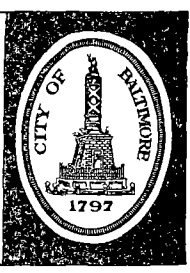


Karen S. Hilton
KAREN S. HILTON, ACTING DIRECTOR

FROM	NAME & TITLE	KAREN S. HILTON, ACTING DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 TH FLOOR
	SUBJECT	PROMENADE EASEMENT AGREEMENTS FOR TIDE POINT DEVELOPMENT

CITY of
BALTIMORE

MEMO



TO The Honorable President and
Members of the Board of Estimates
City Hall, Room 400

DATE: June 5, 2003

Dear President and Members:

ACTION REQUESTED OF THE BOARD OF ESTIMATES:

The Board is requested to approve the execution of a Pedestrian Promenade Easement Agreement with Hull Point, LLC for the property known as Tide Point.

AMOUNT OF MONEY AND SOURCE OF FUNDS:

N/A

BACKGROUND/EXPLANATION:

Baltimore's Waterfront Promenade system is a soon-to-be continuous pedestrian walkway along the waterfront from Canton Waterfront Park to the Museum of Industry. The promenade runs over private and public land throughout its course. Where private land is concerned, the property owner gives the city an easement for the right of public pedestrian access.

The Tide Point development in the Locust Point neighborhood has proven to be a successful reuse of a former industrial complex. The development consists of office space and a small amount of retail at the foot of Hull Street. Included in the site planning was a generous promenade area with connections to Hull Street.

A portion of the site is within the critical area 100 foot buffer. To fulfill their Critical Area Management Program requirements, developers of waterfront properties may choose to landscape their buffer area, pay buffer offset fees to the City or donate a public easement. The developers of this site have chosen to donate this promenade easement over a portion of their site for public pedestrian access. Although Tide Point is an out parcel of the waterfront promenade, it may one day be connected to the system or portions thereof. This site is also adjacent to the city fishing pier at the foot of Hull Street and the easement will expand Locust Point's accessibility to the water's edge.

KSH/jh

APPROVED BY BOARD OF ESTIMATES:

[Signature]

JUN 18 2003

Clerk

Date



**PEDESTRIAN PROMENADE
EASEMENT AGREEMENT**

JUN 18 2003

THIS AGREEMENT, is made this _____ day of _____, 2003. By and between Hull Point, LLC, a Maryland limited liability company (hereinafter "Grantor") and MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation of the State of Maryland (hereinafter "City") with approval of the City's Board of Estimates.

WHEREAS the Grantor has agreed to grant to the City a permanent easement to be part of the Baltimore Waterfront Promenade.

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

1. Grant of Easement. The Grantor hereby grants to the City a non-exclusive easement for pedestrian ingress and egress in, over and through the property described in Exhibit A (hereinafter "Easement Area") for a public walkway. The City may exercise the easement only upon the terms and subject to the conditions, which are set forth in the provisions of this Agreement.

2. Limitations on Exercise of Easement. The easement may be exercised only for pedestrian access to and from the adjoining public streets and walkways and for pedestrian traffic through the Easement Area - dawn to dusk and subject to any special restrictions and limitations as set forth on Schedule C attached hereto. No person otherwise entitled by the provisions of this Agreement to enter upon and use the Easement Area shall do so other than in accordance with applicable law. Reasonable rules concerning noise, dress, conduct and concerns of a similar nature regarding exercise of the easement shall be established by the city, posted at and enforced with respect to the Easement Area during the period within which the easement is exercised.

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

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

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

4. Easement Improvements. The Grantor - has performed the work as set forth in - Exhibit B (the "Easement Improvements-

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

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

6. Insurance and Indemnification.

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

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

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

7. Default. If either party fails to perform any provision, covenant, or condition of this Agreement then, in such event, the other shall have the right, upon 10 days written notice, to proceed to take such action as is necessary to cure such default, all in the name of and for the account of the breaching party. The breaching party shall on demand reimburse the other party for the money actually expended in accomplishing such cure, together with all reasonable out-of-pocket expenses plus interest at the rate of 15% per annum. If the other party shall in good faith deem that an emergency is occurring or has occurred, so that a default requires immediate cure, no notice shall be required and such party shall be entitled to take action without notice, provided notice is given as soon thereafter as possible. No default, action, or inaction shall give any party the right to terminate this Agreement or to deny access to the Easement Area.

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

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

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

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

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EXHIBIT A: Plan of Easement Area

EXHIBIT B: Easement Area with Improvements

SCHEDULE C: Special Restrictions

SCHEDULE D: Addresses to Whom Notices Concerning This Agreement Are to Be Sent

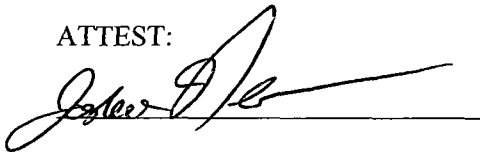
IN witness whereof, the parties have executed this agreement as of the day and year first above written.

HULL POINT, LLC

By: Locust Tide Point LLC, its managing member

By: LTP Management LLC, its managing member

ATTEST:



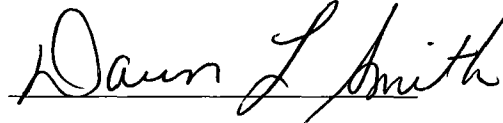
By:  (SEAL)
Carl W. Struever, Managing Member

STATE OF MARYLAND
City COUNTY OF Baltimore

SS:

I HEREBY CERTIFY, that on this 31st day of January, ~~2001~~ ²⁰⁰³, before me, a Notary Public of the State of Maryland, personally appeared Carl W. Struever, who acknowledged himself to be Managing Member of LTP Management, LLC, managing member of Locust Tide Point LLC, managing member of Hull Point, LLC, and that he as such managing member being authorized so to do, executed the forgoing Agreement for the purposes contained on behalf of the Hull Point, LLC.

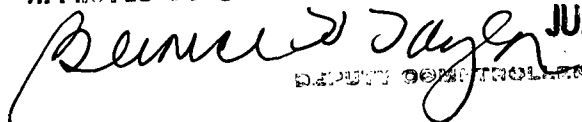
IN WITNESS THEREOF, I have hereunto affixed by hand and official seal the day and year first above written.



Notary Public

My Commission Expires: 9/01/04

APPROVED BY BOARD OF NOTARIES


DEPUTY COMPTROLLER

JUN 18 2003

ATTEST:

[Signature]
Custodian of the City Seal

MAYOR AND CITY COUNCIL OF BALTIMORE

By: *[Signature]*
Paul Graziano
Commissioner, HCD

Approved by the Board of Estimates

Secretary _____ Date _____

Approved for form and legal sufficiency:

[Signature] *[Signature]*
Principal Counsel Date

STATE OF MARYLAND
~~CITY~~ OF BALTIMORE
County

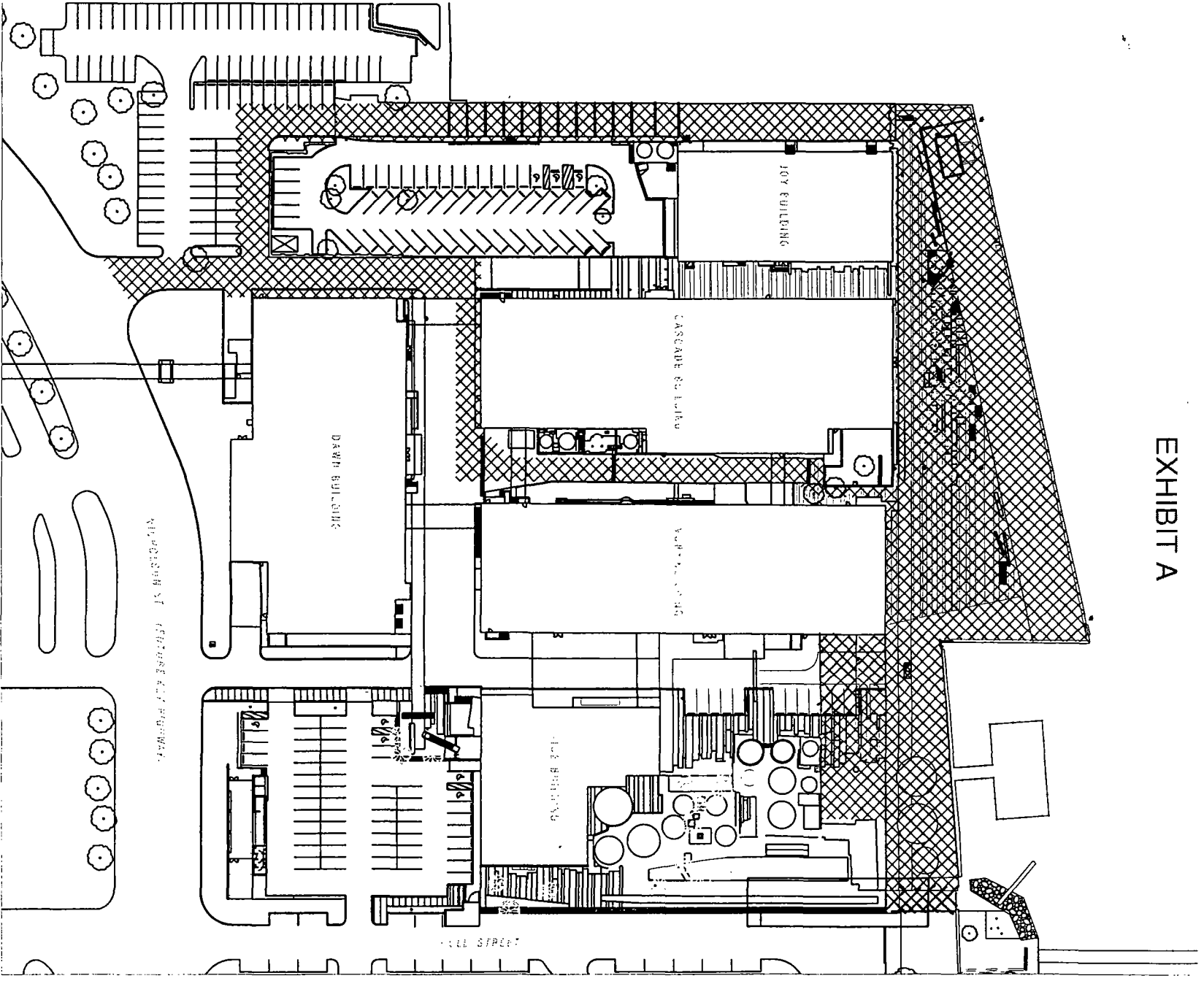
SS:

I HEREBY CERTIFY, that on this 28th day of May, 2003, before me, a Notary Public of the State of Maryland, personally appeared Paul Graziano, Commissioner of Department of Housing and Community Development, who signed the foregoing Agreement in my presence and acknowledged it to the Mayor and City Council of Baltimore.



[Signature]
Notary Public
My Commission Expires: 5-1-04

EXHIBIT A



EASEMENT AREA

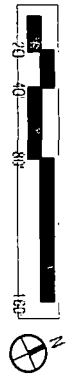
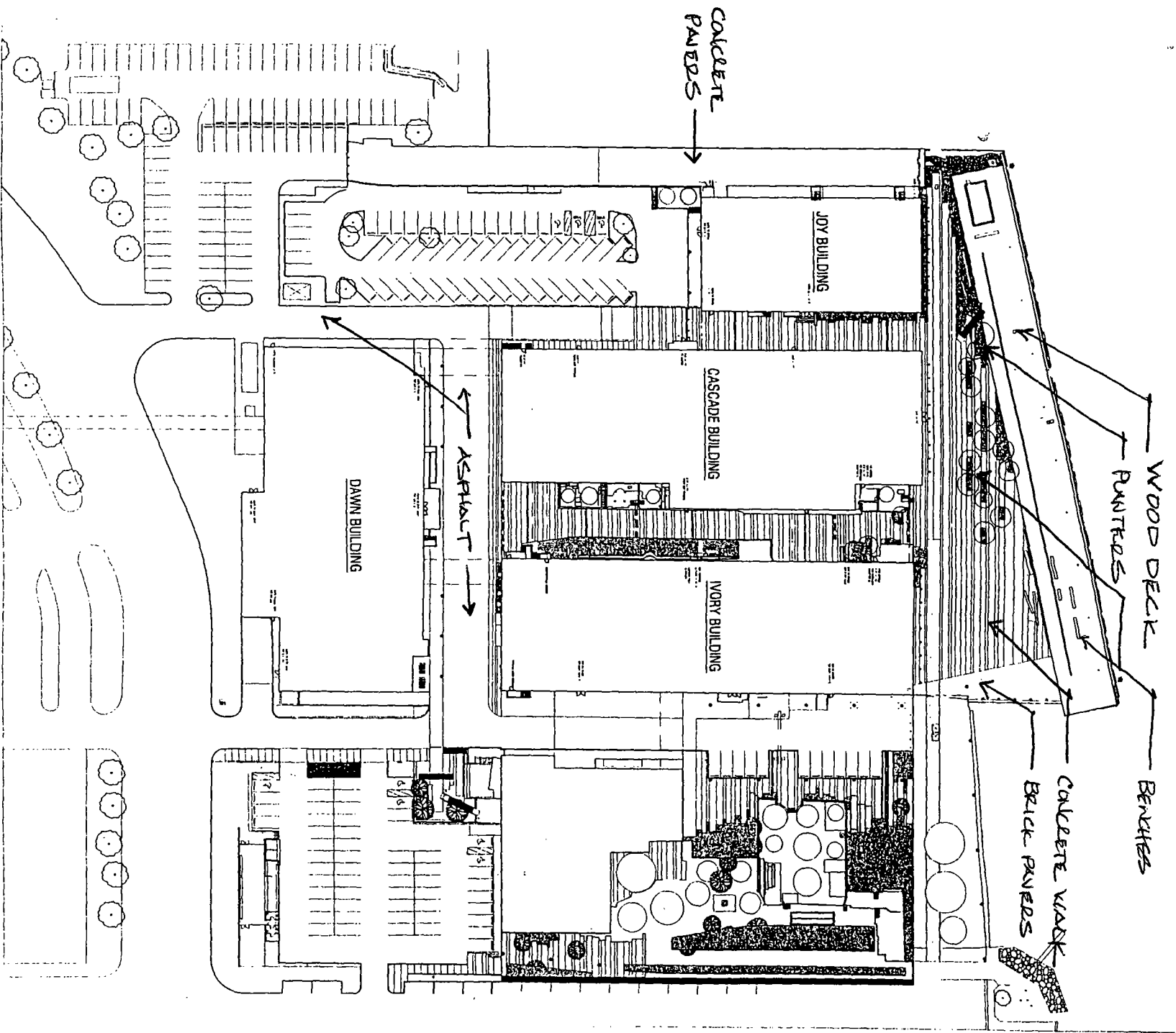


EXHIBIT B



- SCHEDULE C

Limitations on Exercise of Easement

1. Tide Point Pedestrian Promenade Hours of Operation shall be Dawn to Dusk 7 days a week, 365 days of the year. Hour limitation for the project is to be reconsidered if a future development project extends the Baltimore Public Promenade to the west side of the Tide Point Project
2. Grantor reserves the right to close a portion of the easement for private functions, outside the existing hours of operation, up to twenty (20) times per annum. In the event that the Grantor exercises this right, Grantor shall notify the City, in writing, at least ten (10) days prior to such closure.
3. Grantor reserves the right, working with the Baltimore Immigration Project, to install interpretive features, including signage and information kiosks, along the promenade. Such features will remain open to the public. The Baltimore City Department of Planning shall review and approve the design, location and placement of any interpretive features prior to their installation
4. Grantor reserves the right, to construct a restaurant or other public facility on a portion of the eastern portion of the easement. In the event that Grantor does construct a facility, the Baltimore City Department of Planning shall review and approve the design and location prior to the commencement of construction. During construction the Grantor shall provide adequate pedestrian passage around the construction site. Additionally, in the event that Grantor does construct a facility, Grantor shall leave, at a minimum, a twenty foot easement between the north façade of the facility and the water.

- SCHEDULE D

PARTIES TO WHOM NOTICE SHALL BE SENT

RE: Pedestrian Promenade Easement Agreement by and between Hull Point, LLC and the Mayor and City Council of Baltimore

1. Hull Point, LLC
1040 Hull Street
Baltimore, MD 21230

2. Jack Machen, Esq.
Piper Rudnick
6225 Smith Avenue
Baltimore, MD 21209

3. Commissioner
Baltimore City Department of Housing and Community Development
417 East Fayette Street, Room 1300
Baltimore, MD 21202

4. Baltimore City Law Department
City Hall, Room LL 31
100 North Holliday Street
Baltimore, MD 21202

5. Baltimore City Department of Planning
417 East Fayette Street
8th Floor
Baltimore, MD 21202