

CITY OF ORLANDO
FUNDING AGREEMENT FOR FISCAL YEAR 2014 TO 2015
WITH ORLANDO SCIENCE CENTER, INC.

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 **ORLANDO SCIENCE CENTER, INC.**, a Florida not for profit corporation ("the Agency").

WITNESSETH THAT:

WHEREAS, the Agency has applied to the City for a donation of funds in order to provide such services and programs (collectively the "Services") as are set forth on **Exhibit "A"** attached hereto and incorporated herein by this reference; and

WHEREAS, these Services benefit, in whole or in part, the citizens of the City; and

WHEREAS, the City has determined that there is a public need for such Services and that a valid public purpose in promoting the general health, welfare and safety of the citizens of the City would be served by funding the Services; 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 Agency for providing such Services; and

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

WHEREAS, the Agency has available the necessary qualified and trained personnel, facilities, materials and supplies to perform the Services 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 receipt and sufficiency of which is hereby acknowledged by the parties, 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.** The City has appropriated for the period commencing October 1, 2014, and ending September 30, 2015, the total sum of **Four Hundred Forty-Eight Thousand Eight Hundred and 00/100 Dollars (\$448,800.00)** to be administered and disbursed by the

Agency solely for the purposes set forth herein (hereinafter "Funds").

3. **PAYMENTS.** The City's contribution shall be made to the Agency in two (2) equal payments of **Two Hundred Twenty-Four Thousand Four Hundred and 00/100 Dollars (\$224,400.00)** each, unless otherwise approved and authorized in writing by the Chief Administrative Officer and the Chief Financial Officer of the City. Payment 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; (c) compliance by the Agency with any and all requirements, terms and conditions contained in this Agreement; and (d) the continuing faithful performance of all of the provisions of this Agreement, including the provision of Services, by the Agency. Provided all requirements have been met, the Funds will be disbursed by the City to the Agency in two (2) equal payments of \$224,400 on or before October 30, 2014, and on or before January 15, 2015.

4. **PROGRESS AND FINANCIAL REPORTING.** The Agency agrees to submit progress and financial reports on a quarterly basis to the City's Assistant to the Director of the Office of Community Affairs ("Assistant to the Director") in form and content acceptable to the Assistant to the Director 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 Assistant to the Director, such progress reports shall include an evaluation of the Services and must indicate the amount or level of Services provided to City of Orlando residents. Moreover, the quarterly reports shall be consistent with the Services detailed herein and shall identify expenditures associated with or related to the Funds. Failure to comply with the requirement for submission of such reports in form and content acceptable to the Assistant to the Director shall constitute grounds for termination of this Agreement and may result in the ineligibility of the Agency to receive contributions from the City. Completion of the prior year's reporting requirements, if any, and submission of all required annual financial statements are a prerequisite to receipt of any payment under this Agreement.

5. **501(C)(3) STATUS.** Agency represents and warrants to City that it has applied for and received tax exempt status from the United States Internal Revenue Service ("IRS") as a 501(C)(3) organization as evidenced by a determination letter from the IRS. A copy of the IRS letter approving Agency's tax exempt status shall be provided to the City prior to the distribution of any Funds to Agency. The Agency will maintain its tax exempt status with the IRS and its status as an active entity in good standing with the State of Florida throughout the term of this Agreement. If the Agency should, during the term of this Agreement, lose its IRS tax exempt status or its active or non-profit status with the State of Florida, it will immediately notify the City, and the City reserves the right to terminate this Agreement immediately and discontinue payments to the Agency.

6. **NONDISCRIMINATION.** The Agency agrees that it shall not unlawfully discriminate in the provision of Services. Agency shall provide Services without regard to race, color, creed, sex, sexual orientation, age, national origin, disability or marital status and in compliance with Chapter 57 of the Code of the City of Orlando, Title VII of the Civil Rights Act of 1964 as amended, and any and all other applicable federal, state or local laws, rules or regulations,

whether presently existing or hereafter promulgated. Agency shall not use any portion of the Funds for religious instruction, worship, proselytizing, or any other unauthorized purpose.

7. **ACCOUNTING AND AUDIT.** The Agency will submit copies of its audited annual financial statements to the City as follows: (1) upon execution of this Agreement (or as soon thereafter as such statements are prepared) for the Agency's immediately preceding fiscal year and (2) thereafter for each fiscal year of Agency during which it receives or expends any Funds from the City under this Agreement such statements shall be submitted upon completion by the Agency which submission date shall not exceed one hundred eighty (180) days following the end of the Agency's fiscal year. For all financial statements and records related to the Funds, the Agency will utilize those accounting practices and procedures and maintain those records regarding receipts and disbursements of the Funds as are in accordance with generally accepted accounting principles (GAAP). All such records shall be open to inspection and audit by the Assistant to the Director or by the Assistant to the Director's designee during normal business hours during the term of this Agreement. Additionally, the Agency will maintain its books and records related to the Services 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 Agency as a result of an audit shall be the sole responsibility of, and shall be borne by, the Agency. In addition, should the Agency provide any or all of the Funds to sub-recipients, then, and in that event, the Agency 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 Agency.

8. **MONITORING.** The Agency will permit the City and the City's designees to monitor the Services to ensure compliance with the terms of this Agreement. The Agency shall, to assist in the monitoring of its Services, provide the City and the City's designees with access to all client records and such other information as the City may deem necessary. In the event of breach of this Agreement by Agency, the City reserves the right to pursue all legal and equitable remedies available to it including, but not limited to, the right to suspend or terminate payments under this Agreement and the right to restitution with respect to any Funds utilized by the Agency in a manner which is not in conformance with the terms of this Agreement. Agency shall make restitution to the City of any Funds not used in conformance with the terms of this Agreement within fifteen (15) days of demand by the City.

9. **TERMINATION.** This Agreement may be terminated by either party at any time, with or without cause, upon written notice to the other party. Said notice shall be delivered in the manner set forth in Paragraph 22 below. The termination of this Agreement shall not relieve the Agency from any obligations under this Agreement with respect to funds paid to the Agency prior to termination.

10. **INDEMNIFICATION.** The Agency agrees to indemnify, defend and save harmless the City from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with any or all

of the following: (1) the acts or omissions of the Agency, its employees, officers, directors, sub-recipients or agents related to this Agreement, (2) the provision of any Services by the Agency, its sub-recipients or agents, or (3) the mere existence of this Agreement itself.

11. **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.

12. **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.

13. **NONASSIGNABILITY.** The Agency may not assign its rights or obligations under this Agreement without the prior written consent of the Assistant to the Director, which assignment may be agreed to, denied, or conditioned in part or in whole as the Assistant to the Director deems appropriate in his or her sole discretion. A successor agency does not automatically have any rights to the Funds disbursed under this Agreement by its position as a successor. A successor agency must receive prior approval from the Assistant to the Director before it can receive Funds. Failure to comply with this section may result in immediate termination of this Agreement.

14. **THIRD PARTY BENEFICIARY.** This Agreement is solely for the benefit of the parties signing hereto and no right, nor any cause of action shall accrue to or for the benefit of any third party.

15. **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 Agency as the agent or representative of the City for any purpose or in any manner whatsoever.

16. **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. The Agency 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 Agency, related to the Services provided under this Agreement.

17. **CORPORATE TABLE/TICKETS.** In the event the Agency holds a fundraising event, the Agency agrees to give the City, upon its request, up to the number of tickets available to a top level event sponsor at no cost in consideration of the contribution provided to the Agency under this Agreement. This provision may be waived by the Assistant to the Director.

18. **CREDITS.** The Agency 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. This provision may be waived by the Assistant to the Director.

19. **ATTENDANCE AT ANNUAL NEIGHBORHOOD AND COMMUNITY SUMMIT.** The Agency will send a representative(s) to participate in the annual City of Orlando Mayor's Neighborhood and Community Summit. The Agency shall be responsible for any Summit registration fees and costs associated with attending this annual Summit. The purpose of the Summit is to bring together, human services, arts & cultural, civic, community-based, faith-based and neighborhood leaders to gain insight on innovative and exciting City initiatives, discuss community building opportunities and create partnerships that contribute to a vibrant city. This provision may be waived by the Assistant to the Director.

20. **INSURANCE.** The Agency will have in force during the term of this Agreement the insurance coverages listed below. Current and valid certificates of insurance for said insurance coverages will be provided to the Assistant to the Director upon execution of this Agreement by the Agency. Upon the expiration or modification of such certificates of insurance, the Agency shall provide continuing proof of insurance to the Assistant to the Director for the coverages listed below. The insurance coverages shall contain a provision that forbids any cancellation, changes or material alterations in the coverages without providing thirty (30) days written notice to the City (except for cancellation of a policy for non-payment which may provide for a minimum of ten (10) days notice to the City).

a. **Commercial General Liability --** The Agency will provide and maintain a commercial general liability policy with limits of not less than \$1,000,000 per occurrence and in the aggregate, for bodily injury and property damage.

b. **Automobile Liability --** The Agency will provide coverage for all owned, non-owned and hired vehicles with limits of not less than \$500,000 per occurrence, combined single limits for bodily injury and property damage.

c. **Workers' Compensation --** The Agency will provide full and complete Workers' Compensation coverage as required by Florida state law, as well as Employer's Liability coverage of not less than \$100,000.

d. **Employee's Honesty Insurance (Fidelity Insurance) --** The Agency will provide coverage of not less than \$10,000 per occurrence.

21. **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.

22. **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 the 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: Patricia Newton, Assistant to the Director
Office of Community Affairs
400 South Orange Avenue, 2nd Floor
Orlando, Florida 32801
Telephone: 407-246-3449

Agency: Contact: **JoAnn Newman**
Title: **President/CEO**
Address: **777 E. Princeton Street**
Orlando, FL 32803
Telephone: **407-514-2024**
Facsimile: **407-514-2001**
Email: **jnewman@osc.org**

with a copy to : Contact: **John C. Mallozzi**
Title: **Chief Financial Officer**
Address: **777 E. Princeton Street**
Orlando, FL 32803
Telephone: **407-514-2261**
Facsimile: **407-514-2001**
Email: **jmallozzi@osc.org**

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:

Alana C. Brenner, 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

ORLANDO SCIENCE CENTER, INC., a Florida
not for profit corporation

By: _____
Signature of Authorized Representative/Officer

Printed Name/Title

Address

Federal ID Number _____

STATE OF FLORIDA }

COUNTY OF ORANGE }

PERSONALLY APPEARED before me, the undersigned authority,
_____, [] well known to me or [] who has produced his/her
_____ as identification, and known by me to be the
_____ of the agency named above, and acknowledged
before me that he/she executed the foregoing instrument on behalf of said agency as its true act and
deed, and that he/she was duly authorized to do so.

WITNESS my hand and official seal this _____ day of
_____, 2014.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

EXHIBIT “A”

AGENCY’S SCOPE OF SERVICES FOR FISCAL YEAR 2014-2015

ORLANDO SCIENCE CENTER

PROGRAM(S) FOR WHICH FUNDING IS REQUESTED:

(Please provide specific units of service)

The Orlando Science Center (OSC) is a private, not-for-profit corporation, organized under the laws of the State of Florida. Our mission is to inspire science learning for life. Our vision is to be the community partner that fosters creativity and curiosity for science which stimulates innovation that transforms our economy and enhances lives.

The Orlando Science Center is a hands-on, informal science education institution with a 58-year history of partnership and service to local schools, educators, and lifelong learners. Designated as a major cultural organization by the State of Florida and accredited by the American Alliance of Museums (AAM), the Science Center ranks as the most popular museum destination in the region, having served more than 4.5 million guests since opening our new facility in 1997. Throughout our history, the institution has increased science and technology program offerings and watched our audiences steadily grow. The Center currently operates in a modern 207,000 sq. ft. hand-on science center facility with a parking garage, café, and other visitor amenities. OSC conducts its activities without regard to race, color, creed, sex, age, national origin, disability or marital status, in compliance with the Code of the City of Orlando and Title VII of the Civil Rights Acts of 1964, as amended, and all other applicable federal, state and local laws.

The education programs and services provided by the Orlando Science Center include the following:

1. Hosting core and touring exhibits, films, planetarium shows, and multi-media learning programs to increase general public awareness and appreciation for the importance of science education. The audience includes people of both genders, all ages, races, creed and ethnic backgrounds. The blockbuster traveling exhibit, Star Wars: Where Science Meets the Imagination, was hosted at the Science Center from October 2012-April 2013. In 2013-2014, Science for All Ages, a season of dynamic and collaborative programming, will be offered to appeal to children and adults. We will offer Sesame Street, a name-brand touring exhibit for our youngest audiences, a high tech exhibit and new late-night events for adults and our annual award-winning, teen/young adult magnet and tourist-drawing event Otronicon v.10.
2. Providing accessibility to underserved audiences enabling them to experience the Science center for free or reduced cost through our Community Accessibility Fund and other sponsored

programs. Last year, 40,000 youth and families received programming for free or reduced cost. We are reaching out to Hispanic audiences through marketing efforts and hosting traveling exhibits with labels in Spanish. To reach more low-income families, we have instituted a “Science For All” discounted membership. More than 80 families have already qualified and are taking advantage of this accessibility program.

3. Highlight local industries, including high technology business and research organizations, and explaining why these enterprises are relevant to every citizen’s daily life and important to our community’s prosperity, workforce development and lifestyles. Our annual Otronicon exhibit attracts more than 10,000 visitors, who interact with digital technologies, large scale flight and other simulators, video games and exhibitions of digital art provided by business, military, media and academic partners who represent local industry and research organizations.

4. Providing a full program of hands-on science exhibits and learning experiences for school field trips, including in-depth laboratory programs, to help improve science learning for all school children. Our program content highlights 1) PHYSICAL SCIENCES, 2) HEALTH, MEDICINE AND BIOTECHNOLOGY, 3) DIGITAL MEDIA, 4) EARTH & SPACE SCIENCES, 5) ENVIRONMENTAL SCIENCES AND ALTERNATIVE ENERGY and 6) EARLY CHILDHOOD EDUCATION. STEM field trips starting for school year 2014-2015 feature in-depth design challenges based on fundamental engineering principles. STEM field trips promote problem solving, team work and critical thinking skills. Through a partnership with the Boston Museum of Science, the Science Center qualified as an endorsed provider of Engineering is Elementary, a nationally endorsed curriculum for elementary students.

5. Delivering off-site programs with hands-on activities and engaging instruction to classes that are unable to attend the Center in person. These programs serve schools like Evans High and its feeder schools and many other Title 1 schools throughout the area.

6. Providing professional development programs and resources for current K-12 teachers to improve their content knowledge and confidence and to assist them in preparing their students for Florida’s new Common Core Curriculum.

7. Providing out-of-school and after-school programs for children. These include popular holiday and summer camp, in-depth summer academies, classes, camp-ins, outreach programs and Family Science and Family Math Night programs.

8. Collaborating with local institutions of higher education to provide internships and training for undergraduate students. A partnership with Rollins College is introducing research on early learning to Science Center guests.

9. Partnering with government agency, corporate and academic leaders who provide financial support, science/technology expertise and innumerable in-kind donations of materials and volunteers. These help us meet our mission and create interest in science, technology engineering and math (STEM) careers among children at a young age.

10. Engaging early childhood learners (ages 2-5) in science education through our preschool, exhibits, summer camps and special classes. In 2013, our preschool will expanded from two to four classrooms and will serve 67 children.

11. Providing a changing schedule of giant screen films, planetarium shows, telescope observing, traveling exhibits, lifelong learning programs and special events geared for family and adult learners.

12. Partnering with National Geographic provides outstanding educational films for showing in our recently renovated and upgraded Digital Adventure Theater. The theater now accommodates live performances, 2D or 3D educational films, Hollywood releases, HDTV and has webcasting capabilities. As a truly unique community resource, the renovated Digital Adventure Theater serves a multitude of different organizations from local arts groups to business clients.

13. Teaching audiences about energy efficient technologies using our Green Building Initiatives as the model for sustainable operations. The Science Center attained GOLD Level LEED Certification in 2012, the first existing museum in Florida to reach this goal.

14. In looking to the future, we have developed a strategic plan to guide the institution through 2015, and have completed extensive audience research and a new Visitor Experience Master Plan to direct exhibit development, the creation of new live educational programming, renovations, all to be funded through a comprehensive fundraising campaign over the next five years.

15. Operating the facility in an environmentally responsible manner. The Center was notified of our attainment of GOLD LEED Certification for our “green Building” project in 2012. Our Central Energy Plan was converted to a new high efficiency chiller system, with “smart” controls, a 31Kw solar photovoltaic power system has been installed on the roof of the CineDome and a comprehensive recycling program is in place. A complete lighting retrofit of 4,000 lamps to high efficiency fixtures has enabled the Science Center reduce energy consumption associated with lighting. The solar photovoltaic panels provide about 31,000 watts of environmentally friendly electric power for the building. Thanks to the “Green Building” project, the Science Center’s total energy costs are 55% lower than pre-retrofit usage.

16. Operating the facility approximately 320 days per year, contingent upon natural disasters or other events and circumstances beyond reasonable control, on the following normal operating schedule:

January – December

Sundays – Thursdays 10:00 am – 5:00 pm

January – May

Fridays & Saturdays 10:00 am – 5:00 pm

June – August

Fridays & Saturdays 10:00 am – 9:00 pm

September – December

Fridays & Saturdays 10:00 am – 5:00 pm

Closed Days:

Easter, Thanksgiving, Christmas Eve, Christmas Day, and Wednesdays throughout the school year (except during the run of blockbuster exhibitions, when we are open seven days a week).

EXHIBIT “B”

QUARTERLY REPORT SCHEDULE FOR FISCAL YEAR 2014-2015

Quarterly progress and financial reports for the reporting periods indicated are due in the Office of Community Affairs on the due date specified. Progress reports should include information on the amount of Funds expended and the Services provided with Funds in accordance with the requirements contained in Paragraph 4 of the Agreement. As required by the terms of the Funding Agreement, the Agency will provide documentation supporting expenditures associated with or related to the Funds. If a quarterly report due date falls on a weekend or holiday, the quarterly report shall be due to the Office of Community Affairs on the next business day.

<u>Reporting Period</u>		<u>Due Date</u>
First Quarter	Oct. 1 to Dec. 31	January 15th
Second Quarter	Jan. 1 to Mar. 31	April 15th
Third Quarter	Apr. 1 to June 30	July 15th
Fourth Quarter	July 1 to Sept. 30	Oct. 15th

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

City of Orlando
Office of Community Affairs
ATTN: Julie Tindall, Community Outreach Coordinator
P. O. Box 4990
Orlando, Florida 32802-4990
E-MAIL: CRP@cityoforlando.net
FAX: (407) 246-3508

Agency acknowledges and understands that the quarterly reports required by this Agreement are a material provision of the Agreement and that the failure of Agency 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 Agency until such report is filed in form and content acceptable to the City.