

M. J. Brodie, Commissioner

Department of Housing and Community Development
222 East Saratoga Street, Room 310

Fells Point Site, Donation of Wharf
and Marina Slips and Lease Agreement

Honorable President and Members
of the Board of Estimates

SEP 23 1983

Presented herewith are six counterparts of an Agreement between the Mayor and City Council of Baltimore and Thames Point Associates, a Maryland General Partnership, providing for the donation of a wharf and marina slips to the City. Also presented herewith are six counterparts of a Lease Agreement between the Mayor and City Council and Thames Point Associates, providing for the lease of the aforesaid wharf and marina slips, and certain riparian rights, to Thames Point Associates.

Thames Point Associates is the owner of certain properties known as 801-819 South Wolfe Street. These properties also abut on Thames Street, the bed of which was dedicated to the City along with the riparian rights thereto. Thames Point Associates has constructed a wharf and seven marina slips, at its own expense in accordance with plans approved by the City, abutting Thames Street east of the existing bulkhead as shown on Exhibit A attached to the Agreement which provides for the donation of the aforesaid improvements to the City.

The City, upon receiving the aforesaid improvements as a donation, wishes to lease the improvements, and its riparian rights to the waters abutting Thames Street, to Thames Point Associates for the nominal sum of \$5.00 for a period of 50 years. The City will reserve the rights of pedestrian ingress and egress over the wharf. Thames Point Associates agrees to be responsible for all maintenance.

It is respectfully requested that your Honorable Board approve the Agreement and the Lease Agreement and indicate such action in the space provided below, as well as on page 4 of the Agreement and page 6 of the Lease Agreement.


M. J. BRODIE
Commissioner

Attachments

FRDanton/dh

cc: Honorable William D. Schaefer
M. Sissman
Commissioner's Office - 2
R. Kagan
P. Massey
G. Ball
F. Danton ✓
Land Disposition File
Land Acquisition File
Chron.

Chron

Or (page 1)

NAME & TITLE	M. J. Brodie, Commissioner
AGENCY NAME & ADDRESS	Department of Housing and Community Development 222 East Saratoga Street, Room 310
SUBJECT	Fells Point Site, Donation of Wharf and Marina Slips and Lease Agreement

CITY of
BALTIMORE
MEMO



DATE: SEP 23 1983

(G)

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of the Board of Estimates

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Commissioner

Attachments

9/28/83-Today, the Board approved the above request and authorized execution of the Agreements with Thames Point Associates with the clear understanding that if the State of Maryland requires payment of a Real Estate Tax under the Lease Agreement, said tax will be paid for by the Lessee.

Robert A. Felling Clerk

rights appurtenant to the extended area.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this day of **SEP 28 1983**, 1983, by and between MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation of the State of Maryland (the "City"), acting by and through the Department of Housing and Community Development ("HCD"), and THAMES POINT ASSOCIATES, a general partnership organized and existing under the laws of the State of Maryland (the "Developer").

RECITALS

A. By these presents, the City and the Developer intend to establish their respective rights in and to the use of certain waters of the Northwest Branch of the Patapsco River abutting Thames Street, a public thoroughfare situate and lying in Baltimore City, Maryland, and improvements constructed therein. Said street is shown on the survey entitled "Survey for Sale of Part of Wolfe Street," dated October 24, 1977 (as revised November 15, 1977, May 22, 1979, July 10, 1979, December 10, 1979 and January 29, 1980) and prepared by S. J. Martenet and Company, a copy of which is attached hereto and incorporated herein as Exhibit A (the "Survey").

B. The Developer is the owner of those parcels of ground situate and lying in Baltimore City, Maryland, collectively known as 801-819 South Wolfe Street, and more particularly described in the Deed dated February 27, 1980 from National Can Corporation to Thames Point Associates and recorded among the Land Records of the City of Baltimore in Liber No. 3881 at Page 44 and in the Deed dated February 27, 1980 from Mayor and City Council of Baltimore to Thames Point Associates and recorded among the Land Records of the City of Baltimore in Liber No. 3881 at Page 47. The Developer is presently improving said property as a Business Planned Development pursuant to the provisions of Ordinance 977 of the City adopted March 16, 1979.

C. Dominion over the riparian rights in the waters abutting Thames Street are held by the City. The City also has the right to extend Thames Street or construct a wharf in an easterly direction from the existing bulkhead as shown on the Survey, and to take over the riparian rights appurtenant to the extended area.

D. The Developer, having obtained all necessary building permits from HCD, Division of Construction and Building Inspection, has built a wharf (the "Wharf") and approximately

1093

seven (7) marina slips (the "Marina Slips") in the waters abutting Thames Street east of the bulkhead, designated "Northernmost One-Half of Thames Street Extended" on the Survey and more particularly described in Exhibit B attached hereto and incorporated herein (the "Water Rights"). The Developer has built the Wharf and the Marina Slips at its own expense and in accordance with the plans and specifications approved by HCD.

E. By Agreement of even date herewith, Developer has contributed the Wharf and Marina Slips to the City and the City has accepted same.

F. The City has the authority under Article II, Section 10 of the Charter of Baltimore City to lease or rent public wharfs.

G. These Recitals are hereby incorporated into and are a part of this Agreement.

AGREEMENTS:

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of the premises and Five Dollars (\$5.00) paid in hand and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants hereinafter exchanged, the City does hereby demise and let to the Developer and the Developer does hereby lease and rent from the City, for a term of years hereinafter specified, the Wharf and the Marina Slips appurtenant thereto, the rights of navigation and dockage in the Water Rights and the City reserves the rights of pedestrian ingress and egress over the Wharf on the following terms and conditions:

1. Term

The term of this Lease shall be for a period of fifty (50) years commencing on _____, 1983 (the Commencement Date) and ending on the day which is fifty (50) years from the last day of the calendar month in which the Commencement Date occurs with options to renew only as hereinafter specified.

2. Options to Renew

The Developer shall have the option to renew the original term of this Lease for two additional, successive terms of twenty-four (24) years each upon the same terms and conditions provided for during the original term. The Developer and the City agree that the aforesaid renewal options shall be automatically exercised for each of the renewal terms provided for by this Section unless not later than sixty (60) days prior to the expiration of the term then in force, the Developer gives notice to the City of the Developer's intention not to exercise the renewal option.

3. Rent

(a) As rent, the Developer will be responsible for maintaining the Wharf and the Marina Slips in good condition and repair in accordance with the applicable provisions of the Baltimore City Code and any other applicable laws. Such maintenance and repair shall include, but shall not be limited to, sweeping, painting, snow removal and resurfacing, and shall be at Developer's sole expense.

(b) The Developer's continuing responsibility to maintain the Wharf and the Marina Slips in the manner set forth in Section 3(a) hereof shall constitute the sole and complete consideration for the lease of the use of the Wharf and the Marina Slips and the right of navigation and dockage in the Water Rights. The Developer shall not be obligated to pay any fees or additional rent to the City for said leasehold rights.

4. Use of Water Rights

Any vessels which are docked or moored at the Wharf shall not intrude into an area beyond the central line of Thames Street as shown on the Survey, which is the southern boundary of the Water Rights, without the express written permission of the owner of the property abutting Thames Street to the south.

5. Public Wharf Easement

The Developer and the City mutually covenant that a public easement for pedestrian ingress and egress over the Wharf shall exist at all times during the original and any renewal term of this Lease.

6. Condemnation

The City hereby acknowledges that it has no present intention to extend Thames Street in an easterly direction from the existing bulkhead as shown on the Survey, nor any intention to extend the Wharf in a southerly direction into the Water Rights. If, notwithstanding the above declaration of intention, the City does extend Thames Street in an easterly direction, or extend the Wharf in a southerly direction, the Developer will be entitled to pursue any awards allowable under applicable law for condemnation of its leasehold interests in the Marina Slips and the City will assume the Developer's obligations under Paragraph 3(a) hereof to the extent the Developer is deprived of use or occupation of the leasehold estate.

7. Developer's Default

In the event that the Developer defaults in its rental obligation to maintain the Wharf and Marina Slips, and the Developer does not commence the curing of such default within fifteen (15) days after receipt of written notice of such default from the City (notice of such default also to be sent to any mortgagee having a lien on any of the Developer's leasehold interests, and any such mortgagee shall have thirty (30) days from the date of such notice within which to commence the cure) and the Developer (or any such mortgagee) does not thereafter in good faith diligently prosecute the curing of said default, the City shall have the right to perform any required maintenance or repair at the Developer's expense.

8. Remedies

The Developer shall repay the City any sums spent by the City for maintenance and repair pursuant to Section 7 above (together with interest at the rate of fifteen percent (15%) per

annum from the date said sums were spent until the date they are repaid) and if such sums are not repaid within fifteen (15) days after receipt of written notice from the City of the amount so due (a copy of which notice shall have been sent to any mortgagee having a lien on either or both of the Developer's leasehold interest hereunder) then the City may place a lien on the Developer's leasehold interests hereunder in the amount of the sums owed and the City's sole remedy against the Developer shall be to enforce said lien against the Developer's leasehold interests.

9. Assignment and Sublease of Developer's Rights

(a) Developer shall have the right to assign all of its rights under this Lease only with the written approval of the City, which approval will not be unreasonably withheld, provided that the leasehold estate continues to be used in conjunction with Developer's project adjacent thereto, known as Thames Point Condominium. The City may disapprove an assignment only if in the City's reasonable opinion the potential assignee is not financially qualified to fulfill the Developer's obligations under this Lease.

(b) Notwithstanding anything to the contrary in this Agreement, Developer shall have the right to assign, sublease, or let, without the approval of the City, one or more of the Marina Slips and the appurtenant navigation and dockage rights in the Water Rights.

10. Miscellaneous

(a) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns.

(b) Wherever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether actually received or not when deposited in the United States mail, postage prepaid, Certified Mail, Return Receipt Requested, addressed to the parties hereto at their respective addresses set out in Subsections (c) and (d) below or at such

other addresses as they have theretofore specified by written notice delivered in accordance herewith.

(c) The City's mailing address shall be:

Department of Housing and Community Development
222 East Saratoga Street
Baltimore, Maryland 21202

Default only to:

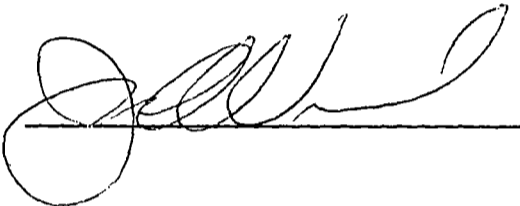
City Solicitor's Office
City Hall, Room 143
Baltimore, Maryland 21202

(d) The Developer's mailing address shall be:

Thames Point Associates
1900 Thames Street, Fells Point
Baltimore, Maryland 21231

ATTEST:

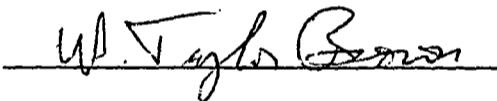
MAYOR AND CITY COUNCIL OF BALTIMORE



By: M. J. Brodie (SEAL)
M. J. BRODIE, Commissioner of
the Department of Housing and
Community Development

WITNESS:

THAMES POINT ASSOCIATES



By: Joseph Schwartz (SEAL)

The Board of Estimates of the City of Baltimore, this day of **SEP 28 1983**, 1983, acting upon the approval and recommendation of the Department of Housing and Community Development, hereby approves the foregoing Lease Agreement.

SUBJECT TO AMENDMENT TO PROVIDE THAT IF THE STATE OF MARYLAND REQUIRES PAYMENT OF A REAL ESTATE TAX UNDER THE LEASE AGREEMENT, SAID TAX WILL BE PAID FOR BY THE LESSEE.

BOARD OF ESTIMATES

By: Richard A. Johnson
Deputy Comptroller-Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

William H. Hays
Chief Solicitor Real Estate

This is page six of the Lease Agreement between the Mayor and City Council of Baltimore and Thames Point Associates providing for the lease of the wharf and marina slips in the waters of the Northwest Branch of the Patapsco River abutting Thames Street and the lease of the right of navigation and dockage in the water rights appurtenant thereto and for the reservation of certain public easements for their use.

STATE OF MARYLAND)
County)
CITY OF BALTIMORE) ss:

I HEREBY CERTIFY that on this 8th day of September 1983, personally appeared Joseph Schwartz, General Partner of THAMES POINT ASSOCIATES, known to me (or satisfactorily proven) to be the said person whose name is subscribed to the within instrument, and he acknowledged that he executed the foregoing instrument in his capacity as General Partner of Thames Point Associates, being authorized to do so, and acknowledged the same to be the act and deed of Thames Point Associates.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Harriet J. Schwartz
Notary Public

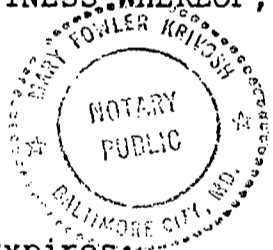
My Commission Expires:
July 1, 1986

STATE OF MARYLAND)
CITY OF BALTIMORE) ss:

SEP 28 1983

I HEREBY CERTIFY that on this _____ day of _____, 1983, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, personally appeared M. J. BRODIE, who acknowledged himself to be Commissioner of the Department of Housing and Community Development, and that he, as such Commissioner, being authorized to do so, acknowledged the foregoing to be the corporate act and deed of THE MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation of the State of Maryland.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



MARY FOWLER KRIVOSH
Mary Fowler Krivosh
Notary Public

My Commission Expires:
7-1-86

EXHIBIT A

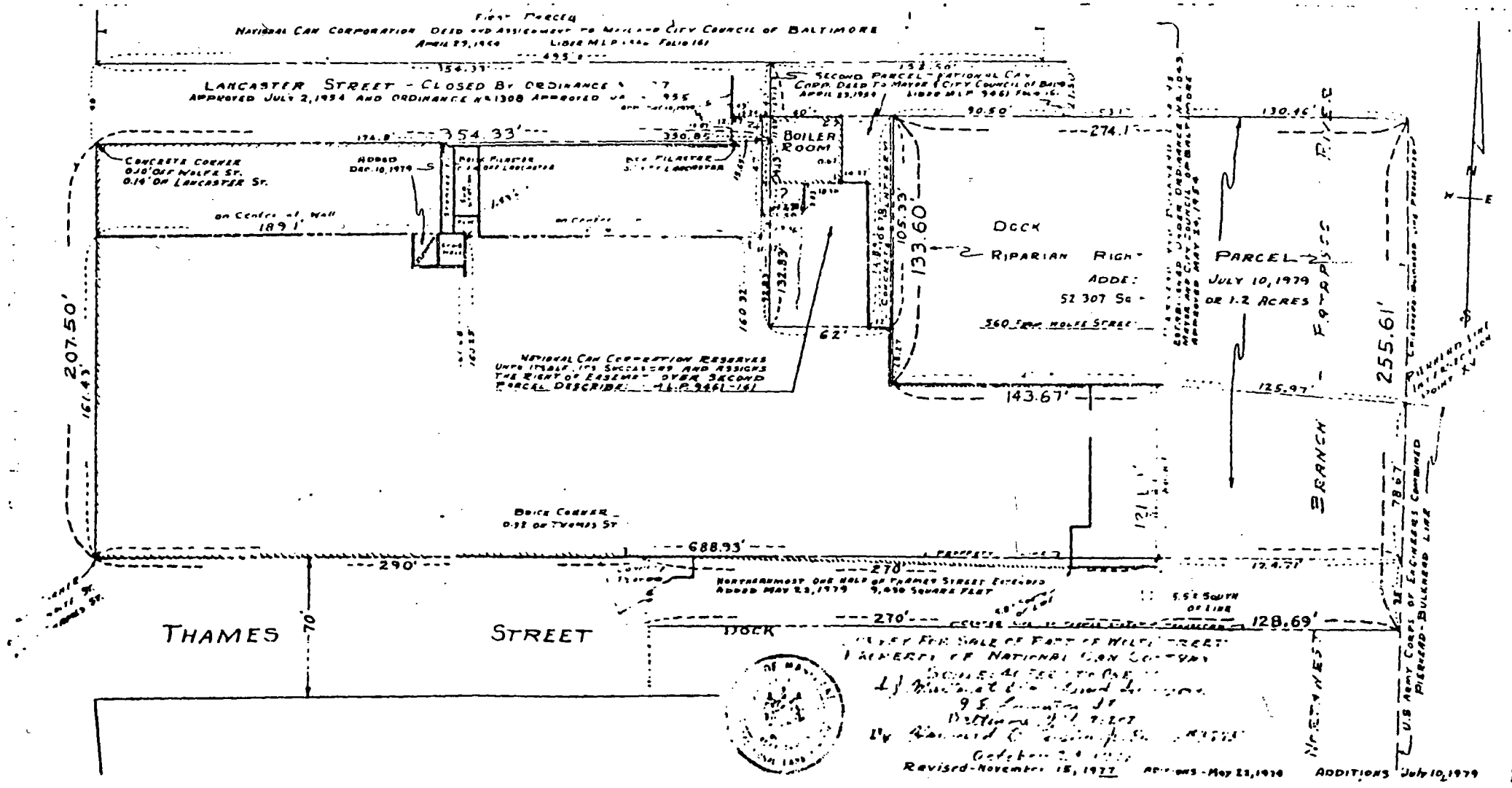


EXHIBIT B

HOWARD D. TUSTIN, JR. REGISTERED
LAND SURVEYOR

ESTABLISHED 1849

S. J. MARTENET & CO.

LAND SURVEYORS

9 E. LEXINGTON STREET

BALTIMORE, MD. 21202

PHONE: 539-4263

GIBSON J. MARTENET	1849-1882
HARRY G. JAVINE	1871-1894
SEPTIMUS P. TUSTIN	1870-1921
J. HOWARD BUTTON	1884-1940
WILLIAM O. ATWOOD	1887-1931
SAMUEL A. THOMPSON	1888-1944
GEORGE E. WIMMER	1887-1943
HOWARD D. TUSTIN	1887-1960
HOWARD C. BUTTON	1944-1969

DESCRIPTION OF NORTHERNMOST ONE HALF OF THAMES STREET
EXTENDED TO BALTIMORE CITY PIERHEAD-BULKHEAD LINE

Beginning for the same on the North side of Thames Street, 70 feet wide at a point distant 290 feet Easterly from the corner formed by the intersection of said North side of Thames Street with the East side of Wolfe Street said place of beginning being approximately in line with a bulkhead heretofore erected at the Easternmost end of Thames Street and running thence Easterly, binding on an Easterly projection of the North side of Thames Street, 270 feet to intersect the combined pierhead and bulkhead line as established under Ordinance No. 1043 of the Mayor and City Council of Baltimore approved May 24, 1954; thence Southerly, binding on said bulkhead line and parallel with Wolfe Street, 35 feet to intersect a line drawn in an Easterly projection of the center line of Thames Street; thence Westerly, reversing said line so drawn and binding thereon 270 feet to a point on or near the aforementioned bulkhead and thence Northerly, parallel with Wolfe Street, 35 feet to the place of beginning.

Containing 9,450 square feet of dockage space in the waters of the Northwest Branch of the Patapsco River.

By: *Howard D. Tustin, Jr.*
HOWARD D. TUSTIN, JR.
Reg. LS No. 3995
May 22, 1979