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Pedestrian Promenade  
Easement Agreement

Carley Capital Group

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Mayor & City Council

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**RETURN TO:**

ATLANTIC TITLE COMPANY  
SUITE 2301  
36 SOUTH CHARLES STREET  
BALTIMORE, MARYLAND 21201

13050

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PEDESTRIAN PROMENADE EASEMENT AGREEMENT

THIS PEDESTRIAN PROMENADE EASEMENT AGREEMENT (hereinafter referred to as "this Agreement"), made this 14th day of October, 1984, by and between CARLEY CAPITAL GROUP, a general partnership organized and existing under the law of Wisconsin having an address at 2623 Connecticut Avenue, N.W., Washington, D.C. 20008 (hereinafter referred to as "the Developer"), and MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation organized and existing under the law of Maryland (hereinafter referred to as "the City") having an address at City Hall, Baltimore, Maryland 21202, and acting by and through the City's Department of Housing and Community Development (hereinafter referred to as "the Department") with the prior approval of the City's Board of Estimates,

WITNESSETH, THAT WHEREAS, by a deed of even date herewith and intended to be recorded among the Land Records of the City of Baltimore, Maryland, before the recordation thereamong of this Agreement, and pursuant to the provisions of an Amended and Restated Henderson's Wharf Disposition Agreement dated October 10, 1984, and intended to be recorded among the said Land Records before the recordation thereamong of this Agreement, by and between the City and the Developer (hereinafter referred to as "the Disposition Agreement"), the City conveyed to the Developer all of those parcels of land situate and lying in the said City which are described as "Parcel A" and "Parcel B" in Exhibit A thereto and in Exhibit A to this Agreement, and which parcels are together generally known or intended to be known as Disposition Lot 13 of the Fells Point Urban Renewal Area, together with all of the improvements thereon (including, by way of example rather than limitation, the Building [as that term is hereinafter defined]) and any and all rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or in any way appertaining (all of which, together with the said parcels of land, and together with "Parcel C" [as that term is defined in the Disposition Agreement], are hereinafter referred to collectively as "the Property"); and

WHEREAS, by the provisions of the Disposition Agreement, the Developer is obligated to renovate the Building and construct certain other improvements on the Property, all of which are hereinafter and in the provisions of the Disposition Agreement referred to as "the Improvements"; and

WHEREAS, under the provisions of Article III, section 6 of the Disposition Agreement, the Developer is required (1) to construct, as part of the Improvements, a pedestrian park and a pedestrian walkway, and (2) to grant to the City, upon the terms and subject to the conditions which are set forth in this Agreement, certain pedestrian easements for ingress and egress over such walkways and park for the benefit of the general public; and

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WHEREAS, pursuant to the provisions of Article 1, subsection 3(a) of the Disposition Agreement, the parties hereto agreed to enter into this Agreement at the time of such conveyance, more fully to set forth the respective rights and obligations of the parties thereto with respect to such pedestrian park, pedestrian walkway and easements,

NOW, THEREFORE, FOR AND IN CONSIDERATION of the entry into the Disposition Agreement by the parties hereto and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the parties hereto hereby agree as follows:

Section 1. Definitions. As used in the provisions of this Agreement, the following terms have the meanings hereinafter ascribed to them:

1.1. "the Alternate Fast Land Agreement" has the meaning ascribed to it by the provisions of subsection 3.2.

1.2. "the Alternate Fast Land Easement" has the meaning ascribed to it by the provisions of paragraph 2.1.4.

1.3. "the Alternate Fast Land Easement Area" means the area referred to as such by the provisions of paragraph 2.1.4, as such area may be relocated or reconfigured from time to time pursuant to the provisions of subsection 3.2, Section 4 or any other provision of this Agreement.

1.4. "the Alternate Fast Land Easement Improvements" has the meaning ascribed to it by the provisions of subparagraph 3.2.1(a).

1.5. "the Building" means the existing, six-story brick warehouse building located on the Building Parcel, which is being renovated by the Developer pursuant to the Disposition Agreement.

1.6. "the Building Parcel" means that portion of the Property which is outlined in green on Exhibit B.

1.7. "the Building Parcel Owner" means the Developer and its successors and assigns as owner of record of the fee simple title to the Building Parcel. In any case (a) where separate portions of the Building Parcel are owned of record in fee simple by separate persons, "the Building Parcel Owner" means all of such persons as a group; or (b) where any or all of the Building Parcel is encumbered by a Mortgage, the holder of record of the equity of redemption thereunder, and not the Mortgagee secured thereby, shall be deemed to be the owner of the fee simple title of record to such portion; provided, that (c) whenever any or all of the Building Parcel is subject to a condominium regime, the council of unit owners of such condominium regime shall be treated as the owner of record of the fee simple title to so much of the Building Parcel as is subject to such regime, for purposes of this definition.

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1.8. "the Building Perimeter Easement" has the meaning ascribed to it by the provisions of paragraph 2.1.1.

1.9. "the Building Perimeter Easement Area" means the area referred to as such by the provisions of paragraph 2.1.1, as such area may be relocated or reconfigured from time to time pursuant to the provisions of Section 4 or any other provision of this Agreement.

1.10. "the Bulkhead Line" means that line which is dashed in red and designated as "Bulkhead Line" on Exhibit B, and which represents the line of division between that portion of the Property which is open water and the remainder of the Property, as such line may be relocated from time to time for purposes of and in accordance with the provisions of this Agreement.

1.11. "the Connecting Easement" has the meaning ascribed to it by the provisions of paragraph 2.1.2.

1.12. "the Connecting Easement Area" means the area referred to as such by the provisions of paragraph 2.1.2, as such area may be relocated or reconfigured from time to time pursuant to the provisions of Section 4 or any other provision of this Agreement.

1.13. "the Construction Plans" means (a) the Construction Plans, as that term is defined by the provisions of the Disposition Agreement, and as approved by the City pursuant to the provisions of Article III, Section 3 thereof, or (b) any other plans and specifications for Easement Improvements if such other plans and specifications have been agreed upon in writing by the parties hereto for purposes of the provisions of this Agreement.

1.14. "Development Improvements" has the meaning ascribed to it by the provisions of paragraph 3.2.1.

1.15. "the Disposition Agreement" has the meaning ascribed to it hereinabove.

1.16. "the Developer" means Carley Capital Group, a general partnership organized and existing under the law of Wisconsin, its successors, and any person to whom it hereafter expressly assigns its rights as "the Developer" hereunder by an instrument recorded among the said Land Records.

1.17. "Easement" means any or all of the Building Perimeter Easement, the Connecting Easement, the Fast Land Easement, the Alternate Fast Land Easement or the Fell Street Easement.

1.18. "Easement Area" means any or all of the Building Perimeter Easement Area, the Connecting Easement Area, the Fast Land Easement Area, the Alternate Fast Land Easement Area or the Fell Street Easement Area.

1.19. "the Easement Improvements" has the meaning ascribed to it by the provisions of Section 3.

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1.20. "the Fast Land Easement" has the meaning ascribed to it by the provisions of paragraph 2.1.3.

1.21. "the Fast Land Easement Area" means the area referred to as such by the provisions of paragraph 2.1.3, as such area may be relocated or reconfigured from time to time pursuant to the provisions of Section 4 or any other provision of this Agreement.

1.22. "the Fast Land Parcel" means (a) that portion of the Property which is outlined in black on Exhibit B, plus (b) that portion of the Property which is outlined in purple on Exhibit B (and which is presently under water), if, only if and to the extent that such portion is filled and thereby made into dry land.

1.23. "the Fast Land Parcel Owner" means the Developer and its successors and assigns as owner of record of the fee simple title to the Fast Land Parcel. In any case (a) where separate portions of the Fast Land Parcel are owned of record in fee simple by separate persons, "the Fast Land Parcel Owner" means all of such persons as a group; or (b) where any or all of the Fast Land Parcel is encumbered by a Mortgage, the holder of record of the equity of redemption thereunder, and not the Mortgagee secured thereby, shall be deemed to be the owner of the fee simple title of record to such portion; provided, that (c) whenever any or all of the Fast Land Parcel is subject to a condominium regime, the council of unit owners of such condominium regime shall be treated as the owner of the fee simple title of record to so much of the Fast Land Parcel as is subject to such regime, for purposes of this definition.

1.24. "the Fell Street Easement" has the meaning ascribed to it by the provisions of paragraph 2.1.5.

1.25. "the Fell Street Easement Area" means the area referred to as such by the provisions of paragraph 2.1.5, as such area may be relocated or reconfigured from time to time pursuant to the provisions of Section 4 or any other provision of this Agreement.

1.26. "the Improvements" has the meaning ascribed to them by the provisions of Article III, Section 5 of the Disposition Agreement.

1.27. "Mortgage" means any mortgage, deed of trust, financing lease or other instrument securing a debt or obligation.

1.28. "Mortgagee" means the person secured by a Mortgage.

1.29. "Owner" means the Building Parcel Owner or the Fast Land Parcel Owner, whichever is appropriate in the context in which the term is used.

1.30. "person" means a natural person, a trustee, a corporation, a partnership and any other form of legal entity.

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1.31. "the Property" has the meaning ascribed to it hereinabove.

1.32. "the Structural Easement Improvements" means those Easement Improvements which are defined as such by the provisions of paragraph 5.2.2.

## Section 2. Grant of Easements.

2.1. The Developer hereby grants to the City the following perpetual, non-exclusive easements for pedestrian ingress and egress in, over and through the following portions of the Property:

2.1.1. Building Perimeter Easement. An easement (hereinafter referred to as "the Building Perimeter Easement") for pedestrian ingress and egress in, over and through a portion (hereinafter referred to as "the Building Perimeter Easement Area") of the wooden perimeter walkway located on the wooden pier lying adjacent to the Building and within the Building Parcel (which portion is twelve feet (12') in width, is located inside of, and adjacent to, the Bulkhead Line, and is hatched in green on a plat entitled "Henderson's Wharf, Baltimore, Maryland/Pedestrian Easements", dated September 26, 1983, and prepared by RTKL Associates, Inc., a copy of which is attached hereto as Exhibit B); and

2.1.2. Connecting Easement. an easement (hereinafter referred to as "the Connecting Easement") in, over and through that portion (hereinafter referred to as "the Connecting Easement Area") of the Building Parcel which is twelve feet (12') in width and is hatched in blue on Exhibit B; and

2.1.3. Fast Land Easement. an easement (hereinafter referred to as "the Fast Land Easement") in, over and through that portion (hereinafter referred to as "the Fast Land Easement Area") of the Fast Land Parcel which is hatched in orange on Exhibit B, (a) over a wooden walkway to be constructed within the Fast Land Easement Area by the Owner in accordance with the provisions of this Agreement and the Disposition Agreement, contiguous to and immediately outside of that portion of the Bulkhead Line which on the date hereof forms the southwestern perimeter line of the Fast Land Parcel as shown on Exhibit B and (b) over that portion of the Fast Land Easement Area which is designated as "Park" on Exhibit B; and

2.1.4. Alternate Fast Land Easement. an easement (hereinafter referred to as "the Alternate Fast Land Easement") in, over and through that portion (hereinafter referred to as "the Alternate Fast Land Easement Area") of the Fast Land Parcel which is hatched in yellow on Exhibit B and is contiguous to the Fast Land Easement Area (including that portion of the Alternate Fast Land Easement Area which is designated as "Park" on Exhibit B (it being agreed by the parties hereto that a portion of such area designated as "Park" also lies within the Fast Land Easement Area); and

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2.1.5. Fell Street Easement. an easement (hereinafter referred to as "the Fell Street Easement") in, over and through that portion (hereinafter referred to as "the Fell Street Easement Area") of the Property which is hatched in brown on Exhibit B.

2.2. The City may exercise the Easements upon and only upon the terms, and subject to the conditions, which are set forth in the provisions of this Agreement.

2.3. Certain limitations on exercise of Easements.

2.3.1. Notwithstanding that the Easements shall exist as of the date hereof,

(a) the Building Perimeter Easement, the Connecting Easement, the Fast Land Easement and the Fell Street Easement may not be exercised until the earlier to occur of (i) the Owner's completion of both (A) the Easement Improvements for each of the Easements and (B) the remainder of the Improvements, and the City's issuance of a Certificate of Completion for all such Easement Improvements and remainder of the Improvements, pursuant to the provisions of the Disposition Agreement, or (ii) the one hundred eightieth (180th) day after the third (3rd) anniversary of the date hereof; and

(b) the Alternate Fast Land Easement may not be exercised until the time set forth in the provisions of paragraph 3.2.4.

2.3.2. Anything contained in the provisions of this Agreement to the contrary notwithstanding, (a) the Building Perimeter Easement and the Connecting Easement may not be exercised on any day during the period beginning at nine o'clock p.m. daily and ending at nine o'clock a.m. on the next day (including Saturdays, Sundays and legal holidays), and (b) the Building Perimeter Easement Area and the Connecting Easement Area may during each such period be closed by the Building Parcel Owner (through the use of gates, other physical barriers, or in any other manner) to use, in the exercise of such Easements, by the City, its officers, employees, and agents and the general public.

2.3.3. The Easements may be exercised, and the Easement Areas may be used in the exercise of the Easements, for and only for pedestrian access to and from the public streets and walkways adjoining the Property and pedestrian traffic within the Easement Areas along the water's edge. No person otherwise entitled by or pursuant to the provisions of this Agreement to enter upon and use an Easement Area shall do so other than in accordance with applicable law. The Owner shall be entitled to adopt and post at and with respect to the Easement Areas reasonable rules concerning noise, dress, conduct, the deposit of trash and other concerns of a similar nature which are, in general, not more stringent than those in force from time to time with respect to the public brick promenade surrounding the City of Baltimore's Inner Harbor, and

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shall be entitled, at its option and expense (but without limiting the City's obligations under the provisions of paragraph 5.3.3), to enforce such rules from time to time in any reasonable manner, including the use of professional security personnel. Nothing in the provision 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 Developer and its successors and assigns as the Owner, which may be given or withheld in its sole and absolute discretion) to bring any boat or other vessel into the waters forming part of the Property, 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 Property (whether or not within any Easement Area), or to enter or exit any Easement Area from or to any boat or vessel, all of which rights are hereby expressly reserved to and by the Developer and its successors and assigns as the Owner.

#### 2.4. Benefit.

2.4.1. The benefit of the Easements shall run to the City. The City may, in its exercise of the Easements, allow the use of the Easement Areas (subject to (a) any restrictions on such use set forth in the provisions of this Agreement, and (b) any further restrictions on such use by the general public which the City may elect to adopt), for and only for pedestrian access, by its officers, employees and agents, and members of the general public.

2.4.2. Nothing in the provisions of this Agreement shall be deemed in any way to alter or impair the Owner's rights (a) to use and enjoy each Easement Area and the remainder of the Property in any manner whatsoever in which the Owner could use and enjoy the same in the absence of this Agreement, or (b) to allow the use and enjoyment of the Easement Areas and the remainder of the Property by the Owner's agents, officers, partners, employees, tenants, invitees, visitors, guests or any other person, in any manner whatsoever in which the Owner could allow the use and enjoyment of the same in the absence of this Agreement, all so long as such use and enjoyment do not interfere with or impair the City's ability to use and enjoy the Easements in accordance with the provisions of this Agreement.

2.4.3. 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, the Improvements, the remainder of the Property, 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 Owner (subject, in the case of the Easement Areas, to the Easements).



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### Section 3. Easement Improvements.

#### 3.1. Present Easement Improvements.

3.1.1. As part of the Improvements which the Owner is obligated to construct within the Property pursuant to the provisions of the Disposition Agreement, the Owner shall construct at its expense the following improvements (hereinafter referred to as "Easement Improvements"), using first-class materials and in accordance with all applicable building codes and other law:

(a) Within Building Perimeter Easement Area. The Developer and its successors and assigns as the Building Parcel Owner shall (through renovation of the existing wooden pier lying partially within the Building Perimeter Easement Area, if and to the extent that such renovation is called for by the Construction Plans) provide a wooden perimeter walkway at substantially the present elevation of the said existing wooden pier, throughout the entire Building Perimeter Easement Area, all in accordance with the Construction Plans.

(b) Within Connecting Easement Area. The Developer and its successors and assigns as the Building Parcel Owner shall construct a brick, masonry or other hard-surfaced walkway at substantially the present sidewalk level throughout the entire Connecting Easement Area, in accordance with the Construction Plans.

(c) Within Fast Land Easement Area. The Developer as the Fast Land Parcel Owner shall construct (i) a wooden walkway twelve feet (12') in width throughout the entire length of the Fast Land Easement Area, at substantially the grade elevation of the Fast Land Parcel, (ii) wooden pilings and other related structural elements sufficient to provide support for such wooden walkway, all in accordance with the Construction Plans, and (iii) a park within that portion of the Fast Land Easement Area which is designated as "Park" on Exhibit B, together with such benches, landscaping and other improvements to such portion as are shown on the Construction Plans.

(d) Within Fell Street Easement Area. The Developer and its successors and assigns as the Building Parcel Owner shall maintain at street level throughout the Fell Street Easement Area a hard surface suitable for pedestrian traffic, constructed with such combinations of brick and concrete which are consistent with the surfaces and specifications which the City chooses to use for the publicly owned portions of Fell Street and Wolfe Street, but otherwise shall not be required to construct any improvements within the Fell Street Easement Area.

3.1.2. All of the Easement Improvements which the Owner is required to construct by the foregoing provisions of this Section (a) shall be constructed and completed within the period prescribed for the

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construction of the Improvements in general by the provisions of the Disposition Agreement (as such period may be extended from time to time with the City's consent in accordance with the provisions thereof), and (b) shall otherwise be constructed in accordance with the provisions of the Disposition Agreement except as the City may otherwise agree from time to time; provided, that anything contained in the provisions of this Agreement to the contrary notwithstanding, by and upon the issuance by the City of a Certificate of Completion for all or any portion of the Easement Improvements pursuant to the provisions of Article III, section 9 of the Disposition Agreement, the Developer shall conclusively be deemed to have completed the construction of all or such part, as the case may be, of the Easement Improvements referred to in the provisions of this subsection 3.1, in accordance with the provisions of this Agreement and the Disposition Agreement.

### 3.2. Alternate Fast Land Easement Improvements.

3.2.1. Other than the construction of (a) those Easement Improvements described by the foregoing provisions of this Section, (b) any other improvements to be made to the Fast Land Parcel as part of the Improvements, (c) any automobile parking lot which the Fast Land Parcel Owner may desire to construct on the Fast Land Parcel primarily to serve the owners and users of the Property (including, by way of example rather than of limitation, owners and users of any marina located within, or extending from, the Property), and (d) any sidewalks, roadways, utility lines and facilities, fencing, landscaping or other improvements of a similar nature which the Fast Land Parcel Owner may desire to construct upon the Fast Land Parcel and are incidental to the improvements described by the foregoing provisions of this subsection, no improvements (which improvements, other than those described by clauses (a), (b), (c) and (d) of this paragraph, are hereinafter referred to as "Development Improvements") may be constructed upon the Fast Land Parcel unless and until the Fast Land Parcel Owner and the City have entered into a written agreement (hereinafter referred to as "the Alternate Fast Land Agreement") resolving the following questions:

(a) whether some or all of the Alternate Fast Land Easement Area should be improved by the construction of a noncovered walkway, twenty feet (20') wide, at substantially the grade elevation of the Fast Land Parcel (which improvements shall constitute Easement Improvements and are hereinafter referred to as "Alternate Fast Land Easement Improvements"), for the nonexclusive use by the public pursuant to the City's exercise of the Alternate Fast Land Easement; and

(b) if the parties hereto agree that some or all of the Alternate Fast Land Easement Area is to be so improved by the Alternate Fast Land Easement Improvements, the nature of the design of such walkway and the materials of which it is to be constructed.

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3.2.2. Anything contained in the foregoing provisions of this subsection 3.2 to the contrary notwithstanding, it is not the intent that the Fast Land Parcel Owner shall, solely by the provisions of subsection 3.2, be prohibited from or restricted in constructing any improvements whatsoever upon the Fast Land Parcel, and the provisions of paragraph 3.2.1 shall be of no force or effect, if before commencing such improvements the Fast Land Parcel Owner notifies the City in writing that the Fast Land Parcel Owner elects both

(a) to construct such walkway either (i) throughout the entire length and breadth of the Alternate Fast Land Easement Area, or (ii) (if the City has agreed in writing to the construction of such walkway upon less than the entire length and breadth of the Alternate Fast Land Easement Area) throughout such portion thereof as to which the City has consented in writing, as aforesaid, and

(b) to construct such walkway either (i) in accordance with those masonry walkway specifications which are set forth in a schedule attached hereto as Exhibit C, or (ii) (if the City has agreed in writing to the construction of such walkway in accordance with any other specifications which are acceptable to the Owner), in accordance with those specifications to which the City shall have agreed, as aforesaid. The parties hereto intend that the Fast Land Parcel Owner be entitled to build any and all Development Improvements whatsoever on the Fast Land Parcel without the necessity of entering into the Alternate Fast Land Agreement, so long as the Fast Land Parcel Owner elects, as aforesaid, to build such walkway either (a) throughout the entire length and breadth of the Alternate Fast Land Easement Area in accordance with the specifications set forth in Exhibit C, or (b) at the Fast Land Parcel Owner's election, throughout such portions of the Alternate Fast Land Easement Area, and to such lesser or other specifications, as to which the City shall have agreed in writing, as aforesaid.

3.2.3. Once the Fast Land Parcel Owner and the City have entered into the Alternate Fast Land Agreement or the Fast Land Parcel Owner has notified the City in writing that it is making the election referred to in the provisions of paragraph 3.2.2 and in accordance therewith, then

(a) the Fast Land Parcel Owner shall cause the Alternate Fast Land Easement Improvements to be constructed and completed at the Fast Land Parcel Owner's expense and in accordance with such provisions, by not later than the date on which the Fast Land Parcel Owner shall have completed the construction of those Development Improvements, as a condition to the construction of which the Alternate Fast Land Agreement was entered into or the said election was made, and is issued a certificate of use and occupancy for such Development Improvements; and

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(b) the City shall not be required to issue a final certificate of use and occupancy for such Development Improvements unless and until the Alternate Fast Land Easement Improvements have been completed (but only if and to the extent that the Fast Land Parcel Owner is required by or pursuant to the provisions of this Agreement to construct Alternate Fast Land Easement Improvements in connection with its construction of such Development Improvements).

3.2.4. Upon (and only upon) the Fast Land Parcel Owner's (x) having completed the construction of the said Development Improvements and of the Alternate Fast Land Easement Improvements in accordance with the foregoing provisions of this subsection 3.2, and (y) having been issued by the City a certificate of use and occupancy for such Development Improvements, then

(a) the City shall thereafter be entitled to use and enjoy the Alternate Fast Land Easement Improvements, and otherwise to exercise the Alternate Fast Land Easement, in accordance with the provisions of this Agreement, it being agreed by the parties hereto that, notwithstanding the Developer's grant of the Alternate Fast Land Easement to the City hereunder, the City shall not be entitled to exercise, use or enjoy the Alternate Fast Land Easement either (i) for so long as the Fast Land Parcel Owner has not commenced the construction of Development Improvements on the Fast Land Parcel, or (ii) (if the Fast Land Parcel Owner does commence the construction of Development Improvements) until the date on which such construction is completed and such final certificate has been issued; and

(b) the Fast Land Easement and the rights and obligations hereunder of the parties hereto with respect thereto and with respect to the Easement Improvements to the same shall thereupon automatically terminate and be of no further force or effect; and

(c) if the City has agreed in writing, as aforesaid, to the construction of the Alternate Fast Land Easement Improvements upon less than the entire length and breadth of the Alternate Fast Land Easement Area, then the Alternate Fast Land Easement, and the rights and obligations with respect thereto of the parties hereto under the provisions of this Agreement, shall thereupon automatically terminate and be of no further force or effect as to all of the Alternate Fast Land Easement Area other than that portion thereof on which the Alternate Fast Land Easement Improvements are constructed, as aforesaid; and

(d) the provisions of paragraphs 3.2.1 and 3.2.2 shall thereafter be of no further force or effect (it being intended by the parties hereto that, once the Alternate Fast Land Easement Improvements are constructed and made available for public use in accordance with the provisions of this subsection 3.2, the Fast Land Parcel Owner be entitled thereafter to construct other or additional improvements on the Fast Land Parcel other than

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within the Alternate Fast Land Easement Area without having again to observe the procedure set forth in the foregoing provisions of this subsection 3.2); and

(e) without impairing the operation and effect of the foregoing provisions of this paragraph 3.2.4, the Fast Land Parcel Owner shall at its expense promptly thereafter prepare, execute and record among the said Land Records (and the City shall, immediately upon its receipt of a written request therefor from the Fast Land Parcel Owner, join in) such instrument or other documents as the Fast Land Parcel Owner may reasonably desire, confirming that the events described in subparagraphs (a), (b), (c) and (d) of this paragraph have occurred.

3.2.5. If the City should agree, by the Alternate Fast Land Agreement or otherwise, that none of the Alternate Fast Land Easement Area should be improved by the construction of Alternate Fast Land Easement Improvements, then the Alternate Fast Land Easement, and the rights and obligations with respect thereto of the parties hereto under the provisions of this Agreement, shall, upon the execution and recording of a document evidencing such termination, terminate and be of no further force or effect as to the entire Alternate Fast Land Easement Area; but no such full termination or partial termination of the Alternate Fast Land Easement shall alter or impair the Fast Land Easement or the rights and obligations hereunder of the parties hereto with respect to the same, all of which shall continue in full force or effect.

3.2.6. Nothing in the provisions of this subsection 3.2 shall be deemed in any way to alter or impair the Fast Land Parcel Owner's obligations, if any, under the provisions of the Fells Point Urban Renewal Plan, or any applicable building code, zoning ordinance or other applicable law, ordinance or regulation, with respect to the improvement or use of the Fast Land Parcel (including any thereof which require the issuance of any building or other permit for any such construction); provided that, so long as the parties hereto enter into the Alternate Fast Land Agreement or the Fast Land Parcel Owner makes the election referred to in paragraph 3.2.2, the City and its departments and agencies shall not be entitled to condition their issuance of any permit or approval which the Fast Land Parcel Owner may be required to obtain in order to construct or use any Development Improvements or other improvements upon any or all of the Fast Land Parcel, upon the Fast Land Parcel Owner's agreeing to construct any walkway or promenade for public use on the Fast Land Parcel other than or in addition to that, if any, which, at the time in question, the Owner may be required by this Agreement to construct within the Alternate Fast Land Easement Area.

#### Section 4. Relocation of Easement Areas.

4.1. The Owner shall be entitled from time to time hereafter, at the Owner's expense, to relocate all or

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portions of the Easement Areas and any Easement Improvements then existing in the Easement Area or portion thereof so relocated, in the following manner:

**4.1.1. Building Perimeter Easement Area.** The Building Parcel Owner shall be entitled to relocate all or any portion or portions of the Building Perimeter Easement Area in connection with any extension or enlargement beyond the Bulkhead Line of all or any portion of the wooden pier adjoining the Building on its southeasterly and southwesterly sides, by extending or enlarging such wooden pier into the area to which the Building Perimeter Easement Area is to be relocated, provided that the portion or portions of the Building Perimeter Easement Area as so relocated, together with so much of the Building Perimeter Easement Area as is not relocated, form a continuous Building Perimeter Easement Area at least twelve feet (12') wide, contiguous to and inside of that edge of such wooden pier (as so extended or enlarged) which adjoins the open water, and running from the northeasterly boundary of the Property to the line of intersection of the Building Perimeter Easement with the Connecting Easement.

**4.1.2. Connecting Easement Area.** The Building Parcel Owner shall be entitled to relocate all or any portion or portions of the Connecting Easement Area anywhere within that area of the Property which is outlined by a broken blue line on Exhibit B, provided that (a) the portion or portions of the Connecting Easement Area as so relocated, together with so much of the Connecting Easement Area as is not relocated, form a continuous Connecting Easement Area at least twelve feet (12') wide, at ground level, running (i) from the line of intersection of the Connecting Easement Area with the Building Perimeter Easement Area, (ii) to the line of intersection of the Connecting Easement Area with either the Fast Land Easement Area or the Alternate Fast Land Easement Area, and (b) the Connecting Easement Area as so relocated is improved for the passage of pedestrian traffic in substantially the same manner as is required by the provisions of subparagraph 3.1.1(b).

**4.1.3. Fell Street Easement Area.** The Building Parcel Owner shall be entitled to relocate all or any portion or portions of the Fell Street Easement Area anywhere within that area of the Property which is outlined by a broken purple line on Exhibit B, provided that (a) the portion or portions of the Fell Street Easement Area as so relocated, together with so much of the Fell Street Easement Area as is not relocated, form a continuous Fell Street Easement Area at least twelve feet (12') wide, at ground level, running (i) from the line of intersection of the Fell Street Easement Area with the public street known as "Fell Street", (ii) to the line of intersection of the Fell Street Easement Area with either the Fast Land Easement Area or the Alternate Fast Land Easement Area, and (b) the Fell Street Easement Area as so relocated is paved with a hard surface in accordance with the provisions of paragraph 3.1.1.

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4.1.4. Fast Land Easement Area and Alternate Fast Land Easement Area. Without altering the operation and effect of the provisions of subsection 3.2, the Fast Land Parcel Owner shall be entitled to relocate all or any portion or portions of the Fast Land Easement Area and/or the Alternate Fast Land Easement Area, provided that all of the following conditions exist immediately after such relocation:

(a) So much of that portion of the Bulkhead Line (as such portion of the Bulkhead Line may theretofore or simultaneously therewith have been relocated pursuant to this Agreement) as lies within and/or contiguous to the Fast Land Easement Area immediately before such relocation shall be located somewhere within or contiguous to the Fast Land Easement Area immediately after such relocation; and

(b) so much of that portion of the Bulkhead Line (as such portion of the Bulkhead Line may theretofore or simultaneously therewith have been relocated pursuant to this Agreement) as lies within and/or contiguous to the Alternate Fast Land Easement Area immediately before such relocation shall be located somewhere within or contiguous to the Alternate Fast Land Easement Area immediately after such relocation; and

(c) the Fast Land Easement Area and the Alternate Fast Land Easement Area, as so relocated, shall be (i) in the case of the Fast Land Easement Area, at least twelve feet (12') wide, and (ii) in the case of the Alternate Fast Land Easement Area, at least as wide as the relocated portion thereof was immediately before such relocation; and

(d) such portion or portions of the Fast Land Easement Area and the Alternate Fast Land Easement Area, as so relocated, are improved for the passage of pedestrian traffic by the construction of Easement Improvements in the same manner and to the same standards as was required for such portions before they were relocated.

4.2. If any or all of an Easement Area is relocated pursuant to the foregoing provisions of this Section, the Owner shall at its expense, promptly upon the completion of the Easement Improvements for the same, prepare, execute (and cause each Mortgagee of any portion of the Property which is to become encumbered by such Easement as the result of such relocation to execute) and record among the said Land Records an instrument which recites such relocation, describes the entire Easement Area, all or a portion of which was relocated, and confirms the imposition of the Easement in question upon such Easement Area, as so relocated; such instrument shall be approved by the City (which approval shall not be withheld if the instrument is consistent with this Section 4) and shall be executed by the City. Upon the recordation of such instrument among the said Land Records, then

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4.2.1. the Easement in question shall thereafter encumber the title to such Easement Area as so described in such instrument; and

4.2.2. such Easement and the rights and obligations hereunder of the parties hereto with respect thereto shall thereupon automatically terminate and be of no force or effect, as to any portion of the Property removed from such Easement Area by such relocation.

4.3. In connection with any relocation of any or all of an Easement Area by the Developer or an Owner pursuant to the provisions of this Agreement, such Owner shall use reasonable efforts to minimize to the extent reasonably possible any resulting interruption of the use and enjoyment of the Easement in question by the City and the public and other persons upon whom the City may have conferred the right to exercise such Easement in accordance with the provisions of this Agreement.

#### Section 5. Maintenance and repairs.

##### 5.1. By Owner.

5.1.1. During the period beginning on the date hereof and ending on the fifth (5th) anniversary of the date on which the City first becomes entitled to exercise the Building Perimeter Easement, the Connecting Easement, the Fast Land Easement and the Fell Street Easement under the provisions of subparagraph 2.3.1(a), (a) the Building Parcel Owner shall at its expense maintain and keep clean, in a safe condition and in good order and repair, the Building Perimeter Easement Area, the Connecting Easement Area, the Fell Street Easement Area and the Easement Improvements therein, and (b) the Fast Land Parcel Owner shall at its expense maintain and keep clean, in a safe condition and in good order and repair, so much of the Fast Land Easement Area and the Easement Improvements therein which exist at the time in question.

5.1.2. During the period beginning on the date on which the City first becomes entitled to use and enjoy the Alternate Fast Land Easement Improvements and otherwise to exercise the Alternate Fast Land Easement pursuant to the provisions of subparagraph 3.2.4(a), and ending on the fifth (5th) anniversary of such date, the Fast Land Parcel Owner shall at its expense maintain and keep clean, in a safe condition and in good order and repair, so much of the Alternate Fast Land Easement Area and the Easement Improvements therein which exist at the time in question.

5.2. By City. From and after the said fifth (5th) anniversary of the date on which the City first becomes entitled to exercise the Building Perimeter Easement, the Connecting Easement, the Fast Land Easement and the Fell Street Easement under the provisions of subparagraph 2.3.1(a), and thereafter for so long as this Agreement remains in effect, the City shall at its expense maintain and keep clean, in a safe condition and in good order and repair, the Building Perimeter Easement Area,



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the Connecting Easement Area, the Fell Street Easement Area and the Fast Land Easement Area, and all of the respective Easement Improvements therein which exist at the time in question. From and after the fifth (5th) anniversary of the date on which the City first becomes entitled to use and enjoy the Alternate Fast Land Easement Improvements and otherwise to exercise the Alternate Fast Land Easement pursuant to the provisions of subparagraph 3.2.4(a), and thereafter for so long as this Agreement remains in effect, the City shall at its expense maintain and keep clean, in a safe condition and in good order and repair, the Alternate Fast Land Easement Area and all of the Easement Improvements therein which exist at the time in question.

5.3. Anything contained in the foregoing provisions of this Section to the contrary notwithstanding,

5.3.1. the Building Parcel Owner and the Fast Land Parcel Owner, respectively, shall throughout the term of this Agreement be responsible for maintaining and keeping in a safe condition and in good order and repair those structural elements (including, by way of example rather than of limitation, any supporting piles, support members and bulkheading) (hereinafter referred to collectively as "the Structural Easement Improvements") of the Easement Improvements within, respectively, (a) the Building Perimeter Easement Area, the Connecting Easement Area and the Fell Street Easement Area (in the case of the Building Parcel Owner) and (b) the Fast Land Easement Area and the Alternate Fast Land Easement Area (in the case of the Fast Land Parcel Owner) which lie below, and support, the lower surface of the horizontal wooden, brick, tile or masonry walkway lying within such Easement Areas.

5.3.2. if any or all of an Easement Area is relocated by the Developer or any Owner pursuant to the provisions of this Agreement, and if in connection therewith new Easement Improvements are constructed by the Developer or an Owner, then during the period beginning on the date on which each portion of such relocated Easement Area and of such new Easement Improvements are made available for use by the City in its exercise of the Easement in question, and ending on the fifth (5th) anniversary of such date, such Owner shall at its expense, in addition to (and without limiting) its obligations under the provisions of paragraph 5.3.1, promptly repair or replace any portion of the horizontal wooden, brick, tile or masonry walkway which forms part of such new Easement Improvements and which, as a result of a defect in the design or construction thereof (including, but not limited to, a defect in the materials therein) requires repair or replacement. Subject to the foregoing provisions of this paragraph 5.3.2, such relocated Easement Area and such new Easement Improvements shall be maintained and kept clean, in a safe condition and in good order and repair, (a) by such Owner, so long as the period of five (5) years which is applicable to such Easement Area generally (including, but not limited to, such relocated portion thereof) under the provisions of

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subsection 5.1 has not expired, in accordance with such provisions, and (b) by the City after such expiration in accordance with the provisions of subsection 5.2 (it being intended by the parties hereto that, except as is otherwise set forth hereinabove, such relocated Easement Area and new Easement Improvements be treated in the same manner as such Easement Area and the Easement Improvements therein were treated before such relocation, for purposes of the five (5) year periods set forth in subsections 5.1 and 5.2).

5.3.3. If either party hereto fails to perform any of its maintenance obligations under the provisions of this Section and if, as a result thereof, the burden of the maintenance, if any, which the other party hereto is then obligated by the provisions of this Section to perform is made materially greater or materially more difficult, then the first said party shall, on written demand by the other, reimburse the other in the amount of any reasonable expense incurred by the other in performing its said maintenance obligation, if and to the extent that such expense would not have been incurred, but for such failure.

#### 5.4. Certain types of maintenance.

5.4.1. The maintenance which the Owner is required by the provisions of subsection 5.1, and the City is required by the provisions of subsection 5.2, to perform shall include, by way of example rather than of limitation, taking the following actions:

(a) sweeping such Easement Areas and Easement Improvements, and removing all items of trash and refuse therefrom;

(b) keeping them free of snow and ice;

(c) maintaining trash baskets or other trash receptacles at reasonable intervals from one another, and regularly removing all trash deposited therein; and

(d) maintaining all, if any, above-surface utility poles, lighting fixtures, benches, railings, life rings, and the horizontal wooden, brick, tile or masonry walkway lying within such Easement Area (excluding, in the case of the City, the Structural Easement Improvements).

5.4.2. All of the items of maintenance referred to in the provisions of paragraph 5.4.1 shall be performed (a) at least to the same standards as those observed by the City from time to time with respect to the public brick promenade surrounding the City of Baltimore's Inner Harbor, notwithstanding that the Easement Areas are privately owned, and (b) with the same degree of frequency and regularity as is observed by the City with respect to the said public brick promenade surrounding the City of Baltimore's Inner Harbor (except that the parties hereto recognize that the City may be able to accomplish such maintenance in accordance with such standards without

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having to use the same number of maintenance personnel and/or without having to perform such maintenance as often each day, as is necessary with respect to the said public promenade, due to what is anticipated to be a much greater level of use of the latter by the public). If and to the extent necessary in its performance of the items of maintenance referred to in the provisions of paragraph 5.4.1, the City shall be entitled, while doing so, temporarily to dock a small water craft at the Property, at a place or places designated by the Owner.

5.4.3. Police protection. The City shall at its expense cause the Easement Areas (excluding (a) the Alternate Fast Land Easement Area, until the City becomes entitled to exercise the Alternate Fast Land Easement, as aforesaid, and (b) the Building Perimeter Easement Area and the Connecting Easement Area during those hours in which they are closed to public use by the Building Parcel Owner pursuant to the provisions of paragraph 2.3.2) to be patrolled by the Baltimore City Police Department as if the Easement Areas were public streets or sidewalks, notwithstanding that the Easement Areas are privately owned.

5.4.4. Electricity. The Building Parcel Owner shall at its expense, for so long as this Agreement remains in effect, provide the electricity required to light any and all lighting fixtures which either (a) from time to time are located within the Building Perimeter Easement Area and the Connecting Easement Area or (b) are located outside of such Easement Areas but have as a primary purpose the lighting of those Easement Areas. The City shall at its expense, for so long as this Agreement remains in effect, provide the electricity required to light any and all lighting fixtures which either (a) from time to time are located within (i) the Fast Land Easement Area, (ii) the Alternate Fast Land Easement Area (but only from and after the date on which the City first becomes entitled to use and enjoy the Alternate Fast Land Easement Improvements and otherwise to exercise the Alternate Fast Land Easement pursuant to the provisions of subparagraph 3.2.4(a)), and (iii) the Fell Street Easement Area, or (b) are located outside of such Easement Areas but have as a primary purpose the lighting of those Easement Areas. The City shall cause such electricity for which it is responsible, as aforesaid, to be provided through a meter to be shown on the Construction Plans separate from any meter serving any of the other Easement Improvements or any of the rest of the Improvements, and using an account to be maintained in the City's name with the utility company furnishing such service.

#### Section 6. Insurance and Indemnification.

##### 6.1. By Owner.

6.1.1. Casualty insurance. The Owner of each Easement Area shall keep all of the Structural Easement Improvements therein insured against loss or damage by fire and other causes within the coverage of an ordinary fire and extended coverage insurance policy and war damage insurance, if available. Such policy shall be

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in an amount not less than one-hundred percent (100%) of replacement cost of such Structural Easement Improvements. Such Owner shall on written request furnish a certificate evidencing such insurance to the City. Such Owner shall promptly make any repair or restoration to such Structural Easement Improvements made necessary by damage or destruction to the same, to the extent that such damage would be covered by a policy of fire and extended coverage insurance, whether or not such insurance is actually carried. Such insurance may be covered under a blanket policy or policies covering other improvements and property, which shall provide for a waiver of subrogation against the City unless such waiver is unobtainable from the company offering such insurance without any additional premium.

6.1.2. Indemnification by Building Parcel Owner. The Building Parcel Owner shall defend, indemnify and hold harmless the City against and from any liability or claim of liability for bodily injury, death or property damage occurring after the date hereof and arising out of (a) any failure by the Building Parcel Owner to perform its obligations to maintain the Building Perimeter Easement Area, the Connecting Easement Area, the Fell Street Easement Area and the Easement Improvements therein which are set forth in the provisions of Section 5, or (b) the use and enjoyment of the Building Perimeter Easement Area or the Connecting Easement Area by any person (other than the City, its agents, employees and invitees) either (i) during those hours in which they are actually closed to public use by the Building Parcel Owner pursuant to the provisions of paragraph 2.3.2, or (ii) during the period before the City first becomes entitled to exercise the Easements therefor under the provisions of subparagraph 2.3.1(a).

6.1.3. Indemnification by Fast Land Parcel Owner. The Fast Land Parcel Owner shall defend, indemnify and hold harmless the City against and from any liability or claim of liability for bodily injury, death or property damage occurring after the date hereof and arising out of (a) any failure by the Fast Land Parcel Owner to perform its obligations to maintain the Fast Land Easement Area, the Alternate Fast Land Easement Area and the Easement Improvements therein which are set forth in the provisions of Section 5, or (b) the use and enjoyment of the Fast Land Easement Area or the Alternate Fast Land Easement Area by any person (other than the City, its agents, employees and invitees) during the period before the City first becomes entitled to exercise the Easements therefor under the provisions of paragraph 2.3.1.

## 6.2. By City.

6.2.1. Liability insurance. From and after the date hereof, and so long as this Agreement remains in effect, the City shall maintain general public liability insurance against claims for bodily injury or death and property damage occasioned by accident or other occurrence upon or because of any condition existing upon the Easement Areas, such insurance in each case to afford

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protection under the self-insurance program of the City. The City shall, upon written request, furnish a certificate of insurance evidencing such insurance to the Building Parcel Owner and the Fast Land Parcel Owner.

6.2.2. Indemnification. Except for any liability or claim of liability against which the City is indemnified by the Building Parcel Owner or the Fast Land Parcel Owner under the provisions of paragraphs 6.1.2 or 6.1.3, from and after the date hereof, and so long as this Agreement remains in effect, the City shall defend, indemnify and hold harmless the Developer, the Building Parcel Owner and the Fast Land Parcel Owner against and from any liability or claim of liability to third parties for (a) bodily injury, (b) death or (c) property damage arising out of the lawful or unlawful use of any Easement Area by any person whatsoever at any time whatsoever.

Section 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 on fifteen (15) days written notice (unless, within such fifteen (15) day period, the breaching party cures such default, or in the case of a default which by its nature cannot be cured within such period, the breaching party takes such action as is reasonably calculated to commence the curing thereof and thereafter diligently prosecutes the curing thereof to completion) 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 on demand shall reimburse the other party for the money actually expended in accomplishing such cure (including, but not limited to, the cost of attorneys' fees), together with all reasonable out-of-pocket expenses plus interest at the rates customarily charged to the other party. If the other party shall in good faith deem that an emergency is occurring or has occurred, so that a default requires immediate curing, no notice shall be required and such party shall be entitled to take action without notice, provided notice is given as soon thereafter as is possible. Subject to the provisions of subsection 2.3, no default, action or inaction shall give any party the right to terminate this Agreement, or to deny access to any Easement Area either (a) to the City in the exercise of the Easements in accordance with the provisions of this Agreement or (b) to the Owner for any purpose or in any manner whatsoever.

Section 8. Notices. Any notice, demand, consent, approval, request or other communication or document to be provided hereunder to a party hereto shall be (a) in writing, and (b) deemed to have been provided (i) forty-eight (48) hours after being sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested, to the address of such party set forth hereinabove or to such other address in the United States of America as such party may designate from time to time by notice to each other party hereto, or (ii) (if such party's receipt thereof is acknowledged in writing) upon being given by hand or other actual delivery to such party. A copy of any such notice or other document, (a) if given to

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the Developer shall simultaneously be given to its attorney, Gregory L. Reed, Esquire, Frank, Bernstein, Conaway & Goldman, Suite 1800, Baltimore Federal Financial Building, 300 East Lombard Street, Baltimore, Maryland 21202, or (b) if given to the City, shall simultaneously be given to its attorney, Timothy R. Casper, Esquire, Miles & Stockbridge, 10 Light Street, Baltimore, Maryland 21202.

#### Section 9. General.

9.1. Effectiveness. This Agreement shall become effective on and only on its execution and delivery by each party hereto.

9.2. Complete understanding. This Agreement represents the complete understanding between the parties hereto as to the subject matter hereof, and supersedes all prior negotiations, representations, guaranties, warranties, promises, statements or agreements, either written or oral, between the parties hereto as to the same.

9.3. Amendment. This Agreement may be amended by and only by an instrument (a) executed and delivered by the City and each Owner whose rights or obligations hereunder would be affected by such amendment, and (b) recorded among the said Land Records; provided, that the execution and delivery of any such instrument by the City shall not be required in the case of any instrument which either (a) merely relocates an Easement Area and is executed and recorded in accordance with the provisions of subsection 4.2 or (b) is executed by the Fast Land Parcel Owner pursuant to the provisions of subparagraph 3.2.4(e).

9.4. Waiver. No party hereto shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing.

9.5. Applicable law. This Agreement shall be given effect and construed by application of the law of Maryland.

9.6. Time of essence. Time shall be of the essence of this Agreement.

9.7. Headings. The headings of the Sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference, and shall not be considered in construing their contents.

9.8. Construction. As used herein, all references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, and (c) to any Section, subsection, paragraph or subparagraph shall, unless therein expressly indicated to the contrary, be deemed to have been made to such Section, subsection, paragraph or subparagraph of this Agreement.

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9.9. Exhibits. Each writing or plat referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof.

9.10. Assignment. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns hereunder.

9.11. Severability. No determination by any court, governmental body or otherwise that any provision of this Agreement or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other provision thereof, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

9.12. Disclaimer of partnership status. Nothing in the provisions of this Agreement shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

9.13. Parcel C. The provisions of the Disposition Agreement calls for the future conveyance by the City to the Developer of the title to some or all of Parcel C (consisting generally of the bed of Fell Street) under certain conditions which are more particularly set forth therein. Anything contained in the provisions of this Agreement to the contrary notwithstanding, the respective rights and obligations of the parties hereto under the provisions of this Agreement with respect to any or all of the real property constituting Parcel C shall be of no force or effect unless and until the title to all or any portion of Parcel C is conveyed by the City to the Developer and, in such event, shall be effective only as they relate to so much of Parcel C as is so conveyed (it being intended by the parties hereto that neither party hereto have any right or obligation under the provisions of this Agreement with respect to any portion of Parcel C so long as it has not been conveyed by the City to the Developer pursuant to the Disposition Agreement).

IN WITNESS WHEREOF, each party hereto has executed and sealed this Agreement or caused it to be

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executed and sealed on its behalf by its duly authorized representatives, the day and year first above written.

WITNESS:

CARLEY CAPITAL GROUP, a general partnership organized and existing under the law of Wisconsin.

*[Signature]*

by *[Signature]* (SEAL)  
David Carley,  
General Partner

*[Signature]*

by *[Signature]* (SEAL)  
James E. Carley,  
General Partner

ATTEST:

*[Signature]*  
PEGGY J. WATSON  
ALTERNATE CUSTODIAN OF THE CITY SEAL

MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation organized and existing under the law of Maryland.

by *[Signature]* (SEAL)  
Marion W. Pines, Commissioner  
of the Neighborhood Progress  
Administration/D.H.C.D.

STATE OF : COUNTY OF : TO WIT:

I HEREBY CERTIFY that on this 18 day of October, 1984, before me, a Notary Public for the state and county aforesaid, personally appeared David Carley, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the general partner of CARLEY CAPITAL GROUP, a general partnership organized and existing under the law of Wisconsin, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

*[Signature]*  
Notary Public

My commission expires on 7-31-86.

STATE OF : COUNTY OF : TO WIT:

I HEREBY CERTIFY that on this 18 day of October, 1984, before me, a Notary Public for the state and county aforesaid, personally appeared James E. Carley, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged



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that he is the general partner of CARLEY CAPITAL GROUP, a general partnership organized and existing under the law of Wisconsin, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

*[Signature]*  
Notary Public

My commission expires on 10-24-85.

STATE OF : COUNTY OF : TO WIT:

I HEREBY CERTIFY that on this 19th day of October, 1984, before me, a Notary Public for the state and county aforesaid, personally appeared Marion W. Pines, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that she is the Commissioner of the Neighborhood Progress Administration/D.H.C.D. of MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation organized and existing under the law of Maryland, that she has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

*[Signature]*  
Notary Public

My commission expires on 7/1/85.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

*[Signature]*  
Richard E. Kagan,  
Assistant City Solicitor

October 12, 1984

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ESCR # 4318 #  
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PEDESTRIAN PROMENADE EASEMENT AGREEMENT

by and between

CARLEY CAPITAL GROUP

and

MAYOR AND CITY COUNCIL OF BALTIMORE

EXHIBIT A

Description of the Property

## EXHIBIT A

All these parcels of land located in Baltimore City, Maryland and described as follows:

## PARCEL A

1274  
36  
1975

BEGINNING for the same at a point on the northeast side of Fell Street, of variable width, at the end of the 13th or N 68°48'00" W 127.31' line of the land which by deed dated June 13, 1978 and recorded among the Land Records of Baltimore City in Liber RMB 3522, Folio 690, was conveyed by Mount Clare Properties (Maryland) Inc., et al to Belt's Wharf Warehouses Incorporated, thence leaving the northeast side of Fell Street and binding reversely on the 13th and part of the 12th lines of the aforesaid deed the two following courses and distances: (1) S 68°48'00" E 127.31' and (2) N 87°21'20" E 168.87' to an existing bulkhead, running thence and binding on said existing bulkhead the ten following courses and distances: (1) S 38°03'52" E 60.77' (2) S 39°57'55" E 60.22' (3) E 60°43'00" S 50.13' (4) S 41°04'14" E 50.05' (5) S 41°34'38" E 90.37' (6) S 4°18'11" E 28.52' (7) S 47°29'53" W 77.31' (8) S 55°28'11" W 91.91' (9) N 43°37'36" W 237.99' and (10) N 42°32'49" W 224.52' to the southeast corner of Fell Street, running thence along an existing bulkhead and binding on the southerly end of Fell Street the three following courses and distances: (1) S 47°00'51" W 61.16' (2) S 43°40'10" E 11.27' and (3) S 45°48'57" W 36.26', running thence S 41°25'57" E 19.61' and S 45°38'51" W 33.25' to the southeast corner of an existing six-story brick building, running thence and binding on the southeasterly, the southwesterly and the northwesterly faces of said six-story brick building the three following courses and distances: (1) N 40°33'31" W 138.31' (2) N 43°47'11" W 282.20' and (3) N 47°03'45" E 204.33' to the southwest side of Fell Street, thence continuing the same course N 47°03'45" E 34.95' to the center of Fell Street, running thence and binding on the center of Fell Street, with a variable width, S 43°34'36" E 184.73', thence crossing Fell Street N 46°36'07" E 34.30' to the place of beginning. Containing 3.384 Acres of Fast Land, more or less. Excluding .270 acres of land, more or less, lying in the bed of Fell Street.

## PARCEL B

1274  
36  
1975

Together with all right, title and interest of the Grantors herein in and to the area described below by metes and bounds description, including, without limitation, the wharf, pier and improvements, if any encompassed therein, and any riparian rights of the Grantors relating thereto (the description below also includes the tract of land described above).

BEGINNING for the same at a point on the northeast side of Fell Street, of variable width, at the end of the 13th or N 68°48'00" W 127.31' line of the land which by deed dated June 13, 1978 and recorded among the Land Records of Baltimore City in Liber RMB 3522, Folio 690, was conveyed by Mount Clare Properties (Maryland) Inc., et al to Belt's Wharf Warehouses Incorporated, thence leaving the northeast side of Fell Street and running reversely on the 13th and 12th lines of the aforesaid deed, the two following courses and distances: (1) S 68°48'00" E 127.31' and (2) N 87°21'20" E 373.07' to intersect the Pierhead and Bulkhead line as shown on Sheet 2 of a Plat entitled "PIERHEAD AND BULKHEAD LINES BALTIMORE HARBOR MARYLAND," prepared by Corps of Engineers, Baltimore District, Baltimore, Maryland dated May 1950 running thence and binding on said Pier and Bulkhead line as shown on said plat, the three following courses and distances: (1) S 3°01' 26" E 267.34' (2) S 55°23'16" W 324.94' and (3)

N 68°52'40" W 766.40' to a point in line with the northwest face of the brick wall of an existing six-story building, thence leaving said Pier and Bulkhead line and running N 47°03'45" E 217.51' to the northwest corner of an existing pier, running thence and crossing said pier and continuing the same course on the northwest face of the brick wall of an existing six-story building N 47°03'45" E 218.39' to the southwest side of Fell Street, running thence N 47°03'45" E 34.95' to the center of Fell Street, running thence and binding on the center of Fell Street with a uniformly varying width S 43°34'16" E 184.73' thence crossing Fell Street N 46°36'07" E 34.30' to the place of beginning. Encompassing 7.585 acres of area, more or less, of which 3.384 acres is Fast Land (as described above) and 0.469 acres are existing piers.

Excluding .270 acres of land, more or less, lying in the bed of Fell Street.

BEING known as 1000 and 1001 Fell Street.

1215  
PARCEL C

Beginning for the same at the point formed by the intersection of the northeast side of Fell Street, varying in width, and the east side of Wolfe Street, varying in width, and running thence binding on the northeast side of said Fell Street the two following courses and distances; namely, South 28°-31'-15" East 46.55 feet and south 43°-02'-50" East 277.83 feet to the Patapsco River; thence binding on the southeasternmost extremity of said Fell Street, South 47°-33'-16" West 65.32 feet; thence binding on the southwest side of said Fell Street, North 43°-06'-30" West 322.12 feet to intersect a line drawn from the place of beginning at a right angle to the southwest side of said Fell Street and thence reversing said line so drawn and binding thereon, North 46°-53'-30" East 77.33 feet to the place of beginning.

GLR/10-05-84  
3006X

PEDESTRIAN PROMENADE EASEMENT AGREEMENT

by and between

CARLEY CAPITAL GROUP

and

MAYOR AND CITY COUNCIL OF BALTIMORE

EXHIBIT B

Plat of the Property

GLR/10-05-84  
3006X

PEDESTRIAN PROMENADE EASEMENT AGREEMENT

by and between

CARLEY CAPITAL GROUP

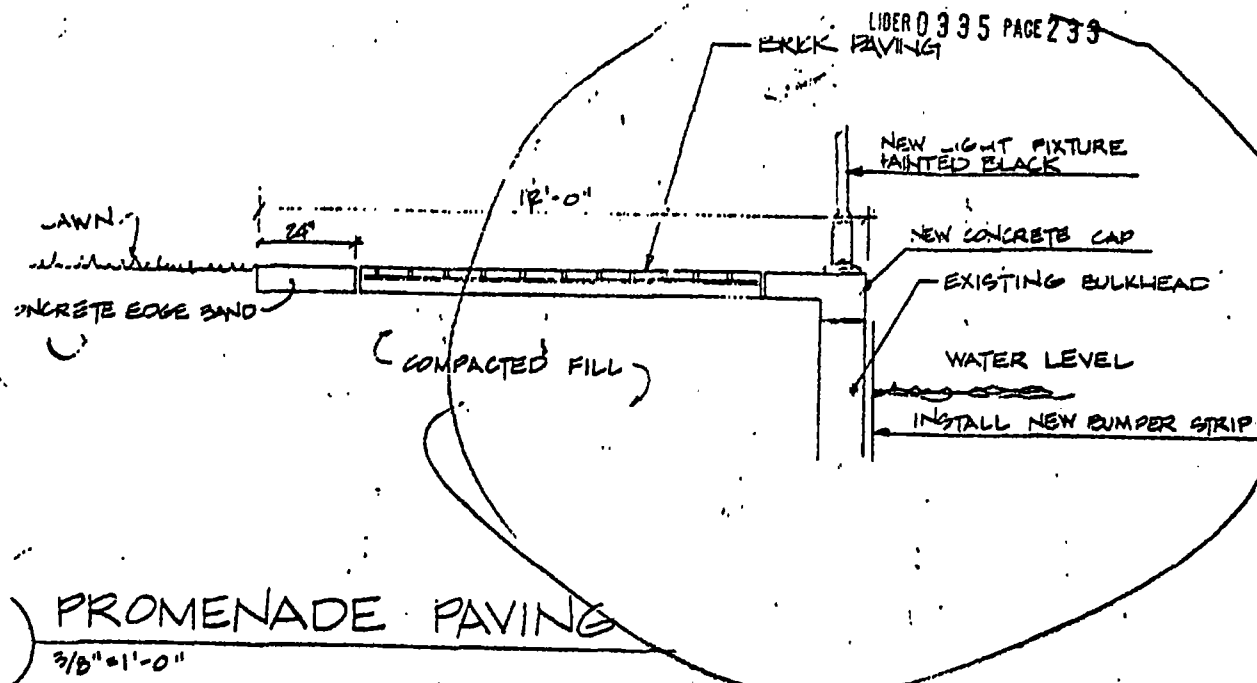
and

MAYOR AND CITY COUNCIL OF BALTIMORE

EXHIBIT C

Certain masonry walkway specifications

1. A 20 foot public easement will be maintained for the construction of a public promenade. The paved portion of the 20 foot easement shall be 12 feet and shall be in accordance with the drawings for the promenade paving for Disposition Lot 11 of the Fells Point Urban Renewal Area, a copy of which is attached hereto.
2. Light fixtures and benches along such promenade will be of a standard equal to or greater than those set forth as follows:
  - (a) Benches along the promenade are to be the Baltimore City Standard Bench CR 18 by Victor Stanley which are currently in use in Fells Point and the Inner Harbor. All benches should be placed in the concrete band of the paved portion of the promenade farthest away from the water's edge.
  - (b) The light standards shall be brass fixtures or a cast-iron pole as detailed on the attached sketch. The lights shall also be placed in the concrete band farthest away from the waterfront.



LIDER 0335 PAGE 233

ERKK PAVING

NEW LIGHT FIXTURE  
PAINTED BLACK

NEW CONCRETE CAP

EXISTING BULKHEAD

WATER LEVEL

INSTALL NEW BUMPER STRIP



DAFT • McCUNE • V  
LAND PLANNING CONSULTANT  
LANDSCAPE ARCHITECTS  
ENGINEERS

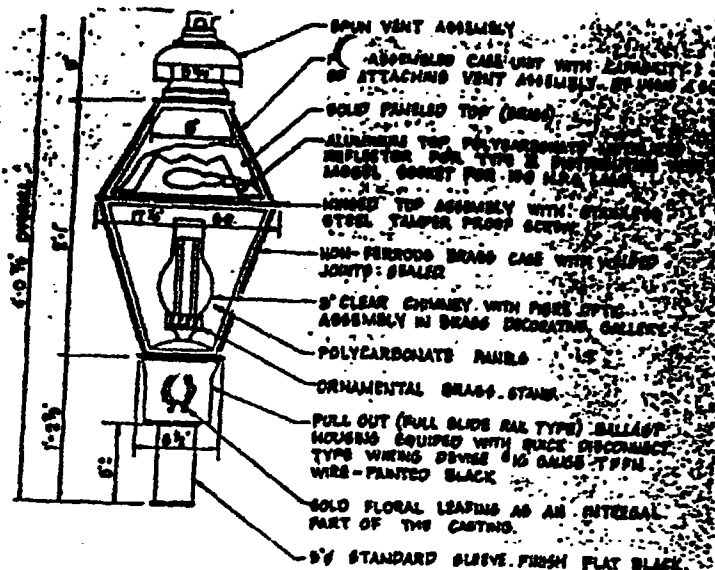
530 E. JOPPA ROAD  
TOWSON, MD. 21204  
TELEPHONE: (301) 296-3333

## DISPOSITION LO

Belt's Wharf Warehouse  
Baltimore, Maryland

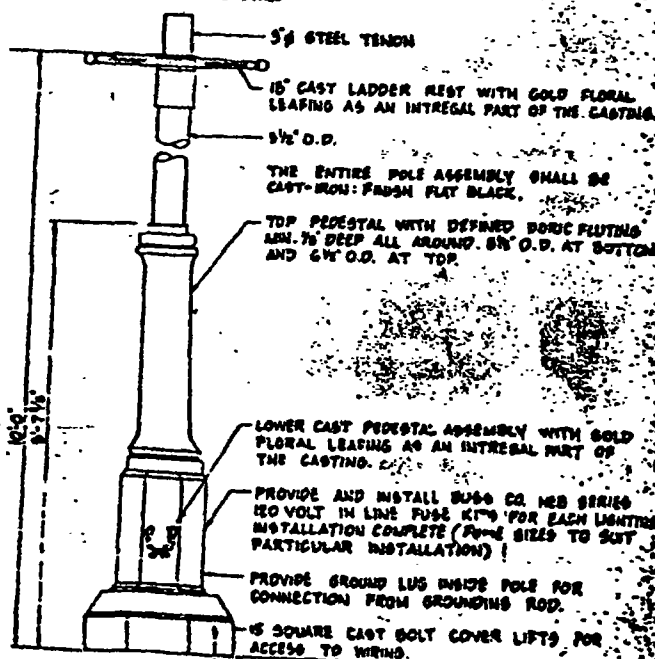


DATE	REVISIONS
1-10-83	REVISED PAVING & PLANTING
11-15-83	DESIGN REVISIONS
11-21-83	"
11-29-83	"



### DETAIL - LIGHT FIXTURE

NOT TO SCALE



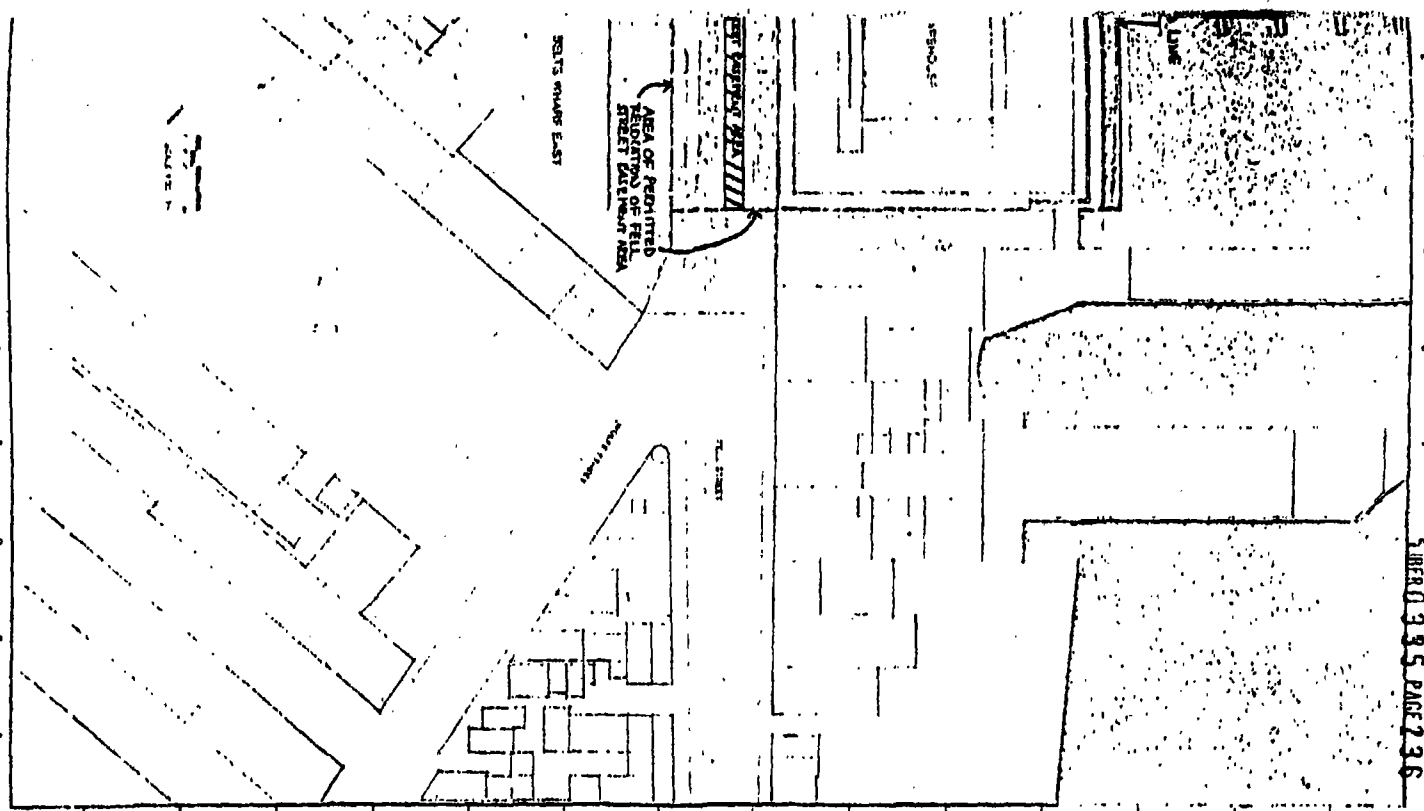
30'x15'x6" LONG COPPER CLAD GROUNDING ROD

### DETAIL - POLE FIXTURE

NOT TO SCALE







JUNE 23 1985 PAGE 236

<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td></td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td></td> </tr> <tr> <td>4</td> <td></td> <td></td> </tr> <tr> <td>5</td> <td></td> <td></td> </tr> <tr> <td>6</td> <td></td> <td></td> </tr> <tr> <td>7</td> <td></td> <td></td> </tr> <tr> <td>8</td> <td></td> <td></td> </tr> <tr> <td>9</td> <td></td> <td></td> </tr> <tr> <td>10</td> <td></td> <td></td> </tr> </table>	NO.	DATE	DESCRIPTION	1			2			3			4			5			6			7			8			9			10			<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>	<p>REVISIONS</p>
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**Henderson's Wharf** Baltimore Maryland

A Project of  
**THE CARLEY CAPITAL GROUP**  
**RTKL ASSOCIATES INC.**  
 Architects and Engineers

LIBER 2822 PAGE 504

000131

agreement

1874 +  
1875

RECEIVED FOR RECORD  
MAY 1 1991 AT 1:30 O'CLOCK,  
M. SAME DAY RECORDED IN LIBER  
S.E.B. No. 2822 FOLIO 477 &c.  
ONE OF THE LAND RECORDS OF  
BALTIMORE CITY AND EXAMINED.  
PER

CLERK

SAUNDRA E. BAKER

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RECEIVED \$115.00  
RECEIVED \$0.00

11500

AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT

THIS AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT (this "Amendment") is made as of the 31st day of July, 1990 by and between THE COUNCIL OF UNIT OWNERS OF THE RESIDENCES AND INN AT HENDERSON'S WHARF, A CONDOMINIUM, INCORPORATED, a council of unit owners organized and existing under the provisions of Title 11 of the Real Property Article of the Annotated Code of Maryland (1988 Replacement Volume, as amended) and a corporation organized and existing under the laws of Maryland (hereinafter referred to as the "Condominium Council"), HENDERSON'S WHARF BALTIMORE, L.P., a Delaware limited partnership (hereinafter referred to as "HWB") and HENDERSON'S WHARF MARINA, L.P., a Delaware limited partnership (hereinafter referred to as "HWM").

Preliminary Statements

A. By instrument entitled Reciprocal Easement Agreement (the "Easement Agreement") dated August 31, 1988 and recorded among the Land Records of Baltimore City, Maryland in Liber SEB 1824, folio 162, Carley Capital Group, a general partnership organized and existing under the laws of Wisconsin (hereinafter referred to as "Carley"), as then owner in fee simple of the property described in Exhibit A-1 to the Easement Agreement, subjected certain portions of the Entire Property to certain covenants and easements benefitting other portions of the Entire Property. All capitalized terms in this Amendment shall, unless otherwise indicated herein, have the meanings given such terms in the Easement Agreement.

B. By instrument entitled Declaration dated August 30, 1988 and recorded among the Land Records of Baltimore City, Maryland in Liber SEB 1821, folio 20, Carley, in its capacity as Developer (as that term is defined in the Declaration), did subject certain portions of the Entire Property to a condominium regime established under the provisions of Title 11 of the Real Property Article of the Annotated Code of Maryland (1988 Replacement Volume, as amended), such condominium known as "The Residences and Inn at Henderson's Wharf, a condominium" (the "Condominium").

C. HWB is the owner of the Inn Unit, 136 of the Apartment Units and 149 of the Parking Units which are a part of the Condominium, by virtue of a Deed dated July 31, 1990 from Joseph E. Robert, Jr. and Kenneth M. Stein, as Trustees and HWFP, Inc. to HWB, such Deed intended to be recorded among the Land Records of Baltimore City, Maryland before the recordation among such Land Records of this Amendment. HWB is also the successor developer to Carley under the Declaration, as reflected in that certain Second Amendment to Declaration also dated of even date herewith and also intended to be

RECEIVED: 4-114539-07  
CHICAGO TITLE INSURANCE  
COMPANY OF MARYLAND  
110 ST. PAUL ST.  
BALTIMORE, MD. 21202

Blocks 1874 & 1875 As to easement.

115-22

recorded among the Land Records of Baltimore City, Maryland before the recordation among such Land Records of this Amendment.

D. HWM is the owner of the Fast Land Property and the Marina Property, by virtue of a Deed dated July 31, 1990 from Joseph E. Robert, Jr. and Kenneth M. Stein, as Trustees and HWFP, Inc. to HWM, such Deed intended to be recorded among the Land Records of Baltimore City, Maryland before the recordation among such Land Records of this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the parties hereto hereby agree as follows:

1. Definitions. Section 1 of the Easement Agreement is hereby amended by the addition of the following new provisions:

1.1.1.1. "Amendment" means that certain Amendment to this Agreement between the Condominium Council, Henderson's Wharf Baltimore, L.P., a Delaware limited partnership, and Henderson's Wharf Marina, L.P., a Delaware limited partnership, such Amendment intended to be recorded among the Land Records.

1.1.19.1. "Deeds of Trust" mean (i) that certain deed of trust granted by Henderson's Wharf Baltimore, L.P. to secure a promissory note in the original principal amount of \$6,350,000.00 from Henderson's Wharf Baltimore, L.P. to HWFP, Inc., and (ii) that certain deed of trust granted by Henderson's Wharf Marina, L.P. to secure a promissory note in the original principal amount of \$1,187,500.00 from Henderson's Wharf Marina, L.P. to HWFP, Inc.

1.1.39.1 "Parking Easement Supplement" has the meaning given it by the provisions of paragraph 5.1.2.

1.1.39.2 "Parking Facilities" has the meaning given to it by the provisions of paragraph 5.1.1.

2. Pool Property. Section 3 of the Easement Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

Section 3. Pool Property.

3.1. Construction. HWB shall in its capacity as successor developer under the Declaration, at HWB's sole expense, have the right but not the obligation to cause to be constructed in accordance with applicable building codes and other laws, at a location contiguous to the existing bulkheading in the northwest corner of the Fast Land Property (such location to be approximately as shown on Exhibit A hereto and otherwise selected by HWB but subject to the prior written approval of the Fast Land Owner and, if the Deeds of Trust have not then been released of record, the prior written approval of the beneficiary under the Deeds of Trust, which approvals may not be unreasonably withheld or delayed), together with such portions of the Fast Land Property which are reasonably necessary for the utilities, all of the following improvements:

(a) a swimming pool made of concrete, gunnite, masonry or other similar material (hereinafter referred to as "the Pool"), and having a surface area of not less than One Thousand Two Hundred (1200) square feet, together with such utility lines in, over and through the Fast Land Property as may be necessary for the reasonable operation of the Pool and together with such filters, pumps, piping, drains and other equipment as is customarily installed in and used with modern swimming pools of such type (which Pool may, at HWB's sole discretion, be enclosed and/or be equipped with a diving board); and

(b) a building housing men's and women's rest rooms and shower facilities for use in connection with the Pool, and such other room or rooms as may reasonably be necessary in connection with the operation and use of the Pool (all of which restrooms, shower facilities and other room or rooms, are hereinafter referred to collectively as the "Pool Building"); and

(c) such terraces, sidewalks or other improvements, if any, as HWB may, in the exercise of its sole discretion, elect to

construct adjacent to the Pool, and which are intended by HWB to be used primarily or exclusively by users of the Pool (all, if any, of which terraces, sidewalks and other such improvements are hereinafter collectively referred to as "the Pool Facilities").

HWB shall obtain any and all permits as are required under applicable law for the Pool, the Pool Building and the Pool Facilities to be used for the purposes described by the provisions of this Section.

3.2. Easements.

3.2.1. The Fast Land Owner for itself, its successors and assigns, does hereby grant (i) to HWB an exclusive easement for construction of the improvements described in Subsection 3.1 (such easement to be located in, over and through the area approved in Subsection 3.1 for construction of the improvements) and (ii) to HWB and the Condominium Council a non-exclusive easement for maintenance, repair and reconstruction of the Pool, Pool Building and Pool Facilities, reserving, however, unto the Fast Land Owner and the Marina Owner, their successors and assigns and their agents, employees, guests and licensees a non-exclusive right and privilege appurtenant to and running with the Fast Land Property and the Marina Property for vehicular, pedestrian and utility ingress and egress through the easements so granted to Fell Street, such rights of ingress and egress to not materially interfere with the exercise of any rights granted in this Section 3. Upon completion of construction of the improvements described in Subsection 3.1, the portion or portions of the Fast Land Property encumbered by such easements shall be designated for such purpose by metes and bounds in the Pool Supplement.

3.2.2. Upon the completion of the construction of the Pool, the Pool Building and the Pool Facilities, if any, and the issuance to HWB of such licenses or permits, if any, as may be required by applicable law in order for them to be used for the purposes described by the provisions of this

Section, HWB and the Fast Land Owner shall, with the prior written approval of the beneficiary under the Deeds of Trust if the Deeds of Trust have not then been released of record, designate that portion or those portions of the Fast Land Property on which are located the Pool, the Pool Building, the Pool Facilities and the utility easements, together with such other portions of the Fast Land Property as the Fast Land Owner and the beneficiary under the Deeds of Trust if the Deeds of Trust have not then been released of record may, elect to include therein, as a separate parcel (hereinafter referred to as "the Pool Parcel") for purposes of the provisions of this Agreement, by causing to be recorded among the Land Records a supplement to this Agreement (hereinafter referred to as "the Pool Supplement"), executed by or on behalf of the Fast Land Owner, which (i) describes by metes and bounds the Pool Parcel and the utility easements as so designated, (ii) recites that such supplement constitutes the Pool Supplement for purposes of the provisions of this Agreement and (iii) confirms the grant of the easements described in Paragraph 3.2.1 (including the utility easement lying outside of the Pool Parcel) and the easements described in Paragraphs 3.2.3, 3.2.4 and 3.2.5. The Fast Land Owner shall thereupon promptly provide a copy of the Pool Supplement to all parties to this Agreement.

3.2.3. From and after the date on which the Pool Property is made available for use by those persons described in Sections 3.2.3(a) or (b) (the "Pool Use Effective Date"), then the following easements shall be effective: (a) the Condominium Unit Owners of the Apartment Units and any person then residing in any Apartment Unit, and their immediate family members and guests, (b)(i) the Condominium Unit Owner of all or any portion of the Inn Unit, (ii) each person, if any, then residing in the Inn Unit and such person's immediate family members and guests, and (iii) each person who is then a paying guest of and staying in the Inn, (c) the Marina



Owner and each person then renting, owning or otherwise using a slip within the Marina Property (including but not limited to the passengers and crew of pleasure boats from time to time docked at slips within the Marina Property), (d) the Fast Land Owner, any person owning any subdivided lot or condominium unit within the Fast Land Property, any person then residing on the Fast Land Property and their immediate family members, and (e) the Owner and any lessee of the Pool Parcel and its immediate family members and guests, shall have a perpetual, non-exclusive easement to use the Pool, the Pool Building, the Pool Facilities, if any, and the Pool Parcel, for and only for their intended purposes, and during and only during the hours of from 9:00 o'clock a.m. to 10:00 o'clock p.m. during those portions of the months of May, June, July, August and September during which the weather permits such use, as well as during such other times, if any, in the calendar year during which the Condominium Council may elect in the exercise of its sole discretion to allow the Pool to be open for use.

3.2.4. In addition to their rights under the provisions of Paragraph 3.2.3, from and after the Pool Use Effective Date, the Marina Owner and each person then renting, owning or otherwise using a slip within the Marina Property (including but not limited to the passengers and crew of pleasure boats from time to time docked at slips within the Marine Property) shall have a perpetual, non-exclusive easement to use the showers and restroom facilities in the Pool Building for and only for the purposes of showering, changing clothes and using such restroom facilities while using the Marina, during and only during the hours of from 9:00 o'clock a.m. to 9:00 o'clock p.m., on each and every day of the calendar year.

3.2.5. Unless the Pool Parcel is contiguous to a public street at a point which affords normal pedestrian access to the Pool, the Pool Building and the Pool Facilities, if any, and the Pool Parcel, the Fast Land Owner and the Pool Owner shall

provide, to each person having a right to exercise the easements created by the provisions of Paragraphs 3.2.3 and 3.2.4, a perpetual, non-exclusive easement in, over and through such portions of the Fast Land and/or the Pool Parcel, respectively, as may reasonably be necessary to permit each such person to have pedestrian and/or vehicular access to the Pool Property for the purposes set forth in the provisions of paragraphs 3.2.3 and 3.2.4. The portion or portions of the Fast Land Property and/or the Pool Parcel to be encumbered by such easement shall be designated for such purpose in the Pool Supplement, but may from time to time be relocated by, respectively, the Fast Land Owner or the Pool Owner, as the case may be, to another location permitting reasonably direct access between the Pool Parcel and a public street, by causing to be recorded among the Land Records an additional supplement to this Agreement, signed by the relocating Owner, and setting forth the areas to and from which such easements are to be relocated (in which event, the Fast Land Owner or the Pool Owner, as the case may be, shall immediately provide a copy of such supplement to the Condominium Council, the Condominium Unit Owner of the Inn Unit, the Marina Owner, the Fast Land Owner and the Pool Owner).

3.3. Maintenance and Repair.

3.3.1. Duty.

(a) HWB shall, until the Pool Use Effective Date, and thereafter the Condominium Council shall, at all times keep the Pool, the Pool Building, any such Pool Facilities and the Pool Parcel in a first-class, safe condition and in good order and repair; shall perform such chemical services upon the Pool as are reasonably necessary to keep the water within the Pool in such state of cleanliness and chemical balance as are customarily prescribed by the manufacturers of such swimming pools; and shall on a regular basis remove any and all leaves, dirt, trash

or other foreign material from the Pool, the Pool Building, any such Pool Facilities and the Pool Parcel.

(b) HWB shall, until the Pool Use Effective Date, and thereafter the Condominium Council shall, maintain for so long as the Pool, Pool Building and any such Pool Facilities remain in existence, one or more policies of liability insurance each issued by an insurer authorized to issue such policies in Maryland, having policy limits of not less than One Million Dollars (\$1,000,000) for injuries to or the death of any one person in any single incident, One Million Five Hundred Thousand Dollars (\$1,500,000) for injuries to or the death of all persons in any single incident, and Fifty Thousand Dollars (\$50,000) on account of property damage in any incident, and having a deductible amount not exceeding Ten Thousand Dollars (\$10,000). Each such policy shall name the Pool Owner, the Fast Land Owner, the Condominium Unit Owner of the Inn Unit, the Marina Owner and the Condominium Council (for itself and as agent for each Condominium Unit Owner) and its successors and assigns as the Owner of the Condominium Property, as named insureds thereunder. HWB or the Condominium Council (as the case may be) shall, promptly upon its receipt of a written request therefor from any Owner, provide such Owner with a copy of such policy and an original certificate indicating that such policy is in full force and effect and that such Owner is a named insured thereunder. At any such Owner's request, such policy shall also name as an additional insured any person holding a mortgage or deed of trust encumbering any or all of such Owner's portion of the Entire Property. Such policy shall insure each such insured against any liability for any injury to or death of any person or damage to any property,

occurring within the Pool Property or in the exercise or purported exercise of the easement and licenses granted by the provisions of this Section.

3.3.2. Expenses. The Condominium Council and its successors and assigns shall bear sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) and the Marina Owner shall bear thirty-three and one-third percent ( $33 \frac{1}{3}\%$ ) of (a) the aggregate costs incurred from time to time by the Condominium Council in operating, maintaining and keeping in good order and repair the Pool, the Pool Building, and such Pool Facilities and the Pool Parcel, in obtaining the said insurance, and in performing its other duties under the provisions of this Section, (b) the real property taxes levied against any or all of the Pool, the Pool Building, the Pool Facilities and the Pool Parcel, (c) sanitary sewer and water charges, and charges for electricity, telephone and other utility services provided to the Pool Parcel, and (d) such other expenses as are reasonably incurred by the Condominium Council in operating and maintaining the Pool Property and performing its other duties hereunder.

3.4. Rules and regulations. The Condominium Council shall be entitled from time to time to take such reasonable measures, and to adopt such reasonable rules and regulations, concerning the manner and times of exercise of the easement granted hereunder to use the Pool Property, as in the reasonable judgment of the Condominium Council are necessary or desirable to promote the security and proper operation of the Pool Property and the safety and welfare of the users thereof, but except as may be otherwise expressly set forth in the provisions of this Agreement, no such rule, regulation or measure shall have the effect of preventing or materially impairing the ability, of any person having the right to exercise such easement under the provisions of this Agreement. Without impairing any right which any person holds under the foregoing provisions of this Section to exercise the easements granted therein, the Condominium Council shall be entitled to adopt such

5.1.2. Grant of Parking Easement.

(a) The Fast Land Owner for itself and its successors and assigns does hereby grant (i) to the Condominium Unit Owner of the Inn Unit an exclusive easement for construction of the Parking Facilities and (ii) to the Condominium Unit Owner of the Inn Unit an exclusive parking easement (the "Parking Easement") for use by each Authorized Person (such easements to be located in, over and through the area approved in Paragraph 5.1.1 for construction of the Parking Facilities), reserving, however, unto the Fast Land Owner and the Marina Owner, their successors and assigns and their agents, employees, guests and licensees a non-exclusive right and privilege appurtenant to and running with the Fast Land Property and the Marina Property for vehicular, pedestrian and utility ingress and egress through the easement granted to Fell Street.

(b) Upon completion of construction of the Parking Facilities, and the issuance to the Condominium Unit Owner of the Inn Unit of such licenses and permits, if any, as may be required by applicable law in order for them to be used for the purposes described by the provisions of this Section, the Fast Land Owner and the Owner of the Inn Unit shall, with the prior written approval of the beneficiary under the Deeds of Trust if the Deeds of Trust have not then been released of record, designate that portion or those portions of the Fast Land on which are located the Parking Facilities, together with such other portions of the Fast Land as the Fast Land Owner may, in the exercise of its sole and absolute discretion (but subject to the prior written approval of the beneficiary under the Deeds of Trust), elect to include therein, as a

separate parcel (hereinafter referred to as the "Fast Land Parking Areas") for purposes of the provisions of this Agreement, by causing to be recorded among the Land Records a supplement to this Agreement (hereinafter referred to as the "Parking Easement Supplement") executed by or on behalf of the Condominium Unit Owner of the Inn Unit and the Fast Land Owner which (i) describes by metes and bounds the Fast Land Parking Areas, (ii) recites that such supplement constitutes the Parking Easement Supplement and (iii) confirms the grant of the easements described in Paragraph 5.1.2(a) and the easements described in Paragraphs 5.1.3 and Subsection 5.2 of this Agreement.

5.1.3. Unless the Fast Land Parking Areas are contiguous to a public street at a point which affords normal and direct pedestrian and vehicular and utility access to the Parking Facilities, the Fast Land Owner shall provide for the benefit of each Authorized Person a perpetual, non-exclusive easement in, over and through such portion of the Fast Land as may reasonably be necessary to permit each such person to have access and utility access to the Fast Land Parking Areas for the purposes set forth in the provisions of Paragraph 5.1.2. The portion or portions of the Fast Land Property to be encumbered by such easement shall be designated for such purpose in the Parking Easement Supplement, but may from time to time be relocated by the Fast Land Owner at its expense (including the expenses of relocation of walkways, utility lines or similar improvements) to another location permitting reasonably direct access between the Fast Land Parking Areas and a public street, by causing to be recorded among the Land Records an additional supplement to this Agreement, signed by the relocating Owner, and setting forth the areas to and from which such easements are to be relocated (in which event, the Fast Land Owner shall immediately provide a copy of such supplement to the Condominium Council, the Condominium Unit Owner of the Inn Unit, the Marina Owner, the Fast Land Owner and the Pool Owner).

(b) Subsection 5.2 of the Easement Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

5.2 Authorized Persons. The Parking Easement may be exercised by the Owner of the Condominium Inn Unit, its invitees, licensees, guests, employees, servants, successors and assigns, subject to the provisions of subsection 5.4, and subject to such reasonable rules and regulations governing traffic control and safety as the Fast Land Owner may institute from time to time.

(c) A new Subsection 5.5 shall be added to the Easement Agreement and provide as follows:

5.5 Maintenance and Repair.

5.5.1. Duty.

(a) The Condominium Unit Owner of the Inn Unit shall at all times keep the area approved for construction of the Parking Facilities in a first class, safe condition and in good order and repair; shall perform such maintenance, repair and replacements as shall be reasonably necessary; and shall on a regular basis remove any and all snow, leaves, dirt, trash or other foreign material from the area approved for construction of the Parking Facility.

(b) The Condominium Unit Owner of the Inn Unit shall, with respect to the area approved for construction of the Parking Facilities, maintain one or more policies of liability insurance each issued by an insurer authorized to issue such policies in Maryland, having policy limits of not less than One Million Dollars (\$1,000,000.00) for injuries to or the death of any one person in any single incident, One Million Five Hundred Thousand Dollars (\$1,500,000.00) for injuries to or the death of all persons in any single incident, and Fifty Thousand Dollars (\$50,000.00) on account of property

damage in any incident, and having a deductible amount not exceeding Ten Thousand Dollars (\$10,000.00). Each such policy shall name the Pool Owner, the Fast Land Owner, the Condominium Unit Owner of the Inn Unit, the Marina Owner and the Condominium Council (for itself and an agent for each Condominium Unit Owner) and its successors and assigns as the Owner of the Condominium Property, as named insureds thereunder. The Condominium Unit Owner of the Inn Unit shall, promptly upon its receipt of a written request therefor from any Owner, provide such Owner with a copy of such policy and an original certificate indicating that such policy is in full force and effect and that such Owner is named insured thereunder. At any such Owner's request, such policy shall also name as an additional insured any person holding a mortgage or deed of trust encumbering any or all of such Owner's portion of the Entire Property. Such policy shall insure each such insured against any such liability for any injury to or death of any person or damage to any person or property, occurring within the Parking Facilities or in the exercise or reported exercise of the Easement and licenses granted by the provisions of this Section.

#### 5.5.2. Expenses.

The Condominium Unit Owner of the Inn Unit shall bear (a) the aggregate costs incurred from time to time by the Condominium Unit Owner of the Inn Unit in maintaining and keeping in good order and repair the Parking Facilities, in obtaining said insurance, and in performing its other duties under the provisions of this Section, (b) the real property taxes levied against any or all of the area approved for construction of the Parking Facilities and the Fast Land Parking Areas, (c) sanitary sewer and



water charges, and charges for electricity, telephone and other utility services provided to the Fast Land Parking Areas, and (d) such other expenses as are reasonably incurred by the Condominium Unit Owner of the Inn Unit in maintaining the Parking Facilities and Fast Land Parking Areas and performing its other duties hereunder.

4. Recovery of Unpaid Assessments.

A new subsection 6.2.3 shall be added to the Easement Agreement and provide as follows:

6.2.3 Any lien for an unpaid Assessment shall be subordinate to any mortgage or deed of trust now or hereafter covering any portion of the Entire Property, and any purchaser at any foreclosure or trustee's sale (as well as any grantee of a deed in lieu of foreclosure or trustee's sale) under such mortgage or deed of trust shall take title free from any such existing lien, but otherwise subject to the provisions hereof.

5. Amendment and Termination.

(a) Subsection 9.13 of the Easement Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

9.13.1. Except as may be otherwise expressly provided in this Agreement, this Agreement may be amended or terminated with and only with the prior, express written consent thereto of (i) the beneficiary under the Deeds of Trust if the Deeds of Trust have not then been released of record and (ii) each of the following persons:

(a) with respect to the provisions of Section 2, the Condominium Council and the Marina Owner;

(b) with respect to the provisions of Section 3, the Condominium Council and the Pool

Owner or, if the Pool Parcel has not been designated for purposes of the provisions of this Agreement, the Fast Land Owner;

(c) with respect to the provisions of Section 5, the Condominium Council, the Condominium Unit Owner of the Inn Unit and the Fast Land Owner; and

(d) with respect to any other provision of this Agreement, the Condominium Council, the Marina Owner and the Pool Owner (or if the Pool Parcel has not been designated for purposes of this Agreement), and Fast Land Owner.

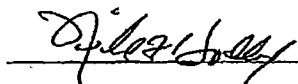
9.13.2. Any such amendment shall become effective upon and only upon the recordation of an appropriate amandatory instrument among the Land Records.

IN WITNESS WHEREOF, each party hereto has executed and ensealed this Amendment to Reciprocal Easement Agreement and caused it to be executed and ensealed on its behalf by its duly authorized representative as of the day and year first above written. Except as expressly modified by this Amendment, the Easement Agreement remains unchanged and in full force and effect. The parties hereto expressly acknowledge that this Amendment complies with Section 9.13.1 of the Easement Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 6th day of March, 1996.

WITNESS:

THE COUNCIL OF UNIT OWNERS OF THE  
RESIDENCES AND INN AT HENDERSON'S  
WHARF, a Condominium Incorporated

 (SEAL)

HENDERSON'S WHARF BALTIMORE, L.P.,  
a Delaware limited partnership

By: RICHLAND #1, L.P., General  
Partner of Henderson's Wharf  
Baltimore, L.P.

By: RICHLAND HISTORIC PROPERTIES,  
INC., General Partner of  
Richland #1, L.P.

By: J. H. H. H. H. H.  
Title: President

Witness: George C. [unclear]  
Attest: [unclear]  
Title: Comptroller

[CORPORATE SEAL]

and

By: HISTORIC PRESERVATION  
PROPERTIES 1990 L.P. TAX  
CREDIT FUND, General Partner  
of Henderson's Wharf  
Baltimore, L.P.

By: BOSTON HISTORIC PARTNERS II  
LIMITED PARTNERSHIP, General  
Partner of Historic  
Preservation Properties 1990  
L.P. Tax Credit Fund

By: BHP II ADVISORS LIMITED  
PARTNERSHIP, General Partner  
of Boston Historic Partners  
II Limited Partnership

By: Portfolio advisory Services  
II, Inc., General Partner of  
BHP II Advisors Limited  
Partnership

By: [unclear]  
Title: [unclear]

Witness: George C. Wilson  
~~Attest:~~  
Title: Consultant

[CORPORATE SEAL]

and

By: Terrence P. Sullivan (SEAL)  
Terrence P. Sullivan,  
General Partner of BHP II  
Advisors Limited Partnership

HENDERSON'S WHARF MARINA, L.P., a  
Delaware limited partnership

By: RICHLAND #2, L.P., General  
Partner of Henderson's Wharf  
Marina, L.P.

By: Richland Holdings, Inc.,  
General Partner of Richland  
#2, L.P.

By: Spiller H. H. H. H.  
Title: President

Witness: George C. Wilson  
~~Attest:~~  
Title: Consultant

[CORPORATE SEAL]

and

By: HISTORIC PRESERVATION  
PROPERTIES 1990 L.P. TAX  
CREDIT FUND, General Partner  
of Henderson's Wharf Marina,  
L.P.

By: BOSTON HISTORIC PARTNERS II  
LIMITED PARTNERSHIP, General  
Partner of Historic  
Preservation Properties 1990  
L.P. Tax Credit Fund

By: BHP II ADVISORS LIMITED  
PARTNERSHIP, General Partner  
of Boston Historic Partners  
II Limited Partnership

By: Portfolio advisory Services  
II, Inc., General Partner of  
BHP II Advisors Limited  
Partnership

By: Terrence P. Sullivan  
Title: President

Witness: George C. Wilson  
Attest: Consultant  
Title:

[CORPORATE SEAL]

and

By: Terrence P. Sullivan (SEAL)  
Terrence P. Sullivan,  
General Partner of BHP II  
Advisors Limited Partnership

STATE OF GEORGIA, COBB COUNTY, TO WIT:

I HEREBY CERTIFY that on this 10th day of March,  
1998, before me, the subscriber, a Notary Public of the  
aforesaid State, personally appeared RICHARD F. HOLLAND,  
known to me (or satisfactorily proven) to be the CHAIRMAN  
of THE COUNCIL OF UNIT OWNERS OF THE RESIDENCES AND INN AT  
HENDERSON'S WHARF, A CONDOMINIUM INCORPORATED (the  
"Corporation") and that HE, as such OFFICER, being  
authorized so to do, subscribed to the within instrument, and  
acknowledged that HE executed the same for the purposes  
therein contained, and in my presence signed and sealed the  
same.

AS WITNESS, my hand and Notarial Seal.

*Cindy G. Robertson*  
Notary Public  
Notary Public, Cobb County, Georgia  
My Commission Expires Oct. 5, 1993

My commission expires:

~~STATE OF GEORGIA~~  
~~DISTRICT OF COLUMBIA~~, TO WIT:

I HEREBY CERTIFY that on this 31st day of July, 1990, before me, a Notary Public of the ~~District of Columbia~~, *State of Georgia*, personally appeared RICHARD HOLLAND, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the President of RICHLAND HISTORIC PROPERTIES, INC., which is itself the General Partner of RICHLAND #1, L.P., which is itself the General Partner of HENDERSON'S WHARF BALTIMORE, L.P., and that he, being authorized so to do, executed the foregoing instrument as such President on behalf of RICHLAND HISTORIC PROPERTIES, INC., which is itself the General Partner of RICHLAND #1, L.P., which is itself the General Partner of HENDERSON'S WHARF BALTIMORE, L.P., all on behalf of HENDERSON'S WHARF BALTIMORE, L.P., and all for the purposes therein contained.

AS WITNESS, my hand and Notarial Seal.

*Cindy G. Robertson*  
Notary Public  
Notary Public, Cobb County, Georgia  
My Commission Expires Oct. 5, 1993

My commission expires:

*Commonwealth of Massachusetts*  
~~DISTRICT OF COLUMBIA~~, TO WIT:

*As of the*  
I HEREBY CERTIFY that on this 31st day of July, 1990, before me, a Notary Public of the ~~District of Columbia~~, *Commonwealth of Massachusetts*, personally appeared TERRANCE P. SULLIVAN, known to me (or *Massachusetts* satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is a General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF

BALTIMORE, L.P., and that he, being authorized so to do, executed the foregoing instrument as such General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF BALTIMORE, L.P., all on behalf of HENDERSON'S WHARF BALTIMORE, L.P., and all for the purposes therein contained.

AS WITNESS, my hand and Notarial Seal.

*Shirley V. Nicholas*  
Notary Public

My commission expires: *May 22, 1992*

*Commonwealth of Massachusetts*  
~~DISTRICT OF COLUMBIA~~, TO WIT:

I HEREBY CERTIFY that, <sup>*on this*</sup> ~~on this~~ 31st day of July, 1990, before me, a Notary Public of the ~~District of Columbia~~, *Commonwealth of Massachusetts*, personally appeared *Terence P. Sullivan*, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the ~~of~~ *of* PORTFOLIO ADVISORY SERVICES II, INC., a General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF BALTIMORE, L.P., and that he, being authorized so to do, executed the foregoing instrument as such ~~of~~ *of* PORTFOLIO ADVISORY SERVICES, II, INC., a General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF BALTIMORE, L.P., all on behalf of HENDERSON'S WHARF BALTIMORE, L.P., and all for the purposes therein contained.

AS WITNESS, my hand and Notarial Seal.

*Shirley V. Nicholas*  
Notary Public

My commission expires: *May 22, 1992*

STATE OF GEORGIA  
DISTRICT OF COLUMBIA, TO WIT:

I HEREBY CERTIFY that on this 31st day of July, 1990, before me, a Notary Public of the District of Columbia, State of Georgia personally appeared RICHARD HOLLAND, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the President of RICHLAND HOLDINGS, INC., which is itself the General Partner of RICHLAND #2, L.P., which is itself the General Partner of HENDERSON'S WHARF MARINA, L.P., and that he, being authorized so to do, executed the foregoing instrument as such President on behalf of RICHLAND HOLDINGS, INC., which is itself the General Partner of RICHLAND #2, L.P., which is itself the General Partner of HENDERSON'S WHARF MARINA, L.P., all on behalf of HENDERSON'S WHARF MARINA, L.P., and all for the purposes therein contained.

AS WITNESS, my hand and Notarial Seal.

*Candy G. Robert*  
Notary Public  
Notary Public, Cobb County, Georgia  
My Commission Expires Oct. 5, 1993

My commission expires:

*Commonwealth of Massachusetts*  
DISTRICT OF COLUMBIA, TO WIT:

*As of the*  
I HEREBY CERTIFY that on this 31st day of July, 1990, before me, a Notary Public of the District of Columbia, Commonwealth of Massachusetts personally appeared TERRANCE P. SULLIVAN, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is a General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF MARINA, L.P., and that he, being authorized so to do, executed the foregoing instrument as such General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF MARINA, L.P., all on behalf of HENDERSON'S WHARF MARINA, L.P., and all for the purposes therein contained.



AS WITNESS, my hand and Notarial Seal.

Shirley D. Nicholas  
Notary Public

My commission expires: May 22, 1992

Commonwealth of Massachusetts  
DISTRICT OF COLUMBIA, TO WIT:

I HEREBY CERTIFY that <sup>as of the</sup> ~~on this~~ 31st day of July, 1990, before me, a Notary Public of the ~~District of Columbia~~, <sup>Commonwealth of Massachusetts</sup> personally appeared Jerome P. Sullivan, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the President of PORTFOLIO ADVISORY SERVICES II, INC., a General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF MARINA, L.P., and that he, being authorized so to do, executed the foregoing instrument as such President of PORTFOLIO ADVISORY SERVICES II, INC., a General Partner of BHP II ADVISORS LIMITED PARTNERSHIP, which is itself the General Partner of BOSTON HISTORIC PARTNERS II LIMITED PARTNERSHIP, which is itself the General Partner of HISTORIC PRESERVATION PROPERTIES 1990 L.P. TAX CREDIT FUND, which is itself a General Partner of HENDERSON'S WHARF MARINA, L.P., all on behalf of HENDERSON'S WHARF MARINA, L.P., and all for the purposes therein contained.

AS WITNESS, my hand and Notarial Seal.

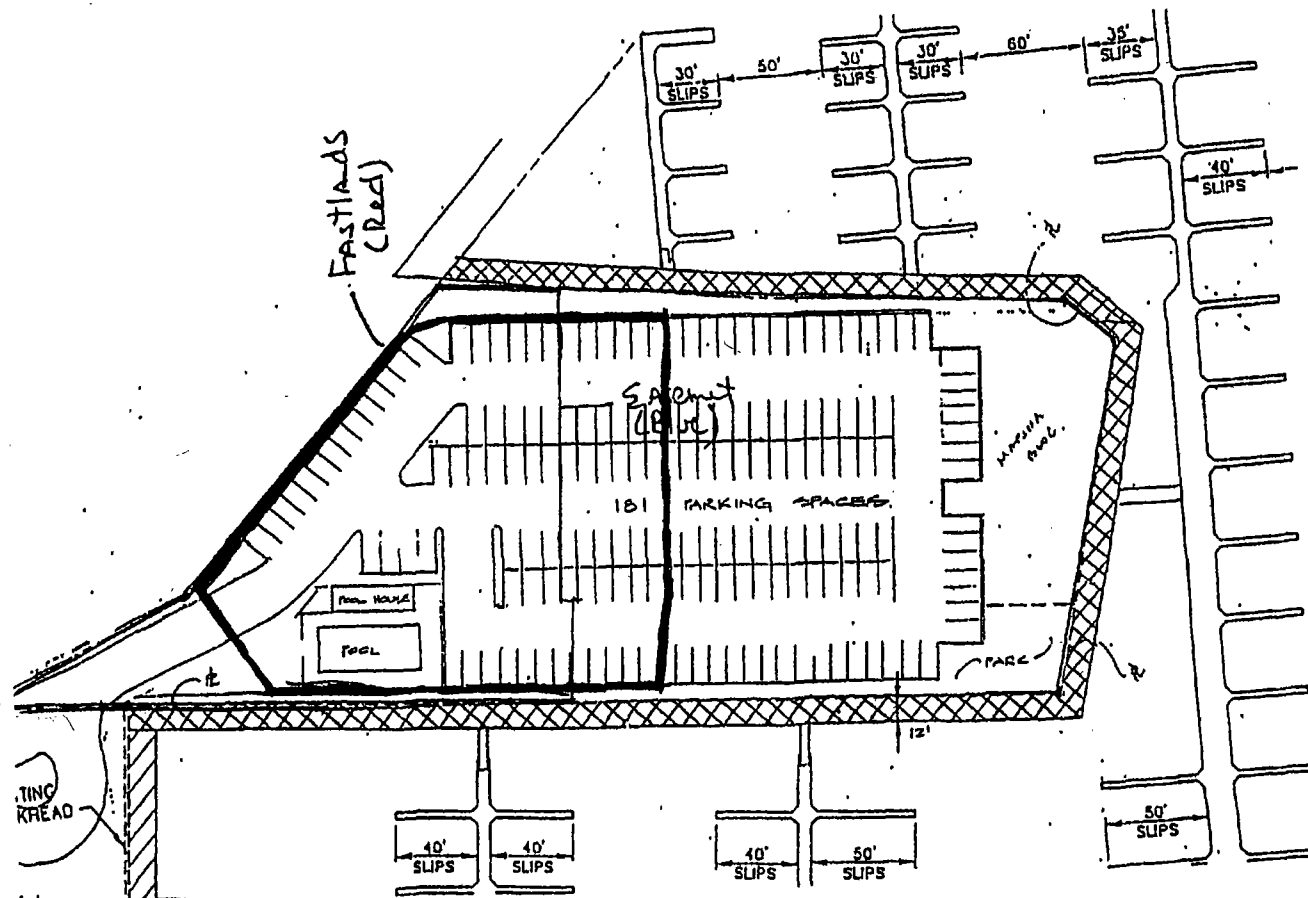
Shirley D. Nicholas  
Notary Public

My commission expires: May 22, 1992

4-2822 PAGE 500

EXHIBIT A

Exhibit A is attached map of Pastlands.



822 PAF501

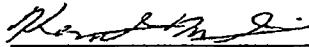
ANNAMMON INC.  
 10000 1st Street  
 Baltimore, Maryland 21201  
 717/221-2000 / 727-7110  
 Preservation Interior Design

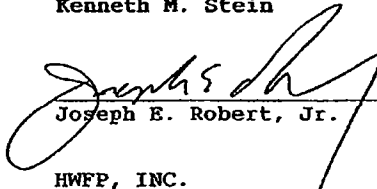
**HENDERSON'S WHARF**  
 FASTLANDS - PRELIMINARY PARKING  
 SCALE 1"=50' OCTOBER 2

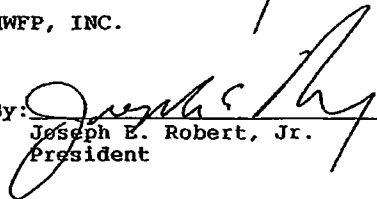
CONSENT AND AGREEMENT OF TRUSTEES AND BENEFICIARY

Kenneth M. Stein and Joseph E. Robert, Jr., Trustees, and HWFP, Inc., who are, respectively, the Trustees and the beneficiary under (i) that certain deed of trust dated as of July 31, 1990 from Henderson's Wharf Baltimore, L.P., said deed of trust intended to be recorded among the Land Records of the City of Baltimore, Maryland, and (ii) that certain deed of trust dated as of July 31, 1990 from Henderson's Wharf Marina, L.P., said deed of trust to be recorded among the Land Records of the City of Baltimore, Maryland, hereby join in the foregoing Amendment to Reciprocal Easement Agreement for the express purpose of subjecting all of their right, title and interest under the said deeds of trust, to the operation and effect of such Amendment to Reciprocal Easement Agreement.

IN WITNESS WHEREOF, each of the said Trustees and the Beneficiary has executed and ensealed this Consent and Agreement of Trustees and Beneficiary this 31<sup>st</sup> day of July, 1990.  
as of

  
Kenneth M. Stein

  
Joseph E. Robert, Jr.  
HWFP, INC.

By:   
Joseph E. Robert, Jr.  
President

STATE OF VIRGINIA, CITY OF ALEXANDRIA TO WIT:

I HEREBY CERTIFY, that on this 26th day of March, 1991 ~~July, 1990~~, before me, the subscriber, a Notary Public for the State and County aforesaid, personally appeared KENNETH M. STEIN, Trustee, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who acknowledged that he executed the same as Trustee for the purposes therein contained, and that it is his act and deed.

AS WITNESS, my hand and Notarial Seal.

Robin E. Wolfe  
Notary Public  
My Commission Expires: Feb 28, 1991

STATE OF VIRGINIA, CITY OF ALEXANDRIA TO WIT:

I HEREBY CERTIFY, that on this 2nd day of April, 1991 ~~July, 1990~~, before me, the subscriber, a Notary Public for the State and County aforesaid, personally appeared JOSEPH E. ROBERT, JR., Trustee, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who acknowledged that he executed the same as Trustee for the purposes therein contained, and that it is his act and deed.

AS WITNESS, my hand and Notarial Seal.

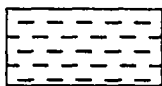
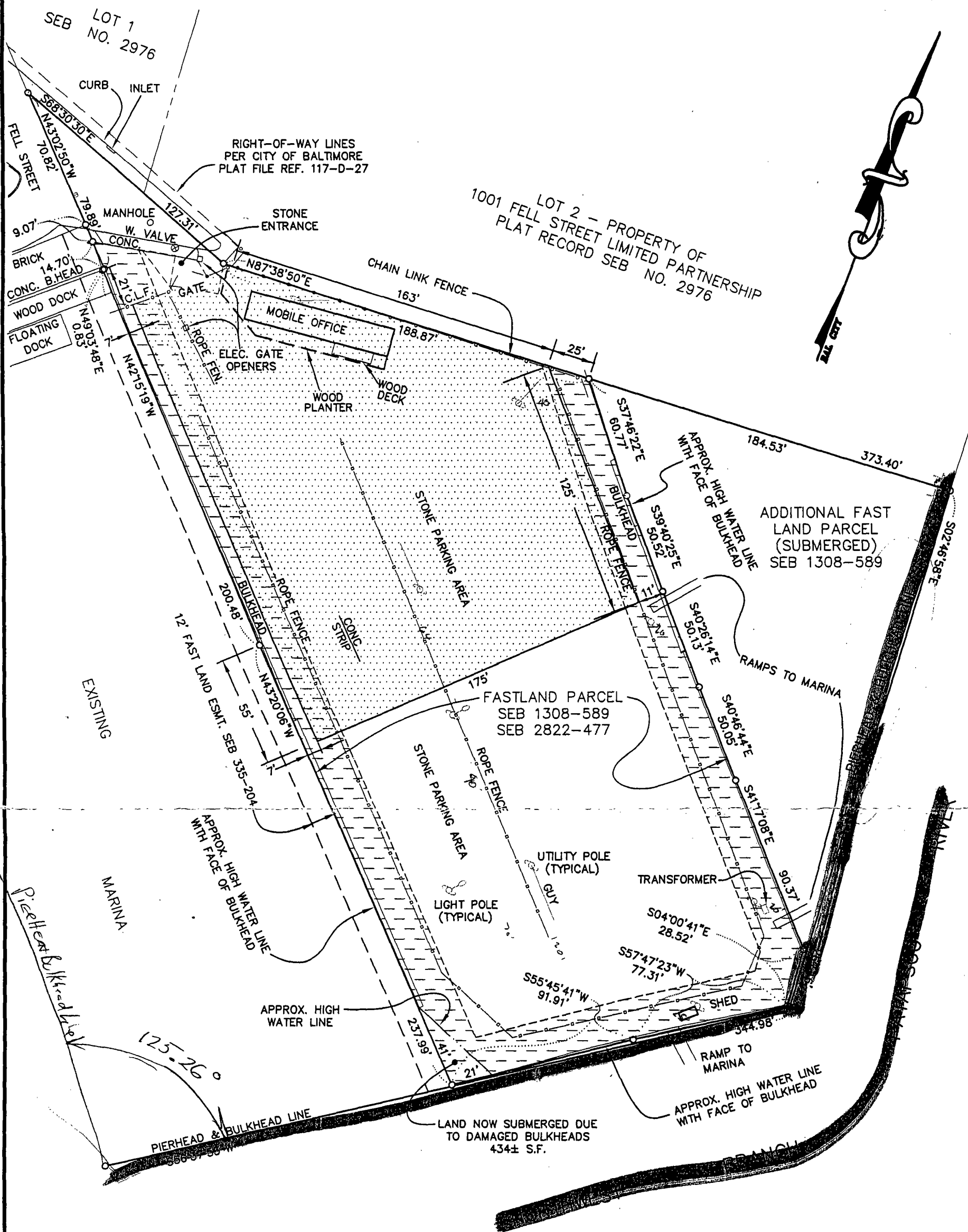
Robin E. Wolfe  
Notary Public  
My Commission Expires: Feb 28, 1992

STATE OF VIRGINIA, CITY OF ALEXANDRIA TO WIT:

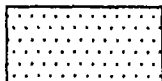
I HEREBY CERTIFY, that on this 2nd day of April, 1991 ~~July, 1990~~, before me, the subscriber, a Notary Public for the State and County aforesaid, personally appeared JOSEPH E. ROBERT, JR., who acknowledged himself to be the President of HWFP, Inc. (the "Corporation") and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself, as such officer.

AS WITNESS, my hand and Notarial Seal.

Robin E. Wolfe  
Notary Public  
My Commission Expires: Feb 28, 1992



ALTERNATIVE FASTLAND EASEMENT  
SHOWN PER AMENDMENT TO PEDESTRIAN PROMENADE EASEMENT AGRMT. © SEB 2822-477



INTERIM PARKING EASEMENT

## INTERIM PARKING EASEMENT

AND OTHER ESMT.'S OF HENDERSON'S WHARF BALTIMORE, L.P.  
LOCATED ON LANDS OF HENDERSON'S WHARF MARINA, L.P.

PREPARED BY:  
**Dewberry & Davis**  
3120 Timanus Lane  
Baltimore, Maryland 21244

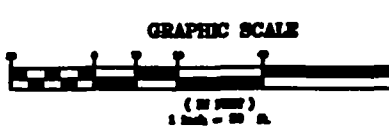
THOMAS M. YOAKUM  
MD. PROP.L.S. 534


DATE


ADDENDUM TO:


ALTA/ACSM LAND TITLE SURVEY  
HENDERSON'S WHARF BALTIMORE, L.P.  
SCALE: 1"= 60' DATE: DEC. 1995  
FOR: HENDERSON'S WHARF BALTIMORE, L.P.

REINSPECTED, REVISED, & RECERTIFIED 9/02/99.  
REVISED 2/27/96: LIMIT OF INTERIM PARKING ESMT.  
REVISED 2/01/96: LIMIT OF INTERIM PARKING ESMT.




 AREA SHOWN AS "FAST LAND" NOT DEEMED AS "FAST LAND" IN SUB 1795/440/F ON SURVEY ENTITLED "PROPERTY SURVEY OF HENDERSON'S WHARF" DATED JULY 30, 1890 BY BEAVIN CO. AREA NOT INCLUDED IN CONDOMINIUM REGIME.

 "COMMERCIAL COURTYARD AREA" AND PEDESTRIAN ACCESS EASEMENT PER PREPDOCAL EASEMENT AGREEMENT SUB 1824-182.

 AREA SHOWN AS "CONDOMINIUM COMMON ELEMENT (FAST LAND" NOT DEEMED AS FAST LAND IN SUB 1795/440/F SET OF COMMERCIAL COURTYARD AREA LIMITED ELEMENT CLASS "I" ON SURVEY ENTITLED "PROPERTY SURVEY OF HENDERSON'S WHARF" DATED JULY 30, 1890 BY BEAVIN COMPANY.

LANDS OF HENDERSON'S WHARF BALTIMORE, LP, INCLUDED WITHIN THE LIMITS OF THE CONDOMINIUM (KNOWN AS THE RESIDENCES AND INN AT HENDERSON'S WHARF), AS ESTABLISHED IN ACCORDANCE WITH THE PLATS RECORDED AT CONDOMINIUM SUBS 232 AND 289. THE DECLARATION DATED AUGUST 30, 1962 RECORDED IN LIBER SUB 1821, FOLIO 20; THE AMENDMENT TO DECLARATION DATED APRIL 3, 1968 RECORDED IN LIBER SUB 2563, FOLIO 326; THE AMENDMENT TO DECLARATION DATED JULY 31, 1960 RECORDED IN LIBER SUB 2563, FOLIO 230; AND THE THIRD AMENDMENT TO DECLARATION DATED DECEMBER 14, 1962 RECORDED IN LIBER SUB 3070, FOLIO 30.

 OTHER LANDS OF HENDERSON'S WHARF BALTIMORE, LP, NOT INCLUDED WITHIN THE LIMITS OF THE CONDOMINIUM REGIME.

[illegible]

ALTA/ACSM LAND TITLE SURVEY  
HENDERSON'S WHARF BALTIMORE, LLC  
LOCATED IN THE CITY OF BALTIMORE  
WARD 2, SECTION 6, BLOCK 1874  
SCALE: 1" = 20'      DATE: SEP. 2, 1999  
PREPARED FOR: GUNN FINANCIAL, INC.

SECOND AMENDMENT TO PEDESTRIAN  
PROMENADE EASEMENT AGREEMENT

THIS SECOND AMENDMENT to the Pedestrian Promenade Easement Agreement, as amended (hereinafter referred to as the "Agreement"), made this 31<sup>st</sup> day of July, 1990, is made by and between Henderson's Wharf Baltimore, L.P., a Delaware limited partnership, Henderson's Wharf Marina, L.P., a Delaware limited partnership and the Mayor and City Council of Baltimore, a municipal corporation organized and existing under the laws of the State of Maryland, having an address at City Hall, Baltimore, Maryland 21202, and acting by and through the Department of Housing and Community Development of Baltimore City with the prior approval of the Board of Estimates of Baltimore City.

WITNESSETH

WHEREAS, Carley Capital Group, a Wisconsin general partnership, as "Developer" (hereinafter referred to as "Carley"), and the Mayor and City Council of Baltimore, acting by and through (a) the Department of Housing and Community Development of Baltimore City and (b) Trustees for the Loan and Guarantee Program of Baltimore City, with the prior approval of the Board of Estimates of Baltimore City (hereinafter collectively referred to as the "City"), entered into that certain Amended and Restated Henderson's Wharf Disposition Agreement dated October 10, 1984, recorded in the Land Records of Baltimore City in Liber S.E.B. 335, Folio 62 (hereinafter referred to as the "Disposition Agreement") for the disposition and development of that certain real property located in Baltimore City, Maryland and commonly known as "Henderson's Wharf", Henderson's Wharf "Marina" and "The Inn at Henderson's Wharf" (hereinafter referred to as the "Property"), and that certain Pedestrian Promenade Easement Agreement dated October 19, 1984, recorded in Liber S.E.B. 335, Folio 204, aforesaid records, as amended by that certain Amendment of Pedestrian Promenade Easement Agreement dated April 6, 1987, recorded in Liber S.E.B. 1308, Folio 589, aforesaid records (hereinafter collectively referred to as the "Easement Agreement") creating certain reciprocal easements affecting the Property;

WHEREAS, the United Brotherhood of Carpenters and Joiners of America (hereinafter referred to as "UBC") made loans secured by the Property, Carley defaulted on these loans and UBC sold the Property at a foreclosure sale on December 28, 1988, to HWFP, Inc., a Maryland corporation, all of the stock of which is owned by UBC and the foreclosure sale was ratified on January 30, 1989;

WHEREAS, HWFP, Inc. has entered into that certain Agreement for the Sale of Henderson's Wharf, the Fastlands and Marina dated June 29, 1990 (hereinafter referred to as the "Contract"), with Historic Preservation Properties 1990 L.P. Tax Credit Fund (hereinafter referred to as "HPP") as "Purchaser" and UBC as



"Guarantor";

WHEREAS, pursuant to the Contract, HPP shall assign its right to purchase that portion of the Property containing the residences and inn, more particularly described on Exhibit "A", attached hereto and made a part hereof, and encumbered by "the Building Perimeter Easement", "the Connecting Easement," and "the Fell Street Easement", all as defined in the Easement Agreement, to Henderson's Wharf Baltimore, L.P. (hereinafter referred to as "Developer 1") and shall assign its right to purchase that portion of the Property containing the fastlands and marina, more particularly described on Exhibit "B", attached hereto and made a part hereof, and encumbered by "the Fast Land Easement" and "the Alternate Fast Land Easement", both as defined in the Easement Agreement, to Henderson's Wharf Marina, L.P. (hereinafter referred to as "Developer 2");

WHEREAS, UBC, Developer 1 and Developer 2, have requested that the City agree to the sale of the Property to Developer 1 and Developer 2 notwithstanding the restrictions set forth in Article V of the Disposition Agreement and that the City agree to certain modifications of the Disposition Agreement; and

WHEREAS, in conjunction with the modifications to the Disposition Agreement, Developer 1 and Developer 2 have agreed to modify their obligations to maintain the Property under the Easement Agreement.

NOW THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Substitution of Parties. Developer 1 is hereby substituted as "the Developer" under the Easement Agreement, in relation to the Building Parcel as defined in Paragraph 1.6 of the Easement Agreement, and as "the Building Parcel Owner" as defined in Paragraph 1.7 of the Easement Agreement, with all rights and obligations accruing thereunder, as amended herein. Developer 2 is hereby substituted as "the Developer" under the Easement Agreement, in relation to the Fast Land Parcel as defined in Paragraph 1.22 of the Easement Agreement, and as "the Fast Land Parcel Owner" as defined in Paragraph 1.23 of the Easement Agreement, with all rights and obligations accruing thereunder, as amended herein.

2. Maintenance and Repairs by Owner. (A) Subparagraph 5.1.1 is hereby amended to read as follows:

"5.1.1 (a) Beginning on the date that the Building Parcel Owner purchases the Building Parcel, the Building Parcel Owner shall, at its expense, maintain and keep clean, in a safe condition and in good order and repair, the Building

Perimeter Easement Area, the Connecting Easement Area, the Fell Street Easement Area and the Easement Improvements therein. Such obligation to maintain and repair shall run with and encumber the Building Parcel in perpetuity.

(b) Beginning on the date that the Fast Land Parcel Owner purchases the Fast Land Parcel, the Fast Land Parcel Owner shall, at its expense, maintain and keep clean, in a safe condition and in good order and repair, the Fast Land Easement Area and the Easement Improvements therein which exist at the time in question. Such obligation to maintain and repair shall run with and encumber the Fast Land Parcel in perpetuity."

(B) Section 5.1.2 of the Easement Agreement is hereby deleted and all other references to 5.1.2 in the Easement Agreement shall be disregarded.

(C) The concessions set forth in this Paragraph 2 shall not apply to HWFP, Inc., UBC, or their affiliates, successors or assigns.

3. Notices. Any notice, demand, consent, approval, request or other communication required under this Agreement or the Easement Agreement shall be delivered in accordance with Section 8 of the Easement Agreement. However, any notice, demand, consent, approval, request or other communication to be delivered to the Developer the Building Parcel Owner or the Fast Land Parcel Owner under the Easement Agreement shall be addressed as follows:

Henderson's Wharf Baltimore, L.P. and  
Henderson's Wharf Marina, L.P.  
c/o Richland Realty Group  
2859 Paces Ferry Road, Suite 1545  
Atlanta, Georgia 30339  
Attn: Mr. Richard F. Holland

With a copy to: Cohen, Asbell & Stribling  
260 Peachtree Street, Suite 1800  
Atlanta, Georgia 30303  
Attn: Wade H. Stribling

4. Effect of Agreement. Except as herein set forth, the provisions of the Easement Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement under seal as of the day and year first above written.

[Signatures continued on the following page]

HENDERSON'S WHARF BALTIMORE,  
L.P., a Delaware limited  
partnership

WITNESS:

Wade H. Still  
Suzanne E. Allen

BY: RICHLAND #1, L.P.,  
its General Partner

BY: Richland Historic  
Properties, Inc.

By: D. J. Hill  
Title: President

Attest: D. J. Hill  
Title: Secretary

[CORPORATE SEAL]

and

WITNESS:

J. D. Kelly  
Wade H. Still

BY: HISTORIC PRESERVATION  
PROPERTIES 1990 L.P. TAX  
CREDIT FUND, its  
General Partner

BY: BOSTON HISTORIC PARTNERS  
II LIMITED PARTNERSHIP,  
its General Partner

BY: BHP II ADVISORS LIMITED  
PARTNERSHIP, its General  
Partner

BY: Portfolio Advisory  
Services II, Inc., its  
General Partner

By: Stephen V. Sullivan  
Title: President  
*AS ATTORNEY IN  
FACT FOR  
TERENCE P.  
SULLIVAN*

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

[CORPORATE SEAL]

and

WITNESS:

Jan A. Kelly  
Wade H. Stihl

WITNESS:

Wade H. Stihl  
Susan C. Allen

WITNESS:

Jan A. Kelly  
Wade H. Stihl

BY: Terrence P. Sullivan (SEAL)  
Terrence P. Sullivan,  
General Partner

AS ATTORNEY IN  
FACT FOR

HENDERSON'S WHARF MARINA, L.P.,  
a Delaware limited partnership

BY: RICHLAND #2, L.P.,  
its General Partner

BY: Richland Holdings, Inc.

By: Phil A. Wells  
Title: President

Attest: Phil A. Wells  
Title: Secretary

[CORPORATE SEAL]

and

BY: HISTORIC PRESERVATION  
PROPERTIES 1990 L.P. TAX  
CREDIT FUND, its  
General Partner

BY: BOSTON HISTORIC PARTNERS  
II LIMITED PARTNERSHIP,  
its General Partner

BY: BHP II ADVISORS LIMITED  
PARTNERSHIP, its General  
Partner

BY: Portfolio Advisory  
Services II, Inc., its  
General Partner

By: Terrence P. Sullivan  
Title: President

AS ATTORNEY IN  
FACT FOR TERRANCE  
P. SULLIVAN

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

[CORPORATE SEAL]

and

WITNESS:

James A. Kelly  
Walter H. Titlin

WITNESS:

G. Louise Green  
G. Louise Green  
Alternate Custodian of the City Seal

BY: Terrance P. Sullivan AS ATTORNEY IN  
FACT FOR  
(SEAL)  
Terrance P. Sullivan,  
General Partner

MAYOR AND CITY COUNCIL OF  
BALTIMORE, a Maryland municipal  
corporation

By: Kurt L. Schmoker  
Title: Mayor

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

[CORPORATE SEAL]

District of Columbia

~~STATE OF~~

: ~~COUNTY OF~~

: TO WIT:

I HEREBY CERTIFY that on this 31<sup>st</sup> day of July, 1990,  
before me, a Notary Public for the state and county aforesaid,  
personally appeared Richard F. Holland, known to me or satis-  
factorily proven to be the person whose name is subscribed to the  
foregoing instrument, who acknowledged that he is the President of  
Richland Historic Properties, Inc., a Georgia corporation, the  
general partner of Richland #1, L.P., a Georgia limited partner-  
ship, that he has been duly authorized to execute, and has  
executed, such instrument on its behalf for the purposes therein  
set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the  
day and year first above written.

My Commission Expires May 14, 1991

My commission expires on \_\_\_\_\_.

Victoria D. Taylor  
Notary Public

District of Columbia  
STATE OF : COUNTY OF : TO WIT:

I HEREBY CERTIFY that on this 31st day of July, 1990, before me, a Notary Public for the state and county aforesaid, personally appeared Stephen Joseph Sullivan known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the President, of Portfolio Advisory Services II, Inc., a corporation, a general partner of BHP II Advisors Limited Partnership, a limited partnership, a general partner of Historic Preservation Properties 1990 L.P. Tax Credit Fund, a Delaware limited partnership, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Victoria R. Taylor  
Notary Public

My commission expires on May 14, 1991.

District of Columbia  
STATE OF : COUNTY OF : TO WIT:

I HEREBY CERTIFY that on this 31st day of July, 1990, before me, a Notary Public for the state and county aforesaid, personally appeared Terrence P. Sullivan, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is a general partner of BHP II Advisors Limited Partnership, a limited partnership, a general partner of Historic Preservation Properties 1990 L.P. Tax Credit Fund, a Delaware limited partnership, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

My Commission Expires May 14, 1991

Victoria R. Taylor  
Notary Public

My commission expires on \_\_\_\_\_.

District of Columbia

STATE OF

: COUNTY OF

: TO WIT:

I HEREBY CERTIFY that on this 31<sup>st</sup> day of July, 1990, before me, a Notary Public for the state and county aforesaid, personally appeared Richard F. Holland, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the President of Richland Holdings, Inc., a Georgia corporation, the general partner of Richland #2, L.P., a Georgia limited partnership, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

My Commission Expires May 14, 1991

Richard L. Kepler  
Notary Public

My commission expires on \_\_\_\_\_.

STATE OF Maryland : City OF Baltimore : TO WIT:

I HEREBY CERTIFY that on this 25<sup>th</sup> day of July, 1990, before me, a Notary Public for the state and county aforesaid, personally appeared Kurt L. Schmoke known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the Mayor, of the MAYOR AND CITY COUNCIL OF BALTIMORE, a Maryland municipal corporation, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Marion P. Navarra  
Notary Public

My commission expires on August 15, 1993

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]  
Title: EST. CITY CLERK  
Date: 7-25-90

APPROVED BY THE BOARD OF ESTIMATES
Date: <u>JUL 25 1990</u>
<u>[Signature]</u>
Deputy Comptroller & Clk. to the Board