

## **PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (this “Agreement”) is made and effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017 (the “Effective Date”), by and between the **CITY OF ORLANDO, FLORIDA**, a municipal corporation of the State of Florida (the “City”), and **UNIVERSITY OF CENTRAL FLORIDA**, on behalf of its Board of Trustees (“UCF”). City and UCF are referred to separately as “Party” and collectively as “Parties” in this Agreement.

### **RECITALS:**

The City is the fee owner of certain real property located in Orlando, Florida, and more particularly described on Exhibit “A”, attached hereto and incorporated herein (the “Property”). The Property is generally referred to as approximately 10.936 acres and consists of the area generally located south of the new West Livingston Street realignment, and north of the CSX right of way, east of N. Parramore Avenue and West of the existing hotel site. It encompasses the existing building known as the Center for Emerging Media, with a street address of 500 West Livingston Street, Orlando, Florida 32801; and

The Property is located in the area commonly known as the Creative Village. UCF desires to assist with the transformation of this area by redeveloping the Property into a University of Central Florida campus located in downtown Orlando (“Downtown Campus”). UCF’s proposed conceptual plan for the Project is depicted on Composite Exhibit “B”, attached hereto and made a part hereof; and

UCF and the City have previously entered into that certain Memorandum of Understanding UCF Downtown Orlando Campus (the “MOU”) that was approved by City Council on February 8, 2016, generally outlining the terms and conditions for the necessary conveyances; and

UCF has received the necessary approval from its Board of Trustees, as well as the Florida Board of Governors, to develop the Downtown Campus contingent upon securing ownership of this Property through a donation by the City. The City, therefore, desires to convey the Property to UCF to construct the Downtown Campus, upon and subject to the terms and conditions of this Agreement.

### **AGREEMENT:**

For and in consideration of the covenants and agreements herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by UCF and the City, UCF and the City hereby represent, warrant, covenant and agree as follows:

1. **Sale and Purchase.**

(a) The City agrees to convey the Property to UCF, and UCF agrees to accept the Property from City, for no monetary compensation (\$0.00), subject to the

terms and conditions set forth in this Agreement.

(b) The City shall convey the Property to UCF as described in this Agreement subject to the Permitted Exceptions (as defined below).

(c) Escrow Agent will be selected by the City and will coordinate the Closing.

(d) UCF and the City acknowledge that there will be two conveyances of parcels within the Property, all of which are covered by this Agreement. The initial conveyance will include the Center for Emerging Media ("Site 1"), and the second conveyance will include the Nap Ford Charter School and former CSX Parcel ("Site 2"), all as generally labeled on Exhibit "A". UCF acknowledges that UCF has been occupying Site 1 pursuant to that certain Expo Centre Lease Agreement entered into as of October 12, 2004 by and between the City and UCF.

## 2. **Title Commitment and Survey.**

(a) The City will obtain, at the City's sole cost and expense, an Owner's Commitment for Title Insurance ("Title Commitment") on behalf of and certified to UCF, from First American Title (the "Title Company") setting forth the status of the title of the portion of the Property that is subject to the Closing. Unless otherwise provided by Title Company, the City will provide UCF a copy of each recorded document referenced in the Title Commitment as a requirement to issuance of a title policy or exception to title. Copies of such documents will be provided to UCF as appearing in the Public Records, but legibility of such documents is not guaranteed.

(b) The City will obtain, at the City's expense, an ALTA/ACSM Land Title Survey of the Property ("Survey") that is certified to UCF in accordance with the minimum standard detail requirements for an upland survey as adopted by ALTA, ACSM, as well as in compliance with Chapter 177, Florida Statutes and City of Orlando Land Development Code. The Survey will include the entire Property, but will contain separate legal descriptions of Site 1 and Site 2, and will be updated in connection with each Closing. UCF agrees to reimburse the City for half the cost of the Survey, in an amount not to exceed Fifty Thousand and 00/100 Dollars (\$50,000).

(c) If the Title Commitment and any Survey disclose any matters which render title to the Property unmarketable or undesirable, then UCF shall give the City written notice thereof within fifteen (15) business days after receipt of the document, specifying those matters shown on the Title Commitment which render title unmarketable and to which UCF objects ("Objections"). All matters shown on the Title Commitment which are not made the subject of the Objections shall be "Permitted Exceptions."

(d) The City shall have no obligation to cure any objection to title; however, if UCF gives notice of Objections within the time period specified above, the City, at its option, in its sole and absolute discretion, may elect to attempt to cure such Objections. In the event the City is unable or elects not to cure any Objections properly and timely made by UCF, the City shall so notify UCF and UCF shall have the right to

either (i) terminate the Agreement (except the rights, obligations and liabilities of the Parties that expressly survive the termination of the Agreement), or (ii) waive any and all Objections and proceed to Closing.

(e) In the event the City does not respond to UCF's notice of Objections, the City shall be deemed to elect not to cure such Objections. Notwithstanding anything herein to the contrary, the City shall not be required to cure any of UCF's objections to title.

(f) UCF may request that the City obtain, at the City's expense, updates to the Title Commitment at any time prior to Closing. If such an update reveals that a matter encumbering the Property rendering title unmarketable has been recorded after the expiration of the Due Diligence Period, defined below, then UCF shall give the City written notice thereof within fifteen (15) business days after receipt of such updated Title Commitment, specifying those matters shown on the Title Commitment which render title unmarketable and to which UCF objects ("New Objections"). All matters shown on any updated Title Commitment which are not made the subject of the New Objections shall be included within the definition of "Permitted Exceptions." subsections (d) and (e) above shall apply to any New Objections.

(g) UCF will be responsible for the purchase of any Owner's Policy for Title Insurance, at UCF's sole cost and expense, if UCF so chooses to purchase.

3. **Due Diligence Items.** The City has provided UCF with all copies of due diligence documents related to Site 1 and 2 in its possession.

UCF will review the Due Diligence Items and make a determination on whether additional due diligence investigation by UCF is required. Should UCF determine that additional investigation is required, UCF shall conduct such additional investigation at its sole cost and expense.

UCF acknowledges and agrees that the City makes no representation or warranties concerning the Property unless specifically set forth in this Agreement, and the City is selling the Property "AS IS".

4. **Additional Due Diligence.**

(a) Notwithstanding the Due Diligence Items set forth above, UCF shall have ninety (90) days, beginning on the Effective Date (the "Due Diligence Period") during which time UCF, its employees, agents, contractors, engineers, surveyors and representatives (collectively, "Consultants") shall have the right to enter the Property, upon at least two (2) days advance notice to the City, to make inspections, surveys, soil analysis and other tests, studies and surveys, including without limitation, general building, radon and termite inspections, environmental tests, soil borings, drill testing or monitoring wells, as well as analysis and studies within the Property.

(b) Following any site work during the Due Diligence Period, the Property shall be restored to its original condition by the Party or Consultants performing

or requesting the work at its sole expense.

(c) If, prior to the end of the Due Diligence Period, UCF finds any information or conditions relating to the Property that are objectionable to UCF, it shall notify the City of such objectionable conditions, and UCF and the City shall have thirty (30) days after the end of the Due Diligence Period (the “Notice Period”) to mutually agree on appropriate remediation strategies. In no event shall UCF have an obligation to undertake any environmental remediation of hazardous materials on the Property. If the Parties cannot mutually agree on a course of remediation, then, in UCF’s sole and absolute discretion, UCF shall have the right to terminate this Agreement by giving written notice of termination to the City no later than the end of the Notice Period.

## 5. **Environmental Conditions and Remediation.**

UCF acknowledges that it has been advised by the City that some portion of the Property may be subject to environmental remediation of certain Hazardous Materials. UCF shall have no obligation to undertake any environmental remediation of Hazardous Materials on the Property if: (i) such Hazardous Materials existed on the Property prior to the Effective Date and UCF has not caused, permitted, contributed to or exacerbated the presence of such Hazardous Materials; or (ii) such Hazardous Materials have migrated on to the Property from an off-site source and UCF has not caused, contributed to or exacerbated the presence of such Hazardous Materials. Without limiting the generality of the foregoing, UCF shall have no obligation to remediate or take any action with regard to Hazardous Materials identified during the Due Diligence Period. UCF acknowledges and agrees that the City makes no representation or warranties with respect to the environmental condition of the Property unless specifically set forth in this Agreement, and the City is selling the Property “AS IS”.

(a) Nothing contained herein shall obviate the duty of UCF to undertake such due diligence as is required to qualify UCF as a Bona Fide Prospective Purchaser so as to meet the criteria set forth in 42 USC 9601(40) and 42 USC 9607(b) of CERCLA. An election to purchase after having made all appropriate inquiry shall not operate as a discharge of the City’s duty to remediate, if any, but shall bar any claim against the City by reason of the election to purchase by UCF and UCF shall consummate the transaction contemplated acting solely in reliance upon its own environmental investigation.

(b) If the City receives any assurances, “no further action” determinations, indemnities or releases from federal or state environmental regulatory agencies in connection with any environmental remediation undertaken on the Property, the City shall provide copies of such documents to UCF promptly.

(c) UCF and the City shall each, in conducting any activity on the Property, comply with all applicable local, state or federal environmental rules, regulations, statutes, laws or orders, as amended from time to time (collectively “Environmental Requirements”), including but not limited to Environmental Requirements regarding the storage, use and disposal of Hazardous Materials and

regarding releases or threatened releases of Hazardous Materials to the environment. For purposes of this Agreement, Hazardous Materials shall mean asbestos and asbestos-containing materials, special wastes, polychlorinated biphenyls (PCBs), used oil or any petroleum products, natural gas, radioactive source material, pesticides, any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, and chemical substance as defined at 15 U.S.C. §2602(2) of the Toxic Substances Control Act, and any rules or regulations promulgated pursuant to such statutes. Neither UCF nor the City will knowingly cause, and both UCF and the City shall endeavor to prohibit any discharge or disposal of any Hazardous Materials to floors, floor drains, storm or sanitary sewer systems, surface water or ground water, or the land and Buildings that comprise the Property.

6. **Effective Date.** The Effective Date, for purposes of calculating any timeframes for the acquisition of Site 1 and Site 2 is the date identified in the opening paragraph of this Agreement.

7. **Closing.**

(a) Subject to extension, as provided elsewhere in this Agreement, and provided that all conditions precedent to the Parties' obligations to close set forth in this Agreement have been satisfied or waived in writing, the closing of Site 1 (the "Closing") shall be held on or before April 30, 2017 (the "Closing Date").

(b) Subject to extension as provided elsewhere in this Agreement, and provided that all conditions precedent to the Parties' obligations to close set forth in this Agreement have been satisfied or waived in writing, the closing of Site 2 (the "Closing") shall be held on or before July 31, 2017 (the "Closing Date").

(c) Notwithstanding the foregoing, UCF and the City may mutually elect a different date for Closing. The Closing shall take place at the offices of the Escrow Agent at such time of day as may be mutually agreed upon by the Parties hereto. Neither Party shall be required to attend the Closing. Instead, the Closing may take place by means of an escrow arrangement pursuant to which each Party shall deliver to the Escrow Agent all fully executed documents and funds required by this Agreement, together with any desired escrow instructions that are not inconsistent with this Agreement.

(d) Any reference to Closing or Closing Date contained in this Agreement shall refer to the associated Closing and Closing Date of the individual Site 1, or 2, as applicable.

8. **Closing Conditions.**

(a) The Parties will execute and deliver documents reasonably necessary to consummate the sale-purchase transaction of the Property, or any portion thereof, contemplated by the Agreement, including without limitation:

(i) A special warranty deed (“Deed”), in form approved by UCF and the City, subject only to the Permitted Encumbrances;

(ii) A closing statement executed by all Parties evidencing the financial terms of the transaction (“Closing Statement”);

(iii) Duly executed certificate of City stating City’s U.S. Taxpayer Identification Number, and that the City is not a “foreign person” within the meaning of the Internal Revenue Code for the purposes of substantiating exemption from the withholding provisions of the Tax Reform Act of 1984;

(iv) Instruments in form and substance satisfactory to the City evidencing the status, capacity and authority of UCF and its representatives to consummate the transaction contemplated by this Agreement; and

(v) Other documents or certifications reasonably requested by the City or the Title Company.

(b) City will obtain a fully executed release of any existing third party rights or Options to Purchase that currently exists, including but not limited to, the rights set forth in that certain Purchase Option Agreement between the City and Creative Village Development, LLC, as the Master Developer as it solely relates to the Property.

(c) UCF shall pay all closing expenses of any kind, including, without limitation, (i) all recording fees payable in connection with the transfer of the Property; (ii) all title premiums incurred for the Owner’s Policy, and (iii) UCF’s portion of the costs of Survey, as set forth in paragraph 2. Notwithstanding the foregoing, the City has agreed to pay for the title search and commitment.

(d) There shall be no proration of any ad valorem and similar taxes and assessments, if any, relating to the Property and the City will not be responsible for any ad valorem taxes or any assessments.

(e) UCF shall notify all water, gas, electric and other utility companies servicing the Property (collectively, “Utility Companies”) that as of the date of Closing, UCF shall own the Property and that all utility bills for the period commencing on the date of Closing are to be sent to UCF. If any of the Utility Companies sends the City a bill for a period in which the Closing occurs, UCF shall pay any and all such bills outside of the Closing.

(f) Subject to the Permitted Encumbrances and the other matters described herein, the City shall deliver possession of the Property to UCF on the date of

Closing.

(g) UCF will have: (i) satisfied the philanthropic efforts required by the Governor and Board of Governors of fundraising Twenty Million and 00/100 Dollars (\$20,000,000.00); and (ii) selected the architecture firm and construction company and any appeal periods related to the selections will have expired.

(h) The City will have performed all environmental remediation, as required by this Agreement.

(i) The City shall be responsible for the demolition and site clearing of Site 2, prior to the Closing Date, at the City's sole cost and expense. The City shall take all reasonable efforts to ensure any environmental conditions are not exacerbated and no new environmental issues are introduced as a result of the demolition and site clearing; in the event environmental conditions are exacerbated or introduced, the City and UCF shall work together to identify appropriate remediation.

9. **City's Covenants.** From the Effective Date through the Closing Date(s), the City shall (i) maintain the Property in its present condition, subject to the activities described in subsection 8(h) and 8(i), subject to normal wear and tear, it being agreed, however, that the City will not be required by this Agreement to make any repairs to the Property or to bring the Property into compliance with any applicable governmental requirements, (ii) not enter into any leases for the Property without UCF's consent, (iii) not enter into any long-term service or maintenance contracts regarding the Property without UCF's consent that are not cancellable by UCF without penalty upon thirty (30) days advance notice.

10. **Representations and Warranties.**

(a) **City's Representations and Warranties.** The City represents and warrants to UCF as follows:

(i) The City has the power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement and the other agreements and documents to be executed and delivered by the City pursuant to the provisions of this Agreement have been duly authorized by all necessary municipal action on the part of the City.

(ii) The City is not a "foreign person" as such term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.

(iii) To the City's knowledge, there are no pending or threatened condemnations or similar proceedings to take any portion of the Property by power of eminent domain.

(b) **UCF's Representations and Warranties.** UCF hereby represents and warrants to the City as follows:

(i) UCF is a Florida public state university and is part of the State University System in the State of Florida, and UCF has obtained the necessary approvals from its governmental board and has the power and authority to carry on its business as now being conducted and to own and operate the properties and assets now owned and being operated by it.

(ii) UCF has the requisite legal power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement and any other agreements and documents to be executed and delivered by UCF pursuant to the provisions of this Agreement have been duly authorized by all necessary action on the part of UCF. This Agreement has been duly executed and delivered on behalf of UCF and is a legal, valid, and binding obligation of UCF enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or other laws or equitable principles relating to or affecting the enforcement of creditors' rights.

11. **Agents.** The City and UCF each represent and warrant to the other that it has not engaged the services of any agent, broker, or other similar party who is seeking a commission in connection with this transaction.

12. **Notices.**

(a) Any notice under this Agreement shall be in writing and shall be deemed to have been served and received (i) when delivered in person to the address set forth below for the party to whom the notice is given, (ii) within 3 business days if placed in the United States mail, return receipt requested, addressed to such party at the address specified below, (iii) the next business day if deposited into the custody of FedEx Corporation to be sent by FedEx Overnight Delivery or other reputable overnight carrier for next day delivery, addressed to the party at the address specified below, or (iv) upon transmission if electronically transmitted to the party at the email address or telecopy number listed below, provided that the electronic transmission is confirmed by the recipient on the date of the transmission.

(b) Addresses:

City's Address:

City of Orlando  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, Florida 32801  
Attn: Brooke R. Bonnett, AICP, Director

With a copy to:  
City of Orlando  
400 South Orange Avenue, 3<sup>rd</sup> floor  
Orlando, Florida 32801  
Attn: City Attorney



UCF's Address:  
University of Central Florida  
4365 Andromeda Loop North  
Orlando, Florida 32816  
Attn: A. Dale Whittaker, Executive Vice  
President and Provost

With a copy to:  
University of Central Florida  
4365 Andromeda Loop North, Suite 360  
Orlando, Florida 32816  
Attn: W. Scott Cole, Vice President and  
General Counsel

Escrow Agent:  
First American Title Insurance Company  
2233 Lee Road, Suite 110  
Winter Park, Florida 32789

From time to time either party may designate another address or telecopy number under this Agreement by giving the other party advance written notice of the change.

13. **Termination, Default, and Remedies.**

(a) If UCF fails or refuses to consummate the purchase of the Property pursuant to this Agreement on or before the date of Closing for any reason other than the City's prior failure to perform the City's material obligations under this Agreement, then the City, as its sole and exclusive remedy, shall have the right to terminate this Agreement by giving written notice thereof to UCF on or before the date of Closing, whereupon neither Party hereto shall have any further rights or obligations hereunder except those which expressly survive termination of the Agreement.

(b) If the City fails or refuses to consummate the sale of the Property pursuant to this Agreement on or before the date of Closing or fails to perform any of the City's material obligations hereunder for any reason other than due to UCF's prior failure to perform UCF's material obligations under this Agreement, then UCF, at UCF's option, shall have the right to (i) terminate this Agreement by giving written notice thereof to the City on or before the date of Closing and neither Party hereto shall have any further rights or obligations hereunder except those which expressly survive termination of the Agreement and (ii) file, within thirty (30) days after the date of the alleged material breach by the City, an action for specific performance.

(c) In no event shall UCF or the City be liable for any special, indirect, punitive, exemplary, incidental or consequential loss or damages of any nature, howsoever caused, and whether based on contract, tort (including negligence), indemnity,

strict liability or any other theory of the law.

14. **Entire Agreement/Amendment.** This Agreement and any written addenda and all exhibits hereto (which are expressly incorporated herein by this reference) shall constitute the entire agreement between UCF and the City; no prior written or prior or contemporaneous oral promises or representations shall be binding. All prior understandings and agreements between the Parties with respect to the subject matter of this Agreement are merged within this Agreement, which alone fully and completely sets forth the understanding of the Parties with respect thereto. This Agreement shall not be amended, changed or extended except by written instrument signed by both parties hereto.

15. **Successors and Assigns.** Subject to the restrictions on transfer set forth in this Agreement, this Agreement shall be binding upon and inure to the benefits of the heirs, successors and assigns of the parties hereto. In no event shall UCF have any right to delay or postpone the Closing to create a partnership, corporation or other form of business association or to obtain financing to acquire title to the Property or to coordinate with any other sale, transfer, exchange or conveyance. This Agreement is for the sole benefit of the Parties hereto and no other person or entity shall be a third party beneficiary hereunder.

16. **Assignment.** This Agreement is personal to the City and UCF and the City and UCF shall not be entitled to assign such rights under this Agreement.

17. **Time of the Essence.** Time is of the essence under this Agreement.

18. **Taking Prior to Closing.** If, prior to Closing, the Property or any portion thereof becomes subject to a taking by virtue of eminent domain, UCF may, in UCF's sole discretion, either (i) terminate this Agreement and neither Party shall have any further rights or obligations hereunder, or (ii) proceed with the Closing of the transaction.

19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

20. **Attorneys' Fees.** If any action or proceeding is commenced by either Party to enforce their rights under this Agreement or to collect damages as a result of the breach of any of the provisions of this Agreement, neither Party in such action or proceeding, including any bankruptcy, insolvency or appellate proceedings, shall be entitled to recover costs and expenses, including, without limitation, attorneys' fees and court costs, in addition to any other relief awarded by the court. The provisions of this Section will survive the Closing or the termination of this Agreement.

21. **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect and the underlying intent of the Agreement can be maintained, such invalidity, illegality, or unenforceability will not affect any other provision, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

22. **Business Days.** If the date of Closing or the day for performance of any act required under this Agreement falls on a Saturday, Sunday, or legal holiday, then the date of Closing or the day for such performance, as the case may be, shall be the next following regular business day.

23. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but which together will constitute one instrument.

24. **Intentionally Deleted**

25. **Fire and Other Casualty.** In the event of damage by fire or other casualty to the Property prior to the Closing UCF may, in UCF's sole discretion, either (i) terminate this Agreement and neither Party shall have any further rights or obligations hereunder, or (ii) proceed with the Closing, and as such, would be entitled to any insurance proceeds available..

26. **Extensions.** The Real Estate Manager for the City of Orlando, Florida, in her absolute discretion, may act on City's behalf in connection with any and all actions required deemed expedient of City as described in this Agreement and that in her discretion, she may on behalf of City, elect to extend each and every deadline or any timeframe set forth in this Agreement for a period of up to ninety (90) days.

27. **Disclaimer.** UCF represents and warrants that UCF has, or shall have inspected tests and studies of the Property, and that UCF is or will be familiar, in all respects, with the condition of the Property. UCF represents and warrants that UCF is acting, and will act only, upon information obtained by UCF directly from the related inspection of the Property and that no person acting on behalf of City is authorized to make, and that no person has made any representation, agreement, statement, warranty, guarantee or promise regarding the Property or the transaction contemplated herein or the zoning, construction, physical condition or other status of the Property except as may be expressly set forth in this Agreement.

28. **As Is, Where is Condition.** UCF ACKNOWLEDGES AND AGREES THAT, EXCEPT AS MAY BE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER CITY NOR ANY OF CITY'S OFFICERS, DIRECTORS, ELECTED OR UNELECTED OFFICIALS, EMPLOYEES, MEMBERS, PRINCIPALS, OR AFFILIATES NOR ANY OF THEIR AGENTS OR REPRESENTATIVES HAS MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, OR GUARANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (I) THE VALUE OF THE PROPERTY; (II) THE INCOME TO BE DERIVED FROM THE PROPERTY; (III) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH UCF MAY CONDUCT THEREON; (IV) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (V) THE MANNER, QUALITY,

STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY; (VI) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY; (VII) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (VIII) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (IX) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATION, ORDERS OR REQUIREMENTS; (X) THE PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES, MATERIALS OR WASTES, POLLUTANTS OR CONTAMINANTS, MOLD, OR OTHER CONDITIONS AFFECTING HEALTH AT, ON, UNDER, OR ADJACENT TO THE PROPERTY; (XI) THE CONFORMITY OF THE IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS FOR THE PROPERTY; (XII) THE CONFORMITY OF THE PROPERTY TO PAST, CURRENT OR FUTURE APPLICABLE ZONING OR BUILDING REQUIREMENTS; (XIII) DEFICIENCY OF ANY DRAINAGE; (XIV) THE EXISTENCE OF VESTED LAND USE, ZONING OR BUILDING ENTITLEMENTS AFFECTING THE PROPERTY; (XV) THE FACT THAT ALL OR A PORTION OF THE PROPERTY MAY BE LOCATED ON OR NEAR AN EARTHQUAKE FAULT LINE, SINKHOLE, FLOOD ZONE OR OTHER NATURAL HAZARD; (XVI) SERVICE OF THE PROPERTY BY WATER, POWER AND/OR ANY OTHER UTILITY; OR (XVII) WITH RESPECT TO ANY OTHER MATTER. AS PART OF UCF'S AGREEMENT TO PURCHASE AND ACCEPT THE PROPERTY "AS-IS WHERE-IS," AND NOT AS A LIMITATION ON SUCH AGREEMENT, UCF HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY AND ALL ACTUAL OR POTENTIAL RIGHTS UCF MIGHT HAVE REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR TYPE, RELATING TO THE PROPERTY. SUCH WAIVER IS ABSOLUTE, COMPLETE, TOTAL AND UNLIMITED IN ANY WAY. SUCH WAIVER INCLUDES, BUT IS NOT LIMITED TO, A WAIVER OF EXPRESS WARRANTIES, IMPLIED WARRANTIES, WARRANTIES OF FITNESS FOR A PARTICULAR USE, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF HABITABILITY, STRICT LIABILITY RIGHTS, AND CLAIMS, LIABILITIES, DEMANDS OR CAUSES OF ACTION OF EVERY KIND AND TYPE, WHETHER STATUTORY, CONTRACTUAL OR UNDER TORT PRINCIPLES, AT LAW OR IN EQUITY.

29. **Hazardous Materials.** If UCF discovers any hydrocarbon substances, polychlorinated biphenyls, or any other hazardous or toxic substances, wastes or materials (as determined under federal, state or local law then in effect), asbestos or asbestos-bearing materials or other environmental condition subject to legal requirements for corrective action or affecting the Property, UCF shall immediately notify City, and if such discovery is made after the Closing, UCF shall cause the condition to be corrected in accordance with applicable law.

30. **Waiver of Trial By Jury.** UCF AND CITY HEREBY AGREE AS FOLLOWS: (A) EACH OF THEM KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE

TO A TRIAL BY JURY IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR OTHER LITIGATION (AN "ACTION") BASED UPON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY RELATED DOCUMENTS, INSTRUMENTS, OR AGREEMENTS (WHETHER ORAL OR WRITTEN AND WHETHER EXPRESS OR IMPLIED AS A RESULT OF A COURSE OF DEALING, A COURSE OF CONDUCT, A STATEMENT, OR OTHER ACTION OF EITHER PARTY); (B) NEITHER OF THEM MAY SEEK A TRIAL BY JURY IN ANY SUCH ACTION; (C) NEITHER OF THEM WILL SEEK TO CONSOLIDATE ANY SUCH ACTION (IN WHICH A JURY TRIAL HAS BEEN WAIVED) WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND (D) NEITHER OF THEM HAS IN ANY WAY AGREED WITH OR REPRESENTED TO THE OTHER OF THEM THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

31. **Sovereign Immunity.** UCF is a state university and City is a Florida municipal corporation, both of whom have limits of liability set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of UCF or City beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of UCF or City's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

32. **Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health department. [Note: This paragraph is provided for informational purposes.]

33. **Annual Appropriations.** The University's performance and obligations under this Agreement are subject to and contingent upon the legislature's annual appropriations by the Florida Legislature and other funding sources.

34. **Personal Property.** City and UCF acknowledge that all personal property contained at or on the Property is the personal property of UCF and no personal property needs to be conveyed or removed at Closing.

35. **MOU.** Nothing contained herein shall terminate the obligations set forth in the MOU, including but not limited to, road construction, site acquisition, sanitary sewer capacity and storm water infrastructure.

**Signatures appear on following pages**

*City Execution Page*

**IN WITNESS WHEREOF**, the Parties have caused these presents to be executed on the day and year indicated above.

**CITY**

Witnesses (two are required):

\_\_\_\_\_

Printed name: \_\_\_\_\_

\_\_\_\_\_

Printed name: \_\_\_\_\_

CITY OF ORLANDO, FLORIDA  
a municipal corporation of the State of  
Florida

By: \_\_\_\_\_  
Buddy Dyer, Mayor

Approved as to form and legality  
For the use and reliance of the  
City of Orlando only

\_\_\_\_\_, 2017

\_\_\_\_\_  
Assistant City Attorney

**ATTEST:**

\_\_\_\_\_  
City Clerk

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, as \_\_\_\_\_, of \_\_\_\_\_, who is/are personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Print/Type Notary Name  
Commission Number:  
Commission Expires:

UCF

Witnesses (two are required):

UNIVERSITY OF CENTRAL FLORIDA,  
ON BEHALF OF ITS BOARD OF  
TRUSTEES

\_\_\_\_\_  
Printed name: \_\_\_\_\_

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

\_\_\_\_\_

Printed name: \_\_\_\_\_

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

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, as \_\_\_\_\_, of \_\_\_\_\_, who is/are personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Print/Type Notary Name

Commission Number:  
Commission Expires:

Approved as to form and legality  
For the use and reliance of the  
UCF only

\_\_\_\_\_, 2017

\_\_\_\_\_  
Associate General Counsel

EXHIBIT "A"  
PROPERTY (Pending Legal)

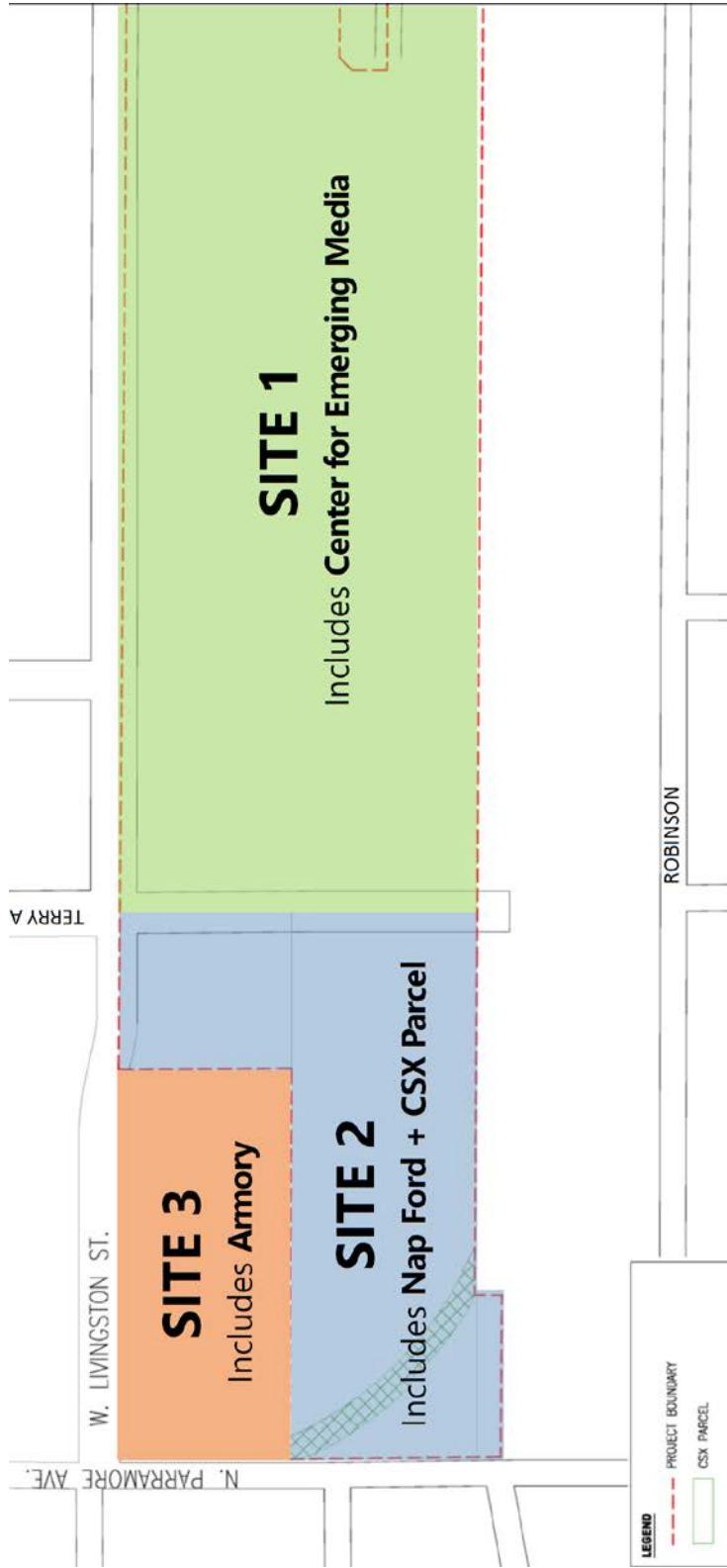




EXHIBIT "B"  
PROJECT CONCEPTUAL PLAN

