



Interoffice Memorandum

February 1, 2019

AGENDA ITEM

TO: Mayor Jerry L. Demings
–AND–
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development Services Department

CONTACT PERSON: Renzo Nastasi, AICP, Manager
Transportation Planning Division
(407) 836-8072

SUBJECT: February 12, 2019 – Consent Item
Cooperative Memorandum of Understanding between SLRC Holdings, LLC, Universal City Development Partners, Ltd., and Orange County for the Extension of Kirkman Road

On February 12, 2019, the Board will consider approving a Cooperative Memorandum of Understanding ("MOU") between SLRC Holdings, LLC, and Universal City Development Partners, Ltd. (collectively, "Universal"), as the first party, and Orange County, as the second party, for the extension of Kirkman Road from Carrier Drive on the north to Universal Boulevard on the south, a length of approximately 1.7 miles ("Kirkman Extension").

According to this MOU, the Kirkman Extension will have a minimum of six general traffic lanes plus two dedicated transit lanes, and consist of the following three segments:

- (1) Segment 1, from the southern right-of-way line of Universal Blvd. northward to the property line of Lockheed Martin Corp. and LMC Properties, Inc. (collectively, "Lockheed");
- (2) Segment 2, from the northern terminus of Segment 1 northward to the Florida Department of Transportation/Orange County jurisdictional boundary line lying south of Sand Lake Road; and
- (3) Segment 3, from the northern terminus of Segment 2 northward to the northern right-of-way line of Carrier Drive, which includes the interchange with Sand Lake Road.

Segments 1 and 2 will be part of the County's road system, and Segment 3 will be part of the FDOT's road system. The MOU includes an Exhibit "A" that depicts the Kirkman Extension. The MOU acknowledges that future agreements may be needed between the County and FDOT and/or Universal and FDOT to address Segment 3.

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February 12, 2019 – Consent Item

Cooperative Memorandum of Understanding - Extension of Kirkman Road

In the MOU, Universal estimates that the costs of the project will be approximately \$306 million.

Under the terms of this proposed MOU, Universal will design, engineer, permit, and construct the Kirkman Extension. In exchange, the County will repay Universal for a portion of the project costs from the following three funding sources: (1) a transportation impact fee credit account to be established in favor of Universal in the anticipated amount of \$25 million; (2) a lump sum payment of \$60 million from the International Drive Community Redevelopment Agency Trust Fund ("CRA Trust Fund"), upon completion of the Kirkman Extension; and (3) after completion of the Kirkman Extension, \$40 million from the CRA Trust Fund to be rebated in annual installments in amounts based on the increase in the County's property tax base attributable to the project and development of the Universal property within the CRA boundary.

The County's contribution for the Kirkman Extension will supplement up to \$16 million for the Kirkman Extension available pursuant to the Florida Grant Agreement between the State of Florida Department of Economic Opportunity and the County that was approved by the Board on December 18, 2018.

Universal will fund the balance of the cost of the Kirkman Extension without additional cost to Orange County.

The proposed MOU reflects only the general understanding of Universal and the County regarding the design, engineering, permitting, construction, and financing of the Kirkman Extension. It recognizes that the rights and obligations of the two parties will be more fully set forth in a Roadway and Infrastructure Agreement and any other agreements that may be necessary. It also provides that one or more public hearings will need to be held by the Board prior to or concurrent with consideration of the Roadway and Infrastructure Agreement, including a public hearing where the Board will decide whether to amend the International Drive Community Drive Community Redevelopment Plan to include the Kirkman Extension as a project that is eligible to be funded from the CRA Trust Fund, and possibly a public hearing where the Board will decide whether Universal may complete Segments 1 and 2 as a public-private construction project under Section 336.71, Florida Statutes.

ACTION REQUESTED: Approval and execution of Cooperative Memorandum of Understanding by and between Universal and Orange County for the extension of Kirkman Road. District 6.

JVW/RN/JP/am
Attachment

COOPERATIVE MEMORANDUM OF UNDERSTANDING

THIS COOPERATIVE MEMORANDUM OF UNDERSTANDING (“MOU”), effective as of the latest date of execution (the “**Effective Date**”), is entered into by and between **UNIVERSAL** (as defined below), whose address is 1000 Universal Studios Plaza, Orlando, Florida 32819, and **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida (“**County**”), whose address is P.O. Box 1393, Orlando, Florida 32802-1393. County and Universal may be referred to herein individually as a “Party” and jointly as “Parties.”

RECITALS:

WHEREAS, the Parties desire to enter into this MOU to advance the completion of the Kirkman Extension (as defined below) and as generally depicted on **Exhibit “A”** attached hereto and incorporated herein by this reference;

WHEREAS, it is the intent of the Parties that Universal will design, engineer, permit, and construct the Project (as defined below), or cause the same to happen;

WHEREAS, County will pay the County Contribution (as defined below), the CRA Incentive Funds (as defined below), and the DEO Grant (as defined below) to Universal, subject to the terms hereof;

WHEREAS, this MOU establishes the general understanding of the Parties regarding the design, engineering, permitting, construction, and financing of the Kirkman Extension, as more fully set forth herein; and

WHEREAS, the rights, obligations, and duties of the Parties will be more fully set forth in a Roadway and Infrastructure Agreement (as defined below), a CRA Agreement (as defined below), if any, and any other agreements that may be necessary.

NOW, THEREFORE, for and in consideration of these premises, the mutual agreement of the Parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

WITNESSETH:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated and made a part of this MOU as if stated fully herein.
2. **Definitions.** The following definitions are a part of this MOU:
 - a. **AARRUA:** shall mean collectively that certain Amended and Restated Roadway and Utility Agreement dated June 27, 2003, entered into by and between Lockheed (as defined below) and Universal’s predecessor-in-interest, Universal City Property Management III LLC, as amended by that certain Amendment to Amended and Restated Roadway and Utility Agreement dated June 26, 2006, and recorded July 18, 2006 in Book 8758, Page 2934 of the Official Records of Orange County, Florida (the “**Official Records**”).

- b. BCC: shall mean either the Orange County Board of County Commissioners or the Orange County Board of County Commissioners acting in its capacity as the governing board of the CRA (as defined below), as applicable.
- c. CEI: shall mean construction engineering and inspection services on the Project performed by a Florida licensed engineer retained by Universal, the scope of which shall be further defined in the Roadway and Infrastructure Agreement.
- d. CERCLA: shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as it has been and may be amended.
- e. County Contribution: shall mean the anticipated amounts from County funding sources that County will use to pay towards the Eligible Project Costs (as defined below), as further described in and subject to Section 5.b. Payment of the CRA Trust Fund portion of the County Contribution described in Sections 5.b.2) below is subject to the BCC deciding in its sole discretion to amend the International Drive Community Redevelopment Plan pursuant to Part III, Chapter 163, Florida Statutes, at a noticed public hearing. In addition, while the actual amount from each source may vary, in no event shall the total County Contribution be less than Eighty-Five Million Dollars (\$85,000,000), except as provided in Sections 5.b.3) and 5.b.4).
- f. CRA: shall mean the International Drive Community Redevelopment Agency.
- g. CRA Agreement: shall mean a separate agreement, if any, by and between County, Universal, and/or CRA, governing the disbursement of (i) the portion of the County Contribution from the CRA Trust Fund, as described in Section 5.b.2.) below, for payment by County to Universal for Eligible Project Costs and (ii) the CRA Incentive Funds from the CRA Trust Fund, as described in Section 5.c. below; however, the provisions of such an agreement may instead be addressed in the Roadway and Infrastructure Agreement (as defined below). The CRA Agreement, if any, will be subject to approval by the BCC in its capacity as the CRA board
- h. CRA Incentive Funds or CIF: Forty Million Dollars (\$40,000,000.00) from the CRA Trust Fund to be rebated by the County to Universal as an economic development incentive based on the increase in the Orange County property tax base attributable to the Project and development of the Universal Property, as further described in Section 5.c., which shall be subject to the BCC deciding in its sole discretion to amend the International Drive Community Redevelopment Plan pursuant to Part III, Chapter 163, Florida Statutes, at a noticed public hearing.
- i. CRA Trust Fund: shall mean the trust fund created for the CRA pursuant to Orange County Ordinance No. 98-22.
- j. DEO: shall mean the State of Florida Department of Economic Opportunity.

- k. DEO Grant: shall mean the sum of Sixteen Million Dollars (\$16,000,000.) awarded to County by DEO for a portion of the Project Costs pursuant to the Florida Grant Agreement (as defined below).
- l. Eligible Project Costs: shall mean Project Costs, for the construction of the Project only, approved and determined by County to be eligible for payment by County to Universal from the funding sources described in Section 5 below. A process for determining Eligible Project Costs shall be addressed and described in the Roadway and Infrastructure Agreement; however, certain Project Costs, including but not necessarily limited to the following, shall not be Eligible Project Costs: (1) costs of acquisition or conveyance of ROW (as defined below), and the value of such ROW; (2) costs related to the planning, design, engineering, and permitting of the Project; (3) costs related to the construction of access roads, bridges, and other infrastructure solely for the benefit of Lockheed or Universal; (4) costs associated with installation of landscaping, fencing, lighting, and irrigation over and above the amount and quality of landscaping, fencing, lighting, and irrigation; if any, required by County and/or FDOT general standards; (5) costs associated with overhead / management activities of Universal, except for CEI; and (6) to the extent described by Section 7.a. below, the ongoing and/or future remediation of any environmental contamination and/or hazardous substances present within the ROW that has been, or which in the future may be, caused by Universal or Lockheed and that has not been caused by County. Notwithstanding the foregoing, designation of a Project Cost as an Eligible Project Cost does not ensure such cost will be paid inasmuch as the total of all Eligible Project Costs may exceed the County Contribution, and County is under no obligation to fund amounts in excess of the County Contribution.
- m. FDEP: shall mean the State of Florida Department of Environmental Protection.
- n. FDOT: shall mean the State of Florida Department of Transportation.
- o. Florida Grant Agreement: shall mean the Florida Job Growth Infrastructure Grant Agreement between County and DEO, approved by the BCC on December 18, 2018, governing the conditional grant of funds to County from DEO as payment for a portion of the Project Costs, as same may be amended.
- p. Kirkman Extension: shall mean the extension of Kirkman Road with a minimum of six (6) general traffic lanes and two (2) dedicated transit lanes as generally shown on Exhibit "A," which may be constructed in three (3) segments as follows:
 - 1) Segment 1 - from the southern right-of-way line of Universal Boulevard northward to the Lockheed property line, including but not necessarily limited to modification of the existing intersection of Universal Boulevard and Tradeshow Boulevard.

- 2) Segment 2 - from the northern terminus of Segment 1 northward to the FDOT/County right-of-way jurisdictional boundary line, including but not necessarily limited to construction of the Lockheed access roads and bridge(s).
 - 3) Segment 3 - from the northern terminus of Segment 2 northward to the northern right-of-way line of Carrier Drive, including but not necessarily limited to the construction of a Single Point Urban Interchange for West Sand Lake Road and Kirkman Road and the modification of the intersection of Kirkman Road and Carrier Drive.
- q. Land Uses Agreement: shall mean that certain Land Uses Agreement entered into on January 4, 1994 by County, Martin Marietta Corporation, and Orlando Central Park, Inc. that establishes a land use conversion table for the land uses that are vested pursuant to Binding Letter of Vested Rights (“BLVR”) No. 06-77-011 and Consistency Vested Rights Certificate No. 93-03.
 - r. Lockheed: shall mean individually and/or collectively, as applicable, Lockheed Martin Corporation, LMC Properties, Inc., and/or any of their respective affiliated entities.
 - s. Mandarin Agreement: shall mean that certain Road Impact Fee Agreement effective June 4, 2013, and recorded in Book 10581, Page 0871 of the Official Records, entered into by and among IA Orlando Sand, L.L.C.; County; and Universal’s predecessors-in-interest, Fourth Quarter Properties 129, LLC and Universal City Property Management III, LLC.
 - t. Palmera Agreement: shall mean that certain Right-of-Way Agreement (Palmera West - Kirkman Road Extension) effective September 19, 2007, and recorded in Book 09445, Page 0443 of the Official Records, entered into by and between County and Lockheed.
 - u. PDS: shall mean the “Kirkman Road Extension Preliminary Design Study Report” being prepared and finalized by OM Engineering Services, Inc. on behalf of Universal.
 - v. Project: shall mean the Kirkman Extension along with the Surface Water Management System (“SWMS”) needed to accommodate the Kirkman Extension (including but not necessarily limited to all necessary stormwater ponds and conveyance facilities related thereto), the relocation (including undergrounding where applicable) of utilities (including but not necessarily limited to water, sewer, telecommunications, dark fiber, electric, natural gas, stormwater, potable water, reclaimed water, wastewater, and chilled water or similar public or private utility collectively referred to as “Utilities”) and related infrastructure, the installation of new Utilities and related infrastructure in, under, over, across and through the Kirkman Extension right-of-way, as appropriate, landscaping of medians and SWMS areas, the construction of certain private access roads and

bridge(s), and all other work or work product customary and incidental to the completion of a major road extension project.

- w. **Project Completion:** shall mean completion by Universal of construction of the Project; conveyance of all ROW (as defined below) to County and FDOT, as applicable; issuance by County of certificates of final completion for Segment 1 and Segment 2; and final acceptance by FDOT of Segment 3.
- x. **Project Costs:** shall mean actual costs incurred by Universal for the Project, including but not necessarily limited to, the costs of designing, planning, engineering, permitting, and constructing the Project (including but not necessarily limited to all necessary stormwater ponds and conveyance facilities attendant thereto), as well as relocating and installing Utilities and related improvements, mitigating wetland areas and protected species impacts, CEI and such other costs customary and incidental to the completion of infrastructure improvements such as the Project. Project Costs will include costs that are not Eligible Project Costs. As identified in the PDS, the Project Costs are currently estimated in good faith by Universal to be approximately Three Hundred Six Million Dollars (\$306,000,000), subject to refinement and adjustment through the construction plan approval process.
- y. **RCRA:** shall mean the Resource Conservation and Recovery Act of 1984, as it has been and may be amended.
- z. **Roadway and Infrastructure Agreement:** shall mean the agreement to be negotiated and entered into by County and Universal governing roadway and infrastructure construction for the Project and such other issues as may be mutually agreed upon by County and Universal, if any. Such agreement shall be consistent and not in conflict with: (1) the terms of this MOU, except as may be mutually agreed upon by the Parties; (2) the Florida Grant Agreement; (3) a CRA Agreement, if any; (4) any agreements existing as of the effective date of the Roadway and Infrastructure Agreement relative to the Project and/or the property within the UBPD to which either County or Universal is a party and which are not specifically terminated or modified to the satisfaction of County and/or Universal, as applicable, by or in connection with the Roadway and Infrastructure Agreement; and, (5) all applicable laws, ordinances, published regulations, and published rules. In the event Universal proposes to construct any portion or all of Segment 1 and/or Segment 2 of the Kirkman Extension pursuant to Section 336.71, Florida Statutes, and the BCC determines in its discretion after a noticed public hearing under Section 336.71 that construction of any portion or all of Segment 1 and/or Segment 2 by Universal complies with the requirements of Section 336.71, the Roadway and Infrastructure Agreement may be prepared and approved as an agreement for the completion of a road construction project pursuant to Section 336.71.
- aa. **ROW or Right-of-way:** shall mean any and all real property interests, whether in fee simple, by easement, by right of entry, or otherwise, as identified by Universal

and County for Segment 1 and Segment 2 or FDOT for Segment 3, as necessary to accommodate the Project and the Kirkman Extension, and/or its construction, to be conveyed to County and/or FDOT, as applicable, prior to or in connection with Project Completion.

- bb. UBPD: Universal Boulevard P.D. Land Use Plan (formerly known as the U.S.I. South Campus P.D.), last revised May 12, 2017, as it has been or may be amended.
- cc. Universal: shall mean individually and/or collectively, as applicable, SLRC Holdings LLC, a Delaware limited liability company, Universal City Development Partners, LTD., a Florida limited partnership, and/or any of their respective affiliated entities.

3. **Planning and Design.**

- a. Universal shall design (including completion of the PDS), engineer, and permit the Project, or cause all of the same to happen, in accordance with County and FDOT standards, as applicable. Universal shall provide County final construction plans for Segment 1 and Segment 2 of the Kirkman Extension that meet the County's design and plan preparation requirements (excluding the process and timeline requirements) set forth in Section 3 and Section 4, as applicable, of County's Final Engineering Design Scope of Service last updated November, 2018, and on file with the Public Works Department, Engineering Division of County, and final construction plans as required by FDOT for Segment 3. County and FDOT must have reviewed (including any appropriate environmental review) and approved the PDS and all applicable final construction plans prior to County incurring any obligation to pay Universal any portion of the County Contribution for Eligible Project Costs.
- b. The Project plans shall be prepared by a qualified Florida-licensed civil engineer. County acknowledges and agrees that so long as the Project plans are signed, sealed, and certified by such qualified licensed civil engineer and approved by County, Universal shall have no liability for errors or omissions in the Project plans nor for liability arising out of or related to the preparation or use of the Project plans.

4. **Construction.**

- a. Universal shall construct and complete the Project, or cause the Project to be constructed and completed, in accordance with the terms of the Roadway and Infrastructure Agreement and, as applicable, the Florida Grant Agreement. Universal shall obtain Lockheed's authorization and consent to the extent required to construct and complete the Project. Additionally, Universal shall coordinate with FDOT regarding construction within FDOT right-of-way, including but not necessarily limited to obtaining all necessary permits, rights-of-way, and/or easements from FDOT to undertake and complete construction.

- b. At all times during construction of the Project, County and FDOT, as applicable, shall have the right, but not the obligation, to inspect such construction as each may deem necessary.
 - c. Subject to the terms of the Roadway and Infrastructure Agreement, Universal may construct and obtain a certificate of substantial completion for Segment 1 regardless of whether construction of Segment 2 and Segment 3 is underway or complete. In such an event, Universal may elect to construct the remainder of the Kirkman Extension as a single project or on a segment by segment basis in the order it desires, subject to, as applicable, County's approval, which shall not be unreasonably withheld, and FDOT's approval. By way of example and not limitation, Universal may, subject to County and/or FDOT approval, construct Segment 3 in advance of Segment 2. If Universal elects to construct the Kirkman Extension segment by segment, then Universal may apply for a certificate of substantial or final completion from County or final acceptance from FDOT, as the case may be, for each completed segment at such time as the applicable segment is completed.
 - d. One or more stormwater ponds that serve Segment 1 and/or Segment 2 of the Project may be joint use ponds, subject to the terms of the Roadway and Infrastructure Agreement.
5. **Funding Sources.** The Project is anticipated to be partially funded from the following funding sources in the anticipated amounts indicated below:
- a. DEO Grant.

The sum of Sixteen Million Dollars (\$16,000,000), as awarded and available pursuant to the Florida Grant Agreement, and subject to the terms thereof and the terms of the Roadway and Infrastructure Agreement.
 - b. County Contribution.

Subject to the terms of the Roadway and Infrastructure Agreement, payment of Eligible Project Costs is anticipated to be funded from the following funding sources in the anticipated amounts indicated below:
 - 1) A transportation impact fee credit account (the "TCA Account") to be established in favor of Universal pursuant to the Roadway and Infrastructure Agreement, consistent with Article IV, Chapter 23 of the Orange County Code, as may be amended, for a portion of the Eligible Project Costs that is not otherwise paid to Universal pursuant to and in accordance with Section 5.b.2) below. County shall credit the TCA Account on a schedule to be included in the Roadway and Infrastructure Agreement in the anticipated amount of Twenty-Five Million Dollars (\$25,000,000). Furthermore, Universal may begin drawing on the TCA Account prior to Project Completion, subject to the terms of the Roadway and Infrastructure Agreement; and

- 2) A lump sum payment of Sixty Million Dollars (\$60,000,000) from the CRA Trust Fund upon Project Completion in accordance with the terms of the Roadway and Infrastructure Agreement or, if determined appropriate by the Parties, pursuant to the terms of a CRA Agreement, if any.
- 3) If the Project Costs are less than Two Hundred Fifty Million Dollars (\$250,000,000), the actual County Contribution will be reduced to an amount equal to twenty-four percent (24%) of the Project Costs. The Roadway and Infrastructure Agreement will include a provision detailing how such reduction, if triggered, will be implemented.
- 4) The actual County Contribution shall not exceed the total of all Eligible Project Costs.
- 5) In the event a CRA Agreement is entered into for all or any portion of the County Contribution, the provisions of the CRA Agreement governing payment of the County Contribution shall be consistent with the amounts and timelines for payment contained in this MOU.

c. CRA Incentive Funds.

In addition to the County Contribution, County will make an initial payment and annual payments thereafter to Universal from the CRA Trust Fund in a total amount of \$40,000,000 as further outlined below. All annual CIF payments will be based on the incremental growth in taxable property values over the 2019 base tax year directly attributable to Universal's property located within the CRA's boundary as depicted on **Exhibit "B"** attached hereto and incorporated herein by this reference (the "**Universal Property**"). The following formula, calculated in accordance with Part III, Chapter 163, Florida Statutes, and Section 5 of Orange County Ordinance No. 98-22 (as same may be amended), will be used to determine the annual CIF amounts:

Current Taxable Value of Universal Property

Less: 2019 Taxable Value of Universal Property

Equals: Current Year Incremental Taxable Value

Times: Orange County's Countywide Millage Rate

Equals: Annual Tax Increment

Times: Ninety-Five Percent (95%)

Equals: Annual CIF

The initial CIF payment and each annual installment payment thereafter shall be rebated within forty-five (45) days after the tax increment funds have been

deposited into the CRA Trust Fund, with the initial CIF payment due to Universal upon Project Completion. The initial CIF payment will be based on a retrospective and cumulative basis beginning with tax year 2020 and continuing through the most recently completed tax year prior to Project Completion. For example, if Project Completion occurs in tax (calendar) year 2022, the initial CIF payment would include CIF amounts for tax years 2020 and 2021. Following the initial CIF payment and each year thereafter, County will make the annual CIF payment to Universal until the agreed-upon amount of \$40,000,000 has been rebated in full.

County shall have the option of advancing payment of the unpaid portion of the CIF at any time and from any funding source it deems advisable including, but not necessarily limited to, bond proceeds.

6. **Invoices and Payment Terms.**

- a. Universal or its designee shall submit monthly invoices to County, which invoices shall identify and distinguish between Project Costs and Eligible Project Costs, subject to the reasonable review and approval of County. Details of the tracking of invoices and ensuing payments shall be addressed in the Roadway and Infrastructure Agreement.
- b. Upon Project Completion, the Parties shall conduct a “true-up” process, to be defined in the Roadway and Infrastructure Agreement, and County shall pay Universal for any previously unpaid Eligible Project Costs up to the remaining unpaid balance of the County Contribution, if any, subject to the terms of this MOU, a CRA Agreement, if any, and the Roadway and Infrastructure Agreement.
- c. County acknowledges that (1) the lump sum payment of Sixty Million Dollars (\$60,000,000) from the CRA Trust Fund, as described in Section 5.b.2) above, shall be accomplished through a one-time budget appropriation; and (2) the transportation impact fee credits, as described in Section 5.b.1) above, are not subject to appropriation.

7. **Conveyance of Right-of-Way/Improvements.** Except as otherwise provided herein, Universal shall convey to County and FDOT, as applicable, all Right-of-way in mutually agreed upon locations, as is customary and necessary for the ownership and ongoing maintenance of infrastructure such as that being constructed by Universal as part of the Project, subject to easements for overhead and underground utility crossings and all other permitted encumbrances agreed to in the Roadway and Infrastructure Agreement and the terms of this Section 7. Any Right-of-way conveyance pertaining to stormwater collection and conveyance shall be by easement(s) for drainage purposes. With regard to Right-of-way conveyances, the following shall apply:

- a. In the event hazardous substances and/or environmental contaminants are or may be present within Right-of-way to be conveyed at the time Universal is to convey such Right-of-way to County or FDOT, as applicable, Universal shall convey

such Right-of-way subject to the obligation of Universal to cause the cleanup of the hazardous substances and/or environmental contaminants such that FDEP will issue either a No Further Action determination or a Site Rehabilitation Completion Order without controls. If Universal pursues a No Further Action determination or a Site Rehabilitation Completion Order *with* controls from FDEP, the parties shall negotiate in good faith to agree on reasonable terms to address County's acceptance of the Right-of-way that is subject to the proposed institutional, engineering, and/or other control.

- b. Universal shall exercise its rights under the AARRUA such that Lockheed conveys all Right-of-way under Lockheed's control and needed for the Project to Universal, prior to Universal conveying such Right-of-way to County and/or FDOT, as applicable. If for any reason the Project does not proceed as contemplated by this MOU and/or the Roadway and Infrastructure Agreement, then County shall retain its ability to exercise its rights under the Palmera Agreement.
- c. The value of any Right-of-way conveyed by Universal, while a Project Cost, shall not be an Eligible Project Cost.
- d. If any ROW located north of the northern right-of-way line of Universal Boulevard is not owned by Lockheed or Universal, Universal shall, at no expense to County or FDOT, as applicable, acquire or obtain the ROW and convey it to County and FDOT, as applicable.
- e. Universal and County shall, in good faith and subject to issues of safety and ongoing maintenance, negotiate reasonable terms to address the maintenance of one or more pedestrian bridge(s) and up to two vehicular bridges, crossing the Kirkman Extension and the installation of approved way finding and/or themed signage on or adjacent to any such bridge.
- f. The Parties shall in good faith negotiate reasonable terms regarding the design, construction, use, operation, maintenance and repair of the two dedicated median transit lanes of the Kirkman Extension (the "**Transit Lanes**") to be included in the Roadway and Infrastructure Agreement. The Parties agree that the Transit Lanes will be operated as limited access corridors.

8. **Utilities.**

- a. Any agreements that are required to address Utilities within the Project, including but not necessarily limited to the Roadway and Infrastructure Agreement, shall be in place and effective prior to commencement of construction in the applicable segment of the Kirkman Extension.
- b. Universal may relocate County utility facilities and related infrastructure (including below ground) in connection with the development of the property owned by Universal or its affiliates, subject to the terms of the Roadway and

Infrastructure Agreement and/or a separate agreement between County and Universal.

9. **Right-of-Way & Landscape Maintenance.**

- a. In the Roadway and Infrastructure Agreement, County and Universal shall establish maintenance responsibilities addressing, without limitation, roadways, transit lanes, bridges, stormwater, screening, walls, fences, landscaping, irrigation and a shared use path. However, County shall not be responsible for maintaining anything within FDOT's jurisdiction.
- b. Universal may, in its sole discretion, elect to pursue formation of a Community Development District ("CDD") to, among other purposes, maintain landscaping, subject to an interlocal agreement between such CDD and the applicable governmental entity.
- c. Absent formation of a CDD for such purpose, Universal or any property owners association of which Universal is a member may maintain landscaping within County ROW, subject to the terms of a use agreement with County.

10. **Mandarin Agreement & Palmera Agreement.**

- a. Both parties agree not to trigger construction under the Mandarin Agreement prior to entering into the Roadway and Infrastructure Agreement.
- b. The Roadway and Infrastructure Agreement shall provide for the termination of the Palmera Agreement and shall address the termination of any other applicable or relevant agreements or contracts, as agreed to by County and Universal; however, County acknowledges and agrees that the Palmera Agreement will not be terminated until such time as the Segment 2 Right-of-way is conveyed to County and the Segment 3 Right-of-way is conveyed to FDOT.

11. **Concurrency.** The Roadway and Infrastructure Agreement shall acknowledge that the UBPD is subject to and benefitted by BLVR No. 06-77-011 and Concurrency Vested Rights Certificate No. 92-000489 and, as such, (a.) the UBPD has met concurrency requirements and (b.) County will only require evaluations of capacity on the transportation network serving UBPD for the development of land use categories that are not contemplated by the BLVR as clarified by the Land Uses Agreement.

12. **Timing.** The Parties commit to continue with negotiation of the Roadway and Infrastructure Agreement upon approval of this MOU by the BCC and to attempt in good faith to enter into such agreement within six (6) months after the MOU Effective Date, provided, however, in the event such agreement has not been approved by the Parties, the aforementioned six (6) month period shall automatically extend for a period of another three (3) months.

13. **Insurance Coverage; Liability; Indemnification; Legal Remedies; Dispute Resolution; Etc.** The Parties hereby agree that the subject matters of insurance

coverage, liability, indemnification, legal remedies, a dispute resolution process, and any other issues mutually agreed upon by the Parties relating to the Project, will be negotiated and addressed in the Roadway and Infrastructure Agreement.

14. **DEO Grant.** With regard to the DEO Grant, the Parties acknowledge and agree:
 - a. The amount of the DEO Grant is a material consideration in determining each Party's fair share of the Project Costs;
 - b. The Parties anticipate negotiating and entering into an agreement concerning the assignment by County of certain of its rights and obligations as Grantee under the Florida Grant Agreement to Universal on or before the effective date of the Roadway and Infrastructure Agreement, including but not necessarily limited to the Parties rights and obligations if the DEO requires any portion of the DEO Grant to be refunded; and
 - c. If the full amount of the DEO Grant set forth in the Florida Grant Agreement is not ultimately awarded, Universal's obligation shall be increased by an amount equal to the difference between the full amount of the DEO Grant and the actual amount awarded.

15. **Applicable Law: Jurisdiction.**
 - a. The MOU, the Roadway and Infrastructure Agreement, and any other agreements entered into between the Parties regarding the subject matter of this MOU shall be governed by the laws of the State of Florida.
 - b. Jurisdiction for any dispute arising out of the MOU, the Roadway and Infrastructure Agreement, and any other agreements entered into between the Parties regarding the subject matter of this MOU shall be in the Ninth Judicial Circuit Court of Florida in and for Orange County.

16. **Interlocal/FDOT Agreement(s).** Universal acknowledges and agrees that an agreement between County and FDOT and/or an agreement between Universal and FDOT may be required to address jurisdiction, funding, and/or maintenance of the Project, including Segment 3.

17. **Annexation.** For a period of at least five (5) years commencing on the date of the last annual installment paid to Universal from the CRA Trust Fund under and pursuant to Section 5.c. of this MOU, the Roadway and Infrastructure Agreement, or a CRA Agreement, if any, Universal agrees that it will not petition or otherwise request the City of Orlando, Florida, to annex any of the Universal Property, that it will not consent or acquiesce to any attempt by the City of Orlando to annex any of the Universal Property, and that it will object to and oppose any attempt by the City of Orlando to annex any of the Universal Property.

18. **Effect of MOU.** The Parties agree that this MOU and its terms are general in nature, reflecting merely the basic understanding of the Parties on the issues herein, and that the

Roadway and Infrastructure Agreement and any other necessary agreements and decisions will be required in order to create any further obligations and rights with respect to the matters described in this MOU. Accordingly, the lack of closing of any transaction or the failure to make any decision proposed, described, or contemplated in this MOU, including but not necessarily limited to the failure to negotiate, prepare, and execute any definitive agreement contemplated by this MOU, including the Roadway and Infrastructure Agreement, shall not give rise to any obligation or rights by or against any Party. Each Party reserves the right, in its sole discretion, to reject any proposal or offer made by any other Party and to terminate discussions and negotiations at any time by providing written notice to the other Party.

[Remainder of page left intentionally blank]

Signature pages follow.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Cooperative Memorandum of Understanding by their respective duly authorized representatives as of the dates indicated below their respective signatures.



COUNTY:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: Burr W. Brooks
for Jerry L. Demings, Orange County Mayor

Date: February 12, 2019

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

By: Craig A. Stopysa
for Deputy Clerk

Print Name: Craig A. Stopysa

[Signature page for County]

UNIVERSAL:

SLRC HOLDINGS LLC, a Delaware limited liability company

By: *John L. McReynolds*
Print Name: John L. McReynolds
Title: Senior Vice President, External Affairs

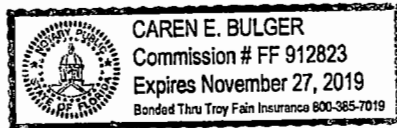
Date: January 31, 2019

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 31st day of January, 2019 by John L. McReynolds, as Senior Vice President of SLRC Holdings LLC, a Delaware limited liability company, on behalf of the company. He/she is personally known to me or has produced _____ (type of identification) as identification.

Caren E. Bulger
NOTARY PUBLIC OF FLORIDA
Print Name: Caren E. Bulger
Commission No.: FF 912823
Expires: Nov. 27, 2019

AFFIX NOTARY STAMP



[Signature page for Universal]

UNIVERSAL:

UNIVERSAL CITY DEVELOPMENT PARTNERS, LTD., a Florida limited partnership

By: [Signature]
Print Name: John R. Sprouls
Title: Chief Executive Officer

Date: February 1, 2019

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 1st day of February, 2019 by John R. Sprouls, as Chief Executive Officer of Universal City Development Partners, LTD., a Florida limited partnership, on behalf of the partnership. He/she is personally known to me or has produced _____ (type of identification) as identification

[Signature]
NOTARY PUBLIC OF FLORIDA
Print Name: Marla K Keeling
Commission No.: 99049557
Expires: 12/16/20

AFFIX NOTARY STAMP



[Signature page for Universal]

Exhibit "A"

Depiction of Kirkman Extension

(see attached 1 page)



Exhibit "B"

Depiction of Universal Property

(see attached 1 page)



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