

*Call Act for*

*Deferred 5/7/97*

<b>FROM</b>	NAME & TITLE	DANIEL P. HENSON, III, COMMISSIONER
	AGENCY NAME & ADDRESS	DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT 417 E. FAYETTE STREET
	SUBJECT	INTERIM PROMENADE EASEMENT AGREEMENTS

CITY of  
BALTIMORE

**MEMO**

*36*



TO

DATE:

Honorable President and Members  
of the Board of Estimates

April 10, 1997

Dear President and Members:

ACTION REQUESTED OF THE BOARD OF ESTIMATES:

The Board is requested to approve the attached seven (7) Interim Pedestrian Promenade Easement Agreements.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The Department of Housing and Community Development with the cooperation of the Baltimore Harbor Endowment has actively pursued the acquisition of public pedestrian easements to land along the waterfront in an effort to establish and enlarge the Baltimore Waterfront Promenade system. To this date, over one half of the proposed route and their respective easements are in place.

On October 3, 1994, the State Highway Administration awarded the City a \$325,000 ISTEAA grant to complete eight key links to the Promenade system. Seven of these sites were on private waterfront property and required easements. Through the cooperation of the participating property owners, these easements have been obtained.

APPROVED BY THE BOARD OF ESTIMATES:

*Bernice W. Taylor*

**MAY 14 1997**

Clerk

Date

**INTERIM PEDESTRIAN PROMENADE  
EASEMENT AGREEMENT**

THIS AGREEMENT, is made this 1 day of <sup>MAY</sup> ~~FEBRUARY~~, 1996<sup>7</sup>  
by and between NESTOS CONTRACTING CO., INC., owner of 2100 Boston St.,  
(hereinafter "Grantor") and MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal  
corporation of the State of Maryland (hereinafter "City") with approval of the City's Board of  
Estimates.

WHEREAS the Grantor's property as described herein is either actively industrial or undeveloped. The Grantor has agreed to grant to the City an interim easement to be part of the waterfront promenade, pending the possible future development of the Grantor's property at which time there will be installed permanent promenade improvements and the grant of a permanent promenade easement, all as and to the extent required by the then applicable Urban Renewal Plan.

NOW THEREFORE, for and in consideration of the mutual obligations of the parties hereto, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto for themselves, their successors and assigns, hereby agree as follows:

1. Grant of Easement. The Grantor hereby grants to the City a non-exclusive temporary easement for pedestrian ingress and egress in, over and through the property described in Exhibit A (hereinafter "Easement Area") for a pedestrian walkway. The City may exercise the easement only upon the terms and subject to the conditions which are set forth in the provisions of this Agreement. At such time as the Grantor's property is to be developed and ceases to be used for interim purposes, this temporary easement will be superseded by a permanent pedestrian easement. Prior to entering the permanent easement agreement, the Grantor retains the right to reconfigure the easement area indicated on Exhibit A and to coordinate with the then applicable Urban Renewal Plan and the Grantor's future development plans for the property.

2. Limitations on Exercise of Easement. The Easement granted herein may be exercised only for pedestrian traffic to and from adjoining public streets and walkways and for pedestrian traffic through this Easement area during the hours and subject to any special restrictions and limitations as set forth on Schedule B attached hereto. The Easement may not be used as access to the waters of the Baltimore harbor as it lays adjacent to the Grantor's property, except by Grantor or with the written consent of Grantor. No person otherwise entitled by the provisions of this Agreement to enter upon and use the Easement Area shall do so other than in accordance with applicable law. Reasonable rules concerning noise, dress, conduct and concerns of a similar nature regarding exercise of the easement shall be established by the City, posted at and enforced with respect to the Easement Area during the period within which the easement is exercised.

Nothing in the provisions of this Agreement shall be deemed in any way to confer upon the City, or its officers, employees, agents, or members of the general public any easement or other right entitling the City or any other such person (without the prior, express, written consent of the Grantor which may be given or withheld in its sole and absolute discretion) to bring any boat or other vessel into the waters adjoining the Easement Area, or to place, anchor, tie-up, or dock any boat or other vessel at or adjacent to any pier, walkway, piling, or other portion of the Easement Area, or to enter or exit any portion of the Easement Area from any boat, or other vessel, all of which rights are hereby expressly reserved to and by the Grantor.

3. Benefit of Easement. The benefit of the easement shall run to the City. The City may, at its exercise of the easement, allow the use of the Easement Area only for pedestrian access, by its officers, employees, agents and members of the general public.

Nothing in the provisions of this Agreement shall be deemed in any way to alter or impair the Grantor's rights to use and enjoy the Easement Area or to allow the use and enjoyment of the Easement Area by the Grantor's agents, officers, partners, employees, tenants, invitees, visitors, or guests, provided that such use and enjoyment does not interfere with or impair the City's ability to use and enjoy the Easement Area in accordance with the provisions of this Agreement.

Nothing in the provisions of this Agreement shall be deemed in any way to constitute, or to require or call for, the dedication of any Easement Area, Easement Improvements, or any portion thereof to public use, it being intended by the parties hereto that all of the same be and remain the property of the Grantor, subject to the operation and effect of this Agreement.

4. Easement Improvements. The Grantor shall retain the right to review and approve all proposed improvements in the easement area.

5. Maintenance and Repairs. The Grantor shall, throughout the term of this Agreement, be responsible for maintaining and keeping in a safe condition and in good order and repair the Easement Area and the Easement Improvements.

The City shall at its expense cause the Easement Area to be patrolled during the Easement Hours by the Baltimore City Police Department, as if the Easement Area were a public street or sidewalk, notwithstanding that the Easement Area is privately owned.

6. Insurance and Indemnification. The Grantor shall defend, indemnify, and hold harmless the City against and from any liability or claim or liability for bodily injury, death or property damage arising out of the failure of the Grantor in maintaining or repairing the Easement Area or Easement Improvements as set forth in this Agreement, notwithstanding any policy or policies of insurance.

The City shall maintain under its self-insurance program liability insurance against claims for bodily injury or death or property damage in the Easement Area occasioned by accident or other occurrences.

Except for any liability or claim of liability against which the City is indemnified by the Grantor, the City shall defend, indemnify, and hold harmless the Grantor against and from any liability or claim of liability to third parties for bodily injury, death, or property damage arising out of the lawful and unlawful use of the Easement Area during the Easement Hours by any person.

7. Default. If either party fails to perform any provision, covenant, or condition of this Agreement then, in such event, the other shall have the right, upon ten (10) days written notice, to proceed to take such action as is necessary to cure such default, all in the name of and for the account of the breaching party. The breaching party shall on demand reimburse the other party

for the money actually expended in accomplishing such cure, together with all reasonable out-of-pocket expenses plus interest at the rate of fifteen percent (15%) per annum. If the other party shall in good faith deem that an emergency is occurring or has occurred, so that a default requires immediate cure, no notice shall be required and such party shall be entitled to take action without notice, provided notice is given as soon thereafter as possible. No default, action, or inaction shall give any party the right to terminate this Agreement or to deny access to the Easement Area.

8. Notices. Any notice, demand, consent, approval, request or communication to be provided hereunder to a party shall be in writing and deemed to have been provided three (3) business days after being sent certified mail, postage prepaid, return receipt requested, to the addresses of such parties as are set forth in Schedule C.

9. Amendment. Any amendment to this Agreement must be executed in writing and with the same formality as this Agreement.

10. Headings. The headings of the sections are provided for and only for convenience of reference, and shall not be considered in construing their contents.

11. Exhibits. Each writing, schedule or exhibit referred to herein as being attached hereto is hereby made a part of this Agreement.

EXHIBIT A:	Plan of Easement Area with Improvements
SCHEDULE B:	Hours of Operation and Special Restrictions
SCHEDULE C:	Address to whom Notices concerning this Agreement are to be sent

ATTEST:

\_\_\_\_\_  
Secretary

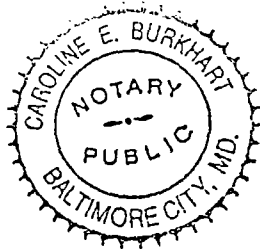
By: NICK V BERRY (Seal)  
President

STATE OF MARYLAND  
COUNTY OF \_\_\_\_\_

SS:

I HEREBY CERTIFY, that on this 1st day of February, 1997<sup>CB</sup>, before me, a Notary Public of the State of Maryland, personally appeared who acknowledged himself to be President of Nestos Contracting, and that he as such President being authorized so to do, executed the foregoing Agreement for the purposes contained on behalf of the corporation.

IN WITNESS THEREOF, I have hereunto affixed by hand and official seal the day and year first above written.



Caroline E. Burkhart  
Notary Public  
My Commission Expires: \_\_\_\_\_  
My Commission Expires February 8, 1999

ATTEST:

\_\_\_\_\_  
Custodian of the City Seal

MAYOR AND CITY COUNCIL OF BALTIMORE

By: [Signature]  
Daniel P. Henson, III  
Commissioner, HCD

Approved by the Board of Estimates:

Bernice S. Nelson MAY 14 1997  
Secretary Clerk Date

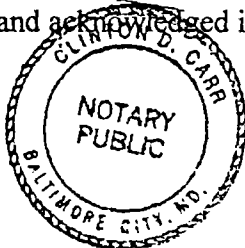
Approved for form and legal sufficiency:

[Signature]  
Principal Counsel Date 3/8/97

STATE OF MARYLAND  
CITY OF BALTIMORE

SS:

I HEREBY CERTIFY, that on this 10th day of March, 1997, before me, a Notary Public of the State of Maryland, personally appeared Daniel P. Henson, III, Commissioner of Department of Housing and Community Development, who signed the foregoing Agreement in my presence and acknowledged it to the act of the Mayor and City Council of Baltimore.



Clinton D. Carr  
Notary Public  
My Commission Expires: 1/19/98

SCHEDULE B

HOURS OF USE AND SPECIAL RESTRICTIONS

RE: Interim Pedestrian Promenade Easement Agreement by and between Nestos Contracting Co., Inc., owner of 2100 Boston Street, and the Mayor and City Council of Baltimore

DATE: \_\_\_\_\_

HOURS OF USE: The easement rights granted herein may be exercised by the City on a continuous basis (twenty four hours a day, seven days a week).

SPECIAL RESTRICTIONS AND LIMITATIONS: The Grantor retains the right to temporarily close the easement area for maintenance and repairs, or other activities of a temporary nature. The Grantor will provide written notification to the City seven days prior to any temporary closings.

SCHEDULE C

PARTIES TO WHOM ALL NOTICES SHALL BE SENT

RE: Interim Pedestrian Promenade Easement Agreement by and between Nestos Contracting Co., Inc., owner of 2100 Boston Street, and the Mayor and City Council of Baltimore

DATE: \_\_\_\_\_

1. Nick Tserkis  
Nestos Contracting Co., Inc.  
2210 Boston St.  
Baltimore, MD 21231
2. Demos Anastasiades  
Daasas Design, Inc.  
2202 Boston St., Suite 200  
Baltimore, MD 21231
3. Daniel P. Henson, III  
Commissioner  
Baltimore City Department of Housing and Community Development  
417 E. Fayette Street, Room 1300  
Baltimore, MD 21202
4. Robert M. Quilter  
Coordinator, Mayor's Promenade Task Force  
Baltimore City Department of Housing and Community Development  
417 E. Fayette Street, Room 1201  
Baltimore, MD 21202
5. Linda Barclay, Esquire  
Baltimore City Law Department  
City Hall, Room LL 31  
100 N. Holliday Street  
Baltimore, MD 21202



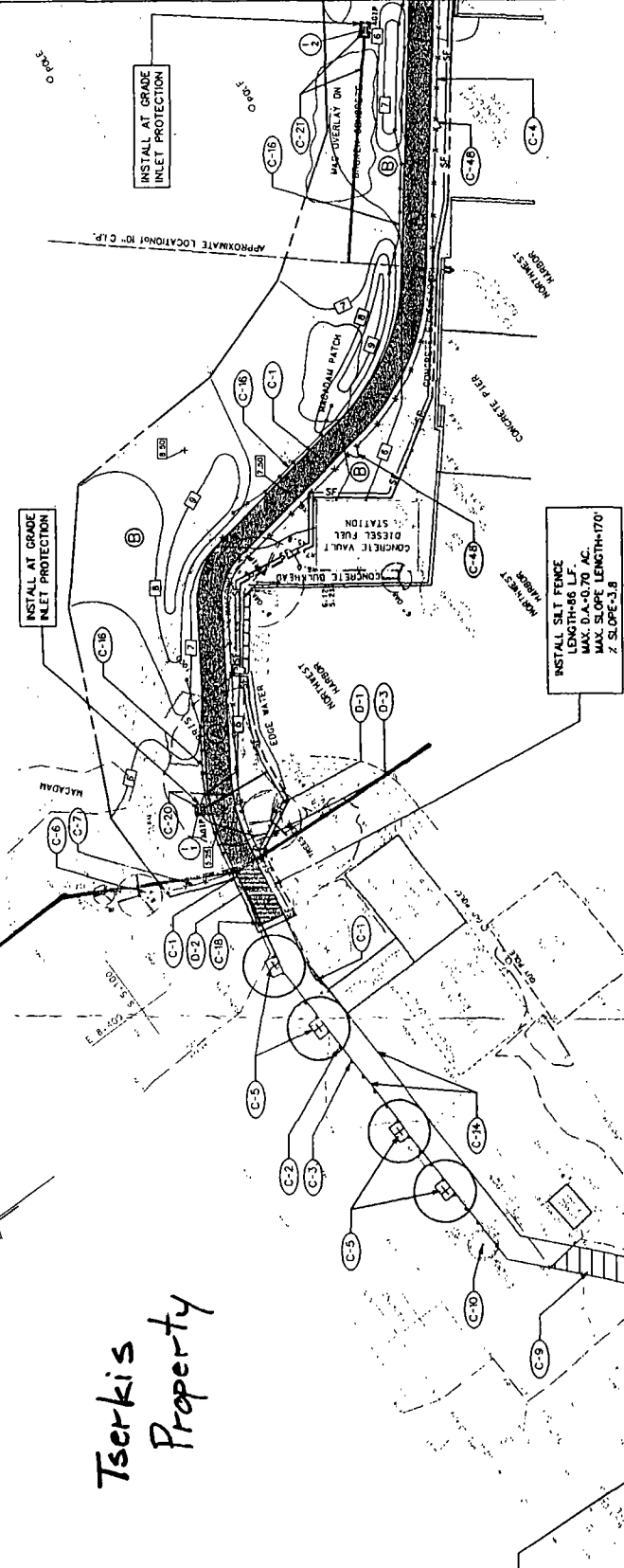
NO.	DESCRIPTION	DATE	BY

**EXHIBIT A**  
Easement Area with Improvements

Stabilization Schedule

AREA	S.F.	STABILIZATION	SEQUENCE
A	6,522	TEMP. STONE CONC. PAVING & TEMP. PAVING	1
B	16,897.3	TEMP. SEEDING & LANDSCAPING OF GRASS	2
C	500	TEMP. SEEDING & LANDSCAPING OF GRASS	3
		TEMP. GRAVEL	4
		TEMP. GRAVEL	5

MATCH LINE SEE SHEET -- OF --



- Legend**
- EXISTING CONTOUR
  - PROPOSED CONTOUR
  - EXISTING SPOT ELEVATION
  - PROPOSED SPOT ELEVATION
  - PROPOSED SILT FENCE
  - LIMITS OF DISTURBANCE
  - INLET PROTECTION
  - STABILIZED CONSTRUCTION ENTRANCE
  - CONTRACTOR'S STAGING AREA
  - TEMPORARY STOCKPILE AREA
  - PROPOSED BITUMINOUS PAVING
  - PROPOSED CONCRETE PAVING
  - EXISTING MATERIAL TO BE REMOVED
  - PROPOSED STORM DRAIN
  - PROPOSED POST & CHAIN FENCE

**Sequence of Construction**

- OBTAIN PERMITS.
- START WRITTEN NOTIFICATION TO THE BALTIMORE CITY SOILMENT CONTROL SECTION AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION.
- INSTALL CONSTRUCTION ENTRANCE TO BEGIN CONSTRUCTION.
- DISPOSEL SITE, AND CONTRACTOR'S TENDING THE CLOSING DATE.
- INSTALL SILT FENCE, INLET PROTECTION AND STABILIZED CONSTRUCTION ENTRANCE.
- CONTRACTOR SHALL STABILIZE DISTURBED AREAS WITHIN 24 HOURS.
- BEGIN RECEIVING CONCRETE AND BITUMINOUS PAVING AND CHAIN FENCE MATERIALS TO THE SITE WITHIN 10 DAYS OF THE START OF CONSTRUCTION.
- INSTALL SILT FENCE, INLET PROTECTION AND STABILIZED CONSTRUCTION ENTRANCE.
- INSTALL CONCRETE BASE AND BRICK WALKWAY. FINISH BITUMINOUS AND CONCRETE WALKWAY PAVING.
- CONSTRUCT TREE PITS. INSTALL METAL BOLLARDS AND PROGRADE STORM DRAIN LINE FENCE.
- INSTALL TEMPORILY LANDSCAPING AND MULCH IN LANDSCAPING AREAS.
- REMOVE ALL CONSTRUCTION MATERIALS FROM THE STABILIZATION AREA AT PROJECT SITE.
- COMPLETE FINE GRADING OF ALL WORKING AREAS AND STABILIZATION.

STORM DRAIN STRUCTURE SCHEDULE

NO.	DESCRIPTION	INV. IN	INV. OUT	TOP ELEV.
1-1	(2) 6" P.V.C. DRAIN PIPES	3.50	3.37	5.00
1-2	(2) 8" P.V.C. DRAIN PIPES	3.50	---	5.00
1-3	(2) 8" P.V.C. DRAIN PIPES	2.50	2.30	4.00
1-4	(2) 8" P.V.C. DRAIN PIPES	4.00	3.60	6.00

NOTE: ALL INLETS TO BE POLYDRAN #40 LARGE CATCH BASIN ON EQUAL.

SURVEY BOOK \_\_\_\_\_ RECORD PLATE \_\_\_\_\_  
B.M. ELEVY \_\_\_\_\_ DRAINAGE DISTRICT \_\_\_\_\_

RELEASED BY RIGHT OF WAY DIVISION  
CITY OF BALTIMORE  
BUREAU OF TRANSPORTATION  
AGREEMENT NO. \_\_\_\_\_

NORTH SHORE AT THE ANCHORAGE /  
TSEKIS SITE

SCALE: T-20' DATE: 7/7/95

**ENTRY AGREEMENT  
WITH THE  
MAYOR AND CITY COUNCIL OF BALTIMORE**

Permission is hereby granted this 7th day of May  
by:

Nick Tserkis, President of Nestos Contracting Co, Inc.  
owner of Tskerkis site, 2100 Boston Street,  
Baltimore, MD 21231

to the Mayor and City Council of Baltimore, a Municipal Corporation of the State of Maryland (herein after the City), to immediately enter in upon that portion of our land as is shown in yellow on the copy of the City's plan attached, and to proceed with the construction of the specific improvements as indicated on that plan. Said plan is signed by me/us for purposes of identification and hereby made part of this Entry Agreement.

According to the Uniform Relocation Assistance and Real Property Act of 1970, as amended, we must inform you of your right to an appraisal of your property and to receive just compensation based on an appraisal for the acquisition of your property or any necessary easement(s).

In signing this agreement, I/we understand that I am donating such property or any interest therein by granting the Interim Promenade Easement. I/we also understand that I waive my right to an appraisal of my property.

It is further agreed that I/we will execute the legal instrument formalizing the Interim Promenade Easement(s).

It is hereby understood and agreed that all utility companies having facilities within the area covered by the agreement are hereby given permission to move and/or adjust their facilities as may be required in connection with the proposed improvements.

WITNESS   (SEAL)  
WITNESS \_\_\_\_\_ (SEAL)