


TO: Mayor Jerry L. Demings
-AND -
County Commissioners

FROM: Fred Winterkamp, Fiscal & Business Services Division Manager 

DATE: November 1, 2021

RE: **Consent Agenda Item - November 16, 2021**
Tourist Development Tax Grant Application Review Committee Funding Agreement 2021 Amendment for Orlando Science Center

On November 29, 2016, the Board of County Commissioners (“Board”) adopted Ordinance No. 2016-30 (“Ordinance”), which amended the County’s Tourist Development Plan to authorize funding from available unallocated Tourist Development Tax (TDT) revenue for legally authorized capital projects and events pursuant to a grant application process set forth in Section 25-147 of the Orange County Code (Code). Pursuant to the Ordinance, on October 31, 2017, the Board adopted Resolution No. 2017-M-44, which established the Tourist Development Tax Grant Application Review Committee (ARC) to serve in an advisory capacity to the Board by evaluating applications for excess TDT revenue funding pursuant to established application review criteria and to make recommendations on same.

At its March 15, 2019 meeting, the ARC considered an application from the Orlando Science Center for excess TDT revenue and performed an evaluation of the proposal. Orlando Science Center requested up to \$10,000,000 toward construction of the “Life” project at the Orlando Science Center. Following its evaluations of the grant application, the ARC approved recommending the funding request to the Orange County Tourist Development Council (TDC). On March 27, 2019, the TDC approved recommending the funding request to the Board. Then, on April 23, 2019, the Board approved the funding request recommended by ARC and TDC and directed staff to develop a funding agreement. Orlando Science Center and Orange County have executed that funding agreement.

The use of TDT revenues for auditoriums and museums like the Orlando Science Center is authorized pursuant to section 125.0104(5)(a)1.b. and c., Florida Statutes, respectively. The Comptroller disburses TDT funds in accordance with the terms of the funding agreement. Orlando Science Center is now proceeding with the “Life” project, but due to the impacts of COVID-19, it is necessary to allow additional time to complete the project. The 2021 amendment to the Orlando Science Center funding agreement will simply extend the time to complete the project which is already in progress.

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If you have any questions, please contact me at (407) 836-2920.

ACTION REQUESTED:

Approval and execution of Amendment to Agreement between Orange County, Florida and Orlando Science Center, Inc. *Life* exhibit at the Orlando Science Center (777 E. Princeton Street, Orlando FL 32803)

FMW

C: Byron Brooks, County Administrator
Jeffrey Newton, County Attorney
Darren Gray, Deputy County Administrator
Katherine Latorre, Senior Assistant County Attorney
JoAnn Newman, President & CEO, Orlando Science Center

AMENDMENT TO AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
ORLANDO SCIENCE CENTER, INC.

***LIFE* EXHIBIT AT THE ORLANDO SCIENCE CENTER**
(777 E. Princeton Street, Orlando, FL 32803)

THIS AMENDMENT TO AGREEMENT (“Amendment”), is made and entered into as of the date of last execution below, by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida (“County”), and ORLANDO SCIENCE CENTER, INC., a not-for-profit corporation organized and existing under the laws of the State of Florida (“Science Center”).

WITNESSETH:

WHEREAS, the County currently collects the tourist development taxes authorized by Section 125.0104(3)(c), (d), and (m), Florida Statutes (“Tourist Development Tax” or “TDT”), and authorized uses of such Tourist Development Tax include the construction and extension of museums that are owned and operated by not-for-profit organizations and open to the public within the county in which such tax is levied; and

WHEREAS, on November 29, 2016, the Orange County Board of County Commissioners (“Board”) adopted Ordinance No. 2016-30 (“Ordinance”), which amended the Tourist Development Plan to authorize funding from legally available unallocated TDT revenue for legally authorized capital projects and events pursuant to a grant application process set forth in Section 25-147 of the Orange County Code (“Code”); and

WHEREAS, pursuant to the Ordinance, the Science Center applied for a grant for the design and construction of *Life*, the Science Center’s new, permanent nature and environment exhibit hall; and

WHEREAS, on June 18, 2019, following evaluation and recommendation for approval by the TDT Application Review Committee and the Tourist Development Council, the Board of County Commissioners approved an Agreement with the Science Center pursuant to which the County agreed to contribute \$10,000,000.00 of TDT revenue toward the design and construction of *Life*, the Science Center’s new, permanent nature and environment exhibit hall (“Agreement”); and

WHEREAS, the terms of the Agreement require the Science Center to complete the construction of the *Life* Exhibit within three (3) years of the date of the Agreement; and

WHEREAS, following the Science Center's completion of the project design, the worldwide COVID-19 pandemic impacted the County's tourist development tax funding and caused disruptions throughout the community; and

WHEREAS, given the universal and extraordinary hardships and delays caused by the COVID-19 pandemic, the County desires to provide the Science Center additional time to complete the construction of the *Life* Exhibit.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the County and Science Center agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated herein and made a part of this Amendment.

2. Amendment to Section 13(a) of the Agreement. Section 13(a) of the Agreement shall be stricken in its entirety and shall instead read as follows:

13. Default by Science Center. The occurrence of any of the following constitutes an Event of Default by Science Center:

(a) Science Center's failure to complete construction of the *Life* Exhibit within five (5) years from the date of this Agreement;

3. Other Terms and Conditions; Conflict. Any terms and conditions of the Agreement not expressly modified by this Amendment shall remain in full force and effect. In the event of any conflict between the terms and conditions of the Agreement and this Amendment, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the parties have executed this Amendment as indicated below:

[EXECUTION PAGE FOLLOWS]

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*
Jerry L. Demings
Orange County Mayor

Date: 16 Nov 21

ATTEST:

Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Nelson Pery*
Deputy Clerk



ORLANDO SCIENCE CENTER, INC.

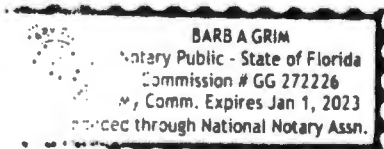
By: *John Newman*
Its: PRESIDENT + CEO
Date: 10/26/21

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 26th day of October, 2021 by JoAnn Newman, as President/CEO of Orlando Science Center, Inc., a Florida not-for-profit corporation, personally known to me, or who has produced _____ as identification, and did (did not) take an oath, the individual and officer described in and who executed the foregoing conveyance and acknowledged the execution thereof to be his/her free act and deed as such officer thereunto duly authorized, and that the official seal of said corporation is duly affixed thereto, and the said conveyance is the act and deed of said corporation.

Witness my hand and official seal this 26th day of October, 2021.

(Notary Seal)



Barb A Grim
Notary Signature