



UNIVERSITY OF CENTRAL FLORIDA

**Board of Trustees Meeting  
January 24, 2019  
UCF Rosen College of Hospitality Management  
9907 Universal Boulevard, Orlando FL 32819  
REVISED Agenda  
8:30 a.m. – 4 p.m.  
Lunch 12 p.m.  
800-442-5794, passcode 463796**

**COMMITTEE MEETINGS**

8:30 – 9:15 a.m.	Advancement, Joseph Conte, Chair
9:15 – 9:30 a.m.	Audit and Compliance, Beverly Seay, Chair
9:30 – 10:15 a.m.	Educational Programs, Robert Garvy, Chair
10:15 – 11 a.m.	Nominating and Governance, William Yeargin, Chair
11 a.m. – 12 p.m.	Finance and Facilities, Alex Martins, Chair

*Please note that committee meetings may begin upon adjournment of previous meetings.*

**BOARD MEETING**

1 – 4 p.m.

- |   |  |
|---|--|
| 1. Welcome and call to order  | Marcos Marchena, Chairman                      |
| 2. Roll Call  | Grant J. Heston, Associate Corporate Secretary |
| 3. Public Comment   | Grant J. Heston                                |
| 4. <a href="#">Minutes of November 15, 2018</a><br><a href="#">and December 12, 2018 meetings</a> | Chairman Marchena                              |
| 5. Remarks and introductions  | Dale Whittaker, President                      |
| 6. Advancement Committee report   | Chair Conte                                    |
| <a href="#">ADV – 1</a> Approval  | Naming of Adam M. Rosen Hall (Conte)           |
| 7. Audit and Compliance Committee report  | Chair Seay                                     |

- |  |   |
|--|---|
| 8. Educational Programs Committee report       | Chair Garvy   |
| 9. Finance and Facilities Committee report     | Chair Martins   |
| FF – 1   | Approval<br>Minor Amendment to the University of Central Florida 2015-25 Campus Master Plan Update for Learning Laboratory (Martins)          |
| FF – 2   | Approval<br>Minor Amendment to Coordinate the University of Central Florida 2015-25 Campus Master Plan Update with Site Refinements (Martins) |
| FF – 3   | Approval<br>Minor Amendment to Align the University of Central Florida 2015-25 Campus Master Plan Update (Martins)                            |
| FF – 4   | Approval<br>Concessions Services for UCF Convocation Corporation (Martins)  |
| 10. Nominating and Governance Committee report | Chair Yeargin   |
| 11. Consent Agenda                             | Chairman Marchena   |
| AUD – 1  | Approval<br>Board of Governors' Performance-based Funding Data Integrity Certification Audit Report (Seay)                                    |
| AUD – 2  | Approval<br>Performance-based Data Integrity Certification Form (Seay)  |
| EP – 1   | Approval<br>Tenure with Hire (Garvy)  |
| NG – 1   | Approval<br>UCF Athletics Association Bylaws Amendments and Reappointment of Board Members (Yeargin)  |
| NG – 2   | Approval<br>Proposed University Regulation UCF-1.00 (Yeargin)   |
| NG – 3   | Approval<br>Amendments to University Regulation UCF-3.091 (Yeargin)   |
| NG – 4   | Approval<br>Amendments to University Regulation UCF-4.034 (Yeargin)   |

NG – 5	Approval	Amendments to University Regulation UCF-5.016 (Yeargin)
NG – 6	Approval	Amendments to University Regulation UCF-5.020 (Yeargin)
NG – 7	Approval	Amendments to University Regulation UCF-7.130 (Yeargin)
12. Old Business		Chairman Marchena
BOT – 1	Approval	Action based on Bryan Cave Investigation
13. New Business		Chairman Marchena
14. Announcements and Adjournment		Chairman Marchena
BOG meeting		January 30 – 31, 2019 (Florida International University, Miami)
Inauguration		February 26, 2019 (Student Union, Pegasus Ballroom)
BOT meeting		March 21, 2019 (FAIRWINDS Alumni Center)
BOG meeting		March 27 – 28, 2019 (Florida A&M University, Tallahassee)

**Minutes  
Board of Trustees Meeting  
University of Central Florida  
November 15, 2018**

Chairman Marcos Marchena called the meeting of the Board of Trustees to order at 1:12 p.m. in the *FAIRWINDS* Alumni Center on the UCF Orlando campus.

Marchena reminded the board that the meeting was covered by the Florida Sunshine Law and that the public and press were invited to attend.

**WELCOME**

Marchena welcomed the board members and called on Grant Heston, Associate Corporate Secretary, to call the roll. Heston determined that a quorum was present.

The following board members attended the meeting: Chairman Marcos Marchena, Vice Chair Robert Garvy, Josh Boloña, Ken Bradley, Joseph Conte, Danny Gaekwad, John Lord, Alex Martins, William Self, John Sprouls David Walsh, and William Yeargin.

Trustee Beverly Seay attended via teleconference.

**PUBLIC COMMENT**

Four members of the public signed up for public comment. One student comment was on the United Faculty of Florida (UFF) bargaining agreement and three comments were from students who shared the impact the new teaching method in the College of Business had on their lives and education.

**MINUTES**

Marchena called for approval of the September 6, 2018, September 20, 2018, September 27, 2018, and October 5, 2018 meeting minutes, which were approved unanimously.

Marchena called on President Dale Whittaker for remarks and introductions.

**REMARKS**

Whittaker thanked the students for their public comments and stated that he and Provost Dooley would review the concerns expressed by the College of Business students. Several trustees agreed that such a review would be welcome.

Whittaker shared several athletic updates. He noted that in a first for UCF, ESPN College Gameday will broadcast live to the nation from Memory Mall on Saturday. Then, later that evening at 8 p.m., the Knights will take on the Cincinnati Bearcats to defend their 22-game



winning streak. Whittaker stated this is an incredible opportunity to showcase UCF to the rest of the country. Whittaker highlighted a *New York Times* story from last month. In it, he said UCF's reputation is catching up to reality and we are becoming known as a national leader in 21<sup>st</sup>-century higher education. He noted that after the January 2018 Peach Bowl win, UCF has seen an 11 percent increase in applications. Whittaker shared some additional athletic highlights:

- The Volleyball team won the American Athletic Conference Title for the second time in five years.
- The Men's Soccer team was named regular season conference champions. UCF is home to the AAC's Offensive Player of the Year, Midfielder of the Year, and Goalkeeper of the Year and the Men's Soccer Coaches were named AAC Coaching Staff of the Year.
- The Men's Basketball team is picked to win the AAC.
- UCF athletes performed well off the field or court, too. For 21 straight semesters, they have had a department GPA of 3.0 or better.
- Whittaker participated in Sprit Splash due to a record student attendance of more than 55,000 during UCF's first five football home games.

Whittaker noted that UCF welcomed its most accomplished freshman class and a record number of National Merit Scholars. He stated our first-year retention rate is 90.4 %, which sets a university record and is one of the preeminence metrics. Whittaker reminded the board that he has committed to the Board of Governors that UCF will achieve preeminence within three years and will immediately return UCF to the top three in state performance-based funding. Whittaker stated he will also share benchmark measures and historical data with the trustees to provide context to the student success metrics referenced today.

Whittaker welcomed Elizabeth Dooley, who was chosen from a national search after serving as Interim Provost since April of this year, to share her vision as the new Provost and Vice President for Academic Affairs. Dooley expressed her commitment to lifting lives and livelihoods, to access and on becoming a preeminent institution. She concluded with naming teaching, research, service, student success, community engagement and partnerships as critical components in making UCF the preeminent university for the 21<sup>st</sup> century.

Whittaker announced a new Associate Vice President for DSO Board Governance, Margaret Jarrell-Cole. Margaret was selected after a national search and comes from the UCF Foundation, where she provided legal expertise representing DSOs and developing best practices for DSOs.

Whittaker stated that UCF entered into an agreement with Accenture, a global management consulting and professional services firm, to review the Administration and Finance division and provide recommendations for:

- Optimal structure and reporting relations
- Ways to increase and optimize efficiency and accountability

- Efforts to enhance and ensure compliance
- Improving customer service

Whittaker thanked Trustee Yeargin for his valuable insight on structuring this engagement.

Whittaker discussed that last month the Board of Governors directed all state universities to have their Boards of Trustees approve institutions' E&G carry-forward plans and submit them to the BOG by January 4, 2019. UCF plans to use the E&G carry-forward balances as of Nov. 30, 2018 to produce this plan. With the concurrence of the Chairman, he asked that staff present this plan to the Finance and Facilities Committee on December 12, followed by a special teleconference meeting with the full Board of Trustees.

Whittaker observed the recent Veterans' Day by thanking faculty, staff and students who have served in our nation's military. Whittaker acknowledged the Veterans Legacy Program. This program is a contract with the National Cemetery Administration and a collaboration between the UCF History Department and UCF's Center for Humanities and Digital Research. Whittaker recognized Amelia Lyons, an Associate Professor of History and one of the project's principal investigators and one of her graduates, Ken Holliday, who is a proud Army Veteran who served tours in Iraq and Afghanistan before he became a UCF history student.

Whittaker introduced Deborah Beidel, Pegasus Professor of Psychology and Medical Education and Director of UCF RESTORES, a UCF program treating veterans and first-responders with PTSD. Dr. Beidel discussed the expansion of the UCF RESTORES program to active military members. She introduced Pat Scanlon, a retired firefighter who has benefited from UCF RESTORES. He gave a heartfelt story of how the program helped him.

Whittaker concluded his remarks by noting that Trustees Garvy and Seay were recognized with the John C. and Martha Hitt Honorary Alumni Award for their incredible service and friendship to UCF.

## **Reports**

Marchena introduced Trustee Beverly Seay, Chair, Audit and Compliance Committee who gave a report on the following item.

- INFO-1 Update on the Board's investigation with Bryan Cave
  - Seay indicated the investigation remains active and ongoing. She said the investigation team continues to review emails, reports, financial records and other relevant documents as well as conducting interviews of current and past employees. She expects Bryan Cave will give a report at the January board meeting.

### **ADVANCEMENT COMMITTEE REPORT**

Joseph Conte, Chair of the Advancement Committee, reported the highlights from the committee meeting held earlier in the day.

- Mike Morsberger, vice president for Advancement and CEO of the UCF Foundation, provided an IGNITE Campaign update, highlighting progress-to-goal for colleges and units, funds by use, and funds by priority. Morsberger also noted that he is considering “going dark” with reporting on campaign attainment after December 31, with plans to offer a “grand reveal” of total support raised during Homecoming 2019. To-date, \$446.5M has been raised in the IGNITE Campaign.
- Grant Heston, chief of staff and vice president for Communications and Marketing, shared a presentation that included several videos from the first week of classes at UCF and featured the innovative ways UCF is engaging its students in social media and around campus. Grant also highlighted several of President Whittaker’s messages to students earlier this semester and shared examples of his approach to strengthening the relationship between the students and administration.
- Janet Owen, vice president for Government Relations provided an update on recent state revenue estimates, and the legislative priorities adopted by the Board of Governors for the State University System, as well as funding issues of significance to UCF. The Committee was also updated on the Board of Governor’s modifications to the performance funding model, approved at November 2018 meeting and the “Your Success is Our Success” campaign which will include messaging activities both in advance of and during the 2019 session.

### **COMPENSATION AND LABOR COMMITTEE REPORT**

John Sprouls, Chair of the Compensation and Labor Committee, reported highlights from the committee meeting held earlier that day.

- President Whittaker presented his 2018-19 goals.

### **EDUCATIONAL PROGRAMS COMMITTEE REPORT**

Robert Garvy, Chair of the Educational Programs Committee, reported highlights from the committee meeting held earlier that day.

Garvy reported that the following item was unanimously approved by the committee and placed on the board’s consent agenda:

- EPC-1      Conferral of Degrees

Garvy presented the following informational updates:

- Provost Update
  - Dooley provided an update on the following academic enterprise topics: Provost Forum, Student Success; including retention rate, predictive analytics, continuation grants, and mapping and tracking system for degree completion; 21<sup>st</sup> Century Learning Model and International Education Week.
- INFO-1 Civic Literacy – Graduation Requirement
  - Dr. Keisha Hoerrner presented the board with background and information on State Law: 1007.25 (4); which outlines adoption of the regulation to assess student competency in civic literacy beginning in the 2018-2019 school year. Students will have an option to demonstrate competency through a civic literacy course or achieving a passing score on an assessment.

### **FINANCE AND FACILITIES COMMITTEE REPORT**

Alex Martins, Chair of the Finance and Facilities Committee, reported highlights from the committee meeting held on October 10, 2018 and earlier that day.

The following information items occurred at the October 10, 2018, meeting.

- At the request of Trustee Walsh, the committee considered recommending an expansion of the Bryan Cave investigation to include a three-year review for possible capital projects that did not receive necessary committee and board approvals. The majority of the committee felt that expanding the investigation at this time would delay the findings of the investigation. Trustee Walsh voted for approval with the rest of the committee opposed.
- Direct Support Organizations' 2017-18 Fourth-Quarter Financial Reports were presented
- University and Direct Support Organization Debt Report
- UCF Investments Quarterly Report Ended June 30, 2018.
- 2019 Finance and Facilities Committee Meeting Dates, which is also an information item on today's agenda

Martins reported highlights from the meeting held earlier that day and noted the following items were approved by the committee. With his motion, the board unanimously approved the items. Marchena recused himself from the vote on item FF – 2.

- FF-1 UCF Downtown Campus Store Contract
- FF-2 Chilled Water Services Agreement for Sanford Burnham Prebys Building

- FF-3 Temporary License and Construction Agreement for Rosen Campus
- FF-4 L3 Building Lease
- FF-5 John C. Hitt Library Renovation and Expansion
- FF-6 Student Union Renovation and Expansion
- FF-7 CREOL Expansion
- FF-8 Roth Athletics Center Shell Building Construction Costs
  - The total amount of the costs updated to \$2,174,497 through negotiations
  - This item came to the board for approval due to the costs increasing over \$2 million and the 10% change threshold.
- FF-9 L3 Building Purchase Loan

Martins reminded the board the following item was approved at the October 10, 2018 meeting and placed on the consent agenda.

- FF-10 Nicholson School of Communication Building Name Change

Martins reminded the board the following item was approved earlier that day and placed on the consent agenda.

- FF-11 Sanford Burnham Prebys Building Name Designation

#### **NOMINATING AND GOVERNANCE COMMITTEE REPORT**

William Yeargin, Chair of the Nominating and Governance Committee, reported highlights from the committee meeting held earlier that day.

The following actions were unanimously approved by the committee and placed on the board's consent agenda:

- NGC-1 Appointment of Board Members to UCF Foundation
- NGC-2 Appointment and Reappointment of Board Members to Limbitless Solutions, Inc.
- NGC-3 Appointment of Board Member to UCF Research Foundation
- NGC-4 Amendments to University Regulation UCF-3.038 Advance Notice of Separation for USPS Employees

### **CONSENT AGENDA**

Trustee Kenneth Bradley made a motion to accept the consent agenda and it was unanimously approved.

- EP-1            Conferral of Degrees
- FF-10          Nicholson School of Communication Building Name Change
- FF-11          Sanford Burnham Prebys Building Name Designation
- NG-1          Appointment of Board Members to UCF Foundation
- NG-2          Appointment of Board Members to Limbitless Solutions, Inc.
- NG-3          Appointment of Board Member to UCF Research Foundation
- NG-4          Amendments to University Regulation UCF-4.010 Solicitation on Campus

### **NEW BUSINESS**

Marchena asked for a motion to reconsider the action taken on the concession award at the September 27, 2018 board meeting (item FF – 4). Garvy made a motion which Gaekwad seconded and it was approved. Sprouls recused himself from the vote.

Based on a revised recommendation from the Finance and Facilities Committee, Marchena entertained a motion to re-approve the Concession Award, item FF – 4 from the September 27, 2018 meeting with the stipulation that during negotiations staff consider the customer experience as it relates to product pricing and customer satisfaction. Garvy made a motion with Gaekwad providing a second and it was approved. Sprouls recused himself from the vote.

At the trustees' request and with the chairman's approval, a list identifying the board committee assignments will be shared with the trustees.

Whittaker initiated a discussion to consider increasing the university's reserve funds. After discussion, it was determined the Finance and Facilities Committee could consider this request before any further full board discussion.

### **ANNOUNCEMENTS AND ADJOURNMENT**

Marchena announced the following upcoming meetings:

Commencement	December 14-15, 2018 (CFE Arena)
BOT meeting	January 24, 2019 (Rosen College of Hospitality Management)

BOG meeting

January 30-31, 2019  
(Florida International University, Miami)

Marchena adjourned the board meeting at 3:05 p.m.

Respectfully submitted: \_\_\_\_\_ Date: \_\_\_\_\_  
Grant J. Heston  
Associate Corporate Secretary

## FORM 8A MEMORANDUM OF VOTING CONFLICT FOR STATE OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Marchena—Marcos R.</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>UCF Board of Trustees</i>	
MAILING ADDRESS <i>1619 Hanks Ave</i>		NAME OF STATE AGENCY <i>UCF</i>	
CITY <i>Orlando</i>	COUNTY <i>Orange</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	
DATE ON WHICH VOTE OCCURRED <i>11/15/18</i>			

### WHO MUST FILE FORM 8A

This form is for use by any person serving at the State level of government on an appointed or elected board, council, commission, authority, committee, or as a member of the Legislature. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

#### ELECTED OFFICERS:

As a person holding elective state office, you may not vote on a matter that you know would inure to your special private gain or loss. However, you may vote on other matters, including measures that would inure to the special private gain or loss of a principal by whom you are retained (including the parent or subsidiary or sibling organization of a principal by which you are retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. If you vote on such a measure or if you abstain from voting on a measure that would affect you, you must make every reasonable effort to disclose the nature of your interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for you to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection, or by use of Form 8A.

\* \* \* \* \*

#### APPOINTED OFFICERS:

As a person holding appointive state office, you are subject to the abstention and disclosure requirements stated above for Elected Officers. You also must disclose the nature of the conflict before voting or before making any attempt to influence the decision by oral or written communication, whether made by you or at your direction.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION OR VOTE AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.



**DISCLOSURE OF STATE OFFICER'S INTEREST**

I, Marcos R. Marchena, hereby disclose that on November 15, 20 18 :

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☒ inured to the special gain or loss of OK DUC, by \_\_\_\_\_, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent, subsidiary, or sibling organization of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

11/15/18  
Date Filed

[Signature]  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

## FORM 8A MEMORANDUM OF VOTING CONFLICT FOR STATE OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>SPROULL JOHN R.</b>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>UCF BOARD OF TRUSTEES</b>	
MAILING ADDRESS <b>6228 BLAKEFOLD DR</b>		NAME OF STATE AGENCY <b>UCF</b>	
CITY <b>WINDERMERE</b>	COUNTY <b>ORANGE</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE	
DATE ON WHICH VOTE OCCURRED <b>11/15/18</b>			

### WHO MUST FILE FORM 8A

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Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

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For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection, or by use of Form 8A.

#### APPOINTED OFFICERS:

As a person holding appointive state office, you are subject to the abstention and disclosure requirements stated above for Elected Officers. You also must disclose the nature of the conflict before voting or before making any attempt to influence the decision by oral or written communication, whether made by you or at your direction.

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## DISCLOSURE OF STATE OFFICER'S INTEREST

I, JOHN R. SPADUS, hereby disclose that on NOVEMBER 15, 20 18:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☒ inured to the special gain or loss of COMCAST NBCU, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent, subsidiary, or sibling organization of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

- RE-OPENING OF CONCESSION AGMT FOR UCF AREA -  
CONTRACT IS WITH AN AFFILIATE OF COMCAST NBCU,  
WITH WHOM I AM EMPLOYED.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

11/15/18

Signature



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MAILING ADDRESS <b>6228 BLACKBOLD DR</b>	NAME OF STATE AGENCY <b>UCE</b>
CITY <b>WINDERMERE 11/15/18</b>	COUNTY <b>ORANGE</b>
DATE ON WHICH VOTE OCCURRED <b>11/15/18</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

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### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

#### ELECTED OFFICERS:

As a person holding elective state office, you may not vote on a matter that you know would inure to your special private gain or loss. However, you may vote on other matters, including measures that would inure to the special private gain or loss of a principal by whom you are retained (including the parent or subsidiary or sibling organization of a principal by which you are retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. If you vote on such a measure or if you abstain from voting on a measure that would affect you, you must make every reasonable effort to disclose the nature of your interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for you to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection, or by use of Form 8A.

#### APPOINTED OFFICERS:

As a person holding appointive state office, you are subject to the abstention and disclosure requirements stated above for Elected Officers. You also must disclose the nature of the conflict before voting or before making any attempt to influence the decision by oral or written communication, whether made by you or at your direction.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION OR VOTE AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.



## DISCLOSURE OF STATE OFFICER'S INTEREST

I, JOHN R. SPOLLS, hereby disclose that on NOVEMBER 15, 20 18:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☒ inured to the special gain or loss of COMCAST NBCU, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent, subsidiary, or sibling organization of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

- CONCESSION AGMT FOR UCF ARENA - CONTRACT  
IS WITH AN AFFILIATE OF COMCAST NBCU, WITH  
WHOM I AM EMPLOYED.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

11/15/18

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

**Minutes  
Board of Trustees Special Teleconference Meeting  
University of Central Florida  
December 12, 2018**

Chairman Marcos Marchena called the special teleconference meeting of the Board of Trustees to order at 9:14 a.m.

Marchena reminded the board that the meeting was covered by the Florida Sunshine Law and that the public and press were invited to attend.

**WELCOME**

Marchena welcomed the board members and called on Grant Heston, Associate Corporate Secretary, to call the roll. Heston determined that a quorum was present.

The following board members attended the meeting in person: Chairman Marcos Marchena, and Trustees William Self and David Walsh.

Vice Chair Robert Garvy and Trustees Josh Boloña, Kenneth Bradley, Joseph Conte, John Lord, Beverly Seay and John Sprouls attended via teleconference.

**Public Comment**

There were no requests for public comment.

**NEW BUSINESS**

Marchena noted that the trustees had joined the previous Finance and Facilities Committee meeting, where the item put forth for approval was fully vetted and that the trustees had the opportunity to ask questions, as needed. He asked Kathy Mitchell, Interim Chief Financial Officer, to read the agenda item into the record.

**FF - 1          E&G Carryforward Spending Plan**

Mitchell advised that as required by the Board of Governors, all Florida universities must provide updated plans for spending the committed portion of their remaining 2017-18 E&G Carryforward funds. The updated plans must be approved by the University's Board of Trustees prior to submission to the Board of Governors by January 4, 2019, for the Board of Governors' January 30 – 31, 2019, board meeting.

Mitchell stated that the university has updated its August 2018 E&G Carryforward plan as of November 30, 2018. She indicated that today's request is to approve the plan for spending the committed portion of the University's remaining 2017-18 E&G Carryforward funds.

The committed funds are as follows:

**Academic and Student Affairs**

Faculty Research Support	\$9,311,210
Faculty Recruitment and Start-up	\$5,687,830
UCF Downtown	\$3,414,000

**Student Welfare**

Digital Learning Course Redesign Initiative	\$1,119,659
Undergraduate Student Support	\$476,695
Graduate Student Support	\$583,996

**Total Commitments** \$20,593,390

A motion was made by Trustee Conte, with a second from Trustee Self, to approve FF– 1, E& G Carryforward Spending Plan. The E&G Carryforward spending plan was approved by the board. Trustee Walsh opposed.

**ADJOURNMENT**

Marchena adjourned the board meeting at 9:20 a.m.

Respectfully submitted: \_\_\_\_\_ Date: \_\_\_\_\_  
Grant J. Heston  
Associate Corporate Secretary

**ITEM: ADV-1**

**University of Central Florida  
Board of Trustees  
Advancement Committee**

**SUBJECT:** Naming of Adam M. Rosen Hall

**DATE:** January 24, 2019

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**PROPOSED COMMITTEE ACTION**

Approve naming of the building expansion project at the Rosen College of Hospitality Management as Adam M. Rosen Hall. The naming is requested in loving memory of Adam M. Rosen '15 and in honor of the Rosen family's generosity to the University of Central Florida.

**BACKGROUND INFORMATION**

Adam Rosen was the son of Orlando hotelier and philanthropist Harris Rosen. Adam was a 2015 graduate of UCF, receiving his Hospitality Management BS. He was employed in Rosen Hotels & Resorts' Rosen Standards Department, where "he excelled in maintaining and improving the quality of service our guests know and love and where his touch and care can still be felt," according to the company's Facebook page. Adam passed away in November 2018 after a fight with cancer.

The Rosen family has made transformational gifts to the Rosen College, among other areas at UCF. Most recently, they made a \$10 million commitment to benefit the building expansion project. In addition, the Rosen family is well known for their gifts to provide college scholarships and for education programs in the Tangelo Park neighborhood, among many other areas of philanthropic support.

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**Supporting Documentation:** Attachment A: 9.005 Naming of Buildings and Facilities

**Prepared by:** Christine Rutherford, Director of Donor Relations and Stewardship, UCF Foundation, Inc.

**Submitted on behalf of:** Michael J. Morsberger, Vice President for Advancement and Chief Executive Officer of the UCF Foundation, Inc.



Attachment A

**9.005 Naming of Buildings and Facilities**

The naming of any building, road, bridge, park, recreational complex, other similar facility or educational site, as defined in Board regulation 8.009, (collectively referred to as a "University Facility") of a state university for individuals or groups who have made significant contributions to the university or the state of Florida is the prerogative and privilege of the State University System of Florida and is vested in the Board of Governors. The Board of Governors hereby delegates such approval authority to each university board of trustees provided that the board of trustees establishes procedures for the naming of such University Facilities to include the following elements:

- (a) The naming of any University Facility must be approved by the board of trustees as a noticed, non-consent agenda item.
- (b) Non-gift related honorary naming of a University Facility should be reserved for individuals who have made significant contributions to the university or to the state of Florida or to the fields of education, government, science or human betterment and who are of recognized accomplishment and character. Honorary naming of a University Facility is not allowed for any active board member or employee of the Board of Governors or any active employee, student, or trustee of the university.
- (c) Gift-related naming of a University Facility requires a donation which makes a significant contribution to the cost of the University Facility, or for an existing facility, significant improvements, both as established by the board of trustees' policy. The limitations set forth in paragraph (b) are not applicable to gift-related naming of a University Facility.

Authority: Section 7 (d), Art. IX, Fla. Const., History-Formerly 6C-9.005, 11-3-72, Amended 12-17-74, 8-11-85, Amended and Renumbered as 9.005, 3-27-08. Amended 11-21-13.

**ITEM: FF-1**

**University of Central Florida  
Board of Trustees**

**SUBJECT:** Minor Amendment to the University of Central Florida 2015-25 Campus Master Plan Update for Learning Laboratory

**DATE:** January 24, 2019

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**PROPOSED BOARD ACTION**

The University of Central Florida proposes a minor amendment to the 2015-25 Campus Master Plan Update (CMP) to add one new project to the main campus by modifying the Urban Design and Capital Improvements map (Attachment C) and the Capital Improvements List (Attachment D).

**BACKGROUND INFORMATION**

The proposed project, Learning Laboratory - Active Learning, Teaching Lab, and Maker Space Facility, was approved by the Finance and Facilities Committee on August 15, 2018, when it was submitted as part of a larger proposed Minor Amendment (FFC-1).

Minutes from that meeting read: “The committee unanimously approved the addition of the Learning Laboratory to the Campus Master Plan. President Whittaker highlighted this as central to the university’s core mission and academic programing and emphasized it as a priority. This item will be on the full Board agenda for consideration at a later date. The committee agreed that the other potential projects ... would be tabled pending discussion and evaluation once decisive information regarding campus location sites can be provided to the committee.”

As detailed in the attached memorandum, this amendment would constitute a minor amendment that needs only Board of Trustees approval for adoption.

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**Supporting documentation:** Attachment A: Memorandum  
Attachment B: Project Location Map  
Attachment C: Urban Design and Capital Improvements Map  
Attachment D: Capital Improvements List

**Prepared by:** Duane Siemen, Assistant Vice President for Facilities & Safety

**Submitted by:** Misty Shepherd, Interim Vice President for Administration and Finance

Attachment A

**MEMORANDUM**

TO: Scott Cole, Vice President and General Counsel

FROM: Susan B. Hutson, Assistant Director of Planning, Facilities Planning & Construction

SUBJECT: Minor Amendment to the University of Central Florida 2015-25 Campus Master Plan Update

DATE: December 12, 2018

University of Central Florida proposes a minor amendment to the 2015-25 Campus Master Plan Update (CMP) to add one new project to the Main Campus, by modifying the Urban Design and Capital Improvements map (Attachment C) and the Capital Improvements List (Attachment D). The proposed project:

**Learning Laboratory - Active Learning, Teaching Lab, and Maker Space Facility**

Description: A new interdisciplinary learning facility that will include teaching labs for four UCF colleges; nine general purpose classrooms to support active learning; maker space; and supporting study and office space.

Site: The proposed site is within the Academic Core, southwest of UCF Global, on land that is already classified for Academic use. The proposed site is approximately 1.7 acres. The project will permanently displace about 140 cars; requiring relocation of sixteen (16) ADA spaces and six (6) electric vehicle spaces.

On August 15, 2018, this project was unanimously approved by the Finance and Facilities Committee. Minutes from that meeting read: "President Whittaker highlighted this (project) as central to the university's core mission and academic programing and emphasized it as a priority. This item will be on the full Board agenda for consideration at a later date."

**COMPLIANCE WITH FLORIDA STATUTE 1013.30:**

F.S. 1013.30 An amendment to a campus master plan must be reviewed and adopted under subsections (6) - (8) of F.S. 1013.30 if such amendment, alone or in conjunction with other amendments, would:

(a) Increase density or intensity of use of land on the campus by more than 10 percent;

**University Response:** UCF has 10,890, 054 gross square feet of space on the Main Campus (SPAA data 12/3/2018). The addition of the 150,000 gross square foot Learning Laboratory - Active Learning, Teaching Lab, and Maker Space Facility constitutes a 1.38% increase in overall campus square footage. This change does not trip the 10 percent threshold for density or intensity of use of land on campus.

(b) Decrease the amount of natural areas, open space, or buffers on the campus by more than 10 percent; or

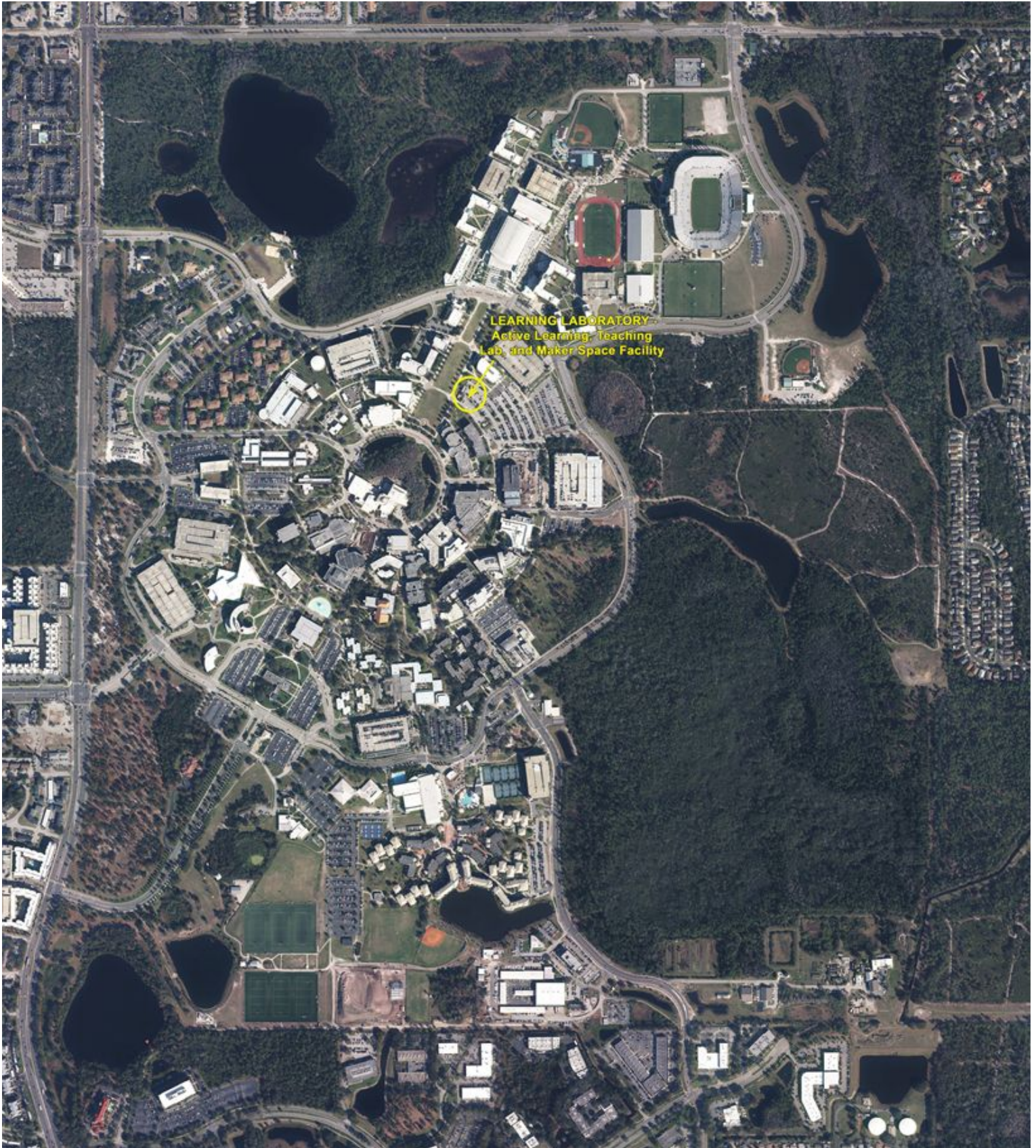
**University Response:** The proposed project will not affect natural areas, open space, or buffers.

(c) Rearrange land uses in a manner that will increase the impact of any proposed campus development by more than 10 percent on a road or on another public facility or service provided or maintained by the state, the county, the host local government, or any affected local government.

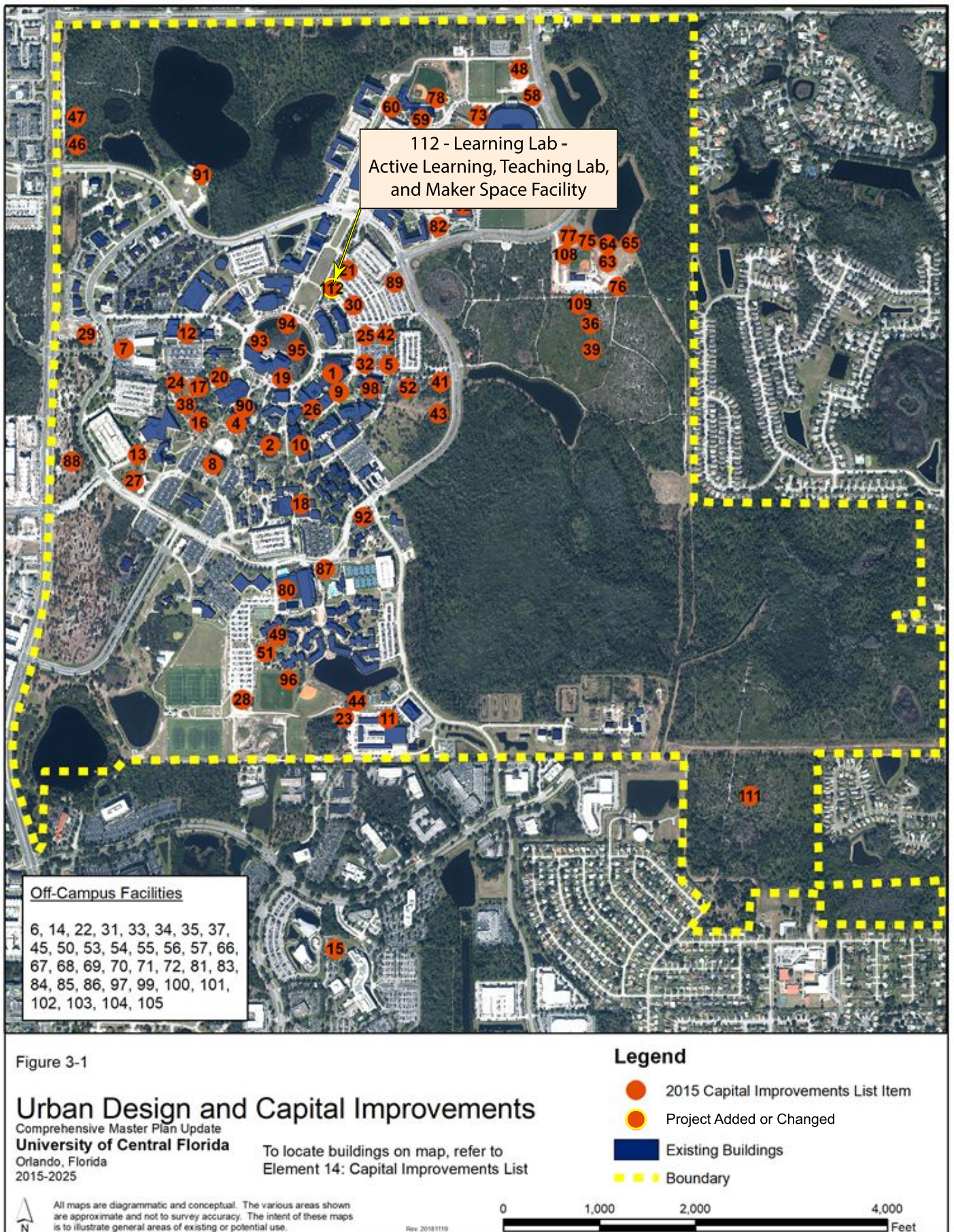
**University Response:** No additional parking is planned, therefore the effect on roads, or on another public facilities or services, will be negligible.



Attachment B - Project Locations - August 15, 2018









Board of Trustees Meeting - New Business

Attachment D

UNIVERSITY OF CENTRAL FLORIDA															
CAPITAL IMPROVEMENTS LIST															
MAIN CAMPUS FTE			22,890	23,128	23,484	23,661	23,661	23,646	23,833	24,038	24,237	24,591			
PROJECT LIST 2015 -25		*Fund	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	Net	Gross	Total Estimated Cost (\$M)
Revised 12/5/2018		Type	YR #1	YR #2	YR #3	YR #4	YR #5	YR #6	YR #7	YR #8	YR #9	YR #10			
1	ENGINEERING BUILDING I RENOVATION	PECO	\$13,954,277	\$925,000									118,186	130,885	14,879,277
2	MATHEMATICAL SCIENCES BUILDING REMODELING AND RENOVATION	PECO	\$9,422,105	\$700,000									100,289	106,523	10,122,105
3	UTILITIES, INFRASTRUCTURE	PECO	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	N/A	N/A	140,000,000
4	JOHN C. HITT LIBRARY RENOVATION PHASE II	PECO, CITF	\$3,500,000	\$29,500,000	\$3,500,000								222,387	226,506	36,500,000
5	RESEARCH BUILDING I (INTERDISCIPLINARY RESEARCH AND INCUBATOR FACILITY)	PECO	\$5,924,183	\$33,852,470	\$5,924,183								78,676	118,013	45,700,836
6	UCF VC CLASSROOM BUILDING	PECO	\$7,500,000											7,500,000	
7	ARTS COMPLEX PHASE II (PERFORMANCE)	PECO	\$5,000,000	\$40,000,000	\$5,000,000								100,396	150,594	50,000,000
8	MILICAN HALL RENOVATION	PECO		\$349,418	\$6,363,058	\$349,418							87,742	88,680	7,061,894
9	BUSINESS ADMINISTRATION RENOVATION	PECO		\$9,475,843	\$494,001								118,624	121,074	9,969,844
10	CHEMISTRY RENOVATION	PECO		\$539,843	\$9,815,338	\$539,843							43,265	49,073	10,895,024
11	FACILITIES & SAFETY COMPLEX RENOVATION	PECO			\$4,856,238									4,856,238	
12	VISUAL ARTS RENOVATION AND EXPANSION	PECO			\$3,000,000	\$24,000,000	\$3,000,000						79,373	85,000	30,000,000
13	MULTI-PURPOSE RESEARCH AND EDUCATION BUILDING	PECO		\$2,779,189	\$22,235,512	\$2,779,189							47,310	75,384	27,793,890
14	COLLEGE OF NURSING AND ALLIED HEALTH	PECO, C		\$7,350,000	\$58,800,000	\$7,350,000							119,206	170,684	73,500,000
15	PARTNERSHIP IV	PECO	\$2,450,000	\$19,600,000	\$2,450,000								78,294	117,442	24,500,000
16	HOWARD PHILLIPS HALL RENOVATION	PECO			\$6,564,996	\$652,249							56,903	64,619	7,217,245
17	COLBURN HALL RENOVATION	PECO			\$7,865,928	\$410,075							73,600	83,957	8,276,053
18	FERRELL COMMONS (E AND G SPACE) RENOVATION	PECO			\$6,564,996	\$652,249							86,149	93,860	7,217,245
19	COLLEGE OF SCIENCES BUILDING RENOVATION	PECO				\$317,437	\$2,539,494	\$317,436					49,580	54,644	3,174,367
20	REHEARSAL HALL RENOVATION	PECO				\$48,007	\$384,055	\$48,006					9,322	10,743	480,068
21	CLASSROOM BUILDING III	PECO			\$2,400,000	\$19,200,000	\$2,400,000						53,332	79,998	24,000,000
22	FACILITIES BUILDING AT LAKE NONA	B,P			\$600,000	\$4,800,000	\$600,000						13,866	20,799	6,000,000
23	RECYCLING CENTER	PECO				\$2,300,000	\$18,400,000	\$2,300,000					26,666	40,000	23,000,000
24	HUMANITIES AND FINE ARTS II	PECO				\$2,772,353	\$17,060,631	\$2,772,353					58,362	87,543	22,605,337
25	SIMULATION AND TRAINING BUILDING	PECO				\$2,370,336	\$18,410,374	\$2,370,336					39,950	59,924	23,151,046
26	BUSINESS ADMINISTRATION III BUILDING	PECO				\$1,584,527	\$12,307,012	\$1,584,527					41,118	61,677	15,476,066
27	EDUCATION BUILDING II	PECO				\$2,062,318	\$15,594,083	\$2,062,318					51,479	77,219	19,718,719
28	BAND BUILDING	PECO				\$455,045	\$2,800,279	\$455,045					10,024	13,529	3,710,369
29	ARTS COMPLEX PHASE III	PECO				\$1,210,857	\$7,627,447	\$1,210,857					25,447	38,171	10,049,161
30	SOCIAL SCIENCES FACILITY	PECO													0
31	COASTAL BIOLOGY STATION	PECO			\$2,500,000										2,500,000
32	INTERDISCIPLINARY RESEARCH BUILDING II	PECO								\$2,370,336	\$17,330,596	\$2,370,336	40,543	60,815	22,071,268
33	CENTER FOR EMERGING MEDIA BUILD OUT	PECO								\$6,360,339			16,544	24,816	6,360,339
34	ROSEN STORAGE SHED	P	\$225,000												225,000
35	ROSEN EDUCATIONAL FACILITY	P	\$17,000,000												17,000,000
36	TEMPORARY GAME DAY PARKING	O			\$200,000										200,000
37	UCF HEALTH EXPANSION AND WELLNESS CENTER	P, B					\$1,145,664	\$9,165,312	\$1,145,664						11,456,640
38	HUMANITIES AND FINE ARTS II (Phase II)	PECO								\$1,107,260	\$8,600,076	\$1,107,260	27,364	41,045	10,814,596
39	PARTNERSHIP CAMPUS	PECO											N/A	N/A	0
40	CAPITAL IMPROVEMENT RESERVE	PECO											N/A	N/A	0
41	SUSTAINABILITY CENTER (Phase I)	PECO, C								\$5,000,000			5,000	7,500	5,000,000
42	CIVIL AND ENVIRONMENTAL ENGINEERING	PECO, C		\$1,160,667	\$14,508,333	\$1,741,000							50,000	75,000	17,410,000
43	SUSTAINABILITY CENTER (Phase II)	PECO, C				\$5,000,000							5,000	7,500	5,000,000
44	LABORATORY AND ENVIRONMENTAL SUPPORT EXPANSION	O	\$1,800,000												1,800,000
45	CREATIVE VILLAGE GARAGE	P,B	\$15,000,000												15,000,000
46	SPECIAL PURPOSE HOUSING AND PARKING GARAGE I	P, B	\$25,000,000										106,667	160,000	25,000,000
47	SPECIAL PURPOSE HOUSING II	P, B	\$8,000,000										21,333	32,000	8,000,000
48	PARKING DECKS	P, B	\$17,000,000										112,000	168,000	17,000,000
49	GRADUATE HOUSING	P, B	\$50,000,000										100,000	150,000	50,000,000
50	REFINANCE UCF FOUNDATION PROPERTIES	P, B	\$37,410,000										288,167	432,250	37,410,000
51	STUDENT HOUSING	P, B	\$50,000,000										149,333	224,000	50,000,000
52	GARAGE EXPANSION	P, B	\$5,000,000										33,891	50,837	5,000,000
53	WET TEACHING LAB AND EXPANDED STEM FACILITY (CLASSROOM AND LAB BUILDING)	P, B							\$14,258,248	\$114,065,986	\$14,258,248		60,976	91,464	142,582,482
54	FACILITIES BUILDING AT LAKE NONA	P, B	\$6,000,000										13,866	20,799	6,000,000
55	EXPO CENTER HOUSING	P, B	\$16,000,000										68,667	103,000	16,000,000
56	REGIONAL CAMPUSES MULTI-PURPOSE BUILDINGS	P, B	\$28,000,000										40,000	60,000	28,000,000
57	PARTNERSHIP GARAGE	P, B	\$7,000,000										994,900		7,000,000
58	PARKING DECK (ATHLETIC COMPLEX)	P, B	\$5,000,000										112,000	168,000	5,000,000

Board of Trustees Meeting - New Business

59	BASEBALL STADIUM EXPANSION PHASE II	P, B	\$4,500,000								3,800	5,700	4,500,000
60	BASEBALL CLUB HOUSE EXPANSION AND RENOVATION	P, B	\$1,000,000										1,000,000
61	BRIGHTHOUSE NETWORKS STADIUM EXPANSION AND IMPROVEMENTS PHASE I	P, B	\$11,000,000									21,337	11,000,000
62	WAYNE DENSCH SPORTS CENTER EXPANSION	P, B	\$1,000,000								12,000	18,000	1,000,000
63	TENNIS COMPLEX PHASE I	P, B	\$1,400,000								4,980	7,470	1,400,000
64	TENNIS COMPLEX PHASE II	P, B	\$1,000,000										1,000,000
65	TENNIS COMPLEX PHASE III	P, B	\$2,000,000										2,000,000
66	MULTI-PURPOSE MEDICAL RESEARCH AND INCUBATOR FACILITY	P, B	\$112,863,923										112,863,923
67	HEALTH SCIENCES CAMPUS PARKING GARAGE I	P, B	\$15,000,000										15,000,000
68	BIO-MEDICAL ANNEX RENOVATION AND EXPANSION	P, B	\$12,800,000										12,800,000
69	OUTPATIENT CENTER	P, B	\$75,000,000										75,000,000
70	DENTAL SCHOOL	P, B		\$73,000,000									73,000,000
71	INFRASTRUCTURE AND SITEWORK LAKE NONA CLINICAL FACILITIES	P, B			\$10,000,000								10,000,000
72	STRATEGIC LAND AND PROPERTY	P, B	\$100,000,000								N/A	N/A	100,000,000
73	BRIGHTHOUSE NETWORKS STADIUM EXPANSION AND IMPROVEMENTS PHASE II	P, B	\$5,000,000								14,225	21,337	5,000,000
74	TRACK AND SOCCER CLUB HOUSE	P, B	\$850,000								2,800	4,200	850,000
75	SOFTBALL PRACTICE FIELD	P, B	\$250,000								N/A	N/A	250,000
76	ATHLETICS PRACTICE FIELD	P, B	\$500,000								N/A	N/A	500,000
77	WOMENS COMPETITION AND PRACTICE FIELD	P, B	\$2,000,000								N/A	N/A	2,000,000
78	BASEBALL PRACTICE FIELD	P, B	\$400,000								N/A	N/A	400,000
79	BASKETBALL PRACTICE FACILITY	P, B	\$12,000,000								32,000	48,000	12,000,000
80	RECREATION AND WELLNESS CENTER PHASE III	P, B	\$20,000,000								5,200	7,800	20,000,000
81	LIFE SCIENCES INCUBATOR, LAKE NONA	P, B	\$30,000,000								36,667	55,000	30,000,000
82	EAST ATHLETICS CENTER	P, B	\$15,000,000								11,706	17,559	15,000,000
83	CARACOL in BELIZE	C		\$350,000							49,570	72,555	350,000
84	BURNETT BIO-MEDICAL SCIENCE CENTER INFRASTRUCTURE	C		\$7,500,000							6,271	9,407	7,500,000
85	ORLANDO REPERTORY THEATRE III RENOVATIONS	C		\$75,000	\$75,000	\$75,000					8,000	12,000	225,000
86	RESEARCH LAB, LAKE NONA	C, P, B	\$6,412,845	\$97,268,758	\$9,180,000						132,018	198,027	112,861,603
87	FOOD RETAIL VENUE	O		\$2,500,000									2,500,000
88	HOTEL AND CONFERENCE CENTER	P	\$60,000,000								190,000	250,000	60,000,000
89	PARKING GARAGE VII	B		\$20,000,000							242,667	364,000	20,000,000
90	JOHN C. HITT LIBRARY EXPANSION	CITF, P	\$44,114,399	\$40,471,926	\$40,471,926						109,703	164,554	125,058,251
91	LAKE CLAIRE RENOVATION	CITF	\$3,000,000								100,700	150,000	3,000,000
92	CREATIVE SCHOOL FOR CHILDREN	CITF	\$6,000,000								25,000	37,500	6,000,000
93	STUDENT UNION II (Phase I)	CITF	\$14,000,000								37,800	56,700	14,000,000
94	STUDENT UNION II (Phase II)	CITF	\$6,000,000								17,000	25,500	6,000,000
95	STUDENT UNION II (Phase III)	CITF	\$21,000,000								60,000	90,000	21,000,000
96	RWC PARK PHASE IV	CITF	\$5,000,000								32,000	48,000	5,000,000
97	DOWNTOWN ACADEMIC BUILDING DR. PHILLIPS ACADEMIC COMMONS	PECO, P, E&G		\$60,000,000							112,381	165,000	60,000,000
98	CREOL EXPANSION PHASE II	E&G			\$6,784,228						10,208	13,900	6,784,228
99	DOWNTOWN CAMPUS COMBINED HEAT AND POWER PLANT (TRI-GENERATION)	E&G			\$15,118,178						11,000	13,000	15,118,178
100	TEACHING HOSPITAL AT LAKE NONA	P											0
101	DOWNTOWN PARKING GARAGE II	B			\$15,300,000							200,000	15,300,000
102	FLORIDA SOLAR ENERGY CENTER RENOVATION	PECO				\$10,000,000							10,000,000
103	DOWNTOWN BUILDING-H UCF DOWNTOWN BUILDING II	PECO, P, E&G					\$77,717,325				150,325	222,000	77,717,325
104	DOWNTOWN PHASE III	PECO, P, E&G								\$29,000,000	55,333	83,000	29,000,000
105	DOWNTOWN PHASE IV	PECO, P, E&G								\$42,164,850	80,000	120,000	42,164,850
106	RESEARCH BUILDING II - SCIENCE, ENGINEERING, AND COMMERCIALIZATION FACILITY	PECO					\$6,058,800	\$48,470,400	\$6,058,800		85,019	126,258	60,588,000
107	RESEARCH BUILDING III	PECO					\$6,609,620	\$52,876,800	\$6,609,600		91,929	136,623	66,096,020
108	SOFTBALL STADIUM EXPANSION AND RENOVATION	P, B			\$10,200,000								10,200,000
109	FUTURE GOLF RANGE AND SHORT GAME FACILITY	O											0
110	GARVY CENTER STUDENT-ATHLETE NUTRITION	P, O			\$2,500,000							3,128	2,500,000
111	UCF SOLAR FARM	E&G		\$14,700,000								40-50 Acres	14,700,000
112	LEARNING LABORATORY - ACTIVE LEARNING, TEACHING LAB, AND MAKER SPACE FACILITY	PECO					\$8,512,000	\$68,096,000	\$8,512,000		100,000	150,000	85,120,000
113	ARA-CHILLED-WATER-PLANT ARA DISTRICT ENERGY PLANT	O						\$25,000,000			22,000	30,800	25,000,000
114	ROSEN GARAGE	P, O						\$13,000,000				345,624	13,000,000
115	DINING, HOUSING & RESIDENCE LIFE AND CREATIVE SCHOOL FOR CHILDREN PARTNERSHIP	CITE, BOND, P								\$101,000,000	260,000	390,000	101,000,000
TOTAL										New Campus Sq. Ft.			
										Off Campus Sq. Ft.			

Funding sources denote probable building completion year

Projects in green denote projects planned off-campus.

Projects in blue denote renovation and/or remodeling projects

Projects not Approved under FFC Review

\*Fund Types:

PECO (Public Education Capital Outlay), C (Courtelis), P (Private),

B (Bond), CITF (Capital Improvement Trust Fund), O (Other)

**ITEM: FF-2**

**University of Central Florida  
Board of Trustees**

**SUBJECT:** Minor Amendment to Coordinate the University of Central Florida 2015-25 Campus Master Plan Update With Site Refinements

**DATE:** January 24, 2019

---

**PROPOSED BOARD ACTION**

Approve a minor amendment to coordinate the 2015-25 Campus Master Plan Update (CMP) with site refinements made by the university since the CMP was approved by the UCF Board of Trustees on November 20, 2014.

**BACKGROUND INFORMATION**

The purpose of the proposed amendment is to:

- Modify the Capital Improvements List (Attachment B) to update names and funding sources and to remove one project.
- Annotate the Urban Design and Capital Improvements Map (Attachment C) to illustrate the proposed changes to the Capital Improvements List.
- Revise the Future Land Use Map (Attachment D) and the Recreation and Open Space Map (Attachment E) to align with site refinements.

As detailed in the attached memorandum, the amendment would constitute a minor amendment that needs only Board of Trustees' approval for adoption.

---

**Supporting documentation:** Attachment A: Memorandum  
Attachment B: Capital Improvements List  
Attachment C: Urban Design and Capital Improvements Map  
Attachment D: Future Land Use Map  
Attachment E: Recreation and Open Space Map

**Prepared by:** Misty Shepherd, Interim Vice President of Administration and Finance

**Submitted by:** Misty Shepherd, Interim Vice President of Administration and Finance



## Attachment A

**MEMORANDUM**

TO: Scott Cole, Vice President and General Counsel

FROM: Susan B. Hutson, Assistant Director of Planning, Facilities Planning & Construction

SUBJECT: Minor Amendment to the UCF 2015-2025 Campus Master Plan Update

DATE: October 24, 2018

The University of Central Florida proposes a minor amendment to revise the UCF 2015-25 Campus Master Plan Update (CMP) as follows:

- Modify the *Capital Improvements List* (2.14 Capital Improvements Element) to update names and funding sources and to remove one project.
- Annotate the *Urban Design and Capital Improvements Map* (Figure 3-1) to illustrate the proposed changes to the *Capital Improvements List*.
- Revise the *Future Land Use Map* (Figure 4-1) and the *Recreation and Open Space Map* (Figure 8-1) to align with site refinements.

**Changes to the CAPITAL IMPROVEMENTS LIST and the URBAN DESIGN AND CAPITAL IMPROVEMENTS MAP**

UCF proposes to modify the *Capital Improvements List* to note projects to update names and funding sources and to remove one project. These projects will be changed or removed from the *Capital Improvements List* when the UCF 2020-30 Campus Master Plan Update is published.

UCF proposes to revise the *Urban Design and Capital Improvements Map* (Figure 3.1) to illustrate concurrence with the modified *Capital Improvements List*. Projects on the Main Campus will be shown on the map and off-campus projects annotated in the map insert.

LINE	PROJECT	MODIFICATION
4	John C. Hitt Library Renovation Phase II	Funding source change
17	Colbourn Hall Renovation	Project deletion
32	Research Building I	Name change
62	Roth Athletic Center	Name change
97	Dr. Phillips Academic Commons	Name and funding source change
98	CREOL Expansion Phase II	Funding source change
99	Downtown Campus Combined Heat and Power Plant	Funding source change
103	Downtown Phase II	Name and funding source change
104	Downtown Phase III	Funding source change
105	Downtown Phase IV	Funding source change
111	UCF Solar Farm	Funding source change

## **Changes to the FUTURE LAND USE MAP and the RECREATION AND OPEN SPACE MAP**

### ITEM 1 - District Energy Plant IV

UCF proposes to change the *Future Land Use Map* and the *Recreation and Open Space Map* to create ~4.75 acres of Mixed Use land bounded by Scorpio Drive, Gemini Boulevard, the Arboretum wetlands, and Apollo Circle. The parcel is currently classified as: Recreation/Open Space (~3.4 acres), Mixed Use (~0.10 acres), and Parking (~1.25 acres); and includes the site of District Energy Plant IV.

In 2016, rather than build a freestanding Global garage (approved February 2014), UCF appended the garage to the east side of Parking Garage C. This site refinement *eliminated* the proposed site for the new Chilled Water Plant (approved September 2014).

In 2017, the Chilled Water Plant, now known as District Energy Plant IV (DEP IV), was built at the southwest corner of Gemini Boulevard and Scorpio Drive. The new site reduced the risk of:

- Cooling tower drift falling on cars in Garage C. Drift is water emitted with the exhaust air from the cooling tower and includes chemicals, bacteria, and particulate matter.
- Foreign objects being thrown from the upper decks of the garage into the cooling towers.
- Hazardous driving conditions caused by direct access from Gemini Boulevard.

The reclassification to Mixed Use will allow the parcel to support UCF's development plans for a range of facilities requiring variant land uses:

- Utility land use: DEP IV and a future cell tower
- Parking land use: on-grade parking lots
- Recreation/Open Space land use: the Arboretum gardens and a future Arboretum facility to replace an aging modular unit

### ITEM 2 - New Lake

UCF proposes to change the *Future Land Use Map* to indicate the addition of just over an acre of lake and natural space at this site. In 2016, a parking lot adjacent to Libra Drive was removed and the area converted to a lake (storm water retention pond).

### ITEM 3 - Ara Drive

This proposal will support UCF's effort to *master plan* a research neighborhood along Ara Drive and facilitate the planned growth of utility and support functions.

UCF proposes to change the *Future Land Use Map* to create ~25.5 acres of Mixed Use land on Ara Drive, by reclassifying ~15.4 acres of Utility land north of Ara Drive and ~10.1 acres of Support land south of Ara Drive. There will be no change to existing designated Mixed Use and Academic land, or to wetlands.

The reclassification to Mixed Use will support UCF's development plans for diverse facilities on Ara Drive, requiring variant land uses:

- Academic (Research) land use: current facilities and future Biology Hoop Houses
- Support land use: a future Recycling Center
- Utility land use: a future District Energy Plant

- Parking land use: existing and future on-grade parking lots

### **COMPLIANCE WITH FLORIDA STATUTE 1013.30**

F.S. 1013.30 - An amendment to a campus master plan must be reviewed and adopted under subsections (6) - (8) of F.S. 1013.30 if such amendment, alone or in conjunction with other amendments, would:

- (a) Increase density or intensity of use of land on the campus by more than 10 percent.

University Response:

Item 1 DEP IV - There was no change to the density or intensity of land use, as stated when the Minor Amendment for the plant was approved in September 2014.

Item 2 New Lake - The change from a parking lot to a lake (storm water retention pond) reduces the density or intensity of use of campus land.

Item 3 Ara Drive - No facilities are proposed at this time, so there is no impact on the density or intensity of land use.

- (b) Decrease the amount of natural areas, open space, or buffers on the campus by more than 10 percent.

University Response:

Item 1 DEP IV - Changing the site to Mixed Use reduces Recreation and Open Space land use by ~3.4 Acres, a negligible change of -0.65% from the ~523 acres shown in the 2015-25 Campus Master Plan Update.

Item 2 New Lake - The change from parking to a lake (storm water retention pond) increases natural areas.

Item 3 Ara Drive - There will be no change to Recreation and Open Space land use.

- (c) Rearrange land uses in a manner that will increase the impact of any proposed campus development by more than 10 percent on a road or on another public facility or service provided or maintained by the state, the county, the host local government, or any affected local government.

University Response:

Item 1 DEP IV - The addition of DEP IV had negligible impact, as it has only 4 parking spaces and infrequent deliveries.

Item 2 New Lake - The change from parking to a lake (storm water retention pond) has no impact.

Item 3 Ara Drive - No facilities are currently proposed, so the change of land use has no impact.

## Attachment B

## UNIVERSITY OF CENTRAL FLORIDA

## CAPITAL IMPROVEMENTS LIST

MAIN CAMPUS FTE			22,890	23,128	23,484	23,661	23,661	23,646	23,833	24,038	24,237	24,591			
PROJECT LIST 2015 -25 Revised 08/20/2018		*Fund	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	Net	Gross	Total Estimated Cost (\$M)
		Type	YR #1	YR #2	YR #3	YR #4	YR #5	YR #6	YR #7	YR #8	YR #9	YR #10			
1	ENGINEERING BUILDING I RENOVATION	PECO	\$13,954,277	\$925,000									118,186	130,885	14,879,277
2	MATHEMATICAL SCIENCES BUILDING REMODELING AND RENOVATION	PECO	\$9,422,105	\$700,000									100,289	106,523	10,122,105
3	UTILITIES, INFRASTRUCTURE	PECO	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	N/A	N/A	140,000,000
4	JOHN C. HITT LIBRARY RENOVATION PHASE II	PECO,CTTF	\$3,500,000	\$29,500,000	\$3,500,000								222,387	226,506	36,500,000
5	RESEARCH BUILDING I (INTERDISCIPLINARY RESEARCH AND INCUBATOR FACILITY)	PECO	\$5,924,183	\$33,852,470	\$5,924,183								78,676	118,013	45,700,836
6	UCF VC CLASSROOM BUILDING	PECO	\$7,500,000												7,500,000
7	ARTS COMPLEX PHASE II (PERFORMANCE)	PECO	\$5,000,000	\$40,000,000	\$5,000,000								100,396	150,594	50,000,000
8	MILLICAN HALL RENOVATION	PECO		\$349,418	\$6,363,058	\$349,418							87,742	88,680	7,061,894
9	BUSINESS ADMINISTRATION RENOVATION	PECO		\$9,475,843	\$494,001								118,624	121,074	9,969,844
10	CHEMISTRY RENOVATION	PECO		\$539,843	\$9,815,338	\$539,843							43,265	49,073	10,895,024
11	FACILITIES & SAFETY COMPLEX RENOVATION	PECO			\$4,856,238										4,856,238
12	VISUAL ARTS RENOVATION AND EXPANSION	PECO			\$3,000,000	\$24,000,000	\$3,000,000						79,373	85,000	30,000,000
13	MULTI-PURPOSE RESEARCH AND EDUCATION BUILDING	PECO		\$2,779,189	\$22,235,512	\$2,779,189							47,310	75,384	27,793,890
14	COLLEGE OF NURSING AND ALLIED HEALTH	PECO, C		\$7,350,000	\$58,800,000	\$7,350,000							119,206	170,684	73,500,000
15	PARTNERSHIP IV	PECO	\$2,450,000	\$19,600,000	\$2,450,000								78,294	117,442	24,500,000
16	HOWARD PHILLIPS HALL RENOVATION	PECO			\$6,564,996	\$652,249							56,903	64,619	7,217,245
17	COLBOURN HALL RENOVATION	PEGO			\$7,865,978	\$410,075							73,500	83,957	8,276,053
18	FERRELL COMMONS (E AND G SPACE) RENOVATION	PECO			\$6,564,996	\$652,249							86,149	93,860	7,217,245
19	COLLEGE OF SCIENCES BUILDING RENOVATION	PECO				\$317,437	\$2,539,494	\$317,436					49,580	54,644	3,174,367
20	REHEARSAL HALL RENOVATION	PECO				\$48,007	\$384,055	\$48,006					9,322	10,743	480,068
21	CLASSROOM BUILDING III	PECO			\$2,400,000	\$19,200,000	\$2,400,000						53,332	79,998	24,000,000
22	FACILITIES BUILDING AT LAKE NONA	B,P			\$600,000	\$4,800,000	\$600,000						13,866	20,799	6,000,000
23	RECYCLING CENTER	PECO				\$2,300,000	\$18,400,000	\$2,300,000					26,666	40,000	23,000,000
24	HUMANITIES AND FINE ARTS II (Phase I)	PECO				\$2,772,353	\$17,060,631	\$2,772,353					58,362	87,543	22,605,337
25	SIMULATION AND TRAINING BUILDING	PECO				\$2,370,336	\$18,410,374	\$2,370,336					39,950	59,924	23,151,046
26	BUSINESS ADMINISTRATION III BUILDING	PECO				\$1,584,527	\$12,307,012	\$1,584,527					41,118	61,677	15,476,066
27	EDUCATION BUILDING II	PECO				\$2,062,318	\$15,594,083	\$2,062,318					51,479	77,219	19,718,719
28	BAND BUILDING	PECO				\$455,045	\$2,800,279	\$455,045					10,024	13,529	3,710,369
29	ARTS COMPLEX PHASE III	PECO				\$1,210,857	\$7,627,447	\$1,210,857					25,447	38,171	10,049,161
30	SOCIAL SCIENCES FACILITY	PECO													0
31	COASTAL BIOLOGY STATION	PECO			\$2,500,000										2,500,000
32	RESEARCH BUILDING IV (INTERDISCIPLINARY RESEARCH BUILDING II)	PECO								\$2,370,336	\$17,330,596	\$2,370,336	40,543	60,815	22,071,268
33	CENTER FOR EMERGING MEDIA BUILD OUT	PECO								\$6,360,339			16,544	24,816	6,360,339
34	ROSEN STORAGE SHED	P	\$225,000												225,000
35	ROSEN EDUCATIONAL FACILITY	P	\$17,000,000												17,000,000
36	TEMPORARY GAME DAY PARKING	O			\$200,000										200,000
37	UCF HEALTH EXPANSION AND WELLNESS CENTER	P, B					\$1,145,664	\$9,165,312	\$1,145,664						11,456,640
38	HUMANITIES AND FINE ARTS II (Phase II)	PECO								\$1,107,260	\$8,600,076	\$1,107,260	27,364	41,045	10,814,596
39	PARTNERSHIP CAMPUS	PECO											N/A	N/A	0
40	CAPITAL IMPROVEMENT RESERVE	PECO											N/A	N/A	0
41	SUSTAINABILITY CENTER (Phase I)	PECO, C								\$5,000,000			5,000	7,500	5,000,000
42	CIVIL AND ENVIRONMENTAL ENGINEERING	PECO, C		\$1,160,667	\$14,508,333	\$1,741,000							50,000	75,000	17,410,000
43	SUSTAINABILITY CENTER (Phase II)	PECO, C				\$5,000,000							5,000	7,500	5,000,000
44	LABORATORY AND ENVIRONMENTAL SUPPORT EXPANSION	O	\$1,800,000												1,800,000
45	CREATIVE VILLAGE GARAGE	P,B	\$15,000,000												15,000,000
46	SPECIAL PURPOSE HOUSING AND PARKING GARAGE I	P, B	\$25,000,000										106,667	160,000	25,000,000
47	SPECIAL PURPOSE HOUSING II	P, B	\$8,000,000										21,333	32,000	8,000,000
48	PARKING DECKS	P, B	\$17,000,000										112,000	168,000	17,000,000
49	GRADUATE HOUSING	P, B	\$50,000,000										100,000	150,000	50,000,000
50	REFINANCE UCF FOUNDATION PROPERTIES	P, B	\$37,410,000										288,167	432,250	37,410,000
51	STUDENT HOUSING	P, B	\$50,000,000										149,333	224,000	50,000,000
52	GARAGE EXPANSION	P, B	\$5,000,000										33,891	50,837	5,000,000
53	WET TEACHING LAB AND EXPANDED STEM FACILITY (CLASSROOM AND LAB BUILDING)	P, B							\$14,258,248	\$114,065,986	\$14,258,248		60,976	91,464	142,582,482
54	FACILITIES BUILDING AT LAKE NONA	P, B	\$6,000,000										13,866	20,799	6,000,000
55	EXPO CENTER HOUSING	P, B	\$16,000,000										68,667	103,000	16,000,000
56	REGIONAL CAMPUSES MULTI-PURPOSE BUILDINGS	P, B	\$28,000,000										40,000	60,000	28,000,000
57	PARTNERSHIP GARAGE	P, B	\$7,000,000												7,000,000

Attachment D Capital Improvements List 1-2018 - REISED10-24,000,000

## Board of Trustees Meeting - New Business

[illegible]

Funding sources denote probable building completion year

Projects in green denote projects planned off-campus.

Projects in blue denote renovation and/or remodeling projects

UCF SOLAR FARM - Not Approved under FFC Review

\*Fund Types:

PECO (Public Education Capital Outlay), C (Courtelis), P (Private),

B (Bond), CITF (Capital Improvement Trust Fund), O (Other)



Attachment C - Urban Design and Capital Improvements

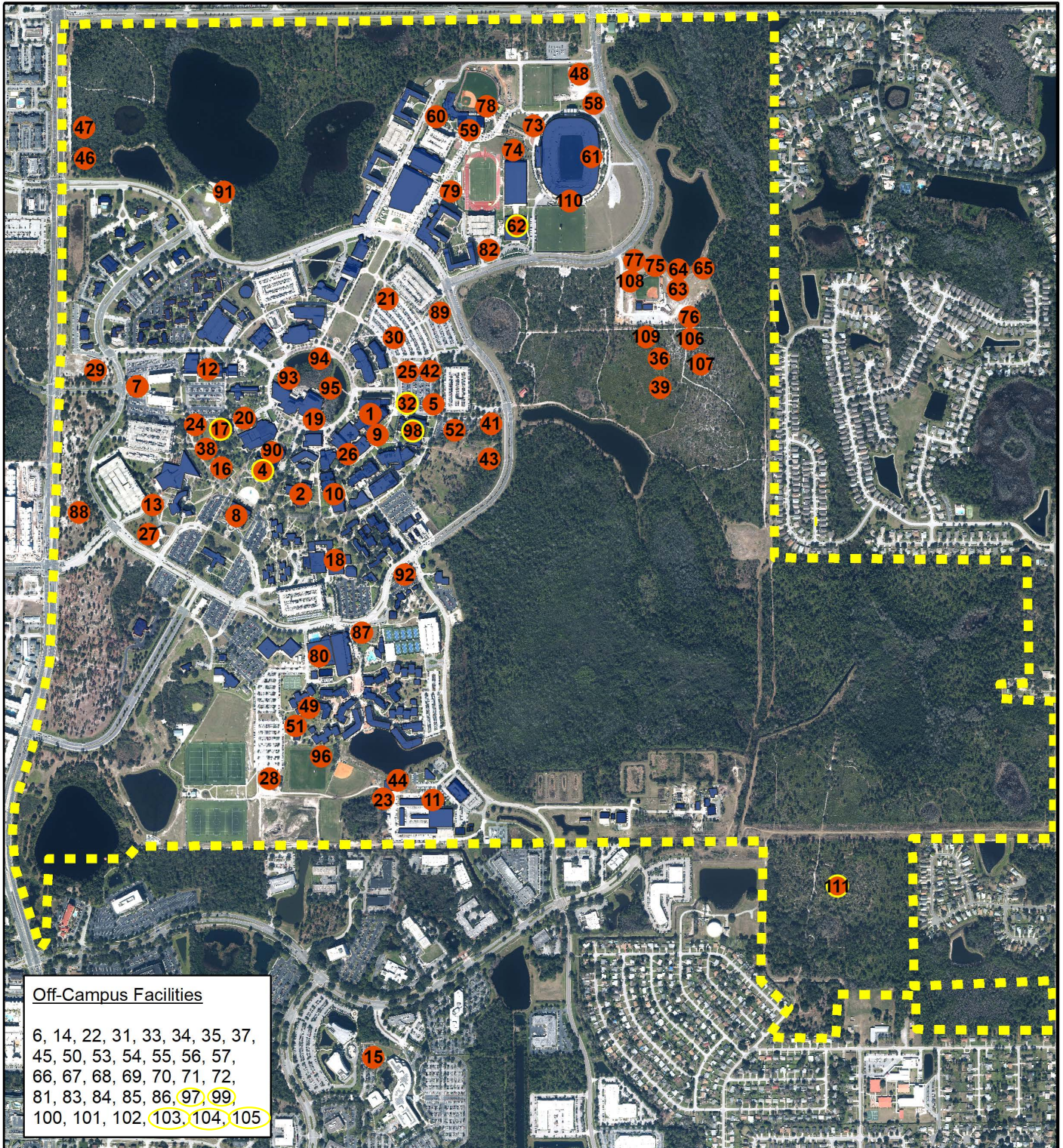


Figure 3-1

# Urban Design and Capital Improvements

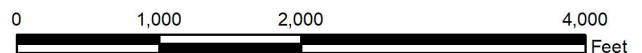
Comprehensive Master Plan Update  
**University of Central Florida**  
 Orlando, Florida  
 2015-2025

To locate buildings on map, refer to  
 Element 14: Capital Improvements List

All maps are diagrammatic and conceptual. The various areas shown are approximate and not to survey accuracy. The intent of these maps is to illustrate general areas of existing or potential use.



Rev 20181025





Attachment D - Future Land Use

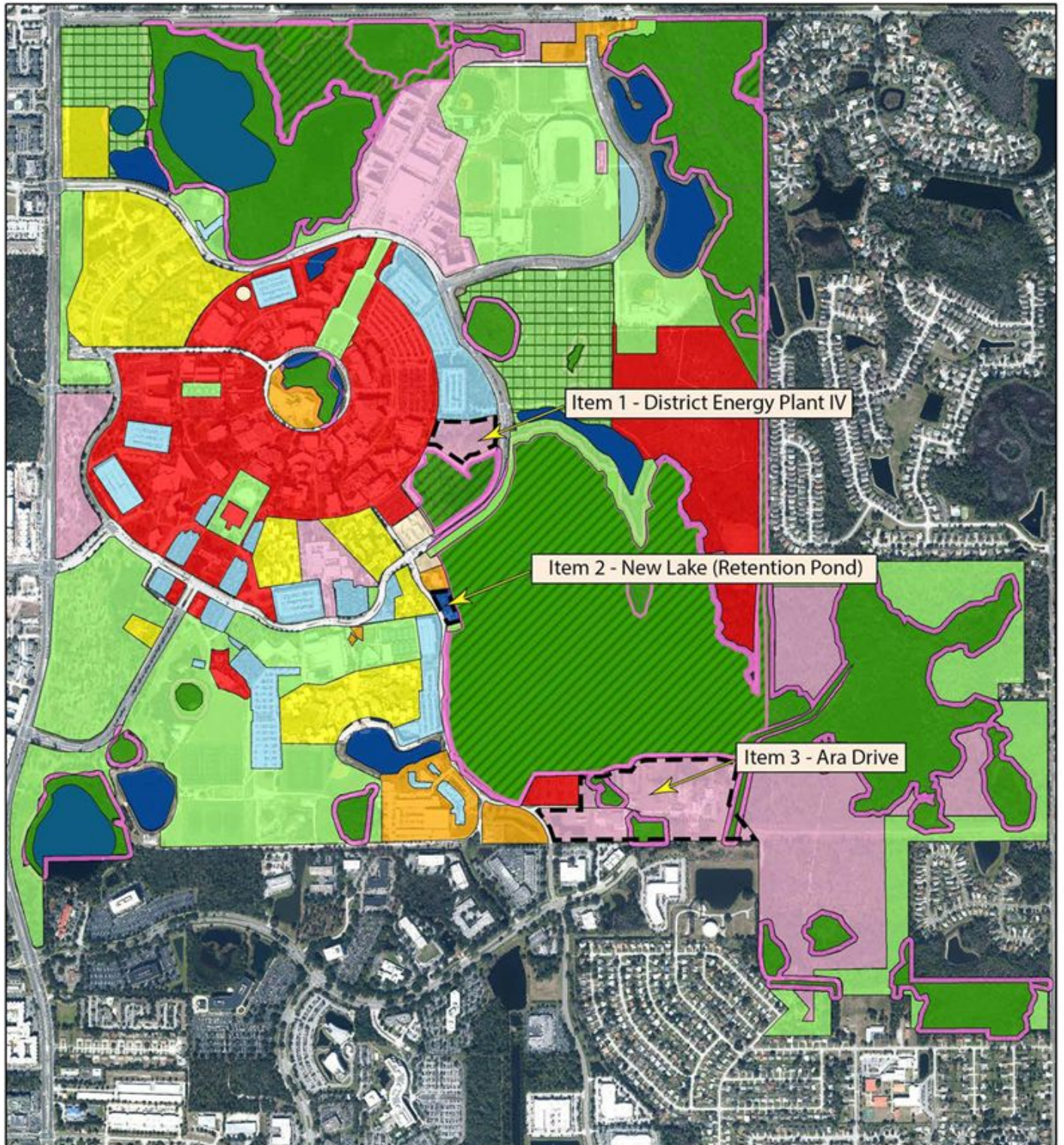


Figure 4-1

**Future Land Use**  
Comprehensive Master Plan Update  
**University of Central Florida**  
Orlando, Florida  
2015-2025

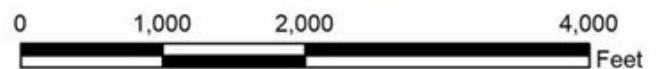
**Legend**

Parking	Utility	Residential
Support	Conservation (wetland)	Recreation/Open Space
Academic/Research	Conservation (upland)	Mixed Use
Lakes	Conservation Easements	Conservation (wetland)



All maps are diagrammatic and conceptual. The various areas shown are approximate and not to survey accuracy. The intent of these maps is to illustrate general areas of existing or potential use.

Rev 20181024





Attachment E - Recreation and Open Space

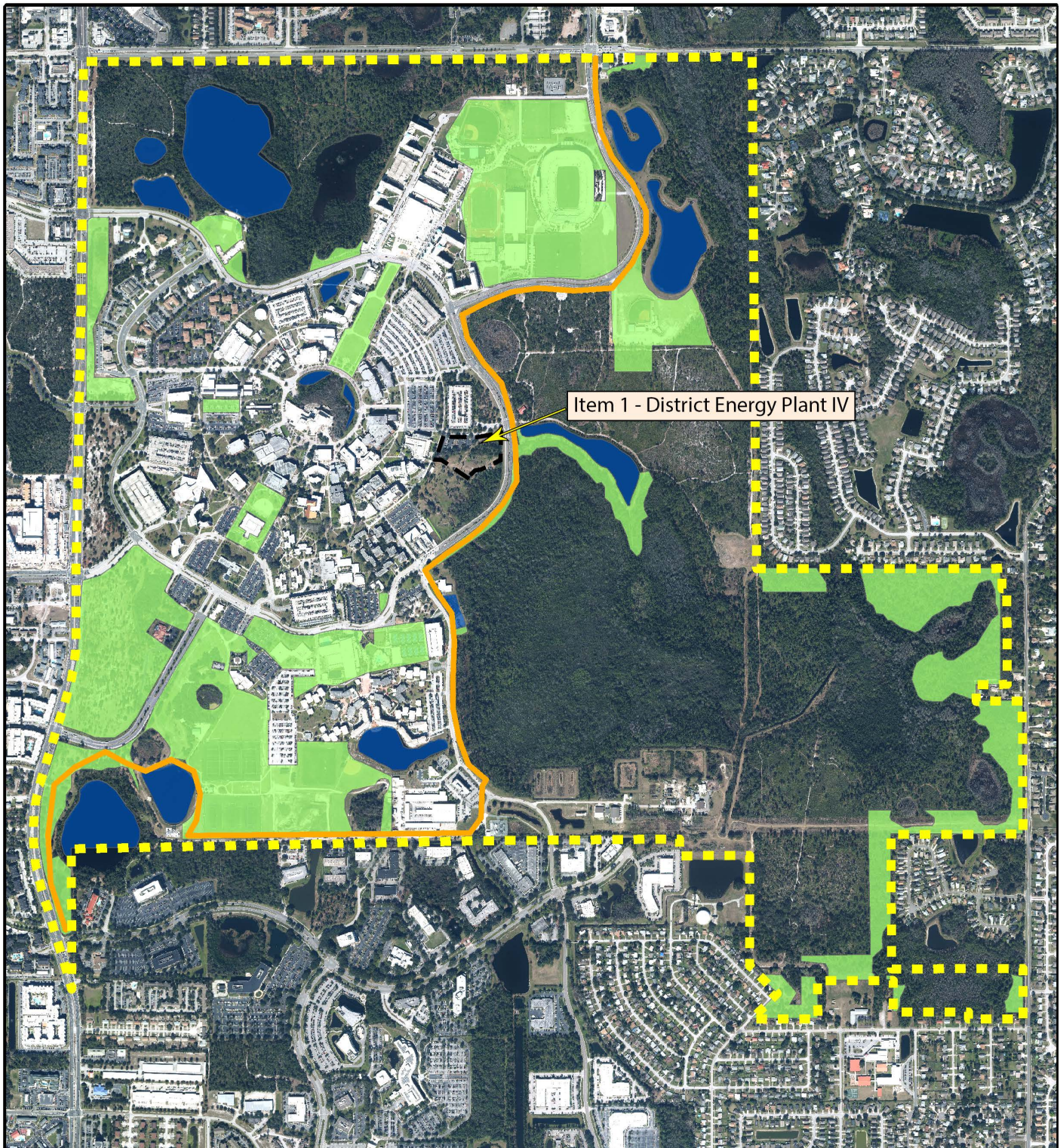


Figure 8-1

## Recreation and Open Space

Comprehensive Master Plan Update  
**University of Central Florida**  
Orlando, Florida  
2015-2025

### Legend



Boundary



Proposed Little Econ Greenway Trail



Recreation and Open Space

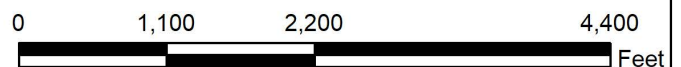


Lakes and Ponds



All maps are diagrammatic and conceptual. The various areas shown are approximate and not to survey accuracy. The intent of these maps is to illustrate general areas of existing or potential use.

Rev 20181024





**ITEM: FF-3**

**University of Central Florida  
Board of Trustees**

**SUBJECT:** Minor Amendment to Align the University of Central Florida 2015-25  
Campus Master Plan Update

**DATE:** January 24, 2019

---

**PROPOSED BOARD ACTION**

Approve a minor amendment to align the UCF 2015-25 Campus Master Plan Update (CMP) with the Five-year Capital Improvement Plan for 2019-20 through 2023-24 (CIP).

**BACKGROUND INFORMATION**

The purpose of the proposed amendment is to align the CMP with the CIP that was approved by the UCF Board of Trustees on July 19, 2018. The following projects that were on the CIP will be added to or revised on the CMP by modifying the Capital Improvements List, Urban Design and Capital Improvements Map, Future Land Use Map, and Recreation and Open Space Map.

- Adding two new projects on the Main Campus
  1. Dining, Housing, and Residence Life and Creative School for Children Partnership Building
  2. The Ara District Energy Plant
- Revising an existing project on the Main Campus
  3. Research II (added to the CMP on January 13, 2017)
    - Aligning the project name to match the CIP
- Adding one new project on the Rosen campus
  4. Rosen Parking Garage

Note: Since this project is not located within the UCF Main Campus, the statutory thresholds referenced under section 1013.30(9), F.S. do not apply. These thresholds address an increase in density or intensity of land use on the campus, a decrease in the amount of natural areas and open spaces, and the rearrangement of land use within the campus with its corresponding impacts.

As detailed in the attached memorandum, the amendment would constitute a minor amendment that needs only Board of Trustees' approval for adoption.

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**Supporting documentation:** Attachment A: Memorandum  
Attachment B: Project Locations  
Attachment C: Urban Design and Capital Improvements  
Map  
Attachment D: Capital Improvements List  
Attachment E: Future Land Use Map  
Attachment F: Recreation and Open Space Map

**Prepared by:** Misty Shepherd, Interim Vice President for Administration and Finance

**Submitted by:** Misty Shepherd, Interim Vice President for Administration and Finance

Attachment A

MEMORANDUM

TO: Scott Cole, Vice President and General Counsel

FROM: Susan B. Hutson, Assistant Director of Planning, Facilities Planning & Construction

SUBJECT: Minor Amendment 12.12.2018 - Align CMP with CIP

DATE: November 15, 2018

The University of Central Florida proposes “Minor Amendment 12.12.2018 - Align CMP with CIP” to align the *UCF 2015-25 Campus Master Plan Update (CMP)* with the *Five-year Capital Improvement Plan for 2019-20 through 2023-24 (2019 CIP)*, by modifying the Capital Improvements List, Urban Design and Capital Improvements Map, Future Land Use Map, and Recreation and Open Space Map.

UCF proposes that several projects that were included on the 2019 CIP be added to or revised on the CMP, including:

- Adding two new projects on the Main Campus
  1. Dining, Housing, and Residence Life and Creative School for Children Partnership Building
  2. The Ara District Energy Plant
- Revising an existing project on the Main Campus
  3. Research II:
    - Aligning the project name to match the CIP.
- Adding one new project on the Rosen campus
  4. Rosen Parking Garage

Note: Since this project is not located within the UCF Main Campus, the statutory thresholds referenced under section 1013.30(9), F.S. do not apply. These thresholds address an increase in density or intensity of land use on the campus, a decrease in the amount of natural areas and open spaces, and the rearrangement of land use within the campus with its corresponding impacts.

**Adding two new projects on the Main Campus:**

1. Dining, Housing, and Residence Life and Creative School for Children Partnership Building.

This new auxiliary building complex will include graduate and non-traditional student housing, a campus meal-plan dining hall, and supporting office space, along with a new Creative School for Children.

The complex will be located west of the Recreation and Wellness Center, on the former site of Buildings 38 and 39 and part of Parking Lot B7. The land use will be modified to Mixed Use in order to facilitate planning the site to accommodate the mix of Residential and Support, and the possible rearrangement of the north end of Parking Lot B7 within the complex site.

This new project requires modification of:

- The Capital Improvements List
  - Dining, Housing, and Residence Life and Creative School for Children Partnership Building - Project addition on line 115

- The Creative School has been Line 92 on the List since the 2015-25 CMP was approved
  - Figure 3.1 The Urban Design and Capital Improvements Map - Project addition to map
  - Figure 4.1 The Future Land Use Map - Change of land use
  - Figure 8.1 The Recreation and Open Space Map – Land use reduction
- 2. Ara District Energy Plant

This new district energy plant will serve the Ara Drive research area with chilled water. Contingent upon time of construction, and the cost to purchase electricity at that time, UCF will need to evaluate the economics of coupling electrical generation and storage with this plant.

The project will be located on the north side of Ara Drive, near Robinson Observatory. The land north of Ara Drive is planned for Utility and Mixed use, and will support a Utility plant.

This new project requires modification of:

- The Capital Improvements List - Project addition on line 113
- Figure 3.1 The Urban Design and Capital Improvements Map - Project addition to map

### **Revising an existing project on the Main Campus**

#### **3. Research II**

Research I and Research II were added to the CMP by a minor amendment dated October 14, 2016 and approved by the Board of Trustees January 13, 2017. The two facilities were located in the academic reserve south of the softball stadium, and their combined area was to be 262,881 square feet. Research Buildings I and II will not exceed the building area approved by the BOT. Research I is 105,545 square feet, and Research II is proposed to be 138,000 square feet, for a total of 243,545 square feet.

This Minor Amendment proposes to:

- Align the name of Research II to match the CIP: *Research II – Science, Engineering, and Commercialization Facility*

The name change requires modification of:

- The Capital Improvements List - Name change on line 106

### **Adding one project to the Rosen Campus:**

#### **4. Rosen Parking Garage**

Adding the Rosen Garage requires modification of:

- The Capital Improvements List - Project addition on line 114
- Figure 3.1 The Urban Design and Capital Improvements Map – Project addition to *Off Campus Facilities* map inset (114)

### **Compliance with Florida Statute 1013.30(9):**

F.S. 1013.30(9) An amendment to a campus master plan must be reviewed and adopted under subsections (6)-(8) if such amendment, alone or in conjunction with other amendments, would:

- (a) Increase density or intensity of use of land on the campus by more than 10 percent;
- (b) Decrease the amount of natural areas, open space, or buffers on the campus by more than 10 percent; or

- (c) Rearrange land uses in a manner that will increase the impact of any proposed campus development by more than 10 percent on a road or on another public facility or service provided or maintained by the state, the county, the host local government, or any affected local government.

**UCF Response to F.S. 1013.30, (9), (a)**

1. The Dining, Housing, and Residence Life and Creative School for Children Partnership Building will add 260,000 gross square feet to the main campus.
2. The Ara Drive District Energy Plant will add 10,000 gross square feet to the main campus.

UCF has just over 9,100,000 gross square feet of buildings on the Main Campus. The addition of 270,000 gross square feet constitutes a 2.97% increase in overall campus square footage. This change does not trip the 10 percent threshold for density or intensity of use of land on campus.

**UCF Response to F.S. 1013.30, (9), (b)**

1. The site proposed for the Dining, Housing, and Residence Life and Creative School for Children Partnership Building will reduce Recreation and Open Space.

UCF has 298 acres of Recreation and Open Space Land Use. The project will reduce that by about four (4) acres, which will be reclassified for Mixed Use. This represents a reduction of 1.34%, and does not trip the 10% threshold for effect on natural areas, open space, or buffers.

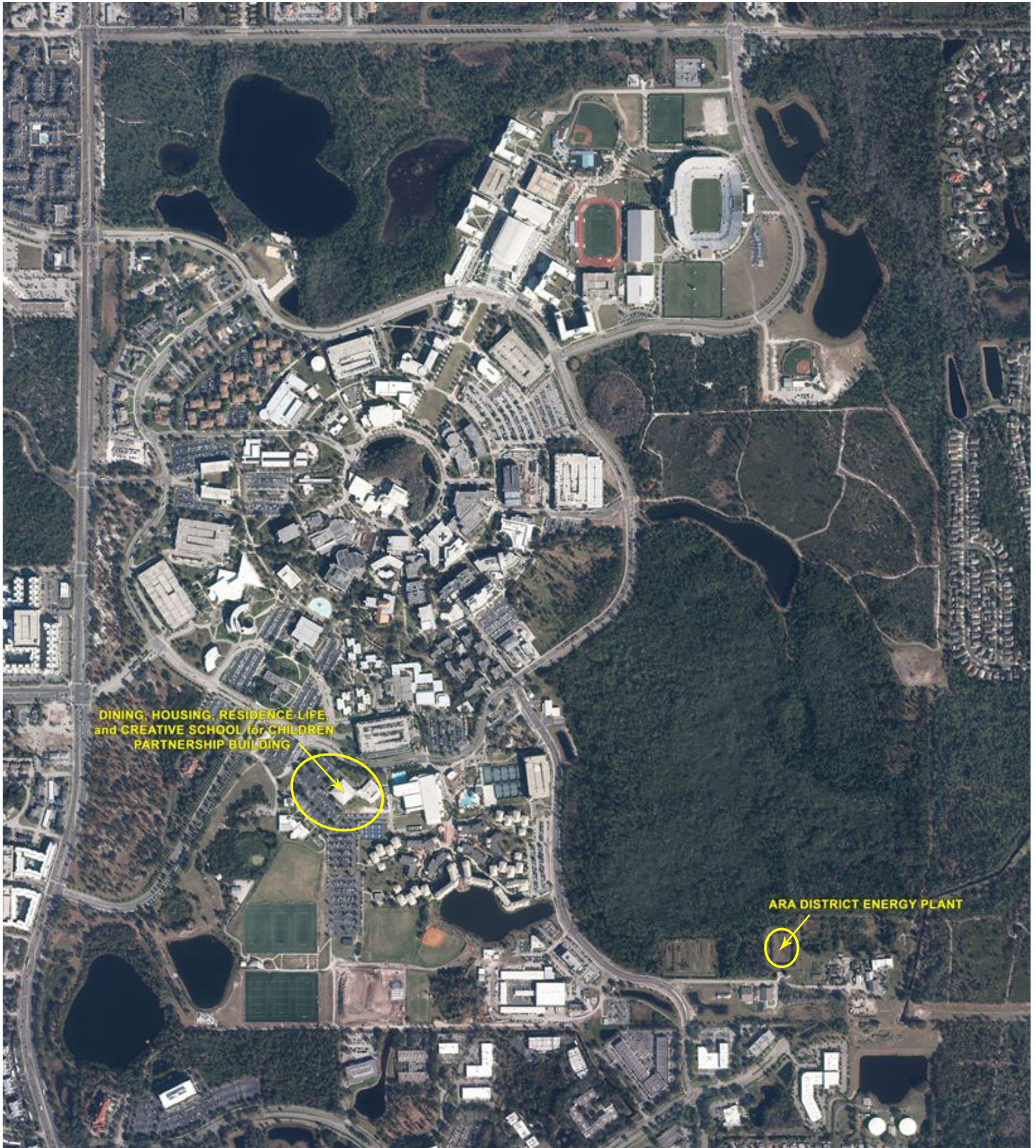
2. The Ara Drive District Energy Plant will not affect natural areas, open space, or buffers.

**UCF Response to F.S. 1013.30, (9), (c)**

1. No additional parking will be required for the Dining, Housing, and Residence Life and Creative School for Children Partnership Building, as the site is in close proximity to Parking Garage B and Parking Lots B7 and B8. The project will have negligible effect on roads, public facilities or services.
2. The Ara Drive District Energy Plant will have negligible effect on roads or on another public facility or service. It would have a couple of service parking spaces and infrequent deliveries.

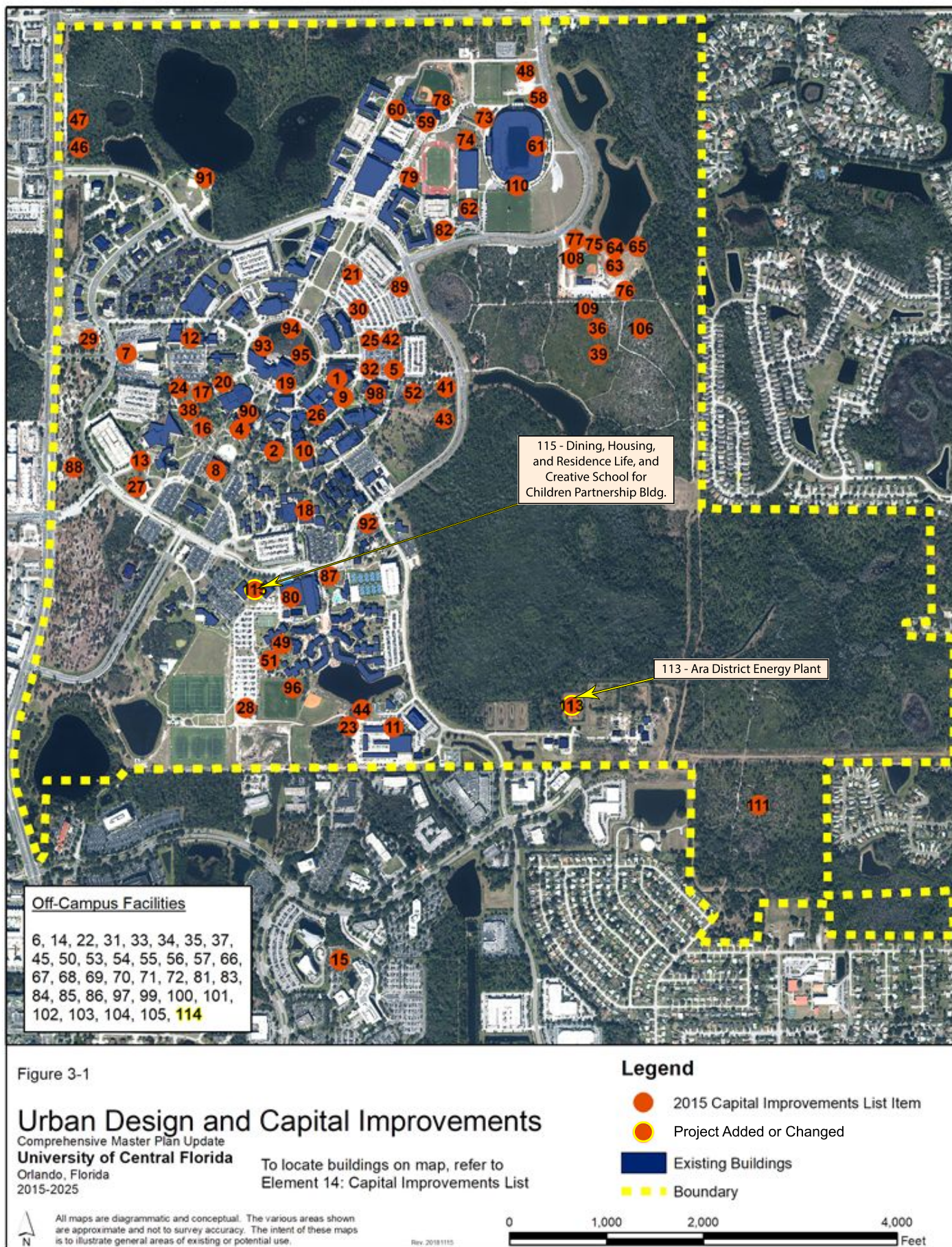


Attachment B - Project Locations - November 20, 2018





Attachment C - Urban Design and Capital Improvements - November 20, 2018





## Attachment D

UNIVERSITY OF CENTRAL FLORIDA															
CAPITAL IMPROVEMENTS LIST															
MAIN CAMPUS FTE			22,890	23,128	23,484	23,661	23,661	23,646	23,833	24,038	24,237	24,591			Total Estimated Cost (\$M)
PROJECT LIST 2015 -25 Revised 11/15/2018		*Fund	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	Net	Gross	
	Type		YR #1	YR #2	YR #3	YR #4	YR #5	YR #6	YR #7	YR #8	YR #9	YR #10			
1	ENGINEERING BUILDING I RENOVATION	PECO	\$13,954,277	\$925,000									118,186	130,885	14,879,277
2	MATHEMATICAL SCIENCES BUILDING REMODELING AND RENOVATION	PECO	\$9,422,105	\$700,000									100,289	106,523	10,122,105
3	UTILITIES, INFRASTRUCTURE	PECO	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	\$14,000,000	N/A	N/A	140,000,000
4	JOHN C. HITT LIBRARY RENOVATION PHASE II	PECO, CITF	\$3,500,000	\$29,500,000	\$3,500,000								222,387	226,506	36,500,000
5	RESEARCH BUILDING I (INTERDISCIPLINARY RESEARCH AND INCUBATOR FACILITY)	PECO	\$5,924,183	\$33,852,470	\$5,924,183								78,676	118,013	45,700,836
6	UCF VC CLASSROOM BUILDING	PECO	\$7,500,000												7,500,000
7	ARTS COMPLEX PHASE II (PERFORMANCE)	PECO	\$5,000,000	\$40,000,000	\$5,000,000								100,396	150,594	50,000,000
8	MILLICAN HALL RENOVATION	PECO		\$349,418	\$6,363,058	\$349,418			87,742	88,680			7,061,894		
9	BUSINESS ADMINISTRATION RENOVATION	PECO		\$9,475,843	\$494,001								118,624	121,074	9,969,844
10	CHEMISTRY RENOVATION	PECO		\$539,843	\$9,815,338	\$539,843							43,265	49,073	10,895,024
11	FACILITIES & SAFETY COMPLEX RENOVATION	PECO			\$4,856,238										4,856,238
12	VISUAL ARTS RENOVATION AND EXPANSION	PECO			\$3,000,000	\$24,000,000	\$3,000,000						79,373	85,000	30,000,000
13	MULTI-PURPOSE RESEARCH AND EDUCATION BUILDING	PECO		\$2,779,189	\$22,235,512	\$2,779,189							47,310	75,384	27,793,890
14	COLLEGE OF NURSING AND ALLIED HEALTH	PECO, C		\$7,350,000	\$58,800,000	\$7,350,000							119,206	170,684	73,500,000
15	PARTNERSHIP IV	PECO	\$2,450,000	\$19,600,000	\$2,450,000								78,294	117,442	24,500,000
16	HOWARD PHILLIPS HALL RENOVATION	PECO			\$6,564,996	\$652,249							56,903	64,619	7,217,245
17	COLBOURN HALL RENOVATION	PECO			\$7,865,978	\$410,075							73,500	83,957	8,276,053
18	FERRELL COMMONS (E AND G SPACE) RENOVATION	PECO			\$6,564,996	\$652,249							86,149	93,860	7,217,245
19	COLLEGE OF SCIENCES BUILDING RENOVATION	PECO				\$317,437	\$2,539,494	\$317,436					49,580	54,644	3,174,367
20	REHEARSAL HALL RENOVATION	PECO				\$48,007	\$384,055	\$48,006					9,322	10,743	480,068
21	CLASSROOM BUILDING III	PECO			\$2,400,000	\$19,200,000	\$2,400,000						53,332	79,998	24,000,000
22	FACILITIES BUILDING AT LAKE NONA	P, B			\$600,000	\$4,800,000	\$600,000						13,866	20,799	6,000,000
23	RECYCLING CENTER	PECO				\$2,300,000	\$18,400,000	\$2,300,000					26,666	40,000	23,000,000
24	HUMANITIES AND FINE ARTS II (Phase I)	PECO				\$2,772,353	\$17,060,631	\$2,772,353					58,362	87,543	22,605,337
25	SIMULATION AND TRAINING BUILDING	PECO				\$2,370,336	\$18,410,374	\$2,370,336					39,950	59,924	23,151,046
26	BUSINESS ADMINISTRATION III BUILDING	PECO				\$1,584,527	\$12,307,012	\$1,584,527					41,118	61,677	15,476,066
27	EDUCATION BUILDING II	PECO				\$2,062,318	\$15,594,083	\$2,062,318					51,479	77,219	19,718,719
28	BAND BUILDING	PECO				\$455,045	\$2,800,279	\$455,045					10,024	13,529	3,710,369
29	ARTS COMPLEX PHASE III	PECO				\$1,210,857	\$7,627,447	\$1,210,857					25,447	38,171	10,049,161
30	SOCIAL SCIENCES FACILITY	PECO													0
31	COASTAL BIOLOGY STATION	PECO			\$2,500,000										2,500,000
32	RESEARCH BUILDING IV (INTERDISCIPLINARY RESEARCH BUILDING II)	PECO								\$2,370,336	\$17,330,596	\$2,370,336	40,543	60,815	22,071,268
33	CENTER FOR EMERGING MEDIA BUILD OUT	PECO								\$6,360,339			16,544	24,816	6,360,339
34	ROSEN STORAGE SHED	P	\$225,000												225,000
35	ROSEN EDUCATIONAL FACILITY	P	\$17,000,000												17,000,000
36	TEMPORARY GAME DAY PARKING	O			\$200,000										200,000
37	UCF HEALTH EXPANSION AND WELLNESS CENTER	P, B					\$1,145,664	\$9,165,312	\$1,145,664						11,456,640
38	HUMANITIES AND FINE ARTS II (Phase II)	PECO								\$1,107,260	\$8,600,076	\$1,107,260	27,364	41,045	10,814,596
39	PARTNERSHIP CAMPUS	PECO											N/A	N/A	0
40	CAPITAL IMPROVEMENT RESERVE	PECO											N/A	N/A	0
41	SUSTAINABILITY CENTER (Phase I)	PECO, C								\$5,000,000			5,000	7,500	5,000,000
42	CIVIL AND ENVIRONMENTAL ENGINEERING	PECO, C		\$1,160,667	\$14,508,333	\$1,741,000							50,000	75,000	17,410,000
43	SUSTAINABILITY CENTER (Phase II)	PECO, C				\$5,000,000							5,000	7,500	5,000,000
44	LABORATORY AND ENVIRONMENTAL SUPPORT EXPANSION	O	\$1,800,000												1,800,000
45	CREATIVE VILLAGE GARAGE	P, B	\$15,000,000												15,000,000
46	SPECIAL PURPOSE HOUSING AND PARKING GARAGE I	P, B	\$25,000,000										106,667	160,000	25,000,000
47	SPECIAL PURPOSE HOUSING II	P, B	\$8,000,000										21,333	32,000	8,000,000
48	PARKING DECKS	P, B	\$17,000,000										112,000	168,000	17,000,000
49	GRADUATE HOUSING	P, B	\$50,000,000										100,000	150,000	50,000,000
50	REFINANCE UCF FOUNDATION PROPERTIES	P, B	\$37,410,000										288,167	432,250	37,410,000
51	STUDENT HOUSING	P, B	\$50,000,000										149,333	224,000	50,000,000
52	GARAGE EXPANSION	P, B	\$5,000,000										33,891	50,837	5,000,000
53	WET TEACHING LAB AND EXPANDED STEM FACILITY (CLASSROOM AND LAB BUILDING)	P, B							\$14,258,248	#####	\$14,258,248		60,976	91,464	142,582,482
54	FACILITIES BUILDING AT LAKE NONA	P, B	\$6,000,000										13,866	20,799	6,000,000
55	EXPO CENTER HOUSING	P, B	\$16,000,000										68,667	103,000	16,000,000
56	REGIONAL CAMPUSES MULTI-PURPOSE BUILDINGS	P, B	\$28,000,000										40,000	60,000	28,000,000
57	PARTNERSHIP GARAGE	P, B	\$7,000,000										994,900		7,000,000
58	PARKING DECK (ATHLETIC COMPLEX)	P, B	\$5,000,000										112,000	168,000	5,000,000



Board of Trustees Meeting - New Business

59	BASEBALL STADIUM EXPANSION PHASE II	P, B	\$4,500,000								3,800	5,700	4,500,000
60	BASEBALL CLUB HOUSE EXPANSION AND RENOVATION	P, B	\$1,000,000										1,000,000
61	BRIGHTHOUSE NETWORKS STADIUM EXPANSION AND IMPROVEMENTS PHASE I	P, B	\$11,000,000									21,337	11,000,000
62	WAYNE DENSCHE SPORTS CENTER EXPANSION-ROTH ATHLETIC CENTER	P, B	\$1,000,000								12,000	18,000	1,000,000
63	TENNIS COMPLEX PHASE I	P, B	\$1,400,000								4,980	7,470	1,400,000
64	TENNIS COMPLEX PHASE II	P, B	\$1,000,000										1,000,000
65	TENNIS COMPLEX PHASE III	P, B	\$2,000,000										2,000,000
66	MULTI-PURPOSE MEDICAL RESEARCH AND INCUBATOR FACILITY	P, B	\$112,863,923										112,863,923
67	HEALTH SCIENCES CAMPUS PARKING GARAGE I	P, B	\$15,000,000										15,000,000
68	BIO-MEDICAL ANNEX RENOVATION AND EXPANSION	P, B	\$12,800,000										12,800,000
69	OUTPATIENT CENTER	P, B	\$75,000,000										75,000,000
70	DENTAL SCHOOL	P, B		\$73,000,000									73,000,000
71	INFRASTRUCTURE AND SITEWORK LAKE NONA CLINICAL FACILITIES	P, B			\$10,000,000								10,000,000
72	STRATEGIC LAND AND PROPERTY	P, B	\$100,000,000								N/A	N/A	100,000,000
73	BRIGHTHOUSE NETWORKS STADIUM EXPANSION AND IMPROVEMENTS PHASE II	P, B	\$5,000,000								14,225	21,337	5,000,000
74	TRACK AND SOCCER CLUB HOUSE	P, B	\$850,000								2,800	4,200	850,000
75	SOFTBALL PRACTICE FIELD	P, B	\$250,000								N/A	N/A	250,000
76	ATHLETICS PRACTICE FIELD	P, B	\$500,000								N/A	N/A	500,000
77	WOMENS COMPETITION AND PRACTICE FIELD	P, B	\$2,000,000								N/A	N/A	2,000,000
78	BASEBALL PRACTICE FIELD	P, B	\$400,000								N/A	N/A	400,000
79	BASKETBALL PRACTICE FACILITY	P, B	\$12,000,000								32,000	48,000	12,000,000
80	RECREATION AND WELLNESS CENTER PHASE III	P, B	\$20,000,000								5,200	7,800	20,000,000
81	LIFE SCIENCES INCUBATOR, LAKE NONA	P, B	\$30,000,000								36,667	55,000	30,000,000
82	EAST ATHLETICS CENTER	P, B	\$15,000,000								11,706	17,559	15,000,000
83	CARACOL in BELIZE	C		\$350,000							49,570	72,555	350,000
84	BURNETT BIO-MEDICAL SCIENCE CENTER INFRASTRUCTURE	C		\$7,500,000							6,271	9,407	7,500,000
85	ORLANDO REPERTORY THEATRE III RENOVATIONS	C		\$75,000	\$75,000	\$75,000					8,000	12,000	225,000
86	RESEARCH LAB, LAKE NONA	C, P, B	\$6,412,845	\$97,268,758	\$9,180,000						132,018	198,027	112,861,603
87	FOOD RETAIL VENUE	O		\$2,500,000									2,500,000
88	HOTEL AND CONFERENCE CENTER	P	\$60,000,000								190,000	250,000	60,000,000
89	PARKING GARAGE VII	B		\$20,000,000							242,667	364,000	20,000,000
90	JOHN C. HITT LIBRARY EXPANSION	CITF, P	\$44,114,399	\$40,471,926	\$40,471,926						109,703	164,554	125,058,251
91	LAKE CLAIRE RENOVATION	CITF	\$3,000,000								100,000	150,000	3,000,000
92	CREATIVE SCHOOL FOR CHILDREN	CITF	\$6,000,000								25,000	37,500	6,000,000
93	STUDENT UNION II (Phase I)	CITF	\$14,000,000								37,800	56,700	14,000,000
94	STUDENT UNION II (Phase II)	CITF	\$6,000,000								17,000	25,500	6,000,000
95	STUDENT UNION II (Phase III)	CITF	\$21,000,000								60,000	90,000	21,000,000
96	RWC PARK PHASE IV	CITF	\$5,000,000								32,000	48,000	5,000,000
97	DOWNTOWN ACADEMIC BUILDING DR. PHILLIPS ACADEMIC COMMONS	ECO, P, AUX, E&G		\$60,000,000							112,381	165,000	60,000,000
98	CREOL EXPANSION PHASE II	AUX, O-E&G			\$6,784,228						10,208	13,900	6,784,228
99	DOWNTOWN CAMPUS COMBINED HEAT AND POWER PLANT (TRI-GENERATION)	AUX, O, E&G			\$15,118,178						11,000	13,000	15,118,178
100	TEACHING HOSPITAL AT LAKE NONA	P											0
101	DOWNTOWN PARKING GARAGE II	B		\$15,300,000								200,000	15,300,000
102	FLORIDA SOLAR ENERGY CENTER RENOVATION	PECO				\$10,000,000							10,000,000
103	DOWNTOWN PHASE II UCF DOWNTOWN BUILDING II	PECO, P, E&G					\$77,717,325				150,325	222,000	77,717,325
104	DOWNTOWN PHASE III	PECO, P, E&G						\$29,000,000			55,333	83,000	29,000,000
105	DOWNTOWN PHASE IV	PECO, P, E&G						\$42,164,850			80,000	120,000	42,164,850
106	RESEARCH BUILDING II - SCIENCE, ENGINEERING, AND COMMERCIALIZATION FACILITY	PECO				\$6,058,800	\$48,470,400	\$6,058,800			85,019	126,258	60,588,000
107	RESEARCH BUILDING III	PECO				\$6,609,620	\$52,876,800	\$6,609,600			91,929	136,623	66,096,020
108	SOFTBALL STADIUM EXPANSION AND RENOVATION	P, B		\$10,200,000									10,200,000
109	FUTURE GOLF RANGE AND SHORT GAME FACILITY	O											0
110	GARVY CENTER STUDENT-ATHLETE NUTRITION	P, O		\$2,500,000								3,128	2,500,000
111	UCF SOLAR FARM	E&G		\$14,700,000								40-50 Acres	14,700,000
112	LEARNING LABORATORY - ACTIVE LEARNING, TEACHING LAB, AND MAKER SPACE FACILITY	PECO					\$8,512,000	\$68,096,000	\$8,512,000		100,000	150,000	85,120,000
113	ARA CHILLED WATER PLANT ARA DISTRICT ENERGY PLANT	O						\$25,000,000			22,000	30,800	25,000,000
114	ROSEN GARAGE	P, O						\$13,000,000				345,624	13,000,000
115	DINING, HOUSING & RESIDENCE LIFE AND CREATIVE SCHOOL FOR CHILDREN PARTNERSHIP	CITF, BOND, P							#####		260,000	390,000	101,000,000
TOTAL										New Campus Sq. Ft.			
										Off Campus Sq. Ft.			

Funding sources denote probable building completion year

Projects in green denote projects planned off-campus.

Projects in blue denote renovation and/or remodeling projects

UCF SOLAR FARM - Not Approved under FFC Review

\*Fund Types:

PECO (Public Education Capital Outlay), C (Courtelis), P (Private),

B (Bond), CITF (Capital Improvement Trust Fund), O (Other)



Attachment E - Future Land Use - November 15, 2018

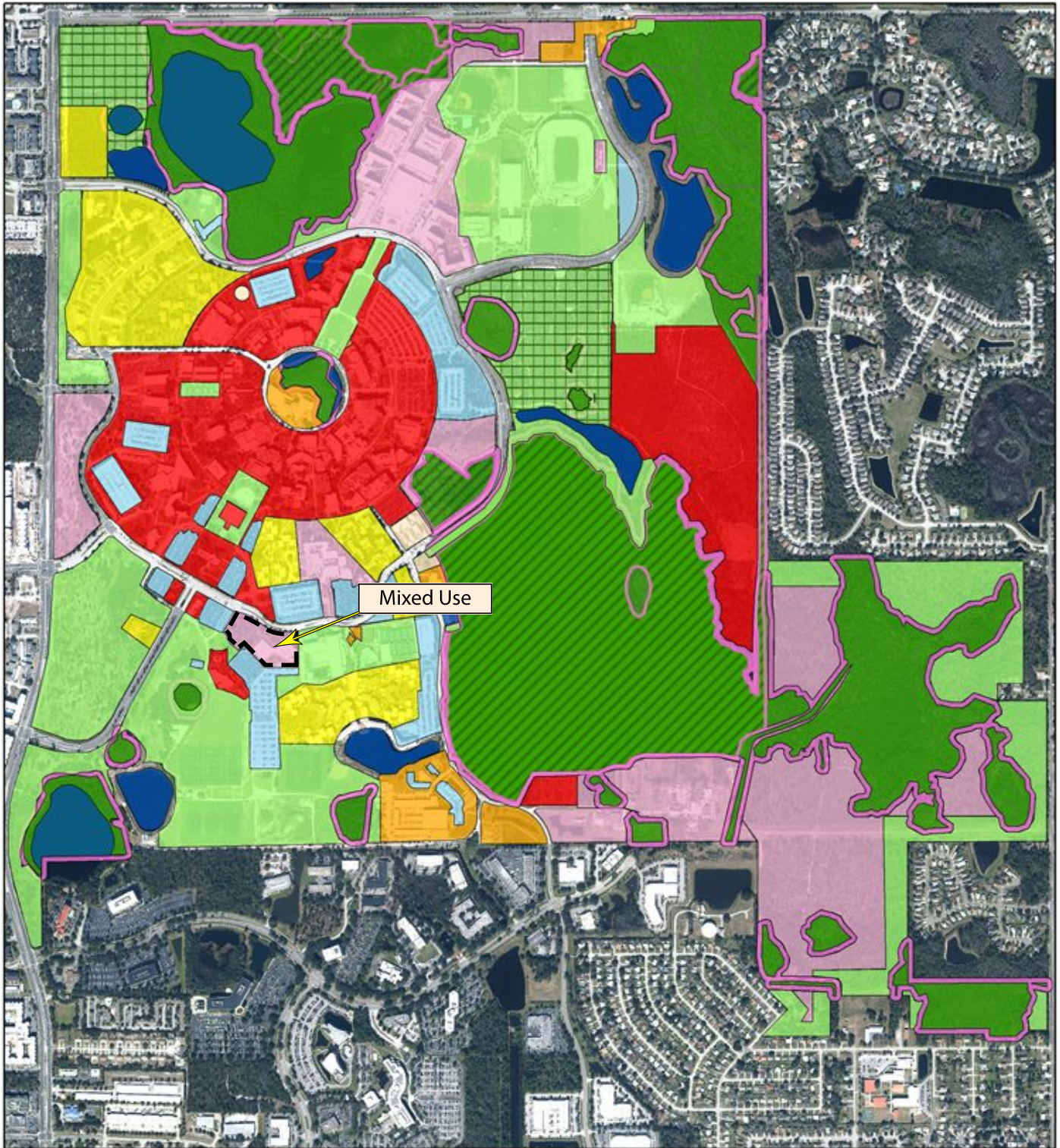


Figure 4-1

## Future Land Use

Comprehensive Master Plan Update  
University of Central Florida  
Orlando, Florida  
2015-2025

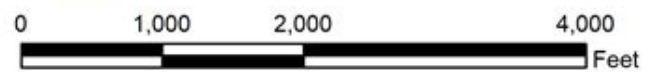


All maps are diagrammatic and conceptual. The various areas shown are approximate and not to survey accuracy. The intent of these maps is to illustrate general areas of existing or potential use.

### Legend

Parking	Utility	Residential
Support	Conservation (wetland)	Recreation/Open Space
Academic/Research	Conservation (upland)	Mixed Use
Lakes	Conservation Easements	

Rev 20181115





Attachment F - Recreation and Open Space - November 15 2018

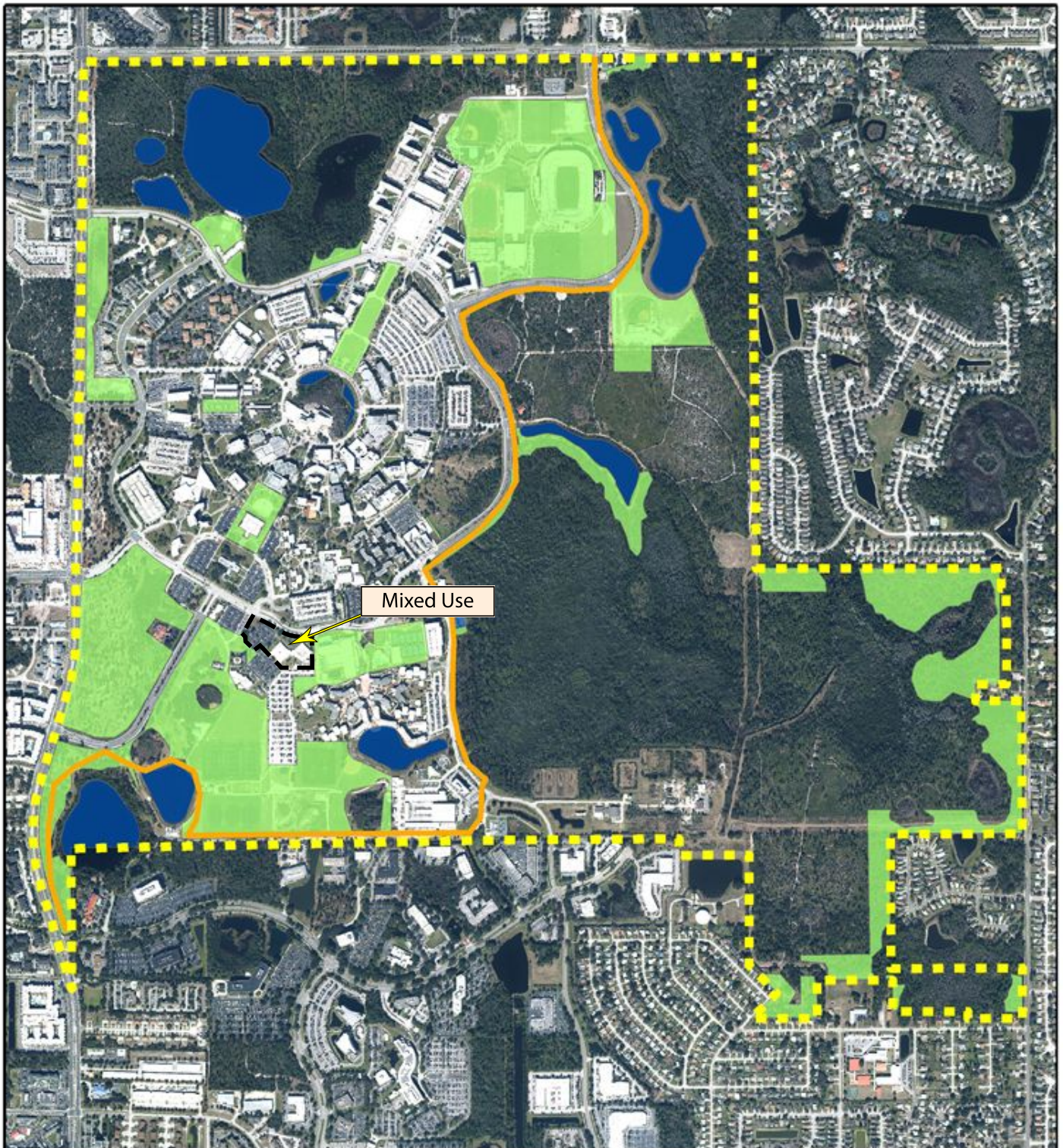


Figure 8-1

## Recreation and Open Space

Comprehensive Master Plan Update  
University of Central Florida  
Orlando, Florida  
2015-2025

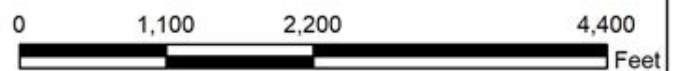
### Legend

Parking	Utility	Residential
Support	Conservation (wetland)	Recreation/Open Space
Academic/Research	Conservation (upland)	Mixed Use
Lakes	Conservation Easements	



All maps are diagrammatic and conceptual. The various areas shown are approximate and not to survey accuracy. The intent of these maps is to illustrate general areas of existing or potential use.

Rev 20181115



**ITEM: FF-4**

**University of Central Florida  
Board of Trustees**

**SUBJECT:** Concessions Services for UCF Convocation Corporation

**DATE:** January 24, 2019

---

**PROPOSED BOARD ACTION**

Approve the attached agreement with Spectra Food Services and Hospitality for concessions food services for the general admissions seating and areas at the CFE Arena and Venue facilities.

**BACKGROUND INFORMATION**

The approval to award this agreement to Spectra Food Services and Hospitality was approved by the Board of Trustees at the September 27, 2018, board meeting. The initial agreement shall be for five years, four months; February 1, 2019 through June 30, 2024. The parties shall have the option to renew the Agreement for one five-year term.

The current temporary concessions food service contract for the CFE Arena and Venue expires upon the execution of this new agreement, stemming from a competitive procurement process (Invitation to Negotiate). This agreement will include capital dollars (provided by the awarded contractor) to improve concession spaces at the CFE Arena and Venue while also offering substantial revenue sharing through commissions. No UCF funds will be used for the facility improvements. This agreement does not include servicing the premium seating areas nor does it include catering services.

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**Supporting documentation:** Attachment A: Contract  
Attachment B: Contract Summary

**Prepared by:** Greg Robinson, Assistant Vice President for Procurement Services

**Submitted by:** Greg Robinson, Assistant Vice President for Procurement Services



Attachment A

**CONTRACTUAL AGREEMENT**

**For**

**INVITATION TO NEGOTIATE (ITN) #1724NCSA**

**ENTITLED: CONCESSIONS FOOD SERVICES MANAGEMENT AGREEMENT**

**Between**

**UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES**

**AND**

**OVATIONS FOOD SERVICES, L.P. D/B/A SPECTRA FOOD SERVICES & HOSPITALITY**

This Contractual Agreement for Invitation to Negotiate (ITN) #1724NCSA Entitled: Concessions Food Services Management is entered into and effective as of February 1, 2019, by and between the University of Central Florida Board of Trustees (“University” or “UCF”) and Oventions Food Services, L.P. d/b/a Spectra Food Services & Hospitality (“Spectra” or “Concessionaire”). The parties agree as follows:

WHEREAS, Spectra is in the business of managing and operating food and beverage concessions services at indoor and outdoor single and multi-purpose facilities; and

WHEREAS, University desires to grant to Spectra the exclusive right and privilege to manage and operate the food and beverage concessions services at the facilities identified herein; and

WHEREAS, Spectra desires to accept the right and privilege to exclusively manage and operate such concessions services at the facilities, subject to the terms and conditions contained herein.

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

**1. ACKNOWLEDGMENT.** Concessionaire acknowledges that:

- A. The University is a public entity of the State of Florida;
- B. The University is exempt from federal and Florida taxes;
- C. Except for its employees acting within the course and scope of their employment, UCF shall not indemnify any entity or person and, then, such indemnification is limited to the express terms of §768.28, Florida Statutes. The State of Florida is self-insured to the extent of its liability under law and any liability in excess of that specified in statute may be awarded only through special legislative action. Accordingly, UCF’s liability and indemnification obligations in this Agreement shall be effective only to the extent expressly required by §768.28, Florida Statutes. Any provision requiring UCF to provide insurance coverage other than the State of Florida self-insurance shall not be effective.

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## SECTION 1: CONTRACT STATEMENT AND FACILITIES/LOCATIONS

**1.1 Contract Statement**

This Contract is to provide Concessions Food & Beverage Management Services for the General Admissions Seating/Areas at the Facilities as described herein. Specifically, this Contract provides for the rights and obligations for Concessions Food & Beverage Management Services. This Contract does not include servicing the premium seating areas nor does it include catering services.

**Concession License.**

The University hereby grants to Spectra the exclusive right and privilege to provide Concessions Food and Beverage Management Services for the “General Admission Seating/Areas” at the Facilities identified herein. Spectra covenants and agrees to exercise the full Concessions Food and Beverage Management Services rights granted hereunder at all events at the Facilities in such manner and with such number of personnel as are necessary to provide adequate supplies and first-class quality service of the food, beverage and other products described herein to patrons of the Facilities.

**University Organizations**

Note that the Facilities are managed and operated by the UCF Convocation Corporation (UCFCC). UCF appoints UCFCC as its fully authorized agent for administering, managing, and monitoring Spectra and all aspects of the Concessions Food and Beverage Management Services set forth in this Agreement.

**Facilities / Locations**

Concessionaire to provide Concessions Food and Beverage Management Services at the following “General Admissions Seating/Areas” at the Facilities:

- a. **CFE Arena** (herein referred to as the “Arena”) located at the Knights Plaza. <http://www.ucfknight.com/facilities/> is a 252,000 square foot multipurpose, air conditioned facility that opened in September 2007. This state-of-the-art facility houses a 17,000 square feet of exhibition space which can be used for various sports such as basketball, volleyball, wrestling, boxing, gymnastics and weightlifting. The Arena facility can also be transformed for concerts and banquets or as a convention /trade show event. Suites, meeting rooms, locker/dressing rooms, training room, and seven concession stands are also housed in the facility.
  - The Arena, can be configured to support a maximum of approximately 10,000 general-admission seats (7,000 lower, 3,000 upper). The Arena has 7 permanent concessions stands.
  - The Arena features 16 luxury boxes/suites @ up to 20 seats each, 64 loge seats, 2 loge lounges, and a club lounge that accesses 504 club seats.
- b. **The Venue** adjoins the Arena (herein referred to as the “Venue”), and is an 87,000 square foot multipurpose, air-conditioned facility that opened in August 1991. This facility houses



31,000 feet of exhibition space which can be utilized as basketball courts or adapted for various sports such as volleyball, mixed martial arts, boxing, gymnastics, and weightlifting. The Venue facility can also be transformed for concerts and banquets or for convention/trade show events.

- The Venue, can be configured to support a maximum of approximately 2,000 general-admission seats
- 2 permanent concessions stands.

<b>SECTION 2:            GENERAL CONDITIONS</b>
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## **2.0    Definitions**

**“Invitation to Negotiate (ITN)”** – Refers to the written solicitation (ITN #1724NCSA), used by UCF for this Contract.

**“May”, “Should”** - Indicates something that is not mandatory, but permissible, recommended, or desirable.

**“Must”, “Shall”, “Will”** - The words “shall,” “must,” or “will” are equivalent and indicate mandatory requirements or obligations.

**“Proposal” or “Offer”** - The executed best and final offer submitted by Spectra in response to this ITN and intended to be used as a basis for negotiations and award of this Contract.

**“Response”** - The entirety of the Spectra’s response submitted to the ITN, including any and all supplemental information submitted, including without limitation, the Offer.

**“UCF Contract Administrator”** - The University’ designated liaison who oversees the Concessionaire’s performance. In this matter, the UCF Contract Administrator will be the UCF Convocation Corporation General Manager or his/her designee.

### **Definitions specific to this Contract**

**“Accounting Period”** shall refer to each 4 or 5-week period during the Term ending on the last Wednesday of each month, except for the month of December, which shall end on December 31.

**“Agreement Year” or “Contract Year”** shall refer to the period between February 1, 2019 and January 31, 2020, and every February 1st through January 31st for every year thereafter until the Agreement terminates or expires.

**“Alcoholic Beverages”** shall refer to all alcoholic drinks, spirits, beers and wines, regardless of where they are provided, in what packaging or format, or to whom they are provided.

**“Alcohol Sales”** shall refer to the sale of Alcoholic Beverages with respect to the General Admission Seating/Areas (such as, by way of example only, sales from permanent or

portable concessions stands or roving vendors to individual customers (including, without limitation by means of “hawking”)) provided that Alcohol Sales shall not include Subcontractor Sales. University may limit the areas that hawking is permitted from time to time.

**“Branded Products”** shall refer to those food and beverage items which are advertised, marketed and sold as part of a franchise or license agreement.

**“Buyout Amount”** shall have the meaning given to such term in Section 3.21.

**“Commission”** shall refer to the percentage of Gross Receipts paid to the UCF in accordance with Section 4 of this Agreement.

**“Concession Sales”** shall refer to all sales of food and beverage with respect to the General Admission Seating/Areas (such as, by way of example only), sales from permanent or portable concession stands or roving vendors to individual customers (including, without limitation, by means of “hawking”) provided that Concession Sales shall not include Subcontractor Sales or Alcohol Sales. University may limit the areas that hawking is permitted from time to time.

**“Concessionaire Marks”** means all Marks owned, controlled, or cleared for use by or on behalf of Concessionaire.

**“Concessions Food and Beverage Management Services”** or **“Services”** shall refer to the business of managing and providing (or causing to provide) Concessions Sales and Alcohol Sales in the General Admission Seating/Areas.

**“Direct Operating Costs”** shall refer to the actual out-of-pocket costs of the Concessionaire that are borne by Concessionaire in order to perform the Services. These costs include the actual expense of the product including corporate rebates, on-site payroll, payroll taxes, fringe benefits, and other operating expenses, such as cleaning and office supplies.

**“Equipment”** shall refer to all furniture and machinery, except Smallwares and Leasehold Improvements, used for the receiving, storing, transporting, preparing, merchandising, selling and accounting of product solely in connection with the provision of the Services.

**“Facility”** or **“Facilities”** shall refer to the Arena and the Venue.

**“Food and Beverage Areas”** shall refer to the following areas of the Facilities associated with food and beverage concessions for the General Admission Seating/Areas: concession stands, customer serving locations, food preparation areas, vendor commissaries, kitchen and warehouse facilities, and other areas related to the foregoing and/or reasonably required by Spectra to perform the Services at the Facilities.

**“General Admission Seating/Areas”** shall refer to all public areas of the Facilities, including, without limitation, seating areas, common areas, walkways; provided however, that General Admission Seating/Areas shall not include clubs, club seats, suites, hospitality boxes, cabanas, luxury boxes, or any other similar such seating/areas serving premium food.

**“Gross Receipts”** shall mean the total of all amounts received by Concessionaire from the operation of the Services, whether such amounts are evidenced by cash, check, credit, charge account, exchange or otherwise, less (i) retail sales tax and other direct taxes imposed upon receipts collected from the consumer, and (ii) tips and gratuities paid out to employees; provided, however, that for the purposes of calculating the Commissions to be paid by Concessionaire to the University under Section 4 below, Gross Receipts shall not include (i) receipts from sales that Spectra does at cost, or (ii) amounts received from Subcontractor Sales.

**“Gross Subcontractor Receipts”** shall mean the total of all amounts received by all Subcontractors from Subcontractor Sales, whether such amounts are evidenced by cash, check, credit, charge account, exchange or otherwise, less (i) retail sales tax and other direct taxes imposed upon receipts collected from the consumer, and (ii) tips and gratuities paid out to employees. Gross Subcontractor Receipts shall not include receipts from sales that the Subcontractor does at cost.

**“Investment”** shall have the meaning given to such term in Section 4.

**“Leasehold Improvements”** shall refer to all equipment, fixtures, furnishings, finishes and construction affixed to the Facilities, by more than an electrical or gas connection used solely in connection with the provision of the Services.

**“Marks”** means names, workmarks, trademarks, trade names, services marks, copyrights, logos, symbols, emblems, designs, images, colors, trade dress, characters, identifications, and other intellectual property.

**“Minimum Attendance”** shall have the meaning given to such term in Section 2.3.

**“Net Subcontractor Sales”** shall refer to the net proceeds paid to and received by Concessionaire from its subcontractor(s) in connection with Subcontractor Sales. The total amount of proceeds received by Concessionaire from its Subcontractors shall not be reduced in any way, nor shall any deductions be taken by Concessionaire from those proceeds for any Concessionaire related expenses, including overhead or management/supervision of subcontracted parties.

**“PPI”** shall mean the Producer Price Index for Food Manufacturing, Industry Code 311 (Series ID: PCU311---311---; Product: Food Mfg.; Base date 198412); not seasonally adjusted, published by the U.S. Department of Labor, Bureau of Statistics, per latest index (currently available on the web site: <http://stats.bls.gov>).

**“Prior Agreement”** shall mean that certain “Food Service Management Agreement” between UCF Convocation Corporation and Ovations Food Services, L.P. d/b/a Spectra Food Services and Hospitality with a term that commenced on August 19, 2017.

**“Renter”** shall refer to any person or entity that contracts with the University, UCFCC or its designee to use the Facilities for a specific event or events.

**“Reserve Account”** shall refer to Concessionaire’s account comprised of funds retained from the allocation of 3% of Gross Receipts accrued each Accounting Period.

**“Smallwares”** shall refer to the servicewares, utensils, crockery, glassware, dishware and cutlery used by Concessionaire to perform the Services.

**“Subcontractor”** or **“Sub-Contractor”** shall refer to those companies, vendors, and/or third-parties, approved by the University, that have a contractual relationship with Concessionaire to perform certain Concessions Sales where the personnel providing the Concessions Sales are not employees of Concessionaire. Non-profit groups/organizations providing Concessions Sales for Concessionaire are not considered Subcontractors. No Subcontractor shall be permitted to perform Alcohol Sales.

**“Subcontractor Sales”** shall refer to all sales, at or from the Facilities from any Subcontractor.

**“Technology Equipment”** shall refer to items of Equipment that have a primary function related to the collection, transfer, storage, display of, or processing of data and may include items such as point of sale systems.

**“Term”** shall have the meaning given to such term in Section 2.3.

**“Total Receipts”** shall mean Gross Receipts plus Gross Subcontractor Receipts.

**“University Marks”** means all Marks owned, controlled, or cleared for use by or on behalf of the University.

**“University Provided Equipment”** shall refer to Equipment (including cooking and food-serving/warming equipment, refrigeration, shelving units, work stations/ prep-tables and all other items listed in Appendix A) that is owned by the University and provided to Concessionaire for its use in the performance of the Services. Concessionaire is required to maintain and repair such equipment in accordance with the terms and conditions of this Agreement. The University retains ownership of this equipment.

## 2.1 **Force Majeure**

No default, delay or failure to perform on the part of UCF or the Concessionaire shall be considered a default, delay or failure to perform otherwise chargeable, hereunder, if such default, delay or failure to perform is due to causes beyond such party’s reasonable control including, but not limited to, strikes, lockouts, actions or inactions of governmental authorities, epidemics, war, embargoes, fire, earthquake, acts of God, default of common carrier. In the event of such default, delay, or failure to perform due to causes beyond affected party’s reasonable control, any date or times by which affected party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the cause beyond the reasonable control of the affected party.

## 2.2 **Indemnification And Insurance**

- a. Concessionaire shall hold the University and the UCF Board of Trustees, UCFCC and the University’s and UCFCC’s officers, employees, agents and/or servants harmless and indemnify each of them against any and all liabilities, losses, actions, damages, suits, proceedings, judgments from claims, costs and expenses (including all costs for investigation and defense thereof, including but not limited to, court costs, paralegal and



expert fees and reasonable attorney's fees) which may be incurred by, charged to or recovered from any of the foregoing (i) by reason or on account of damage to, or destruction or loss of any property of the University, or injury to or death of any person resulting from or arising out of or in connection with the performance of this contract, or resulting from the acts or omissions of Concessionaire, its employees, its contractors, its invitees, its agents, or of others under Concessionaire's control and supervision, regardless of where the damage, destruction, injury or death occurred, unless such liability, loss, suit, claim, demand, judgment, fine, damage, cost or expense was proximately caused solely by University's negligence or by the joint negligence of University and any person other than Concessionaire, its employees, its contractors, its invitees, its agents, or of others under Concessionaire's control and supervision, or (ii) arising out of or in connection with the Concessionaire to keep, observe or perform any of the covenants or agreements in this contract which are required to be kept, observed or performed by Concessionaire, or (iii) arising out of or in connection with any action by Concessionaire, its employees, its contractors, its invitees, its agents, or of others under Concessionaire's control and supervision. University agrees to give Concessionaire reasonable notice of any suit or claim for which indemnification will be sought hereunder, to allow Concessionaire or its insurer to compromise and defend the same to the extent of its interests, and to reasonably cooperate with the defense of any such suit or claim. In carrying out its obligation under this section, Concessionaire shall engage counsel reasonably acceptable to University. In any suit, action, proceeding, claim or demand brought in respect of which the University may peruse indemnity, the University shall have the right to retain its own counsel. The fees and expenses of such counsel shall be at the expense of the University unless (1) the Concessionaire and the University shall have mutually agreed to the contrary, (2) the Concessionaire has failed within a reasonable time to retain counsel reasonably satisfactory to the University, or (3) the University and the Concessionaire are both named parties in any such proceeding and, in the sole judgment of the University, representation of both the University and the Concessionaire by the same counsel would be inappropriate due to actual or potential differing interests between them. In the event of the above stated instances, Concessionaire shall be responsible for all of the legal fees and expenses. The indemnification provisions of this section shall survive the expiration or earlier termination of this contract with respect to any acts or omissions occurring during the term of the contract.

- b. If any part of a delivery to the University pursuant to this contract is protected by any patent, copyright, trademark, other intellectual property right or other right, Concessionaire also shall indemnify and hold harmless the University and the UCF Board of Trustees and the University's officers, employees, agents and/or servants from and against any and all liabilities, actions, damages, suits, proceedings and judgments from claims instituted or recovered against the University by any person or persons whomsoever on account of the University's use or sale of such article in violation of rights under such patent, copyright, trademark, other intellectual property right or other right.
- c. Up to the amount expressly authorized by F.S. 768.28 and the Constitution of the State of Florida, UCF shall hold the Concessionaire, its officers, employees and agents harmless from and indemnify each of them against any and all liabilities, actions damages, suits, proceedings and judgments from claims arising or resulting from the acts or omissions of University employees or the acts or omission of others under UCF's supervision and control while acting within the scope of their employment or agency.

- d. In any and all claims against the University, or the UCF Board of Trustees, or any of the University's officers, employees, agents and/or servants, by any employee of the Concessionaire, any subcontractor of Concessionaire, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation of Concessionaire under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for the Concessionaire or any subcontractor under Workers' Compensation Acts, disability benefit acts or other employee benefit acts.
- e. No provisions of this section herein shall be construed to negate, abridge, or otherwise reduce any other right of indemnity that the University or UCFCC may have as to any party or person described herein.

**Insurance.** All insurance shall be procured from companies authorized to do business in the State of Florida with a minimum A.M. Best rating of A, or equivalent acceptable to the University. Proof of coverage shall be provided by submitting to the University a certificate, or certificates, evidencing the existence thereof, or binders, shall be delivered within fifteen (15) days of the tentative award date of the Contract. In the event a binder is delivered it shall be replaced within thirty (30) days by a certificate in lieu thereto. A renewal certificate shall be delivered to the University at least thirty (3) days prior to the expiration date of each expiring policy.

- a. **General Liability:** Concessionaire shall provide a Certificate of Insurance at the time of "notification of intent to award" the contract evidencing Commercial General Liability insurance coverage in force with minimum limits of \$1,000,000 (ONE MILLION DOLLARS) per Occurrence and \$2,000,000 (TWO MILLION DOLLARS) Aggregate. Upon acceptance and confirmation of coverage by University and before beginning work, and at all times during the term of the contract, Concessionaire will maintain said General Liability insurance in force and provide University with a Certificate of Insurance and endorsement naming the University of Central Florida Board of Trustees and UCF Convocation Corporation as "Additional Insured." The Certificate will provide a minimum 30 days advanced notice to in the event of cancellation.
- b. **Auto Liability:** Concessionaire shall provide a Certificate of Insurance at the time of notification of intent to award the Contract evidencing Auto Liability insurance with minimum \$1,000,000 (ONE MILLION DOLLARS) per Accident Combined Single Limit for Bodily Injury and Property Damage. Upon acceptance and confirmation of coverage by University and before beginning work, and at all times during the term of the contract, Concessionaire will maintain said Auto Liability insurance in force and provide University with a Certificate of Insurance naming the University Of Central Florida Board Of Trustees and UCF Convocation Corporation as "Additional Insured." The Certificate will provide a minimum 30 days advanced notice to University in the event of cancellation.
- c. **Workers Compensation:** Concessionaire shall provide a Certificate of Insurance at the time of notification of intent to award the contract evidencing Workers Compensation coverage consistent with Florida Statute and Employers liability no less than \$500,000 (FIVE HUNDRED THOUSAND DOLLARS) for Bodily Injury by accident, each accident, Bodily Injury by disease, each employee, and policy limit. Upon acceptance and confirmation of coverage by University and before beginning work, and at all times during the term of the contract, Concessionaire will maintain said Workers Compensation and

Employer's Liability insurance in force and provide University with a current Certificate of Insurance. The Certificate will provide a minimum 30 days advanced notice to University in the event of cancellation.

- d. **Certificates of Insurance:** The University Of Central Florida Board Of Trustees and UCF Convocation Corporation are to be named as Additional Insured on all Certificates issued. Concessionaire shall send a copy of his/her Certificate of Insurance along with accompanying Additional Insured Endorsement to the following address:

e-mail: [Olivia.Escalona@ucf.edu](mailto:Olivia.Escalona@ucf.edu)  
Mail: **University of Central Florida**  
**Risk Management**  
12601 Aquarius Agora Dr.  
Orlando, FL 32816-3500

With a copy to:  
e-mail: [rlamkin@ucfcc.com](mailto:rlamkin@ucfcc.com)  
Mail: UCF Convocation Corporation  
Attn: General Manager  
PO Box 662150  
Orlando, FL 32816-3222

- e. The University, at its sole discretion, has the right to deviate from any of the insurance requirements herein. If the University decides to deviate from the insurance requirements stated herein, the University will inform the Concessionaire in writing.
- f. UCFCC shall maintain Fire and Extended Coverage insurance on the Facility premises occupied by Concessionaire. In the event the premises is partially or totally destroyed by fire or otherwise, during the term of this contract, UCF shall, at its sole option, terminate this contract, repair the premises or rebuild the premise; and in the event of partial destruction which leaves the premises uninhabitable, or in the event of total destruction, this contract shall, at UCF's sole option, be terminated immediately or be extended for a period of time equal to the time from when the premises became uninhabitable until the premises again became habitable.
- g. Concessionaire, at its own expense, shall obtain and maintain property insurance to cover all personal property owned by it, and its stock, materials and supplies. Under no condition shall UCF or UCFCC be liable for the personal property, tangible or intangible, of the Concessionaire or its customers, employees or contractors that might be damaged or destroyed on the premises because of fire or other casualty.

### 2.3 **Term Of Contract**

- a. The term of this Contract shall be for **Five (5) years and 4 months**, beginning on February 1, 2019 and expiring on June 30, 2024; unless sooner terminated in accordance with its terms (the "Term").
- b. The University shall have the option to renew the Contract for 5-years ("Renewal Option") by providing the Concessionaire with one hundred twenty (120) days written notice of intent to renew prior to the expiration of the Term.



- c. Notwithstanding anything to the contrary contained in this Agreement, if in any Contract Year, for any reason (including without limitation if due to the occurrence of a force majeure), the Facilities host less than 70% of the average number of turnstile attendees over fiscal years 2015, 2016, 2017, and 2018 (the "Minimum Attendance,") then Concessionaire shall have the right (but not the obligation) to extend the Term of this Agreement for an additional one year period for each such affected Contract Year. For purposes of this provision, the average attendance for the previous four (4) Facilities' fiscal years is established at 461,000; therefore, the minimum attendance shall be established as 70% of 461,000 or 322,700.

## 2.4 **Termination Of Contract**

- a. The Concessionaire shall perform the Services in accordance with the terms and conditions as stated herein and in accordance with the highest standards and commercial practices for operation of food and beverage services at a facility serving UCF. If the Concessionaire fails to fulfill or perform any material obligation of the Concessionaire under the Contract and such failure shall continue for thirty (30) days following written notice from the University to the Concessionaire informing the Concessionaire of its failure to fulfill or perform said material obligation, then the University may terminate the Contract immediately by providing the Concessionaire with written notice.
- b. If the University fails to fulfill or perform any material obligation of the University under the Contract and such failure shall continue for thirty (30) days following written notice from the Concessionaire to the University informing the University of its failure to fulfill or perform said material obligation, then the Concessionaire may terminate the Contract immediately by providing the University with written notice.
- c. Each party may terminate the Contract immediately upon written notice to the other party if the other party (i) is judged bankrupt or insolvent; or (ii) has proceedings in bankruptcy or insolvency instituted against it, a receiver is appointed, or if any substantial part of its assets become the object of attachment, sequestration or other type of comparable proceeding, and such proceeding is not vacated or terminated within thirty (30) days after its commencement or institution.
- d. Upon expiration or earlier termination of this Agreement and payment of any Buyout Amount owed to Concessionaire and pursuant to Section 4, Concessionaire shall return all Equipment, Leasehold Improvements and Smallwares to the University in "like new" condition, less normal wear and tear.
- e. Should this Contract be terminated prior to the end of the Term, upon the effective date of termination, neither party hereto shall have any liability, either for damages, additional rents, fees or other charges, or otherwise, to the other based upon this Contract, except (i) as to liabilities from incidents or circumstances which occurred, accrued, or existed prior to the effective date of termination, and (ii) University's obligation to pay Concessionaire the Buyout Amount.

## 2.5 **Assignment And Amendment Of Contract**

This Contract and any duties or obligations under this Contract, shall not be assignable by the Concessionaire without the prior written consent of UCF. This Contract may be

amended only in writing signed by the Concessionaire and UCF with the same degree of formality evidenced in this Contract.

**2.6 Independent Parties**

UCF and the Concessionaire are independent contractors and independent parties, and neither shall be an officer, employee, agent, representative or co-partner of, or a joint venture with, the other.

**2.7 Records**

See Section 3.19(b).

**2.8 Public Records**

This Contract may be canceled unilaterally by the University for refusal by the Concessionaire/Contractor to allow public access to all papers, documents, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Concessionaire in conjunction with this Contract; provided however, that the University shall not be permitted to cancel this Agreement pursuant to this Section until it has first notified Concessionaire in writing of the breach and provided Concessionaire with 30 days to cure.

**2.9 Public Records, Service Contracts, Compliance With Section 119.0701, F.S.**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: Office of the General Counsel, (407) 823-2482, [gcounsel@ucf.edu](mailto:gcounsel@ucf.edu), University Of Central Florida, 4365 Andromeda Loop N., Millican Hall, Suite 360, Orlando, FL 32816-0015.**

**PUBLIC RECORDS, CONTRACT FOR SERVICES**

To the extent that Concessionaire meets the definition of "Contractor" under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Concessionaire must comply with public records laws, including the following provisions of Section 119.0701, Florida Statutes:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Concessionaire does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Concessionaire or keep and maintain public records required by the public agency to perform the service. If the Concessionaire transfers

all public records to the public agency upon completion of the contract, the Concessionaire shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Concessionaire keeps and maintains public records upon completion of the contract, the Concessionaire shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the Concessionaire of the request, and the Concessionaire must then provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

If Concessionaire does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

This Concessionaire and any subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

#### 2.10 **Severability**

If any provision of this Contract is contrary to, prohibited by, or deemed invalid by applicable laws or regulations of any jurisdiction in which it is sought to be enforced, then said provision shall be deemed inapplicable and omitted and shall not invalidate the remaining provisions of such Contract.

#### 2.11 **Notices**

Any written notices between the parties shall be sent by certified mail to the following addresses, or other addresses of which the parties shall have notified each other. All such

notices to either party shall be deemed to have been received 3 days after mailed certified mail.

For UCF:

UCF Convocation Corporation  
12777 Gemini Blvd. N., Suite 1023  
Orlando, FL 32816

With Copy to:  
University of Central Florida  
Office of the General Counsel  
4635 Andromeda Loop North  
Orlando, FL 32816-0015

For Concessionaire:

Spectra Food Services & Hospitality  
Attn: President  
18228 US Highway 41 North  
Lutz, FL 33549

With Copy To:  
Spectra Food Services and Hospitality  
3601 S. Broad Street  
Philadelphia, PA 19148  
Attn: General Counsel

**2.12 Governing Law And Venue**

This Contract and any disputes thereunder will be governed by the laws of the State of Florida and shall be deemed to have been executed and entered into in the State of Florida. Any such Contract shall be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. If any provision of this Contract is contrary to, prohibited by, or deemed invalid by applicable laws or regulations of any jurisdiction in which it is sought to be enforced, then said provision shall be void and deemed inapplicable and omitted and shall not invalidate the remaining provisions of such Contract. UCF and Concessionaire hereby agree that this Contract, shall be enforced in the courts of the State of Florida and that venue shall always be in Orange County, Florida.

**2.13 Liaison**

UCF's liaison with the Concessionaire, if any, shall be the UCF Contract Administrator and/or his/her designee.

**2.14 Subcontracts**

The Concessionaire is fully responsible for all work that it performs under this Contract. The Concessionaire may not enter into written subcontract(s) for performance of certain of its functions under this Contract, unless approved by the University. The subcontractors and the amount of the subcontract(s) shall be identified to the University. No subcontract(s), which the Concessionaire enters into under this Contract, shall in any way relieve the Concessionaire of any responsibility for performance of its duties under this Contract. Concessionaire is responsible to fully notify any subcontractor(s) of their responsibilities under any subcontract. All payments to subcontractors shall be the sole responsibility of the Concessionaire.

**2.15 Employment Of UCF Personnel**

The Concessionaire shall not, without UCF's prior written consent, knowingly recruit for engagement, on a full time, part time, or other basis during the Term and any related subcontract, any individuals who are or have been UCF employees at any time during such



period, except for UCF's regularly retired employees, or any adversely affected State employees.

During the Term and for a period of one (1) year after the end of the Term, University and its affiliates shall not, without the prior written consent of Concessionaire, specifically solicit for employment by University, or encourage to cease rendering services to Concessionaire, any management-level employee of Concessionaire with whom University has had dealings by virtue of the engagement of Concessionaire hereunder to perform similar services to the University that the employee performed for Concessionaire. In the event of a breach of this provision, Concessionaire will be entitled (in addition to any other rights and remedies which Concessionaire may have at law or in equity, including money damages) to equitable relief, including an injunction to enjoin and restrain University from continuing such breach. For the avoidance of doubt, nothing in this paragraph shall prohibit the University from hiring a management-level employee of Concessionaire for an academic position who applied for such position through a public job posting. Further, the listing of or publishing open positions on employment websites or UCF's website, or hiring in response to open positions, shall not constitute soliciting Concessionaire employees for employment or constitute a breach of this Agreement.

#### 2.16 **Conflicts Of Interest**

Acceptance of this Contract shall certify that Concessionaire is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements of Chapter 112, Florida Statutes and other applicable laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Concessionaire certifies that its directors and/or principal officers are not employed and/or affiliated with the University or UCFCC unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer and approved in accordance with applicable University and UCFCC policies or rules. Violation of this section by Concessionaire shall be grounds for cancellation of the Contract; provided, however, that the University shall not be able to cancel this Agreement pursuant to this Section until it has first notified Concessionaire in writing of the breach and provided Concessionaire with 30 days to cure and provided the breach can be cured.

#### 2.17 **Equal Opportunity Statement**

The State of Florida, UCF and Spectra, subscribe to equal opportunity practices, which conform to both the spirit and the letter of all laws against discrimination and are committed to non-discrimination on the basis of race, creed, color, sex, age, national origin, religion, veteran or marital status, or disability.

- a. The Concessionaire shall agree to comply with the Americans with Disabilities Act (ADA) of 1990.

#### 2.18 **Waiver Of Rights And Breaches**

No failure or delay by a party hereto to insist on the strict performance of any term of the Contract or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of such a contract, but each and every term of such a Contract shall continue in full force and effect with respect to any other then

existing or subsequent breach thereof. The remedies provided in such a Contract are cumulative and not exclusive of the remedies provided by law or in equity.

2.19 **Headings Not Controlling**

Headings used in this Contract are for reference purposes only and shall not be considered to be a substantive part of this Contract.

2.20 **Employee Involvement / Covenant Against Contingent Fees**

In accordance with Section 112.3185, Florida Statutes, the Concessionaire hereby certifies that, to the best of its knowledge and belief, no individual employed by the Concessionaire or subcontracted by the Concessionaire has an immediate relationship to any employee of UCF who was directly or indirectly involved in any way in the procurement of this Contract, or goods or services thereunder. Violation of this section by Concessionaire shall be grounds for cancellation of such Contract. The Concessionaire also warrants that no person or selling agency has been employed, engaged or retained to solicit or secure any contract resulting from this Contract or has any advantage hereunder upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, or in exchange for any substantial consideration bargained for, excepting that which is provided to the Concessionaire's bona fide employees or to bona fide professional commercial or selling agencies or in the exercise of reasonable diligence should have been known by the State to be maintained by the Concessionaire for the purpose of securing business for Concessionaire. In the event of the Concessionaire's breach or violation of this warranty, UCF shall, subject to Concessionaire's rights under Chapter 120, Florida Statutes, have the right, at its option, to terminate the Contract without liability, to deduct from the charges otherwise payable by UCF under such Contract the full amount of such commission, percentage, brokerage, or contingent fee, and to pursue any other remedy available to UCF under such Contract, at law or in equity.

2.21 **Employment Of Aliens**

Concessionaire's employment of unauthorized aliens, if any, shall be considered a violation of §§274(e) of the Immigration and Nationality Act. If the Concessionaire knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Contract by the University; provided, however, that the University shall not be permitted to cancel this Agreement pursuant to this Section until it has first notified Concessionaire in writing of the breach and provided Concessionaire with 30 days to cure and provided the breach can be cured.

2.22 **Site Rules And Regulations**

Concessionaire shall use its best efforts to assure that its employees and agents, while on UCF's premises, shall comply with the State's, UCFCC's and UCF's site rules and regulations, if any.

2.23 **Travel Expenses**

Not applicable

2.24 **Annual Appropriations**

Not applicable

2.25 **Taxes**

The State of Florida is a tax-immune sovereign and exempt from the payment of all sales, use and excise taxes. The Concessionaire shall be responsible to pay any such taxes imposed on its sale of food and beverage items under the Contract, if any.

2.26 **Use Of Contract By Other Governmental Agencies**

At the option of the Concessionaire, the use of the contract may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, counties, and cities. Each governmental agency allowed by the Concessionaire to use this contract shall do so independent of any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods or services ordered, received and accepted. No agency receives any liability by virtue of this offer and subsequent contract award.

2.27 **Public Entity Crimes**

A person or affiliate who has been placed on Florida's convicted vendor list following a conviction for a public entity crime may not submit an offer on a contract to provide any goods or services to a public entity, may not submit an offer on a contract with a public entity for the construction or repair of a public building or public work, may not submit offers on leases of real property to a public entity, may not be awarded, or perform work as a contractor, supplier, subcontractor, or consultant under, a contract with any public entity, and may not transact business with any public entity in excess of the offer limit for that public entity, for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

2.28 **Intellectual Property**

Each party acknowledges and agrees that (a) all rights, title and interest in and to the other party's Marks belong to the other party; (b) it has not made and will not make any unauthorized use of the other party's Marks and any such use would require a license from the other party; (c) any use it has made or will make of the other party's Marks has not conferred, and will not confer, any rights or benefits on it in respect thereof, and any such rights or benefits inure to the other party; (d) the other party's Marks have acquired a secondary meaning in the minds of the general public; (e) the goodwill associated with the other party's Marks has great value and such goodwill belongs exclusively to the other party, and (f) it shall not, during the Term or thereafter, challenge the rights, title or interest of the other party in or to the other party's Marks.

Subject to the terms and conditions of this Agreement, University grants to Concessionaire a non-exclusive, royalty-free, limited, non-transferable license to use the University Marks during the Term in connection with its provision of the Services. University may establish reasonably guidelines governing the use of University Marks and Concessionaire shall use best efforts to comply with any of such guidelines provided to Concessionaire in writing by

the University in advance. Any use of any University Marks by Concessionaire shall inure to the benefit of the University.

From time to time during the Term, the parties may decide that Concessionaire will create a particular menu item or concession stand concept that incorporates University Marks or is otherwise unique to the University or the Facilities ("Custom Concept"). The name of any such Custom Concept shall be considered a "work for hire" for the University and the University shall own all intellectual property rights in and to such name. Concessionaire grants University a non-exclusive, royalty-free, limited, non-transferable license in perpetuity to use any recipes or other work product associated with the Custom Concept, it being acknowledged and agreed that as between Concessionaire and the University, Concessionaire shall own such recipes and work product and may, at its discretion, use them for any purpose whatsoever. Any menu item or concession stand concept that does not constitute a Custom Concept, does not incorporate the Marks of Concessionaire and is not considered proprietary to Concessionaire may be reused by the University after the Term of this Agreement with Concessionaire's permission, which permission shall not be unreasonably withheld, it being understood and agreed that the University has an interest in maintaining menu and concept continuity in its concessions offerings.

Each party hereby represents and warrants to the other that, (a) all applicable laws, rules and regulations have been complied with, (b) it is free and has full right to enter into this Contract and perform all of its obligations hereunder, (c) any authorized use of its Marks by the other party for advertising or trade purposes or any commercial purposes shall not violate any laws or the rights of any third parties and (d) no third party has any rights in, to, or arising out of, or in connection with its Marks, including without limitation any claims for fees, royalties or other payments.

The Concessionaire agrees to indemnify and hold harmless the University and those acting for or on its behalf, the UCF Board of Trustees, the State of Florida and the Florida Board of Governors, UCFCC and their respective officers, agents, employees and servants from and against any and all losses, claims, damages, expenses or liabilities of any kind, including court costs and attorneys' fees, directly resulting from (a) the performance or non-performance of the University's order by the Concessionaire, (b) the use or reproduction in any manner, whatsoever, or (c) any breach or alleged breach of any of the Concessionaire's contracts or representations and warranties herein.

## 2.29 **Export Control**

The parties shall comply with all applicable U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799 and/or other restrictions imposed by the Treasury Department's Office of Foreign Asset Controls (OFAC), in the performance of this Contract. The parties agree that no technology, related data or information will be exchanged or disseminated under this Contract nor any collaboration conducted pursuant to this Contract, which are export controlled pursuant to the export control laws of the United States, including the EAR and the ITAR and any other applicable regulations.

The Parties agree that the Concessionaire will not provide the University with any ITAR or EAR restricted technology and/or related data, and that any ITAR or EAR restricted technologies and/or data produced in furtherance of this Contract will be in the exclusive



possession of the Concessionaire and at no time will any export controlled technologies, related data, or information be intentionally or inadvertently transferred to the University, its facilities, labs, staff, researchers, employees, officers, agents, servants or students in the performance of this Contract.

If the Concessionaire wishes to disclose export controlled technology or technical data to the University, the Concessionaire will, prior to disclosing any information, technical data or source code that is subject to export controls under federal law, notify the University in writing that the material is export controlled and shall identify the controls that apply. The University shall have the right to decline or limit (a) the receipt of such information, and (b) any task requiring receipt of such information. In the event the Concessionaire sends any such technical data or product that is subject to export control, without notice of the applicability of such export control, the University has the right to immediately terminate the Contract. The Concessionaire understands and agrees that to the extent the Concessionaire's personnel have access to work or materials subject to U.S. export controls while on University property, such personnel will meet all federal export control regulatory requirements or have the appropriate U. S. government approval.

#### 2.30 **Parking**

Concessionaire shall ensure that all vehicles parked on campus for performing Services under this Contract shall have proper parking permits, if required. This applies to all personal vehicles and all marked and unmarked company vehicles that will be on any University campus for one (1) day or more or on a recurring basis. If applicable, all such vehicles must be registered with the University's Parking Services Department, and parking permits must be purchased by the Concessionaire. Concessionaire's vehicle(s) shall observe all parking rules and regulations. Failure to obtain parking permits, properly display them, and otherwise comply with all of the University's parking rules and regulations could result in the issuance of a parking ticket and/or towing at the expense of the Concessionaire or Concessionaire's employees. For additional parking information or information regarding parking fees/rates, contact the University's Parking Services Department at (407) 823-5812 or online at <http://parking.ucf.edu>.

#### 2.31 **Compliance**

The parties shall at all times comply with all applicable ordinances, laws, rules and regulations of local, state and federal governments, or any political subdivision or agency, or authority or commission thereof, which may have jurisdiction to pass laws, ordinances, or make and enforce rules and regulations with respect to the parties.

#### 2.32 **Monthly Settlement & Billing**

Concessionaire shall pay any Commissions owed to the University pursuant to Section 4 on a monthly basis, together with statements described in the next paragraph. Such payments and statements shall be delivered to University with respect to each Accounting Period by the 20<sup>th</sup> day following the end of such Accounting Period. The balance of all Gross Receipts shall be retained by Concessionaire.

Concessionaire shall provide to University, within 20 days following the end of each Accounting Period, financial reports regarding its provision of Services during such Accounting Period, including a statement showing Gross Receipts for the applicable Accounting Period. Concessionaire shall also provide to University, within 90 days following the end of each Contract Year, financial reports regarding its provision of Services during such Contract Year, including a statement showing sales by location and consolidated, including commissionable and noncommissionable sales, total sales, Subcontractor Sales and "Net Subcontractor Sales" received by Concessionaire, and Reserve Account (listing of all expenditures itemized by equipment, location) and Gross Receipts for the applicable Contract Year. Additionally, Concessionaire shall provide the University, within 24 hours following each event at the Facilities, a daily Gross Receipts report in a form to be mutually agreed upon.

With respect to any payments that the University must make to Concessionaire pursuant to this Agreement, the following terms shall apply:

The University shall only submit payment to the Concessionaire, if Concessionaire has provided the University with approved invoices. Mere statements in lieu of approved invoices will not be accepted by the University. All invoices must specifically describe the services and/or goods provided, the dates and hours that the services were rendered and/or goods delivered and the fee charged. Concessionaire shall deliver the invoices to UCF Convocation Corporation, unless Concessionaire has been otherwise instructed by the University. If Concessionaire's invoice lists any freight or cartage charges, such invoice must attach all of Concessionaire's receipted transportation bills.

**2.33 No Joint Venture**

Nothing contained in this Agreement shall be construed to create a joint venture, partnership, or other like relationship between the parties.

**2.34 Leased Equipment**

The risk of loss or damage to leased equipment, goods or property leased by Concessionaire to perform the Services shall not transfer to the University except as provided in §680.219, Florida Statutes. Any security interest in the leased equipment, goods or property granted to Concessionaire contrary to AGO 79-72 and AGO 80-9 is null and void. Limitation of remedies provisions, which are unconscionable under applicable Florida law, are void.

**2.35 Material Safety Data Sheet (MSDS)**

In compliance with Florida Statutes, Ch. 442, a Material Safety Data Sheet (MSDS) must accompany any applicable item delivered under this Agreement, and any applicable item(s) used or stored on University property must have an MSDS readily available at the storage location and to the person(s) using such item(s).

**2.36 Non-Performance**

Reference Sections 2.1 and 2.4.

2.37 **Vietnam Era Veteran's Readjustment Act of 1974**

The University and the Concessionaire must comply with all applicable provisions of: (i) §402:60-250.4 of the Vietnam Era Veterans Readjustment Act of 1974; (ii) §503:60-741.4 of the Rehabilitation Act of 1973; (iii) Executive Order 11246, as amended; and, (iv) the rules, regulations, and relevant orders of the U.S. Secretary of Labor.

2.38 **State Licensing Requirements**

To the extent applicable, Concessionaire shall have all appropriate licenses to conduct business in the State of Florida and Orange County. If Concessionaire contemplates the use of subcontractors, the Concessionaire is responsible for ensuring that all subcontractors are registered with the State of Florida in accordance with Chapter 607 or 620, Florida Statutes. For additional information, the Concessionaire should contact the Florida Secretary of State's Office.

2.39 **Family Educational Rights And Privacy Act**

Concessionaire acknowledges that UCF has a duty to maintain the privacy of student records, including without limitation education records as defined by the Family Educational Rights and Privacy Act (20 USC § 1232g; 34 CFR Part 99) ("FERPA"), and further acknowledges that as a contractor to whom Licensee has outsourced certain institutional services or functions:

- a. Confidential information about UCF's students may contained in records provided to and maintained by Concessionaire, and Concessionaire will protect the privacy of all student education records to the fullest extent required of UCF under FERPA;
- b. Concessionaire is performing an institutional service or function that has been outsourced by UCF and for which UCF would otherwise use its employees;
- c. Concessionaire is under the direct control of UCF with respect to the use and maintenance of education records, as defined by FERPA;
- d. Concessionaire is subject to all FERPA requirements governing the use and re-disclosure of personally identifiable information from education records, including without limitation the requirements of 34 CFR § 99.33(a);
- e. Even in circumstances that might justify an exception under FERPA, Concessionaire may not disclose or re-disclose personally identifiable information unless UCF has first authorized in writing such disclosure or re-disclosure; and
- f. Concessionaire will not use any personally identifiable information acquired from UCF for any purpose other than performing the services or function that are the subject of this Contract.

2.40 **Smoke Free Policy**

The University prohibits smoking on all university owned, operated, leased and/or controlled properties in order to maintain a healthy and safe environment for its faculty, staff, students, and visitors. Visit <http://www.ucf.edu/smokefree> for additional information.

2.41 **Contractual Precedence**

This Contract, and any attachments and/or addenda that are executed by Concessionaire and the University's duly authorized signatory constitutes the entire and exclusive agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous negotiations, correspondence, conversations, agreements and understandings concerning this subject matter. Attachments and/or addenda may include but are not limited to the ITN which includes all the University's ITN specifications, and the Response and Offer. In the event of any conflict or inconsistency between before mentioned documents, the order of precedence is:

- a. The Agreement/Contract;
- b. University's ITN;
- c. The Offer;
- d. The Response; and
- d. Any other attached documents signed by the Concessionaire and University's official signatory at the time the Agreement/Contract is executed.

2.42 **Authority**

Each party represents and warrants to the other that: (i) it has full corporate power and legal authority to enter into and perform this Agreement; (ii) all necessary corporate approvals for the execution and performance of this Agreement by it have been obtained; and (iii) this Agreement constitutes a legal, valid and binding obligation enforceable in accordance with its terms.



### SECTION 3: CONTRACT REQUIREMENTS

**3.1 Operations:** Concessionaire shall at all times comply with all applicable laws, rules, regulations and orders of the Federal Government, the State of Florida, the County of Orange, and also shall abide by all rules, regulations and directives prescribed by the University. Concessionaire has a reasonable responsibility to be aware of applicable university rules made available at University Policies <https://policies.ucf.edu/> and University Regulations <https://regulations.ucf.edu/>.

**a. Concessionaire's Duties/Responsibilities:**

Except as otherwise provided in this Agreement, the Concessionaire shall perform the Services on its own credit and shall furnish at its own expense, all non-concessions equipment (i.e. equipment used transport food and beverage items around the Facilities such as pallet jacks, forklifts and motorized carts), labor, supplies, and services required to perform its duties and responsibilities hereunder. Concessionaire shall conduct all of the Services in a first class, professional, businesslike, and efficient manner consistent with a premier University.

**b. Arena Organization:** The Concessionaire will work directly with the UCF Contract Administrator to ensure a continuous high level of service, quality, and customer satisfaction.

- For non-athletic events at the Arena (i.e. concerts, graduation ceremonies, etc.), the food and beverage prices may be set differently from that of the "athletic event" pricing and will be determined by mutual agreement between Concessionaire and the University.

UCFCC and Concessionaire may mutually agree to run "Promotions" at the Arena which can temporarily reduce food/beverage prices, change menu items, and/or serving sizes, in accordance with the terms described in Section 3.22.

**c. License to use Food and Beverage Areas; Excluded Areas:** University hereby grants Concessionaire a license to use the Food and Beverage Areas, together with the improvements, equipment and personal property upon or within such areas, along with the non-exclusive right to use the concourses, spectator seating areas, common areas, loading areas, walkways and other public areas of the Facilities, solely for the purpose of providing the Services. For the avoidance of doubt the following areas are not part of the Food and Beverage Areas, unless designated by the University from time to time: the parking lots of the Facilities, the locker rooms, non-food and beverage operations areas, backstage, performer areas, employee and athletic dressing rooms. Notwithstanding the above, the UCF Contract Administrator may limit the areas where "hawking" may occur.

### **3.2 Products and Services.**

- a. All foods, drinks, beverages, confectionery, refreshments, and the like sold or kept for sale, shall be of first quality, wholesome, and pure and shall conform in all respects to the federal, state, municipal, and other laws, ordinances, and regulations. No imitation,

adulterated, expired or misbranded article shall be sold or kept for sale, and all product kept on hand shall be stored and handled with due regard for sanitation. Leftover perishable product shall not be sold at any time.

- b. Concessionaire shall annually survey pricing at comparable venues and provide results to the University.
- c. All products kept for sale shall be subject to inspection by the University at the University's request. The University may only reject products that are expired or not otherwise stored or being handled in compliance with applicable laws. Rejected product shall be immediately removed from the Facilities and shall not be returned for sale.
- d. The parties shall mutually agree upon any local and/or Branded Products and serving items that will be served at the Facilities. It is also expected that the Concessionaire will deliver nationally recognized branded products for consideration by the University.
- e. No off-site or sub-contracted sales are permitted from the Facilities unless approved by the University.
- f. Concessionaire is encouraged to work with local not-for-profit organizations, such as food banks to reduce product waste. The University requires the Concessionaire to identify and consider the use of local products and vendors to utilize throughout the Facilities.
- g. At no time will Concessionaire enter into an agreement whereby a particular product is to be sold or served on an exclusive basis at the Facilities, without the prior written approval of the University. The University shall not unreasonably withhold approval.
- h. The Concessionaire and the University may mutually agree to modify Concessionaire's operations for a particular event to accommodate the needs of a Renter. The precise modifications and the compensation owed to Concessionaire as a result of said modifications, if any, shall be mutually agreed upon between the parties in each instance. Renters shall not be permitted to use any of Concessionaire's equipment without Concessionaire's approval, which approval Concessionaire shall not unreasonably withhold. The Parties agree that the permanent stands and nearly all equipment is owned by the University. The University shall be responsible for ensuring each Renter safeguards the Food and Beverage Areas, repairs any damage caused thereto and returns the applicable Food and Beverages Areas to the University and Concessionaire in clean condition at the end of its period of use.
- i. Notwithstanding anything to the contrary contained in this Agreement, the brands and price of all products sold by Concessionaire shall be determined by Concessionaire, subject to the reasonable approval of the University. Provided price, quality, market acceptability, service and other terms are generally competitive, Concessionaire agrees to give preference to and feature at CFE Arena and the Venue suppliers of products designated by University who purchase advertising from the University (or, if applicable, an agent or licensee of the University) so long as the giving of such preference does not violate applicable laws, rules or regulations and features of such product and terms of such transaction are reasonable, as determined by Concessionaire in its sole discretion.

### **3.3 Alcoholic Beverages**

- a. The Concessionaire must be eligible and able to be a liquor permit holder for those Facilities identified herein where Concessionaire is required to sell Alcoholic Beverages. All filing fees in connection with transferring the current liquor permits to the Concessionaire shall be paid by the Concessionaire.
- b. No Alcoholic Beverages are currently sold from concession stands at any of the athletic events. Alcoholic Beverages are sold in the premium areas that are not part of the General Admission Seating/Areas, which are excluded from Concessionaire's exclusive rights under this Agreement and may be sold at the Arena for non-athletic events, such as concerts. Alcoholic Beverages may also be served for catered events, which are excluded from Concessionaire's exclusive rights under this Agreement.
- c. Alcoholic Beverages are to be offered for sale by the Concessionaire to the extent permitted by applicable state and local laws, and subject to all state and local laws and University policies regarding the sale and consumption of alcohol. The final decision, as to whether or not Alcoholic Beverages may be sold at an event, or in any designated area of the Facilities, shall be the sole responsibility of the University. The decision to serve or refuse service of Alcoholic Beverages to any individual shall be the sole responsibility of the Concessionaire.
- d. The Concessionaire is responsible for the lawful administration of any and all state alcohol enforcement policies and must comply with the University's alcohol policy, which among other provisions requires "TIPS" or "Responsible Vendor" training for all individuals selling, distributing or otherwise providing Alcoholic Beverages for consumption.
- e. The Concessionaire must procure and keep in force during the entire period of the Contract all permits, and licenses required, including licenses required to sell Alcoholic Beverages, by all laws and regulations of the State of Florida and the County of Orange.

### **3.4 Advertising - Marketing**

Concessionaire covenants and agrees not to promote in any way the use of its services which might be construed in any way that UCF is endorsing such without prior University approval.

Marketing of the services is of extreme importance. Marketing strategies must be directed to increase visibility, ownership, and patronage loyalty.

- a. Concessionaire shall indicate how they intend to develop and promote their marketing plan for the Services. The plan shall incorporate latest technology for sales, facility design and promote visibility, ownership, patronage loyalty, and return customers.
- b. Concessionaire shall indicate strategies to highlight and focus on new products.
- c. Plan shall address usage of pamphlets, posters, electronic menu boards, website, social media and specialized promotions.
- d. Concessionaire shall indicate the strategy for customer development and retention.

- e. **Sharing of knowledge:** University reserves the right to use any suggestions, comments, ideas, or insight that is provided by Concessionaires to University. This input may include, but is not limited to, walk-through, proposals, or general discussions. The Concessionaire will also be asked to contribute input for successful marketing ideas. This may include but is not limited to placement of stands, marketing of products, sharing of knowledge from prior situations, possible promotions suggestions, advertisement suggestions, or business practices.

### 3.5 **Exclusive Use Agreements.**

- a. The University has entered into agreements whereby exclusive rights to sell, market, promote, and/or provide specific services, merchandise, classes of products, and the licensing of University Marks, have been granted to University partners. It is the responsibility of the University to communicate in writing to Concessionaire the scope of such exclusive agreements and for Concessionaire to use commercially reasonable efforts to comply with, all University exclusivity agreements so long as any such compliance does not cause Concessionaire, in its reasonable opinion, to be in violation of any applicable laws, rules or regulations. With the exception of purchases required under the Coca-Cola Agreement, notwithstanding anything to the contrary contained in this Agreement, in the event that any exclusive agreement requires Concessionaire to purchase products that are more expensive than the equivalent products Concessionaire would typically purchase, the parties shall negotiate in good faith to adjust the prices of the affected items or adjust other terms of this Agreement to make Concessionaire whole. These exclusivity agreements include, but are not limited to:

**Coca-Cola Exclusive.** The University has entered into an agreement designating Coca-Cola as the exclusive fountain syrup company on campus (the “Coca-Cola Agreement”). The following are excerpts from the University’s Coca-Cola Agreement and shall be observed by Concessionaire:

*a. “**Exclusive Beverage Availability Rights**” Coca-Cola (“Company Beverages”) will have exclusive Beverage availability rights on the entire Campus at all times during the Term. University will make Company Beverages available for sale on Campus in all package forms, through fountain dispensing, coolers, kiosks, hawking, and vending, as well as through any other means agreed upon by Coca-Cola and University. University will use its reasonable, good faith efforts to maximize the sale and distribution of Company Beverages on Campus. At a minimum, Company Beverages shall be widely available for purchase by consumers on Campus and will be sold and/or served as part of all meal plans provided to University students and/or others on the Campus.*

*Note that if Concessionaire is serving “mixed-drinks”, only Coke products may be used in the composition of such drink when the drink-mix contains a component that Coke provides (Coke, Orange juice, etc.).*

*b. “**Beverages**” means all non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, OR (ii) are in a frozen form. This definition applies without regard to the beverage's labeling marketing or packaging. Powders, syrups, grounds (such as for coffee), herbs (such as for tea), concentrates, K-Cups® pods and all other beverage bases from which Beverages*



can be made and brands and products of water purification and beverage making systems (e.g. Brita®, Soda Stream®, Keurig®), are deemed to be included in this definition. For the avoidance of doubt “flavor enhancers”, “liquid water enhancers”, drinking water dispensing systems and non-alcoholic beverages sold as “shots” or “supplements” are considered Beverages.

**c. Permitted Exceptions.**

- (i) Company Beverages will be the only Beverages sold, served, distributed, sampled, or otherwise made available on Campus, provided however University may, on a non-exclusive basis, serve, sell or dispense the following Competitive Products (“Permitted Exceptions”) on Campus:
  - Fresh milk;
  - Hot tea and hot coffee freshly brewed on premise;
  - Milkshakes and smoothies made on the premises from fresh ingredients; and
  - Chick-fil-A 's signature lemonade
- (ii) Protein Powder may be served or dispensed to student athletes in locker rooms and training facilities on Campus but will not be sold anywhere on Campus. Use of protein powder is permissible to be blended into drinks/smoothies (made fresh on premises) sold as part of a retail operation at approved Campus locations, including the Stadium and Arena. There will be no advertising of any kind for protein powder.
- (iii) Permitted Exceptions, to the extent served or sold in cups, shall not be served or sold in Approved (Coke) Cups.
- (iv) University may display trademarks for Permitted Exceptions on menus, menu-boards, dispensing equipment, coolers and vessels to indicate availability, but no Permitted Exceptions will be marketed, advertised, promoted, or sampled on Campus, or otherwise in connection with the University, the Campus, the University Teams or the University Marks.
- (v) Coca-Cola acknowledges that a natural food retail outlet or equivalent located on Campus serves various Beverages. University will mandate to the outlet or equivalent concept that no PepsiCo Beverages should be sold, served, dispensed or sampled at the concept outlet or equivalent located on Campus.

**d. Beverage Purchase Requirement.** University and its third-party food and beverage concessionaires (“Concessionaire”) will purchase from Bottler their entire requirement for Beverages and Approved Cups, lids and carbon dioxide on Campus except for Simply Orange brand products and Odwalla brand products, which may be delivered directly by Company and/or its distribution partners. To the extent University has a Concessionaire operating its facilities on Campus and that Concessionaire has an agreement with Company that describes the terms for Beverage pricing, then Concessionaire will purchase all such Company Beverages in accordance with

*Company's existing agreement with University's Concessionaire. To the extent University has a Concessionaire operating its facilities on Campus and that Concessionaire does not have an agreement with Company, then University and Sponsor shall negotiate pricing for Company Beverages at such time.*

*e. Except as set forth with respect to the Permitted Exceptions and Special Promotional Events, no signage, advertising, or trademark visibility for any Competitive Products will be displayed or permitted anywhere on Campus. No Competitive Products will be associated, directly or indirectly, with University, the Campus, the University Teams, the University Athletic Director, or the University Marks, on or off-Campus, whether through advertising, promotions or otherwise. University will take all steps necessary or appropriate to stop third parties from associating Competitive Products with University.*

*f. All Concessionaires with Beverage operations on Campus will comply with all applicable provisions of the Coca-Cola Agreement, including purchasing their entire requirements for Beverages, cups, lids, and CO 2 from Bottler (except as otherwise permitted under ("Permitted Exceptions") and using Approved (Coke) Cups. "*

- b. Subject to the terms and conditions of this Agreement, including, without limitation, the first paragraph of this Section 3.5, the University has sole discretion to enter into exclusive contracts.
- c. The University shall retain the rights for any sponsorship of beverage cups or other materials used in the delivery of the Services. The University shall specify the design for souvenir beverage cups and Concessionaire will be responsible for all costs for the manufacture and acquisition of the cups from a licensed manufacturer.
- d. Subject to the terms and conditions of this Agreement, including without limitation, the first paragraph of this Section 3.5:

**The University or its designee may sell sponsorship packages for the Facilities.**

Therefore, the University reserves the final right of approval of Concessionaire's sources of product supply. The University expects Concessionaire will use the sponsored product when such product is on the current menu. The Concessionaire, however, will not be required to purchase from suppliers whose level of quality, service, and/or prices, are not competitive with the marketplace. Concessionaire retains no advertising or sponsorship rights in this Agreement. Current sponsorship items are:

- Coca Cola

- e. In the event that the University shall seek to bring major NCAA or other similar national or international events, Concessionaire shall negotiate in good faith to make modifications to the Agreement that are necessary for the University to obtain any such event.

**3.6 Basic Utilities**

Unless stated otherwise herein, the following utilities and services are provided to Concessionaire at no additional cost:

- Trash removal (Non-hazardous trash pickup from a collection points designated by the University or UCFCC); Concessionaire may be required to participate in the University's or UCFCC's recycling program by collecting specified recyclable products and transporting them to the designated collection point(s).
- Heating, Ventilation, and Air Conditioning (HVAC);
- Electric (Lighting and convenience);
- Water (potable & waste);
- Gas (cooking)

### **3.7 Additional Utilities**

Telephone, Television (cable/satellite), Internet access, connection to UCF's fiber/Ethernet/network, and any other service or utility not listed above as included in the basic utilities, are at additional cost and will be the responsibility of the Concessionaire. These services are available from the University's Computer Services and Telecommunications (CS&T) department. Pricing for these services can be viewed here: <http://www.cst.ucf.edu/service-catalog/cst-telecommunications/>

### **3.8 Environmental/Sustainability Practices**

The Concessionaire shall utilize environmentally friendly practices in its operation of the Facilities and shall abide by all Facilities' environmental/sustainability practices that are generally applicable to all users of the Facilities and are provided to Concessionaire in writing in advance.

### **3.9 Licensing, Permits, Taxes**

The Concessionaire shall, at its sole expense, procure and keep in effect all necessary permits and licenses required for its performance under this Agreement, and shall post or display in a prominent place such permits and/or notices as are required by law. The Concessionaire shall collect and remit sales tax in accordance with Section 2.25 of this Agreement and pay for any and all payroll taxes related to its employees, and any federal, state, and local income taxes. Concessionaire shall collect and promptly disburse all taxes required by federal, state and local authorities that Concessionaire is obligated to pay under this Contract, and shall pay any such taxes as a Direct Operating Cost.

### **3.10 Sanitation and Food Safety**

- a. Concessionaire shall dispose of cooking grease, oils or fats using a rendering company or other University approved method of disposal, at Concessionaire's sole cost.
- b. The Concessionaire shall provide all major cleaning/janitorial functions for the Food and Beverage Areas along with requisite sanitation services for the Food and Beverage Areas.
- c. The Concessionaire shall ensure that all employees are trained in the highest standards of sanitation and safety and supervised in a "clean as you go" policy that will result in clean and orderly Food and Beverage Areas at all times.
- d. The Concessionaire shall develop, implement, and update cleaning and sanitation

schedules for all Equipment. Cleaning must be sufficient to provide protective maintenance against unnecessary deterioration, and provide a clean, neat, and sanitary appearance. Sanitation must meet the standards of the Florida Department of Business and Professional Regulation (DBPR), Department of Health (DOH), and the University.

### **3.11 Concessionaire Obligations**

- a. Concessionaire's Obligations. The Concessionaire shall provide the following as part of its management and operation of the Food and Beverage Areas:
  - Vehicles. The Concessionaire shall provide its own vehicle(s) as necessary (if any).
  - Emergency Key(s). The facility owners (i.e. Stadium/Venue/Arena/etc.) shall retain an emergency access key for all spaces Concessionaire occupies.
  - Internal Security. The Concessionaire shall collaborate with UCF's Police Department, UCFCC and the University Administration concerning questions of discipline, enforcing law/regulations, and internal security and theft control in the Food and Beverage Areas. The University expects the Concessionaire's first point of contact with regard to security and safety issues for the Food and Beverage Areas to be UCF's Police Department.
  - A Point-of-Sale system will be provided by the Concessionaire and purchased using the Investment.
- b. Concessionaire acknowledges and accepts that the Concessionaire's office and concessions stands are received "as-is", except for any repairs, alterations, modifications or restoration work specifically identified in the Concessionaire's Proposal and approved by the University. Notwithstanding the foregoing sentence, it is the University's responsibility to provide Concessionaire with "turnkey" Food and Beverage Areas to enable Concessionaire to perform the Services in the first-class manner that the University requires. Accordingly, to the extent that any amounts in addition to the Investment are required in order to provide "turnkey" Food and Beverage Areas, the University shall be solely responsible for such amounts. Concessionaire, by virtue of having operated in the Food and Beverage Areas under the Prior Agreement agrees that the Food and Beverage Areas are in a "turnkey" state at the commencement of this Agreement.
- c. Concessionaire shall not remove or modify any fixtures or furnishings affixed to the building, or any equipment owned by the University or UCFCC, and shall not perform any construction, remodeling, modification, or alteration of the premises without prior written approval of the University. In the event approval is granted, such work will be performed under the supervision of University or UCFCC and completed to its reasonable satisfaction. The parties shall mutually agree upon how any such work will be funded.
- d. The location of all concession stands, whether temporary, portable or permanent shall be mutually agreed upon between the parties. The Concessionaire shall acquire no right to any location once assigned by the University, but the parties must mutually agree upon any alterations to Food and Beverage Areas, it being understood and agreed that reasonable modifications may be required and to facilitate the needs of events or other building operations.
- e. Using funds in the Reserve Account, Concessionaire shall perform maintenance and repair of Equipment (food preparation, refrigeration, and cooking/heating equipment) whether



owned by Concessionaire or owned by the University and provided to Concessionaire for use in the performance of this Contract.

- f. The following services shall be performed by Concessionaire at its expense without the use of funds in the Reserve Account
  - 1. Cleaning of floors, fixtures, Equipment, etc., and other typical custodial services.
  - 2. Concessionaire shall sanitize and maintain all interior located grease traps within the foodservice areas, if any, on a regularly scheduled basis and as needed. UCFCC will provide the maintenance and cleaning of exterior located grease traps, if any.
  - 3. Trash removal. The Concessionaire shall be required to participate in the UCFCC's recycling program. The Concessionaire will be responsible for breakdown and recycling of all cardboard boxes. The Concessionaire shall remove all trash and recyclable materials and place them in the proper UCF trash bins/dumpsters and recycling containers or place in the collection points as directed by UCFCC.
  - 4. Concessionaire owned and installed computers.
  - 5. POS equipment and related systems/equipment located within the Food and Beverage Areas.
  - 6. Concessionaire must provide janitorial service and adequate pest control from a pest control contractor licensed by the state and approved by UCF, for the Food and Beverage Areas. UCF may provide this service for Concessionaire, in its discretion, and charge the cost to Concessionaire.
- g. Concessionaire must, in accordance with all applicable laws, ordinances, rules, and regulations, maintain and keep clean all Food and Beverage Areas, including the space within a 15-foot radius of each area, in a clean, sanitary and orderly fashion.
- h. The University has an inventory of University Provided Equipment that it intends to provide to Concessionaire "As-Is" for Concessionaire's use in the performance of this Contract. At the start of Contract, Concessionaire shall determine if it wants to accept and use the University Provided Equipment, or it may reject the acceptance and use of the University Provided Equipment. If Concessionaire rejects acceptance of any University Provided Equipment, Concessionaire shall notify UCFCC in writing of those specific items/equipment it rejects, and the equipment not accepted will not be considered University Provided Equipment for the purposes of this Agreement, it shall be abandoned in place or removed by UCFCC at the UCFCC's discretion and cost, and Concessionaire will have no responsibility to protect, maintain or repair said item/equipment. Any University Provided Equipment that Concessionaire chooses to accept and use, shall become the Concessionaire's responsibility to protect, maintain and repair in accordance with Section 3.11(e) above using funds in the Reserve Account. All University Provided Equipment shall remain the property of University and shall be returned to University at the end of the Term in the same or better, condition (normal wear accepted) as when it was received (excluding any items/equipment replaced or disposed of per mutual agreement during the Term of the Contract).
- i. Using funds in the Reserve Account, Concessionaire shall pay for all "preventative maintenance plans" for all Equipment.

- j. Concessionaire shall maintain UCFCC-approved par levels of all Smallwares provided that such "UCFCC-approved par levels" are reasonable and communicated to Concessionaire in writing in advance.
- k. Concessionaire shall set up Equipment and Smallwares for all events where Concessionaire is performing Services at the Facilities. Concessionaire shall be responsible for setting up and tearing down all portable Equipment, including work tables, if any.
- l. Using Funds in the Reserve Account, Concessionaire shall maintain all Equipment, used in performance of its duties, including rolling stock, in a good state of repair, including maintenance or repair necessitated by ordinary wear and tear.
- m. Should the replacement of any Equipment become necessary, as determined by the mutual agreement of UCF and Concessionaire, the replacement cost will come from the Reserve Account. If the Reserve Account does not have sufficient funds to pay for the equipment replacement, UCF shall be solely responsible for the shortfall and the new Equipment shall be the property of the University. If the replacement is due to the negligent use or maintenance, by the Concessionaire, its contractors, employees or agents the Concessionaire will pay for the total cost of such replacement.
- n. Concessionaire may self-manage or self-perform those maintenance/repair tasks within the Food and Beverage Areas for which it is required to provide/perform, or Concessionaire may outsource (subcontract) the work. If outsourcing the work, Concessionaire shall not use any maintenance/repair company, service provider, or subcontractor on University property that does not meet the minimum insurance coverage criteria set by the University (listed below) and subject to revision by UCF.
- o. Insurance Required: contractors providing services (for Concessionaire) on UCF property shall maintain worker's compensation, property liability, property damage and vehicle insurance during performance of their work. Concessionaire's liability insurance shall be written for not less than limits of \$100,000 per person, \$500,000 per occurrence. Coverage's shall be maintained without interruption from date of commencement of work until final payment and termination of any coverage required to be maintained after final completion.
- p. UCF will not be liable or held responsible for any actions or claims related or as a result of the relationship between Concessionaire and said service provider used by Concessionaire unless such actions or claims are the result of UCF's negligent actions or omissions.
- q. Concessionaire may request UCFCC to provide/perform some of the work/services identified above with UCFCC's own staff or have UCFCC subcontract the maintenance/repair services on its behalf. If UCFCC, in its sole discretion, agrees to provide/perform the work, it shall invoice Concessionaire for the actual cost of the maintenance/repair, and Concessionaire shall pay any such invoices using funds in the Reserve Account.
- r. The University and UCFCC reserves the right to inspect the Food and Beverage Areas at any time during the Term. In the event University or UCFCC, in its reasonable discretion, determines the Food and Beverage Areas are not being maintained in a satisfactory condition, the University or UCFCC may direct the Concessionaire to make the necessary repair or correction in accordance with the terms and conditions of this Agreement, to

return the Food and Beverage Areas to satisfactory condition. Such repairs shall be completed within thirty days or as mutually agreed upon between the parties. Notwithstanding the forgoing three sentences, the Food and Beverage Areas are considered to be in satisfactory condition when the Food and Beverage Areas are in the same or better condition as when Concessionaire moved in (i.e. the commencement of the Prior Agreement). If Concessionaire fails to make, maintain, or keep the Food and Beverage Areas in clean and sanitary condition or fails to perform the necessary maintenance and repairs in accordance with the terms and conditions of this Agreement, the University or UCFCC may, but is not obligated to, perform or hire the necessary contractor to perform the work.

- s. The Concessionaire shall, during the Term, repair any damage caused to real or personal property of the University, wherever situated on the University campus, when caused by the intentional, reckless, or negligent acts or omissions of the Concessionaire's employees, its subcontractors,.
- t. **Reserve Account.** The Concessionaire shall establish and maintain a Reserve Account for Equipment maintenance, repair, and replacement by funding monthly with an amount equal to Three Percent (3%) Gross Receipts from each Accounting Period. Any funds remaining in the Reserve Account at the end of the Agreement will belong to the University. Concessionaire shall provide UCF a monthly report when it remits Commissions to the University for each Accounting Period, indicating the amount of funds remaining in the Reserve Account and an itemized listing of all funds expended. Unless the parties mutually agree otherwise, the Reserve Account funds shall not be used for any purposes other than as expressly set forth in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, to the extent that the Reserve Account does not have enough funds available to enable Concessionaire to fulfill its obligations under the terms and conditions of this Agreement, the University shall be responsible for such amounts. Under no circumstances shall Concessionaire be required to pay for or advance any of its own funds to perform such obligations that would normally be paid from the Reserve Account. In the event that, notwithstanding the foregoing, the University and Concessionaire agree for Concessionaire to advance its own funds, University shall promptly reimburse Concessionaire for the full amount of such advanced funds.

### 3.12 **University Obligations**

- a. The University shall provide the Concessionaire with:
  - 1. Office space,
  - 2. concessions stands, and stock room space at the Arena and Venue;
  - 3. Access to campus web services (where available), campus telephone services, and voice answering system at UCF's standard rate/fee. Pricing for these services can be viewed here: <http://www.cst.ucf.edu/service-catalog/cst-telecommunications/>
- b. The University shall maintain, repair, and replace, as necessary, at its expense the common areas, and each of the exterior portions and structural portions of the Facilities, including, without limitation: the roof and roof supports, footings, foundations, structural supports, columns, exterior walls, bearing walls, retaining walls, floor slab, utility meters, flashings, gutters, downspouts, fire detection and suppression systems; so as to keep the same in good condition and repair.

- c. University shall maintain, repair, and replace, as necessary, at its expense, the following:
1. all plumbing, pipes, drains, tubes and all other conduits and utility lines leading to or from the premises, or leading to or from the building;
  2. electrical switches, outlets, circuit breakers, interior lighting fixtures (including light bulbs and fluorescent tubes and ballast), within the premises;
  3. all electrical wiring, communication/data wiring, plumbing, piping, and HVAC components located within the walls, ceilings, and floors;
  4. the repair or adjustment of storefront, entrance doors, roll-up doors and gates, including door closing mechanisms and locks;
  5. and the repair and/or adjustment of interior doors and hardware, cabinets/cases, millwork, casework, and countertops;

at no additional cost, except in the event that such repair or replacement is required due to the negligence or willful misconduct of Concessionaire, its employees, agents, contracted suppliers, subcontractors, or contractors. Concessionaire's responsibility to make repairs or replacements due to the negligence or willful misconduct of one of its contracted suppliers pursuant to the foregoing sentence shall be limited to circumstances where the supplier was at the Facilities to serve or perform services for the Concessionaire and the damage necessitating the repair or replacement occurred while the supplier was solely serving or performing services for the Concessionaire.

### **3.13 Customer Service & Quality Control**

- a. Performance Metrics. UCF will measure the level of customer service provided by the Concessionaire throughout the Term of the Contract. Customer service metrics are listed on Attachment C. If Concessionaire fails to pass all of the customer service metrics in any particular Contract Year, Concessionaire shall use commercially reasonable efforts to remedy the failures and shall not be considered in breach or default under this Agreement.
- b. UCFCC-Concessionaire Meetings. Concessionaire's General Manager (or his/her designee) will be required to attend specific University, UCFCC or its designee's event planning meetings, as determined at the University's or UCFCC's sole discretion, including without limitation:
  1. Weekly Event Review Meeting;
  2. Management Team Meeting;
  3. The Concessionaire's Regional Manager will meet with the UCF Contract Administrator on a quarterly basis, or as mutually agreed, to review the Concessionaire's performance.
- c. Uniforms/Nametags/Identification Tags. The Concessionaire shall ensure that all its employees wear nametags/identification tags, along with a standardized uniform shirt, subject to UCFCC approval. Concessionaire's employees (and volunteers of any not-for-profit groups engaged by Concessionaire) shall be at all times neatly and cleanly uniformed in UCFCC-approved uniforms and must meet grooming guidelines and appearance standards prescribed for such employee as set forth in Concessionaire's handbook and as mutually agreed by Concessionaire and University.



- d. Customer Feedback. The Concessionaire shall seek customer feedback on a regular basis through methods that include, but are not limited to, customer surveys per semester, student focus groups, customer comment cards, secret shopper programs, etc. Customer feedback results shall be shared with the UCF Contract Administrator for evaluation and input.

### **3.14 Staffing / Personnel**

- a. Staffing. The Concessionaire shall be responsible, at its sole cost and expense, to employ all personnel necessary for the efficient operation of a full-service Facility. Staffing levels shall be mutually agreed upon between the parties, provided that Concessionaire maintain an adequate staff at all times to ensure a high-quality operation, including providing a sufficient number of experienced personnel for operational and administrative purposes.
- b. Concessionaire's employees shall be admitted to the Facilities without payment of an admission fee at an entrance to be designated by the UCF, in such numbers as Concessionaire may reasonably require for conducting the Services.
- c. Organization Chart/Staffing Level. The Concessionaire shall present its organization chart/staffing level to UCF or its designee for discussion and approval for each event, to ensure there will be sufficient on-site staff to provide the required level of service. Changes or reductions to the agreed-upon staffing level shall require discussion with, and approval by, UCF or its designee, which approval shall not be unreasonably withheld, conditioned or delayed.
- d. Manager. The University reserves the right, but is not obligated to, review and approve of the general manager assigned to the Facilities by the Concessionaire ("General Manager"). Subsequent changes in the General Manager will be made by the Concessionaire only after prior consultation with, and approval by, the University. The University expects management continuity (i.e., limited turnover of the General Manager) in order for the Concessionaire to meet the expectations and requirements of the University.
- e. Student Employees. The Concessionaire shall look to fill employment opportunities with UCF students, when appropriate.
- f. Employee Conduct. The Concessionaire shall be responsible for the actions of its employees, agents, and independent contractors hereunder and for the payment of all taxes, wages, benefits and other costs associated with such persons. While on UCF premises, all employees, agents and independent contractors of the Concessionaire shall comply with all applicable University and UCFCC policies and procedures. .

If at any time UCF feels that any employee of Concessionaire is not satisfactory, UCF shall notify Concessionaire of the reason for its dissatisfaction with such employee verbally and in writing.

Concessionaire shall attempt to promptly correct the employee's conduct to the satisfaction of UCF. If the employee continues to be unsatisfactory to UCF, or if the initial conduct was so egregious as to warrant dismissal, UCF may demand that Concessionaire cease using said employee at UCF. Concessionaire shall promptly comply with such request. University agrees that any requests pursuant to this paragraph shall not be based upon unlawful discrimination in regard to an employee's race, religion, national origin, age, gender, sexual orientation or disability.

### 3.15 **Background Checks**

- a. The Concessionaire assumes liability arising out of and is solely responsible for all of the Concessionaire's employees, agents, or independent contractors pursuant to Section 2.2. The Concessionaire shall provide background checks for all Concessionaire's employees working at UCF and shall ensure that all background checks have been initiated within seven (7) business days of hire. Background checks are not required for "non-profit" groups and volunteers. Temporary employees hired through a temporary staffing agency shall require the background checks listed herein, and Concessionaire may satisfy this requirement by conducting the background checks directly or having a contract with the temporary staffing agency that incorporates the same requirements. If Concessionaire hires currently enrolled UCF students on a temporary basis, Concessionaire is not required to perform the background checks listed herein.
- b. Convictions discovered in the background check will be reviewed by Concessionaire's Human Resources department in accordance with applicable laws. To the extent permissible under applicable laws, consideration may be given to the person's relationship to the job, how long ago the conviction occurred, the potential risk posed to employees, customers, students, and the University and any other circumstances deemed relevant to the final determination of whether to employ or retain the person. Conviction information is to be maintained by Concessionaire as confidential.
- c. Background checks shall include, at a minimum, the following items:
  1. National Sex Offenders Registry
  2. Statewide Criminal History background check through FL dept. of Law Enforcement
  3. Local criminal records check through local law enforcement agencies

### 3.16 **Food and Beverage Price - Automatic Price Adjustment**

Subject to 3.2(i) above:

- a) Menu items may be changed at any time upon mutual agreement between University and Concessionaire. Concessionaire shall not change menus, quantities served, quality of product, or prices without prior written approval from the University, which approval the University shall not unreasonably withhold, condition or delay.
- b) All food and beverage prices shall include sales tax and shall be priced as multiples of twenty-five cents (\$0.25) (e.g. \$4.00, \$4.25, \$4.50, etc.).
- c) **Concessionaire must submit a request indicating their desire to have annual price adjustment, 60 days prior to July 1<sup>st</sup> of each Contract Year.** If Concessionaire does not request an annual adjustment prior to the deadline, the University is not required to provide an adjustment for the year in question. Price adjustments are not retroactive.
- d) Annual Adjustment of Menu Prices: Food and beverage prices for the "General-Admissions" menu items are subject to an annual price adjustment as described below in Sections 3.16.1 and 3.16.2. For calculating the price adjustment, the average price of all

the menu items (except Alcoholic Beverages and promotional priced items) will be used. The price change calculated will then be applied equally to the individual menu items.

3.16.1 When an annual price adjustment calculation is performed the “actual” price adjustment applied will be determined by rounding (up or down) the “calculated” price to the nearest \$0.25 (twenty-five cents). **The maximum price increase in any year is twenty-five cents (\$0.25) per item.**

- a. Example 1 (increase occurs): If the “calculated” price change is between \$0.13 and \$0.25 the “actual” price shall increase by \$0.25. In example, if the original price was \$4.00 and the calculated price change was an increase of \$0.13, the new price of the item would be set as \$4.25.
- b. Example 2 (no increase): If the “calculated” price change is less than \$0.13 then there would not be any increase applied.
- c. In the event of the situation described in Example 2 (above), when calculating the current year adjustment, where the previous year did not have a price increase applied, the calculated number from that previous year’s calculation would then be added to the current year’s calculated change.
  - i. For example, if the calculated price change for Year 1 was \$0.08 (so no price adjustment was made for Year 1), then in the Year 2 calculation the \$0.08 from Year 1 would be added to the calculated price change for Year 2. Then if in Year 2 the calculated price change was \$0.07, the total the calculated price change would be  $\$0.08 + \$0.07 = \$0.16$  (which results in Year 2 price increase).

3.16.2 Food and beverage pricing changes (for food and beverage served in the General-Admission Seating/Areas) will be adjusted in accordance with the PPI, not seasonally adjusted, over the time period specified, as described below.

- a) The first annual price adjustment shall be applied to those items listed in Attachment B as provided by Concessionaire in its Offer. **Any item not listed on Attachment B is not subject to the annual price adjustment in the second Contract Year.** The University and Concessionaire may add and/or remove menu items from the Attachment B list as mutually agreed to.
- b) Price adjustments shall take effect July 1<sup>st</sup> of each Contract Year of the Agreement, unless otherwise mutually agreed upon between the parties.
- c) The calculation will use the most currently available PPI data. The calculation will compare the “base period” (i.e. June of the prior year) with the “current period” (i.e. June of the current year). All calculations shall be made based on the (preliminary) PPI data available at the time of the calculation (i.e. June data) and shall not be adjusted later in the event the data is later revised by the BLS.

Example: If the contract start date is February 1, 2019, then the first price adjustment, if any, would take effect on July 1, 2020. The calculation is as follows:

- i. The first price adjustment calculation would be based on the published PPI data for the most currently available PPI data available in June 2020 (the “Current” period) and the PPI data for the same month in the previous year (the “Base” period). If the published index for the Base period was 195.5 and the published index for the Current Period is 200.5, the index change would be 5.0 (e.g. the “Current period index – Base period index”), and the percentage change of the index would then be 2.58% (e.g.  $5.0 / 195.5 = 0.0258 = 2.58\%$ ) (the “Index Change divided by Base period index”).
- ii. Then if the price of an item was \$5.00, the price adjustment for that item would be an increase of \$0.13 (e.g.  $\$5.00 \times 2.58\% = \$0.129$ ).
- iii. If the price of the item was \$4.00, the price adjustment for that item would be \$0.10 (e.g.  $\$4.00 \times 2.58\% = \$0.10$ ).

The provisions of this Section 3.16 shall not apply to the prices of any item offered (1) that features products of suppliers who purchase advertising from the University or (2) where Concessionaire’s cost to produce such item materially increases. In each case, the parties agree that the prices of such items or other terms of this Agreement may be adjusted from time to time to maintain profitability of the sale of each item.

### **3.17 Tender Types**

- a. Tender Types. At a minimum, the Concessionaire shall accept cash, major credit cards, and bank debit cards) at all permanent and portable concessions stands locations in the Venue and Arena. The Concessionaire shall be solely responsible for all expenses and collection of debts resulting from cash, credit cards, and bank debit card transactions.
- b. UCF Campus Card. (a.k.a. Knights Cash). Concessionaire in not required to accept the campus card (“Campus Card”). However, the University desires that Concessionaire accept the Campus Card wherever the infrastructure is available (i.e. stand has network access). To accept the Campus Card a “UCF card reader” with network access is required. If Concessionaire proposes/agrees that it will accept the Campus Card then it shall, lease the card-reader hardware and obtain/purchase the network access, from the University at its sole expense. Campus Card transactions are administered by the UCF Business Services department. Business Services will reconcile and reimburse the Concessionaire on a monthly basis for all Campus Card transactions. The Concessionaire shall pay a one percent (1%) transaction fee to Business Services for administration of Campus Card transactions. The Concessionaire shall not increase the price of goods and or services to Campus Card customers in order to offset the Campus Card transaction fee. The Concessionaire and University will periodically review cost effectiveness of accepting the Campus Card.

### **3.18 Technology Compliance**

- a. POS-Cash Register equipment: Concessionaire shall utilize electronic Cash Registers and/or utilize networked Point-of-Sale equipment, at all permanent and portable Concessions Stands, and to track/record the individual items sold by date/time, price, quantity sold, serving size, per sale/stand/event location (i.e. capture sales trends).

- b. Network; PCI Compliance. The University shall provide a segmented network for the Point-of-Sale system and shall be responsible for the security of its network. The Concessionaire shall comply with UCF's Payment Card Industry Data Security Standard (PCI DSS) Policy specified in Appendix VII, except the requirements in Section D.1. of such Appendix.
- c. Europay, MasterCard, And Visa (EMV) Compliance. The Concessionaire is responsible for compliance with EMV standards for authorizing credit and debit card transactions and shall be solely responsible for the losses resulting from non-compliance. Concessionaire may choose to not implement full EMV standards (i.e. not using chip readers and pin technology in order to increase the speed of transactions, etc.) and would be solely responsible for any resulting losses.
- d. Customer Data. Customer data shall not be shared or sold by the Concessionaire without the express written approval of the customer. The Concessionaire shall comply with all requirements regarding the secure handling of UCF Data as described in Appendix V, "Secure Handling of UCF Data."

### **3.19 Financial Reporting And Recordkeeping**

- a. Concessionaire shall provide the University with daily sales reports in accordance with Section 2.32.
- b. Concessionaire shall maintain all accounting records for the Food and Beverage Services performed at the Facilities in a format approved by the University at the on-site office. The accounting records shall be available for audit by the University, UCFCC or its designee with reasonable advanced notice, during Concessionaire's regular business hours, throughout the Term of the Agreement at the on-site office, and for three (3) years following the Term of the Agreement at the Concessionaire's main office. If such audit shows a deficiency in payments by the Concessionaire for any Accounting Period covered, Concessionaire shall promptly pay the University the amount of the deficiency. If such audit shows a deficiency in excess of three percent (3%) Concessionaire shall promptly reimburse the University for the reasonable, out-of-pocket costs incurred by the University to conduct the audit.
- c. Concessionaire shall use University-approved hardware and University-approved accounting software, for all Concessionaires financial records, invoices, and all accounting functions and the parties agree that the hardware and software that Concessionaire currently uses is approved.
- d. Concessionaire shall maintain a separate commercial bank account in Orlando, Florida, for all sales deposits.
- e. Cash shortages may not be deducted from Gross Receipts or Commissions.
- f. Bad debts, unless the University or UCFCC required Concessionaire to extend credit, may not be deducted from Gross Receipts or Commissions.



- g. The University shall have access to all sales, POS and management reports, but only to the extent that providing the University with such access does not, in Concessionaire's reasonable opinion, cause Concessionaire to be in violation of any applicable laws, rules or regulations.
- h. Concessionaire and the University shall inventory all Equipment, and Leasehold Improvements and Smallwares, on an annual basis to determine what replacements and repairs are required.
- i. Concessionaire shall maintain all sales tax licenses and operating permits necessary to perform the Services.

**3.20 Payment Terms**

- a. The Concessionaire agrees to pay the University Commissions in accordance with Section 2.32 above and Section 4 below.
- b. Material Breach:
  - i. Reference Section 2.4
- c. Remit payments to the following address:

**UCF Convocation Corporation  
PO Box 662150  
Orlando, FL 32816 - 3222**

**3.21 Investment Requirements**

- a. Ownership of Equipment. Once identified, the specific Equipment purchased with the Investment shall be set forth in a writing to be signed by the parties and updated by the parties from time to time as necessary to reflect any replacements or substitutions thereof. All Technology Equipment purchased with the Investment, including any replacements or substitutions thereof, shall be owned by Concessionaire. All other Equipment (i.e. Equipment that is not Technology Equipment) purchased with the Investment shall be owned by the University. The University hereby grants to Concessionaire a first priority lien on, and security interest in, the Equipment purchased using the Investment (with the exception of the Technology Equipment), including any replacements, substitutions, additions, attachments and proceeds thereof, to secure the University's obligation to pay Concessionaire the Buyout Amount. The University hereby authorizes Concessionaire to file such financing statements and other instruments as Spectra deems necessary to perfect the security interest granted by the University herein. Concessionaire's rights as a secured creditor shall be governed by and in accordance with the terms of the Uniform Commercial Code then in effect in the State of Florida. For the avoidance of doubt, upon expiration of this Agreement (or earlier termination thereof and payment of the Buyout Amount), Concessionaire shall no longer hold a lien on, or security interest in, the Equipment. For the sake of clarity, nothing in this paragraph shall be construed as requiring Concessionaire to replace any Equipment at its own cost.

- b. Depreciation. The portion of the Investment used to purchase Equipment that is not Technology Equipment under the Prior Agreement shall be amortized on a straight line basis over a five (5) year period (at the rate of 1/60 per month) commencing on August 18, 2017. The cost of each item purchased using the portion of the Investment used to purchase Equipment that is not Technology Equipment during the first Contract Year of this Agreement shall be amortized on a straight line basis over the number of months remaining during the Term at the time of purchase. If the University exercises the Renewal Option in accordance with Section 2.3, the cost of each item purchased using the Additional Investment shall be amortized on a straight line basis over the number of months remaining during the Term at the time of purchase. Upon the natural expiration or early termination (for any reason whatsoever, including without limitation if due to a breach, default or bankruptcy event by or affecting Concessionaire) of this Agreement, University shall immediately pay to Concessionaire the unamortized amount of the Investment (the “Buyout Amount”). In the event that University fails to repay Concessionaire the Buyout Amount upon termination or expiration of this Agreement in accordance with the terms hereof, the Buyout Amount shall accrue interest at the rate of one and a half percent (1.5%) per month, or the highest rate permitted by law, whichever is less, and Concessionaire may, at its sole option, (a) continue to perform the Services at the Facilities and be paid for such services as provided hereunder, notwithstanding its receipt of any termination notice from University or the expiration of this Agreement, and/or (b) peacefully reenter the Facilities, with or without process of law, and remove in a commercially reasonable manner the improvements or equipment remaining at the Facilities and retain or dispose of such improvements or equipment as Concessionaire sees fit. In either event, Concessionaire shall retain its right to receive the Buyout Amount. University covenants and agrees not to permit any liens or encumbrances to attach to the leasehold improvements and equipment purchased with the Investment, and hereby waives any right to attach any claim, lien, or attachment to such improvements or equipment. The rights of Concessionaire set forth in this paragraph shall be in addition to any other rights of Concessionaire at law or in equity.
  
- c. University Approvals. Any Leasehold Improvements made using the Investment must meet University’s design and construction standards; must be approved in advance by the University; must comply with all procurement and permitting regulations and all laws; and must be coordinated by the Concessionaire in conjunction with the University. Any third-party contractor used by the Concessionaire to assist with making Leasehold Improvements must be approved in advance by the University and UCFCC.
  
- d. Accounting Of Investment. The Concessionaire shall provide the University with a full accounting of items purchased using the Investment, including copies of invoices paid to vendors for the Investment.
  
- e. Investment Difference. If the total actual amount spent by the Concessionaire on the Investment is less than what is set forth in Section 4 below, then the Concessionaire shall pay the University the difference between the actual amount spent and the amount set forth in Section 4, payable no later than twelve months prior to the Contract’s natural expiration date.
  
- f. Timing Of Facility Investment. See Section 4.

### 3.22 “Promotions”

- a. The University and Concessionaire may mutually agree to run promotions on certain food and beverage items on a “temporary basis”, from time to time, where such promotion could be used to reduce the pricing of a specific menu item, change the quantity of foods/beverages provided, add a new product, or some combination thereof.
- b. In the event the Promotion is expected to reduce the profits of Concessionaire during the time the promotion is running, the University and Concessionaire will then mutually agree on how the Promotion impacts Concessionaire’s profit/costs and the compensation or adjustment Concessionaire is to receive, if any.
- c. Concessionaire and UCFCC must mutually agree to any changes in compensation, commission rates/scales, or additional fees provided prior to the implementation of the promotion. After the promotion ends, all rates/commissions/prices revert back to those before the promotion was implemented.

## SECTION 4: FINANCIALS

### Commissions

1. Commissions on Gross Receipts. As consideration for the rights granted to Concessionaire hereunder, Concessionaire shall pay University a percentage of Gross Receipts in accordance with the following schedule:

<u>Category</u>	<u>Total Gross Receipts per Contract Year</u>	<u>Commission on Gross Receipts</u>
Concession Sales*	\$0 to \$750,000	36.0%
	In excess of \$750,000	42.5%
Alcohol Sales*	\$0 to \$500,000	40.0%
	In excess of \$500,000	44.0%

\*The foregoing Commissions shall be calculated on an incremental, step-scale basis, as opposed to being retroactive back to dollar 1.

2. Subcontractor Sales. Concessionaire shall pay University twenty-five percent (25%) of Net Subcontractor Sales. For the sake of clarity, the parties acknowledge that Concessionaire shall not be obligated to pay University any other payments with respect to Subcontractor Sales. Gross Subcontractor Receipts shall not exceed 20% of Total Receipts in any 12-month period during the Term. Should Gross Subcontractor Receipts in any 12-month period exceed 20% of Total Receipts, Concessionaire shall remit to the University an amount equal to Commissions that would have been due on the incremental Gross Subcontractor Receipts had such Gross Subcontractor Receipts been Gross Receipts. By way of example only, if Total Receipts from Concessions Sales equal \$1,000,000 and Gross Subcontractor Receipts total \$250,000, Concessionaire shall pay the University: (1) 25% of the Net Subcontractor Sales on

the first \$200,000 in Gross Subcontractor Receipts, plus (2) 42.5% of \$50,000, i.e. \$21,250.

3. In the event of a twenty percent (20%) or more increase in local operating costs incurred by Concessionaire to perform its services hereunder, which costs are outside the reasonable control of Concessionaire, Concessionaire may notify University that it desires to renegotiate the financial terms of this Agreement so that Concessionaire is not negatively impacted by such cost increase. In such case, Concessionaire and University shall in good faith renegotiate such terms for a period of at least 30 days. If the parties are unable to come to agreement on such terms, Concessionaire shall have the right to terminate this Agreement upon 120 days prior written notice to University. Notwithstanding the foregoing, the risk of an increase in the cost of procuring food and beverage products from vendors/suppliers shall be borne by Concessionaire and shall not trigger Concessionaire's right to renegotiate under the terms of this paragraph.

#### **Facility Investment**

- a. Concessionaire agrees to invest up to (but not to exceed) \$250,000 in the first Contract Year at the Facilities for Equipment dedicated to the Services to be performed by Concessionaire hereunder (which shall include a cost equal to 4% of the equipment purchased as an administrative fee for purchasing such Equipment, on-site project management and Concessionaire out-of-pocket expenses in connection therewith). The actual amount invested by Concessionaire hereunder is referred to herein as the "Investment". \$125,000 of the Investment shall be used for the purchase of Technology Equipment and the remaining \$125,000 shall be used for the purchase of Equipment that is not Technology Equipment. The parties may mutually agree to spend any remaining Investment funds allocated to Technology Equipment on Equipment that is not Technology Equipment and vice versa. In the event additional amounts are required to complete the Food and Beverage Areas, or to provide Equipment and/or Smallwares so as to enable Concessionaire to perform the Services to a reasonable standard, University shall be solely responsible for such amounts. If the University exercises the Renewal Option in accordance with Section 2.3, Concessionaire shall provide an additional Investment in the amount of \$40,000 for the purchase of Equipment during the sixth Contract Year ("Additional Investment"). University and Concessionaire shall mutually agree upon the specific Equipment and other improvements to be purchased or made with the Investment, as well as the location for such improvements or installation of such Equipment.
- b. The parties acknowledge that Concessionaire made certain investments in the Facilities during the course of performing services under the Prior Agreement and that such investments shall count towards Concessionaire's obligation to invest up to \$250,000 in the Facilities that is described in subsection (a) above. Specifically, the parties acknowledge that \$53,100.00 was spent under the Prior Agreement to purchase Technology Equipment and that \$49,190.56 was spent under the Prior Agreement to purchase Equipment that was not Technology Equipment. Accordingly, the total amount that Concessionaire shall invest in the first Contract Year at the Facilities for Equipment dedicated to the Services shall be \$147,709.44, comprising \$71,900.00 to purchase Technology Equipment and \$75,809.44 to purchase Equipment that is not Technology Equipment.

#### **National, Regional, and Local Brands\* proposed by Concessionaire to be used at the Arena**

Subject to Section 3.2(i) above: The use of any of brand(s) shall be determined by Concessionaire and reasonably approved by the University. The University shall have the right to approve in advance of any use of Subcontractors by Concessionaire, which approval shall not be unreasonably withheld. The following brands may be used by Concessionaire:

1) Spoleto – My Italian Kitchen	2) Jimmy Hula's
3) 4 Rivers Smokehouse	4) Fuji Yama Sushi
5) Bubbalou's Bodacious BBQ	6) Boar's Head Cafe
7) Haagen-Dazs	8) Dippin' Dots
9) Chick-Fil-A	10) Nathan's (sponsorship limitations may apply)
11) Papa John's (sponsorship limitations may apply)	



IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on behalf of such party by an authorized representative as of the effective date set forth above.

**UNIVERSITY OF CENTRAL FLORIDA  
BOARD OF TRUSTEES**

**OVATIONS FOOD SERVICES, L.P.  
d/b/a SPECTRA FOOD SERVICES &  
HOSPITALITY**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed: Dale Whittaker

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

Title: President

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

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

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

Signature: \_\_\_\_\_

Printed: Misty Shepherd

Title: Interim Vice President of  
Administration and Finance

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

**ATTACHMENT A****UCF OWNED/PROVIDED EQUIPMENT****Arena concessions equipment list****Quantity Location-Room# /Description****2009**

4 Cash Register  
 2 Dasani Cooler (Coke)  
 2 Fountain Drink Station (Coke)  
 3 Smoothie/frozen drink station  
 1 Three compartment sink  
 1 Serve well, UCF# 4940 CF136852  
 1 Hatco (food warmer), UCF#4940 CF136851  
 1 Norlake (low boy freezers) M:OF20255/9 S:05060640

**2017**

4 Cash Register  
 2 Dasani Cooler (Coke)  
 3 Fountain Drink Station (Coke)  
 1 hotdog  
 2 steam n hold  
 1 Three compartment sink  
 1 Serve well, UCF:4940 CF 136846  
 1 Hatco (food warmer) UCF:4940 CF 136847  
 1 Blue Air (fridge), M:BSR23T S:BTBIA94FB00001  
 1 Citation Warmer, UCF:4940 CF 134304 M:2025ST

**2025**

4 Cash Registers  
 2 Dasani Cooler (Coke)  
 3 Fountain Drink Station (Coke)  
 2 steam n hold  
 1 Three compartment sink  
 1 Hatco (food warmer) UCF:4940 CF 136840  
 1 Citation Warmer UCF:4940 CF 136855 M:2025ST  
 1 Norlake (double freezer) UCF:4940 CF 136844 M:NF522555/0 S:07080285  
 1 Norlake (powered food prep station)  
 3 Fryer vats  
 2 Grill, UCF:4940 CF 136838, UCF:4940 CF 136839  
 1 Manitowoc (Ice) UCF:4940 CF 136874

**2029**

- 6 cash Registers
- 2 Dasani Cooler (Coke)
- 3 Fountain Drink Station (only one is attached) (Coke)
- 1 Norlake (double freezer) UCF:4940 CF 136865 M:NF522555/0 S:06111634
- 1 Norlake (double fridge) UCF:4940 CF 136864 M:NF522555/0 S:07080283
- 1 Victory (freezer) M:FA 10 87 S:H0750730

**2033**

- 4 cash Registers
- 1 Dasani Cooler (Coke)
- 3 Fountain Drink Station (Coke)
- 1 Three compartment sink
- 1 Dip n' Dots (small freezer)
- 1 Ice cream (medium cooler)
- 2 Blue Bell (small cooler)
- 1 Portable popcorn machine
- 4 Portable beer carts
- 3 drinks rollers (red)

**2043**

- 5 cash Registers
- 1 Dasani Cooler (Coke)
- 3 Fountain Drink Station (Coke)
- 1 hotdog
- 2 steam n hold
- 1 Three compartment sink
- 1 Hatco (food warmer) UCF:4940 CF 136840
- 1 Citation Warmer UCF:4940 CF 136855 M:2025ST
- 1 Norlake (double freezer) UCF:4940 CF 136844 M:NF522555/0 S:07080285
- 1 walk in cooler (Norlake)
- 1 ice machine (Manitowoc)

**2049**

- 4 cash Registers
- 2 Dasani Cooler (Coke)
- 1 Three compartment sink
- 4 Portable Bar

**KnightFaire 1**

- 2 Fountain Drink station (Coke)
- 2 Ice machine
- 1 Dasani (small) cooler (Coke)

**KnightFaire 2**

- 1 Fountain Drink station (Coke)

**Attachment B**  
**General Seating Area Menu and Pricing**

ITEM	SIZE	PRICE
<b>4150-3010 Candy</b>		
Candy, Peanut M&Ms	3.5oz Box	\$4.50
Candy, M&Ms	3.5oz Box	\$4.50
Candy, Skittles	3.5oz Box	\$4.50
Candy, Sour Patch Kids	3.5oz Box	\$4.50
Candy, Fruit Snacks	3.5oz Box	\$4.50
<b>4150-3020 Coffee/Hot Chocolate</b>		
Hot, Chocolate	12oz	\$3.00
Hot, Coffee	12oz	\$3.00
Hot, Tea	12oz	\$3.00
<b>4150-3030 Popcorn</b>		
Snack, Student Popcorn	44oz	\$2.00
Snack, Small Popcorn	85oz	\$4.00
Snack, Large Popcorn	130oz	\$6.00
<b>4150-3040 Ice Cream</b>		
Ice Cream Bar, Orgn Crm	3oz	\$4.00
Fruit Bar, Stwby lw	3.5oz	\$4.00
Ice Cream Cup, Choc	3.6oz	\$4.00
Ice Cream Cup, Vnl	3.6oz	\$4.00
Ice Cream Sandwich, Vnl	6oz	\$4.00
Ice Cream, Vnl Crc Dibs	4oz	\$4.00
<b>4150-3050 Soft Drink - Fountain</b>		
Fountain, 22oz Soda	24oz	\$4.00
Fountain, Souvenir Soda	32oz	\$6.00
Fountain, Souvenir Refill	32oz	\$3.00
<b>4150-3060 Bottle Soft Drink/Water</b>		
Bott, 20oz Dasani Water	20oz	\$4.00
Bott, 20oz Dasani Water Student Discount	20oz	\$2.00
Bott, 1L Smart Water	LTR	\$6.00



Bott, 20oz Coke	20oz	\$4.50
Bott, 20oz Coke Zero	20oz	\$4.50
Bott, 20oz Diet Coke	20oz	\$4.50
Bott, 20oz Fanta Orange	20oz	\$4.50
Bott, 20oz Minute Maid Lemonade	20oz	\$4.50
Bott, 20oz Powerade	20oz	\$4.50
Bott, 20oz Sprite	20oz	\$4.50
Bott, Gold Peak Tea	16.9oz	\$4.50
Bott, Dunkin Ice Coffee		\$5.00
Can, Monster Energy Drink	20oz	\$5.00
<b>4150-3070 Hot Dog/Sausage</b>		
Hot Dog	7" Tray	\$4.00
Hot Dog, \$2 Dog	7" Tray	\$2.00
Hot Dog, Chili Cheese	7" Tray	\$6.00
Hot Dog, Chili Cheese Basket	3lb Boat Blk	\$9.00
Hot Dog, Footlong	footlong tray	\$8.00
Hot Dog, The Knight Dog topped with pulled pork	3lb Boat	\$10.00
Sausage, Smoked	7" Tray	\$7.00
Sausage, Chorizo	7" Tray	\$7.00
Italian Sausage w/ Peppers and Onions	3lb Boat	\$8.00
<b>4150-3080 Burgers/Sandwiches</b>		
Burger, BBQ Bacon Cheddar	3lb Boat	\$10.00
Burger, The Knight	3lb Boat	\$10.00
Burger, The Imposible	3lb Boat	\$12.00
Sandwich, Biscuit	Spectra Wrap	\$3.00
Sandwich, Texas Toast	Spectra Wrap	\$4.00
<b>4150-3090 Nacho</b>		
Snack, Cheese Cup	2oz cup	\$1.00
Snack, Nacho -Cheese, Salsa	3 Comp Tray	\$6.00
Bowl, Cuban	16oz Bowl	\$10.00
Sandwich, Cuban	3lb Red Boat	\$10.00
Nacho, Loaded	18oz bowl	\$10.00
Nacho, El Pollo Loco	18oz bowl	\$10.00
Nacho, Mojo Carnitas	18oz bowl	\$10.00
Nacho, Grande	18oz bowl	\$10.00
Taco, El Pollo Loco		\$11.00
Taco, Mojo Carnitas		\$11.00
Taco, Carne Asada		\$12.00

Taco, Vegan		\$10.00
4150-3100 Peanuts/Snacks		
Snack, Peanuts	4oz bag	\$4.00
Snack, Cracker Jacks	3.5oz Box	\$4.00
Snack, Soft Pretzel	5oz	\$4.00
Snack, MM Italian Ice	Cup	\$5.00
Snack, 1.5oz Metro Deli Chips	1.5oz	\$3.00
<b>4150-3110 Fried Foods</b>		
Chicken Tender Basket	2lb BLk Tray	\$9.00
Buffallo Tender Basket	2lb BLk Tray	\$3.00
Chicken Tender Wrap	5lb Boat	\$9.00
Fry Cup	Fry Cup	\$3.00
Tator Tots	Fry Cup	\$4.00
Speciality Fries	3lb Boat	\$9.00
Onion Ring Cup	Tray	\$9.00
Mozzarella Sticks	2lb boats	\$10.00
Fried pickles	2lb boats	\$10.00
<b>4150-3130 Health Foods</b>		
Muffins		\$3.00
Danish		\$3.00
Bagels		\$3.00
Sandwich, Honey Baked Ham	Clear Clam	\$9.00
Wraps, Chicken Ceaser	Tray	\$9.00
Charcuterie Platter	Clear Clam	\$10.00
Hummus & Pita Chips	Clear Clam	\$10.00
Fruit Cup	Clear Cup	\$4.00
Salad, Florida Cobb	Clear Clam	\$9.00
Whole Fruit		\$1.00
<b>4150-3180 Liquor</b>		
20oz Mason Jar ( Specialty Drink)	Can	\$16.00
Liquor, Single	Can	\$8.00
Liquor, Double	Can	\$16.00
Liquor, Single Premium	Can	\$12.00
Liquor, Double Premium	Can	\$22.00
Liquor, Gasoline Pouch	Can	\$9.00
<b>4150-3190 Wine</b>		

Wine, 9oz Cabernet	Can	\$9.00
Wine, 9oz Chardonnay	Can	\$9.00
Wine, 9oz Moscato	Can	\$9.00
Wine, 9oz Pinot Noir	Can	\$9.00
<b>4150-3200 Canned Beer</b>		
16oz Bud	Can	\$7.00
16oz Bud Lt	Can	\$7.00
16oz Corona	Can	\$8.00
16oz Coors Lt	Can	\$7.00
16oz M. Ultra	Can	\$7.00
16oz Miller Lt	Can	\$7.00
16oz Modelo	Can	\$7.00
16oz Funky Buddha	Can	\$8.00
16oz Jai	Can	\$8.00
16oz Goose Island	Can	\$8.00
16oz Kona Big Wave	Can	\$8.00
24oz Bud Lt	Can	\$11.00
24oz M. Ultra	Can	\$11.00
24oz Corona	Can	\$12.00
24oz Modelo	Can	\$12.00
24oz Pacifico	Can	\$12.00
24oz Yuengling	Can	\$11.00
<b>4280-4500 Sub Contractors</b>		
Cheese Pizza	Subs	\$8.00
Pepperoni Pizza	Subs	\$8.50
Chicken Poppers	Subs	\$6.00
BBQ Nachos	Subs	\$8.00
BBQ Brisket	Subs	\$10.00
BBQ Pulled Pork	Subs	\$9.00
Belly Buster Hot dog	Subs	\$8.00
Nathan Hotdog	Subs	\$5.00
BBQ Beans	Subs	\$3.00
Coleslaw	Subs	\$3.00
Garlic Sauce	Subs	\$1.00
Chips	Subs	\$3.00
Mac N Cheese	Subs	\$3.00

**Attachment C****Performance Metrics**

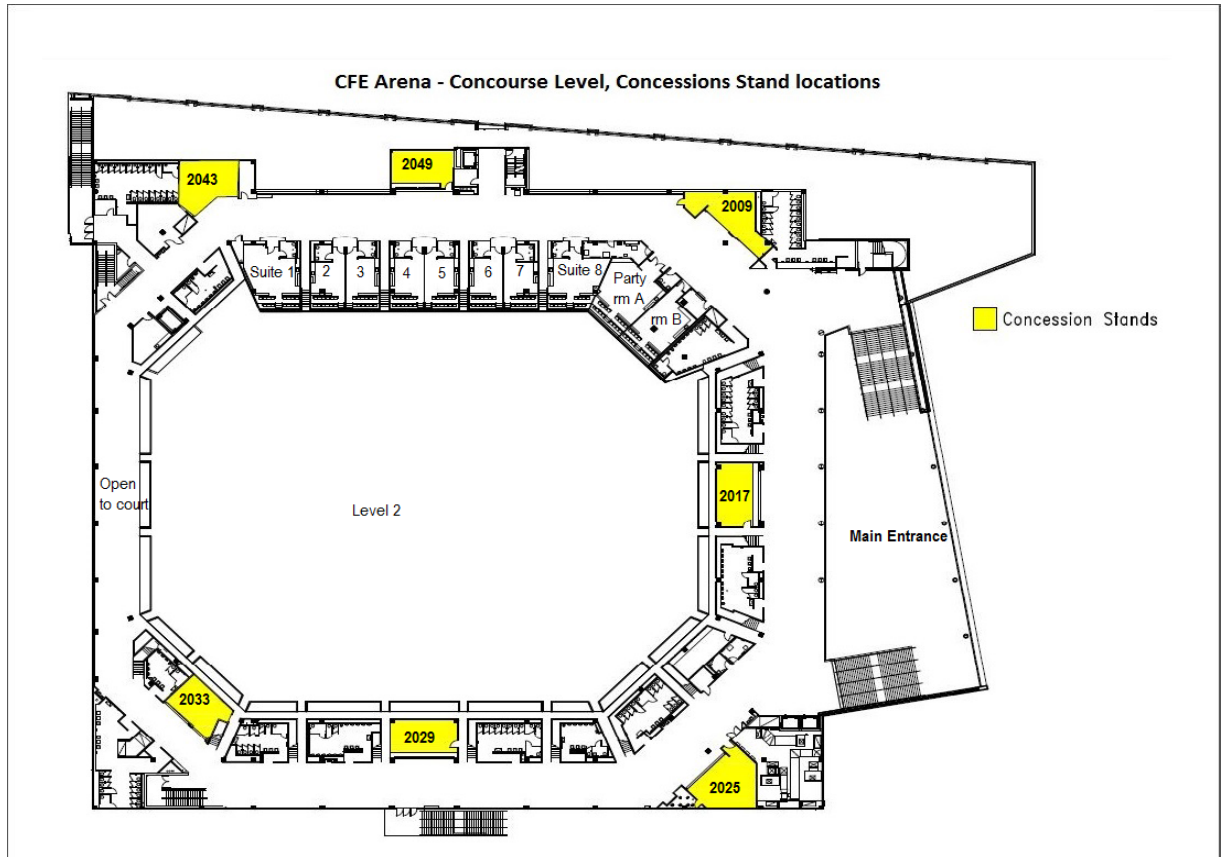
<b>Strategic Objective</b>	<b>Description</b>	<b>Metric</b>	<b>Measurement Frequency</b>	<b>Pass</b>	<b>Fail</b>
Time in Line	Minimize the 'wait time' or time in line for customers	UCFCC to perform random inspections based upon mutually agreed upon acceptable wait times by location; passing is 90% at or below specified wait time	Quarterly		
Health/Safety	Inspections by Florida Department of Health or other regulating food service authority having jurisdiction on UCF property	No unsatisfactory inspection reports; No violations of Occupational Safety and Health Act	As reported by authority having jurisdiction		
Training	Customer service excellence	Concessionaire is to certify staff and NPO groups receive orientation and basic food safety training prior to staffing events; Passing is 100% of staff trained	Quarterly		
Training	TIPS or Responsible Vendor Alcohol Service Training	Concessionaire is to certify staff serving/selling alcohol is TIPS or Responsible Vendor trained; Passing is 100% of staff trained	Quarterly		
Facilities	Quality and consistency of execution of Concessionaire's sanitation, maintenance and repair responsibilities	Random inspections for sanitation and/ or equipment/ facility condition conducted by UCFCC with/without Concessionaire representative based upon mutually agreed upon checklist; Passing is 90% positive inspections. Checklist established within one month of contract execution	Monthly		

<b>Strategic Objective</b>	<b>Description</b>	<b>Metric</b>	<b>Measurement Frequency</b>	<b>Pass</b>	<b>Fail</b>
Staff	Presentation and Appearance	Full compliance to established appearance and uniform standards based on documented pre-event checks of employees; Passing is 90% compliance	Monthly		
Customer Satisfaction	Secret shopper experience and feedback	Satisfactory rating on secret shopper reports; Passing is 80% satisfactory rating (excludes price ratings)	Quarterly		
Customer Satisfaction	Customer experience and feedback	Satisfactory rating on random mutually agreed on guest surveys during/after events; Passing is 80% satisfactory rating (excludes price ratings)	Semi-Annually		
Food and beverage quality	Maintain a level of satisfaction with quality of food and beverage	Satisfactory rating on quality of food and beverage; Passing is 90%	Semi-Annually		



**Attachment D**

**Arena Layout**



Attachment B

ITN1724NCSA Concession Food Services Management for UCF Convocation Corporation

Awarded to Ovations Food Services, L.P. dba Spectra Food Services & Hospitality (Spectra)

Agreement Overview

Spectra will provide concession food and beverage management services for the general admissions seating/areas at the CFE Arena and Venue. This contract does not include servicing the premium seating areas, nor does it include catering services.

Upon execution of this agreement, the temporary agreement executed on August 18, 2017 between UCF Convocation Corporation (UCFCC) and Spectra will expire.

Contract Term

The agreement will be for five (5) years and four (4) months, beginning on February 1, 2019 and expiring on June 30, 2024. The University shall have the option to renew the agreement for a mutually agreed renewal term of five (5) years.

Financials

*Capital Investment:* Spectra will invest \$250,000 (\$125,000 facility investment and \$125,000 technology investment). Facility and technology investments provided by Spectra includes qualifying amounts spent under the temporary agreement dated August 18, 2017. The investment spent under the temporary agreement includes \$49,190.56 in the facility and \$53,100 in technology. Investment funds may be used interchangeably between categories.

UCF/UCFCC in collaboration with Spectra will have flexibility in determining the allocation of the investment. Investments made during the temporary agreement shall depreciate on a straight-line basis from August 18, 2017 over a five-year period. All other investments shall be fully depreciated on a straight-line basis over the number of remaining months on the contract, from date of purchase, with no interest accumulated. If the agreement is renewed, Spectra will invest an additional \$40,000 in year 6 and shall be fully depreciated over the five-year renewal term.

All capital investments and fixtures will become the property of UCFCC. If the contract, or extensions thereto, ends for any reason, then UCFCC will reimburse Spectra for the undepreciated portion of the capital investment in the arena facilities, and all capital investments and fixtures shall become the property of the UCFCC.

If the actual amount spent by Spectra on the facility investment is less than \$250,000 then Spectra shall pay UCFCC the difference between the actual amount spent and the amount offered, payable by no later than twelve months prior to the agreement's natural expiration date. No UCF/UCFCC funds will be used.

*Commissions:* Spectra will pay UCFCC commissions on gross receipts as follows:

Category	Total Gross Receipts per Contract Year	Commission on Gross Receipts
Concession Sales	\$0 to \$750,000	36.0%
	In excess of \$750,000	42.5%
Alcohol Sales	\$0 to \$500,000	40.0%
	In excess of \$500,000	44.0%

Subcontract Sales (Net Sales) shall be 25.0% commission.

#### Pricing

Menu items and pricing are mutually agreed upon between UCFCC and Spectra in writing. All food and beverage prices include sales tax and are priced in multiples of twenty-five cents (\$0.25) (e.g. \$4.00, \$4.25, \$4.50, etc.) Spectra may request price adjustments 60 days prior to July 1<sup>st</sup> of each contract year. Due to the timing of this contract award, a price adjustment may not be requested before July 1, 2020.

UCFCC and Spectra reviewed pricing of items relative to fan experience (ie, water, popcorn, hot dogs, etc.) Local sports arenas and other university arenas were surveyed and the pricing at UCFCC is within market pricing for a commission structured agreement; in most cases, the pricing at UCFCC is equal to or better. Pricing will be surveyed annually to ensure UCFCC is within market pricing.

Spectra has agreed to add a minimum of 2 combo deals in all open permanent concession stands and additional kid items to the menu offering. Additionally, the concession stand behind the student section offers special priced items (i.e., \$2 hotdogs, \$2 water) with a valid student id. Spectra will agree to reductions in pricing as requested by UCFCC, where appropriate, however, this will have a direct effect on the commissions received by UCFCC. For example, if an item is priced 25% less, then the commission received by UCFCC will be reduced by 25%, etc. Using water as an example, UCFCC currently sells water at \$4 and based on prior year records, received commissions of \$32,891.04; selling water at \$3 would have reduced commissions to \$24,668.28. UCFCC maintains that it prefers not to reduce prices since commissions will be lost.

#### Performance Metrics

UCFCC will measure the level of customer service and contract compliance by Spectra. The metrics are listed below.

Strategic Objective	Description	Metric	Measurement Frequency	Pass	Fail
Time in Line	Minimize the 'wait time' or time in line for customers	UCFCC to perform random inspections based upon mutually agreed upon acceptable wait times by location; passing is 90% at or below specified wait time	Quarterly		

<b>Strategic Objective</b>	<b>Description</b>	<b>Metric</b>	<b>Measurement Frequency</b>	<b>Pass</b>	<b>Fail</b>
Health/Safety	Inspections by Florida Department of Health or other regulating food service authority having jurisdiction on UCF property	No unsatisfactory inspection reports; No violations of Occupational Safety and Health Act	As reported by authority having jurisdiction		
Training	Customer service excellence	Concessionaire is to certify staff and NPO groups receive orientation and basic food safety training prior to staffing events; Passing is 100% of staff trained	Quarterly		
Training	TIPS or Responsible Vendor Alcohol Service Training	Concessionaire is to certify staff serving/selling alcohol is TIPS or Responsible Vendor trained; Passing is 100% of staff trained	Quarterly		
Facilities	Quality and consistency of execution of Concessionaire's sanitation, maintenance and repair responsibilities	Random inspections for sanitation and/ or equipment/ facility condition conducted by UCFCC with/without Concessionaire representative based upon mutually agreed upon checklist; Passing is 90% positive inspections. Checklist established within one month of contract execution	Monthly		
Staff	Presentation and Appearance	Full compliance to established appearance and uniform standards based on documented pre-event checks of employees; Passing is 90% compliance	Monthly		
Customer Satisfaction	Secret shopper experience and feedback	Satisfactory rating on secret shopper reports; Passing is 80% satisfactory rating (excludes price ratings)	Quarterly		
Customer Satisfaction	Customer experience and feedback	Satisfactory rating on random mutually agreed on guest surveys during/after events; Passing is 80% satisfactory rating (excludes price ratings)	Semi-Annually		

<b>Strategic Objective</b>	<b>Description</b>	<b>Metric</b>	<b>Measurement Frequency</b>	<b>Pass</b>	<b>Fail</b>
Food and beverage quality	Maintain a level of satisfaction with quality of food and beverage	Satisfactory rating on quality of food and beverage; Passing is 90%	Semi-Annually		



**ITEM: AUD-1**

**University of Central  
Florida Board of Trustees  
Audit and Compliance Committee**

**SUBJECT:** Board of Governors' Performance-based Funding Data Integrity Certification  
Audit Report

**DATE:** January 24, 2019

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**PROPOSED COMMITTEE ACTION**

Accept University Audit's report on the Board of Governors Performance-based Funding Data Integrity Certification Process

**BACKGROUND INFORMATION**

As an annual requirement, University Audit has performed an audit of UCF's processes to ensure the completeness, accuracy, and timeliness of data submissions relating to Board of Governors' performance funding metrics.

The results of this audit are to be accepted by the committee including any identified corrective action plans. After acceptance by the committee, the report shall be submitted to the Board of Governors' Office of Inspector General and Director of Compliance no later than March 1, 2019.

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**Supporting documentation:** Attachment A: Board of Governors' Performance-based Funding Data Integrity Certification Process Audit Report

**Prepared by:** Robert Taft, Chief Audit Executive, University Audit

**Submitted by:** Robert Taft, Chief Audit Executive, University Audit

# UNIVERSITY AUDIT

AUDIT 353

DECEMBER 14, 2018

## PERFORMANCE-BASED FUNDING DATA INTEGRITY

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AUDIT OF INTERNAL CONTROLS AND COMPLIANCE  
AS OF SEPTEMBER 30, 2018



UNIVERSITY OF CENTRAL FLORIDA

This work product was prepared in accordance with the International Standards for the Professional Practice of Internal Auditing, as published by the Institute of Internal Auditors, Inc.



UNIVERSITY OF CENTRAL FLORIDA

**University Audit**

Phone: 407-823-2889

P.O. Box 160080

Orlando, FL 32816-0080

**MEMORANDUM**

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TO: A. Dale Whittaker  
President

FROM: Robert J. Taft  
Chief Audit Executive

DATE: December 14, 2018

SUBJECT: Audit of Performance-based Funding Data Integrity

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The enclosed report represents the results of our Performance-based Funding Data Integrity audit.

We appreciate the cooperation and assistance of the staff in Institutional Knowledge Management and UCF IT.

cc: M. Paige Bordon  
Linda Sullivan  
Elizabeth Dooley  
Ronnie Korosec  
Board of Trustees  
Grant Heston

### Background and Performance Objectives

Beginning in 2013-14, the Florida Board of Governors (BOG) implemented a performance-based funding (PBF) model which utilizes 10 performance metrics to evaluate universities on a range of issues, including graduation rates, job placement, cost per degree, and retention rates. According to information published by the BOG in May 2014, the following are key components of the funding model.

- For each metric, institutions are evaluated on either Excellence (a raw score) or Improvement (the percentage change from the prior year).
- Performance is based on data from one academic year.
- The benchmarks for Excellence are based on the BOG 2025 System Strategic Plan goals and analysis of relevant data trends, whereas the benchmarks for Improvement are determined by the BOG after reviewing data trends for each metric.
- The Florida Legislature and Governor determine the amount of new state funding and a proportional amount of institutional funding that would come from each university's recurring state base appropriation.

For 2018-19 funding, each university was evaluated on seven metrics common to all universities, except Florida Polytechnic University, which is not yet eligible to participate in the funding process. The eighth metric applied to all institutions except New College, which had an alternate metric more appropriate to its mission. The ninth metric was chosen by the BOG, focusing on areas of improvement and the distinct missions of each university. The tenth metric was chosen by each university's Board of Trustees (BOT) from the remaining metrics in the University Work Plan.

UCF's metrics were:

1. percent of bachelor's graduates continuing their education or employed (with a salary greater than \$25,000) within the U.S. one year after graduation
2. median wages of bachelor's graduates employed full-time one year after graduation
3. average cost to the student (net tuition per 120 credit hours) for a bachelor's degree
4. four-year graduation rate (includes full-time, first time in college students)
5. academic progress rate (second year retention with a GPA greater than 2.0)
6. bachelor's degrees awarded within programs of strategic emphasis
7. university access rate (percent of fall undergraduates with a Pell-grant)
8. graduate degrees awarded within programs of strategic emphasis
9. percent of bachelor's degrees without excess hours
10. number of bachelor's degrees awarded annually

The Florida Excellence in Higher Education Act of 2018, which was signed into law on March 12, 2018, amending Section 1001.92 F.S., requires the Performance Funding Model to include:

- a four-year graduation rate metric
- the access rate benchmarks to be differentiated and scored to reflect the varying access rate levels among the universities.

The BOG developed a Performance-based Funding Data Integrity Certification form to provide assurances that the data provided by universities is reliable, accurate, and complete. This certification form is to be signed by the university president, affirmatively certifying each of the 12 stated representations or providing an explanation as to why the representation cannot be made as written. The certification form is also to be approved by the university BOT and signed by the BOT chair.

To make such certifications meaningful, the BOG again instructed each university BOT to “direct the university Chief Audit Executive to perform or cause to have performed by an independent audit firm, an audit of the university’s processes that ensure the completeness, accuracy, and timeliness of data submissions.”

#### Audit Objectives and Scope

The primary objective of this audit was to determine the adequacy of university controls in place to promote the completeness, accuracy, and timeliness of data submissions to the BOG, particularly as they relate to PBF metrics. This audit will also provide an objective basis of support for the president and BOT chair to certify the required representations on the data integrity certification form.

Our approach is to audit files related to four of the 10 measures each year so that all measures are tested twice within a five-year cycle. This year’s testing including data files submitted as of September 30, 2018, related to:

- Metric 3: cost of bachelor’s degrees to the student, net tuition and fees per 120 credit hours
- Metric 4: four-year graduation rate for full-time, first time in college students
- Metric 7: university access rate (percentage of undergraduates with a Pell grant)
- Metric 9: percent of bachelor’s degrees without excess hours

We performed a comprehensive review of the controls and processes established by the university to ensure the completeness, accuracy, and timeliness of data submissions to the BOG which supported the PBF metrics during our audit in 2015-16. During our 2016-17 and 2017-18 audit and the current 2018-19 audit, we reviewed any changes to controls and processes.

In addition, we verified the completeness and accuracy of the Hours to Degree (HTD), Courses to Degree (CTD), Student Instruction File (SIF), and Student Financial Aid (SFA) files

submitted to the BOG in support of the measures listed above. By developing our own queries in PeopleSoft and comparing those results to the files submitted to BOG, we were able to test 100 percent of the students submitted for each file.

#### Overview of Results

Based on our audit, we have concluded that UCF's controls and processes are adequate to ensure the completeness of data submitted to the BOG in support of performance-based funding.

Although we found minor errors that resulted in inaccurate or incomplete information being submitted to the BOG for a small number of students, these errors were **immaterial** and had **no impact** on UCF's overall ranking among SUS institutions. Additional details are contained in Table 1.

We believe that our audit can be relied upon by the university president and the UCF Board of Trustees as a basis for certifying the representations made to the BOG related to the integrity of data required for the BOG performance-based funding model.

#### Audit Performance Metrics

Beginning of audit: March 28, 2018

End of fieldwork: October 26, 2018

#### Audit Team Members:

Vicky Sharp, senior auditor, auditor in charge

Robert Taft, chief audit executive, level I reviewer



Table 1 –Issues identified during the audit

Issue #	Description	Impact on UCF's Raw Score	Impact on UCF's Excellence Score	Impact on UCF's Ranking Among SUS Schools	Status of Remediation
1	Seventeen students' entry type information was inaccurate; therefore, these students should not have been included in the Fall 2013 cohort. IKM has made changes to the logic that pulls the application history starting with academic year 2015-2016, which is after the 2013 cohort used in this metric.	By removing these students from the cohort, UCF's four-year graduation rate percentage falls from 43.8% to 43.7%	UCF would have earned only 4 excellence points rather than 5 excellence points.	None	<b>In Progress</b> as of the date of this report  IKM will be submitting adjustments for 2012-13, 2014-15, and 2015-16 cohorts in the January 2019 SUDS cohort adjustments file.
2	The logic in the program used to pull transfer courses used to satisfy students' degree requirements from the "myKnight Audit" academic advising software (implemented in Spring 2016) continues to be adjusted affecting certain students' excess hours on the CTD files used for metric 9, percent of bachelor's degrees without excess hours. We found two students should not have had excess hours, 1 student should have had less excess hours, and two students should have had more excess hours.	None	None	None	<b>Fully remediated</b> as of the date of this report

**ITEM: AUD-2**

**University of Central  
Florida Board of Trustees  
Audit and Compliance Committee**

**SUBJECT:** Performance-based Funding Data Integrity Certification Form

**DATE:** January 24, 2019

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**PROPOSED COMMITTEE ACTION**

Approval for submission of the Performance-based Funding Data Integrity Certification Form to the Board of Governors

**BACKGROUND INFORMATION**

As an annual requirement, UCF is required to complete a Performance-based Data Integrity Certification Form affirming the results of the completed audit report (AUDC-1) and that all representations included in the Performance Data Integrity Certification Form have been fulfilled.

This document is to be signed by the university president and the UCF Board of Trustees Chair and is to be submitted to the Board of Governors' Office of Inspector General and Director of Compliance no later than March 1, 2019.

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**Supporting documentation:** Attachment A: Board of Governors' Performance-based Funding Data Integrity Certification Form

**Prepared by:** Robert Taft, Chief Audit Executive, University Audit

**Submitted by:** Robert Taft, Chief Audit Executive, University Audit



STATE  
UNIVERSITY  
SYSTEM  
of FLORIDA  
Board of Governors

Attachment A  
**Performance Based Funding**  
March 2019 Data Integrity Certification

**University Name:** University of Central Florida

**INSTRUCTIONS:** Please respond “Yes” or “No” for each representation below. Explain any “No” responses to ensure clarity of the representation you are making to the Board of Governors. Modify representations to reflect any noted audit findings.

Performance Based Funding Data Integrity Certification Representations			
Representations	Yes	No	Comment / Reference
1. I am responsible for establishing and maintaining, and have established and maintained, effective internal controls and monitoring over my university's collection and reporting of data submitted to the Board of Governors Office which will be used by the Board of Governors in Performance Based Funding decision-making.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. These internal controls and monitoring activities include, but are not limited to, reliable processes, controls, and procedures designed to ensure that data required in reports filed with my Board of Trustees and the Board of Governors are recorded, processed, summarized, and reported in a manner which ensures its accuracy and completeness.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. In accordance with Board of Governors Regulation 1.001(3)(f), my Board of Trustees has required that I maintain an effective information system to provide accurate, timely, and cost-effective information about the university, and shall require that all data and reporting requirements of the Board of Governors are met.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4. In accordance with Board of Governors Regulation 3.007, my university shall provide accurate data to the Board of Governors Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. In accordance with Board of Governors Regulation 3.007, I have appointed a Data Administrator to certify and manage the submission of data to the Board of Governors Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

## Performance Based Funding Data Integrity Certification

Performance Based Funding Data Integrity Certification Representations			
Representations	Yes	No	Comment / Reference
6. In accordance with Board of Governors Regulation 3.007, I have tasked my Data Administrator to ensure the data file (prior to submission) is consistent with the criteria established by the Board of Governors Data Committee. The due diligence includes performing tests on the file using applications/processes provided by the Board Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7. When critical errors have been identified, through the processes identified in item #6, a written explanation of the critical errors was included with the file submission.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. In accordance with Board of Governors Regulation 3.007, my Data Administrator has submitted data files to the Board of Governors Office in accordance with the specified schedule.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The 2016 HTD file was delayed due to continuing programming logic challenges with the new degree audit system. We kept the BOG informed of our delays and the submission delay did not have any adverse impact on any of the data processing for the Accountability Plan.
9. In accordance with Board of Governors Regulation 3.007, my Data Administrator electronically certifies data submissions in the State University Data System by acknowledging the following statement, "Ready to submit: Pressing <b>Submit for Approval</b> represents electronic certification of this data per Board of Governors Regulation 3.007."	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. I am responsible for taking timely and appropriate preventive / corrective actions for deficiencies noted through reviews, audits, and investigations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. I recognize that the Board's Performance Based Funding initiative will drive university policy on a wide range of university operations - from admissions through graduation. I certify that university policy changes and decisions impacting this initiative have been made to bring the	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

## Performance Based Funding Data Integrity Certification

university's operations and practices in line with State University System Strategic Plan goals and have not been made for the purposes of artificially inflating performance metrics.			
12. I certify that I agreed to the scope of work for the Performance Based Funding Data Integrity Audit conducted by my chief audit executive.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Performance Based Funding Data Integrity Certification Representations, Signatures</b>			
<p>I certify that all information provided as part of the Board of Governors Performance Based Funding Data Integrity Certification is true and correct to the best of my knowledge; and I understand that any unsubstantiated, false, misleading, or withheld information relating to these statements render this certification void. My signature below acknowledges that I have read and understand these statements. I certify that this information will be reported to the board of trustees and the Board of Governors.</p> <p>Certification: _____ Date _____</p> <p style="text-align: center;">President</p>			
<p>I certify that this Board of Governors Performance Based Funding Data Integrity Certification has been approved by the university board of trustees and is true and correct to the best of my knowledge.</p> <p>Certification: _____ Date _____</p> <p style="text-align: center;">Board of Trustees Chair</p>			

**ITEM: EP-1**

**EDUCATIONAL PROGRAMS COMMITTEE**  
University of Central Florida

**SUBJECT:** Tenure with Hire

**DATE:** January 24, 2019

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**PROPOSED BOARD ACTION**

Approval of tenure with hire.

**BACKGROUND INFORMATION**

New faculty members are hired each year with tenure. Normally, such faculty members have earned tenure at their previous institution and meet UCF's requirements for tenure. For others, tenure is part of the hiring package when senior faculty members are hired for administrative positions. Department faculty members and the university's administrative officers have approved granting tenure to these faculty members.

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**Supporting documentation:** Attachment A: Tenure with Hire Justifications

**Prepared by:** Jana L. Jasinski  
Vice Provost for Faculty Excellence  
Pegasus Professor of Sociology

**Submitted by:** Elizabeth A. Dooley  
Provost and Vice President for Academic Affairs  
Professor, College of Community Innovation and Education



**Attachment A**

**Tenure with Hire Justification  
Board of Trustees Meeting  
January 24, 2019**

**David Luna, Professor  
College of Business Administration, Department of Marketing**

Dr. David Luna received his Ph.D. in marketing from the University of Wisconsin-Milwaukee. He comes to UCF from Baruch College of The City University of New York, where he was a tenured professor and served as chair of the Department of Marketing and International Business. He was previously on the faculty of Chapman University and the University of Wisconsin-Whitewater. Dr. Luna's research is in the area of Consumer Behavior and has been published in premier marketing journals. He has presented his research at the top national and international conferences in his field. He currently serves on editorial boards for the *Journal of Consumer Psychology*, and the *Journal of Advertising*. Dr. Luna has served on or chaired numerous dissertation committees, and is a proven classroom instructor at the undergraduate and MBA levels. The College of Business Administration and the Department of Marketing support the recommendation for tenure with hire.

**Sara Michael-Luna, Associate Professor  
College of Community Innovation and Education, School of Teacher Education**

Dr. Sara Michael-Luna received her Ph.D. in curriculum and instruction in early childhood multilingual language and literacies from the University of Wisconsin-Madison. Prior to joining UCF, she was a tenured associate professor in the Department of Elementary and Early Childhood Education at Queens College of The City University of New York. She also served as the Director of the Early Childhood Education Graduate Programs at Queens College. She previously held faculty positions at New York University and Rutgers. Dr. Michael-Luna has published in top journals in her field. She has presented her research regularly at the annual meetings of the Literacy Research Council and the American Education Research Association (AERA). Dr. Michael-Luna has extensive teaching experience in early childhood education and has conducted numerous invited professional development workshops. The College of Community Innovation and Education and School of Teacher Education support the recommendation for tenure with hire.

**ITEM: NG-1**

**University of Central Florida  
Board of Trustees**

**SUBJECT: UCF Athletics Association Bylaws Amendments and Reappointment of Board Members**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve amendments to the UCF Athletics Association Bylaws and approve the reappointment of new board member candidates to the UCFAA Board of Directors.

**BACKGROUND INFORMATION**

The UCF Athletics Association bylaws were amended to align with the bylaws of other university direct support organizations. Amendments include:

- Change the date of a required annual meeting from July to “fourth quarter of the fiscal year or as soon thereafter as possible”.
- Designating all members as voting members.
- Restructuring the board. The old structure included the following as members: President of UCF, BOT designee, UCF Alumni Association President, UCF Golden Knights Club President, three members of the public, and members of the administration, faculty or student body as appointed by the President. The new structure includes the following as members: President of UCF or designee, BOT designee, one or more members of the public, one other UCF employee recommended by the President, and the Student-Athlete Advisory Committee president.
- Establishing term limits of two years; however, members may serve successive terms.
- Eliminating the finance committee and incorporating those duties into the full board duties. The audit committee remains a working committee of the Board.
- Removing the Executive Committee as a standing committee.
- Eliminating the Executive Vice President position. Those duties are now listed in the duties of the President of the Corporation (Athletics Director).
- Changing Miscellaneous Provision #1 to reflect required BOT oversight.

The UCF Athletics Association Board of Directors unanimously approved the bylaw changes at its meeting held on November 20, 2018.

Florida Statute 1004.28(3) requires that the university board of trustees approve all board appointments to direct support organizations. The three members being reappointed are Dr. Manoj Chopra, Phyllis Klock, and Brendan Rennie.

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**Supporting Documentation:** Attachment A: UCF Athletics Association Bylaws  
Attachment B: Board member candidate bios

**Prepared by:** W. Scott Cole, Vice President and General Counsel

**Submitted on behalf of:** Danny White, Vice President and Director of Athletics

Attachment A

**AMENDED AND RESTATED BYLAWS OF  
UCF ATHLETICS ASSOCIATION, INC.**

**ARTICLE I.**

**MEMBERSHIP**

The Board of Directors of the Corporation shall constitute the members of the Corporation.

**ARTICLE II. ANNUAL**

**MEETING**

- I. The annual meeting of the members of this Corporation shall be held during the fourth quarter of the fiscal year or as soon thereafter as possible. The date, time and location of the annual meeting shall be designated by the Chairman of the Board of Directors.
2. The annual reports of the officers for the year shall be read and considered.
3. Following the reports of the officers, such other business as may come before the body may be transacted.
4. At this meeting, a majority of the members shall constitute a quorum and a majority of those members present may transact any business coming before the body.

**ARTICLE III.**

**BOARD OF DIRECTORS**

1. Upon approval by the University of Central Florida Board of Trustees the following persons shall be directors of the Corporation:
  - A. The President of the University of Central Florida or his/her designee. The President of the University of Central Florida or his/her designee shall serve as the Chairman of the Corporation's Board of Directors.
  - B. A member of the University of Central Florida Board of Trustees appointed by the Chairman of the University of Central Florida Board Of Trustees.
  - C. One or more persons from the Central Florida Community recommended by the President of the University of Central Florida.
  - D. A University of Central Florida employee recommended by the President of the University of Central Florida.
  - E. The University of Central Florida Student Athlete Advisory Committee President.

2. Each director shall serve a two- year term unless removed, with or without cause, as recommended by President of the University of Central Florida and approved by the University of Central Florida Board of Trustees. Directors may serve successive terms. The two-year term shall not apply to the Chairman of the Corporation's Board of Directors.
3. The duties of the Board of Directors shall be as follows:
  - A. To discharge faithfully all the duties imposed upon it by the Articles of Incorporation and bylaws.
  - B. To meet upon the call of the Chairman of the Board, the President of this Corporation, or any two members of the Board.
  - C. To select a bank or banks or other depositories for the deposit of the funds and securities of the Corporation; and to cause the Corporation to conduct its financial affairs in conformity with the policies and procedures adopted by the Board.
  - D. To approve the Corporation's budget for the upcoming fiscal year. The budget must then be approved by the University of Central Florida Board of Trustees before it is authorized.
  - E. To review the current results of operations to the annual budget and ensure that the Corporation operates in accordance with the policies of the Corporation.
  - F. To select independent certified public accountants to conduct an annual audit of the Corporations' financial books and records.
4. A majority of the directors shall constitute a quorum at any meeting of the Board of Directors or Committees thereof and all questions shall be determined by a majority vote.
5. The Chairman of the Corporation shall preside at meetings of the Board of Directors. In the absence of the Chairman from any meeting, the President of the Corporation shall preside.
6. Meetings may be conducted by telephone, video conference or similar communications equipment, provided all persons participating in such meetings are able to communicate with each other.
7. Proxies, general or special, shall not be accepted for any purpose in the meeting of the Board of Directors or Committees thereof.

**ARTICLE IV.**

**CHAIRMAN OF THE BOARD AND  
OFFICERS OF THE CORPORATION**

1. The Chairman of the Board of Directors shall have the following authority:
  - A. The Chairman shall retain the authority to monitor and control the use of the Corporation's resources. The Chairman shall retain control of the Corporation's name and shall monitor compliance of the Corporation with state and federal laws and the applicable rules, regulations, guidelines, and policies of the Board of Governors and University Board of Trustees. The Chairman or Chairman's designee shall review and approve quarterly expenditure plans for the Corporation. If the Chairman appoints a designee to review and approve the quarterly expenditure plans, such designee shall be a Vice President or other senior officer of the University who reports directly to the President of the University. The quarterly expenditure plan shall separately delineate planned actions which may result in a commitment of University resources or the resources of the Corporation.
  - B. The Chairman of the Board shall possess line-item authority over the budget of the Corporation. This authority includes the establishment of additional line items and reduction or elimination of existing budgetary items.
  - C. The Chairman or designee shall prepare the agenda for all meetings of the Board of Directors.
  - D. The Chairman shall appoint the officers of the Corporation, which at a minimum shall include a President, Secretary, and Treasurer. The Chairman may appoint additional officers as needed. Only employees of the Corporation or the University may be appointed as officers of the Corporation.
  - E. In the event of absence, inability, or refusal to act of any of the officers of this Corporation, the Chairman shall appoint a successor or successors to perform the duties of their respective offices.
2. The duties of the President of this Corporation shall be as follows:
  - A. To manage the day to day operations of the Corporation.
  - B. To present a written report of the conduct of his or her office at the next annual meeting following his or her appointment to office.
3. The duties of the Secretary shall be as follows:
  - A. To keep accurate minutes of the proceedings of the annual meeting of the Corporation and all meetings of the Board of Directors and preserve same in a book of such nature as to serve as a permanent record.



- B. To keep on record a copy of the Articles of Incorporation and Bylaws of the Corporation and all amendments thereto.
  - C. To keep the seal of the Corporation and affix same to such official documents, records and papers as may be required.
  - D. To keep an accurate list of all members of this corporation.
  - E. To present a written report of the conduct of his or her office at the next annual meeting following his or her appointment to office.
4. The duties of the Treasurer shall be as follows:
- A. To assure that adequate provision is made for the care and custody of all the assets of this Corporation.
  - B. To assure that adequate provision is made to keep in force a blanket surety bond to assure that each officer and employee who is authorized to collect, hold, or disburse funds of the Corporation shall faithfully discharge their duties.
  - C. To present a written report of the conduct of his or her office at the next annual meeting following his or her appointment to office.
5. The offices of Secretary and Treasurer may be held by a single person.

## **ARTICLE V.**

### **COMMITTEES OF THE BOARD OF DIRECTORS**

- 1. The Standing Committees shall be established by the Board of Directors. Standing Committees shall be permanent and their membership shall consist of directors and such other members of the University community as appointed by the Chairman. Standing Committee members shall serve until the Chairman of the Board appoints a replacement.
- 2. The Audit Committee shall be a standing committee and shall consist of a minimum of two members appointed from the Board of Directors. The duties of the Audit Committee shall be as follows:
  - A. In accordance with University policy 2-208, *Direct Support Organization External Auditor Selection*, shall cause an audit of the books and records of this Corporation to be made at least once each fiscal year together with a management letter, including the response from management, conducted by a firm of independent Certified Public Accountants selected by the Board, whose engagement letter shall provide that it render an opinion on the financial statements in accordance with generally accepted accounting principles and to have the results of the audit reported

to the Board of Directors and University of Central Florida Board of Trustees.

- B. Review financial policies and procedures of the Corporation and make detailed reports to the Board of Directors.

## **ARTICLE VI.**

### **MISCELLANEOUS PROVISIONS**

1. Contracts for the routine activities of this Corporation shall be signed in the name of the Corporation by the Chairman, President, or authorized designee. The Corporation shall follow all University of Central Florida Board of Trustees guidelines, policies, and regulations related to direct support organizations, materiality, delegation or authority and approval procedures. Contracts that are required to be submitted and approved by the Board of Directors or the University of Central Florida Board of Trustees shall be timely submitted prior to execution.
2. The Directors of this Corporation, except those otherwise employed by the Corporation, shall not receive any compensation from this Corporation for their services as director or officer; provided, however, that they may be reimbursed from funds of the Corporation for any travel expenses or other expenditures incurred by them in the proper performance of their duties.
3. Whenever a vacancy occurs on the Board of Directors of the Corporation or in any office, it may be filled by appointment made by the President of the University of Central Florida pending approval by the University of Central Florida Board of Trustees in conformity with these Bylaws. The newly appointed member or officer shall act during the remainder of the unexpired term of his or her predecessor.
4. The seal of this Corporation shall be in the form of a circle and shall bear, among other things, the name of the Corporation and the date of its incorporation.
5. Personnel employed by this Corporation shall not be considered to be employees of the State of Florida by virtue of employment by this Corporation.
6. This Corporation shall indemnify and hold harmless all directors, officers, and employees of the Corporation for any liability heretofore or hereafter incurred as a result of their actions in the performance of their duties on behalf of this Corporation. The Corporation shall have the authority to purchase insurance for this purpose.

**ARTICLE VII.**

**AMENDMENTS**

These Bylaws may be altered, amended, or rescinded only by an affirmative vote of the majority of all of the voting members. In case it becomes necessary to call a special meeting for this purpose, written notice shall be given to each voting member of the Corporation at least fifteen (15) calendar days before the date set for the meeting, and such notice shall indicate the provision sought to be amended and the nature of the amendment proposed to be adopted. All proposed amendments are subject to University of Central Florida Board of Trustees review and approval.

**ARTICLE VIII.**

**FISCAL YEAR**

The fiscal year of the Corporation shall begin on July 1 and end on June 30 of the following year.

**ARTICLE IX.**

**NONDISCRIMINATION**

The Corporation is committed to non-discrimination with respect to race, creed, color, religion, age, disability, sex, marital status, national origin, or veteran status.

**ARTICLE X.**

**CONFLICT OF INTEREST**

All actual or potential conflicts of interest involving directors of the Corporation shall be disclosed and addressed in accordance with the Corporation's Conflict of Interest Policy and Florida law.

**ARTICLE XI.**

**PUBLIC RECORDS**

Public access to the Corporation's records shall be governed by Section 1004.28, Florida Statutes.

I HEREBY CERTIFY that that the foregoing Amended and Restated Bylaws were approved by majority vote of the Board of Directors on \_\_\_\_\_, 2018.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

Attachment B

**Dr. Manoj Chopra** is a professor of civil engineering at UCF and serves as the NCAA Faculty Athletics Representative (FAR) for UCF responsible for student-athlete eligibility, academic success, welfare and development. He joined UCF in 1993 and was appointed FAR by President Hitt in 2012. He has served as the faculty representative on the Florida Board of Governors responsible for all 12 state universities as well as the UCF Board of Trustees. In 2017, he was elected chair of the American Athletic Conference FAR's and also appointed to the NCAA Division I Committee on Academics. He is also a founding member of the AAC Consortium on Academics.

**Phyllis A Klock** is the retired President and Chief Operating Officer of CompBenefits Corporation. A dental and vision benefits company serving five million members in the US South and Midwest, CompBenefits grew to over \$350 million in revenues by the time of its sale to Humana in 2006.

A Charter Member of the Board of Trustees of the University of Central Florida, Phyllis served the university in this capacity from 2001 to 2012 and was named as a Trustee Emerita in 2012. In 2014 she was honored as Doctor of Commercial Sciences. Phyllis continues to be very involved with UCF as the immediate Past Chair of the UCF Foundation Board and current Chair of its Governance Committee, Board Member and Member of the Executive Committee of the UCF Athletics Association, Past President of the Town & Gown Council, and Past Chair of the Central Florida Wesley Foundation. She also serves as Board Member – Bridgewater State University Foundation, Board Member and Secretary of the Laity Council of Asbury United Methodist Church, Board Member for Agua Viva Serves, member of the Board of Higher Education and Campus Ministry of the Florida Conference of the United Methodist Church, member of the Board of Directors of the Florida United Methodist Foundation, volunteer at Hungerford Elementary School in Eatonville, and Reading Pals volunteer at Three Points Elementary School.

**Brendan Rennie** is President of the Student-Athlete Advisory Committee, which is a liaison between UCF student athletes, UCF Athletics Administration, and the NCAA. He has been a member of the UCF Men's soccer team since 2015. He is an accounting major and intends to graduate in 2019 with honors before obtaining his CPA. Brendan is a member of the President's List, the Golden Key International Honor Society, the American Athletic Conference Honor Roll, and Phi Eta Sigma National Honor Society.

**ITEM: NG-2**

**University of Central Florida  
Board of Trustees**

**SUBJECT: Proposed University Regulation UCF-1.00**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve proposed University of Central Florida Regulation UCF-1.00 entitled Regulation Interpretation and Application.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

This regulation is proposed for adoption in order to establish general guidance on the interpretation and application of all university regulations, especially in the context of university activities and operations either outside of the State of Florida or in foreign jurisdictions. The purpose of such guidance is to inform those affected by university regulations that certain aspects of a given regulation - or, depending on the circumstances, the entire regulation - may be inapplicable when in conflict with the laws or rules of different jurisdictions.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-1.00

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-1.001 Regulation Interpretation and Application**

(1) This regulation is applicable to all other University Regulations. This regulation should be considered in the interpretation and application of any University Regulation to University operations or activities outside of the State of Florida.

(2) Definitions.

- (a) University refers to and means the University of Central Florida.
- (b) A University Regulation is a statement of broad and general applicability, adopted by the University of Central Florida Board of Trustees, to guide the conduct or action of constituents or the public in relation to the University of Central Florida and implementing a power or duty of the University of Central Florida Board of Trustees. Regulations must be consistent with Florida law and with the strategic plan of the Florida Board of Governors. Generally, University Regulations are developed because they deal with directives required by Florida Statute, BOG Regulation or other legally recognized entity with the authority to require the University to adopt specific subject matter rules.
- (c) Regulations do not include: internal management memoranda, preparation of the university's budget, legal opinions, negotiated contractual provisions, or curriculum or other academic requirements.
- (d) A select regulation is a University Regulation that pertains to student tuition and fees, admissions, or articulation. Select regulations must be adopted by the UCF Board of Trustees and must also be approved by the Florida Board of Governors.
- (e) University Regulations are the administrative equivalent of a rule published in the Florida Administrative Code. In the event of a conflict between a University regulation and a University policy or procedure, the University regulation controls.

(3) The University of Central Florida is based in Florida, operates primarily in Florida, and its primary place of business is the State of Florida. The administration of the University of Central Florida is based in Orange County, Florida, and that is the University's home venue.

(4) University Regulations are designed to implement Florida law and federal law in the context of the University's operations within the State of Florida. However, there are occasions when the University operates outside the State of Florida and even outside of the United States. In those instances, the University Regulations may not apply or may be limited in their application.



(5) Operations in other States and Territories. Where the University operates outside of the state of Florida, University Regulations will be limited in their application or inapplicable altogether, as necessary to conform to applicable local law and regulation.

(6) Operations in Foreign Jurisdictions. Where the University acts in a foreign jurisdiction, on a temporary basis or otherwise, the University's regulations will not apply to those functions if applicable local law or regulation conflicts with or supersedes University regulations. For clarity, laws of a foreign jurisdiction control in that jurisdiction and may completely or partially displace Florida law and university regulation or policy.

(7) Other statements of university policy and procedure may be found in numbered University Policies or in other university policies, guidelines, and operating procedures. Like regulations, these statements of university policy and procedure are designed to articulate University practice in the context of the University's Florida operations and, as applicable, implement Florida and federal law as they relate to the University's Florida-based operations. Therefore, where the University operates outside of the State of Florida, these statements of university policy and procedure may also be limited in their application or inapplicable altogether as necessary to conform to applicable laws and regulations outside of the State of Florida.

(8) Effect of Collective Bargaining Agreements. The University is party to collective bargaining agreements with units defined by the Florida Public Employees Relations Commission. Each of those agreements contains terms governing the employment of the employees covered by the agreement. An applicable collective bargaining agreement provision will supersede a conflicting University Regulation provision, making the University Regulation provision either inapplicable in that context or limited to the extent necessary to apply the conflicting collective bargaining provision. However, a collective bargaining agreement cannot supersede applicable laws or controlling regulations. Where an in-unit employee may be temporarily working in a location with different law(s), the University will comply with applicable law and controlling regulation, even if in conflict with one or more provisions of a collective bargaining agreement.

*Authority: BOG Regulation 1.001; BOG Regulation Development Procedure for State University Boards of Trustees. History – New \_\_\_\_\_-19.*

**ITEM: NG-3**

**University of Central Florida  
Board of Trustees**

**SUBJECT: Amendments to University Regulation UCF-3.0191**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve amendments to University of Central Florida Regulation UCF-3.0191  
Disciplinary Actions – University Support Personnel System.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-3.191 is amended to update language concerning probationary employees and the types of disciplinary actions that may be taken. Additionally, amendments are proposed to clarify language concerning standards for disciplinary action. Standards to address misuse of confidential information and misuse of position have been incorporated into the standard on Conduct Unbecoming of a Public Employee.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-3.0191  
(redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-3.0191 Disciplinary Action - University Support Personnel System.**

(1) Scope and Purpose.

- (a) This regulation applies to all University Support Personnel System employees of the university with regular status. The provisions of this regulation are subject to applicable provisions of collective bargaining agreements. Employee discipline is an action that is to be undertaken with care, objectivity, and with full consideration of the rights and interests of both the employee and the university.
- (b) The university subscribes to the principle of the use of discipline to correct employee conduct and behavior. Such discipline will normally be issued in a progressive manner, dependent upon the facts and circumstances of each case. Penalties will be imposed, dependent upon the seriousness of the offense and any aggravating or mitigating circumstances, or as otherwise required by law.
- (c) Probationary Employees: The probationary period shall be a working-test period. ~~required of any USPS employees must successfully complete a probationary period upon initial hire before they earn regular status; USPS employees must also complete a probationary period upon rehire to a USPS position, following appointment to any class in which the employee does not hold regular status. It is important to note that~~ For purposes of discipline, regular status refers to an employee's status in the USPS and not a specific position. ~~Consequently, an employee with regular status in USPS, but in probationary status in a class, may be removed from the class during this probationary period, without the application of these standards. New Employees, serving a in~~ probationary status in the USPS ~~appointment~~ may be dismissed during this probationary period without the use of these standards set forth in this regulation and without the right of appeal.

(2) Guidelines on Employee Discipline. The immediate supervisor has the primary responsibility for taking or requesting disciplinary action against an employee, but should consult with their higher level leadership authority. Human Resources has the responsibility of providing guidance to the various departmental units with regard to the administration of disciplinary actions and for assuring that they are accomplished in accordance with USPS regulations, university and the policies and guidelines, and any applicable collective bargaining agreement of the university.

(3) Delegation of Authority. Discipline may only be administered by the supervisor who has been delegated the authority to do so. This delegation of authority varies with the severity of the disciplinary action and is identified in the following table:

Disciplinary Action	Authority
Oral Reprimand	Employee's immediate supervisor or higher level supervisor
Written Reprimand	Employee's immediate supervisor or higher level supervisor with the approval of the department head
Suspension, Discharge	The dean, director or department head shall arrange for a review of the proposed action by the <u>Chief Human Resources Officer</u> <del>Director of Human Resources</del> , or his/her designee. If the proposed action is approved, the <u>Chief Human Resources Officer</u> <del>Director of Human Resources</del> , or his/her designee, will implement the suspension/discharge.

(4) Types of Disciplinary Action.

- (a) Oral Reprimand – Involves a discussion between the supervisor and the employee regarding the infraction with an emphasis on correcting the employee's behavior. A written confirmation of an oral reprimand shall ~~may~~ be kept in the employee's local departmental file~~personnel file~~.
- (b) Written Reprimand – For more serious or repeated cases of infractions, the supervisor, with approval of the second level supervisor, will counsel the employee as to the correct and expected behavior as well as record the circumstances of the violation in memorandum form, giving the original to the employee and maintaining a copy in either the local departmental file or noting that a copy will be sent to the employee's official personnel file housed in Human Resources. Written reprimands resulting from an official university investigation must be submitted to the official personnel file housed in Human Resources~~sending a copy to Human Resources~~.
- (c) Suspension – The suspension of an employee shall normally be based on the recommendations of the supervisor and shall be subject to the approval of the dean, director or department head and the Chief Human Resources Officer~~Director of Human Resources~~ or his/her designee to ensure consistency of action throughout the institution. The Chief Human Resources Officer~~Director of~~

~~Human Resources~~ or his/her designee will issue all suspensions. A written reprimand in lieu of suspension represents a suspension level disciplinary action, but one where the action is documented as a reprimand and the employee continues to work and collect wages.

- (d) Discharge – When less severe actions fail in correcting an employee’s job-related behavior, or when the offense requires immediate separation from employment, a discharge action should be taken. The supervisor shall normally recommend the action, and it shall be subject to the approval of the dean, director or department head and the Chief Human Resource Officer ~~Director of Human Resources~~ or his/her designee, who shall issue the discharge. -If authorized by the Chief Human Resources Officer ~~Director of Human Resources~~ or his/her designee, an employee may be placed on administrative leave with or without pay pending an investigation, which may be continued between the notice of proposed disciplinary action and the date of final action. -Employees who are discharged for disciplinary reasons will not be eligible for rehire.

(5) Standards for Disciplinary Actions. Included herein are standards for the administration of disciplinary actions for various types of offenses. The following list is not all-inclusive, and the disciplinary action selected for a particular offense will be chosen based on the facts of the specific situation taking into consideration any extenuating circumstances. Decisions regarding disciplinary action, including the level of discipline to impose, will consider the employee’s prior disciplinary record excluding: any written reprimand that is more than two years old and any oral reprimand that is more than one year old. ~~Previous offenses will be considered when determining the level of discipline to impose as to a new offense subject to the following: after two years have elapsed from the date of written reprimand or one year has elapsed from an oral reprimand,~~ Such reprimands will not be used for escalating the level of disciplinary action but ~~can~~will be referenced as background. -Suspensions and written reprimands in lieu of suspension can be used indefinitely, with no time limit whatsoever. These standards do not preclude the imposition of more or less severe penalties depending upon all circumstances surrounding a particular incident.

- (a) Absence Without Authorized Leave. The failure to secure approval for an absence from work during the established shift or work period. – Included under this

standard are absences that are not reported to management in accordance with departmental or university guidelines.

1. First occurrence: Written reprimand.
2. Second occurrence: Suspension.
3. Third occurrence: Discharge.

Provided, however, that the failure to secure approval for an absence of two or more consecutive days shall be considered a second occurrence; and the failure to secure approval for an absence of three or more consecutive days shall be considered a third occurrence. This standard shall also apply to employees who fail to return to work as specified in an approved leave of absence.

- (b) Abuse of Sick Leave. Falsification by an employee of a notification of absence due to personal illness, injury or exposure to contagious disease.
  1. First occurrence: Suspension or discharge.
  2. Second occurrence: Discharge.
- (c) Possession or Use of a Deadly Weapon or a Dangerous Material. Possession or use of firearms, fireworks of any description, explosives, chemicals which are disruptive, explosive, or corrosive in nature, or any weapon other than a common pocket knife.
  1. First occurrence: Suspension or discharge.
  2. Second occurrence: Discharge.
- (d) Damage or Destruction of University Property or Equipment. The actual or attempted damage, destruction, or careless operation of university property or equipment which may or may not result in personal injury. (If personal injury does result, more severe discipline may be imposed.) Sabotaging equipment or facilities will result in discharge.
  1. First occurrence: Written reprimand to discharge.
  2. Second occurrence: Suspension or discharge.
  3. Third occurrence: Discharge.
- (e) Conduct Unbecoming a Public Employee. Any act or acts on or off the job, that renders an employee ineffective within the university, discredits the university, affects the ability for acceptance by others, or poses a threat to the safety and well-being of ~~members of~~ the university community. Such conduct includes, and



is not limited to, use of position, authority, or access to university confidential information to attempt to benefit themselves or others; any act or acts inconsistent with university values; failing to uphold the standards of honesty, integrity, and impartiality; or any prohibited act or acts set forth in the university's *Prohibition of Discrimination, Harassment and Related Interpersonal Violence Policy*.

1. First occurrence: Written reprimand to ~~Suspension or~~ discharge.
  2. Second occurrence: Discharge.
- (f) Conviction of a Misdemeanor or Felony. When an employee is convicted of a misdemeanor or felony as a result of a crime committed on or off the job and that conviction results in a negative effect on the employee's ability or availability to perform the duties of the job whether immediate or in the future.
1. First occurrence: Suspension or discharge.
  2. Second occurrence: Discharge.
- (g) Absenteeism. The university has a right to expect that employees will be available to perform work with a reasonable degree of regularity and to conduct their personal business using accrued leave without the need to resort to the use of approved leave without pay or unscheduled absences. If there is a pattern of absence by the employee, such as consistent absence on the day preceding or following the employee's regular days off, absence on the same day of each week or each month, or absences that occur with such frequency as to constitute a hardship on the office/department, these absences may be considered excessive.
1. First occurrence: Oral reprimand.
  2. Second occurrence: Written reprimand.
  3. Third occurrence: Suspension.
  4. Fourth occurrence: Discharge.
- (h) Tardiness. The failure to report to work at an established time at the beginning of the work shift, or the late return to work at the established time after lunch or rest period.
1. First occurrence: Oral reprimand.
  2. Second occurrence: Written reprimand.
  3. Third occurrence: Suspension.

4. Fourth occurrence: Discharge.

~~(i) Misuse of Confidential Information. To use or disclose information not otherwise available to the general public and gained by reason of his or her official position for his or her personal gain or benefit of any other person or business entity.~~

~~—— 1. First occurrence: Written reprimand to discharge.~~

~~—— 2. Second occurrence: Suspension.~~

~~—— 3. Third occurrence: Discharge~~

(j) Falsification of Records. The misrepresentation or omission of any facts, whether verbal or written, with the intent to defraud or otherwise mislead.

1. First occurrence: Written reprimand to discharge.

2. Second occurrence: Discharge.

(k) Fighting. A physical assault on or against another person.

1. First occurrence: Written reprimand to discharge.

2. Second occurrence: Discharge.

(l) Horseplay. Actions which are intended to be mischievous or prankish rather than malicious. If personal injury results, more severe disciplinary action up to and including suspension or discharge will be considered on the first occurrence.

1. First occurrence: Oral reprimand.

2. Second occurrence: Written reprimand.

3. Third occurrence: Suspension.

4. Fourth occurrence: Discharge.

(m) Insubordination. The unwillingness or refusal to comply with a direct order or any established work assignment of the immediate supervisor or higher level supervisor. This includes, but is not limited to, the refusal to carry out an assignment, refusal to work overtime, willful delay in carrying out an assignment, refusal to comply with a university-mandated fitness for duty evaluation and/or reasonable suspicion drug test, or responding with defiance to a reasonable work order or assignment issued by the immediate supervisor or higher level supervisor.

1. First occurrence: Suspension.

2. Second occurrence: Discharge.

(~~mh~~) Leaving Work Station Without Authorization. The unauthorized absence by an employee from the work station or duty location during the established work period or the leaving of a work station for a lunch or rest period without being properly relieved where that station must be maintained during such period.

1. First occurrence: Written reprimand to suspension.
2. Second occurrence: Suspension.
3. Third occurrence: Discharge.

(~~ne~~) Loafing. The continued idleness or non-productiveness during working hours which diverts the employee from performing assigned tasks. This includes wasting time, engaging in idle talk or gossip, conducting personal business, or using business phone or computers for personal reasons.

1. First occurrence: Oral reprimand to written reprimand.
2. Second occurrence: Written reprimand to suspension.
3. Third occurrence: Suspension to discharge.
4. Fourth occurrence: Discharge.

~~(p) Misuse of Position. The misuse of powers of authority that accompany a position for personal advantages such as to assist friends or family for financial or other gains.~~

- ~~—— 1. First occurrence: Written reprimand to discharge.~~
- ~~—— 2. Second occurrence: Discharge.~~

(~~oq~~) Misuse of University or University Controlled Property or Equipment. The unauthorized use of any university or university controlled property or equipment for any reason other than for official university business.

1. First occurrence: Written reprimand to discharge.
2. Second occurrence: Discharge.

(~~pr~~) Neglect of Duty. Carelessness in omission of, or inattention to, the performance of assigned duties and responsibilities resulting in a negative consequence to the department. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence, or discretion.

1. First occurrence: Written reprimand to discharge.
2. Second occurrence: Discharge.

- (~~qs~~) Abuse of Intoxicants. Being under the influence of, being in possession of, the sale of, or the distribution of any controlled substances or illegal drugs while on duty; or violating the University's Drug-Free Workplace/Drug-Free Schools Policy. (This provision does not extend to prescribed use of prescription medications.)
1. First offense: Suspension to discharge.
  2. Second offense: Discharge.
- (~~rt~~) Rudeness to Students, Staff or the Public. Impolite, discourteous, unprofessional, or uncooperative language or actions towards students, staff, or the public.
1. First occurrence: Oral reprimand.
  2. Second occurrence: Written reprimand.
  3. Third occurrence: Suspension.
  4. Fourth occurrence: Discharge.
- (~~st~~) Sexual Harassment. Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment, (2) submission to or rejection of such conduct by an individual is used as basis for employment or personnel decisions, or (3) when such conduct has the purpose or effect of substantially interfering with performance of work or creating an intimidating, hostile, or offensive working environment as determined by the university's Office of Institutional Equity.
1. First occurrence: Written reprimand to discharge.
  2. Second occurrence: Discharge.
- (~~tv~~) Sleeping While on Duty. The failure of an employee to remain awake while on duty during the established work shift.
1. First occurrence: Suspension.
  2. Second occurrence: Discharge.
- (~~uw~~) Use of University equipment or work time to view pornography or explicitly nude images for non-business reasons.
1. First occurrence: Suspension to discharge.
  2. Second occurrence: Discharge.

- (v\*) Theft or Stealing. The unauthorized taking of any property or service.  
First occurrence: Discharge.
- (w\*) Threatening and/or Abusive Language. The use of language which is threatening, profane, vulgar, or abusive.
  - 1. First occurrence: Written reprimand to discharge.
  - 2. Second occurrence: Discharge.
- (xz) Violation of Safety Practices. The failure to adhere to or follow established safety rules or requirements. This includes the failure to report an accident of an employee involving personal injury, failure to wear safety equipment, and the performance of any unsafe action.
  - 1. First occurrence: Written reprimand to discharge suspension.
  - 2. Second occurrence: Discharge.
- (yaa) Willful Violation of a Provision of Law or Board of Governors or University Regulation. The deliberate failure to abide by Board of Governors or University Regulations or to follow the statutes governing employment by the State of Florida. This may include, but is not limited to giving or accepting a bribe, discrimination in employment, or illegal campaigning.
  - 1. First occurrence: Written reprimand to discharge.
  - 2. Second occurrence: Discharge.
- (zbb) Strike or Concerted Activity. Instigating or supporting in any manner a strike. A strike is defined by Florida Statute as: The concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer [such as the University] for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer; the concerted failure of employees to report for work after the expiration of a collective bargaining

agreement; and picketing in furtherance of a work stoppage. The term “strike” shall also mean any overt preparation, including but not limited to, the establishment of strike funds with regard to the above activities.

First occurrence: Discharge.

*Authority: BOG Regulation 1.001. History–New 1-10-82, Amended 10-26-82, 12-29-88, Formerly 6C7-3.191, Amended 3-2-94, 4-23-03, 7-26-04; Formerly 6C7-3.0191, Amended 6-11-09, Amended \_\_\_\_\_-19.*

**ITEM: NG-4**

**University of Central Florida  
Board of Trustees**

**SUBJECT: Amendments to University Regulation UCF-4.034**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve amendments to University of Central Florida Regulation UCF-4.034 University Direct Support Organizations.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-4.034 is amended to incorporate new language that complies with revised Board of Governors regulation 9.011 regarding direct support organization board member appointments, guidelines for direct support organization items requiring university Board of Trustee approval, and travel expenses for direct support organization staff.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-4.034 (redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel



Attachment A

**UCF-4.034 University Direct Support Organizations.**

- (1) As provided in Section 1004.28, Florida Statutes, and Florida Board of Governors Regulation 9.011 a Direct Support Organization is an organization that is certified by the University of Central Florida Board of Trustees as operating in a manner consistent with the goals of the University and the best interest of the State.
- (2) To obtain certification as a Direct Support Organization, the organization must submit to the Board of Trustees the following:
  - (a) The proposed Articles of Incorporation.
  - (b) The proposed Bylaws, which shall describe the operating procedures and specific individual responsibilities of the Board of Directors, committees, and officers of the organization.
- (3) The Articles of Incorporation and the Bylaws, together, shall provide that:
  - (a) Persons employed by the organization shall not be considered to be employees of the State of Florida by virtue of employment by the organization.
  - (b) The chief executive officer or director of the organization shall be selected and appointed by the governing board of the organization, subject to prior approval by the President of the University. The director or chief executive officer shall report to the President of the University or the President's designee, who shall be a vice president or other senior officer reporting directly to the President.
  - (c) The chair of the Board of Trustees ~~may~~shall appoint a Trustee representative to the board of directors and executive committee of the organization, and the President of the University or his/her designee ~~will~~shall serve on the board of directors and executive committee of the organization. The Board of Trustees shall approve appointments to each direct support organizations Board of Directors, except for the chair's Trustee representative and the president (or president's designee). The chair's Trustee representative may not be the university president; nor may the chair and president appoint the same person to represent both the chair and the president on any one direct support organization board.
  - (d) Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization must be submitted to the Board of Trustees for approval prior to becoming effective.

- (e) The organization shall provide equal employment opportunities for all persons regardless of race, color, religion, sex, age, or national origin. Personal services provided to the organization must comply with Section 1012.976, Florida Statutes.

(4) Upon certification by the Board of Trustees, a direct support organization is authorized to use the property, facilities and personal services of the University.

(5) Direct support organizations shall conduct business in accordance with the Board of Trustees' Materiality Guidelines, UCF Debt Management Guidelines, and the Delegation of Authority to President. As required therein, the Board of Trustees shall approve: purchases, acquisitions, and project expenditures with an annual financial commitment, obligation, or contingent risk of five million dollars or .5% of the university budgets, whichever amount is smaller; a contractual obligation of either more than five (5) years' duration or an aggregate net value of five million or more dollars; and the issuance of debt by a direct support organization. The provisions of this paragraph are not intended to apply to either: (i) the receipt by or award of funds to a direct support organization, such as donations or sponsored research funding or (ii) a direct support organization expenditure where the funding is supplied by a third party (including but not limited to a granting agency, awarding entity, or donor) as part of a grant, award, sponsored research contract, or donation.

~~(56)~~ The President of the University shall have the authority to monitor and control the use of University name and resources by the organization, monitor compliance of the organization with state and federal laws and rules of the Board of Trustees, and approve salary supplements and other compensation or benefits paid to the University faculty and staff from organization assets.

~~(76)~~ The President of the University shall determine the compensation of organization employees from organization assets and such authority may not be delegated.

~~(87)~~ A Direct Support Organization shall prepare, at least annually, a budget to be reviewed and approved by the organization's governing board and the Board of Trustees.

~~(98)~~ The Direct Support Organization shall prepare quarterly expenditure plans for review and approval by the President or designee, who shall be a vice president or other senior officer of the university reporting directly to the President.

~~(910)~~ Direct support organizations shall provide for an annual audit by an independent certified public accountant, as prescribed by applicable law and rules, which shall be forwarded to the Board of Trustee for review and oversight.

(~~1011~~) The University President may request that the Board of Trustees decertify a direct support organization if the President determines that the organization is no longer serving the best interest of the university. The request for decertification shall include a plan for disposition of the direct support organization's assets and liabilities.

(~~124~~) The organization shall comply with all other obligations required by law and regulation, including those required by Section 1004.28, Florida Statutes and Florida Board of Governor Regulation 9.011. As set forth therein, the organization shall not use state funds for travel expenses.

*Authority: BOG Regulations 1.001 and 9.011. History–New 4-3-03; Formerly 6C7-4.034; Amended 5-11-09, Amended 9-15-14, \_\_\_\_\_-19.*

**ITEM: NG-5**

**University of Central Florida  
Board of Trustees**

**SUBJECT: Amendments to University Regulation UCF-5.016**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve amendments to University of Central Florida Regulation UCF-5.016 Student Academic Appeals.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-5.016 is amended to clarify the timeline of the academic appeal process and opens up service on the Student Academic Appeals Committee to all full-time instructional faculty categories. Other aspects of the process were clarified, particularly a statement of burden of proof, clarification of deadlines, and distribution of the committee action.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-5.016 (redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-5.016 Student Academic Appeals**

(1) Scope.

- (a) This regulation shall apply to undergraduate and graduate student appeals of grades (typically limited to final grades) resulting from an instructor's:
  - 1. Alleged deviation from established and announced grading policy;
  - 2. Alleged errors in application of grading procedures;
  - 3. Alleged deviation from University syllabus policy or, if applicable, program handbook(s); and
  - 4. Alleged lowering of grades for non-academic reasons, including discrimination. (A grade appeal alleging discrimination in violation of University policy will be referred to the Office of Institutional Equity.)
- (b) This regulation shall also apply to appeals of undergraduate program action, including termination from an undergraduate academic program.
- (c) The professional judgment exercised by an instructor in assigning a specific grade or in conducting a class is excluded from the provisions of this regulation except as noted above.
- (d) This regulation does not apply to appeals of graduate programs actions or decisions by a faculty member, program, or college, including termination from an academic program, or to the assignment of grades for Thesis or Dissertation credit hours. Appeals from such actions are discussed in and may only be brought under Regulation UCF-5.017.

(2) General Policy. The following assumptions are adopted:

- (a) Students are entitled to a fair and timely resolution of academic appeals.
- (b) Faculty members and administrators are entitled to a fair and timely forum in defense of their action.
- (c) The burden of proof in a student academic appeal is on the student.
- (ed) Students have access to published materials and student government representatives to help them become familiar with and understand procedures for handling academic appeals.

- (~~de~~) Faculty members and administrators have access to published materials and University staff to help them be aware of and understand procedures to address academic appeals.
- (~~fe~~) Resolution of student academic appeals should be made as informally as possible.
- (~~gf~~) The University as an institution and its faculty are entitled to procedures that ensure the maintenance of academic standards.
- (~~hg~~) The appropriate forum for discussion or alteration of academic matters is the academic unit responsible for these matters.
- (~~ih~~) The University is entitled to a reasonable period of time to review allegations of discrimination contained in a grade appeal, and the University may accordingly extend deadlines applicable to the University for purposes of reviewing such allegations.
- (~~ji~~) Students may consult with Student Government Association's Judicial Advisor or designee, who shall furnish advice regarding the student's rights and responsibilities with respect to this policy.

### (3) Resolution of Student Appeals at Informal Level

- (a) Step 1: All student academic appeals of allegedly wrongful academic action(s) by an instructor or administrator shall first be brought to the attention of the person whose action is being appealed. (The instructor of the course or administrator whose action is being appealed will be referred to in this regulation as the Responding Party.) This action must be initiated within one semester of the alleged wrongful action or grade. The parties should attempt to resolve the problem in a timely and satisfactory manner. If dissatisfied with the decision of the Responding Party, or if that person is not available, the student must first continue to pursue an informal solution with the unit head, usually the chair or director of the unit.
- (b) Step 2: The unit head ~~or supervisor~~, in consultation with the Responding Party, should make every effort to communicate with the student and resolve the problem. When classes are in session, this communication shall normally take place within 10 business days of the complaint being brought to the unit head ~~or supervisor~~. Between semesters and during the summer term, this communication may be extended ~~ten~~ 10 business days into the new semester. The unit head ~~or supervisor~~

will provide the student with a written decision that includes reference to student academic appeals procedures.

1. When the Responding Party is not available to discuss the problem, if at all possible, the resolution should wait until such time as the Responding Party can return to the campus, but not more than six months.
2. If the unit head or college dean or designee determines that an emergency exists requiring that the problem be solved prior to the availability of the Responding Party (e.g. in a case of probable delayed graduation), the unit head or dean or designee shall make every reasonable effort to inform the Responding Party of the situation. The Responding Party may elect to submit a written statement and/or to designate a replacement to aid in solving the problem.
3. If the Responding Party cannot be reached or does not designate a replacement, and the complaint must be dealt with promptly, then the unit head or dean or designee shall act on behalf of the Responding Party.

(4) Resolution of Student Academic Appeals at the College Level

- (a) Step 3: Within 10 business days of receipt of the unit head's or supervisor's decision, if the student wishes to file a formal appeal, the student must contact the dean's office of the college in which the action occurred and schedule an appointment with the dean or a designee. That individual will informally review the student's concerns, counsel the student on his/her options, and explain the formal Student Academic Appeals process.
- (b) Step 4: ~~After If dissatisfied with the~~ consultation with the administrator, ~~within 10 days of their meeting or conversation,~~ the student may, within 10 business days, file a written appeal with~~may appeal in writing to~~ the Student Academic Appeals Committee of the college. This committee will ~~determine review the legitimacy of~~ student's appeal regarding the awarded grade and/or the academic program action and, if appropriate, suggest a resolution. The student's written appeal shall include the basis of the ~~original student's~~ complaint, the dates when the instructor, unit head, administrator, or supervisor, discussed the problem with the student, and the suggested resolution at that time.



(5) Composition of the Student Academic Appeals Committee

- (a) Each college shall establish a Student Academic Appeals Committee whenever required.
- (b) The committee shall be made up of at least three and no more than five ~~tenure-earning or tenured~~full-time instructional faculty members and an equal number of students of comparable academic classification (i.e., undergraduate or graduate) as the student initiating the appeal.
- (c) Student members shall be selected by the dean of the college or designee from a panel of students. This panel shall be appointed by the Vice President of Student Development and Enrollment Services or the College of Graduate Studies.
- (d) Any member may be challenged for cause by either party. The validity of such challenges shall be decided by the Office of Student Rights and Responsibilities. If a challenge is upheld, the college dean or designee shall appoint a replacement from the college's tenured and tenure-earning faculty or the student panel.
- (e) The college dean or designee shall assemble the Student Academic Appeals Committee to conduct a formal review of the student academic appeal.

(6) Formal Review of a Student Academic Appeal

- (a) In conducting a formal review, the Student Academic Appeals Committee shall adhere to the following guidelines:
  - 1. ~~Where a time limit is~~The time limits specified in the following review procedure, it may be extended by mutual agreement of the parties. Where an appeal makes allegations of discrimination, the University may unilaterally extend deadlines applicable to it to allow for review of such allegations.
  - 2. The committee shall not be officially convened to review the appeal until the Responding Party, or substitute/replacement, has received a copy of the appeal and has had at least 5 business days to submit, if desired, a response or additional information. The student will be provided with a copy of any material submitted by the Responding Party at least 5 business days before the committee meets to review the case.

3. The committee should make ~~every~~ reasonable efforts to meet for review of the case within 20 business days after receipt of the student's written appeal and any information provided by the Responding Party and/or unit head. Scheduling and holding a committee meeting may require more time; as such, this 20 business days is not a time limit. If the committee cannot meet within the 20 days, the university will inform the appealing student.
4. The committee will function as an objective, fact finding body when examining all available and relevant information concerning the student's appeal of academic action by the Responding Party. Such information shall include the student's written appeal, written and/or oral information provided by the Responding Party, statements made by both parties before the committee, and any other information the committee may deem relevant.
5. The college dean or designee will convene the committee, establish procedural rules for conducting the meeting, serve as its chair, and will vote in the case of a tie. The meeting is not covered by Sunshine laws, and is thus closed to outside parties and will not be recorded.
6. The student and Responding Party shall be invited to meet with the committee. Participating individuals in the appeal may appear through virtual (electronic) means at the committee meeting. Each shall be allowed adequate time to respond to the appeal and material as submitted, to answer any questions from committee members, and to present additional information needed to clarify the issues involved.
7. After meeting with both parties, the committee will deliberate and issue a decision by majority vote. The committee will first decide if the student has proven that there were grounds for the appeal, and second, if there were grounds, what resolution should be implemented. This decision may let the grade/action stand as is or change the grade/action. If the decision of the committee is to change the grade, only the faculty members on the committee will be involved in deciding what the change will be. The

committee chair will ensure that the committee's majority opinion is recorded and forwarded to the college dean.

- (b) The college dean will provide copies of the panel's decision within 10 business days of the Student Academic Appeals Panel hearing to both parties concerned, to the Provost, ~~and all~~ other involved parties and departments, and to the appropriate dean of undergraduate or graduate studies.

(7) Final Appeal

- (a) Step 6: If dissatisfied with the college dean's decision, the student may, within 10 business days, file a written request for review with the dean of undergraduate studies or the dean of graduate studies (depending upon the classification of the student), stating the basis for review and the resolution sought by the student.
- (b) Acting as the University President's representative, the dean of undergraduate studies or the dean of graduate studies shall make a final decision on the matter within 10 business days of receipt of the student's request for review. Copies of the dean's written decision shall be sent to the student, the college dean, the chair, the Director of OSC, the Responding Party, and other involved parties.

*Authority: BOG Regulation 1.001. History—New 4-23-03, Formerly 6C7-5.00431, Amended 8-10-09, 9-4-12, 10-29-15, 7-20-17, 7-19-18, \_\_\_\_\_-19.*

**ITEM: NG-6**

**University of Central Florida  
Board of Trustees**

**SUBJECT: Amendments to University Regulation UCF-5.020**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve amendments to University of Central Florida Regulation UCF-5.020 Religious Observances.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-5.020 is amended to clarify the period of time in which a student must notify their instructors of their desire to observe a holy day.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-5.020 (redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

UCF-5.020 Religious Observances

- (1) The University of Central Florida will reasonably accommodate the religious observances, practices, and beliefs of individuals in regard to admissions, class attendance, and the scheduling of examinations and work assignments. A student who desires to observe a religious holy day of his or her religious faith must notify all of the his/her instructors teaching the class(es) from which the student desires to be excused no later than the tenth business day of the term. at the beginning of the term to be excused from classes to observe the religious holy day.
- (2) The student will be held responsible for any material covered during the excused absence, but will be permitted a reasonable amount of time to complete any work missed. Where practicable, major examinations, major assignments and University ceremonies will not be scheduled on a major religious holy day.
- (3) Students who are absent ~~from academic or social activities~~ because of religious observances and have complied with this regulation will not be penalized.
- (4) A student who believes that he/she has been unreasonably denied an educational benefit due to his/her religious belief or practices may seek redress with the Office of Institutional Equity in accordance with that office's Investigation Procedures.

*Authority: BOG Regulations 1.001 and 6.0115. History – New 11-13-09. Amended –10-27-17, \_\_\_\_\_-19.*

**ITEM: NG-7**

**University of Central Florida  
Board of Trustees**

**SUBJECT: Amendments to University Regulation UCF-7.130**

**DATE: January 24, 2019**

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**PROPOSED BOARD ACTION**

Approve amendments to University of Central Florida Regulation UCF-7.130  
Administration and Finance; Procurement Services

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-7.130 is amended to remove section (3)(i)(23). The language in section (3)(i)(12) already captures this information and conforms with the University’s procurement guidelines with the Florida Board of Governors’ Regulation 18.001 on the same topic. Additional language has also been added to section (6)(a) to clarify the appropriate means for procurement of commodities or contractual services.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-7.130  
(redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-7.130 Administration and Finance; Procurement Services.**

(1) The University Board of Trustees (BOT) has authority to establish a system of coordinated procurement policies, procedures, and practices to be used in acquiring commodities and contractual services required by the University. The University Procurement Services Department has the duty to:

- (a) Develop procurement procedures.
- (b) Canvass sources of supply and contracting for the procurement or lease of all commodities and contractual services for the University, in any manner, including procurement by installment- or lease-purchase contracts. Installment- or lease-purchase contracts may provide for the payment of interest on unpaid portions of the purchase price.
- (c) Recommend or advise the suspension or debarment of a contractor, in accordance with University Regulation UCF-7.124, from doing business with the University for demonstrated cause, including previous unsatisfactory performance.
- (d) Plan and coordinate procurements in volume and negotiate and execute agreements and contracts for commodities and contractual services under which the University may make procurements.
- (e) Develop an Annual Certification List to serve as a waiver of the competitive solicitation requirement for commodities/services that are frequently procured and are available from a single source.
- (f) Evaluate, approve, and utilize contracts that are entered into after a public and open competitive solicitation by any State of Florida agency or department, the Federal Government, other states, political subdivisions, cooperatives or consortia, or any independent college or university for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interest of the University, to make purchases under contracts let by such other entities. Universities shall review existing consortia and cooperative contracts to identify potential savings and, if there is the potential for savings, enter into new consortia and cooperative contracts to achieve the savings, with the goal of achieving a five-percent savings on existing contract prices.



- (g) Elect as an alternative to any provision in Board of Governor's (BOG) Regulation 18.002 to proceed with a bid solicitation or contract award process when it is set forth, in writing, that the particular facts and circumstances which demonstrate that the delay due to staying the solicitation or contract award process would be detrimental to the interests of the University. After the award of a contract resulting from a competitive solicitation in which a timely protest was received and in which the University did not prevail, the contract may be canceled and re-awarded to the prevailing party.
  - (h) Award contracts for commodities and contractual services to multiple suppliers, if it is determined to be in the best interest of the University. Such awards may be on a university, regional or multiple state university-wide basis and the contracts may be for multiple years.
  - (i) Reject or cancel any or all competitive solicitations when determined to be in the best interest of the Institution.
  - (j) Inspect the part of the plant or place of business to determine the capability of contract performance of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the University, when specified in the agreement.
- (2) Competitive Solicitations Required.
- (a) All contracts for the procurement of commodities or contractual services exceeding \$75,000 shall be awarded pursuant to a competitive solicitation, unless otherwise authorized herein.
  - (b) When only one response is received to a competitive solicitation for commodities or contractual services exceeding \$75,000 the University shall review the solicitation to determine if a second call for a competitive solicitation is in the best interest of the University. If it is determined that a second call would not serve a useful purpose, the University shall proceed with the acquisition or cancel the acquisition.
  - (c) When multiple responses that are equal in all respects are received to a competitive solicitation, the University will give preference to responses that include commodities manufactured in the state, Florida businesses, or foreign

manufacturers located in the state to determine the contract award, or, if these conditions do not exist, will use toss of the coin.

- (d) The procurement of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.
- (e) The Procurement Services Department, in issuing an Invitation to Bid, Request for Proposal or Invitation to Negotiate, shall provide notice of a decision or intended decision concerning a solicitation, or contract award by electronic posting for 72 hours, which is interpreted as three business days. (Business days do not include Saturdays, Sundays, State or University holidays, or any other days when the University is otherwise closed for business.) This notice shall contain the following statement: “Failure to file a protest in accordance with BOG regulation 18.002, or failure to post the bond or other security as required in BOG regulation 18.003, shall constitute a waiver of protest proceedings.”
- (f) Advertisement. Invitations to Bid, Requests for Proposals, and Invitations to Negotiate for commodities expected to be in excess of \$150,000 and for contractual services expected to be in excess of \$75,000 shall be advertised in the Florida Administrative Weekly or the State of Florida’s VBS System. The ~~Director of~~ head of The Procurement Services Department or designee shall have the authority to waive this advertisement requirement when the number of potential bidders or proposers is limited and can otherwise be solicited, when the availability of funding so requires, or where delivery is urgent.
- (g) Bids and proposals shall remain sealed (with the exception of typical information revealed at the Bid/Proposal opening for the tabulation sheet) until notice of final contract award is given or in accordance with Florida Statute as appropriate.
- (h) In the case of extension errors, the unit price will prevail.
- (i) Withdrawal. A vendor may withdraw his or her bid or proposal in writing if done within seventy-two (72) hours of the bid or proposal opening, if the bid or proposal is clearly erroneous and it is withdrawn prior to final award or the purchase order being issued.
- (j) Bid/Proposal Evaluations – Bids/Proposals shall be evaluated based on the requirements set forth in the Invitation to Bid/ Request for Proposal, which may

include criteria to determine acceptability such as inspection, testing quality, workmanship; delivery and suitability for a particular purpose. Those criteria that will affect the bid/proposal price and be considered in evaluation for award shall be objectively measured, such as all or none, discounts, transportation costs and total or life cycle costs. The Invitation to Bid, Request for Proposal or Invitation to Negotiate shall set forth the criteria to be used. No criteria may be used in bid/proposal evaluation that is not set forth in the Invitation to Bid, Request for Proposal or Invitation to Negotiate.

(3) Procurement of Commodities or Contractual Services.

- (a) Procurement of Products with Recycled Content. The University encourages the procurement and use of products and materials with recycled content and post consumer recovered material.
- (b) Procurement of Private Attorney Services. Written approval from the Attorney General is not required for private attorney services acquired by the University.
- (c) Procurement of Insurance. The University has the authority to procure insurance as deemed necessary and appropriate for the operation and educational mission of the University. Examples of insurance coverage that may be acquired by the University include (but are not limited to) insurance coverage for:
  - 1. Physical damage on vehicles and boats;
  - 2. Inland marine on property owned, leased, or loaned to or by the University;
  - 3. Building and property damage;
  - 4. Equipment losses due to theft;
  - 5. Loss of rental income;
  - 6. Excess general liability coverage;
  - 7. Professional liability;
- (d) Procurement of Printing. Printing shall be procured in accordance with the requirements of these rules. The University may refer to the requirements of Chapter 283, F.S., and rules promulgated thereto for guidance with respect to the procurement of printing services.

- (e) Procurements from Small, Minority and Woman-Owned Business Enterprises (SMWBE). The University is an equal opportunity institution and encourages procurement contracting with SWMBE.
- (f) Procurements from Contractors Convicted of Public Entity Crimes. The University shall not accept a competitive solicitation from, or procure commodities or contractual services from, a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date of being added to the convicted vendor list.
- (g) Preferences for Florida-Based Vendors when Procuring Personal Property: For procurements of tangible personal property, the Florida Legislature enacted economic development laws establishing certain conditions and circumstances which, when applicable, require the granting of price preferences to businesses whose principal place of business is the State of Florida. Pursuant to §287.084 Florida Statute, award recommendations shall make appropriate adjustments to Resident Vendor pricing when considering solicitations from Bidders having a principal place of business outside the State of Florida. Refer to Florida Statute 287.084 and BOG Regulation 18.001 for additional information regarding applicability and implementation of this section.
- (h) Procurement actions that are not subject to the competitive solicitation process include but are not limited to:
  - 1. Emergency Procurements. When the President or his or her designee determines, in writing, that a condition exists that threatens the health or safety of person(s) or animal(s) or the preservation or protection of property or the continuance of a vital University function, the University may proceed with an emergency procurement without a competitive solicitation. The emergency procurement shall be limited to the procurement of only the type of items and quantities or for a time period sufficient to meet the immediate threat and shall not be used to meet long-term requirements.
  - 2. Sole Source Procurements. Commodities or contractual services available from a single source shall be exempted from the competitive solicitation

process. Sole Source document shall be publicly posted by the Procurement Services Department for three working days. Working days do not include Saturdays, Sundays, or State or University Holidays.

3. Procurements from competitively bid Contracts and Negotiated Annual Price Agreements established by the State, other governmental entities, other public or private educational institutions, and any procurement cooperative or consortium are not subject to competitive solicitation.
  4. Construction Direct Procurement Program. Commodities to be incorporated into any public work (as that term is defined in Rule 12A-1.094, F.A.C.) which are procured by the University in accordance with the requirements of the University's direct procurement program are not subject to any further competitive solicitation.
- (i) Commodities and contractual services that are not subject to the competitive solicitation process include:
1. Artistic services;
  2. Academic reviews;
  3. Lectures;
  4. Accountant services, including auditor services;
  5. Legal services, including attorney, paralegal, expert witness, appraisal, lobbyist, arbitrator or mediator services;
  6. Health services, including related equipment and supplies, involving examination, diagnosis, treatment, prevention, consultation or administration of physical or mental conditions or the provision of developmental or vocational rehabilitation;
  7. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed;
  8. Training and education services;
  9. Advertising; except for media placement services;

10. Services or commodities provided by governmental agencies, another university in the State of Florida or other independent colleges and universities;
11. Programs or continuing education events that are offered to the general public for which fees have been collected to pay all expenses associated with the program or event;
12. Procurements from firms or individuals that are prescribed by state or federal law or specified by a granting agency;
13. Regulated utilities and government franchised services;
14. Regulated public communications, except long distance telecommunication services or facilities;
15. Extension of an existing contract; (see section (6)(c));
16. Renewal of an existing contract if the terms of the contract specify renewal option(s); see section (6)(d));
17. Procurements from the Annual Certification List developed by the University;
18. Procurements for resale;
19. Contracts or services provided by not-for-profit support and affiliate organizations of the University, direct support organizations, health support organizations and faculty practice plans;
20. Implementation/programming/training services available from the owner of copyrighted software or its contracted vendor;
21. Procurements of materials, supplies, equipment, or services for instructional or sponsored research purposes when a director of sponsored research or designee certifies that, in a particular instance, it is necessary for the efficient or expeditious prosecution of a research project in accordance with sponsored research procedures or to attain the instructional objective. Sponsored research documents shall be publicly posted by the Procurement Services Department for three business days.
22. Procurements for the Florida High Tech Corridor initiative~~;~~ ~~and~~

~~23. The acquisition of commodities or contractual services that are specifically provided for in an existing contract, grant, subcontract, letter of agreement, etc.~~

- (j) Participants in Contract Awards Not Subject to Competitive Solicitations.
  - 1. No person or firm who receives a contract to perform a feasibility study for potential implementation of a subsequent contract, participates in the drafting of a competitive solicitation or specifications, or designs or develops a program for future implementation shall be eligible to contract with the University dealing with the specific subject matter.
  - 2. The individuals taking part in the development or selection of criteria for evaluation, the evaluation process and the contract award in any procurement shall be independent of, and have no conflict of interest in, the entities evaluated and selected and may be required to so attest in writing.

(4) Bonds.

- (a) Solicitation Security. A certified, cashier's or treasurer's check, bank draft or bid bond may be required as a condition for participating in a competitive solicitation where the University is reasonably uncertain about the contractor's ability to perform, and the expected value of the contract is in excess of \$100,000.
- (b) Payment and Performance Bonds for Commodities and Services Contracts. The head of the Procurement Services ~~Director~~ Department or designee is authorized to require any contractor contracting with the University to provide services or commodities (including installation) to furnish a payment and performance bond, with good and sufficient securities, to the University prior to the issuance of the contract when the total contract amount is greater than \$100,000 and the University is uncertain about the contractor's ability to perform.
- (c) A bond or security required pursuant to paragraphs (a) or (b) above must be in an amount equal to 100% of the response submitted to the competitive solicitation.
- (d) Solicitation Protest Bond. Any contractor that files a formal protest pursuant to the protest procedures of BOG Regulation 18.002 and this regulation protesting a decision or intended decision pertaining to a solicitation, shall at the time of filing of the formal protest, post with the University a bond payable to the University in



an amount equal to: 10% of the estimated value of the protestor's bid or proposal; 10% of the estimated expenditure during the contract term; \$10,000; or whichever is less. The bond shall be conditioned upon the payment of all costs which may be adjudged against the contractor filing the protest action. In lieu of a bond, the University may accept a cashier's check or money order in the amount of the bond.

(5) Notice and Protest Procedures for Protests Related to a University's Contract Procurement Process

- (a) The procedures set forth in BOG Regulation 18.002 shall apply exclusively to any protest that arises from any university contract procurement processes for the procurement of goods, services, leases and for construction-related competitive solicitations.
- (b) Any qualified offeror who is adversely affected by the university's decision may file a written notice of intent to protest within 72 hours after university posting of award or intent to award notice. The protesting firm must reduce its complaint to a written petition and file it with the department that issued the solicitation within ten (10) calendar days from registration of the original complaint. Failure to timely file a protest or failure to timely deliver the required bond or other security in accordance with the Board of Governors' (BOG) Regulations 18.002 and 18.003 shall constitute a waiver of protest proceedings. Additional information on protest procedures can be viewed in the above referenced BOG Regulations.

(6) Contracts.

- (a) Acquisitions ~~for the procurement~~ of commodities, ~~or~~ contractual services, or licenses shall ~~consist of be executed with a purchase orders, or a bilateral agreement/contract, prior to the goods or services being ordered, contracted for, or rendered by the vendor. except for p~~Procurement using a pCard, where compliant with applicable policies and procedures, or prior verbal approval from the Procurement Services Department, are also acceptable means to obligate the university for a procurement. necessary funds prior to the contractor being provided a notice to proceed or said contractor rendering the goods or services. All necessary procurement actions (i.e. competition, competition exemptions,

approvals) must take place prior to signing a contract/agreement or engaging in any actions that will obligate the university-funds. For procurement under a bilateral agreement/contract or prior verbal approval from the Procurement Services Department, the requisition to process the associated purchase order must be submitted within thirty (30) days of (i) delivery of the commodities or (ii) the obligation for contractual services or licenses being incurred.

- (b) Any contract for the procurement of services or tangible personal property for a period in excess of one fiscal year shall include the following or an equivalent statement: “The State of Florida’s and University’s performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.”
- (c) Permitting the extension(s) of a contract, entered into as a result of a competitive solicitation, for up to twelve (12) months or until completion of the competitive solicitation and award or protest, whichever is longer. The extension shall be in writing, signed by both parties, and shall be subject to the same terms and conditions set forth in the initial contract.
- (d) A contract may contain provisions for renewal. If the commodity or contractual service is procured as a result of a competitive solicitation, the cost of any contemplated renewal must be included in the competitive solicitation. All contract renewals are subject to sufficient annual appropriations. Renewals of a contract, whether the contract resulted from a competitive process or other procurement method, shall be for a period that may not exceed 5 years or twice the term of the original contract, whichever is longer. This provision is not intended to apply retroactively; existing contracts entered into prior to January 1, 2017, including any specified renewal period(s) may continue in accordance with the existing contract terms.
- (e) When any commodity contract requires deferred payments and the payment of interest, such contract may be submitted to the State of Florida Comptroller for the purpose of pre-audit review and approval prior to acceptance by the University. The President shall have the authority to enter into deferred payment agreements utilizing the State of Florida Comptroller’s Consolidated Equipment

Financing Program. No agreement shall establish a debt of the state or shall be a pledge of the faith and credit of the state; nor shall any agreement be a liability or obligation of the state except from appropriated funds.

- (f) In order to promote cost-effective procurement of commodities and contractual services, the University may enter into contracts that limit the liability of a vendor consistent with Section 672.719, F.S.
- (g) The total value of the contract is, for purposes of this regulation and university procedures, the procurement price for the initial term plus all renewal costs.
- (h) If a contractor does not furnish proof of payment to subcontractors, suppliers, or laborers within 60 days after the project is certified to be finally complete by the University, the University will pay any retainage, on a pro-rata basis, directly to the subcontractors, suppliers or laborers. In order to obtain payment, subcontractors, suppliers, or laborers who have not been paid after the 60 days have passed have an additional 30 days to submit documentation satisfactory to the University showing that they have performed work on the project, the amount due, and certifying that they have not been paid. If a contractor does not complete a project, the University will use any retainage to complete the work and then pay any balance of the retainage, on a pro-rata basis, to subcontractors, suppliers, or laborers who provide the above required documentation within 30 days after the completion of the project.

(7) Standard of Conduct. It shall be a breach of ethical standards: (a) for any employee of the University to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services; (b) for any potential contractor to offer an employee of the University a gratuity of any kind, form or type to influence the development of a contract or potential contract for commodities or services; or (c) for any University or University direct support organization employee participating on a procurement selection committee to solicit donations from responding vendors during the selection process, except for donations or benefits expressly stated in the procurement document.

(8) Procurement of Motor Vehicles.

- (a) The term “motor vehicle” includes any automobile, truck, watercraft or other vehicle designed primarily for transporting persons, and construction vehicles or farm equipment.
- (b) The University has authority to:
  - 1. Establish standard classes of motor vehicles to be leased, procured or used by University personnel;
  - 2. Obtain the most cost effective and efficient motor vehicles for state purposes;
  - 3. Establish and operate facilities for the acquisition, disposal, operation, maintenance, repair, storage, control and regulation of University-owned motor vehicles. Acquisition may be by procurement, lease, installment-purchase, loan or by any other legal means and may include a trade-in. All motor vehicles procured or leased shall be of a class that will safely transport University personnel and adequately meet the minimum requirements of the University.
  - 4. Contract for specialized maintenance services.
- (c) Motor vehicles owned, leased or operated by the University shall be available for official University business only.

(9) Public Records.

- (a) Agreements may be canceled unilaterally by the University for refusal by the vendor/contractor to allow public access to all papers, documents, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the vendor/contractor in conjunction with the Agreement.
- (b) The University is subject to the Florida Public Records laws.
- (c) Contract for Services. To the extent that Payee meets the definition of “contractor” under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Payee must comply with public records laws, including the requirements of Section 119.0701, Florida Statutes.

(10) Vendors Excluded from Competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications,

requirements, statements of work, Invitations to Bid, Request for Proposals and/or Invitations to Negotiate shall be excluded from competing for such procurements.

*Authority: BOG Regulations 1.001, 18.001, 18.002 and 18.003. History—New 4-23-03, Amended 4-17-06, 8-6-07, 10-19-07, Formerly 6C7-7.130, Amended 7-6-09, 8-8-14, 10-29-15, 7-5-16, 4-17-17, \_\_\_\_\_-19.*

**ITEM:**        **BOT-1**

**University of Central Florida  
Board of Trustees**

**SUBJECT:**    Action based on Bryan Cave Investigation

**DATE:**        January 24, 2019

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**PROPOSED BOARD ACTION:**

Approve recommendations following receipt of the Bryan Cave investigation report.

**BACKGROUND INFORMATION:**

Pursuant to the discussion at the January 18, 2019 Board of Trustees meeting, Chairman Marchena made several recommendations for the board's consideration. The trustees were also advised to send additional recommendations for consideration.

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**Supporting documentation:** Attachment A: Statement and Recommendations by Chairman  
Marcos Marchena

**Prepared by:** Grant J. Heston, Chief of Staff and Vice President for Communications and  
Marketing

**Submitted by:** Marcos Marchena, Chairman, UCF Board of Trustees

Attachment A

**UNIVERSITY OF CENTRAL FLORIDA**

**Statement and Recommendations by**

**Chairman Marcos Marchena**

**January 18, 2019**

Let me begin by thanking Trustee Seay, Joey Burby and his team for their methodical and thorough investigation of this matter. I appreciate their collaboration with both the Inspector General of the Board of Governors, as well as the staff of the Florida House of Representatives. I realize we only received the report yesterday, but I'm sure, like me, you went through it in detail last night. I also wanted you to hear directly from Mr. Burby and be able to ask him questions as to the process of the investigation.

Based upon the investigation, I have a number of recommendations. With one exception, I am not asking that we take action on these recommendations today. I think it is fair and reasonable to give all of us an opportunity to consider these recommendations in light of the report. So, I will lay out my recommendations today and will place this item on the agenda for our meeting on the 24<sup>th</sup> and ask that we take action at that time.

There are two types of actions that I am recommending to the Board. The first and most important type is systemic. These include a number of the procedure changes mentioned in the investigation and some already implemented:

Of course, the certification on the use of funds from the President, the CFO, and the General Counsel previously adopted will remain in effect.

President Whittaker already separated the position of CFO and V.P. for Administration and Finance. I recommend the Board adopt that change as policy and require approval of the Board to change the structure and responsibilities of the two positions.

The office of the General Counsel, the compliance, ethics and risk office and internal audit will develop updated specific written policies and procedures for the Board's consideration to further ensure proper use of state appropriated E&G Funds.

We will review the existing whistleblower program and update it to encourage reporting of known or suspected violations of law, regulation or University policy.

President Whittaker has already directed that the University's internal audit department conduct real-time audits for all capital projects in excess of \$2 million. This includes pre-start verification of the funding source, spot verification of the funding source during a capital project and, of course, appropriate post-project audit. I recommend that these actions be formally adopted as Board policy.

Next, I recommend that a standard format be adopted for Committee and Board agenda memoranda. The information we receive on written agenda items in advance of meetings at times is extensive, and at other times is limited. I recommend that in the future, agenda items



include a specific format, even if there will be an oral or PowerPoint presentation in connection with the item. The format of the agenda item will be distributed to you today for your review prior to taking action next Thursday. The essential components of the recommendation are that all decision points relative to an agenda item be specifically identified, all pro and con facts relative to each decision point be identified, that the specific source of funding and fiscal impact be included in the agenda item and any restrictions on the proposed funding source be identified.

I know we will be receiving a report and additional recommendations from the Association of Governing Boards later this spring relative to additional steps for the staff's interaction with the Board to ensure the Board is properly informed in all material matters, so I expect this Board will be adopting additional recommendations at a later date when that report is presented. After the report, the Board will also undergo additional training regarding the budgeting process and appropriation.

The second type of recommendation is retributive.

First, I am comforted, though not surprised, that the investigation found no one personally profited from the decisions regarding the Trevor Colbourn Hall project, nor that any funds went missing.

The report found that the individual primarily responsible for the decision to use restricted funds for the Trevor Colbourn Hall project and for not informing the Board was the former CFO, Bill Merck.

Some have argued that because the funds were used for a needed building that Bill Merck's poor judgment should be overlooked. Others have argued that, with Bill Merck's departure, together with the acknowledgment by the University that this inappropriate expenditure of restricted funds occurred and with the reimbursement of the funds, no other disciplinary actions are necessary.

I disagree on both counts.

The investigation found a pattern of behavior by Mr. Merck to avoid informing the Finance Committee and the Board that the approval of the project involved restricted funds. Mr. Merck, who refused to participate in the investigation but then sought to discredit it, has accused several people, including me, of impolitic behavior. I want to be unequivocal here, the only imprudent behavior was Mr. Merck's decision that he knew best and that he would get Trevor Colbourn Hall built with restricted funds without giving this Board a legitimate opportunity to decide the correct course of action. I have discussed CFO obligations with multiple CFOs. To a person they have told me Mr. Merck, who routinely reported to the Finance committee and the Board, had a duty to not only inform the Committee and the Board of the restricted nature of the funds but to highlight the restricted nature of the funds and ensure that a decision was made knowingly. Why didn't he do so? The report makes it clear: he told multiple people, he knew the Board would say no.

Some might argue that Bill Merck, who led this ill-conceived effort, is being impacted the least. Some have suggested that the University should pursue Mr. Merck's retirement pension. Mr. Cole has reviewed with me the statute on what is required for a state employee to lose his or her retirement pension and, while I'm sorely disappointed in Mr. Merck's behavior, I do not consider

Mr. Merck's actions rise to that level. However, I believe it is appropriate for the Board to take added measures with respect to Mr. Merck, and I therefore recommend that Mr. Merck be stripped of all remaining unpaid performance bonus.

The report found that four other employees knew the use of the restricted funds was not allowed.

The report makes it clear that these four individuals, together with Bill Merck, knew that this was an inappropriate use of restricted funds and failed to bring it to our attention. I've had occasion to interact with some of these employees extensively on other matters. I have found them to be very dedicated and capable employees who have shown significant passion for their work. However, we must make it clear to all employees that we will undertake all our actions within the rules and concealing or obscuring information from the Board is completely unacceptable. I concur with the actions taken this morning by President Whittaker with respect to all four individuals.

Last week Dr. Hitt requested to end his one-year employment agreement effective immediately. I accepted his request on behalf of the Board as of January 10 which was the date of his letter and I request that you ratify my action today.

The report does not find anyone else was knowingly involved in the decision to use restricted funds without full disclosure to, and full approval of, this Board. According to the report, the internal managerial decision to use restricted funds was made as early as June 2013. The first time this item came before a Board committee was April 2014. Dr. Whittaker was not hired until August 2014. Dr. Whittaker has told us previously, and the investigation report bares-out, that he was not aware the use of funds was inappropriate. Dr. Whittaker did receive and sign, along with a number of other University officers, documents and a report to the Board of Governors for the project. I understand that signatures are requested routinely on reports, but these must be taken seriously. I also consider that Dr. Whittaker as Executive Vice President had a heightened duty of inquiry. I have every confidence in President Whittaker. I believe President Whittaker will lead this University to preeminence, will continue to achieve high results under the Board of Governors performance standards and will develop UCF into a model of a twenty-first century university. Recognizing the position that he held during a portion of this process, I recommend that Dr. Whittaker's participation in the performance bonus program be eliminated for two years. That will cover the balance of his time as provost.

I do not want anyone to think that making these recommendations has been easy for me. I will tell you that I have not slept much over the past month. I have no desire to injure any of the individuals impacted today, but my obligation is to the University, ensuring that we behave appropriately within the law and regulations that apply to us and more importantly, that we continue to earn the community's trust, the Board of Governors' trust and the trust of the Legislature and the Governor.