

APPROVED  
ORANGE COUNTY BOARD  
COUNTY COMMISSIONERS  
NOV 19 2002 *gafala*



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MARTHA G. HAYNIE, COMPTROLLER  
ORANGE COUNTY, FL  
04/13/2005 09:21:46 AM  
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THIS DOCUMENT PREPARED BY  
Orange County Attorney's Office  
201 S. Rosalind Avenue  
Orlando, FL 32801

RETURN TO:  
BROAD AND CASSEL  
ATTN: DEBORAH H. JOHNSON LLC  
390 N. ORANGE AVE., SUITE 1100  
ORLANDO FL 32801

**CANADIAN COURT/JOHN YOUNG PARKWAY CONNECTOR  
ROADWAY AGREEMENT**

**THIS AGREEMENT** (the "Agreement") effective as of the date of last execution, is made by and between **ORANGE COUNTY, FLORIDA**, a charter county and a political subdivision of the State of Florida (the "County"), and **UNIVERSAL CITY PROPERTY MANAGEMENT III LLC**, a limited liability company organized and existing under the laws of Delaware ("UCPM") which was formerly known as Universal City Property Management Company III, a Delaware corporation.

**WITNESSETH:**

**WHEREAS**, UCPM owns certain lands which are located in Orange County, Florida, adjacent to the Phase V Expansion of the Orange County Convention Center (the "UCPM Property"); and

**WHEREAS**, UCPM anticipates substantial development of portions of the UCPM Property and has determined that construction and maintenance of various roads, including the "New Roadway Extension" (as hereinafter defined) which would extend Canadian Court easterly and northerly to connect with John Young Parkway, are necessary and desirable for such development; and

**WHEREAS**, the County has determined that various roads are necessary and desirable

STATE OF FLORIDA, COUNTY OF ORANGE  
I HEREBY CERTIFY this is a copy of a document  
approved by the BCC on **NOV 19 2002**  
**MARTHA G. HAYNIE**, COUNTY COMPTROLLER  
By: *[Signature]* Date: **APR 07 2005**  
Deputy Clerk Seal

for the benefit of its roadway system in this economically significant part of Orange County and specifically determined a need to pursue development of the New Roadway Extension, all in an effort to provide efficient movement of traffic; and

**WHEREAS**, the County has agreed to provide a portion of the right-of-way as hereinafter defined and as generally depicted on **Exhibit "A"** attached hereto and incorporated herein by reference (the "County ROW") for the proposed New Roadway Extension, and UCPM has agreed to convey, or cause to be conveyed, without additional consideration to the County the UCPM ROW as hereinafter defined and as generally depicted on **Exhibit "A"**; and

**WHEREAS**, a portion of the UCPM ROW will be provided pursuant to a contractual obligation of Orlando Central Park, Inc. ("OCP") and Lockheed Martin Corporation ("LMC") (the "LM ROW") pursuant to that certain Roadway and Utility Agreement, dated December 15, 1998, by and between OCP, LMC and UCPM (the "UCPM/LM Agreement"); and

**WHEREAS**, the Parties desire to enter into this Agreement to memorialize the duties and responsibilities of the parties;

**NOW, THEREFORE**, in consideration of the mutual covenants herein provided and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**Section 1. Definitions.** For the purposes of this Agreement, the following terms shall have the meaning ascribed to them as follows:

**"Environmental Condition"** means any noncompliance with any Environmental Law.

**"Environmental Law"** means any and all federal, state, and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements, or other governmental restrictions relating to the protection of the environment or human health, welfare, or safety, or to the emission, discharge, seepage, release, or threatened release of Hazardous Materials into the environment including, without limitation, into ambient air, surface water, ground water, or land, or restrictions otherwise relating to the handling of such Hazardous Materials.

**"Governmental Authority"** means any federal, state, or local government, including, without limitation, the County, or quasi-governmental entity or authority, or any department, commission, board, bureau, agency, court, or instrumentality thereof, in each case having jurisdiction, control, or authority over, or in connection with, any of the New Roadway Extension right-of-way or construction which is the subject of this Agreement.

**"Hazardous Materials"** means any contaminant, chemical, waste, irritant,

petroleum product, waste product, radioactive material, flammable or corrosive substance, explosive, polychlorinated biphenyls, asbestos, hazardous or toxic substance, material, or waste of any kind, or any other substance regulated by any Environmental Law.

**"New Roadway Extension"** means a four-lane divided roadway which widens the existing Canadian Court roadway and extends the road eastward and northerly to a point of intersection with John Young Parkway as generally depicted on Exhibit "A" attached hereto, and further defined in Section 2, below.

**"Parties"** means, collectively, each of the County and UCPM, and each of their permitted successors and assigns.

**"Party"** means either of the Parties.

**"Person"** means any individual, corporation, partnership, joint venture, association, limited liability company, joint stock company, trust, unincorporated association, or any Governmental Authority.

**"Roadway Plans"** means the design and engineering plans for the New Roadway Extension, prepared by UCPM, inclusive of landscaping, sidewalks, lighting and signage, but specifically excluding mitigation.

**"UCPM ROW"** means all property and easements necessary for the New Roadway Extension excluding the County ROW but, unless otherwise noted herein, including the LM ROW.

**"Universal Boulevard Extension"** means a roadway being constructed in accordance with that certain Roadway Agreement entered into between the Parties dated December 15, 1998, as it may be amended from time to time.

**"Utilities"** means facilities for the distribution, conveyances, transmission, sales and/or transportation of telecommunications, electrical power, natural gas, surface water drainage, potable water, reclaimed water, waste water or similar publicly regulated services.

## **Section 2. New Roadway Extension.**

A. **Location and Configuration.** As shown on Exhibit "A", the alignment for construction of the New Roadway Extension is intended to be along or adjacent to the present Canadian Court, upon the UCPM Property, and upon certain land owned by LMC and designated in the UCPM/LM Agreement. For the purposes of this Agreement, the New Roadway Extension shall be divided into the following three sections: "Section One" shall extend from approximately the intersection of International Drive and Canadian Court to the eastern terminus of the existing County right-of-way for Canadian Court; "Section Two" shall extend from the

eastern terminus of Section One to the western boundary of the right-of-way for the Universal Boulevard Extension (currently under construction); and "Section Three" shall extend from the eastern boundary of the right-of-way for the Universal Boulevard Extension to the western boundary of the John Young Parkway right-of-way.

B. **Typical Cross Section.** A typical cross section of each segment of the New Roadway Extension is attached hereto and incorporated herein as **Exhibit "B"**.

C. **Landscaping.** County shall provide landscaping within the right-of-way for the New Roadway Extension in accordance with County's standard landscaping for similar roadways and shall be no less than 5% less than an average per-mile cost of \$75,000 for purchase, materials, construction, installation, irrigation and maintenance. UCPM shall have the right, subject to County ordinances and standards and to County approval not unreasonably withheld, to provide enhanced landscaping for any area of the New Roadway Extension, provided that UCPM shall be responsible for all excess design, purchase, construction, installation, and irrigation and maintenance costs associated therewith.

D. **Sidewalks.** The sidewalks on both sides of the New Roadway Extension shall be: five (5) to seven (7) feet wide in Section One, if feasible within the existing right-of-way; five (5) to seven (7) feet wide in Section Two; and five (5) to seven (7) feet wide in Section Three from the eastern boundary of the Universal Boulevard Extension right-of-way to the western boundary of Shingle Creek.

E. **Streetlighting.** The County shall provide standard streetlights for the New Roadway Extension unless UCPM elects, subject to applicable County standards and ordinances and County approval not unreasonably withheld, to arrange with an electric utility provider for the upgrade of the streetlight poles and related fixtures ("streetlights") to the standard used for the Universal Boulevard Extension (the "upgrade"). Further, UCPM shall have the right, but not the obligation, to cause a property owners' association, for which UCPM is the declarant or such other third party as UCPM may reasonably select, to arrange with an electric utility provider for the upgrade. In the event UCPM so elects to upgrade the streetlights, or elects to permit a third party to arrange for such upgrade, the County shall bear no responsibility for the arrangement for, nor any expense of, any incremental increase in capital or maintenance costs. UCPM agrees that any upgrade shall be done in a first-class manner similar to, or better than streetlights in the surrounding area. Notwithstanding anything to the contrary contained herein, County shall install all Utilities necessary for the streetlights and shall be fully responsible for the payment of the electrical costs of the streetlights for the New Roadway Extension at the rate set by the electric utility provider, from time to time. In any event, the Parties agree that no promotional or advertising materials shall be suspended from or attached to any streetlights.

F. **Naming of Roadway.** The parties will mutually agree upon an acceptable name for the roadway.

**Section 3. Right-of-Way and Easements.**

A. **LMC Right-of-Way Conveyance.** The Parties anticipate the following two events will occur within sixty (60) days of the execution of this Agreement :

(1) LMC and the County will enter an agreement under which LMC will convey to the County the necessary right-of-way to construct the New Roadway Extension within the LM ROW in fee simple and at no cost to the County, the title conveyed to be free and clear of all liens, encumbrances, exceptions or qualifications whatsoever; and

(2) LMC and the County will enter an agreement under which LMC will convey to the County either in fee simple or by perpetual easement, at no cost to the County, all property necessary to accommodate all drainage and stormwater runoff (including storage and treatment facilities for such runoff) attributable to the New Roadway Extension within the LM ROW.

If both such events have not occurred within sixty (60) days after the execution of this Agreement, UCPM, upon the County's request, shall use its best efforts to cause LMC to convey to the County the LM ROW and associated drainage rights as provided under the UCPM/LM Agreement. Such conveyance shall be at no cost to the County. UCPM hereby designates the County as the "Governmental Authority" under Section 3 of the UCPM/LM Agreement which shall receive the right-of-way and drainage rights described therein.

B. **Obligations of UCPM.** UCPM shall convey to the County all right-of-way for the UCPM ROW and all easements for Utilities, including associated drainage and stormwater facilities. UCPM shall cause the Roadway Plans to incorporate the stormwater retention facilities for the LM ROW within the LM ROW or its related easements. UCPM shall transfer or cause to be transferred to the County, without additional consideration to the County, all drainage and construction easements and access necessary for the UCPM ROW owned by UCPM, which UCPM is reasonably able to obtain from a utility provider, subject to reasonable conditions, including, without limitation, indemnification and insurance for UCPM by the County or the general contractor used by the County for completion of construction of the New Roadway Extension and refraining from any activity that will adversely affect UCPM's agricultural uses on property adjacent to the New Roadway Extension.

C. **Obligations of County.** The County shall be responsible for providing the County ROW segment for the New Roadway Extension and all necessary temporary or permanent utility, drainage, and construction easements and access relating thereto.

D. **Environmental Audit.**

(1) Within ninety (90) days after UCPM has provided the County with a survey of the UCPM ROW (the "Inspection Period"), the County may, at its sole cost, inspect the UCPM Property upon which the New Roadway Extension is to be constructed (inclusive of the soil and

groundwater therein) on the terms and conditions set forth in **Exhibit "C"** attached hereto and incorporated herein to determine the presence of any Hazardous Materials. For purposes of undertaking such physical inspections and investigations of the UCPM Property, including any soil borings or additional surveys (*i.e.*, topographic) required by the County, UCPM hereby grants to the County, its employees, contractors, and agents full right of entry upon the UCPM ROW owned by UCPM and any part thereof. Except as otherwise expressly provided herein or in the statutory warranty deed(s) required to be provided hereunder, UCPM makes no representation as to the condition or suitability of the property to be conveyed by UCPM for the New Roadway Extension and the County shall accept such property "as is" and without reliance without reliance on any representation or warranty.

(2) In the event the County's inspection identifies the existence of any Environmental Condition on the UCPM Property which the County deems unacceptable, the County shall, no later than ten (10) days after the end of the Inspection Period, provide UCPM with written notice thereof and request that the parties agree in writing on an equitable division of the cost of cleanup or remediation that would enable roadway construction. If such an agreement is not finalized within thirty (30) days of such notification, either party may provide notice of termination of this Agreement, effective immediately, and neither party shall have any further obligation to the other hereunder except that UCPM shall be obligated to reimburse the County for Roadway Plans expenditures made pursuant to Section 4.C.(2) herein.

(3) In the event the parties finalize an agreement under 3.D.(2) above, the County shall have, with regard to portions of the UCPM Property on which it finds an unacceptable Environmental Condition, the option either to receive such property as provided in Section 3.F. herein, or to receive such property via a conveyance of a perpetual right-of-way easement over, across, and through such property, provided that such easement shall be granted at no cost to the County, shall not waive the County's sovereign immunity beyond the extent provided in Section 768.28, Florida Statutes (2001). No provision of this Agreement shall be construed as an indemnification, waiver, or release by County in favor of UCPM with regard to any liability UCPM may now have or hereafter acquire under any Environmental Law or to any third party.

E. **Wetlands Mitigation; Related Expenses.** The parties acknowledge that the New Roadway Extension is to be constructed across Shingle Creek, its associated wetlands, and perhaps other wetlands and that, accordingly, significant time and expense may be required to properly address environmental matters to the satisfaction of permitting agencies. With the exception of any County or FDOT permits, UCPM shall be solely responsible for obtaining all permits (including all costs and expenses therefor) (and for mitigation credits) which are necessary (a) for the placement of the New Roadway Extension excluding utility easements in the vicinity of Shingle Creek and associated wetlands; and (b) for all other wetlands as impacted by the New Roadway Extension. The Parties acknowledge that the mitigation credits for Phase II Construction will likely not be available until calendar year 2005. In addition, UCPM shall be solely responsible for all costs and expenses for environmental and engineering consultant services which may be required to obtain the aforementioned permits.

**F. *Transfer of Title and Closing Costs and Prorations.***

(1) Not later than sixty (60) days after completion of the Roadway Plans and UCPM's receipt of the SFWMD ERP permits (as applicable) for each Phase of the New Roadway Extension (as such Phases are described in Section 4.A. below) (the "Conveyance Date"), UCPM shall convey the portion of the UCPM ROW (which does not include the LM ROW) included in such Phase of construction to the County, at no cost to the County, in one of the following ways:

(a) by dedication to the County in a plat (or plats) of real property owned by UCPM recorded in the Public Records of the County,

(b) by right-of-way easement as provided in Section 3.D(3) (at County's option only), or

(c) by statutory warranty deed, free and clear of all liens, encumbrances, exceptions or qualifications, save and except for the exceptions that are approved by the Manager of the County's Real Estate Management Division ("Manager") in his discretion no later than sixty days (60) days after the execution of this Agreement by the County (the "Permitted Exceptions"), provided that UCPM shall have provided the Manager a complete proposed list of such exceptions (with legible copies of all instruments listed as exceptions) no later than thirty (30) days after the County's execution of this Agreement. UCPM's timely proposed Permitted Exceptions shall be deemed approved by the Manager if not rejected within thirty (30) days of receipt. In the event UCPM elects this method, UCPM shall, not later than the date on which the Roadway Plans are completed and UCPM has received the SFWMD ERP permits (as applicable), deliver to the County a Title Commitment (with legible copies of all instruments listed as exceptions attached thereto) (the "Commitment") for an ALTA Form B (1992) Owner's Title Insurance Policy for the Subject Property issued by UCPM's attorneys as agent for Lawyers' Title Insurance Corporation (the "Title Company") committing to insure the County as Grantee of the Property in the full amount of the appraised value of the property (as appraised by qualified County staff or independent appraiser hired by the County) and evidencing that marketable fee simple title to the Subject Property is currently vested in UCPM and is free and clear of all liens, encumbrances, easements and exceptions or qualifications, save and except for the Permitted Exceptions. If the County determines the title is defective or, in its sole discretion, determines that any of the exceptions would inhibit construction or operation of a public roadway, the County shall notify UCPM of that fact in writing within thirty (30) days of receipt of the Title Commitment. Such written notice shall specify those exceptions which are objectionable to the County (hereinafter referred to as "Title Defects"), and UCPM may take up to thirty (30) days to cure or eliminate the Title Defects at UCPM's election and deliver the statutory warranty deed to the County. In the event that UCPM shall be unable or unwilling to cure or

eliminate the Title Defects within the thirty (30) day period so provided, the County shall either (a) elect to terminate this Agreement on account thereof, (b) accept the property "as is," notwithstanding the Title Defects, or (c) proceed on its own to cure or eliminate the Title Defects within said thirty (30) day cure period. In the event the County elects to terminate this Agreement because of the existence of Title Defects that are not cured or eliminated, upon giving written notice of that fact to UCPM on or before the end of the thirty (30) day cure period, this Agreement and all rights and obligations of the Parties hereunder shall thereupon cease, terminate and be null and void, except that UCPM shall be required to reimburse the County for all its Roadway Plans expenditures as provided in Section 4.C.(2) of this Agreement. In the event the County elects to proceed on its own to cure or eliminate the Title Defects, UCPM agrees to provide its reasonable cooperation in connection with the County's efforts.

(2) UCPM shall be solely responsible for payment of all costs associated with the conveyance of the UCPM ROW for the New Roadway Extension, including all recording fees and documentary stamps related to such conveyance. Ad valorem taxes in connection with the conveyance of the UCPM ROW shall be prorated as of the date of transfer of title and the prorated amount shall be paid by the UCPM to the County, in escrow, pursuant to Section 196.295, Florida Statutes, unless the conveyance occurs between November 1 and December 31, in which case ad valorem taxes shall be paid in full by the UCPM for the year of conveyance.

G. ***Shared Use of Stormwater Facilities.*** UCPM may elect to design stormwater management ponds for the New Roadway Extension to be co-located with UCPM ponds, in which case UCPM shall be responsible for all pond maintenance. UCPM shall retain the right to relocate or reconfigure, at its sole cost and expense, all such drainage areas provided the same has no material adverse impact upon drainage from the New Roadway Extension. UCPM shall provide the County with easements over all drainage areas associated with the New Roadway Extension, regardless of whether these areas are co-located with UCPM facilities or whether these areas are relocated or reconfigured by UCPM. In either case, the drainage shall be limited to that resulting from the UCPM ROW only, specifically excluding the LM ROW.

H. ***Access Prior to Completion of Construction.*** At the request of either Party after substantial completion of the Roadway Plans but before the County's issuance of Invitation for Bid advertisements for the New Roadway Extension construction, the Parties shall meet and agree upon specified construction access locations on UCPM Property and, if necessary, the LM ROW. UCPM shall provide such access as the County reasonably requires and which will not unduly burden UCPM. Agreements reached relative to construction access shall be incorporated into construction documents prior to the Invitation for Bid advertisements.

I. ***Conditions Precedent.*** The parties agree that following are conditions precedent to County's obligation to enter into a contract for, and to cause, construction of either the Phase I Construction or Phase II Construction (as defined below): (i) UCPM's conveyance to County of the UCPM ROW and all easements necessary for drainage and construction of the

New Roadway Extension as provided herein; (ii) LM's conveyance to County of the LM ROW and all easements necessary for drainage and construction of the New Roadway Extension; and (iii) UCPM's preparation of the Roadway Plans, associated right-of-way documents, preparation and submission of all applications for permits and approvals necessary and obtainable by UCPM for the construction of the New Roadway Extension (all as provided herein) and UCPM's acquisitions of such permits and approvals.

***Section 4. Design and Permitting of New Roadway Extension Improvements.***

A. ***Obligations of UCPM.*** UCPM shall be responsible for the preparation of the Roadway Plans and associated right-of-way documents, and the preparation and submission of all applications for permits and approvals necessary and obtainable by UCPM for the construction of the New Roadway Extension. Within thirty (30) days of the execution of this agreement, UCPM shall provide the County with a written proposal for a design and engineering contract(s), including cost and scope, for the preparation of the Roadway Plans and permits for the County's review and approval which approval shall not be unreasonably withheld. The contract(s) shall provide that the County is an additional insured with regard to insurance against the design professional's errors and omissions. Such review process shall be completed no later than twenty (20) days of submission by UCPM and failure to provide written response within such period shall be deemed approval. Such proposal shall separate the preparation of Roadway Plans to expedite completion of such plans for Sections One and Two of the New Roadway Extension and to allow the County to prepare separate bid packages for the construction of (i) Section One and Section Two ("Phase I Construction") and; (ii) Section Three ("Phase II Construction"). Within thirty (30) days of the County's approval of the contract proposal(s), UCPM shall commence preparation of the Roadway Plans. Within one (1) year of receipt of the County's approval of the proposed contract(s), UCPM shall cause the Roadway Plans for Phase I Construction and Phase II Construction to be completed and during such period shall provide the design and engineering plans for each Phase to the Director of Orange County's Public Works Department as provided in this subsection. At all times, the Parties will endeavor in good faith to agree upon all material aspects of the design of the New Roadway Extension, however, the County shall have final approval of all project elements including without limitation median openings, curb cuts, intersections, and turn lanes. At any time during UCPM's development of the Roadway Plans, the County may, upon reasonable advance notice to UCPM, enter onto any portion of UCPM Property contemplated within such Roadway Plans for the purpose of determining the viability of such property for roadway development. Further, upon the County's request, UCPM shall use its best efforts to obtain permission from the owner(s) of the LM ROW to allow representatives of the County to enter upon such property for the purpose of determining its roadway viability.

UCPM shall diligently pursue completion of the Roadway Plans and shall prepare and submit all applications for permits and approvals necessary and obtainable by UCPM for construction of such New Roadway Extension, related improvements, easements and utilities and

shall provide the County copies of all material documentation and correspondence on a timely basis. UCPM shall submit for the County's review: (i) design drawings at 30%, 60%, 90% and 100% completion, and (ii) draft applications for all required permits, prior to submission to the permitting agencies. UCPM shall provide final Roadway Plans that address, to the County's satisfaction, conditions of all permits received. UCPM shall submit right-of-way documents to the County depicting the final right-of-way and easement areas necessary for the New Roadway Extension. UCPM shall have no liability for any delays in completion of the Roadway Plans or the start of either Phase I Construction or Phase II Construction resulting from any Governmental Authority withholding or delaying its approval or consent for any permits required to construct the New Roadway Extension or any portion thereof, provided that such withholding or delay is not the result of error or omission by UCPM.

B. **Obligations of the County.** The design and permitting for Phase I Construction and Phase II Construction of the New Roadway Extension shall be subject to the County's reasonable review and approval in accordance with County biddable standards. The County shall provide comments on design drawings and permit applications within twenty (20) working days of receipt at each stage of design and permitting. The review and approval under this Agreement by the County is as a party to this Agreement and is in addition to any governmental permitting functions the County may be otherwise obligated to perform. The access points onto the New Roadway Extension shall be designed and permitted through the County's development review process and in accordance with County standards. Notwithstanding anything set forth herein to the contrary, the County alone shall have final approval rights over the design and permitting of construction for the New Roadway Extension, related improvements, and easements.

C. **Reimbursement by County.**

(1) The County shall reimburse UCPM for the cost of preparation of the Roadway Plans as reviewed and approved by the County, and within the limits of the contract(s) therefor approved by the County pursuant to Section 4.A. of this Agreement, excluding all costs of permitting and hazardous materials testing. Once each calendar month, UCPM shall submit to the County for reimbursement of the Roadway Plans with copies of all bills for costs billed to UCPM in completing the Roadway Plans, less all sums previously reimbursed by the County for Roadway Plans ("Reimbursement Request"), and the County will, within forty-five (45) days of receipt of a completed and approved request, pay to UCPM a sum equal to the current Reimbursement Request. The supporting documentation for a Reimbursement Request shall be in a standard format agreed upon in advance by the County. For purposes hereof, except as otherwise specifically identified herein as a cost to be paid by UCPM, "Roadway Plans" shall include all actual costs for all surveying, engineering, design, planning, and other related professional services incurred by UCPM, and approved by the County, in conjunction with the Roadway Plans; provided, however, that UCPM shall pay all costs and expenses directly relating to preparation of the permit applications to regulatory agencies, filing of permit applications and consultant services necessary to work the permit applications, including mitigation, through to

approval.

(2) In the event UCPM fails to convey, or cause to be conveyed, to the County either Phase of the UCPM ROW within ninety (90) days of the time, and on the terms, set forth in Section 3.F above, UCPM shall return to the County all funds which the County has provided to UCPM in accordance with the immediately preceding paragraph. This amount shall become due and payable upon the County's demand therefor. If the County makes such demand, such payment shall be the County's sole remedy for the failure of UCPM to convey the UCPM ROW.

**Section 5. Construction of New Roadway Extension by County.**

A. The County agrees to issue a Notice to Proceed on the Phase I Construction of the New Roadway Extension within six (6) months from the date on which the County receives from UCPM the fully completed Roadway Plans for Phase I Construction including all necessary associated permits and shall complete construction within eighteen (18) months of the issuance of the Notice to Proceed. Notwithstanding the foregoing, in the event a bid protest(s) is (are) filed, the County's obligation to issue a Notice to Proceed as provided herein shall be tolled until the date of the final resolution of such bid protest(s).

B. The County agrees to issue a Notice to Proceed on the Phase II Construction of the New Roadway Extension before December 31, 2006, provided that all necessary construction plan and permits are received by the County before June 30, 2006, and shall complete such construction no later than twenty-four (24) months of the issuance of the Notice to Proceed. Notwithstanding the foregoing, in the event a bid protest(s) is (are) filed, the County's obligation to issue a Notice to Proceed as provided herein shall be tolled until the date of the final resolution of such bid protest(s).

C. The County shall construct the New Roadway Extension in substantial accordance with the approved design and permits therefor.

D. Notwithstanding the timeframes provided above in this Section 5, in the event construction is delayed as a result of significant errors or omissions in the Roadway Plans or other documents provided by UCPM to the County, the County's obligation to complete construction as provided herein shall be tolled from the date the County gives notice of such error or omission to UCPM until the date on which the Roadway Plans or other flawed documents are revised and associated permits acquired or modified to allow, in the discretion of the County, further construction. The County shall bear all costs associated with further plan revision; UCPM shall bear all costs associated with permit modification or acquisition and wetland mitigation.

**Section 6. UCPM Rights to Construct.** UCPM shall have the right to construct all or a portion of the New Roadway Extension in the following circumstances and subject to the following conditions:

A. In the event the County fails to issue a Notice to Proceed for either the Phase I Construction or the Phase II Construction within the time frames set forth in this Agreement, UCPM or its assigns shall have the right to construct all or any portion of the Phase I Construction or the Phase II Construction (as applicable) in strict accordance with the approved design and permits therefor. Upon completion of construction of the Phase I by UCPM or its assignee, UCPM or such assignee shall be entitled to a transportation impact fee credit for development of any portion of the UCPM property designated by UCPM or its assignee in the amount for the construction cost for such roadway (as an "arterial road") in accordance with Chapter 23 of the Orange County Code of Ordinances.

B. In the event that UCPM desires to initiate construction of a portion of the Phase II Construction identified as the "Early Construction Phase" on Exhibit "A" prior to the time that the County requests bids for construction of the Phase II Construction, UCPM or its assigns shall have the right to construct such portion of the Phase II Construction in strict accordance with the approved design and permits therefor. Upon completion of construction of the Early Construction Phase by UCPM or its assignee, UCPM or its assignee shall be entitled to a transportation impact fee credit in the amount of the construction cost for such roadway in accordance with Chapter 23 (as an "arterial road") of the Orange County Code of Ordinances.

*Section 7. Master Plan.* The parties acknowledge that a portion of New Roadway Extension (identified on Exhibit "A" as the "New Portion") is not currently incorporated within the "Planned Development Master Plan for USI: South Campus LUP" (the "Master Plan") and that during the design process described in Section 4.A. above, UCPM will prepare and submit a proposed amendment to the Master Plan which will incorporate the proposed general alignment of the New Roadway Extension. The Parties agree that additional development entitlements attributable to development along the New Roadway Extension will be granted to UCPM (above that previously approved by the Board of Commissioners as part of the original Master Plan) upon dedication of the right-of-way provided by UCPM in conjunction with the New Portion of the New Roadway Extension relating to the benefits to the area road network in an amount equal to one-half of the daily trips capacity (for a typical section at level of service "E") of the New Portion of the New Roadway Extension as approved by the Development Review Committee (DRC). The Parties further agree that no Roadway Conceptual Analysis shall be required for the New Roadway Extension. Copies of this executed Agreement will be submitted to the DRC along with the proposed amendment to the Master Plan and any necessary traffic studies. In the event that UCPM is unable to obtain all required approvals for such additional trips, it shall have the right to terminate this Agreement and each Parties rights and obligations hereunder shall be null and void.

*Section 8. Form of Easements.* No easement or access agreement granted to the County pursuant to this Agreement shall require that the County indemnify, hold harmless, or insure any entity beyond the extent of the County's liability under the limited waiver of the County's sovereign immunity as provided in Section 768.28, Florida Statutes (2001). No

easement or access agreement granted to the County pursuant to this Agreement shall require consideration in excess of the consideration provided for this Agreement. Except as expressly provided herein, no easement granted to the County hereunder shall provide that the Grantor thereof may require the facilities therein to be modified, altered, relocated, or interrupted in any manner without the consent of the County, which shall not be unreasonably withheld.

**Section 9. Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the Parties hereto and their respective representatives, heirs, successors and assigns.

**Section 10. Entire Agreement.** This Agreement embodies and constitutes the entire understanding of the Parties with respect to the subject matter addressed herein, and all prior or contemporaneous agreements, undertakings, representations and statements, oral or written are merged into this Agreement.

**Section 11. Authority to Contract.** The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, and each Party has complied with all the requirements of law.

**Section 12. Notice.** Any notice delivered with respect to this Agreement shall be in writing and be deemed to be delivered (whether or not actually received) when (i) hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the Party's name below, or such other address or to such other person as the party shall have specified by written notice to the other Party delivered in accordance herewith:

To UCPM:                    UNIVERSAL CITY PROPERTY  
   MANAGEMENT III LLC  
   1000 Universal Studios Plaza  
   Orlando, Florida 32919-7610  
   Attention: President  
   Phone (407) 363-8011  
   Fax: (407) 363-8090

With a copy to:            Robert J. Gronek, Esquire  
   Gronek & Latham, LLP  
   390 North Orange Avenue, Suite 600  
   Orlando, Florida 32801  
   Phone: (407) 481-5800

Fax: (407) 481-5801

To County: BOARD OF COUNTY COMMISSIONERS  
OF ORANGE COUNTY, FLORIDA  
Attention: County Administrator  
201 South Rosalind Avenue  
Orlando, Florida 32801  
Phone: (407) 836-7320  
Fax: (407) 836-5888

With a copy to: ORANGE COUNTY PUBLIC WORKS  
Attention: Public Works Director  
Public Works Complex, Building 1  
4200 S. John Young Parkway  
Orlando, Florida 32839  
Phone: (407) 836-7970  
Fax: (407) 836-7716

and

ORANGE COUNTY ATTORNEY'S OFFICE  
Attention: County Attorney  
201 S. Rosalind Ave., 3<sup>rd</sup> Floor  
Orlando, Florida 32801  
Phone: (407) 836-7320  
Fax: (407) 836-5888

All such notices or other communication shall be deemed effective (i) upon delivery, if delivered by hand, certified mail, private courier, or by facsimile transmission, or (ii) upon refusal of delivery if properly addressed.

**Section 13. Recordation of Agreement.** UCPM shall record an executed original of this Agreement, at the UCPMs' expense, in the Public Records of Orange County, Florida.

**Section 14. Applicable Law.** This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida.

**Section 15. Time is of the Essence.** Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

**Section 16. Further Documentation.** The Parties agree that at any time following a request therefor by the other Party, each shall cooperate with each other and execute and deliver to the other Party such further documents and instruments reasonably necessary to confirm

and/or effectuate the obligations of either Party hereunder and the consummation of the transactions contemplated hereby.

**Section 17. Limitation of Remedies.** The County and the UCPM expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies as provided herein. Except as otherwise provided herein, in redress for the failure of either Party to perform its obligations under this Agreement, the Parties shall have only the following remedies available against each other:

- (i) action for specific performance; or
- (ii) action for injunction; or
- (iii) action for declaratory judgment regarding the rights and obligations of UCPM or the County; or
- (iv) any combination of the foregoing.

In addition to the foregoing, nothing in this Agreement prohibits or estops the County from exercising any or all of its sovereign powers, including without limitation its power of eminent domain with respect to the right-of-way or any other portion of the UCPM Property as the County may lawfully elect. Both Parties hereto expressly waive their respective rights to sue for damages of any type for breach of or default under this Agreement by the other. Both Parties expressly agree that each shall bear the cost of its own attorney's fees for any action arising out of or in connection with this Agreement. Venue for any actions initiated under or in connection with this Agreement shall be in the circuit court for the Ninth Judicial Circuit of Florida in Orange County.

**Section 18. Force Majeure.** Neither Party shall be liable for any delay or damage arising out of or resulting from a strike, slowdown, lockout, act of God, inability to obtain labor or materials, war, enemy action, terrorist attack, civil commotion, fire, casualty, a court order, or any other cause beyond the reasonable control of a Party. Notwithstanding any other provision of this Agreement, in the event that after the execution of this Agreement but prior to the completion of the New Roadway Extension there shall have occurred any outbreak of hostilities, any national or international calamity or crisis, including a financial crisis, or any event or incident of terrorism or attack by a foreign power or terrorist group or individual, the effect of which, in the reasonable judgment of the County Chairman would materially adversely affect the availability of revenues or funds available for the completion of the New Roadway Extension, the County may provide written notification to UCPM, then this Agreement and all rights and obligations hereunder shall thereupon cease, terminate and be null and void.

**Section 19. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall

constitute one and the same instrument.

**Section 20. Construction of Agreement.** Captions of the Sections and Subsections of this Agreement are for convenience and reference only, and the word contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**Section 21. Effective Date.** The effective date of this Agreement shall be the date when the last party has properly executed this Agreement as determined by the date set forth immediately below the respective signatures of said parties.

**[SIGNATURES ON FOLLOWING PAGES]**

COPIES

IN WITNESS WHEREOF, the Parties have hereunto executed this Agreement and have intended the same to become effective as of the day of last execution below indicated below.

ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: Richard T. Crotty

Richard T. Crotty  
County Chairman

Date: 11.19.02

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: Martha O. Haynie  
Deputy Clerk



UCPM:

WITNESSES:

UNIVERSAL CITY PROPERTY  
MANAGEMENT III LLC, a  
Delaware limited liability company

*Robert J. Gronek*  
Printed Name: Robert J. Gronek

By: *Peter C Giacalone*

*Karen K. Ward*  
Printed Name: Karen K. Ward

Name: Peter C. Giacalone  
Its: Vice President

Date: 11/12/02

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of November, 2002, by Peter C. Giacalone, as Vice President of UNIVERSAL CITY PROPERTY MANAGEMENT III LLC, a Delaware limited liability company, on behalf of said limited liability company, who is [] personally known to me or [] produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 12<sup>th</sup> day of November, 2002.

*Karen K. Ward*  
Signature of Notary

Karen K. Ward  
Typed/Printed Name



Karen K. Ward  
Commission # CC 982515  
Expires Nov. 16, 2004  
Bonded Thru  
Atlantic Bonding Co., Inc.

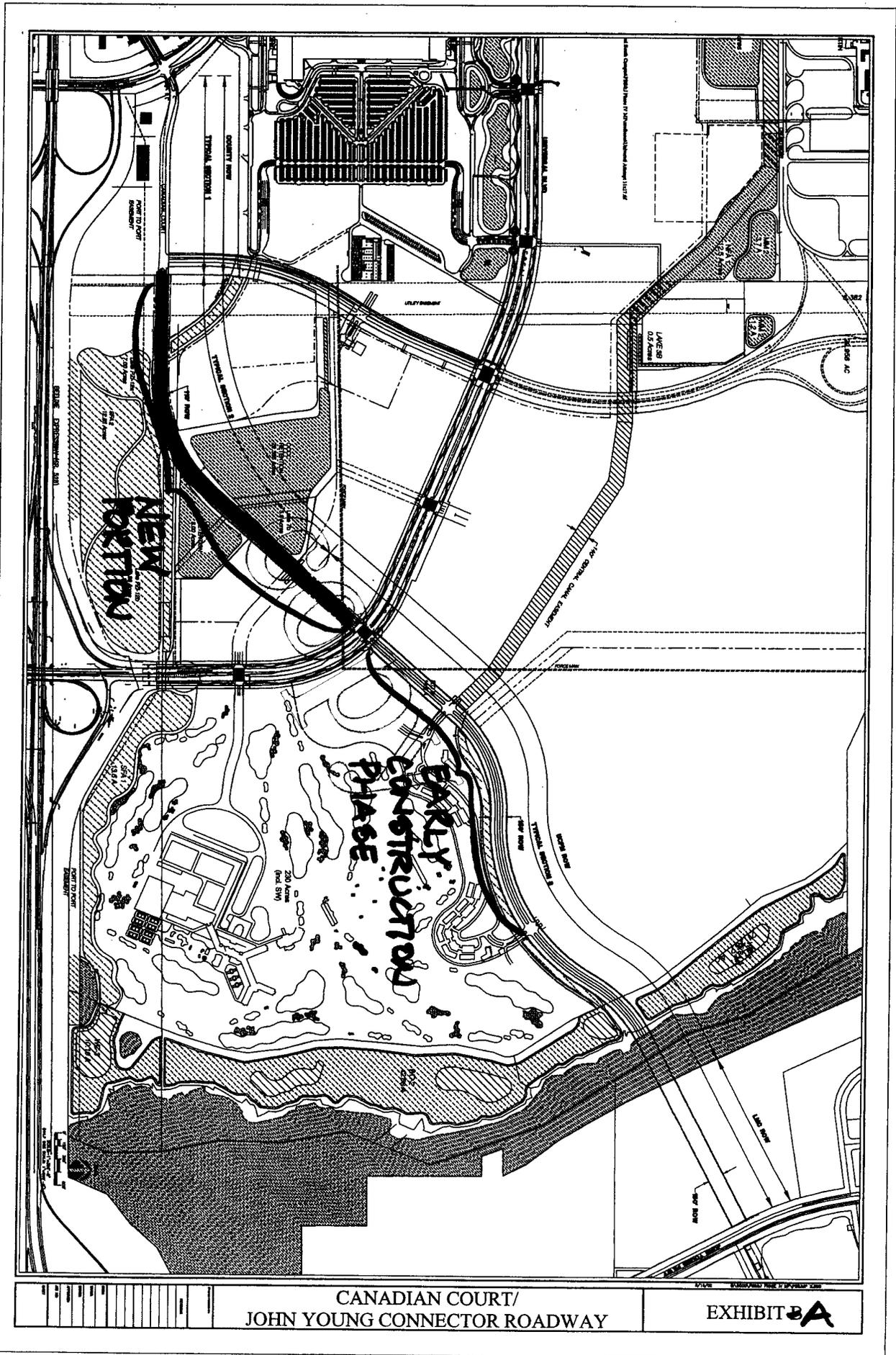
Commission No.: CC 982515

My Commission Expires: 11/16/04

**EXHIBIT "A"**

**ALIGNMENT OF NEW ROADWAY EXTENSION  
SHOWING COUNTY ROW, UCPM ROW, LM ROW**

COPY



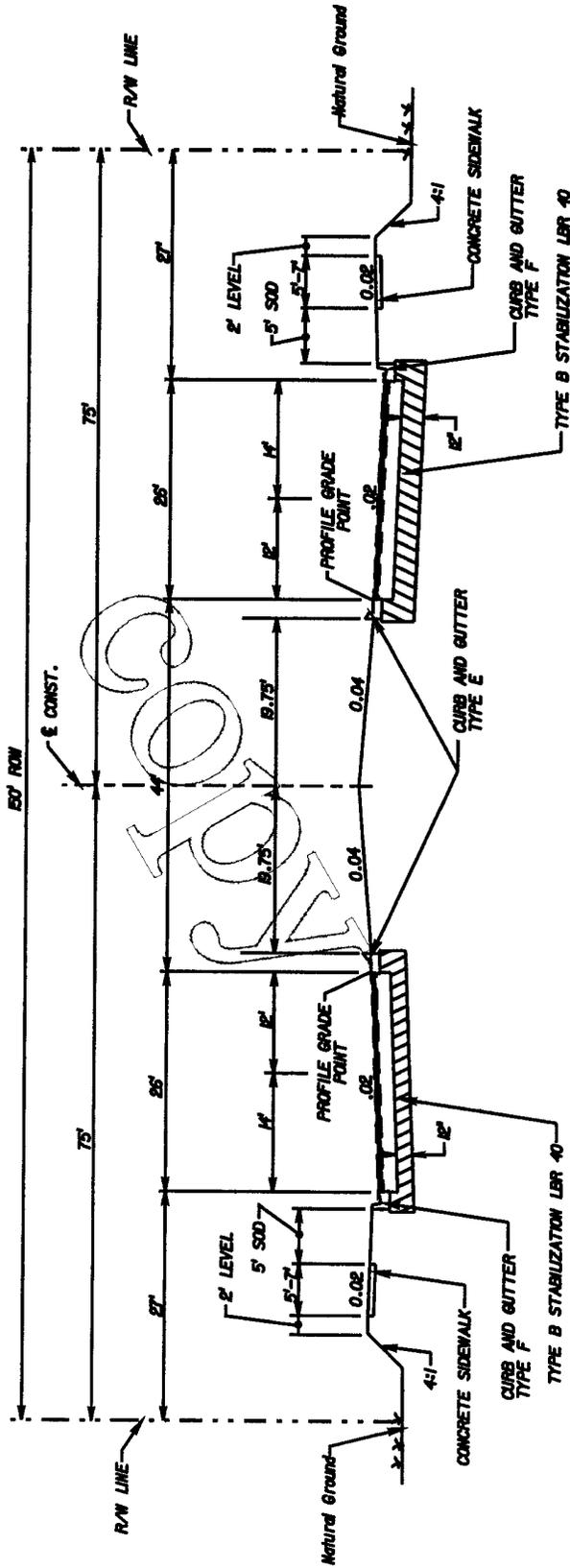
**EXHIBIT "B"**

**TYPICAL CROSS-SECTIONS  
OF NEW ROADWAY EXTENSION**

COPY







FROM WEST OF UNIVERSAL BLVD TO JOHN YOUNG PKWY



CANADIAN COURT /  
JOHN YOUNG  
CONNECTOR

Proposed  
Typical Section 3

EXHIBIT  
*EP*  
3 OF 3

18-051-208 12:18  
18-050-VTF-0000000-VTF(CM.S.dwg)

## EXHIBIT "C"

### ENVIRONMENTAL DUE DILIGENCE CONTINGENCY

- I. The County may obtain a report ("Environmental Survey") by a qualified consultant or consultants, including members of the County's own professional staff, (the "Consultants") prior to the end of the Inspection Period. At the County's option, such Environmental Survey may include, but not be limited to, investigation into the following (all of which shall hereinafter be collectively referred to as the "Environmental Exceptions"):
- (i) contamination of the "UCPM ROW" (which term shall hereinafter be deemed to include any buildings or structures located thereon) by hazardous materials;
  - (ii) apparent violation of environmental requirements upon or associated with activities upon the UCPM ROW;
  - (iii) the presence of any endangered or threatened species or plant life on the UCPM ROW;
  - (iv) whether the UCPM ROW has any historical or archeological significance; and
  - (v) potential incurrence of environmental damages by the owner(s) or operator(s) of the UCPM ROW.

The Environmental Survey may include, without limitation, the results of:

- (a) a site inspection;
- (b) interviews of present occupants of the UCPM ROW;
- (c) a review of public records concerning the UCPM ROW and other properties in the vicinity of the UCPM ROW;
- (d) a review of aerial photographs of the UCPM ROW and other evidence of historic land uses;
- (e) soil and/or ground water testing and/or analysis;
- (f) asbestos testing and/or analysis;
- (g) testing and/or analysis of any other apparently applicable environmental hazard or condition; and

- (h) building inspection.

The Environmental Survey shall include (if determined by the Consultants) the estimated cost of cure and period of time required to remediate any Environmental Exceptions.

II. The Environmental Survey may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by UCPM which do not impede the performance of the Environmental Survey. The Consultants are hereby authorized to enter upon all portions of the UCPM ROW for such purposes and to perform such testing and take such samples as may be necessary in the reasonable opinion of the Consultants to conduct the Environmental Survey.

III. UCPM will cooperate with the Consultants and supply to the Consultants such historical and operational information as may be reasonably requested by the Consultants, including any notices, permits, or other written communications pertaining to possible Environmental Exceptions, and including without limitation, any studies, surveys, examinations, plans, appraisals, permits, licenses, environmental studies or reports prepared by, or for UCPM, or furnished to UCPM, or its agents, or consultants, and UCPM will make available to the Consultants any persons known to have knowledge of such matters to the extent UCPM has control over such persons. The County shall hold the Environmental Survey and any written materials furnished to it by UCPM confidential except as required by law.

IV. If the Environmental Survey reveals any Environmental Exceptions, or if the other testing reveals any condition of the UCPM ROW which the County deems to require further evaluation, then the County may undertake a Phase II environmental audit on the conditions contained herein.