocoa Beach; Rusty Fischer, Rusty's Port Canaveral; Dennis Thompson, Propeller Club; Jack Crockett, Developer; Samantha Senger, City of Cocoa; Wendy Noke Darden, Hubbs Seaworld; Leslie Rothering, Brevard County Purchasing Services.

**APPROVAL OF MINUTES:**

**Ridenour moved to approve the following: Tourist Development Council minutes of September 25, 2014. Williamson seconded the motion and the minutes were unanimously approved.**

## **DIRECTORS REPORT – ROB VARLEY**

**Tax Revenue Report:** Based on year-to-date net tax collections are up 11.6% compared with previous year's collections. Based on year-to-date actual net tax collections are currently 26.6% above budgeted collections.

**Occupancy/ADR Report:** The August 2014 occupancy rate for those properties participating in the survey was 63.8%, an increase of 6.0% above the 60.2% reported by the same group of properties for August 2013.

The August 2014 average daily rate for those properties participating in the survey was \$94.39, an increase of 5.6% above the \$89.42 reported by the same group of properties for August 2013.

**STR Report:** The STR report was included in the packet.

**Capital Facilities Funding History:** The Capital Facilities funding history was included in the packet. Detailed report attached.

Williamson explained the City of Cocoa Beach has an agreement with the Brevard County School Board to redesign the baseball fields by the High School in Cocoa Beach.

Williamson stated he asked TDO staff to prepare a report showing Capital Facilities funding for the past 20 years to see where those funds had gone. Williamson said he was concerned about the disparity of where the funding was used compared to which areas generated the most tourist tax collections.

The City of Cocoa Beach has an agreement with the School Board to maintain the ball fields at the High School and that agreement ends in 2015. The City of Cocoa Beach and businesses in Cocoa Beach have looked at the possibility of redesigning that area and adding additional ball fields. Historically the City of Cocoa Beach area collects approximately 50% of the tourist tax. Over the last 20 years the City of Cocoa Beach has only received about 11% of funding for capital improvements from the Capital Facilities funds. Williamson would like the TDC to consider funding a feasibility study to determine what it would take and how much it would cost to convert and add additional fields to that area.

Baughner asked that Rusty Buchanan and other professionals in the sports industry be asked for input on what type of fields would be most beneficial and generate the biggest economic impact if added.

**Williamson moved to approve \$8,000 to fund a feasibility study to determine what it would take and how much it would cost to convert and add additional fields at the High School in Cocoa Beach. Ridenour seconded the motion and the motion was unanimously approved.**

Williamson asked for TDO staff to add an additional page to the tax revenue report which shows a breakdown of collections by area.

**Action: Person stated she will gather data from the past year to show how the tax collections have been reported by zones.**

**Williamson moved to ask the Tax Collector to give the TDO a tax collection report by zones every month. Deretany seconded the motion and the motion was unanimously approved.**

### **WELCOME CENTER – JIM RIDENOUR**

Ridenour reported the Welcome Center will be sent out for rebids.

### **MARKETING COMMITTEE REPORT**

**Strategic Marketing Plan Presentation:** TDO staff, McBride Marketing Group, Space Coast Sports and TWsqared presented the 2014/15 Strategic Marketing Plan detailing goals, objectives and strategies.

**Website Update:** A detailed report was included in the packet.

**Public Relations Report:** A detailed report was included in the packet.

**Sales Action Team and Film Activity Report:** Bonnie King gave the Sales Action Team update and a Film activity update.

**Trade Show Reports:** The Fireball Run trade show report was included in the packet.

### **SPORTS COMMISSION**

Leslie Rothering, Brevard County Purchasing, reviewed the criteria to be used for evaluating the Sports Promotion proposal. Even though only one proposal from Buchanan Company was received TDC members are still required to score the proposal. The contract will be for FY 2015-16 forward.

Rusty Buchanan, Space Coast Sports, gave the activity report which was included in the packet.

Williamson asked Buchanan how the TDC can get a comprehensive room night report from the Buchanan Company on a regular basis.

Buchanan stated he has the report and will get it out to TDC members.

Williamson stated one of the things he would like to be looked at is if there are those participating in events that are staying out of the county or in non-participating hotels and what can be done to change that.

Buchanan stated it is easy to track where people are staying in those events that Buchanan Company has organized. It is very difficult to get accurate information from other sports providers Buchanan's Company assists with.

Ridenour said those that pay to play should get the report.

Baughner would like Buchanan to look at ways to make these events grow and what is needed to make that happen.

**Action: Buchanan stated that he will make sure the new TDO Director receives a room night report on a quarterly basis.**

**Williamson moved to approve the renewal of The Buchanan Company as the Sports Development vendor as presented. Ridenour seconded the motion and the motion was unanimously approved.**

#### **BEACH IMPROVEMENT COMMITTEE**

Varley stated Hubbs-Seaworld Research Institute is requesting \$15,000 in emergency funding to enhance their stranding response in Brevard County, due to unprecedented, back-to-back die-offs of dolphins in the area. The Hubbs-Seaworld Research Institute maintains a team of full-time scientists and trained volunteers who respond to reports of stranded marine mammals.

**Action: Baughner requested TDO staff, in the future, have Office of Natural Resources staff review requests for funds that will come out of the Beach Improvement budget.**

**Williamson moved to approve the Hubbs-Seaworld Research Institute request for \$15,000 in emergency funding to enhance their marine mammal stranding response in Brevard County. Ridenour seconded the motion and the motion was unanimously approved.**

Mike McGarry, Brevard County Office of Natural Resources, gave an update on the beach renourishment project. McGarry reported the Mid Reach project in Satellite Beach and Indian Harbour Beach is moving forward and new sand is expected as soon as 2016. Jo-Ellen Darcy, Assistant Secretary of the Army for Civil Works, signed off Monday on a plan by the U.S. Army Corps of Engineers and Brevard County to put 655,000 cubic yards of sand on 7.8 miles of the two beaches, from just south of Patrick Air Force Base south to Flug Avenue.

The meeting adjourned at 5:00 p.m.

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT FORM**



**SECTION I**

The following information must be completed on all new contracts submitted to the Board.

<b>1. Contractor:</b> BUCHANAN COMPANY, INC	
<b>2. Fund/Account #:</b> 1441/293010/5820000	<b>Division Name:</b> TOURISM DEVELOPMENT
<b>4. Contract Description:</b> SPORTS PROMOTION & DEVELOPMENT	
<b>5. Contract Monitor:</b> STACY DELANO	<b>6. Mail Stop #:</b> 45
<b>7. Dept./Office Director:</b> ERIC GARVEY	<b>8. Contract Type:</b> PAYABLE
<b>ACTION DATE:</b> 30 days from entry	<b>ACTION REQUIREMENT:</b> Approval & Return

**SECTION II**

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	✓	_____	AD	9/4/15
Risk Management	_____	_____	_____	_____
County Attorney	✓	_____	EA	9/18/15



If any office denies approval, the package will be returned immediately to the User Agency.

**NOTE:** This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

AO-29: EXHIBIT I

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

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	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	AD	9/4/15
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JL	10/8/2015
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>		

If any office denies approval, the package will be returned immediately to the User Agency.

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AO-29: EXHIBIT I

TDC Agreement # 3151 - 10-2015-9-2018

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS  
SPORTS PROMOTION AND DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of October, 2015, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD FLORIDA, a political subdivision of the State of Florida, (hereinafter called the "COUNTY"); and THE BUCHANAN COMPANY, INC., 37 North Brevard Avenue, Cocoa Beach, Florida 32931 (hereinafter called the "AGENCY").

WITNESSETH:

WHEREAS, pursuant to the Local Option Tourist Development Act, Brevard County has by Ordinance No. 102-116 through 102-123 and subsequent amendments thereto, established the Brevard County Tourist Development Council (hereinafter called the "TDC"), has levied and imposed a five percent (5%) tourist development tax, and has established a tourist development plan for the use of funds derived from such tax; and,

WHEREAS, the COUNTY desires to employ the AGENCY to promote and conduct sports promotion and development programs to promote Brevard County as a sports event destination; and

WHEREAS, the provision of such services shall mutually benefit the parties hereto, and the residents of Brevard County.

NOW, THEREFORE, in consideration of the above and mutual covenants contained herein, the parties agree as follows:

1. AGENCY SCOPE OF SERVICES.

a) The AGENCY shall act as the COUNTY' s sports, promotion and development

representative and perform all standard services and responsibilities directed to promote sports tourism in the county, as described in the "Scope of Services," attached as Exhibit "A", and incorporated into this Agreement, and as set out in the RFP #P-3-15-03; and the proposal provided by The Buchanan Company, Inc. attached.

AGENCY agrees to maintain a professional staff, including but not limited to, one experienced sports event manager/ marketing staff position and an accountant or business<sup>2</sup>

manager to oversee the administrative activities necessary to carry out Agreement Scope of Services.

2. AGENCY COMPENSATION.

- a) Retainer Fee. Except as otherwise provided herein, the COUNTY agrees to pay the AGENCY an amount of \$16,500.00 per month through Fiscal Year 2015-16; a total of \$198,000.00 for Fiscal Year 2015-16. This amount shall be payment for the services as described in Exhibit "A", attached hereto and incorporated by reference. Negotiation for adjustments in the retainer fee shall be initiated by the AGENCY within 90 days prior to the end of Fiscal Year 2015-16; and likewise for each subsequent Fiscal Year.
- b) Reimbursable Expenses.
  - 1) The AGENCY may be reimbursed for out of county travel and incidental expenses which shall include out of town sports conventions offering the opportunity to promote COUNTY sports facilities or bid on sporting events for the TDC. Brevard County TDO Out-of-County Travel Policies must be followed.
  - 2) The AGENCY may also be reimbursed for approved in-county entertainment expenses associated with bringing in sports business to the county.
  - 3) All reimbursements shall be subject to the limitations found at section 125.0104, Florida Statutes and Brevard County TDO policies (both attached for reference).
- c) For every event, within 30 days of the event, AGENCY shall provide the COUNTY with a detailed report, referred to as the "Sports Commission Event Report," of all commissioned and non-commissioned rooms generated per event, all revenue details and all expenditure details per event supported partially, substantially, or completely by TDC funding via the Sports Commission Event Report, which has been attached as Exhibit "B". The Sports Commission Event Report shall include, but is not limited to: event name, event date(s), hotel(s) name, address, phone number and contact person, Revenues from the Event (From: Souvenir Sales, Event Program Sales, all Other Revenues, etc.), Room Rebate Program, all Grant Award Monies, Gate / Ticket Sales, all Expenses for the Event, and total number of room nights per event, listed as either Commissioned or Non-Commissioned Room Nights.

- d) Each month, AGENCY shall provide the COUNTY with a "Room Night Tracking Report" with specific details outlined in the attached "Exhibit C."

3. PRIOR APPROVAL OF THE TDO. The AGENCY shall not incur any financial obligations outside the approved sports budget related to bid fees or event production expenses (excluding office or incidental expenses such as postage, shipping, copies, etc.) for the COUNTY's account without first obtaining approval from the TDO Executive Director and the TDC Sports Commission Committee. The AGENCY shall submit a "Proposed Sports Event Economic Impact Worksheet" prior to each event containing full descriptions of the proposed revenues and economic impact to the community and the proposed expenditures and estimates of the costs of the obligations of the event and services involved, as well as, an "Actual Sports Event Economic Impact Worksheet" following each event containing full descriptions of the actual revenues and economic impact of the event to the community and the actual expenditures and costs of the services provided for the event.

4. PROGRESS REPORTS, MONITORING AND EVALUATION. The AGENCY agrees to provide a "Sports Commission Event Report" per event and a monthly "Room Night Tracking Report" to the TDO Executive Director and/or TDO Finance Manager. The AGENCY shall attend and provide an oral progress report at TDC Sports Commission Committee meetings and TDC monthly meetings or as directed by the TDO Executive Director. The "Sports Commission Event Reports" and "Room Night Tracking Reports" shall be due to the TDO on the 15<sup>th</sup> of each month and shall cover the previous month's events. The COUNTY shall be entitled at all times to be advised, at its request, as to the status of work being done by the AGENCY and of the details thereof and coordination shall be maintained by the AGENCY with the TDO Executive Director, TDO Finance Manager or other designated representative of the COUNTY.

5. BILLING AND PAYMENT

a) Method of Payment

- 1) The AGENCY shall be entitled to receive a monthly amount due including reimbursement of expenses upon receipt by the COUNTY of an invoice detailing the services rendered the previous month by the AGENCY and certification by the TDO Executive Director, TDO Finance Manager or his/her designee, that the AGENCY has performed such services in conformance with this Agreement, and is entitled to receive the specified amount.

b) Partial Payment. In the event a portion of an invoice submitted to the COUNTY for payment to the AGENCY, as specified in paragraph (a) above is disputed, payment for the disputed amount may be withheld pending resolution of the dispute, and the remainder of the invoice(s) will be processed for payment without regard to that portion which is in dispute.

c) Time of Payment. The COUNTY shall pay the AGENCY pursuant to Section 218.70 et seq., Florida Statutes, known as the "Florida Prompt Payment Act." (Attached for reference).

d) Suspension of Payments. The parties agree that the following event constitutes a material failure sufficient to warrant suspension of payments. Such events include but are not limited to:

3) Failure to submit the "Sports Commission Event Reports" and "Room Night Tracking Reports" as required on the 15<sup>th</sup> of each month, as well as, the monthly status, Budgeted and Actual Economic Impact Reports per event, or any additional information and backup required by COUNTY as sufficient;

4) Submittal of incorrect or incomplete reports in any material respect; and Failure to comply with any term of this Agreement or any applicable Federal/ State laws or Brevard County Ordinances.

5) If payments are withheld, the COUNTY shall specify, in writing, the actions that must be taken by AGENCY as a condition precedent to resumption of payments, provided that such notification shall specify a reasonable date (not to exceed 30 days) for compliance.

6) Failure of AGENCY to comply with the Waits of subsection 4) of this section shall be cause for the immediate termination of the Agreement by the COUNTY. Termination pursuant to this section shall be upon written notice to the AGENCY, effective five (5) days from the receipt of said notice.

6. INDEMNIFICATION

a) Claims, Liabilities, or Damages. The AGENCY shall indemnify and hold the COUNTY harmless from against:

1) Any and all claims, liabilities, or damages arising from contracts between the AGENCY and third parties made pursuant to this Agreement, including the<sup>5</sup>

cost of litigation and counsel fees.

2) Any and all claims, liabilities, or damages arising from the preparation or presentation of any sports promotion and development programs covered by this Agreement, including the cost of litigation and counsel fees.

3) No provision of this Agreement shall be construed as a waiver by the COUNTY of any right, defense, or claim which the COUNTY may have in any litigation arising under this Agreement. Nor shall any Agreement provision be construed as a waiver by Brevard County of any right to initiate litigation.

7. INSURANCE. The AGENCY shall at its own cost and expense during the term of this Agreement, continuously maintain in force a policy of insurance for: 1) Commercial General Liability Insurance for the benefit of the County in the minimum amount of One Million Dollars (\$1,000,000.) combined single limit for each occurrence to include the following coverages: professional liability (included by endorsement or as a separate policy with its own \$1,000,000 limit) business operations, products and completed operations, personal and advertising injury, and contractual liability arising from the agreement; and 2) Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with a minimum amount of One Million Dollars (\$1,000,000) combined single limit for each occurrence. 3) Workers' Compensation and Employers Liability Insurance covering all employees of the vendor and subcontractors, as required by law.

The AGENCY shall provide the described insurance on policies and with insurers acceptable to the COUNTY. These insurance requirements shall not relieve those types or amounts of insurance as sufficient or adequate to protect the AGENCY's interests or liabilities, but are merely minimums.

"The General Liability and Auto Liability certificates of insurance shall indicate that policies have been endorsed to cover the County as an additional insured and that these policies may not be canceled or modified without thirty (30) days prior written notice to the County."

8. DURATION/RENEWALS/ASSIGNMENT.

a) Term. This Agreement shall become effective as of October 1, 2015 and shall continue in force for a period through September 30, 2018, with an optional 2 year extension through September 2020.

b) Renewal and Extension. No provision for automatic renewal of this Agreement shall be effective. Any price adjustments must be considered and recommended by

the TDC and executed by the Board of County Commissioners.

c) Assignment and Delegation. The County has retained the AGENCY for its expertise and, as such, considers this an Agreement for personal services.

Accordingly, the AGENCY may not assign any rights or delegate any duties hereunder without the express prior written consent of the COUNTY.

9. TERMINATION OR NON-RENEWAL

a) Termination for Convenience. Either party may terminate this Agreement by giving the other party written notice at least one hundred and eighty (180) days prior to the effective date of termination. Upon receipt of written notice of termination, the AGENCY shall provide only those services and incur only those expenses specifically approved or directed in writing by the COUNTY.

b) Termination for Breach. This Agreement may be terminated with thirty (30) days written notice by the COUNTY for cause upon failure of the AGENCY to materially perform pursuant to any of the provisions or requirements set forth herein. Delivery of notice shall be made, in event of such termination, to the AGENCY at the address indicated above.

c) Termination by Law. In the event Brevard County Ordinance, Article III, No. 102-116 through 102-123 (Tourist Development Tax) and its subsequent amendments is repealed or expires, as provided by law, this Agreement shall be deemed to terminate automatically upon the effective date of said repeal or expiration.

d) Assignment Upon Termination. Upon termination of this Agreement, the AGENCY shall assign to the COUNTY all of its rights in contracts, agreements, arrangements, or other transactions made with third parties of the COUNTY account on the effective date of termination or on such other date as may be agreed upon by the parties. In the event any contract is non-assignable or the AGENCY cannot obtain a release from its obligations, the AGENCY shall continue performances directed by the COUNTY, and the COUNTY shall meet its obligations, as to the unassigned or unreleased contracts only, to the AGENCY as though this Agreement had not been terminated.

e) Termination Billings. Upon termination of this Agreement, the AGENCY shall 7

bill the COUNTY of all amounts not previously billed and due the AGENCY at the time. The AGENCY shall be entitled to payment for services performed and expenses incurred during the termination period only if said services or expenses are approved in writing by the COUNTY after receipt of the notice, or with the express written consent of the COUNTY, for services or expenses approved prior to the effective date of termination.

10. MODIFICATION. This writing contains the entire Agreement of the parties. No representations were made or relied upon by either party, other than those that are expressly set forth. No agent, employee, or other representative of either party is empowered to alter the terms of this Agreement.

11. CONTROLLING LAWS. The validity, interpretation, and performance of this Agreement shall be construed in accordance with and governed by the tourist development ordinances of Brevard County, along with the Laws and Statutes of Florida. Venue shall be deemed appropriate in Brevard County, Florida. Upon request, copies of the appropriate ordinances, laws and statutes shall be provided to the AGENCY by the COUNTY to ensure compliance.

12. WAIVER. The failure of either party to this Agreement to object to or to take affirmative action with respect to a conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any further violation, breach or wrongful conduct.

13. NOTICES. All notices pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand delivery or through the U.S. Postal Service by certified mail, return receipt requested, addressed to the parties at the following addresses:

FOR COUNTY:

Eric Garvey, Executive Director — Authorized Representative  
Space Coast Office of Tourism  
430 Brevard Ave., Ste. 150  
Cocoa Village, FL 32922

FOR AGENCY:

Russell (Rusty) Buchanan  
37 N. Brevard Ave.  
Cocoa Beach, FL 32931

14. AVAILABILITY OF RECORDS.

a) In the performance of this Agreement, the AGENCY shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY and shall be retained by the AGENCY for a period of three years after termination of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes (attached for reference).

b) No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the COUNTY, under this agreement shall be subject to copyright by AGENCY in the United States or any other country.

15. INDEPENDENT CONTRACTOR. It is hereby mutually agreed that the AGENCY is and shall remain an independent contractor and is not an employee or agent of the COUNTY. The AGENCY shall procure, pay for, and maintain Workers' Compensation insurance in an amount as required by law.

16. AGENCY CERTIFICATION OF CONDUCT. The AGENCY certifies by his/her signature hereinafter that he ("he" is construed to mean "they" if more than one person is involved and if a firm partnership, corporation, or other organization is involved, then "he" is construed to mean any person with an interest therein) will not attempt in any manner to influence any specifications, to be restrictive in any respect, nor will he attempt in any way to influence purchasing of services or commodities by Brevard County, Florida.

17. AGENCY CERTIFICATION OF AUTHORITY AND NO CONFLICT. The AGENCY hereby certifies by his signature hereinafter that he is legally entitled to enter into subject contract with Brevard County, Florida, and that he is not or will not be violating either directly or indirectly any conflict of interest statute or any other applicable statute or principle by the performance of this Agreement.

18. VENUE. Venue for any legal action by any party to interpret, construe or enforce this Agreement shall be in court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury.

19. AVAILABILITY OF REVENUES. The COUNTY, in conjunction with the Florida Department of Revenue, projects revenues for each fiscal year beginning October 1. The

AGENCY and COUNTY mutually agree that payment during each fiscal year beginning October 1, is subject to actual revenues being approximately equal to projected revenues. In the event this Agreement extends beyond the COUNTY's current fiscal year that begins on October 1 of each year and ends on September 30 of each succeeding year, the AGENCY and COUNTY mutually agree that performance and payment during subsequent fiscal periods is contingent upon the continued availability of legislatively approved tax revenues. The COUNTY shall be the final determiner of the availability of such revenues.

20. UNAUTHORIZED ALIEN WORKERS. Brevard County will not intentionally award publicly-funded contracts to any agency who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)Section 274A(3) of the Immigration and Nationality Act "INA" (attached for reference). The COUNTY shall consider an agency's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

21. EMPLOYMENT. The AGENCY shall not engage the services of any person or persons now employed by the COUNTY, including any department, agency, board or commission thereof, to provide services relating to this contract without written consent from the COUNTY.

22. CONSTRUCTION OF AGREEMENT. The parties hereby acknowledge that they fully reviewed this agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the drafter of this Agreement.

23. ATTORNEY'S FEES. In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

24. PUBLIC ENTITY CRIMES. The AGENCY hereby agrees to comply with the requirements of Section 287.132(3) (d), Florida Statutes, by fully executing the "Public Entity Crime Affidavit" which is attached hereto as Exhibit "D," and incorporated herein by this reference.

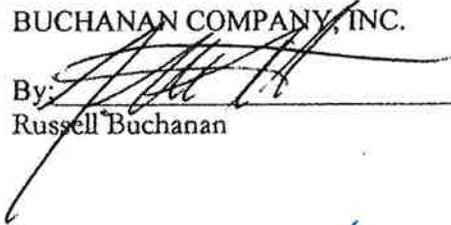
25. SEVERABILITY. If any section, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid, unconstitutional or unenforceable, by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof.

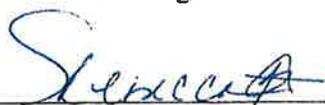
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly  
executed this 1<sup>st</sup> day of October 2015.

  
\_\_\_\_\_  
Scott Ellis, Clerk

  
\_\_\_\_\_  
Robin Fisher, Chairman

As approved by the Board on 10/12/15

BUCHANAN COMPANY, INC.  
By:   
\_\_\_\_\_  
Russell Buchanan

Reviewed for legal form and content:  
  
\_\_\_\_\_  
County Attorney

10/13/15  
\_\_\_\_\_  
Date

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

EXHIBIT A  
SCOPE OF SERVICES

Facilitate bringing in sports events by working closely with Local Organizing Committees (LOCs) and other organizations seeking to host events in the county.

★ Submit Fiscal Year Sports Commission Budget to the TDO no later than October 15<sup>th</sup> of each fiscal year to be reviewed and approved by the TDO, Sports Commission Committee and TDC.

Assist in developing strategies with LOCs for securing and hosting events that provide a positive economic impact to the county.

Assist LOCs in event production.

Actively seek new sporting event opportunities and create new sporting events.

Present all leads to Sports Commission.

Host and produce sporting events for the Sports Commission, taking full responsibility for running those events which include marketing, promotions, sponsorship, volunteers, site location and general events management, as well as, economic and room night tracking.

Develop community awareness and support for sporting events including volunteers.  
Act as the County's clearing house for sports event information.

Attend appropriate community meetings and functions that may allow the opportunity to promote the sports program.

Market the county's sports facilities to sports sanctioning and organizing sporting groups and/or events.

Work closely with Brevard County Parks and Recreation staff on the county-wide facilities use calendar and act as a liaison between the County and sports organizing groups for TDC Sports Commission approved events.

Produce and update a comprehensive sports facilities guide.

Attend appropriate sports conventions that offer opportunities to bid on events.

Develop a close working relationship with the local tourism industry.

Attend the monthly TDC Sales Action Team meetings and hotel association meetings as necessary.

Provide the industry with monthly updated event information.

Attend all Sports Commission and TDC meetings.

Provide an oral report at monthly meetings which detail events, room night and publicity generated, economic impact and other information as requested.

Provide Sports Commission Event Reports per event, a complete annual Sports Commission Events Report at end of fiscal year and any other required information.

Make available all records and financial data relating to contract, for audit purposes.



## EXHIBIT C

### Room Night Accountability Procedure for BUCHANAN COMPANY:

BUCHANAN COMPANY will provide to the Brevard County Tourism Development Office (TDO) in electronic form an accounting of all lodging room nights directly related to each event produced by BUCHANAN COMPANY at the Space Coast stadium complex. Lodging room night information must include:

- the name of the lodging establishment,
- the city in which it is located,
- the street address (if lodging establishment is not a major hotel brand),
- confirmation number (if available),
- number of units rented,
- number of bedrooms per unit (if more than one in a rental house or condominium)
- dates of stay (check-in date and check-out dates)
- the guest name(s) registered to each unit,
- the team affiliation of the guest name registered to each unit

This information must be provided within 30 days after each event. The TDO will be responsible for verifying the validity of each claimed room night. Claimed room nights not verified will be identified and sent back to BUCHANAN COMPANY for additional information or to remove from room night reporting.

A room night will be defined as a single hotel room or each bedroom in a multi-bedroom rental house or condominium multiplied by each night it was rented.

BUCHANAN COMPANY must provide to the TDO a room night report each quarter which compiles a total of all room nights per event held in the quarter, plus a running total of room nights generated year-to-date. The TDO will be responsible for reconciling each quarterly report with submitted lodging room night reports and identifying inconsistencies.

An annual lodging room night report will be submitted by BUCHANAN COMPANY for each fiscal year ending September 30<sup>th</sup> which will summarize lodging room nights generated by BUCHANAN COMPANY events, sub-totaled by quarter. The TDO will be responsible for verifying the annual report, identifying discrepancies and preparing a final review for Tourist Development Council (TDC) approval.