

**TINY GREEN HOME AGREEMENT  
BETWEEN THE CITY OF ORLANDO, ORLANDO UTILITIES COMMISSION AND  
THE ORLANDO SCIENCE CENTER**

**This TINY GREEN HOME AGREEMENT** (hereinafter referred to as “Agreement”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the CITY OF ORLANDO, a municipal corporation organized and existing under the laws of the State of Florida, whose address is 400 S. Orange Avenue, Orlando, FL 32801(hereinafter referred to as the “CITY”), the ORLANDO UTILITIES COMMISSION, of the City of Orlando, and existing under the laws of the State of Florida, with its administrative offices at 100 W. Anderson Street, Orlando, FL 32801(hereinafter referred to as “OUC”) and ORLANDO SCIENCE CENTER, INC. a non-profit Florida corporation, with principal offices located at 777 E. Princeton Street, S. Orlando, FL 32803 (hereinafter referred to as “OSC”). CITY, OUC and OSC may hereinafter also be jointly referred to as the “Parties” or individually as a “Party.”

**WHEREAS**, CITY launched its Green Works Orlando Community Action Plan to strategize and implement sustainability initiatives that would help Orlando reach its established 2040 goals; and

**WHEREAS**, CITY and OUC are committed to addressing climate change and promoting a sustainable future and providing educational information to the community; and

**WHEREAS**, OSC is developing and installing LIFE, an all-new conservation exhibit at OSC; and

**WHEREAS**, CITY, OUC and OSC desire to construct a Tiny Green Home exhibit for community outreach and education in support of their programs (“Tiny Green Home”); and

**WHEREAS**, CITY and OUC agree to provide sponsorship funding to develop, construct and maintain the Tiny Green Home; and

**WHEREAS**, OSC desires to provide design support and host the Tiny Green Home as part of its exhibits at the Orlando Science Center; and

**WHEREAS**, the CITY, OUC and OSC desire to enter into this Agreement in order to more fully set forth the understanding and responsibilities of the Parties in order to successfully achieve this joint endeavor.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CITY, OUC and OSC agree as follows:

1. **Recitals Incorporated.** All of the recitals contained herein are true and correct, and are incorporated herein and made a part hereof by this reference.

2. **Effective Date and Term of Agreement.** This Agreement shall commence on \_\_\_\_\_ 2020 (“Effective Date”), and shall remain in effect for two (2) full operating years, beginning on the date the Tiny Green Home opens to the public.

3. **Design-Build**

3.1 **Content:** CITY and OUC will play a central role in determining content areas to be included. Included content will prioritize OUC renewable energy, energy efficiency, electric vehicles and water conservation program offerings to Residential customers. Secondary content will include CITY Greenworks program offerings to residents in waste, waste water treatment, food and livability. OSC will lead the process of designing effective displays, and messaging to promote these programs.

3.2 **Design-Build process:** The design of the Tiny Green Home will be a collaborative process, allowing for input by the three parties throughout. Check-ins will be held at 30%, 50% and 90% design completion.

3.3 **Procurement:** OSC shall procure the design and build contractor for the Tiny Green Home (also sometimes referred to as “Exhibit”) by December 1, 2020. If OSC cannot, or does not complete procurement by the deadline, then this Agreement shall automatically terminate, unless an extension is agreed upon, in writing, by the Parties. In the event the Agreement is terminated under this Section 3.3, sponsorship funding will be returned to the CITY and OUC within thirty (30) days.

4. **Financial Contribution.**

4.1 **Procurement Cost:** The costs for procurement of the Tiny Green Home will be funded by OSC.

4.2 **Sponsorship:** The cost for the design and construction of the Tiny Green Home will be sponsored equally by CITY and OUC in a total amount of one hundred thousand dollars (\$100,000.00) in the aggregate. The total maximum sponsorship funding from CITY and OUC individually will be fifty thousand dollars (\$50,000.00) each. OUC and CITY sponsorship funds will be remitted to OSC within thirty (30) days of the Effective Date of this Agreement. Any amount in excess of one hundred thousand dollars (\$100,000.00) shall be paid by OSC, or an additional sponsor(s) as agreed upon by consensus of the Parties. Any unused sponsorship funds remaining thirty (30) days following the date that the Exhibit opens to the public, shall be returned in equal amounts to the CITY and OUC by OSC within one hundred (100) days after the opening date. Sponsorship funds shall be segregated by OSC from other OSC capital and operating funds so that an accounting can be performed if requested by OUC or the CITY.

4.3 **Site Preparation and Housing:** In addition to the sponsorship detailed in Section 4.2, CITY will be responsible for site preparation for the Exhibit, not to exceed twenty thousand dollars (\$20,000). OSC will host the Tiny Green Home as an exhibit at the Orlando Science Center at no cost to either CITY or OUC.

#### 4.4 Operation & Maintenance (O&M) Costs; Maintenance:

4.4.1 In addition to the sponsorship detailed in section 4.2, OUC will provide ongoing sponsorship funds for O&M costs for two (2) years as follows: 1.) twenty-four thousand five hundred dollars (\$24,500.00) for the first year of operation, commencing the first day the Exhibit is open to the public ; and 2.) twenty-five thousand eighty-five dollars (\$25,085.00) for the second year of operation. This amount is intended to cover staffing at peak hours, maintenance, supplies and materials. Any O&M costs in excess of OUC contribution shall be the responsibility of OSC. Annual O&M sponsorship funds will be remitted by OUC to OSC within the first thirty (30) days of the year covered, the first year commencing the first day the Exhibit is open to the public and to be three hundred sixty five (365) days in duration.

4.4.2 OSC shall maintain the functional capacity of the Exhibit, including but not limited to trailer hitch, lights, tires, etc.

4.4.3 If maintenance is required to deploy the Exhibit to a CITY or OUC event, the CITY or OUC have the option to provide the maintenance and bill OSC, not exceeding \$1,000 per event. If the cost to repair will exceed \$1,000, CITY or OUC must provide a repair cost quote to OSC prior to maintenance or repair being performed. OSC shall pay the maintenance fee within sixty (60) days after receipt of an invoice from CITY and/or OUC.

4.4.4 OSC will secure, maintain, and follow-through on warranty related issues. The initial warranty shall cover a minimum of one (1) year.

4.4.5 At the end of two (2) years after the first day the Exhibit is open to the public, the OSC shall have the discretion to continue operating the Exhibit at its own expense, or the CITY or OUC may determine if they will provide additional O&M funding to OSC, which shall require a written amendment to this Agreement. If no Party decides to continue the operation of the Exhibit on-site at OSC, OSC shall transfer ownership to OUC and secondarily the CITY, allowing the receiving Party to continue deploying the Tiny Green Home to community events. Title shall be transferred within sixty (60) days after a determination has been made to transfer ownership. The risk of property damage loss of the Tiny Green Home shall transfer at the same time as title is transferred. Should neither OUC nor the CITY wish to take ownership, OSC shall be responsible for disposal of the Exhibit. If either OUC or CITY take ownership of the Tiny Green Home or if OSC disposes of the Exhibit within sixty (60) days after the two (2) years set forth in this Section 4.4.5, then OUC and CITY will be responsible for equally sharing the costs of returning the Exhibit's parking pad to its previous condition by removing the concrete pad and restoring the turf, not to exceed \$5,000 per Party.

4.5 Deployment Costs: The Party requesting deployment pursuant to the procedures established in section 5.2.1, shall pay all related costs of deployment. The Party deploying the Exhibit will be responsible for any damage to the Exhibit while it is deployed, subject to Sections 7 and 8 of this Agreement.

5. Operational Status. The Tiny Green Home will be categorized as “Stationary” or “Deployed”, as follows:

5.1 Stationary: OSC will host the Tiny Green Home on-site at the Orlando Science Center located outside the building. While on-site at OSC in “Stationary” mode, the OSC shall provide necessary staffing to provide visitor access to the Tiny Green Home. OSC shall provide access to visitors, which will include entrance to six (6) programming hours per day on peak attendance days, with Exhibit tours provided by at least one OSC staff member.

During non-operating hours, OSC will close and secure the Tiny Green Home.

5.2 Deployed: CITY and can deploy the Tiny Green Home as set forth in Section 5.2.1 below. Deployments can be co-facilitated by any combination of Parties or facilitated by a single Party.

5.2.1 Deployment reservations shall be made as follows: By September 30th of each calendar year, the CITY and OUC will schedule up to twelve aggregate events for deployment for the following operating year. OUC shall choose three dates, and the City shall then pick three and then the two parties will alternate to select the remaining six available deployment dates. . After the initial deployment schedule is set, either party can cancel or change deployment dates, by giving sixty (60) days written notice to the other Parties.”

6. Branding and Marketing. As sponsors, OUC and CITY shall receive branding and marketing rights including but not limited to the following: the use of the phrase “OUC — *The Reliable One* and the City of Orlando” shall be included in all mentions of the Tiny Green Home, and prominent OUC and City of Orlando logos shall be displayed on the Exhibit, website, and other marketing materials. Although referenced herein as Tiny Green Home, OSC will have the discretion to name the Exhibit, subject to reasonable agreement by CITY and OUC.

7. Insurance. Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, CITY and OUC acknowledge they are self-insured for General Liability and Automobile Liability with coverage limits of as set forth in Section 768.28, Florida Statutes. CITY and OUC agree to maintain commercial insurance or to be self-insured for Workers’ Compensation & Employers’ Liability in accordance with Florida Statute 440. Upon request, CITY and OUC shall provide an affidavit or Certificate of Insurance evidencing self-insurance or commercial insurance up to sovereign immunity limits, which the Parties agree to find acceptable for the coverage mentioned above.

OSC at its sole cost and expense shall at all times during the Term maintain All-Risk property insurance in an amount not less than replacement value for the Tiny Green Home. as well as commercial general liability insurance in the amount of not less than \$1,000,000 Combined Single Limits for bodily injury and/or property damage. The insurance required to be maintained by OSC shall name CITY and OUC as additional insureds for the Tiny Green Home.

Each Party shall, upon the request of the other, from time to time, provide reasonable evidence of the coverage required under this section, showing the requesting Party's insured status. Any Party's failure to request proof of insurance or to identify any deficiency in coverage or compliance with the foregoing requirements shall not relieve any other Party of its liability and obligations under this Agreement.

The Parties shall require any contractors performing work subject to this Agreement to procure and maintain workers' compensation, commercial general liability and business auto liability coverage in the amounts of \$1,000,000 per occurrence of bodily injury or property damage and a minimum of \$2,000,000 annual aggregate.

8. **Indemnification and Hold Harmless.** To the extent permitted by Florida law and without waiving sovereign immunity, each Party to this Agreement shall indemnify and hold harmless the other Party(ies) and their officers, directors, agents, employees, elected and appointed officials and owners from and against any and all demands, claims, damages to persons or property, losses, and liabilities, including reasonable attorneys' fees (collectively, "Claims"), arising solely out of or solely caused by the indemnifying Party's negligence or intentional misconduct, their contractors or subcontractors, in connection with this Agreement. Notwithstanding the foregoing, the Parties shall not waive any statutory limitations of liability available to them, nor shall they waive any defenses the Party may have with respect to any Claim. The limited waiver of sovereign immunity as currently set forth in Section 768.28, Florida Statutes, for tort actions brought against CITY and OUC shall be applicable to any claim or action brought pursuant to the foregoing indemnity provision, even if said claim or action sounds in contract rather than tort. Nothing in this Agreement shall inure to the benefit of any third party to allow a claim otherwise barred by sovereign immunity or other operation of law. This Section 8 shall survive the expiration, cancellation or termination of this Agreement.

9. **Title and Risk of Loss.** Title and ownership of the Tiny Green Home will be held by OSC, which shall bear the risk of loss, unless transferred pursuant to Section 4.4.5.

10. **Insurance Proceeds; Requirement for Disbursement.** Any insurance proceeds paid pursuant to the OSC Property Insurance Policy with respect to a claim or casualty to the Tiny Green Home shall be applied to the payment of the costs to repair or replace the Exhibit. In the event the Exhibit is not repaired or replaced, any insurance proceeds shall be equally split by the Parties.

11. **Release of Liability.** The Parties agree that once OSC takes control of the Tiny Green Home, any maintenance and repair to it shall be the OSC's sole responsibility.

12. **Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing addressed to the Parties at their addresses set forth above to the attention Harmonie Wilson, Sr. Marketing and Communication Coordinator for OUC, Chris Castro, Director, Office of Sustainability & Resilience and David Billingsley, Chief Procurement Officer, for the CITY, and Brandan Lanman, Vice President of Visitor Experience, for OSC, or at such other address as a Party may designate in writing to the other hereafter. Said notices or communication may be personally served, faxed or sent by overnight courier or U.S. mail and shall be deemed given as follows: (a) if served in person, when served; (b) if faxed, on the date of transmission if on a business day and between business the business hours of 8:00 a.m. and 5:00 p.m., otherwise on the next business day; provided that a hard copy of such notice is also sent by overnight courier or U.S. Mail pursuant to the provisions in this paragraph; (c) if by overnight courier on the first business day after delivery to the courier within the drop-off deadline for the courier; or if (d) by U.S. mail , certified or registered mail, return receipt requested on the fourth day after deposit in the mail postage pre-paid.

13. **Default and Termination.**

13.1 **Default.** In the event of a material default by any Party hereto, the other Party(ies) shall have the right to terminate this Agreement prior to the expiration of this Agreement and may pursue any and all legal and equitable rights and remedies under the laws of the state of Florida. Default shall be deemed to have occurred upon breach of any of the conditions set forth herein and a failure to cure said breach within thirty (30) days after written notice from another Party. Without waiving the foregoing rights and remedies by OUC and CITY, in the event of default by OSC, the sponsorship funds will be returned to OUC and CITY within thirty (30) days after the date the default period has passed, on a pro-rate basis, calculated by using the number of months the Tiny Green Home was open to the public prior to the default, based on a twenty-four (24) month open to the public use period. For example, if the Tiny Green Home is open to the public zero (0) months, then 100% of the sponsorship funds shall be returned; if the Tiny Green Home is open to the public for twelve (12) months prior to default, then 50% of the sponsorship funds shall be returned.

13.2 **Termination.** The Parties agree not to terminate this Agreement until all responsibilities and obligations of the Parties as stated herein have been satisfied, unless mutually agreed to by the Parties, in writing. In the event the Agreement is terminated, the sponsorship funds will be returned to OUC and CITY, within thirty (30) days after the date of termination, on the same pro-rata basis as set forth in Section 13.1.

14. **General Provisions.**

a) **Amendments.** Any Party may request changes to this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the Parties to this Agreement shall be incorporated by written instrument, and effective when executed and signed by all Parties to this Agreement.

b) **Applicable Law.** This Agreement will be construed in accordance with the laws of the State of Florida. Venue shall be in any court of competent jurisdiction located in Orange County, Florida.

c) **Entirety of Agreement.** This Agreement constitutes the entire understanding between the Parties and supersedes all prior agreements and understandings whether written or oral and has been jointly drafted and prepared.

d) **Status of Independent Contractor.** The Parties hereto deem the CITY OUC, and OSC to be independent contractors for the purposes of this Agreement and not as agents of the other. Each of the Parties is independent and neither of them are an agent of, nor has the authority to bind, another Party for any purpose. No Party shall bind the other, or represent that it has the authority to do so.

e) **Disclaimer Related to Governmental Authority.** Nothing in this Agreement binds or compels the CITY to exercise or to refrain from exercising its police powers and other governmental powers in any manner. The CITY retains all its governmental prerogatives and discretion, and nothing herein shall cause any impediment thereto.

f) **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue under or by reason hereof to or for the benefit of any third party.

g) **Assignment.** This Agreement may not be assigned or transferred by any of the Parties hereto without the prior written consent of the other Parties.

h) **Non-waiver.** The failure of a Party to insist upon another Party's compliance with its obligations under this Agreement in any one or more instances shall not operate to release the other Party from its duties to comply with such obligations in all other instances.

i) **Severability.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effective. To that end, this Agreement is declared severable.

15. **Signatures.** In witness whereof, the parties to this Agreement through their duly authorized representatives have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

**SIGNATURES ON FOLLOWING PAGES.**

CITY OF ORLANDO, FLORIDA,

By: \_\_\_\_\_  
David Billingsley, CPSM, C.P.M.  
Chief Procurement Officer

Executed on: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020, by DAVID BILLINGSLEY, as Chief Procurement Officer, of the City of Orlando, Florida.

\_\_\_\_\_  
Notary Public Signature  
Print, Type or Stamp Name of Notary: \_\_\_\_\_

(Affix Notary Stamp or Seal)

\_\_\_\_\_  
Personally Known or \_\_\_\_\_ Produced Identification  
Type of Identification Produced \_\_\_\_\_

FOR THE USE AND RELIANCE OF  
CITY OF ORLANDO ONLY.

Approved as to form and legality,

\_\_\_\_\_  
Assistant City Attorney  
City of Orlando, Florida

**SIGNATURES CONTINUE NEXT PAGE**



**ORLANDO UTILITIES  
COMMISSION**

By: \_\_\_\_\_  
Clint Bullock  
General Manager and CEO  
Executed on:

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Beth Mason, Secretary

STATE OF FLORIDA  
COUNTY OF ORANGE:

The foregoing instrument was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020, CLINT BULLOCK, as General  
Manager and CEO, and BETH MASON, as Secretary, of, the Orlando Utilities Commission.

\_\_\_\_\_  
Notary Public Signature  
Print, Type or Stamp Name of Notary: \_\_\_\_\_

(Affix Notary Stamp or Seal)

\_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_  
Personally Known or \_\_\_\_\_ Produced Identification

FOR THE USE AND RELIANCE OF  
OUC ONLY.

Approved as to form and legality,

\_\_\_\_\_

**SIGNATURES CONTINUE NEXT PAGE**

**ORLANDO SCIENCE CENTER, INC.,**  
a non-profit Florida Corporation

By: \_\_\_\_\_  
Craig Meyer, Chief Financial Officer

Executed on:  
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020, by CRAIG MEYER, as Chief  
Financial Officer, of the Orlando Science Center.

\_\_\_\_\_  
Notary Public Signature  
Print, Type or Stamp Name of Notary: \_\_\_\_\_

(Affix Notary Stamp or Seal)

\_\_\_\_ Personally Known or \_\_\_\_\_ Produced Identification  
Type of Identification Produced \_\_\_\_\_