

**CITY OF ORLANDO
FUNDING AGREEMENT FOR FISCAL YEAR 2013 TO 2015
WITH THE FLORIDA STATE UNIVERSITY**

THIS FUNDING AGREEMENT, (“Agreement”) made and entered into this _____ day of _____, 2014, by and between the **CITY OF ORLANDO, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, (“the City”), and **The Florida State University Board of Trustees for and on behalf of the Florida State University**, (“FSU”).

WITNESSETH THAT:

WHEREAS, the City has proposed to fund the FSU “Science Students Together Reaching Instructional Diversity and Excellence” instructional program to be implemented for students at Jones High School and Memorial Middle School and personnel to provide such services and programs (collectively the “SSTRIDE Program”) as are set forth on **Exhibit “A”** attached hereto and incorporated herein by this reference; and

WHEREAS, the City has determined that there is a public need for such a program and that a valid public purpose in promoting STEM-related education and careers would be served by funding the program; and

WHEREAS, in order to serve the public need and in furtherance of the public purpose, the City has appropriated funds to be granted to the FSU for providing the SSTRIDE Program, and

WHEREAS, the parties mutually desire to enter into this Agreement whereby FSU will receive and disburse the aforementioned funds of the City for the purpose of providing the program in accordance with the terms and conditions set forth herein; and

WHEREAS, the FSU will make available the necessary qualified and trained personnel, facilities, materials and supplies to provide the program set forth in this Agreement;

NOW, THEREFORE, in consideration of the promises and of the mutual covenants contained herein, and other good and valuable consideration, , the parties hereby agree as follows:

1. **INCORPORATION OF PREAMBLE.** The preamble of this Agreement set forth above is true and correct and is incorporated herein by this reference as if fully set forth below.

2. **FUNDING; PERFORMANCE OF SERVICES.** The City plans to appropriate, for the period commencing February 1, 2014 and ending January 31, 2016, the total sum of ONE HUNDRED THIRTY-FIVE THOUSAND DOLLARS (\$135,000.00) to be administered and disbursed by the FSU solely for implementing the SSTRIDE program as set forth herein (“Funds”). Funds for the initial program year (\$65,000) have been appropriated by the City. The FSU hereby agrees to provide and the program in accordance with the terms and conditions set forth in this Agreement.

3. **PAYMENTS.** The City's contribution shall be made to the FSU in two (2) annual payments of SIXTY-FIVE THOUSAND DOLLARS (\$65,000.00) and SEVENTY THOUSAND (\$70,000.00) unless otherwise approved and authorized in writing by the Chief Administrative Officer and the Chief Financial Officer of the City, or their designees. All payments by the City shall be contingent upon: (a) receipt and approval by the City of the progress and financial reports specified in Paragraph 4 below; (b) inclusion of the audit provisions set forth in Paragraph 7 below in sub-recipient agreements; and (c) compliance by FSU with any and all requirements, terms and conditions contained in this Agreement, including the provision of the program by the FSU and (d) funding appropriation by the City for the second year of this Agreement. Contingent upon all requirements having been met, the first payment of sixty-five thousand dollars (\$65,000) will be disbursed on or about the 15th day of April, 2014 and, if funded, the second payment of seventy thousand dollars (\$70,000) will be made on or about the 15st day of April, 2015. Any Funds received by FSU which are not expended by the FSU to provide or perform the program set forth herein during the term of the agreement, shall be repaid to the City, unless an extension of time for such expenditure is granted by the City's BLUEPRINT Special Projects Manager ("BSPM") in writing.

4. **PROGRESS AND FINANCIAL REPORTING.** The FSU agrees to submit progress and financial reports on a quarterly basis to the BSPM in form and content reasonably acceptable to the BSPM in accordance with the schedule set forth on Exhibit "B" attached hereto and incorporated herein by this reference. At a minimum, subject to requests for additional information by the BSPM, such progress reports shall include an evaluation of the program services and must indicate the number of students served, including how many of the students served were City of Orlando residents served. Moreover, the quarterly reports shall detail the program services provided during the period and shall identify expenditures including information on what was purchased and the amounts as well as any salary disbursements made with the Funds. Failure to comply with the requirement for submission of such reports in form and content acceptable to the BSPM shall constitute grounds for termination of this Agreement and may result in the ineligibility of the FSU to receive contributions from the City. Completion of the prior year's SSTRIDE Program reporting requirements, if any, and submission of all required annual SSTRIDE Program financial statements are a prerequisite to receipt of payment under this Agreement.

5. **NONDISCRIMINATION.** The FSU agrees that it shall not unlawfully discriminate in the provision of the SSTRIDE Program services. The FSU shall provide the program without regard to race, color, creed, sex, sexual orientation, age, national origin, disability or marital status and in compliance with federal, state and local anti-discrimination laws. The FSU shall not use any portion of the Funds for religious instruction, worship, proselytizing, or any other unauthorized purpose.

6. **ACCOUNTING AND AUDIT.** If requested by the City in writing, the FSU will submit copies any portions of its audited annual financial statements relating to the SSTRIDE Program to the City. All such records shall be open to inspection and audit by the City during normal business hours during the term of this Agreement. Additionally, the FSU will maintain its books and records related to the SSTRIDE program provided utilizing the Funds, and the City will

be entitled to audit such books and records, for a period of five (5) years from the date of the last payment under this Agreement. Any cost incurred by the FSU as a result of an audit shall be the sole responsibility of, and shall be borne by, the FSU. In addition, should the FSU provide any or all of the Funds to sub-recipients, then, and in that event, the FSU shall include in its written agreements with such sub-recipients a requirement that records of the sub-recipient be open to inspection and audit by the City or the City's designee to the same extent as those of the FSU.

7. **TERMINATION.** This Agreement may be terminated by either party for any reason, upon providing the other party thirty (30) days prior written notice of its intent to terminate. The parties shall be responsible for its respective obligations under the Agreement through the date of termination. Said notice shall be delivered in the manner set forth in Paragraph 18 below. The termination of this Agreement shall not relieve FSU from any obligations under this Agreement with respect to funds paid to the FSU prior to termination and City agrees that if this Agreement is so terminated, City shall pay FSU for all costs incurred and non-cancellable obligations it has made for the SSTRIDE Program.

8. **INDEMNIFICATION.** Each party to this Agreement will be responsible for claims, losses, liabilities, damages, and expenses brought or asserted by non-parties to this Agreement arising out of each party's own performance or non-performance of its respective tasks, duties, and obligations that are the subject of this Agreement, and neither party will be responsible for claims, losses, liabilities, damages, and expenses brought or asserted by non-parties to this Agreement arising out of the other party's performance or non-performance of its respective tasks, duties, and obligations that are the subject of this Agreement. This recognition by the parties hereto is intended to be consistent with the State of Florida's waiver of sovereign immunity pursuant to section 768.28, Florida Statutes, and as interpreted by the Florida Supreme Court in Florida Dept. of Natural Resources v. Garcia, 753 So. 2d 72, 77 - 78 (Fla. 2000), and it does not alter said waiver nor extend the liability of either party beyond the limits established in section 768.28, Florida Statutes.

Nothing in this Agreement shall be deemed a waiver of, or limitation of the FSU's sovereign immunity protections and limitations of liability pursuant to Florida law. Any indemnity or assumption of liability by the FSU hereunder shall be subject to the FSU's rights to sovereign immunity and any other limitations of liability provided the FSU pursuant to Florida law. In no event shall the FSU be responsible or liable for any loss, claim or damage arising out of the acts or omissions of the City or taken or made by any party at the direction of the City or its personnel.

Nothing in this Agreement shall be deemed a waiver of, or limitation of the City's sovereign immunity protections and limitations of liability pursuant to Florida law. Any indemnity or assumption of liability by the City hereunder shall be subject to the City's rights to sovereign immunity and any other limitations of liability provided the City pursuant to Florida law. In no event shall the City be responsible or liable for any loss, claim or damage arising out of the acts or omissions of the FSU or taken or made by any party at the direction of the FSU or its personnel.

9. **NO WAIVER.** Continued performance by either party after a default or violation of any of the terms, covenants or conditions herein shall not be deemed a waiver of any right to

terminate this Agreement or elect any other remedy or action, nor shall it be construed or act as a waiver for any subsequent default.

10. **CONSTRUCTION; SEVERABILITY.** This Agreement shall be construed in accordance with the laws of the State of Florida. It is agreed to by the parties that if any covenant, condition or provision contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenants, conditions or provisions contained herein.

11. **NONASSIGNABILITY.** The FSU may not assign its rights or obligations under this Agreement without the prior written consent of the City's Chief Administrative Officer, which assignment may be agreed to, denied, or conditioned in part or in whole as the Chief Administrative Officer deems appropriate in his or her sole discretion. A successor to the FSU does not automatically have any rights to the Funds disbursed under this Agreement by its position as a successor. A successor to the FSU must receive prior approval from the Chief Administrative Officer ("CAO") before it can receive Funds. Failure to comply with this section may result in immediate termination of this Agreement.

12. **THIRD PARTY BENEFICIARY.** This Agreement is solely for the benefit of the parties signing hereto and neither right, nor any cause of action shall accrue to or for the benefit of any third party.

13. **NO JOINT VENTURE.** It is mutually understood and agreed that nothing contained in this Agreement is intended to or shall be construed as creating, or shall in any way create or establish a relationship as partners or joint venturers between the parties hereto or constitute the FSU as the agent or representative of the City for any purpose or in any manner whatsoever.

14. **VENUE.** Exclusive venue in any action to construe or enforce the provisions of this Agreement shall be in the Circuit Court of and for Orange County, Florida and shall be governed by the laws of the State of Florida. FSU agrees to notify the City in writing within ten (10) business days of the occurrence of any incident or action such as, but not limited to, lawsuits, injuries, or allegations of abuse or neglect filed against the FSU, related to the SSTRIDE Program services provided under this Agreement.

15. **CREDITS.** The FSU will give written credit to the City as a sponsor/financial supporter in all acknowledgements, brochures, catalogues, invitations, press releases, printed materials, and all other marketing, promotions and advertising related to the Services. The form and manner of such written credit shall be mutually agreed to by the parties, however it is understood that the FSU shall not be required to incur any costs or expenses for such credit. This provision may be waived by the CAO.

16. **INSURANCE.** The FSU will have in force during the term of this Agreement all insurance policies required by law. The parties hereto acknowledge that the FSU may be self-insured.

17. **ENTIRE AGREEMENT.** This Agreement, including any Exhibits hereto, contains all the terms and conditions agreed to by the parties. No other agreement, oral or written, regarding the subject matter of this Agreement shall be deemed to exist or to bind either party hereto.

18. **NOTICE.** Any and all notices to be delivered hereunder shall be in writing and shall be deemed to be delivered:

- (i) When hand delivered to the person hereinafter designated,
- (ii) On the date of deposit in the United States Mail, return receipt requested, or
- (iii) On the date such notice is given into the possession of a national delivery company, including but not limited to Federal Express, for delivery requiring signature acceptance, addressed to a party at the address set forth below, or at such other address as the applicable party shall have specified, from time to time, by written notice to the other party delivered in accordance herewith. The Assistant to Director shall have full authority to send all notices related to this Agreement on behalf of the City. The parties' addresses are as follows:

City: City of Orlando
Attention: Janeiro R. Coulter
BLUEPRINT Special Projects Manager
P.O. Box 4990
Orlando, Florida 32802-4990

FSU: FSU
Sponsored Research Administration
874 Traditions Way, 3rd Floor
Tallahassee, FL 32306-4166

Signatures on Following Pages

IN WITNESS WHEREOF, the parties hereto have executed these presents and have set their hands and seals the day and year first above written.

CITY OF ORLANDO, FLORIDA

By: _____
Mayor/Pro Tem

ATTEST:

City Clerk

Approved as to Form and Legality,
for the use and reliance of the
City of Orlando, Florida only.

_____, 2014.

Chief Assistant City Attorney
City of Orlando, Florida

**THE FLORIDA STATE UNIVERSITY BOARD
OF TRUSTEES for and on behalf of FLORIDA
STATE UNIVERSITY**

By: Julie V Wamrock for
Dr. Gary Ostrander
Vice President for Research

Witnessed
by: Wally Meets

EXHIBIT "A"

**FSU'S SCOPE OF SERVICES FOR FISCAL YEAR 2013-2015
FSU OF ORANGE COUNTY, FLORIDA**

PROGRAM(S) FOR WHICH FUNDING IS REQUESTED:

1. PROGRAM/CITY RESPONSIBILITIES:

- a. The City will fund the FSU SSTRIDE program as outlined on Exhibit "C" attached to provide supplemental science curriculum program for two consecutive years ("Program") and will coordinate with FSU and OCPS to ensure the effectiveness of the program;
- b. The Program shall be available to eligible Orange County Public School students ("Students") at Jones High School (the "School");
- c. The City, the FSU, and Orange County Public Schools ("OCPS") each agree to coordinate efforts to provide for the educational needs of Students enrolled in the Program; and
- d. Subject to the requirements of applicable law, the the FSU's instructional staff and designated OCPS instructional personnel are permitted to exchange information in student records only in connection with administration of the Program. Personnel receiving such information shall use the information only for official purposes connected with the Program and shall maintain the confidentiality of such information at all times in compliance with, and subject to, applicable law.

2. OCPS RESPONSIBILITIES

OCPS School Principal shall:

- a. Provide all the necessary space for a science lab/classroom for the operation of the Program at the School;
- b. Assist the FSU in its implementation of the educational curriculum for the Program to address the educational needs of the Students;
- c. Select the Students to participate in the Program at the School;
- d. Provide designated OCPS personnel to supervise Students at the School;
- e. Obtain evaluation of the Students' performance from the FSU and communicate the information to applicable OCPS staff and parents;

f. Assist the FSU SSTRIDE instructors in complying with the Jessica Lunsford Act by refraining from performing services hereunder involving direct contact with any Student, unless first filing a complete set of fingerprints for each OCPS employee, agent, officer, invitee or licensee who may have contact with the Student. The fingerprints shall be taken by an authorized law enforcement officer and such fingerprints shall be submitted to the Department of Law Enforcement for State processing and to the Federal Bureau of Investigation for Federal processing. No person found to have been convicted of a crime involving moral turpitude or drug possession or use or who may be objected to by OCPS for any reason whatsoever shall provide services to be furnished hereunder;

g. Adhere to and comply with all Federal and State regulations and laws regarding safety as well as any other applicable regulations, laws, ordinances, permits, rules, policies and guidelines;

h. Meet with the City's Program designee and the FSU SSTRIDE program coordinators as mutually agreed to by the parties to discuss any problems or changes that may occur.

3. FSU RESPONSIBILITIES:

a. The FSU shall implement its SSTRIDE program as outlined on the attached document to provide supplemental science curriculum program for two consecutive years ("Program") to selected students at the School.

b. The FSU shall provide City with a quarterly report as outlined in Exhibit "B" attached.

c. The FSU shall supply all required materials and instructors necessary for the implementation of the Program.

d. The FSU shall coordinate the implementation of the Program with the Principal of the School.

e. The FSU shall cooperate with the School to ensure compliance with all applicable background check requirements for any personnel having direct contact with any Students.

f. The FSU shall cooperate and coordinate with School instructional personnel in providing evaluation of the Students' performance.

g. Adhere to and comply with all Federal and State regulations and laws regarding safety as well as any other applicable regulations, laws ordinances, permits, rules, policies and guidelines.

h. Meet with the City's Program designee and the FSU SSTRIDE program coordinators as mutually agreed to by the parties to discuss any problems or changes that may occur.

EXHIBIT "B"

QUARTERLY REPORT SCHEDULE

Quarterly progress and financial reports for the reporting periods indicated are due to the City's Blueprint Office on the due date specified. Progress reports should include information on the amount of Funds expended and the Services provided to City of Orlando residents with Funds in accordance with the requirements contained in Paragraph 4 of the Agreement. As required by the terms of the Funding Agreement, FSU will provide documentation supporting expenditures associated with or related to the Funds.

<u>Reporting Period</u>	<u>Due Date</u>	
Jan. 1 to Mar. 31, 2014	April	15, 2014
Apr. 1 to June 30, 2014	July	15, 2014
July 1 to Sept. 30, 2014	October	15, 2014
Oct. 1 to Dec. 31, 2014	January	15, 2015
Jan. 1 to Mar. 31, 2015	April	15, 2015
Apr. 1 to June 30, 2015	July	15, 2015
July 1 to Sept. 30, 2015	October	15, 2015
Oct. 1 to Dec. 31, 2015	January	15, 2016
Jan. 1 to Jan. 21, 2016	February	15, 2016

Reports may be sent by regular mail, e-mail or fax to:

City of Orlando

ATTN: Janeiro R. Coulter, BPSM
P. O. Box 4990
Orlando, Florida 32802-4990
E-MAIL: janeiro.coulter@cityoforlando.net
FAX: (407) 246-3180

The FSU acknowledges and understands that the quarterly reports required by this Agreement are a material provision of the Agreement and that the failure of the FSU to submit a quarterly report when due shall constitute grounds by the City, in its discretion and in addition to any other right or remedy available to the City, to refuse to make any additional disbursements of Funds to the FSU until such report is filed in form and content acceptable to the City.