

Meeting Date
March 7, 2017



AGENDA	
Section	New Business
Item No.	VI.D.2.

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

SUBJECT:	Amendments to USSSA Stadium Complex Lease
DEPT/OFFICE:	County Attorney/County Manager

Requested Action:

It is requested that the Board approve amendments to USSSA Stadium Complex Lease, Exhibit D 1) to correct two scrivener's errors and 2) to allow for direct purchases of lighting and turf for installation in an amount not to exceed \$10 million for installation on the County owned Stadium Complex property and abutting property under the County's long-term ground lease with Viera Development Corporation. The approval of the direct purchase must also:

- A) include the County's affirmation that if the Department determines that tangible personal property sold by a vendor tax-exempt pursuant to a Certificate of Entitlement does not qualify for the exemption under Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the governmental entity will be liable for any tax, penalty, and interest determined to be due;
- B) a waiver of County purchasing policies requiring quotes or bids;
- C) authorize the Chairman to sign a written lease amendment consistent with this action as approved by the County Attorney; and
- D) the transfer of two million dollars of Tourism Development funds from the Stadium Reserve Fund to the Stadium Fund for operating expenditures pertaining to Capital Renovations and Stadium Improvements. It is also requested that the Board approve any and all budget change requests necessary to complete the transfer of funds from the Stadium Reserve Fund Capital Outlay Reserves to the Stadium Fund Operating Expenditures Accounts to insure timely payment of invoices received for the County's portion of the necessary Capital Renovations and Stadium Improvements for USSSA's move to the Space Coast Stadium per the County's agreement with USSSA.

Summary Explanation & Background:

USSSA has asked the County to engage in direct purchases of lighting and artificial turf for athletic fields that will be installed on County owned property and property under a lease to the County by the Viera Development Corporation with an expiration date of December 31, 2053. by USSSA's contractor. These direct purchases will take advantage of an exemption from the sales tax available under section 212.08(6), F.S. for tangible personal property (equipment and improvements) that are affixed to government owned property.

Such a purchase will require the amendment of Exhibit D to the existing 20 year lease between the County and USSSA relating to the payment for improvements to the Stadium Complex and abutting athletic fields to be located on the Viera owned property now under a long-term lease to the County.

In addition to the direct purchase amendment, Exhibit D to the lease should be corrected to eliminate two scrivener's errors. Paragraph 2 to Exhibit D of the lease refers to ¶5, however, there is no paragraph 5 in that Exhibit. The subject matter of paragraph 2 relates to maintenance responsibilities of the Tenant including any capital maintenance agreed upon by the parties in paragraph 5. In actuality, it is paragraph 4 that refers agreed upon capital maintenance responsibilities. So the paragraph 2 reference to Paragraph 5 is a scrivener's error since the reference should be to paragraph 4, not 5.

In paragraph 6 there is another reference to paragraph 5, however, as mentioned, there is no paragraph 5 in Exhibit D. However, below paragraph 4 of Exhibit D there is an unnumbered paragraph relating to guaranteed room nights, which is the subject of paragraph 6's reference to paragraph 5. Proximate in time prior drafts of Exhibit D show this now unnumbered paragraph as paragraph number 5. Accordingly, the amendment should number the currently unnumbered paragraph as paragraph 5.

Fiscal Impact FY2016-17; Current TDO Stadium Fund has \$8,000,000 budgeted for Capital Renovations and Stadium Improvements for USSSA and Current TDO Stadium Reserve Fund has \$2,000,000 in Capital Outlay Reserves. Once budget change requests and transfer is complete, TDO Stadium Fund will have the full \$10,000,000 budgeted for Capital Renovations and Stadium Improvements and the TDO Stadium Reserve Fund will have \$0 in Capital Outlay Reserves. The full \$10,000,000 will be spent for Capital Renovations and Stadium Improvements needed for USSSA's move to the Space Coast Stadium in FY2016-17

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension
Stockton Whitten		County Attorney, Scott Knox