APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: October 30, 2018

Agreement
between
Orange County, Florida and OnePULSE Foundation, Inc.
regarding
Pulse Museum TDT Funding

This Agreement ("Agreement") is entered into by and between Orange County, Florida, a charter county and political subdivision of the State of Florida, with a principal address of 201 South Rosalind Avenue, Orlando, Florida ("County") and OnePULSE Foundation, Inc. a not for profit corporation organized under the laws of the State of Florida, with a principal address of 1223 E. Concord Street, Orlando, Florida 32803 ("Foundation").

RECITALS

WHEREAS, members of the Central Florida community have formed the Foundation to build and operate (i) a memorial with associated amenities, improvements and infrastructure, including, without limitation, parking areas, open space, event space and gift shop or the like for the sale of related merchandise (collectively, the "Memorial") where visitors can grieve the June 12, 2016 mass shooting at the Pulse nightclub located in downtown Orlando ("Pulse") and pay their respects; and (ii) a museum with associated amenities, improvements and infrastructure, including, without limitation, parking areas, open space, event space and gift shop or the like for the sale of related merchandise (collectively, the "Museum") where visitors will learn the history of one of the largest mass shootings in modern American history and the attack on the LGBTQ and Latino community; and

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 acquisition of property for construction and operation of museums and architectural and design fees and costs for the construction 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, pursuant to County Ordinance No. 2016-30, the County has amended the Tourist Development Plan to provide funding from excess 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 (the "Code"); and

WHEREAS, the Foundation applied for TDT capital funding to acquire property for the Museum and to pay design and architectural fees and costs, as well as engineering fees and costs reasonably necessary in connection with the design and architectural efforts (collectively, "Design Costs") associated with construction of the Museum and plans to receive additional funding for construction and operation of the Museum from a combination of funding sources other than the County; and

WHEREAS, on September 17, 2018 the County's TDT Application Review Committee ("ARC") evaluated the Foundation's application and recommended approval to the Tourist Development Council ("TDC"); and

WHEREAS, on September 21, 2018 the TDC recommended approval of the Foundation's application.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, the County and the Foundation agree as follows:

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

2. **County Contribution.** Subject to all terms and conditions set forth in this Agreement, the County agrees to contribute a total aggregate amount not to exceed ten million dollars ($10,000,000) (the "County Contribution") solely from Excess TDT Revenue as follows:

Fiscal Year 2017-18 $4,000,000
Fiscal Year 2018-19 $3,000,000
Fiscal Year 2019-20 $3,000,000

"Excess TDT Revenue" for purposes of this Agreement shall mean those TDT revenues appropriated by the Board of County Commissioners ("Board") in 2018 in the amount of $8,000,000 per year beginning in Fiscal Year 2017-18 through Fiscal Year 2022-23 for capital projects that apply for funding to the ARC pursuant to Section 25-147 of the Code.

3. **Restrictions on Use of County Contribution.** The Foundation shall use the County Contribution only to pay costs of acquisition of the Property (as defined below) and Design Costs for the Museum in accordance with Section 125.0104(5)(a)(1)(c) Florida Statutes. Disbursement of such County Contribution is further subject to the terms and conditions set forth in Section 5 hereof. The County Contribution shall not be used for and the County shall not be responsible for: any construction costs other than Design Costs; construction cost overruns; operating costs; or maintenance costs of any type whatsoever in connection with the construction or operation of the Museum. Furthermore, the County Contribution shall not be used or pledged to secure any debt whatsoever.

4. **Limitations on County's Obligation.** The County's obligation to make the County Contribution shall not constitute a lien on Tourist Development Taxes and will not be on parity with any existing or future debt of the County. The obligations of the County under this Agreement are limited solely to Excess TDT Revenue and no general fund revenues or other funds whatsoever of the County are obligated. Nothing provided herein shall obligate or require the County to levy any ad valorem taxes, fees or assessments whatsoever. This Agreement and any payments provided for in this Agreement are contingent upon the availability of Excess TDT Revenues derived from the tax levied under Section 25-136 of the Code and made available under Section 25-147 of the Code to make the payments hereunder. The County shall not cause such Excess TDT Revenues to be unavailable as a result of dilution of the funds made available through the application process set forth in Section 25-147 of the Orange County Code through funding other projects through such process.

5. **Disbursement of County Contribution.**

a. **Property Acquisition.**

(i) Contingencies. The County's obligation to disburse any portion of the County Contribution for Property acquisition is contingent upon and subject to those matters specifically set forth hereinafter in this subsection 5.a(i) (each, a "Contingency", and collectively the "Contingencies"):

(1) The Property. The property proposed for acquisition by the Foundation as the site for the Museum shall include all or any portion of the land proposed to the County as well as other land in the general vicinity thereof, which shall be within one-half (1/2) mile of Pulse and not less than one (1) total acre in size (which minimum size requirement shall be applied to the aggregate size of all Parcels (hereinafter defined) together, in the event that the Property is acquired as an "assemblage" as described in subsection 5.a(v) below). For purposes of this paragraph, distance shall be measured "as the crow flies" from the centroid of the Pulse site to the furthest point of the Property. Prior to the Closing, the Foundation shall confirm which land it proposes to acquire for the Museum and that shall be referred to herein as the "Property". Notwithstanding the foregoing, in no event shall any portion of the Pulse site at 1912 South Orange Avenue, Orlando, Florida, 32801 (presently bearing Orange County Property Appraiser's Parcel Identification Number 02-23-29-3828-01-040) constitute part of the Property.

(2) Contract. Prior to entering into and executing the same, the Foundation shall provide to the County a copy of the purchase and sale agreement to acquire the Property (the "Contract") that the Foundation proposes to enter into with the then owner of the Property (the "Seller") and the County shall have approved such Contract; provided, however, that the County's review of such Contract shall be limited to: (w) evaluating the commercial reasonableness of its terms; (x) confirming that the Contract does not contain any terms or provisions inconsistent with this Agreement; (y) ensuring that the time periods, including the feasibility or inspection period, set forth in the Contract are adequate to allow the Foundation to undertake those due diligence activities required by this Agreement and to allow the Foundation to satisfy all Contingencies with the time periods established by this Agreement; and (z) verifying that the Contract provides for the deed of conveyance to the Foundation to include the Restrictive Covenants (hereinafter defined). The Manager of the Orange County Real Estate Management Division ("REM Division") is hereby authorized, on behalf of the County, to approve of the Contract pursuant to this paragraph.

(3) Title Commitment. No less than forty-five (45) days prior to the conveyance of the Property to the Foundation and the closing of the transaction contemplated by the Contract (the "Closing"), the Foundation shall deliver (or shall cause to be delivered) to the County, at no cost or expense to the County, a current title insurance commitment and a copy of all exceptions referred to therein (the "Title Commitment") issued by a Florida licensed title insurer reasonably acceptable to the County (the "Title Company"), which Title Commitment shall, upon satisfaction of the requirements specified on Schedule B, Section I, of such Title Commitment (the "Requirements"), obligate the Title Company to issue to the Foundation an ALTA title insurance policy (in the form approved for issuance in the State of Florida) insuring the Foundation's fee simple title to the Property in an amount not less than the

purchase price of the Property set forth in the Contract (the "Purchase Price"). The Manager of the Orange County Real Estate Management Division ("REM Division") is hereby authorized, on behalf of the County, to approve of the Title Commitment pursuant to this paragraph.

(4) Title Policy. At or prior to the Closing, the Foundation shall have provided (or shall have caused to be provided) to the County, at no cost or expense to the County, and the County shall have approved a "marked-up" version of the Title Commitment ("Marked-Up Commitment") that: (i) unconditionally obligates the Title Company to issue an owner's policy to the Foundation in an amount not less than the Purchase Price (the "Title Policy"); (ii) reflects that all Requirements have been satisfied or deleted; (iii) reflects that all standard exceptions contained in Section B, Section II, of the Title Commitment have been deleted; and (iv) insures the Foundation's fee simple title to the Property free and clear of all liens, claims, assessments, easements, reservations, restrictions, encumbrances, and other matters of record whatsoever, except for matters of record acceptable to the County, if any. The Manager of the REM Division is hereby authorized, on behalf of the County, to approve the Marked-Up Commitment pursuant to this paragraph.

(5) Survey. No less than thirty (30) days prior to the Closing, the Foundation shall have provided (or shall have caused to be provided) to the County, at no cost or expense to the County, a current (within three (3) months of the Closing) boundary survey of the Property (the "Survey"), and the County shall, prior to the Closing, have approved the Survey as not containing any encroachments, easements, boundary overlaps, or other matters objectionable to the County. The Survey shall: (v) be prepared by a licensed Florida registered land surveyor (the "Surveyor") in accordance with the minimum technical requirements and standards promulgated by the Florida Board of Professional Surveyor and Mappers, Chapter 5J-17, of the Florida Administrative Code, Section 472.027, Florida Statutes, and ALTA/NSPS Land Title Survey Standards; (w) include a metes and bounds legal description of the Property; (x) be in the form required by the Title Company to delete the standard survey objections in the Title Commitment; (y) show all improvements, setbacks, easements, encroachments, or overlaps on the Property and all matters affecting title which are capable of being shown on the Survey and are set forth in the Title Commitment; and (z) at a minimum, be certified to the following parties: the Foundation, the County, and the Title Company. The Manager of the REM Division, after consultation with the County Surveyor or his designee, is hereby authorized, on behalf of the County, to approve the Survey pursuant to this paragraph.

(6) Environmental Assessments. No less than forty-five (45) days prior to the Closing, the Foundation shall submit (or cause to be submitted) to the County, at no cost or expense to the County, a Phase I environmental audit of the Property (the "Phase I ESA") and the County shall have approved the Phase I ESA. The Phase I ESA shall be conducted in accordance with the requirements of the Appropriate Inquiries Final Rule, or with the standards set forth in the American Society for Testing and Materials (ASTM) E-1527-13. In the event the Phase I ESA presents a matter of concern, as determined by the County, then the Phase I ESA will not be approved by the County and, prior to the Closing, the Foundation shall submit (or cause to be submitted) to the County, at no cost or expense to the County, one or more Phase II environmental audits of the Property (the "Phase II ESAs") – or other documentation or information acceptable to the County in its sole discretion which satisfies the County's concern – and the County shall have approved the Phase II ESAs or such other

documentation or information. If any Phase II ESA is performed and reveals the likelihood of need for remediation to the Property, then the Phase II ESAs will not be approved by the County and, prior to the Closing, one of the following events shall occur: (i) the Foundation shall remediate the Property (or cause the Property to be remediated) to the County's satisfaction; or (ii) the Foundation and the County shall mutually approve a plan for the Foundation to pay the full cost of remediation, and to complete such remediation to the County's satisfaction, within a set time following the Closing. The Phase I ESA and the Phase II ESAs must be current (within six (6) months of the Closing) and expressly certified to the County for the County's use and reliance. The Manager of the Orange County Risk Management Division is hereby authorized, on behalf of the County, to approve of matters requiring the County's approval, and to furnish notices pursuant to, this paragraph.

(7) Section 286.23, Florida Statutes. The Foundation shall submit (or cause to be submitted) to the County, at no cost or expense to the County, a "Disclosure of Beneficial Interests" pursuant to Section 286.23, Florida Statutes, (an "Affidavit") executed by the Seller.

(8) Appraisals. No less than forty-five (45) days prior to the Closing, the Foundation shall submit (or cause to be submitted) to the County, at no cost or expense to the County, two (2) real estate appraisals of the Property (each, an "Appraisal" and together, the "Appraisals") and the County shall, prior to the Closing, have accepted the Appraisals. Each Appraisal shall: (w) be prepared by an MAI appraiser retained and paid for by the Foundation (the "Appraiser"), which MAI appraiser either appears on the County's list of approved appraisers maintained by the REM Division or is otherwise acceptable to the County; (x) meet the Uniform Standards of Professional Appraisal Practice and name the County as an Intended User; (y) shall report current market value of the real property based on its highest and best use; and (z) shall not consider any increase or decrease in market value due to events occurring at Pulse and shall not be based upon any extraordinary assumptions, hypothetical conditions, or special instructions, unless approved in advance by the County in writing. The County's acceptance of the Appraisals shall be evidenced by issuance of one or more review appraiser's statements, prepared by staff of the REM Division, concluding that the Appraisals meet current Uniform Standards of Professional Appraisal Practice and Orange County procedures. The Foundation acknowledges that in connection with the County's review of the Appraisals, and as a condition precedent to the REM Division's issuance of one or more review appraiser's statements, it may be necessary for the REM Division to discuss the County's questions, comments, and/or concerns on the Appraisals with the Appraisers and/or that the County may require clean-ups, corrections, and/or revisions to such Appraisals. The Foundation hereby authorizes the County to meet, discuss, and consult with the Appraisers for the foregoing purposes, and the Foundation shall be solely responsible for all costs and fees of the Appraisers. The Manager of the REM Division is hereby authorized, on behalf of the County, to approve, pursuant to this paragraph, of Appraisers not appearing on the County's list of approved appraisers maintained by the REM Division.

(9) Purchase Price Cap. The Purchase Price may not exceed the amount that is ten percent (10%) greater than the value of the Property established by the County-approved Appraisal having the higher valuation of the Property (the "Purchase Price Cap").

(10) Permissibility Analysis. Prior to the Closing, the Foundation shall have provided (or shall have caused to be provided) to the County, at no cost or expense to the County, written documentation evidencing to the County's reasonable satisfaction both: (i) that development and operation of the Museum on the Property is either permitted under any applicable land use or zoning classification or possible to be made permitted without extraordinary cost; and (ii) that there exists one or more concept plans for the development and operation of the Museum on the Property that are both financially feasible and likely able to be permitted and approved by applicable governmental authorities (taking into consideration such waivers and variances, if any, as are likely to be granted by such applicable governmental authorities). Such written documentation may, but need not necessarily, include verifications and/or certifications from the City of Orlando, Florida and/or the Foundation's engineering, land use, and/or other consultants, concerning matters such as future land use, zoning, concurrency, entitlements, and site planning.

(11) Restrictive Covenants. The deed (or all deeds, as applicable) by which the Foundation takes title to the Property must contain those covenants, conditions, restrictions, and agreements in substantially the form set forth in EXHIBIT "A" attached hereto and incorporated herein by this reference (the "Restrictive Covenants") or, alternatively, the Restrictive Covenants shall be recorded as a separate document, in form and substance reasonably acceptable to the County, immediately following such deed. The Manager of the REM Division is hereby authorized, on behalf of the County, to approve of the form and substance of any such separate documents imposing the Restrictive Covenants pursuant to this paragraph.

(12) Escrow Instruction Letter. Prior to the Closing, the Title Company, or such other closing and/or escrow agent as may be identified by the Contract, (the "Closing Agent") shall have entered into with the County a mutually acceptable escrow instruction letter containing usual and customary provisions for and restrictions on the Closing Agent's receipt, handling, and disposition of the County Acquisition Funding (hereinafter defined) at and as a part of the Closing (the "Escrow Instruction Letter"). The Manager of the REM Division is hereby authorized, on behalf of the County, to enter into such Escrow Instruction Letter with the Closing Agent pursuant to this paragraph.

(ii) Waiver of Contingencies. Any Contingency (including modifications or variations of a Contingency set forth in subsection 5.a(v) and/or 5.a(vi) concerning application of Contingencies to assemblages or Supplemental Parcels (hereinafter defined), as applicable) may be waived, lessened, or otherwise removed from this Agreement by County at any time by delivery of written notification from the County to the Foundation. If all Contingencies have not been satisfied (by the person responsible for the satisfaction of the same) or waived in writing by County on or before the earlier of (x) twenty-four (24) months of the date this Agreement is approved by Board (the "Outside Closing Date") and (y) the Foundation's acquisition of all or any portion of the Property, then County's obligation to disburse any portion of the County Contribution for Property acquisition shall terminate. The Manager of the REM Division is hereby authorized, on behalf of the County, to waive Contingencies and furnish notices pursuant to this paragraph.

(iii) Restrictive Covenants. The Restrictive Covenants, and all terms, provisions, covenants, conditions, restrictions, and agreements thereof, are incorporated into this Agreement by this reference. The Foundation's failure to comply with any of the Restrictive Covenants shall constitute a breach of this Agreement by the Foundation. The terms and provisions of this paragraph shall survive the Foundation's acquisition of the Property.

(iv) Funding of County Acquisition Funding at Closing. In the event that all of the Contingencies are satisfied or waived at or prior to the Closing, then at the Closing the County shall, in a single disbursement, remit directly to the Closing Agent an amount equal to the least of the following (such least amount being the "County Acquisition Funding"): (w) the amount that is five percent (5%) greater than the amount obtained by averaging the values of the Property established by the County-approved Appraisals; (x) the value of the Property established by the County-approved Appraisal having the higher valuation of the Property; (y) the Purchase Price; and (z) the County Contribution.

(1) Closing and Due Diligence Costs Excluded. For avoidance of doubt, County Acquisition Funding shall be applied solely to the Purchase Price, and shall not include payment of (or reimbursement to the Foundation for): (x) any closing costs or other taxes or expenses for which the Foundation may be responsible pursuant to the Contract; (y) costs and expenses associated with fulfillment of the Contingencies; and/or (z) costs and expenses otherwise incurred by the Foundation in connection with its other due diligence inspections of the Property. Without limiting the generality of the foregoing, examples of items that will not be paid from the County Acquisition Funding include: closing fees, recording fees, title search and examination fees, documentary stamp taxes, the premium for issuance of the Title Policy, attorney's fees, and the costs and expenses of obtaining the Survey, the Phase I ESA, the Phase II ESAs (if any), and/or the Appraisals.

(2) Purchase Price in Excess of County Acquisition Funding. So long as the Purchase Price does not exceed the Purchase Price Cap, nothing in this Agreement shall be construed as prohibiting the Purchase Price from exceeding the County Acquisition Funding; provided, however, that the Foundation acknowledges that such difference between the Purchase Price and the County Acquisition Funding shall be paid solely by the Foundation and shall not be paid by the County (neither from the County Contribution nor otherwise).

(3) Disposition of Deposit. For avoidance of doubt, in the event that the Foundation has posted an earnest money deposit pursuant to the Contract (the "Deposit"), nothing in this Agreement shall be construed as prohibiting the Foundation from receiving a return of the Deposit (in whole or in part) from the Closing Agent (or from the Seller, as applicable) at or following the Closing or from applying such Deposit to costs or expenses to which the County Acquisition Funding may not be applied (as described in subsection 5.a(iv)(1) of this Agreement above.

(v) Assemblage of Land. Nothing in this Agreement shall be deemed or construed as prohibiting the Foundation from acquiring the Property as an "assemblage" of multiple parcels of land (each, a "Parcel", and collectively, the "Property" as previously defined); provided, however, that in the event of such an assemblage the Contingencies shall be satisfied, and the County Acquisition Funding disbursed, subject to the following additional terms, provisions, and/or rules of construction:

(1) Each Parcel must be contiguous with another Parcel, such that the overall Property constitutes one parcel of land without any gaps, gores, hiatuses, or overlaps between or among the Parcels; provided, however, that contiguity between Parcels shall ignore and exclude any public right-of-way lying between Parcels.

(2) The Contingencies set forth above applicable to the Contract, the Title Commitment, the Marked-Up Commitment, the Survey, the Phase I ESA, Phase II ESAs (as applicable), the Affidavit, the Appraisals, the Purchase Price Cap, and the Restrictive Covenants shall be read as applicable to each and every Parcel (as opposed to the Property as a whole), while the Contingencies set forth above applicable to permissibility analysis and the Escrow Instruction Letter shall continue to be applicable to the Property as a whole. Notwithstanding the foregoing:

A. The Closing Agent must be the same for all Parcels, and the closing of all Parcels must occur at the same time, such that the entirety of the Property is acquired by the Foundation simultaneously through such Closing Agent.

B. The Title Company, the Surveyor, the two (2) Appraisers, and the consultant preparing the Phase I ESAs (and Phase II ESAs, as applicable) shall be the same for all Parcels.

C. Each Parcel must be the subject of a Title Commitment, a Marked-Up Commitment, a Title Policy, and a Phase I ESA (and Phase II ESAs, as applicable); however, at the Foundation's option, a Title Commitment, a Marked-Up Commitment, a Title Policy, and a Phase I ESA (and Phase II ESAs, as applicable) may cover more than one Parcel (or the entirety of the Property).

D. Each appraisal shall only cover one (1) Parcel; provided, however, that if more than one (1) Parcel is the subject of any one (1) Contract with the same seller thereunder, and such Contact provides for a single purchase price to be paid by the Foundation to such seller for all Parcels under such seller's Contract, then the appraisal required hereunder may cover all of the Parcels under such Contract.

E. All Parcels shall appear in one (1) Survey, which shall (in addition to meeting all of the standards for the Survey set forth above): (x) include a metes and bounds legal description of each Parcel as well as the overall perimeter of the assembled Property; (y) contain a certification from the Surveyor that all of the Parcels are contiguous with each other, and constitute one parcel of land without any gaps, gores, hiatuses, or overlaps between or among the Parcels, such contiguity being as described in subsection 5.a.(v)(1) above; and (z) to the extent capable of being shown on the Survey, show all matters affecting title to any of the Parcels as set forth in all of the Title Commitments.

F. The aggregate amount of County Acquisition Funding to be remitted by the County directly to the Closing Agent at Closing shall be an amount equal to the lesser of: (x) the County Contribution; and the (y) the sum obtained by adding together the individual County Parcel Funding amounts of all Parcels. As used in this paragraph, the "County Parcel Funding" for a given Parcel shall be the least of the following: (i) the amount that is five percent (5%) greater than the amount obtained by averaging the values of the Parcel established by the County-approved Appraisals; (ii) the value of the Parcel established by the County-approved Appraisal having the higher valuation of the Parcel; and (iii) the Purchase Price of the Parcel.

(vi) Supplemental Parcels. Notwithstanding the foregoing, if following the initial acquisition of the Property through the procedures described in subsections 5.a(i) through 5.a(v) above, the Foundation should identify one or more additional parcels of land that – although not being necessary to acquire to develop and operate the Museum on the Property already acquired – the Foundation believes would be beneficial or convenient to acquire in furtherance of the development and operation the Museum on the Property already acquired (each such additional parcel of land being a "Supplemental Parcel"), then the Foundation may acquire each such Supplemental Parcel in the same manner in which the Property was acquired as described above in subsections 5.a(i), 5.a(ii), and 5.a(iv), subject to the following additional terms, provisions, and/or rules of construction:

(1) In applying the provisions of subsections 5.a(i), 5.a(ii), and 5.a(iv) to the acquisition of a Supplemental Parcel, each reference in such subsections to "Property" shall be read as "Supplemental Parcel"; however, as to all references to "Property" outside of subsection 5.a, each Supplemental Parcel shall be deemed to be a part of the Property – in addition to the Property previously acquired (including, if applicable, other Supplemental Parcels previously acquired).

(2) There shall be no minimum size requirement for any Supplemental Parcel, nor any requirement that any Supplemental Parcel be contiguous with the Property (nor, if applicable, with any assemblage Parcel), nor any requirement that any Supplemental Parcel be acquired simultaneously with any Parcel or any other Supplemental Parcel.

(3) The Closing Agent, the Title Company, the Surveyor, the two (2) Appraisers, and the consultant preparing the Phase I ESAs (and Phase II ESAs, as applicable) for a Supplemental Parcel shall be the same as were used for the Property.

(4) In lieu of the "permissibility analysis" described in subsection 5.a(i)(10), prior to the closing of a Supplemental Parcel, the Foundation shall provide (or cause to be provided) to the County, at no cost or expense to the County, documentation evidencing to the County's satisfaction, in the County's sole and absolute discretion, that it would be beneficial or convenient for the Foundation to acquire such Supplemental Parcel in furtherance of the development and operation the Museum on the Property already acquired. The County Administrator of the County is hereby authorized, on behalf of the County, to make the determination, pursuant to this paragraph, as to whether or not it would be beneficial or convenient for the Foundation to acquire such Supplemental Parcel.

(5) For avoidance of doubt, in no event shall funds disbursed by the County for Property acquisition (inclusive of funds disbursed by the County for the

acquisition of Supplemental Parcels), together with funds disbursed by the County for Design Costs, exceed the County Contribution. Any acquisition of Supplemental Parcels must be completed and occur, if at all, by the Outside Closing Date.

(6) For illustrative purposes only, but to clarify the intent of this subsection concerning Supplemental Parcels, an example of lands that may qualify as a Supplemental Parcel would be lands in the general vicinity of the Property already acquired that the Foundation proposes to acquire, develop, and operate as an overflow parking lot in support of the Museum.

b. Design Costs. The Foundation may expend the remaining balance of the County Contribution in excess of the County Acquisition Funding in subsection 5.a above solely for Design Costs, with such Design Costs expenses occurring during the Term for up to one (1) year following completion of the Museum. For the avoidance of doubt, the Foundation may incur any or all of such Design Costs prior to the Closing, but shall not submit a requisition for reimbursement of such Design Costs until after the Closing and then only for the Parcel or Parcels acquired by the Foundation with the County Acquisition Funding. The Foundation shall not use any County Contribution for any Foundation staff salaries, other forms of compensation, overhead or administrative costs. Such remaining balance of the County Contribution shall be disbursed to the Foundation in one or more installments after submission of requisitions with certification from the project manager that work invoiced has been satisfactorily performed and signed by an authorized representative of the Foundation and accompanied by invoices or receipts evidencing completion of work in substantially the form attached hereto as EXHIBIT "B". All such requisitions shall be submitted to the County Administrator, with a copy to the County Comptroller at the notice addresses set forth in Section 9 hereof, no later than one (1) year following completion of the Museum. After review and approval of each requisition, the County Administrator or designee shall instruct the Comptroller to make payment within 20 business days thereafter.

c. Other Limitations on Disbursements. Notwithstanding anything else in this Agreement to the contrary: (i) for avoidance of doubt, no more than $7,000,000 of the County Contribution shall be disbursed by the County prior to October 1, 2019; and (ii) in no event shall the aggregate amount of all disbursements for Design Costs made by the County pursuant to subsection 5.b above exceed $4,500,000.

6. Foundation. The Foundation has represented that it has received a determination from the Internal Revenue Service that it meets the requirement of Section 501(c)(3) of the Internal Revenue Code and hereby represents that is in material compliance with the terms of such determination. The Foundation shall: (i) acquire fee simple title to the Property consistent with the terms of this Agreement, (ii) diligently proceed with fundraising efforts to secure sufficient funds to construct the Museum and provide for costs of operation and maintenance thereof; (iii) maintain its 501(c)(3) status during the term of this Agreement; (iv) diligently proceed with the design, construction and operation of the Museum in a financially responsible and commercially reasonable manner; (v) use the Property acquired with the County Contribution solely as the Museum open to the public, as contemplated under Section 125.0104, Florida Statutes; and (vi) be solely responsible for compliance and shall comply with all federal, state and local laws ordinances, rules and regulations relating to the design, construction, funding, operation and maintenance of the Museum.

7. Foundation's Progress Reporting. Until completion of the Museum, the Foundation will provide quarterly reports to the County Administrator and Comptroller to ensure compliance with this Agreement and to report on progress in fundraising, design, construction and completion of the Museum.

8. Foundation Audit. The County and the County Comptroller (or designee) shall have the right to audit from time to time for compliance with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement, the use of the County Contribution, the acquisition of the Property, and the design and construction of the Museum, at County's expense. Such right shall extend for a period of five (5) years after completion of the Museum. The Foundation agrees to provide reasonable assistance in providing documents, materials, data, information and records to the County and the County Comptroller or designee in the performance of these audits as requested by the County Comptroller or County during the term of this Agreement and for a period of five (5) years after completion of the Museum. In those situations where records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), the County Comptroller's representatives shall be provided with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats. Such activity shall be conducted during normal business hours.

9. Notices. Any notices required or allowed hereunder shall be in writing and given by hand delivery, overnight courier service or certified mail with return receipt requested, to the addresses below, or in person with proof of delivery to the addresses below, or such other address as either party shall have specified by written notice to the other party delivered in accordance herewith:

COUNTY:	Orange County Administrator 201 S. Rosalind Avenue, 5th Floor Orlando, Florida 32801
Comptroller:	Director of Finance & Accounting 201 S. Rosalind Avenue, 4th Floor Orlando, Florida 32801
With copies to:	Orange County Fiscal & Business Services 201 S. Rosalind Avenue, 5th Floor Orlando, Florida 32801
	Orange County Real Estate Management Division Attn: Manager 400 E. South Street, 5th Floor Orlando, Florida 32801

FOUNDATION: OnePULSE Foundation, Inc.
Attn: Barbara Poma
1223 E. Concord Street
Orlando, Florida 32803

With copies to: Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.
Attn: Vicki L. Berman, Esquire
420 South Orange Avenue
Suite 700
Orlando, Florida 32801

Any such notice shall be deemed received on the date of actual receipt or refusal of such notice sent in accordance with the provisions hereof.

10. Indemnification. The Foundation agrees to defend indemnify and hold harmless the County, its officials and employees from all claims, actions, losses, suits and judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions or those of its officers, directors and employees acting within their scope of their employment or connected in any way or arising from performance under this Agreement. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party. This provision shall survive termination of this Agreement.

11. Budget and Reporting Requirements. For a period of five (5) years after completion of the Museum, as a condition of receiving funds pursuant to this Agreement the Foundation acknowledges and agrees to comply with its reporting obligations and to timely provide the following to the Comptroller and County Administrator, at their respective notice addresses listed in Section 9 hereof:

(i) audited financial statements of the Foundation within 60 days of completion of each annual audit, and each such audit shall be completed within 180 days of the close of the Foundation's fiscal year;

(ii) the Foundation's IRS Form-990 filing with the Internal Revenue Service, to be submitted at the time of submission to the IRS; and

(iii) after completion of the Museum, periodic program reports regarding the attendance at the Museum and economic impact generated by the Museum and the source of that information.

At the County's or Tourist Development Council's discretion, the Foundation shall provide a presentation or presentations regarding the Museum as may be requested by the Tourist Development Council or the County.

12. Recordkeeping; Accounting. The Foundation will utilize accounting procedures and practices in the maintenance of the records of receipts and disbursements of the funds contributed by the County, as well as all its receipts and disbursement of funds, and such procedures and practices shall be in accordance with generally accepted accounting principles. All such records shall be open to inspection and auditing by the County, the County's designee, or the County Comptroller during normal business hours during the term hereof, and for a period of ten (10) years after completion of the Museum at County's expense. Any cost incurred by the Foundation as a result of a County audit shall be the sole responsibility of and shall be borne by the Foundation.

13. Term; Termination. This Agreement shall become effective upon execution by both parties hereto and shall continue for a term until ten (10) years after completion of the Museum. This Agreement may be amended, modified or terminated at any time during the term of this Agreement by the mutual written agreement of the Parties.

14. Default by the Foundation. The occurrence of any of the following constitutes an Event of Default by the Foundation:

(a) [INTENTIONALLY OMITTED];

(b) [INTENTIONALLY OMITTED];

(c) Foundation's failure to comply with the Restrictive Covenants beyond any applicable grace or cure period;

(d) Any material representation is made by the Foundation in any communication submitted to the County in an effort to induce the disbursement of the County Contribution is determined by the County to be materially false, misleading, or incorrect;

(e) Foundation's default in the performance of any material term or covenant of this Agreement not otherwise provided for in this section for a period of more than thirty days after its receipt of a notice of default from County provided however that if the nature of the default is such that it cannot reasonably be cured within such thirty day period then Foundation shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure;

(f) The dissolution of the Foundation;

(g) If (i) a petition is filed by the Foundation seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law relating to bankruptcy or insolvency, or (ii) a petition is filed against the Foundation, which is not dismissed within sixty (60) days after filing, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law relating to bankruptcy or insolvency, or (iii) Foundation seeks or consents to or acquiesces in the appointment of any trustee, receiver, master or liquidator of itself or of all of the rent, revenues, issues, earnings, profits or income of any part of the Museum, or (iv) Foundation makes any general assignment for the benefit of creditors, or (v) Foundation is Insolvent (as defined herein); or (vi) any trustee, receiver or liquidator of Foundation or of all or any part of the Property is appointed who is not discharged within sixty (60) days after its appointment. For purposes of this paragraph, a person or entity shall be deemed to be "**Insolvent**" if they are unable to pay their debts as they become due and/or if the fair market value of their assets does not exceed their aggregate liabilities.

(h) The loss of Foundation's status under Section 501(c)(3)of the Internal Revenue Code for a period of more than thirty days after its receipt of a notice of default provided that if it is not commercially reasonable to reinstate such status within such 30 days period then the Foundation shall have a commercially reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure; or

(i) The Foundation's vacating or abandoning the Property or the Museum.

In the event of a default by the Foundation under this Agreement, the County, may, at its option, exercise any one or more of the following remedies: (i) declare this Agreement terminated; or (ii) exercise any and all remedies available at law and in equity.

15. Default by the County. The following shall constitute a default by the County: The County's continued default in the performance of a material term of this Agreement including but not limited to its obligations for disbursement of the County Contribution in accordance with the requirements of this Agreement for a period of more than thirty days from its receipt of written notice of such default from the Foundation. In the event of a default by the County then the Foundation, at its option, may exercise any one or more of the following remedies: (i) declare this Agreement terminated; (ii) exercise the remedy of mandamus to require the County's performance under the terms and conditions of this Agreement; and/or (iii) pursue an action for specific performance. The Foundation hereby acknowledges and agrees that the only remedies available to the Foundation other than termination are those of mandamus and specific performance and the County shall bear no liability for direct, indirect or consequential damages.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. No other agreement whether verbal or written, with regard to the subject matter hereof shall be deemed to exist.

17. No Assignment. The Foundation may not assign its rights hereunder, without the prior written consent of the County. Failure to comply with this section may result in immediate termination of this Agreement.

18. No Waiver. Continued performance by either party hereto, pursuant to the terms of this Agreement, after a default of any of the terms, covenants or conditions herein shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

19. Severability. The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from such holding.

20. Governing Law; Venue. Any litigation occurring as a result of this Agreement shall be held in the courts of Orange County, Florida. This Agreement shall be governed by the laws of the State of Florida.

21. Headings. The headings or captions of sections or paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

22. Counterparts. This Agreement may be executed in separate counterparts, all of which taken together shall be deemed to constitute one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and have set their hands and seals this ______ day of OCT 30 2018, 2018.

ORANGE COUNTY, FLORIDA
BY: Board of County Commissioners

By:______________________
Teresa Jacobs
Orange County Mayor

Date: 11.2.18

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

By:______________________
Deputy Clerk

OnePULSE Foundation, Inc.,
a Florida not for profit corporation

By: Barbara Poma
Barbara Poma
Chief Executive Officer

Date: 10/22/18

STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY, that on this 22 day of October, 2018, before me personally appeared Barbara Poma, Chief Exec. Officer of the OnePULSE Foundation Inc., a Florida not for profit corporation, to me known to be, or who has produced Drivers License 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 22 day of October, 2018.

(Notary Seal)

Notary Signature

NIKOLE A. PARKER
MY COMMISSION # FF 937071
EXPIRES: November 17, 2019
Bonded Thru Notary Public Underwriters

EXHIBIT A

FORM OF RESTRICTIVE COVENANTS

The conveyance of the Property herein is made by Grantor and accepted by Grantee subject to and conditioned upon the following covenants, conditions, restrictions, and agreements (collectively, the "Restrictive Covenants"), which Restrictive Covenants are made and included herein for the benefit of Orange County, a charter county and political subdivision of the State of Florida ("County") but not for the benefit of Grantor, who shall have no right of any kind to enforce these Restrictive Covenants:

1. The Property shall be used solely for a museum with associated amenities, improvements and infrastructure, including, without limitation, parking areas, open space, event space and gift shop or the like for the sale of related merchandise (collectively, the "Museum") open to the general public, in compliance with all applicable laws and Section 125.0104(5)(a)(1)(c), Florida Statutes (2018), where visitors will learn the history of the June 12, 2016 mass shooting at the Pulse nightclub in downtown Orlando, Florida, unless the prior written consent of County is obtained for other uses, which consent may be withheld or conditioned in County's sole and absolute discretion.

2. Construction of the Museum shall be complete within seven (7) years of the date of recording of this deed. As used in these Restrictive Covenants, the Museum will be deemed "Complete" when all of the following have occurred: (i) the City of Orlando, Florida, (and all other applicable governmental authorities, if any) have issued certificates of occupancy (or their equivalent) for all initially planned buildings and structures upon the Property, including but not limited to the primary museum building of not less than 1,000 square feet; (ii) the City of Orlando, Florida, (and all other applicable governmental authorities, if any) have issued certificates of completion (or their equivalent) for all site improvements upon the Property necessary to support such initially planned buildings and structures; and (iii) the Museum has commenced normal operations and opened to the general public not less than twenty (20) hours per week.

3. Once Complete, Grantee shall continuously own, use, occupy, operate, inspect, maintain, service, repair, replace, and/or reconstruct the Property (and all buildings, structures, or improvements located thereon from time to time) as and for the Museum in compliance with all applicable laws and materially consistent with generally accepted standards of practice and performance for other museums and facilities of a similar nature throughout the United States of America; provided, however, that periodic closure for weekends and holidays, repair, maintenance, renovation, restoration or the like by reason of fire or other casualty or otherwise and/or private events shall not be deemed to be a failure of this covenant.

4. Grantee shall not, neither orally nor in writing, without the prior written consent of County, which consent may be withheld or conditioned in County's sole and absolute discretion, sell, convey, alienate, transfer (including a transfer by agreement for deed or land contract), assign, or lease the Property, any part thereof, any interest therein, or any

buildings, structures, or improvements now or hereafter located thereon; provided, however, that this covenant shall not prohibit Grantee from entering into short term agreements for third-party use of "event spaces" hereafter located within the Museum and this covenant shall not prohibit Grantee from entering into agreements for third-party operation or management of portions of the Museum, such as, but not limited to, a café or other area for the provision of food or beverages or any gift shop or other area for the sale of merchandise.

5. Grantee shall not, neither orally nor in writing, without the prior written consent of County (which consent may be withheld or conditioned in County's sole and absolute discretion), create, place, record, or consent to (nor permit to be created, placed, recorded, or exist) on, against, or applicable to the Property, any part thereof, any interest therein, or any buildings, structures, or improvements now or hereafter located thereon, any further monetary or a non-monetary liens, pledges, encumbrances, mortgages, security interests, easements, restrictions, leases, agreements, or other instruments whatsoever ("Unpermitted Encumbrances"); provided, however, that this covenant shall not prohibit Grantee from granting easements or similar instruments upon the Property that contain usual and customary provisions and which are reasonably necessary for the construction, operation, or maintenance of the Museum upon the Property.

6. Grantee shall, at all times, maintain both its corporate existence as a not for profit corporation in good standing with the State of Florida and its status as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

7. County is deemed an express third-party beneficiary with full enforcement rights with respect to these Restrictive Covenants. These Restrictive Covenants may not be amended or altered without the express written consent of County.

8. In the event of a breach or default by Grantee of any of these Restrictive Covenants, which continues for more than thirty (30) days following the date of written notice of such breach or default by Grantee from County, provided, however, that if the nature of the breach or default is such that it cannot reasonably be cured within such thirty (30) day period, then Foundation shall have a reasonable period of time to cure such breach or default provided that it diligently undertakes and pursues such cure, County shall be entitled to full and adequate relief by any and all remedies permitted at law or in equity, including without limitation award of damages, injunction, and specific performance. Any remedies specifically provided by these Restrictive Covenants shall be cumulative with and in addition to all other remedies permitted at law or in equity.

9. In the event of a breach or default by Grantee of any of these Restrictive Covenants, which continues for more than thirty (30) days following the date of written notice of such breach or default by Grantee from County, provided, however, that if the nature of the breach or default is such that it cannot reasonably be cured within such thirty (30) day period, then Foundation shall have a reasonable period of time to cure such breach or default provided that it diligently undertakes and pursues such cure, then Grantee shall, within ninety (90) days after receipt of written notice from County requesting the same, convey to County by special warranty deed all of Grantee's rights, titles, and interests in

and to the Property, and in and to any and all buildings, structures, improvements, and fixtures at such time located thereon, (collectively, the "Grantee Interests") with such conveyance "as is", but subject to representations and warranties that Grantee then owns the Grantee Interests in fee simple, that Grantee has the right to convey title to the Grantee Interests to County, and the Grantee Interests is free and clear of any and all encumbrances which were not in effect as of the date of Grantee's acquisition of the Grantee Interests and which render title unmarketable or which materially and adversely impact the value of the Property. Grantee shall pay any and all costs and expenses, including costs of recording the special warranty deed, incurred by either County or Grantee in connection with the conveyance of the Grantee Interests to County. The remedy provided to County by this paragraph is cumulative with and in addition to all other remedies provided by these Restrictive Covenants and/or permitted at law or in equity. In the event that County elects to exercise the remedy provided to County by this paragraph, Grantee shall remove all of its personal property from the Grantee Interests prior to conveyance; any personal property of Grantee not removed from the Grantee Interests prior to conveyance shall become the property of County upon the conveyance of the Grantee Interests to County. For avoidance of doubt, upon a breach or default by Grantee of any of these Restrictive Covenants, County may (but shall not be obligated to) exercise the remedy provided to County by this paragraph.

10. In connection with any dispute arising out of these Restrictive Covenants, or the breach, enforcement, or interpretation of these Restrictive Covenants (regardless of whether such dispute results in mediation, arbitration, litigation, or none of the above), each party and person shall bear the cost of its own attorney's, paralegal, expert, and court fees and costs at trial, retrial, on appeal, at hearings and rehearings, and in all administrative, bankruptcy, and reorganization proceedings. Venue for any action, suit, or proceeding brought to enforce compliance with these Restrictive Covenants shall lie in the court of competent jurisdiction in and for Orange County, Florida; each party and person hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court.

11. These Restrictive Covenants shall run with title to the Property, and shall be binding upon successors and assigns of Grantee. Any transferee of any portion of the Property (regardless of whether such transferee is permitted or unpermitted under these Restrictive Covenants) shall automatically be deemed, by acceptance of the title to any portion of the Property, to have assumed all duties and obligations of these Restrictive Covenants relating thereto.

12. Grantee hereby acknowledges and agrees that Grantee's agreement to accept title to the Property subject to and conditioned upon these Restrictive Covenants is made for good and valuable consideration of County, the receipt and sufficiency of which is hereby acknowledged. Without limiting the generality of the foregoing, Grantee acknowledges that County has provided all, or a substantial portion of, the funding necessary to acquire the Property conveyed hereby.

EXHIBIT B
FORM OF DESIGN COST REQUISITION
PULSE MUSEUM

Date:_______________

TO: Orange County Administrator
Orange County Comptroller

The undersigned hereby requests pursuant to the Agreement between Orange County, Florida and OnePULSE Foundation, Inc. regarding the Pulse Museum TDT Funding dated _______________, 2018 (the "Agreement") that the following amounts be disbursed to the Foundation for the following expenses :

Name of Vendor	Nature of Disbursement	Vendor Invoice Number	Amount

The undersigned does hereby certify to the County that as of the date hereof: 1) there is no existing breach of the Agreement; 2) the above listed items are properly included as authorized design and architectural costs of the Museum as set forth in the Agreement; 3) attached hereto are invoices for the costs requested hereby; 4) that the inspecting architect or engineer has made an inspection of and approved the work completed as represented in this requisition; 5) all work being designed is in accordance with land use restriction agreements, covenants, restrictions, codes or ordinances affecting the site of the Museum; 6) the above listed items do not include any amounts for Foundation staff salaries, other forms of compensation, overhead or administrative costs; and 7) the work for which payment is being requested above has been performed, payment for the work remains unpaid and there has been no previous request and disbursement from the County Contribution, as defined in the Agreement for payment of the work.

By: _________________________________
Authorized Representative