

This instrument prepared by:

Lindsay Whelan, Esq.  
**Kutak Rock LLP**  
107 West College Avenue  
Tallahassee, Florida 32301

Tax Parcel ID Nos.: 31-23-29-8850-00-002  
31-23-29-8851-00-002

Cross Reference: Doc. No. 20190800173

**INTERLOCAL AGREEMENT**  
**(Kirkman Road Extension Operation and Maintenance)**

**THIS INTERLOCAL AGREEMENT** (the “**Interlocal Agreement**”) is made and entered into as of the date of last execution below (the “**Effective Date**”), by and between **Orange County**, a charter county and political subdivision of the State of Florida (the “**County**”), whose address is 201 South Rosalind Avenue, Orlando, Florida 32801-7600, and **Shingle Creek Transit and Utility Community Development District**, a local unit of special-purpose government (“the **District**”), whose address is 3501 Quadrangle Boulevard, Suite 270, Orlando, Florida 32817. In this Interlocal Agreement, the County and the District may be referred to individually as a “**Party**” or collectively as the “**Parties**.”

**RECITALS:**

**WHEREAS**, the District was established by County Ordinance No. 2023-40 pursuant to and governed by the provisions of Chapter 190, *Florida Statutes* (the “**Act**”); and

**WHEREAS**, the District is authorized to finance, construct, acquire, equip, operate, secure, and maintain stormwater management, bridge, roadway, sidewalk, streetlight, landscaping, hardscaping, and signage improvements pursuant to Sections 190.012(1)(a), (c), and (d), *Florida Statutes*, and Section 190.012(2)(d), *Florida Statutes*; further, Section 190.012(1)(g), *Florida Statutes*, additionally gives the District the ability to oversee any other project within or outside its boundaries when the project is the subject of an interlocal agreement; and

**WHEREAS**, pursuant to that certain *Roadway and Infrastructure Agreement* by and between Universal City Development Partners, Ltd. (“**Universal**”), and the County recorded on December 23, 2019, as Document No. 20190800173 of the Public Records of Orange County, Florida, (the “**Roadway Agreement**”) Universal has constructed an extension of Kirkman Road; and

**WHEREAS**, pursuant to the Roadway Agreement, Universal will convey to the County, and the County will ultimately own, “**Segment 1**” and “**Segment 2**” (each as defined in the Roadway Agreement) (collectively, the “**Kirkman Road Extension**”) which includes transit and ancillary public infrastructure improvements, and which Kirkman Road Extension will be located on those certain lands legally described in the attached **Exhibit A**; and

**WHEREAS**, Section 19(f) of the Roadway Agreement in relevant part provides that Universal may pursue formation of a community development district to, among other purposes, assume any of its maintenance obligations as to the Kirkman Road Extension provided that such district, if approved and formed, shall enter into an interlocal agreement with the County as to such maintenance obligations; and

**WHEREAS**, pursuant to the Act, the District is authorized and desires to finance, construct, acquire, equip, operate, secure, and maintain certain of the public infrastructure improvements comprising the Kirkman Road Extension, the location of which are geographically depicted in the attached **Exhibit B**, that benefit the lands within the District; and

**WHEREAS**, the District specifically desires to provide for the implementation and completion of the inspection, management, operation, and maintenance services relative to certain aesthetic components of the Kirkman Road Extension as are identified in the attached **Exhibit C** (the “**Aesthetic Improvements**”), as such activities can be conducted by the District at a level and frequency beyond that currently provided by the County’s maintenance schedule and funding levels; and

**WHEREAS**, the District further desires to assist the County in providing for the implementation and completion of the inspection, management, operation, and maintenance services relative to certain structural components of the Kirkman Road Extension as are identified in the attached **Exhibit D** (the “**Structural Improvements**,” and together with the Aesthetic Improvements, the “**CDD-Maintained Improvements**”), as such activities can be conducted by the District more efficiently, cost effectively, and timely than the County is able to provide; and

**WHEREAS**, the County desires to retain sole responsibility for the inspection, management, operation, and maintenance services relative to certain components of the Kirkman Road Extension as are identified in the attached **Exhibit E** (the “**County-Maintained Improvements**”), including payment of the costs therefor; and

**WHEREAS**, the Parties intend that the inspection, management, operation, and maintenance services relative to water, sewer, and electrical utilities located at or adjacent to the Kirkman Road Extension shall continue to be overseen, and the cost thereof borne by, the applicable utility owner (which may include the County’s Utilities Department (i.e. OCU), as applicable); and

**WHEREAS**, the Parties acknowledge and agree that the provision of the implementation and completion of the inspection, management, operation, and maintenance of the CDD-Maintained Improvements (hereinafter, collectively the “**Inspection and Maintenance Services**”) by the District is beneficial to, and in the best interest of, the District and its landowners, the County and its landowners and residents, and the users of the Kirkman Road Extension; and

**WHEREAS**, the Parties accordingly desire for the District, upon conveyance of the Kirkman Road Extension to the County, to proceed with the Inspection and Maintenance Services on behalf of the County for the benefit of the District and its landowners, the County and its landowners and residents, and the users of the Kirkman Road Extension; and

**WHEREAS**, it is in the mutual interest of the Parties to establish intergovernmental relations that encourage, promote, and improve the coordination, overall effectiveness, and efficiency of governmental activities and services; and

**WHEREAS**, Florida law permits governmental units to make the most efficient use of their powers by enabling them to cooperate with one another on a basis of mutual advantage through interlocal agreements; and

**WHEREAS**, the Parties find this Interlocal Agreement to be necessary, proper, and convenient to the exercise of their powers, duties, and purposes authorized by law; and

**WHEREAS**, the Parties desire to exercise jointly their common powers and authority concerning the provision of certain services and facilities to avoid unnecessary and uneconomic duplication of services and facilities and to clarify responsibilities, obligations, duties, powers, and liabilities relative to the District's provision of such services on behalf of the County.

**NOW, THEREFORE**, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Section 1. Authority.** This Interlocal Agreement is entered into pursuant to the authority set forth in Chapters 190 and 163, *Florida Statutes*, and other applicable law. This Interlocal Agreement shall be recorded in the Public Records of Orange County, Florida by the County, at the District's sole cost and expense, in accordance with Section 16.

**Section 2. Recitals.** The recitals stated above are true and correct and by this reference are incorporated into and form a material part of this Interlocal Agreement.

**Section 3. Authority to Contract.** The execution of this Interlocal Agreement has been duly authorized by the appropriate body or official of each of the Parties, each Party has complied with all applicable requirements of law, and each Party has full power and authority to comply with the terms and provisions of this instrument.

**Section 4. Relationship of the Parties Relative to the Inspection and Maintenance Services.** The Parties accept the contractual relationship established by this Interlocal Agreement. The Parties covenant to cooperate in the completion of all Work (as defined in Section 4.B. of this Interlocal Agreement) required to implement the Inspection and Maintenance Services.

**A.** Further, the District acknowledges that:

**1.** The District has represented to the County that the District has and will retain consultants and contractors with specific expertise in contracting the equipping,

inspection, management, operation, and maintenance of infrastructure improvements of a similar nature as the CDD-Maintained Improvements; and

2. Such representation is a material inducement to the County to enter into this Interlocal Agreement.

B. For the purposes of this Interlocal Agreement, “**Work**” shall mean any and all obligations, duties, and responsibilities required, necessary, beneficial, or convenient to the successful completion of the Inspection and Maintenance Services relative to the CDD-Maintained Improvements, including without limitation all required inspection, engineering, equipping, management, operation, maintenance, repair, and replacement, and all commissioning of all requirements otherwise assigned to or undertaken by the District. The Parties agree that the Work shall also include the ability for the District to provide for security services within and to the Kirkman Road Extension (including without limitation within, for, and to the County-Maintained Improvements) as authorized by County Ordinance No. 2023-40, Section 190.012(2)(d), *Florida Statutes* and Section 190.012(1)(g), *Florida Statutes*.

C. Notwithstanding anything to the contrary in any future construction, installation, maintenance, or services agreements relating to the provision of the Work, the District is authorized by the County and is fully responsible for the inspection, management, operation, and maintenance of the CDD-Maintained Improvements, and the means, methods, techniques, sequences, and procedures relative thereto, in performing the Work, and for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of this Interlocal Agreement despite the District’s delegation of the responsibility therefor to any of its consultants, contractors, and subcontractors. The District shall use its best skill, effort, and judgment to cause the Work to be completed in the interest of the Parties; to furnish efficient business administration, management and supervision; to contract with consultants and contractors that will agree to furnish at all times an adequate supply of workers and materials; and to cause the completion of the Inspection and Maintenance Services in a safe, expeditious and economical manner, consistent with the terms of the agreements through which the District has contracted to complete the Work.

D. The District shall be acting as an independent entity at all times during the performance of the Inspection and Maintenance Services and no provision in this Interlocal Agreement shall create an employment or agent relationship between the Parties.

E. The Parties acknowledge and agree that, where easements and other encumbrances exist along the Kirkman Road Extension, the conditions of those easements and encumbrances apply to both the County and the District as applicable.

## **Section 5. District’s Provision of the Inspection and Maintenance Services.**

### **A. *Aesthetic Improvements.***

1. *Management, Operation, and Maintenance.* The District, through its employees, staff, consultants, contractors, and subcontractors, as applicable, shall be solely responsible for the completion of the portion of the Work relative to the management, operation, and maintenance of the Aesthetic Improvements (the “**Aesthetic Maintenance Services**”). The

Aesthetic Maintenance Services shall be completed in a commercially reasonable manner and with reasonable care in a good and workmanlike manner that complies with County and/or the Florida Department of Transportation (“**FDOT**”), as applicable, and other applicable government ordinances, rules, and laws. The District shall be responsible for ensuring that the Aesthetic Maintenance Services are performed to a level no less than the level of management, operation, and maintenance performed by the County or FDOT on infrastructure improvements comparable to the Aesthetic Improvements (hereinafter, the “**Aesthetic Base Level Maintenance**”). The District shall further be responsible for ensuring that the Aesthetic Maintenance Services are conducted in a manner so as not to significantly interfere with the use of the Kirkman Road Extension by the public or to cause or constitute a safety hazard relative thereto.

2. *Inspections.* The District shall coordinate inspections of each of the Aesthetic Improvements (the “**Aesthetic Inspection Services**”), at such intervals as the District deems appropriate to ensure that the Aesthetic Base Level Maintenance is being provided, by the District Engineer, or its designee or assigns.

3. *Repair and Replacement Work.* If, after inspection, any repair and replacement work relative to the Aesthetic Improvements is recommended by the District Engineer, or its designee or assigns (the “**Aesthetic Repair Work**”), the District shall promptly procure, administer, and manage all design, construction administration/project management and inspection, equipment procurement and installation, and construction contracts necessary to complete the Aesthetic Repair Work by a licensed (if applicable), qualified contractor(s). The inspection of the Aesthetic Repair Work, and the completion of any relevant warranty work relative thereto, will be overseen by the District directly with the relevant contractor.

4. *Costs.* The cost of the Aesthetic Maintenance Services, the Aesthetic Inspection Services, and the Aesthetic Repair Work shall be borne solely by the District.

## **B. *Structural Improvements.***

1. *Management, Operation, and Maintenance.* The District, through its employees, staff, consultants, contractors, and subcontractors, as applicable, shall, subject to the cost share obligations of the Parties as set forth in Subsection 5.b.4. below, be solely responsible for the completion of the portion of the Work relative to the management, operation, and maintenance of the Structural Improvements (the “**Structural Maintenance Services**”). The Structural Maintenance Services shall be completed in a commercially reasonable manner and with reasonable care in a good and workmanlike manner that complies with County and/or FDOT, as applicable, and other applicable government ordinances, rules, and laws. The District shall be responsible for ensuring that the Structural Maintenance Services are performed to a level no less than the level of management, operation, and maintenance performed by the County or FDOT on infrastructure improvements comparable to the Structural Improvements (hereinafter, the “**Structural Base Level Maintenance**”). The District shall further be responsible for ensuring that the Structural Maintenance Services are conducted in a manner so as not to significantly interfere with the use of the Kirkman Road Extension by the public or to cause or constitute a safety hazard relative thereto.

2. *Inspections.* The District shall coordinate inspections of the Structural Improvements, on a bi-annual basis, by one or more qualified structural engineers (the “**Structural Engineer(s)**”) that are licensed in the State of Florida and who have been approved by FDOT (the “**Structural Inspection Services**”). The Structural Engineer(s) shall be required to promptly prepare and provide the District a report(s) outlining inspection findings as well as repair or replacement recommendations (hereinafter, the “**Structural Report of Findings**”). Upon receipt of the Structural Report of Findings, the District shall promptly disseminate such report(s) to the County Representative.

3. *Repair and Replacement Work.*

i. If, after inspection, any Structural Report of Findings recommends repair or replacement work relative to the Structural Improvements (hereinafter, the “**Structural Repair Work**”), the District, in consultation with the County as hereinafter provided and subject to the cost share obligations of the Parties as set forth in Subsection 5.b.4. below, shall promptly procure, administer, and manage all design, construction administration/project management and inspection, equipment procurement and installation, and construction contracts necessary to complete the Structural Repair Work. All Structural Repair Work shall be completed by licensed, FDOT qualified contractor(s) in the appropriate FDOT work group for the scope of the work. The Structural Repair Work shall meet all applicable County and FDOT construction specifications. Consultation with the County is limited to the County’s review and approval of the Structural Report of Findings in advance of the District initiating its District procurement processes to the extent the Structural Repair Work is identified in the same. Such approval by the County shall not be unreasonably withheld, conditioned, or delayed, and in any event the County’s written approval or denial shall be delivered to the District within fifteen (15) calendar Days following the District’s provision of a request for approval is submitted to the County Representative (with any denial to include specific reasons for such denial).

ii. In addition to obtaining the County’s approval with regards to the Structural Report of Findings as set forth above, and excluding design or construction services needed for any emergency Structural Repair Work as determined by the District in its sole but reasonable discretion, the District shall consult with the County prior to commencing any “**Major Structural Repair Work**” which shall be defined as any contract for Structural Repair Work that requires (i) engineering/design services in excess of the then-existing procurement thresholds set forth in section 287.055, *Florida Statutes*,<sup>1</sup> or (ii) construction services in excess of the then-existing procurement thresholds set forth in section 255.20, *Florida Statutes*<sup>2</sup>.

- a. For each instance of Major Structural Repair Work to be completed by the District, the District shall provide the County with both the design plans and the District Engineer’s estimate of the cost of such work (the “**Cost Estimate**”) for the County’s

---

<sup>1</sup> For the avoidance of doubt, the current procurement thresholds set forth in section 287.055, *Florida Statutes*, relative to the competitive award of engineering services is \$35,000 (for a planning study or activity) or \$325,000.00 (in construction costs for design work).

<sup>2</sup> For the avoidance of doubt, the current annual-adjusted construction procurement threshold set forth in section 255.20, *Florida Statutes*, relative to the competitive award of construction work is \$527,444.79.

review and approval prior to the District's commencement of procuring the services necessary for the construction and/or installation of such work. Such approval by the County shall not be unreasonably withheld, conditioned or delayed and in any event the County's written approval or denial shall be delivered within fifteen (15) calendar Days following receipt thereof (with any denial to include specific reasons for such denial).

- b. In the event that the bids or proposals for the completion of the construction and/or installation of the Major Structural Repair Work received by the District exceed more than twenty (20%) percent of the Cost Estimate approved by the County (the "**Overage**"), the District shall promptly notify the County of the Overage for the County's review and approval prior to the District's entering into an agreement for the construction and/or installation of such work. Such approval by the County shall not be unreasonably withheld, conditioned or delayed and in any event the County's written approval or denial shall be delivered within fifteen (15) calendar Days following receipt thereof (with any denial to include specific reasons for such denial). In the event the County objects to the Overage, the Parties agree to cooperate in good faith to negotiate a resolution, including allocation of the cost share of the Overage between the Parties. The Overage is considered at-risk and may not be subject to reimbursement if the District enters into any agreement for the construction and/or installation of such work without approval of the Overage by the County.

iii. The Parties acknowledge and agree that the completion of the Structural Repair Work may, in the District's reasonable discretion, be completed as multiple projects authorized pursuant to separate construction agreements (hereinafter referred to as a "**Project**" or "**Projects**"). "**Substantial Completion**" shall mean and refer to, with respect to a Project, that County has both: (i) issued a certificate of completion (or equivalent) for such Project (or, if a certificate of completion (or equivalent) is not required for such Project, the Project has been approved by County following a County inspection thereof); and (ii) determined that said Project can be open for traffic, with said determination being made by County in accordance with the County's standard policies, practices, and criteria generally applicable to making such determinations. Upon achieving Substantial Completion of a Project, the District shall additionally take such actions and execute such documents as are necessary, if any, to convey the improvements comprising such Project, including spare parts and any operating manuals, to the County and shall assign to the County all warranties, approvals, and other rights of the District relating to the Project (each, a "**Conveyance**"). After such Conveyance, the County shall own the improvements comprising the Project in perpetuity, and the operation and maintenance of such improvements shall be as set forth herein.

iv. Within ten (10) months after Substantial Completion of a Project, the District shall cause the Structural Engineer to inspect each completed Project with the County

Representative and the District to determine if any non-conformities or defects exist pursuant to Section 5.D.6. of this Interlocal Agreement (the “**Warranty Inspection**”). Promptly after the Warranty Inspection, the District shall cause the Structural Engineer to provide a written summary of findings of warranty work that require the contractor to take corrective action. In the event that any warranty work is identified, the District will oversee the completion of such work directly with the relevant contractor.

**4. Costs.** The cost of the Structural Inspection Services shall be borne solely by the District, while the cost of the Structural Maintenance Services and the Structural Repair Work shall be borne equally by the Parties. The portion of the Structural Maintenance Services and the Structural Repair Work for which the County is responsible for remitting to the District shall hereinafter be referred to as the “**Reimbursable Costs**.” The County shall remit payment for the Reimbursable Costs in the manner set forth in Section 6 of this Interlocal Agreement.

**C. County-Maintained Improvements.** For the avoidance of doubt, the County remains solely responsible for the inspection, management, operation, and maintenance of the County-Maintained Improvements, which shall be conducted at its own cost and expense.

**D. General.**

**1. Access; Other Rights Necessary.** The County hereby grants and conveys to the District, and the District shall have throughout the duration of this Interlocal Agreement, a right of pedestrian and vehicular ingress, egress, access, and passage, including without limitation by large, heavy construction vehicles and equipment, exercisable by the District and by the District’s employees, contractors, subcontractors, consultants, and other agents, (collectively, the “**District Agents**”) over, under, on, upon, through, and across such portions of the Kirkman Road Extension minimally necessary, with the least amount of disruption possible, and for the shortest duration reasonably necessary, to allow the District (and/or the District Agents, as applicable) to perform and complete the Inspection and Maintenance Services and/or to otherwise perform and satisfy the District’s other duties and obligations under this Interlocal Agreement. Except as otherwise specifically provided or limited herein, the County hereby also grants and conveys to the District, and the District shall also have throughout the duration of this Interlocal Agreement, all other incidental rights reasonably necessary for the performance and/or completion of the Inspection and Maintenance Services by the District and/or District Agents as contemplated herein.

**i.** Prior to any entry by the District or a District Agent upon the Kirkman Road Extension (in furtherance of the Inspection and Maintenance Services), which entry unreasonably interferes with the daily use and operation of the Kirkman Road Extension as a public right-of-way and is not reasonably believed by the District to be emergency in nature (each, a “**Permit-Required Entry**”), the District or the entering District Agent shall apply for and obtain a right of way utilization permit (a “**ROW Permit**”) (or comparable successor permit or approval issued by the County to authorize activities within public rights-of-way of the County) for such Permit-Required Entry, which application shall be made pursuant to and in accordance with the provisions of the Orange County Code applicable to the same, and such other policies and procedures of the County (as such policies and procedures may be revised by the County from



time to time), that are generally applicable to entries by non-Parties upon public rights-of-way of County. For avoidance of doubt, no ROW Permit, nor other notice to the County, nor other permit, approval, or permission from the County, shall be required for other entries by the District and/or District Agents upon the Kirkman Road Extension that do not constitute a Permit-Required Entry, whether pursuant to this Interlocal Agreement or otherwise.

ii. Notwithstanding the foregoing, County shall not unreasonably withhold, condition, or delay its approval of any ROW Permit for any Permit-Required Entry applied for by the District or a District Agent in furtherance of the Inspection and Maintenance Services, nor seek to impose through the ROW Permit issuance process any condition of approval (or other term, restriction, etc.) that would conflict with this Interlocal Agreement, including without limitation that would impede the performance and/or completion of the Inspection and Maintenance Services by the District or a District Agent and/or inhibit the full exercise by the District or a District Agent of the other rights, benefits, and/or privileges granted to the District herein.

iii. Upon completion of any Inspection and Maintenance Services within and/or upon the Kirkman Road Extension by the District and/or any District Agent pursuant to this Interlocal Agreement, and subject to reimbursement from the County as provided in Section 5.B.4. and Section 6 of this Interlocal Agreement (if/as applicable), the District shall (and/or, as applicable, shall cause the District Agents to): (i) restore (including replacement and/or reconstruction, as necessary) the Kirkman Road Extension, the affected surface area(s) thereof, and any other improvements thereupon, to the better of (x) the condition existing immediately prior to such Inspection and Maintenance Services within and/or upon the Kirkman Road Extension, and (y) the condition required by the applicable permits and approvals for such activity, if any; and (ii) shall otherwise leave the Kirkman Road Extension, and the affected surface area(s) thereof, in a clean and neat condition.

2. *No Liens.* The District shall allow no lien to attach to the Kirkman Road Extension or any improvements located on said property arising out of work performed by, for, or on behalf of the District pursuant to this Interlocal Agreement. The District shall pay or transfer to other security all such liens, claims or demands before any action is brought to enforce the same against the Kirkman Road Extension or the County.

3. *Conformance with Public Laws.* The Inspection and Maintenance Services shall be conducted in accordance with all applicable federal, state, County and local laws, statutes, codes, ordinances, rules, regulations, standards, or orders of any public authority having jurisdiction over the Inspection and Maintenance Services, including trade practices, building, health, labor, safety, licensing, environmental or zoning laws, codes, ordinances, rules, regulations, standards, or orders of any such public authority (collectively, hereinafter referred to as the “**Public Laws**”).

4. *District Procurement.* Subject to the County’s review and approval of the Structural Report of Findings as may be required pursuant to Section 5.B.3.i. of this Interlocal Agreement, the District shall be responsible for developing and preparing all procurement documents, including but not limited to project manuals, evaluation criteria, technical specifications, and notices necessary to complete the Work, as well as awarding contracts to

complete such Work. Any contracts, agreements, or other procurement actions the District deems necessary to complete the Work will be competitively procured in accordance with the Public Laws, including but not limited to Section 190.033, *Florida Statutes*, and the District's *Rules of Procedure* adopted on December 13, 2023, as may be amended. The District shall not be required to comply with County-specific procurement processes and/or County-specific specifications for the Inspection and Maintenance Services and/or the Work, including without limitation any provisions of the Orange County Code, Orange County Administrative Regulations, and/or other County policies, including without limitation those that the County would comply with if the County was procuring the Inspection and Maintenance Services and/or the Work. Notwithstanding the foregoing, the Structural Repair Work shall meet all applicable County and FDOT construction specifications.

i. The County shall be a third-party beneficiary to all consultant and contractor contracts entered into by the District with respect to the completion of the Inspection and Maintenance Services, and the District shall promptly deliver to the County Representative fully executed copies of such contracts upon its request for same.

ii. The District shall require its consultants and contractors, including subcontractors, to hold and maintain through the duration of their provision of the Inspection and Maintenance Services insurance coverages in an amount necessary to insure the Parties' interests with respect to the Inspection and Maintenance Services, but in any event the minimum insurance coverages as identified in the attached **Exhibit F**. The District acknowledges and agrees that it will promptly pursue recovery under any applicable insurance coverage(s) in the event of a listed event under such policy(ies).

5. *Coordination with the County.* The County shall designate persons(s) that shall be responsible for supervising, on the County's behalf, the District's completion of the Inspection and Maintenance Services (hereinafter referred to as the "**County Representative**"). The District agrees to keep the County Representative informed regarding the completion of the Inspection and Maintenance Services including any material issues that may impact the foregoing through meetings that are scheduled at mutually agreeable dates. In no event shall the County be deemed to have control over, charge of, or any responsibility for equipping, managing, operating, and maintaining the CDD-Maintained Improvements, and the means, methods, techniques, sequences, and procedures relative thereto, with respect to the District's performance the Work, or for safety precautions and programs in connection with the Inspection and Maintenance Services, notwithstanding any of the rights and authority granted the County in this Interlocal Agreement and the contract documents. The County Representative for the purposes of this Interlocal Agreement shall be the Orange County Public Works Director or his or her designee. The County shall provide written notice to the District of the name and contact information for the County Representative or its designee.

6. *Construction, Material, and Equipment Warranties.* All materials or equipment purchase orders and/or contracts for contractor services issued or entered into by the District relative to the completion of the portion of the Inspection and Maintenance Services relating to the Structural Repair Work shall ensure that the Work is warranted, at a minimum, to i) conform to the requirements of any applicable Public Laws, permits and construction plan

documents, and ii) be free from defects for a period of one (1) year from Substantial Completion of each Project.

7. *No District Warranties.* THE DISTRICT DISCLAIMS ANY AND ALL WARRANTIES RELATED TO ITS COMPLETION OF THE INSPECTION AND MAINTENANCE SERVICES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANSHIP, CONSTRUCTION OR PHYSICAL CONDITION OF THE INFRASTRUCTURE AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY CONTAINED THEREIN, REGARDLESS OF WHETHER THE WARRANTIES ARISE FROM CUSTOM, USAGE, COURSE OF TRADE, CASE LAW, STATUTORY LAW OR OTHERWISE. ANY CONVEYANCE OF THE WORK FROM THE DISTRICT IS ON AN “AS IS” BASIS, “WITH ALL FAULTS.”

#### **Section 6. Payment of Reimbursable Costs.**

A. *Procedure for County Review and Payment of Reimbursable Costs.* The County shall reimburse the District for the Reimbursable Costs using the following procedure:

1. The District shall provide a written request for reimbursement (“**Reimbursement Request**”) to the County detailing all portions of the Work completed and accepted by the County, the costs of which constitute Reimbursable Costs, and an accounting of the Reimbursable Costs paid by the District relative to same. The District shall provide written documentation sufficient to allow the County to verify the accuracy of the Reimbursable Costs included in the Reimbursement Request. The County will reimburse the District for the actual and reasonable costs of the portion of the Work for which reimbursement by the County is required by this Interlocal Agreement which may be requested by the District as often as on a monthly basis after all the following events have occurred:

i. Receipt by the County of a Reimbursement Request from the District;

ii. An invoice from the District for the portion of the Work for which reimbursement is being requested;

iii. Receipt by the County of copies of such contracts, final release of liens, itemized invoices, and other documents evidencing the costs of and complete payment for the portion of the Work for which reimbursement is being requested, including any retainage as may reasonably be requested by the County; and

iv. With respect to a Reimbursement Request related to Structural Repair Work:

a. an application and certificate for payment from the contractor, utilizing either the American Institute of Architects (AIA) documents G702 and G703 or the Engineers Joint Contract Documents Committee (EJCDC) documents C-700, and with

respect to the portion of the Work for which reimbursement is being requested;

- b. an affidavit from the Structural Engineer certifying to the District and the County the completion of the of Work for which reimbursement is being requested; and
- c. inspection, approval, and acceptance by the County Representative of the completed Work for which reimbursement is being requested, including receipt by the County of all Conveyance documents set forth in Section 5.B.3.ii. of this Interlocal Agreement.

2. Within twenty-one (21) calendar Days of the County's receipt of a Reimbursement Request, the County shall i) provide written notice to the District as to any disagreement with regard to the amount of the Reimbursement Request (the "**Disputed Reimbursement Costs**"), identifying by line item any costs which the County contends are not a result of performing Work for which reimbursement by the County is required by Section 5.B.4. (the "**Notice of Disputed Costs**"), and ii) begin processing the Reimbursement Request (less any Disputed Reimbursement Costs).

3. The County shall, within ninety (90) calendar Days of the County's receipt of the Reimbursement Request, pay to the District the full amount of the Reimbursement Request, less any Disputed Reimbursement Costs.

**B.** *Resolution of Disputed Reimbursement Costs.* If the County disputes any portion of a Reimbursement Request pursuant to Section 6.A.2. of this Interlocal Agreement, or if the District declines the County's request for additional information or documentation related to the Reimbursement Request pursuant to Section 6.A.1 of this Interlocal Agreement, the Parties shall, within twenty-one (21) calendar Days from the date of the District's receipt of the Notice of Disputed Costs, meet to discuss and attempt to amicably resolve such dispute. If the dispute cannot be resolved within such timeframe, the dispute shall be elevated to the District Engineer and the County Representative for final determination. The District Engineer and the County Representative shall meet with the Parties within fifteen (15) calendar Days after the dispute is elevated in such manner. Thereafter, the District Engineer and the County Representative shall have ten (10) calendar Days to make a final decision. Such final decision may thereafter be challenged by an appropriate action filed in the 9th Judicial Circuit in and for Orange County, Florida subject to the mutual waiver of claims for damages and attorneys' fees as set forth herein. For the avoidance of doubt, the remedy set forth in this Section 6.B. is only available relative to the resolution of Disputed Reimbursement Costs under Section 6.A.2. of this Interlocal Agreement and the resolution of all other disputes shall be governed by Section 11 of this Interlocal Agreement.

## **Section 7. Relationship of Interlocal Agreement to Other Agreements.**

### **A. Roadway Agreement**

1. For the avoidance of doubt, although only the District and the County are Parties to this Interlocal Agreement, in accordance with Section 19(f) of the Roadway Agreement, the Parties intend for this Interlocal Agreement to serve as: (i) a use agreement regarding the maintenance of the Pedestrian Crossings (hereinafter defined) required by Section 15 of the Roadway Agreement; (ii) the written agreement regarding the operation, maintenance, and use of the Transit Lanes (as defined in the Roadway Agreement) required by Section 16 of the Roadway Agreement; (iii) the use agreement regarding the maintenance of signage above and beyond FDOT requirements required by Section 18 of the Roadway Agreement; (iv) the use agreement regarding the maintenance of walls required by Section 19(c) of the Roadway Agreement; and (v) the interlocal agreement regarding the maintenance of landscaping and irrigation described by Section 19(d) of the Roadway Agreement. Entry into this Interlocal Agreement by the Parties hereto shall satisfy all requirements of said Sections 15, 16, 18, 19(c), and 19(d) of the Roadway Agreement for any use agreements, interlocal agreements, or other written agreements associated with the Kirkman Road Extension. As used in this Interlocal Agreement, the term “**Pedestrian Crossing**” shall mean and refer to each of the up to four (4) pedestrian crossings of the Kirkman Road Extension (which may be elevated or below grade, and which may or may not have signage attached) hereafter constructed by, at the direction of, and/or on behalf of Universal pursuant to the rights granted to Universal in Section 15 of the Roadway Agreement and/or the rights reserved to Universal in Section 15 of the Roadway Agreement and/or in that certain *General Warranty Deed* by which Universal hereafter conveys fee simple ownership of the Kirkman Road Extension to the County.

2. The Parties acknowledge and agree that “streetlights of a higher quality and/or more expensive design than what would be required pursuant to County standards and requirements” (as described in Section 19(e) of the Roadway Agreement) are or will be installed within the Kirkman Road Extension. As such, “the increased maintenance, repair, and replacement cost for . . . such streetlights” (as described in Section 19(e) of the Roadway Agreement) shall be included within the scope of the Aesthetic Improvements pursuant to this Interlocal Agreement and, for so long as this Interlocal Agreement is in effect, Universal shall have no obligations with respect to streetlighting pursuant to Section 19(e) of the Roadway Agreement.

## **B. *Transit Lanes.***

1. In cooperation with the County, Universal has commissioned a study by Vanasse Hangen Brustlin, Inc., a Massachusetts corporation doing business as VHB, (“**VHB**”) to evaluate options and alternatives, and to make recommendations, for the operation and use of the Transit Lanes titled Bus Rapid Transit (BRT) Controlled Access Feasibility Study (the “**Transit Lanes Study**”). In addition to other matters, the Transit Lanes Study evaluated: optimal traffic flow and protocols; methods of maintaining operational control and enforcement; restrictions on use; various available Transit Lane strategies; authorized vehicles (including autonomous vehicles and/or recommended limitations thereon); amount, manner of collection, and viability of usage charges; restrictions on use; and capital and ongoing costs of implementation.

2. The Transit Lanes Study has been completed, submitted to the District and the County and reviewed by both the District and the County. The study recommends a three (3) tier approach to managing the Transit Lanes with Tier 1 of the Transit Lanes Study recommending enhanced regulatory signage (i.e. Bus Only and Authorized Vehicles signage

additions) and enhanced pavement markings (i.e. red lane line delineation and reflective pavement markings) (collectively, the “**Tier 1 Improvements**”). Based on the Transit Lanes Study and VHB’s recommendations therein, the District, at the District’s sole cost and expense, shall (i) proceed with the implementation of the recommended Tier 1 Improvements, including the construction and/or installation of any required Tier 1 Improvements, in accordance with the District’s normal internal procedures for capital projects (including without limitation, as to financing and procurement) and (ii) have the sole and exclusive right to operate the Transit Lanes and control the utilization thereof consistent with the Transit Lanes Study and this Interlocal Agreement, as may be amended by the Parties. The Parties agree that the Transit Lanes are intended to be utilized by commercially recognized transit providers such as Lynx, I-Ride Trolley, Universal Orlando Transportation, or similar providers who provide routine fixed route service through this corridor, and any emergency vehicle. In furtherance thereof, the Parties agree to cooperate in good faith to review and analyze any additional potential uses relative to the Transit Lanes and, if such additional uses are determined to be mutually agreeable to the Parties, to enter into an amendment to this Interlocal Agreement to memorialize same. The District, at its sole cost and expense, shall be responsible for the maintenance and repair of the Tier 1 Improvements.

3. The Parties agree to cooperate in good faith to review and analyze the need for the construction or installation of any of the Tier 2 improvements recommended by the Transit Lanes Study (“**Tier 2 Improvements**”) or Tier 3 improvements recommended by the Transit Lanes Study (“**Tier 3 Improvements**”). Upon the Parties’ determination of the need for the construction or installation of the Tier 2 Improvements or Tier 3 Improvements, if any, which consent shall not be unreasonably withheld, and prior to the construction or installation of same, the Parties, and any other necessary parties, as applicable, shall enter into an amendment to this Interlocal Agreement. Without limiting the generality of the foregoing, a future amendment to this Interlocal Agreement may be required if unique issues related to the inspection, maintenance, repair, and/or replacement of any of the signage, signalization, lighting, mast arms and poles, monitoring and control devices (inclusive of intelligent transportation systems), cameras, transponder scanners or electronic data receivers and transmitters, or other equipment and improvements hereafter constructed or installed within (and/or in the vicinity of) the Kirkman Road Extension in furtherance of the operation and/or use of the Transit Lanes (hereinafter, the “**Transit Lane Equipment**”) is not adequately addressed by this Interlocal Agreement. For the avoidance of doubt, and unless otherwise agreed to by the Parties in an amendment to this Interlocal Agreement, any and all Transit Lane Equipment associated with Tier 2 Improvements or Tier 3 Improvements shall constitute Structural Improvements for which the Parties shall share the cost of maintaining and repairing (but not inspecting) as set forth in more detail in Section 5(B)(4) of this Interlocal Agreement.

4. The County and the District will cooperate in good faith to coordinate the enforcement of the Tier 1 Improvements, and if applicable, any Tier 2 Improvements, Tier 3 Improvements, and other Transit Lane Equipment that have been agreed to by the Parties and constructed/installed pursuant to Section 7.B.3.

C. *Universal.* Universal is hereby made an express third-party beneficiary of all terms and provisions of, including without limitation the agreements of the County set forth in, this Section 7.

## **Section 8. Cooperation and Coordination.**

### **A. *Promptness of the Parties.***

1. The Parties shall reasonably expedite any actions or approvals requested or required of such Party in connection with the Inspection and Maintenance Services, if any, and except as otherwise provided in this Interlocal Agreement, all such actions or approvals shall not be unreasonably withheld, conditioned or delayed. Neither the District nor the County shall act, or fail to act, in a manner that would cause, or would reasonably be expected to cause, a delay in the completion of the Inspection and Maintenance Services. Nothing in this Section 8 shall be construed to require the District or the County to violate any Public Laws.

2. For the purposes of this Interlocal Agreement, “**Day**” shall mean one calendar day of 24 hours measured from midnight to the next midnight when used in the contract documents, unless otherwise specifically stated. When any period of time is referenced by days in this Interlocal Agreement, it shall be computed to exclude the first day and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a County holiday as determined by Orange County, such day shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday, or County holiday.

**B. *Force Majeure.*** The Parties shall be excused for the period of any delay in the performance of any obligation or failure caused by terrorist act, war, embargo, government requirement, civil or military authority, pandemic, epidemic, act of God, or other similar causes beyond the Parties’ control, or by any other such causes which the Parties decide in writing justify the delay. Notwithstanding the foregoing, there shall be no events of force majeure relative to the payment of the Reimbursable Costs to the District.

**C. *Notification of Legal Actions Relative to the Inspection and Maintenance Services.*** Each Party shall promptly notify the other Party in writing of any suit, proceeding or action (each, an “**Action**”) that is initiated or threatened against it in connection with the completion of the Inspection and Maintenance Services. Any Action against the Parties in connection with the completion of the Inspection and Maintenance Services shall be pursued and handled in all material respects by the Party against which the Action was initiated.

**D. *Reporting Requirements.*** The Parties agree to cooperate in the preparation and/or compilation of any documents or information that is requested by the State of Florida, or any other entity with a legal right to request such documents or information relative to same.

**Section 9. Notices.** Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (a) hand-delivered to the official hereinafter designated; (b) delivered when such notice is sent by Federal Express or other nationally recognized overnight courier service; or (c) received when such notice is sent by the United States mail, postage prepaid, certified mail, return receipt requested, all to be addressed to a Party at the address set forth opposite the Party’s name below, or such other address as the Party shall have specified by written notice to the other Parties delivered in accordance therewith.

If to the County:

Orange County Public Works Department  
Orange County Public Works Complex

4200 S. John Young Parkway  
Orlando, Florida 32839  
Attn: Public Works Director

With a copy to:

Orange County Administrator's Office  
Orange County Administration Building  
201 S. Rosalind Avenue, 5th Floor  
Orlando, Florida 32801-3527  
Attn: County Administrator

If to the District:

Shingle Creek Transit and Utility  
Community Development District  
3501 Quadrangle Boulevard, Suite 270  
Orlando, Florida 32817-8329  
Attn: District Manager

With a copy to:

Kutak Rock LLP  
107 West College Avenue  
Tallahassee, Florida 32301-7707  
Attn: District Counsel

#### **Section 10. Indemnification.**

**A. *District Indemnification.*** To the maximum extent permitted by the Public Laws, the District shall indemnify, defend and hold harmless the County from and against any claim, loss, damage, liability, cost or expense, including reasonable attorneys' fees, directly arising out of any and all personal injury or property damage claims, liabilities, losses and causes of action arising from such claim which may arise solely as a result of the negligence of the District in connection with its rights and obligations under this Interlocal Agreement; provided, however, that the foregoing indemnification shall not extend to those claims, losses, damages, liabilities, costs or expenses asserted against or suffered by the County (or its officers, employees, attorneys, agents or instrumentalities) to the extent due to the negligence or willful acts or omissions of the County (or its officers, employees, attorneys, agents or instrumentalities), or to any action taken by the County in violation of this Interlocal Agreement or any action not taken that is required under this Interlocal Agreement.

**B. *County Indemnification.*** To the maximum extent permitted by the Public Laws, the County shall indemnify, defend and hold harmless the District from and against any claim, loss, damage, liability, cost or expense, including reasonable attorneys' fees, directly arising out of any and all personal injury or property damage claims, liabilities, losses and causes of action arising from such claim which may arise solely as a result of the negligence of the County in connection with its rights and obligations under this Interlocal Agreement; provided, however, that the foregoing indemnification shall not extend to those claims, losses, damages, liabilities, costs or expenses asserted against or suffered by the District (or its officers, employees, attorneys, agents or instrumentalities) to the extent due to the negligence or willful acts or omissions of the District (or its officers, employees, attorneys, agents or instrumentalities), or to any action taken by the



District in violation of this Interlocal Agreement or any action not taken that is required under this Interlocal Agreement.

**Section 11. Dispute Resolution.** In the event of any claim or dispute among the Parties arising out of or relating to this Interlocal Agreement or the breach thereof (each, a “**Dispute**”), the Parties shall use their best efforts to settle such Dispute in a reasonable manner through amicable negotiations. Upon written request from either the District or the County to conduct such negotiations (the “**Dispute Notice**”), each Party and its counsel shall meet or otherwise confer as soon as conveniently possible, but in no case later than ten (10) business Days following receipt of the Dispute Notice, to attempt to resolve such Dispute. Prior to any meetings between the Parties, said Parties shall exchange relevant information, as reasonably requested, that will assist in resolving their Dispute. If a Dispute has not been settled or resolved pursuant to this Section 11, the District or the County can notify the other Party of its intent to pursue litigation in connection with the Dispute, whereupon such Party may then commence litigation in accordance with this Interlocal Agreement. Notwithstanding any other term or provision of this Interlocal Agreement to the contrary, no breach hereunder shall entitle any Party to unilaterally cancel, rescind, or otherwise terminate this Interlocal Agreement.

**Section 12. Sovereign Immunity; Limitation of Liability.**

**A.** The Parties intend to avail themselves of the benefits of Section 768.28, *Florida Statutes*, and any other statutes and common law governing sovereign immunity, to the fullest extent possible. Neither this provision nor any other provision of this Interlocal Agreement or any contract documents relative to the Inspection and Maintenance Services shall be construed as a waiver of the Parties’ right to sovereign immunity under Section 768.28, *Florida Statutes*, or other limitations imposed on the Parties’ potential liability under state or federal law. The Parties agree that neither Party shall be liable under this Interlocal Agreement for punitive damages or interest for the period before judgment. Nothing in this Interlocal Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This Article shall survive termination of this Interlocal Agreement.

**B.** The provisions of Section 768.28, *Florida Statutes*, applicable to the District and the County apply in full to this Interlocal Agreement. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the Parties acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

**C.** No officer, employee or agent of the Parties acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any injury or damage suffered as a result of any act, event, or failure to act unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

**D.** Neither Party shall be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his/her employment.

This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

**Section 13. Regulatory Authority.** In the event that the County exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws, and ordinances shall be deemed to have occurred pursuant to the County's authority as a governmental body and shall not be attributable in any manner to the County as a Party to this Interlocal Agreement.

**Section 14. Public Records.** The District will allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, *Florida Statutes*, and which have been made or received by the District in conjunction with the Work. Nothing herein shall require the District to allow public access to any records or information not pertaining specifically to the Work, or to any proprietary information or other records, regardless of form, which either does not meet the definition of Public Record in Chapter 119, *Florida Statutes*, or is exempt from production thereunder.

**Section 15. Records and Audits.** The District will maintain in its place of business all books, documents, papers and other evidence pertaining in any way to payments made pursuant to this Interlocal Agreement. Such records shall be available at the District's place of business at all reasonable times during the term of this Interlocal Agreement and for four (4) years from the date of termination of this Interlocal Agreement for audit or inspection by the County upon prior written notice.

**Section 16. Recording.** This Interlocal Agreement shall be recorded by the County in the Public Records of Orange County, Florida in connection with the real estate closing on the Kirkman Road Extension. Promptly upon execution of this Interlocal Agreement, the District shall pay (or cause to be paid) to the County an amount equal to the applicable cost of recording this Interlocal Agreement in the Public Records of Orange County, Florida. The provisions of this Interlocal Agreement shall constitute covenants running with the land or an equitable servitude upon the land, as the case may be, applicable to all of the Kirkman Road Extension as described in **Exhibit A**.

**Section 17. Headings.** The headings or captions of articles, sections, or subsections used in this Interlocal 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 Interlocal Agreement.

**Section 18. Authority of Signatory.** Each signatory below represents and warrants that they are duly authorized by their respective Party to bind that Party to the terms and obligations of this Interlocal Agreement.

**Section 19. Attorneys' Fees and Costs.** Each Party shall bear its own costs, expert fees, attorneys' fees, and other fees incurred in connection with the preparation of this Interlocal Agreement. In the event either Party is required to enforce this Interlocal Agreement by court proceedings or otherwise, then each Party shall be responsible for its own costs incurred, including reasonable attorneys' fees.

**Section 20. No Third-Party Beneficiaries.** This Interlocal Agreement is by and between the County and the District and establishes the relationship between these Parties. Except as set forth in Section 7.C of this Interlocal Agreement, the provisions of this Interlocal Agreement do not create any rights in any third parties and no such rights should be implied.

**Section 21. Negotiation at Arm's Length.** This Interlocal Agreement has been negotiated fully between the Parties as an arm's length transaction and with the assistance of legal counsel. Both Parties participated fully in the preparation of this Interlocal Agreement. In the case of a dispute concerning the interpretation of any provision of this Interlocal Agreement, both Parties are deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against either Party.

**Section 22. Successors, Assignment or Transfer.** The Parties each bind itself and its partners, successors, executors, administrators and assigns to the other Party of this Interlocal Agreement and to the partners, successors, executors, administrators and assigns of such other Party, in respect to all covenants of this Interlocal Agreement. Additionally, the Parties deem the services to be rendered pursuant to this Interlocal Agreement to be personal in nature. As such, neither Party may assign or transfer its rights or obligations under this Interlocal Agreement to another unit of local government, political subdivision or agency of the State of Florida without the prior written consent of the other Party, which consent may not be unreasonably withheld. Except as set forth herein, the District may not transfer its rights or obligations under this Interlocal Agreement to a private party or entity without the prior written consent of the County.

**Section 23. Amendment.** This Interlocal Agreement shall constitute the entire agreement between the Parties and may be modified in writing only by mutual agreement of both Parties. The Parties agree that this Interlocal Agreement may be amended by a written document approved by the District's governing board and the Deputy County Administrator or CPM, as defined in the Roadway Agreement. The Deputy County Administrator or CPM is hereby delegated, on behalf of the County, the authority to execute any and all future amendments, extensions, renewals, addenda, or other instruments that may be required in connection with this Interlocal Agreement.

**Section 24. Applicable Law.** This Interlocal Agreement shall be construed, interpreted and controlled by and in accordance with the laws of the State of Florida without reference to any conflicts of law provisions. Each Party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the 9th Judicial Circuit in and for Orange County, Florida for any and all legal proceeding(s) that may arise either directly, or indirectly, from this Interlocal Agreement or the Inspection and Maintenance Services. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, the Parties hereby agree that venue for those actions shall be in the Orlando Division of the Middle District, U.S. District Court of Florida.

**Section 25. Jury Waiver.** Each Party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right that Party does or might have to a trial by jury in any legal proceeding(s) that may arise either directly, or indirectly, from this Interlocal Agreement or the Inspection and Maintenance Services.

**Section 26. Representations and Construction.** Each Party represents that they have had the opportunity to consult with an attorney and have carefully read and understand the scope and effect of the provisions of this Interlocal Agreement. Neither Party has relied upon any representations or statements made by the other Party hereto which are not specifically set forth in this Interlocal Agreement or the contract documents, and that this Interlocal Agreement is not to be construed against any Party as it were the drafter of this Interlocal Agreement.

**Section 27. Remedies.** No remedy conferred upon any Party in this Interlocal Agreement is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy: (i) provided for in this Interlocal Agreement; and (ii) now or later existing at law or at equity. No single or partial exercise by any Party of any right, power, or remedy provided to that Party by this Interlocal Agreement, at law, or at equity shall preclude any other or further exercise of any such rights, powers, or remedies. The rights and remedies of the Parties provided for under this Interlocal Agreement are in addition to any other rights and remedies provided by law.

**Section 28. Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Interlocal Agreement, including, by way of example only, the indemnification provisions, shall survive the expiration, cancellation, or termination of this Interlocal Agreement.

**Section 29. Severability.** The provisions of this Interlocal Agreement are declared by the Parties to be severable. However, the material provisions of this Interlocal Agreement are dependent upon one another, and such interdependencies a material inducement for the Parties to enter into this Interlocal Agreement. Therefore, should any material term, provision, covenant, or condition of this Interlocal 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 Interlocal Agreement 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 holding.

**Section 30. Waiver.** Except as necessary in establishing that Substantial Completion of a Project has occurred, the County's review, approval, or acceptance of the Work completed by the District under this Interlocal Agreement shall not be construed to operate as a waiver of any rights under this Interlocal Agreement or of any cause of action arising out of the performance of this Interlocal Agreement. No delay or failure on the part of any Party to this Interlocal Agreement to exercise any right or remedy accruing to such Party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment of any such right or remedy or preclude such Party from the exercise of any such right or remedy at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

**Section 31. Time is of the Essence.** Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this Interlocal Agreement.

**Section 32. Term.** The term of this Interlocal Agreement shall commence on the Effective Date and shall continue indefinitely unless mutually terminated by the Parties.

**Section 33. Interpretation.**

**A.** Unless the context clearly and unmistakably requires otherwise:

**1.** Terms such as “Party A shall take Action X” or “Party A will take Action X” mean that Party A is required to take Action X.

**2.** Terms such as “may” will denote the permissive.

**3.** Likewise, terms such as “Party B shall not take Action Z” or “Party B will not take Action Z” mean that Party B is prohibited from taking Action Z.

**IN WITNESS WHEREOF**, this Interlocal Agreement has been executed by the Parties as of the date indicated below.

**Orange County, Florida**

By: Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings  
Orange County Mayor

Date: \_\_\_\_\_

**Attest:** Phil Diamond, County Comptroller  
As Clerk of the Board of County Commissioners

[SEAL]

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Printed Name

**Shingle Creek Transit and Utility  
Community Development District**

By: Board of Supervisors

By: \_\_\_\_\_  
Chairperson

Date: \_\_\_\_\_

**Attest:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **EXHIBIT A**

### **Legal Description of the Kirkman Road Extension**

Tract B, UNIVERSAL SOUTH CAMPUS - PLAT 1, according to the plat thereof, as recorded in Plat Book 110, Pages 45 through 51, of the Public Records of Orange County, Florida.

AND:

Tract B, UNIVERSAL SOUTH CAMPUS – PLAT 2, according to the plat thereof, as recorded in Plat Book 112, Pages 11 through 33, of the Public Records of Orange County, Florida.

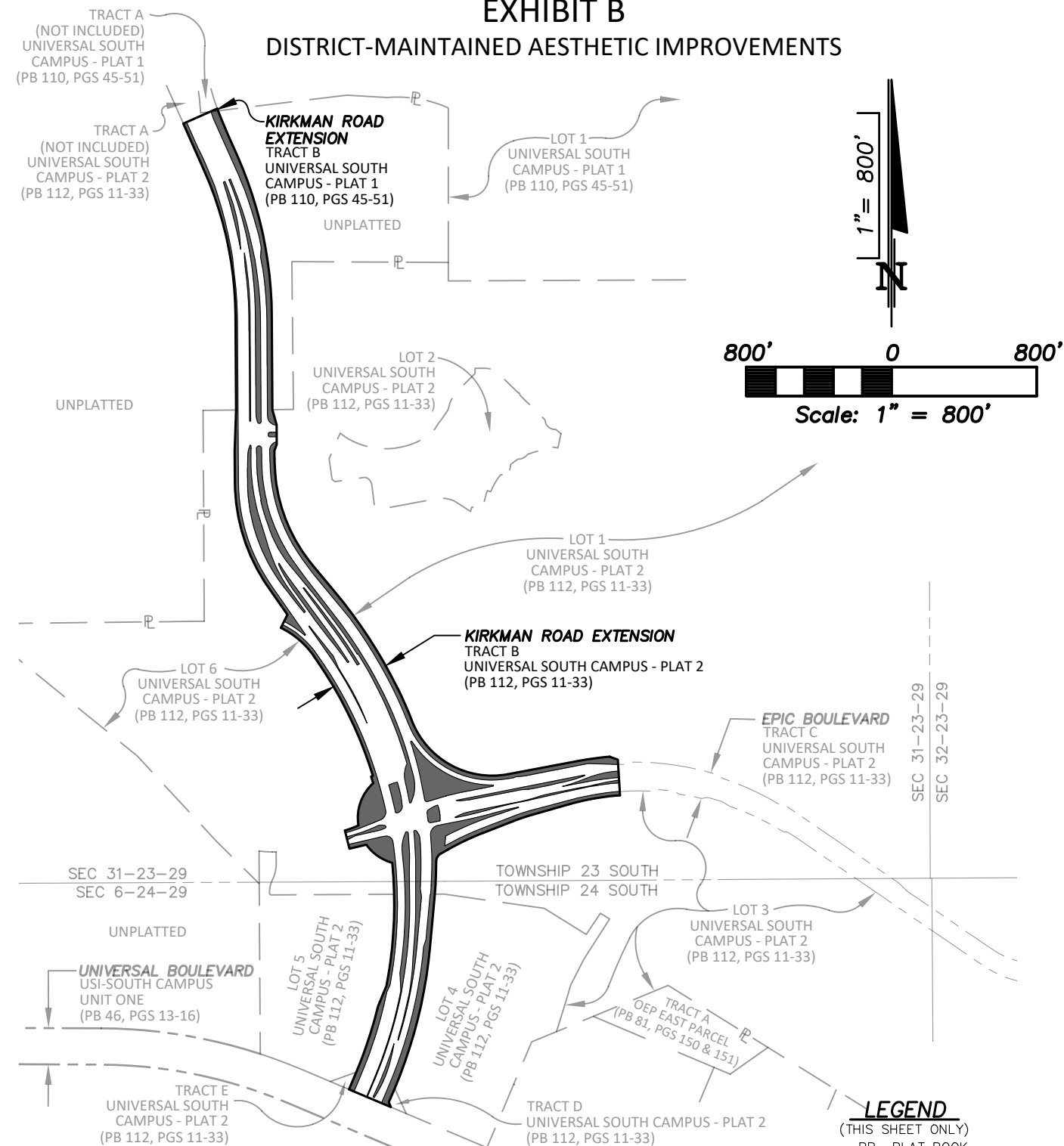


**EXHIBIT B**

**Map of Kirkman Road Extension Infrastructure Improvements  
Subject to this Interlocal Agreement**

# EXHIBIT B

## DISTRICT-MAINTAINED AESTHETIC IMPROVEMENTS



PREPARED FOR:  
**UNIVERSAL CITY DEVELOPMENT PARTNERS, LTD.**  
 KIRKMAN ROAD INTERLOCAL AGREEMENT  
 DISTRICT-MAINTAINED AESTHETIC IMPROVEMENTS EXHIBIT



**DONALD W. MCINTOSH ASSOCIATES, INC.**  
 ENGINEERS PLANNERS SURVEYORS

1950 SUMMIT PARK DRIVE SUITE 600, ORLANDO, FL 32810 (407)644-4068  
 CERTIFICATE OF AUTHORIZATION NO. LB68

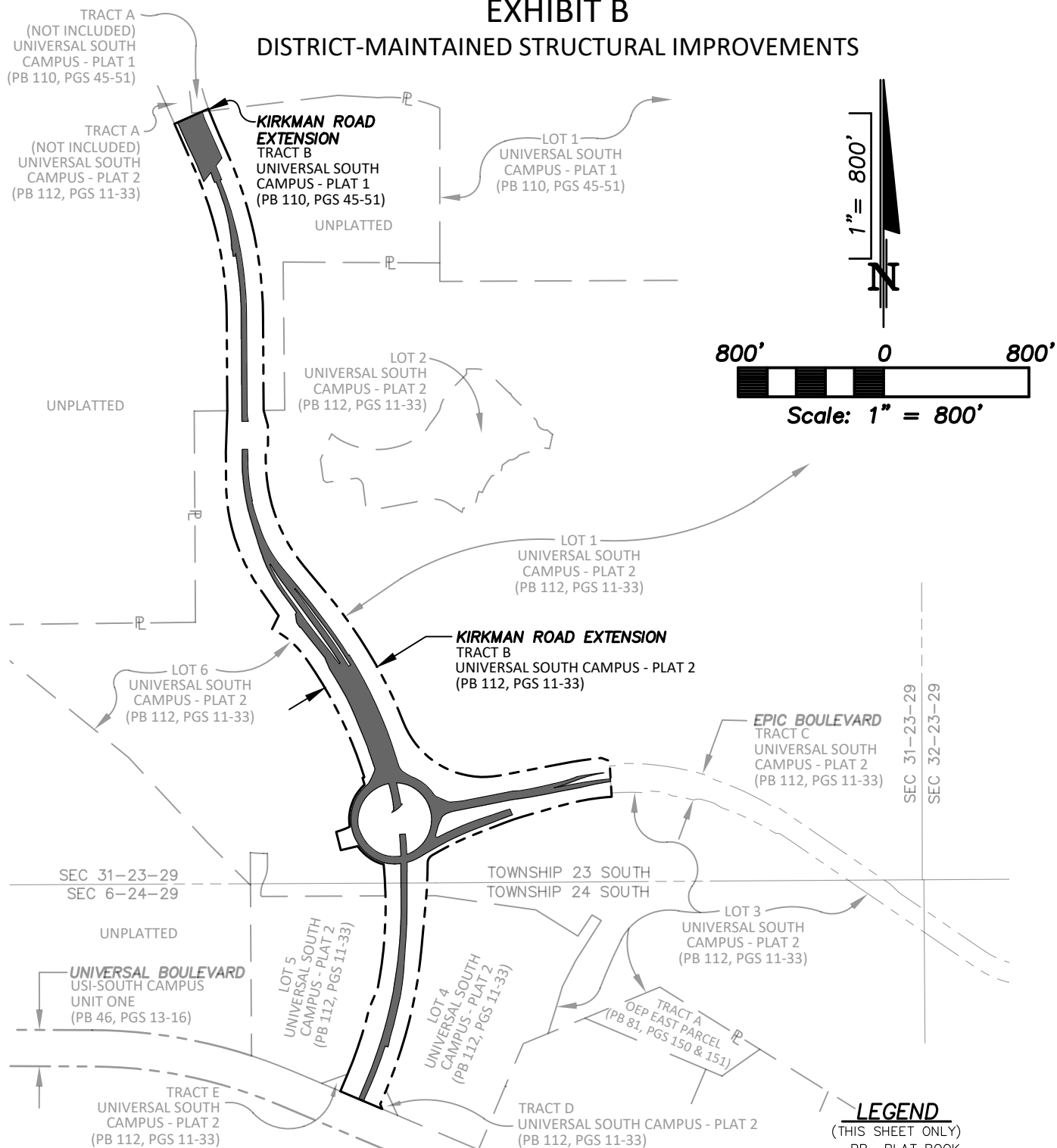
DRAWN BY: <u>BNC</u>	JOB NO. <u>21574.001</u>	SCALE <u>1"=800'</u>	SHEET <u>1</u>
DATE: <u>04/2025</u>	CHECKED BY: <u>DLL</u>		OF <u>2</u>

### Note:

- This is not a survey.

# EXHIBIT B

## DISTRICT-MAINTAINED STRUCTURAL IMPROVEMENTS



PREPARED FOR:  
**UNIVERSAL CITY DEVELOPMENT PARTNERS, LTD.**  
 KIRKMAN ROAD INTERLOCAL AGREEMENT  
 DISTRICT-MAINTAINED STRUCTURAL IMPROVEMENTS EXHIBIT



**DONALD W. MCINTOSH ASSOCIATES, INC.**  
 ENGINEERS PLANNERS SURVEYORS

1950 SUMMIT PARK DRIVE SUITE 600, ORLANDO, FL 32810 (407)644-4068  
 CERTIFICATE OF AUTHORIZATION NO. LB68

- LEGEND**  
 (THIS SHEET ONLY)  
 PB PLAT BOOK  
 PG(S) PAGE(S)  
 P PROPERTY LINE  
 SEC 31-23-29 SECTION 31,  
 TOWNSHIP 23 SOUTH,  
 RANGE 29 EAST  
 DISTRICT-MAINTAINED  
 STRUCTURAL IMPROVEMENTS  
 KIRKMAN ROAD EXTENSION  
 (ORANGE COUNTY)

DRAWN BY: <u>BNC</u>	JOB NO. <u>21574.001</u>	SCALE <u>1"=800'</u>	SHEET <u>2</u>
DATE: <u>04/2025</u>	CHECKED BY: <u>DLL</u>		OF <u>2</u>

## **EXHIBIT C**

### **District-Maintained Aesthetic Improvements**

Landscaping

Aesthetic hardscaping and monumentation

Irrigation

Walkways/pathways/sidewalks

Streetlighting<sup>3</sup>

Specialty lighting

Wayfinding or specialty signage

Aesthetic aspects of mechanically stabilized earth (MSE) retaining walls

All aspects (including aesthetic, safety, containment, structural, and otherwise) of certain private Pedestrian Crossings, now or hereafter existing – but only to the extent that the District, in the District's sole and absolute discretion, hereafter enters into one or more separate written agreements with the persons, entities, and/or individuals that own and control such private Pedestrian Crossing(s), which separate written agreement(s) provide for the District's inspection, management, operation, and maintenance of such private Pedestrian Crossing(s) and for the reimbursement to the District of the costs and expenses incurred by the District in performing such services for/to such private Pedestrian Crossing(s)

Aesthetic aspects of public Pedestrian Crossings, now or hereafter existing

---

<sup>3</sup> Includes maintenance of streetlighting poles, fixtures, improvements, etc. only. The County remains responsible for the costs of electricity serving such streetlighting, pursuant to separate agreement(s) between the County and the applicable utility provider(s).

## **EXHIBIT D**

### **Structural Improvements**

Safety, containment, structural, and non-aesthetic aspects of mechanically stabilized earth (MSE) retaining walls

Concrete pavement<sup>4</sup>

Concrete bridge structures

Elevated exit ramp system

Transit Lane Equipment associated with Tier 2 Improvements or Tier 3 Improvements, if any

---

<sup>4</sup> Note: only relates to transit lanes

## **EXHIBIT E**

### **County-Maintained Improvements**

All other components of the Kirkman Road Extension not expressly designated as an Aesthetic Improvement or a Structural Improvement, including without limitation:

Asphalt pavement<sup>5</sup>

Roadway base

Roadway subbase

Curbs, concrete separators, and curb ramps

Pavement markings

Stormwater collection system<sup>6</sup>

Regulatory signage

Signalization

Safety, containment, structural, and non-aesthetic aspects of public Pedestrian Crossings, now or hereafter existing

---

<sup>5</sup> Note: does not relate to transit lanes.

<sup>6</sup> Includes stormwater management infrastructure located within the right-of-way, but does not include: (i) the Shared Use Ponds (as defined in the Roadway Agreement); (ii) any other joint use/shared drainage improvements addressed by any of the agreement(s) entered into by the County as part of the conveyance of the Kirkman Road Extension to the County; or (iii) any drainage improvements addressed by any use agreement between Universal and the County.

## **EXHIBIT F**

### **Minimum Insurance Coverages**

The District shall require and ensure that each of its consultants and contractors (“**Contractor**”) maintain insurance until the completion of their work under any contract associated with the completion of the work contemplated by this Interlocal Agreement. Failure of the District to ensure that its Contractors maintain insurance coverage as listed below shall not relieve the District of any contractual responsibility, obligation or liability.

All Contractors hired by the District shall maintain on a primary basis and at their sole expense, at all times throughout the duration of their work on this project the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County’s review or acceptance of insurance maintained by the Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by the District under this Interlocal Agreement. The Contractor shall maintain any coverage required by federal and state workers’ compensation or financial responsibility laws including but not limited to Chapter 324 and 440, *Florida Statutes*, as may be amended from time to time. Insurance carriers providing coverage shall be authorized and/or eligible to do business in the State of Florida and shall possess a current A.M. Best’s Financial Strength Rating of A- Class VIII.

The minimum types and amounts of insurance inclusive of any amount provided by an umbrella or excess policy, shall be as indicated herein.

When a self-insured retention or deductible exceeds \$100,000 the County reserves the right to request a copy of the Contractor’s most recent annual report or audited financial statement. For policies written on a “Claims-Made” basis the Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this Interlocal Agreement. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Interlocal Agreement the Contractor agrees to purchase the SERP with a minimum reporting period of not less than two (2) years. Purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

The Contractor shall be responsible for all risk of loss, whether insured or not, until completion of the portion of the Inspection and Maintenance Services for which it has contracted with the District to complete and, with respect to the Structural Repair Work, until Conveyance of such Project to the County pursuant to the terms of this Interlocal Agreement. The Contractor agrees to be fully and solely responsible for any costs or expenses resulting from a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the application of said deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. The County has the right to request that the Contractor procure and maintain a surety bond for any deductible amounts that exceed any amount stated herein in such amount and on such form that are acceptable to the County.

The County reserves the right, but not the responsibility to periodically review any and all policies of insurance and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Interlocal Agreement. In such event, the County will provide the Contractor written notice of such adjustments and the Contractor shall comply within thirty (30) Days of receipt thereof. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.

The Contractor agrees to specifically include the County as an additional insured on the Commercial General Liability policy with a CG 20 37 – Additional Insured - Owners, Lessees or Contractors-Completed Operations or CG 20 10 – Additional Insured-Owners, Lessees or Contractors-Scheduled Person or Organization Endorsement, or their equivalent. The Contractor shall also specifically include the County as an Additional Insured on any Commercial Umbrella or Excess policies unless the County is automatically defined under the policy as an Additional Protected Person. Additionally, the Contractor agrees to specifically include the County as an Additional Insured under the Design-Build Contractor's Pollution Liability coverage (when applicable). The name of the organization identified in each Additional Insured endorsement's schedule shall read Orange County, Florida.

The Contractor agrees to provide a Waiver of Subrogation in favor of the County, the District, the Contractor, and sub-contractors for each required policy providing coverage during the life of this Interlocal Agreement. When required by the insurer, or should a policy condition not permit an endorsement, the Contractor agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the Contractor enter into such an agreement on a pre-loss basis.

Before execution of this Interlocal Agreement by the County and the start of any work and for the duration of this Interlocal Agreement, the Contractor shall provide the County with current certificates of insurance evidencing all required coverage. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) Days prior written notice to the County. Certificates shall specifically reference the project title and contract number. The certificate holder shall read:

**Orange County, FL  
C/O Risk Management Division  
109 E. Church Street, Suite 200  
Orlando, Florida 32801**

Prior to commencement of any work performed by sub-contractors (if any), the Contractor shall obtain certificates of insurance evidencing coverage from each of its sub-contractors and shall furnish within five (5) business Days, copies of said certificates upon request by the County. In addition to the certificate(s) of insurance, the Contractor shall also provide a blanket or specific additional insured endorsement and all waivers of subrogation or transfer of rights of recovery endorsements for each policy.



Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such insurance.

### **Workers' Compensation**

The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits (see below) for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County. The County will not accept elective exemptions. Any Contractor using an employee leasing company shall complete the County's Leased Employee Affidavit.

- Schedule of Limits for Employer's Liability
  - Contract Amount Up to \$10 Million: Statutory/\$500,000
  - Contract Amount Over \$10 Million: Statutory/\$1,000,000
- Required Endorsements
  - Waiver of Subrogation – WC 00 03 13 or its equivalent

### **Commercial General Liability**

The Contractor shall maintain coverage issued on ISO form CG 00 01 or its equivalent, with a limit of liability of not less than the limits indicated in the Schedule of Limits (see below). The Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting product/completed operations, independent Contractors, contractual liability, or separation of insureds. The General Aggregate limit shall either apply separately to this Agreement or shall be at least twice the required occurrence limit.

All Contractors with a contract amount greater than \$20,000,000 shall be written on a Designated Premises or Projects basis. Commercial umbrella and excess coverage shall include liability coverage for damage to the Contractor's completed work equivalent to that provided under ISO Form CG 00 01 04 13.

- Schedule of Limits for Commercial General Liability
  - Contract Amount Up to \$10 Million: \$1,000,000
  - Contract Amount Over \$10 Million: \$5,000,000
- Required Endorsements
  - Additional Insured – CG 20 10 04 13 and CG 20 37 04 13 or its equivalent
  - Waiver of Subrogation – CG 24 04 05 09 or its equivalent

*Note: If blanket endorsements are being submitted please include the entire endorsement. The policy number to which the endorsement applies shall be indicated directly on the endorsement.*

### **Business Automobile Liability**

The Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent, with limits of not less than the limits indicated in the Schedule

of Limits (see below). In the event the Contractor does not own automobiles, the Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

- **Schedule of Limits for Commercial General Liability**
  - Contract Amount Up to \$10 Million: \$1,000,000
  - Contract Amount Over \$10 Million: \$5,000,000