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INSTRUMENT NUMBER/BOOK & PAGE:  
2004K0037347

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CTIC COMMITMENT NO: 2003-3464

**TITLE OF DOCUMENT:** COVENANT TO MAINTAIN STORM WATER DETENTION FACILITY  
PLAT OF EXECUTIVE PARK FIFTY-SEVENTH PLAT

**DATE OF DOCUMENT:** June 1, 2004

**GRANTOR(S):** CITY OF KANSAS CITY, MISSOURI

**GRANTEE(S):** UNIVERSAL LAND DEVELOPMENT CO., L.P. (the Developer)

**GRANTEE(S) MAILING ADDRESS:** 612 Garfield  
Kansas City, MO 64124

**LEGAL DESCRIPTION:** See Exhibit "A" and Exhibit "B" of Document

**REFERENCE BOOK AND PAGE(S):**

CHICAGO TITLE INSURANCE COMPANY  
ATTN: BONNIE L. VESTAL  
P.O. BOX 26370  
KANSAS CITY, MISSOURI 64196

**COVENANT TO MAINTAIN STORM WATER DETENTION FACILITY  
PLAT OF EXECUTIVE PARK FIFTY-SEVENTH PLAT**

THIS COVENANT made and entered into this <sup>1<sup>ST</sup></sup>~~12~~ day of <sup>JUNE</sup>~~May~~, 2004 by and between the City of Kansas City, Missouri, a constitutionally chartered municipal corporation (the "City") and Universal Land Development Co., L.P. (the "Developer"), a Missouri limited partnership.

WHEREAS, Developer has an interest in certain real estate generally located at the northeast corner of Universal Avenue and Commerce Avenue in Kansas City, Jackson County, Missouri, more specifically described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Developer intends to cause the Property to be platted as EXECUTIVE PARK FIFTY-SEVENTH PLAT, in accordance with Chapter 66, Code of Ordinances of the City of Kansas City, Missouri; and

WHEREAS, Developer intends to provide temporary storm water detention facilities on a separate tract shown on Exhibit "B" (a part of Executive Park Fifth Plat Tract A) attached hereto (the "detention parcel");

WHEREAS, the improvements proposed by Developer on the Property warrant storm water control to serve the Property and maintenance of storm water detention facilities located on the detention parcel shown on Exhibit "B"; and

WHEREAS, the City and Developer agree that it is in the public interest to detain storm water for the benefit of the Property and surrounding areas; and

WHEREAS, the provisions for the maintenance of the storm water detention facility are necessary to serve the development.

NOW, THEREFORE, Developer and City, for and in consideration of the benefits to themselves, their assigns and future grantees, do hereby agree as follows:

**Sec. 1. Developer at its sole cost shall:**

- a. Be responsible for the maintenance, repair and replacement, if necessary, of the storm water detention facilities and appurtenances ("Facilities") constructed by it within the storm water detention facilities located on the detention parcel shown on Exhibit "B".
- b. Maintain the pipes, structures, grounds, and appurtenances for the Facilities located on the detention parcel shown on Exhibit "B".
- c. Keep the pipes, structures and appurtenances open and free of silt and vegetation.
- d. Keep the pipes, structures and appurtenances in good working condition or replace same if necessary.

- e. Mow the grass area within the detention parcel shown and designated as such on Exhibit "B".
- f. Maintain the grades within the detention parcel shown on Exhibit "B" pursuant to the approved plan on file in the office of the Director of Public Works and identified as File No 2007-218
- g. Obtain all necessary improvement and repair permits prior to performing any work on the Facilities.

**Sec. 2.** City is granted the right, but is not obligated, to enter upon the detention parcel shown on Exhibit "B" in order to maintain the Facilities including the pipes, structures, grounds and appurtenances if Developer fails to maintain same. In the event that the City does provide maintenance for the Facilities, then City may (a) charge the costs for such maintenance against the Developer or the owner of the detention parcel shown on Exhibit "B", (b) assess a lien on either the property shown on Exhibit "B", and/or (c) maintain suit against the Developer and/or the owner of property shown on Exhibit "B" for all cost incurred by the City for such maintenance. Unless necessitated by a threat to life and/or safety, City shall notify the Developer and/or the then current owners of property shown on Exhibit "B" not less than thirty (30) days before it begins maintenance of the Facilities.

**Sec. 3.** Developer shall not use nor attempt to use the detention parcel shown on Exhibit "B" in any manner which would interfere with the operation of the Facilities in such manner as would interfere with the proper, safe, and continuous maintenance and use thereof and in particular shall not build thereon or thereover any structure which may interfere or cause to interfere with the maintenance and use thereof, until such time that the storm water pump station that will serve this area is constructed.

**Sec. 4.** This covenant shall run with the Property until such time that the storm water pump station that will serve this area is constructed. City shall, however, join Developer in releasing this Covenant of record in such event upon the reasonable request of Developer. Developer shall remain liable under the terms of this Covenant unless and until Developer assigns its rights and obligations to a third party and such assignment is accepted by the City, which acceptance shall not be unreasonably withheld.

**Sec. 5.** To the extent allowed by law, in the event of a default under a loan agreement by a third party who is assigned the rights and obligations in accordance with the terms of this Covenant, the City will agree to an assignment from the defaulting third party to the secured lender.

**Sec. 6. Notices.** All notices required by this Covenant shall be in writing sent by regular United States mail, postage prepaid, commercial overnight courier or facsimile and addressed as hereinafter specified. Each party shall have the right to specify that notice be addressed to any other address by giving the other party ten (10) days notice thereof. Unless a party to this Agreement has given ten (10) days notice of a change of person and/or address for purposes of notice under this Agreement to the other party in writing, notices shall be directed to the following:

**Notices to the City:**  
Director of Public Works

City Hall, 414 East 12th Street  
Kansas City, Missouri 64106  
Fax number: (816) 513-2615

**Notices to Developer shall be addressed to:**

Universal Land Development Co., L.P., a Missouri limited partnership  
Attn: James R. Wiss Vice President  
612 Garfield  
Kansas City, Missouri 64124  
Telephone: 816-421-6880  
Fax number: 816-421-3706

**Sec. 7.** This Agreement shall not be amended, modified, cancelled or abrogated without the prior written agreement of all parties.

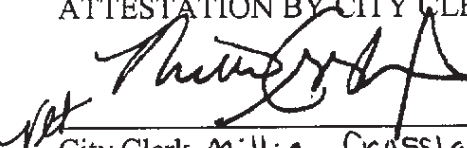
**Sec. 8.** Invalidation of any part or parts of this Covenant by judgment or other court action shall in no way affect any of the other provisions, which shall remain in full force and effect.

**Sec. 9.** This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri.


**Sec. 10.** Upon the effective date of this Covenant, the City shall file this Covenant in the Office for recording real estate documents in Jackson County, Missouri, and it shall be binding on Developer, its successors, assigns and transferees.

**Sec. 11.** Developer shall jointly and severally release, hold harmless, indemnify and defend City and its agents, officers and employees from any and all responsibility, liability, loss damage or expense resulting to Developer or to any person or property caused by or incidental as to the design, function, construction, maintenance or failure to maintain the Facility.

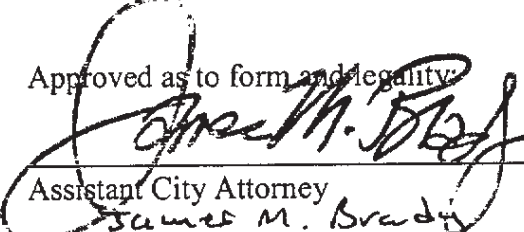
ATTESTATION BY CITY CLERK:

  
\_\_\_\_\_  
City Clerk Millie Crossland

KANSAS CITY, MISSOURI

By:   
\_\_\_\_\_  
Director of Public Works  
Stan Harris

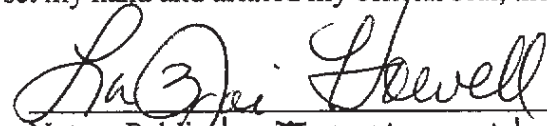
Approved as to form and legality:

  
\_\_\_\_\_  
Assistant City Attorney  
James M. Brady

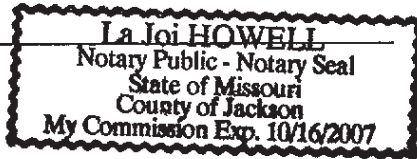
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF Jackson    )

BE IT REMEMBERED that on this 1st day of June, 2004, before me, the undersigned, a notary public in and for the county and state aforesaid, came Stan Harris, Director of Public Works, of Kansas City, Missouri, a corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Missouri, and \_\_\_\_\_, Millie Crossland of Kansas City, Missouri, who are personally known to me to be the same persons who executed, as officials, the within instrument on behalf of Kansas City, Missouri, and such persons duly acknowledge the execution of the same to be the act and deed of said Kansas City, Missouri.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

  
\_\_\_\_\_  
Notary Public La Joi Howell

My Commission Expires;



**DEVELOPER**

Universal Land Development Co., L. P.,  
a Missouri limited partnership

By: Universal Properties, Inc.

By: [Signature]  
James R. Wiss, Vice President

I hereby certify that I have authority to execute this document on behalf of Developer:

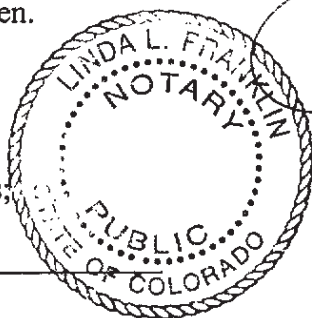
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

- Check One:    ()    Sole Proprietor  
                   ()    Limited Partnership  
                   ()    Corporation  
                   ()    Limited Liability Company (LLC)  
                   ()    Attach corporate seal if applicable

STATE OF COLORADO    )  
  ) SS  
COUNTY OF Denver    )

BE IT REMEMBERED that on this 10 day of May, 2004, before me, the undersigned, a notary public in and for the county and state aforesaid, came James R. Wiss, to me personally known, who being by me duly sworn did say that he is the Vice President of Universal Properties, Inc, which is a managing partner of Universal Land Development Co. L.P., a Missouri limited partnership, and that said instrument was signed on behalf of said limited partnership by authority of its partners and acknowledged said instrument to be the free act and deed of said limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

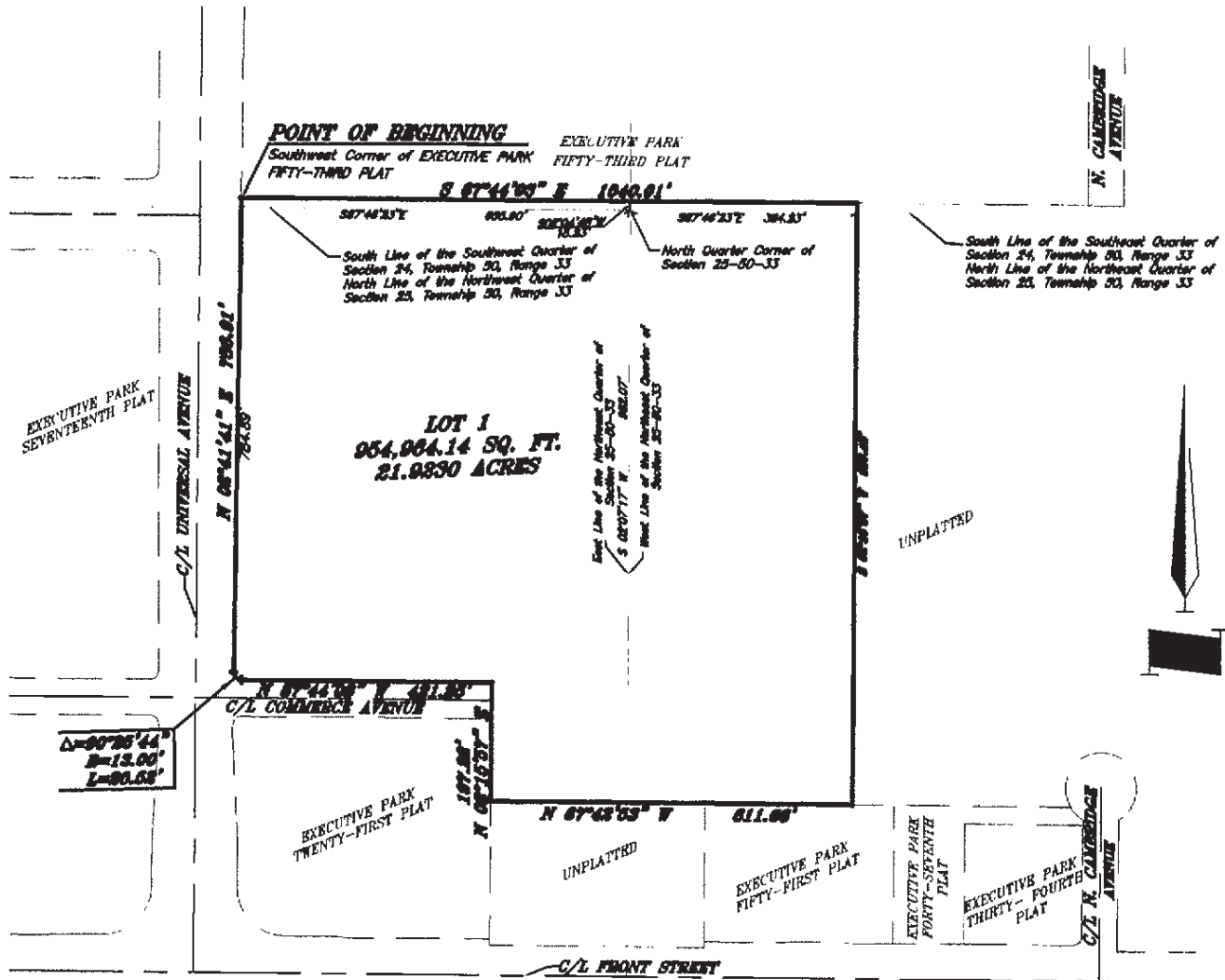


[Signature]  
Notary Public Linda L. Franklin

My Commission Expires: 12/22/07



# EXHIBIT A



**DESCRIPTION:**

A tract of land over part of the Southeast Quarter and part of the Southwest Quarter of Section 24 and over part of the Northeast Quarter and part of the Northwest Quarter of Section 25, both located in Township 50, Range 33, in the City of Kansas City, Jackson County, Missouri, more particularly described as follows:

Beginning at the Southwest corner of EXECUTIVE PARK FIFTY-THIRD PLAT, a subdivision in said city, county and state, said corner also being on the East right-of-way line of North Universal Avenue, as now established; thence South 87°44'03" East, along the South line of said EXECUTIVE PARK FIFTY-THIRD PLAT, a distance of 1040.01 feet; thence South 02°15'57" West, perpendicular to said South line, a distance of 997.40 feet, to a point on the North line of EXECUTIVE PARK FIFTY-FIRST PLAT, a subdivision in said city, county and state; thence North 87°42'53" West, along said North line and along its Westerly prolongation, a distance of 611.66 feet, to a point on the East line of EXECUTIVE PARK TWENTY-FIRST PLAT, a subdivision in said city, county and state; thence North 02°15'57" East, along said East line, a distance of 197.22 feet, to the Northeast corner of said EXECUTIVE PARK TWENTY-FIRST PLAT, said corner also being on the North right-of-way line of Commerce Avenue, as now established; thence North 87°44'03" West, along said North right-of-way line, a distance of 421.25 feet, to a point of curvature; thence Westerly, Northwesternly and Northerly, continuing along said North right-of-way line, and along a curve to the right, having a radius of 13.00 feet, and a central angle of 90°25'44", a distance of 20.52 feet, to a point of tangency, said point also being on the East right-of-way line of said North Universal Avenue; thence North 02°41'41" East, along said East right-of-way line, a distance of 786.91 feet, to the Point of Beginning, containing 954,976.36 square feet or 21.9232 acres, more or less.



# EXHIBIT B



A track of land located in the South Half (S 1/2) of Section 24. Township 50, Range 33, being a part of Tract A of Executive Park, Fifth Plat, according to the recorded plat thereof, more particularly described as follows: Commencing at the Southwest Corner of the Southwest Quarter (SW 1/4) of said Section 24; thence North 80° 43' 48" East, (the West line of said SW 1/4 being North 02° 13' 03" East) a distance of 3699.44 feet to the Point of Beginning, said point being on the Northwestern right-of-way line of Corporate Drive, thence South 47° 00' 57" West, along said right-of-way line, a distance of 30.00 feet; thence North 43° 00' 06" West, a distance of 45.00 feet; thence South 56° 52' 55" West, a distance of 146.62 feet; thence North 83° 27' 47" West a distance of 50 feet; thence North 28° 18' 35" West, a distance of 100.00 feet; thence North 04° 52' 16" East, a distance of 100.00 feet; thence North 29° 12' 30" West, a distance of 150.00 feet; thence North 52° 07' 46" West, a distance of 110.00 feet; thence North 37° 52' 14" East, a distance of 40.00 feet; thence South 52° 07' 46" East, a distance of 118.34 feet; thence North 70° 25' 28" East, a distance of 154.69 feet; thence South 56° 26' 22" East, a distance of 275.00 feet; thence South 33° 33' 38" West, a distance of 180.00 feet; thence South 43° 00' 06" East, a distance of 45.00 feet to the Point of Beginning, containing 2.33 acres, more or less.