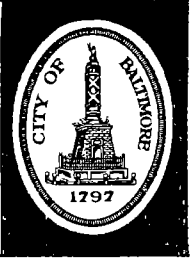


De Rolley

8/27

FROM	NAME & TITLE	OTIS ROLLEY, III, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR
	SUBJECT	PROMENADE EASEMENT AGREEMENT FOR LIVING CLASSROOMS' MARITIME PARK

CITY of
BALTIMORE
MEMO



DATE: August 26, 2003

TO Honorable President and Members
of the Board of Estimates

Dear President and Members:

ACTION REQUESTED OF THE BOARD OF ESTIMATES:

The Board is requested to approve the execution of a permanent Pedestrian Promenade Easement Agreement with The Living Classrooms Foundation for the property known as 1417 Thames St.

AMOUNT OF MONEY AND SOURCE OF FUNDS:

N/A

BACKGROUND/EXPLANATION:

As an objective to complete Baltimore's Waterfront Promenade system, the Fells Point Urban Renewal Plan requires waterfront property owners to construct a permanent promenade when their property is redeveloped from industrial to commercial or residential use. The Plan also requires the property owner donate to the City of Baltimore a public easement over said promenade area.

The Living Classrooms Foundation is building the Frederick Douglass/Issac Myers Maritime Park at the property k/a 1417 Thames Street. This permanent promenade easement agreement will guarantee public access along the waterfront on this site. This promenade will link with the promenade under construction at the Fells Landing Parcel C development site to the east and the Harborpoint (former Allied site) interim promenade to the west.

The Maritime Park plans have been reviewed and approved by the Fells Point Task Force and City agencies. The plans for the development and the location for the promenade conform to the requirements set forth by the Fells Point Urban Renewal Area.

OR/RMQ/jh

APPROVED BY BOARD OF ESTIMATES:

SEP 10 2003

Date

[Signature]

Clerk



**PEDESTRIAN PROMENADE
EASEMENT AGREEMENT**

SEP 10 2003

THIS AGREEMENT, is made this 1st day of August, 2003, By and between the Living Classrooms Foundation (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 has agreed to grant to the City a permanent easement over and through a portion of the property known as 1417 Thames Street and to be part of the Baltimore Waterfront Promenade.

NOW THEREFORE, for 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 easement for pedestrian ingress and egress in, over and through the property described in Exhibit A (hereinafter "Easement Area") for a public 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.

2. Limitations on Exercise of Easement. The easement may be exercised only for pedestrian access to and from the adjoining public streets, walkways, and promenade easement areas, and for pedestrian traffic through the Easement Area twenty four (24) hours a day and subject to any special restrictions and limitations as set forth on Schedule D attached hereto. 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, in 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 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 City shall perform the work as set forth in Exhibit C (the "Easement Improvements").

5. Maintenance and Repairs. The Grantor shall, throughout the term of this Agreement, be responsible for maintaining the keeping in a safe conditions 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 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 and property damage in the Easement Area occasioned by accident or other occurrence.

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 or 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 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 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 E.

9. Amendment. Any amendment of 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: Promenade Easement Plat (with Improvements)

EXHIBIT B: LCF Promenade Alternative Access Route Plat

EXHIBIT C: Easement Improvements

SCHEDULE D: Special Restrictions

SCHEDULE E: Addresses to Whom Notices of this Agreement are to be Sent.

IN witness whereof, the parties have executed this agreement as of the day and year first above written.

ATTEST: [Signature]

LIVING CLASSROOMS FOUNDATION

By: [Signature] (SEAL)
Wilbur E. Cunningham, Vice President
Development

STATE OF MARYLAND
City of Baltimore

SS:

I HEREBY CERTIFY, that on this 9th day of July, 2003, before me, a Notary Public of the State of Maryland, personally appeared Wilbur E. Cunningham, who acknowledged himself to be Vice President/Development, of Living Classrooms Foundation, and that he as such being authorized so to do, executed the forgoing Agreement for the purposes contained on behalf of the Living Classrooms Foundation.

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

APRIL S. NOWAK
Notary Public, State of Maryland
Baltimore County
My Commission Expires Oct. 31, 2004

[Signature]
Notary Public
My Commission Expires: 10.31.2004

ATTEST: [Signature]
Custodian of the City Seal

MAYOR & CITY COUNCIL OF BALTIMORE
By: [Signature]
Paul Graziano
Commissioner, HCD

Approved by the Board of Estimates
[Signature] SEP 10 2003
Secretary [Signature] Date

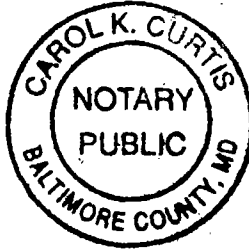
Approved for form and legal sufficiency:
[Signature] 8/1/03
Principal Counsel Date

STATE OF MARYLAND
City of Baltimore

SS:

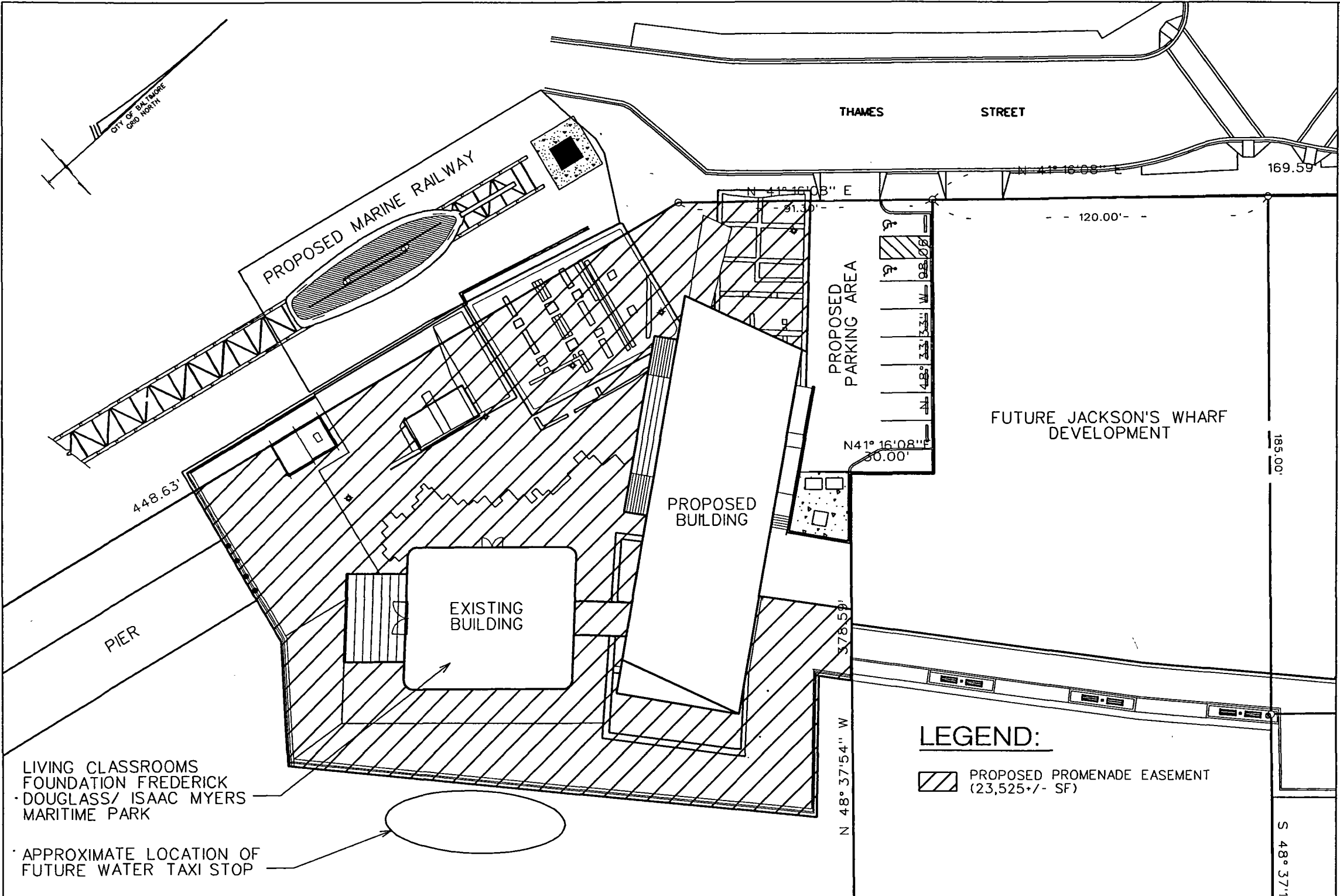
I HEREBY CERTIFY, that on this 26th day of August 2003, before me, a Notary Public of the State of Maryland, personally appeared Paul Graziano, Commissioner of Department of Housing and Community Development, who signed the foregoing Agreement in my presence and acknowledged it to the Mayor and City Council of Baltimore.

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



Carol K. Curtis
Notary Public
My Commission Expires: 5-1-04

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DATE: 20-Jun-03 15:20



LIVING CLASSROOMS
FOUNDATION FREDERICK
DOUGLASS/ ISAAC MYERS
MARITIME PARK

APPROXIMATE LOCATION OF
FUTURE WATER TAXI STOP

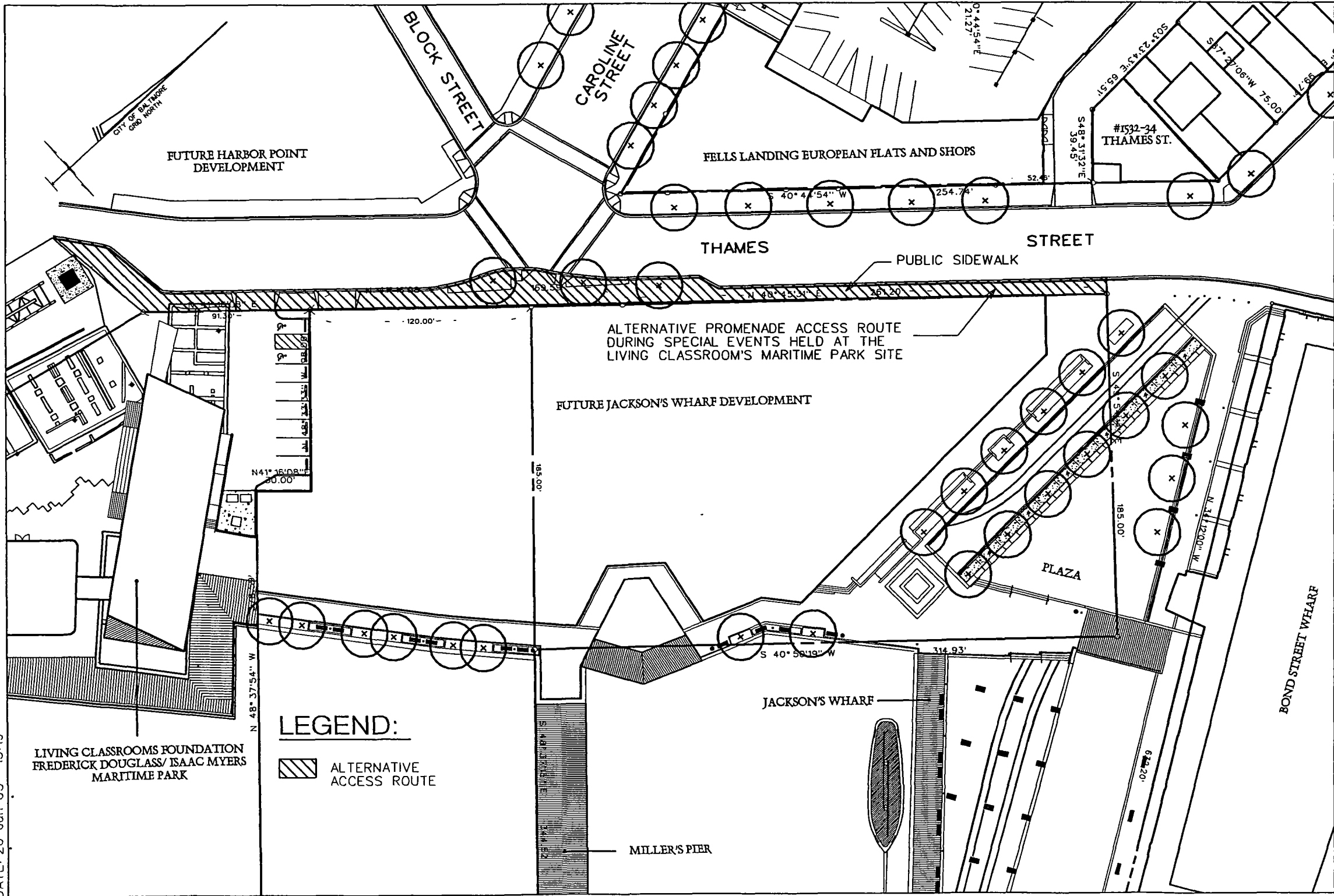
LEGEND:
[Diagonal Hatching] PROPOSED PROMENADE EASEMENT
(23,525 +/- SF)

PROMENADE EASEMENT PLAT

STV Incorporated
engineers / architects / planners / scientists / construction managers
7125 Ambassador Road, Baltimore, MD 21244-2722 (410) 944-9112

"EXHIBIT A"

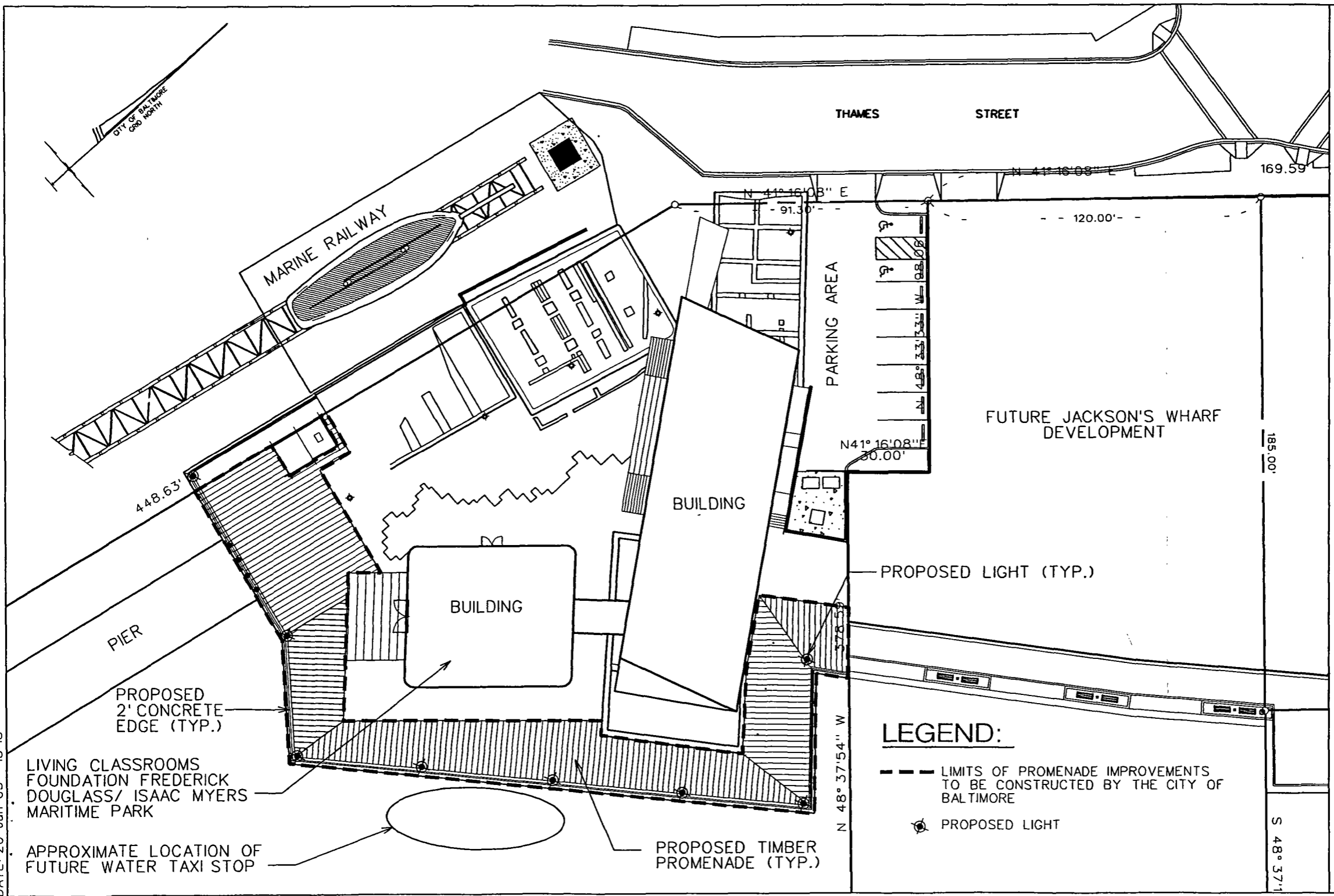
JULY 7, 2003
SCALE: 1" = 40'



LEGEND:
 ALTERNATIVE ACCESS ROUTE

LCE PROMENADE ALTERNATIVE ACCESS ROUTE

FILE: I:\PROJECTS\10391\PL03\LVN.dgn
DATE: 20-Jun-03 15:18



EASEMENT IMPROVEMENTS



STV Incorporated
engineers / architects / planners / scientists / construction managers
7125 Ambleside Road Baltimore, MD 21244-3722 (410) 944-9112

"EXHIBIT C"

JULY 7, 2003
SCALE: 1" = 40'

SCHEDULE D

SPECIAL RESTRICTIONS AND LIMITATIONS

Temporary Closing of Easement Area: The Grantor retains the right to temporarily close the easement area for maintenance and repairs. The Grantor will provide written notification to the City seven days prior to any temporary closings unless an emergency necessitates immediate action. Repairs will be expeditiously performed allowing for timely reopening.

Hours for Pedestrian Use of Easement Area: The Easement Area shall be open for pedestrian-only traffic 24 hours per day, seven days per week. At various times the Living Classrooms Foundation may organize outdoor activities on the site and within the Promenade Easement Area. However, public access through the site or along the promenade will not be restricted except during special events as noted below.

Events: Grantor expressly reserves the right to temporarily close the Easement Area in connection with any public or private event held in the easement area provided that:

1. There are no more than four (4) fundraising events held per calendar year (not including the Fells Point Fun Festival or similar successor event)
2. No such event shall extend beyond twenty-four (24) hours in duration (except in connection with the Fells Point Fun Festival or similar successor event, which may extend up to seventy-two (72) hours).
3. No such event shall include amplified music or public address without the necessary City permit.
4. An alternative promenade access route will be provided during special events, refer to Exhibit 'B': LCF Promenade Alternative Access Route Plat for the location of the alternative access route.
5. Grantor shall operate or shall cause such events to be operated in accordance with applicable laws, rules and regulations, including, without limitation, any permits or approvals specifically required in connection herewith.
6. Grantor notifies the City of Baltimore (Department of Planning) seven (7) days prior to any and each event.

SCHEDULE E

PARTIES TO WHOM NOTICE SHALL BE SENT

RE: Pedestrian Promenade Easement Agreement by and between Living Classrooms Foundation and the Mayor and City Council of Baltimore

1. Living Classrooms Foundation
802 South Caroline Street
Baltimore, MD 21231
2. Commissioner
Baltimore City Department of Housing and Community Development
417 E. Fayette Street, Room 1300
Baltimore, MD 21202
3. Baltimore City Law Department
City Hall, Room LL 31
100 North Holliday Street
Baltimore, MD 21202
4. Baltimore City Department of Planning
417 E. Fayette Street
8th Floor
-- Baltimore, MD 21202