

CORRECTIVE DEED

THIS CORRECTIVE DEED, bearing date on the 9th day of February, 1990, as set forth in the acknowledgments by and between CARMEL PLAZA NORTH ASSOCIATES, a District of Columbia limited partnership ("Redeveloper"), and the DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY ("Agency"), which parties are referred to as Grantee and Grantor, respectively, under a certain Special Warranty Deed dated December 11, 1985, and recorded December 12, 1985, as Instrument No. 46858 ("Original Deed").

R E C I T A L S

1. In accordance with the provisions of that Contract of Sale No. DC-DECD-85-8, dated August 1, 1985, the Agency conveyed to the Redeveloper under the Original Deed the land and premises described in Exhibit "A" attached to and made a part of such conveyance, as follows:

Lot(s) numbered Twenty-five (25) in Square numbered Five Hundred Sixty (560) in a subdivision made by D.C. RLA as per plat recorded in Liber 176 at folio 178 in the Office of the Surveyor for the District of Columbia. [Hereinafter "the Land".]

2. The Land was conveyed to the Grantee in fee simple, subject to certain burdens, including easements, as are more fully described in a title policy issued by Commonwealth Land Title Insurance Company on December 11, 1985, Commonwealth Case No. H743660M.

3. There existed on and over the Land at the time of the conveyance by the Original Deed certain improvements which had been built by the Department of Transportation of the District of Columbia, including a portion of the Center Leg of the Interloop Freeway with its appurtenances, and two concrete decks (hereinafter "Garage Deck" and "Upper Deck") built over said Freeway. These two concrete decks were constructed for the purposes described in the Deed of Easement recorded on September 9, 1985,

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as Instrument No. 33147, as amended by the Amendment and Addendum to Deed of Easement, dated June 22, 1988, and recorded on July 1, 1988, as Instrument No. 36032, and re-recorded on July 18, 1988, as Instrument No. 38715. These two concrete decks were constructed, not only for the purposes set forth in the said Deed of Easement and the Amendment and Addendum thereto between the parties, but also for those purposes included in Contract No. DC-DHCD-85-8 and in the Urban Renewal Plan for Northwest Urban Renewal Plan No. 1, including, specifically, the language found therein providing for housing and community facilities to be constructed on and above the deck (pp. 4-12 and 4-13 of the said Urban Renewal Plan).

4. Carmel Plaza North Associates, subsequent to the said conveyance under the Original Deed, constructed "Carmel Plaza North", an apartment house rental project of 133 units with 15,168 square feet of commercial space on the Upper Deck and 190 parking spaces on the Garage Deck.

5. It was not and never had been the intention of the Agency and the Redeveloper that the Original Deed convey to the Redeveloper rights to construct improvements on and over that portion of the Upper Deck as described in Exhibits B (a Plat of Survey by Clark, Finefrock & Sackett, File No. 85-008-B, Third Certification October 9, 1989) and C (a description of the horizontal and vertical dimensions of the air rights) hereto (hereinafter the rights defined by Exhibits B and C shall be referred to as the "Portion of the Upper Deck"). To the contrary, it was and always had been the intention of the said parties that the Agency except and reserve unto itself from the fee simple conveyance effected by the Original Deed such real property rights and interests in, on, and over the Portion of the Upper Deck as would permit the Agency, or its assigns, to construct improvements in, on, and over the said Upper Deck and to possess and be seized of the same in fee simple.

6. Notwithstanding the above said intention of the parties to except and reserve said rights unto the Agency, and, in fact, in complete contravention of the intention of the parties in the premises, the Original Deed conveyed a fee simple estate to the Redeveloper without the exception and reservation unto the Agency of rights in and to the Portion of the Upper Deck, as described in paragraph 5, supra.

7. Therefore, in order to give effect to the true intention of the parties in their execution, delivery, and acceptance of the Original Deed, it is necessary to correct the same in the following respects:

A. To except from the conveyance of real property interests in the Original Deed the "Portion of the Upper Deck".

B. To reserve unto the Agency from said conveyance an easement for support in and to all structures and improvements, it, or its assigns, may in the future erect in, on, over, and above the realty herein referred to as "Portion of the Upper Deck".

C. To correct typographical errors on page 2 of the Original Deed.

8. NOW, THEREFORE, TO EFFECT THE CORRECTIONS ABOVE REFERRED TO, the Redeveloper and Agency hereby convey, grant, reserve and/or except by and between themselves through the addition, deletion and/or revision of the following language in and to the Original Deed, as follows:

A. There shall be added to the Original Deed exhibits labeled "Exhibit B" and "Exhibit C" and they shall be made a part of the Original Deed as though originally attached thereto and incorporated therein, which said Exhibits B and C are attached hereto and labeled as such.

B. There shall be inserted on page 2 of the Original Deed, immediately after the words "SEE EXHIBIT 'A'", the following language:

"a. Excepting therefrom unto the Grantor the airspace described in Exhibits B and C."

C. There shall be inserted on page 2 of the Original Deed, immediately after the sentence set forth in subparagraph B.B above, the following language:

"b. Reserving unto Grantor a support easement subjacent to the air space described in Exhibits B and C in and to the land and improvements now to be found in said subjacent area. Said support easement shall include all columns, beams and girders and all piers, footers and appurtenant structures as are determined by the Grantor to be used for support of the structures to be built or uses to be provided in the airspace; it shall include ducts and conduits for all utilities and drainage and the right of access for the construction, maintenance and repair of such facilities as are necessary for the structures or uses to be provided in the airspace; however, no future such construction shall interfere with the use and enjoyment of structures now in place.

D. The arabic numeral "1" which begins the second paragraph under the WITNESSETH clause is hereby deleted; the Roman numeral "I" is inserted therefor.

E. The word "GRANTEE" in the first line of subparagraph (7) of page 2 of the Original Deed is hereby deleted; the word "GRANTOR" is inserted therefor.

9. The Redeveloper has obtained the consent of the Department of Housing and Urban Development to the terms and provisions of this Corrective Deed, including the subjacent support easement described in paragraph B.C.b above, and said Department agrees, as is evidenced by its signature hereinbelow, that the Portion of

the Upper Deck is not part of the security heretofore granted by Redeveloper in its insured mortgage in the sum of \$8,675,000 for the construction of Carmel Plaza North.

IN TESTIMONY WHEREOF, the Agency has on this date caused these presents to be signed in its name by Wilford L. Jackson, its Secretary, attested to by Lawrence S. Press, its Assistant Secretary, and its Corporate Seal hereunto affixed and the Agency does hereby constitute and appoint the said Wilford L. Jackson its true and lawful Attorney-in-Fact for it and in its name to acknowledge and deliver these presents as its act and deed.

[SEAL]
ATTEST:

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY

Lawrence S. Press
Lawrence S. Press,
Assistant Secretary

By: Wilford L. Jackson
Wilford L. Jackson
Secretary

IN TESTIMONY WHEREOF, the Redeveloper has on this date caused these presents to be executed by Bush Construction Corporation, the remaining General Partner of the Redeveloper; and said Bush Construction Corporation, as General Partner in Redeveloper, has on this date caused these presents to be signed in its name by John J. Digges, its President, attested to by Virgilia G. West, its Secretary, and its Corporate Seal hereunto affixed, and the Redeveloper does hereby constitute and appoint the said John J. Digges its true and lawful Attorney-in-Fact for it and in its name to acknowledge and deliver these presents as its act and deed.

CARMEL PLAZA NORTH ASSOCIATES,
a District of Columbia Limited
Partnership

[SEAL]
ATTEST:

BY: BUSH CONSTRUCTION CORPORATION,
General Partner

Virgilia G. West
Virgilia G. West, Secretary

By: John J. Digges
John J. Digges
President

APPROVED:
SECRETARY OF HOUSING AND URBAN
DEVELOPMENT Acting By and Through
The FEDERAL HOUSING COMMISSIONER

By: James Thomas
Authorized Agent

ACKNOWLEDGMENT

WASHINGTON)
) ss:
DISTRICT OF COLUMBIA)

I, Shirley V. Hilliard, a Notary Public in and for the said District of Columbia, do hereby certify that **WILFORD L. JACKSON**, who is personally well known to me (or proved by the oaths of credible witnesses to be) the person named as Attorney-in-Fact in the foregoing and annexed Corrective Deed bearing date on the 9th day of February, 1990, personally appeared before me in said District of Columbia, and as Attorney-in-Fact as aforesaid, acknowledged the same to be the act and deed of the **DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY**, one of the parties thereto:

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 7th day of May, 1990, A.D.

Shirley V. Hilliard
Notary Public, D.C.

(SEAL)
My Commission Expires:
Notary Public, District of Columbia
My Commission Expires June 30, 1994

STATE OF VIRGINIA)
) ss:
CITY OF NORFOLK)

I, Gloria J. Carter, A Notary Public in and for the said City and State, do hereby certify that **JOHN J. DIGGES**, who is personally well known to me (or proved by the oaths of credible witnesses to be) the person named as Attorney in-Fact in the foregoing and annexed Corrective Deed bearing date on the 9th day of February, 1990, personally appeared before me in said City and State, and as Attorney-in-Fact as aforesaid, acknowledged the same to be the act and deed of **CARMEL PLAZA NORTH ASSOCIATES**, a District of Columbia Limited Partnership, one of the parties thereto.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 9th day of February, 1990, A.D.

Gloria J. Carter
Notary Public

(SEAL)
My Commission Expires:
December 26, 1992

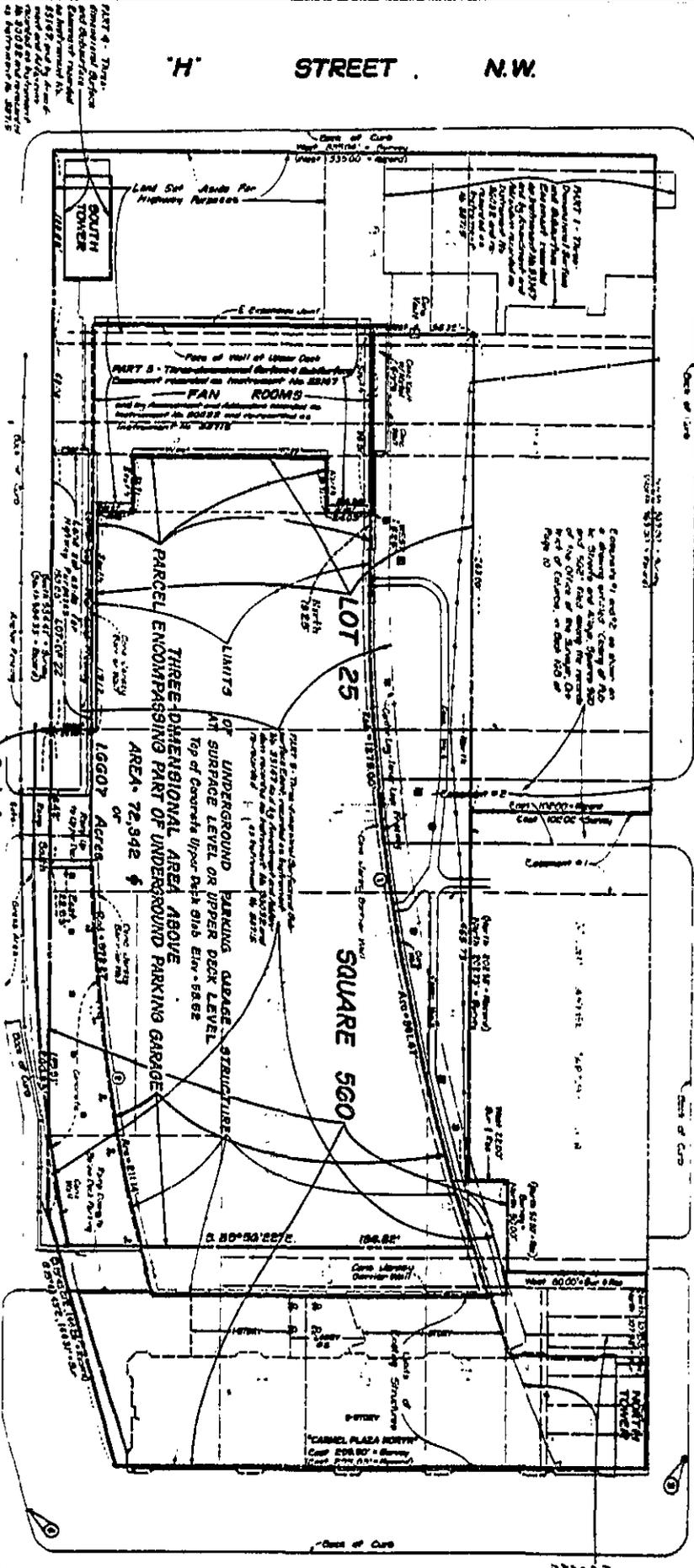
WASHINGTON)
)
) ss:
DISTRICT OF COLUMBIA)

I, JANET A. REDMOND, a Notary Public in and for the said District of Columbia, do hereby certify that L. TONI THOMAS, who is personally well known to me (or proved by the oaths of credible witnesses to be) the person named as the Authorized Agent of the United States Department of Housing and Urban Development in the foregoing and annexed Corrective Deed bearing date on the 9th day of February, 1989, personally appeared before me in said District of Columbia, and as said Authorized Agent as aforesaid, acknowledged the same to be the act and deed of UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, Acting By and Through the Federal Housing Commissioner.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 3rd day of December, 1989 A.D.

Janet A. Redmond
Notary Public, D.C.

[SEAL]
My Commission Expires:
Nov. 30, 1991



Lot	Area	Owner	Address	Remarks
1	100.00	...	...	...
2	100.00	...	...	...
3	100.00	...	...	...
4	100.00	...	...	...
5	100.00	...	...	...
6	100.00	...	...	...
7	100.00	...	...	...
8	100.00	...	...	...
9	100.00	...	...	...
10	100.00	...	...	...
11	100.00	...	...	...
12	100.00	...	...	...
13	100.00	...	...	...
14	100.00	...	...	...
15	100.00	...	...	...
16	100.00	...	...	...
17	100.00	...	...	...
18	100.00	...	...	...
19	100.00	...	...	...
20	100.00	...	...	...
21	100.00	...	...	...
22	100.00	...	...	...
23	100.00	...	...	...
24	100.00	...	...	...
25	500.00	...	...	...
26	100.00	...	...	...
27	100.00	...	...	...
28	100.00	...	...	...
29	100.00	...	...	...
30	100.00	...	...	...

SURVEYOR'S CERTIFICATE

I hereby certify that the boundary information shown herein is correct to the best of my knowledge and belief and is satisfactorily in accordance with the provisions of the laws of the District of Columbia. The boundary information shown herein was obtained from a survey conducted by me on the ground on October 18, 1935, and is in accordance with the provisions of the laws of the District of Columbia. There is no encumbrance shown by this survey which would affect the title to the land shown herein.

October 24, 1935

Walter B. Bennett
 Surveyor

Recorded November 4, 1935

SURVEYOR'S CERTIFICATE

I hereby certify that the boundary information shown herein is correct to the best of my knowledge and belief and is satisfactorily in accordance with the provisions of the laws of the District of Columbia. The boundary information shown herein was obtained from a survey conducted by me on the ground on October 11, 1935, and is in accordance with the provisions of the laws of the District of Columbia. There is no encumbrance shown by this survey which would affect the title to the land shown herein.

October 9, 1935

Walter B. Bennett
 Surveyor

Recorded Dec 20, 1935

CLARK - FINEBROCK & BACKETT
 ENGINEERS - PLANNERS - SURVEYORS

1117 K STREET N.W.
 WASHINGTON, D.C.

Part of Lot 25, Square 500
 CARMEL PLAZA
 DISTRICT OF COLUMBIA

1935-20-50

NO.	DATE	DESCRIPTION	BY
1	1935-20-50
2
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"EXHIBIT C"

DESCRIPTION OF THE HORIZONTAL AND VERTICAL DIMENSIONS OF THE AIR RIGHTS OVER PART OF LOT 25, SQUARE 560, DISTRICT OF COLUMBIA

A three-dimensional area of air space superjacent to a part of that parcel of land being in the District of Columbia, which parcel is described in a conveyance by the DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY, a body corporate, to CARMEL PLAZA NORTH ASSOCIATES, a District of Columbia Limited Partnership, by deed dated December 11, 1985, and recorded December 12, 1985, in the D. C. Office of the Recorder of Deeds as Instrument No. 46858, said description being Lot 25, Square 560, which is further delineated on a plat of subdivision filed in Survey Book 176 Page 178 among the Records of THE OFFICE OF SURVEYOR, DISTRICT OF COLUMBIA and being more particularly described as follows.

HORIZONTAL DESCRIPTION

Beginning for the same at the end of the due South 266.33 feet plat line of Lot 25, Square 560, District of Columbia as shown on a plat of subdivision, Square 560, recorded in the OFFICE OF THE SURVEYOR, DISTRICT OF COLUMBIA in Book 176 Page 178, said point of beginning also being on the Westerly Right of Way line of 2nd Street, N.W., said point being due North 318.08 feet from the intersection of the North Right of Way line of "E" Street, N.W. and the Westerly Right of Way line of 2nd Street, N.W., said point also being the Northeast Corner of Lot "Of 22", Former Square 562 (land set aside for highway purposes), thence leaving the West line of 2nd Street N.W. and running with the most Northerly line of said Lot "Of 22" and running to cross and include part of Lot 25 Square 560, the following twelve courses and distances:

- 1) Due West, 25.00 feet to a point, thence running with part of the most Westerly line of Lot "Of 22" (land set aside for public highway) as shown on the aforesaid plat
- 2) Due South, 119.17 feet to a point; thence
- 3) Due West, 19.48 feet to a point; thence
- 4) Due South, 30.71 feet to a point; thence
- 5) Due West, 107.88 feet to a point; thence
- 6) Due North, 30.71 feet to a point; thence
- 7) Due West, 24.09 feet to a point; thence
- 8) Due North, 19.25 feet to a point, said point being a point of curvature to the left having an
- 9) Arc length of 391.47 feet, a radius of 1275.60 feet and a chord bearing and distance of North 08° 47' 30" West, 389.94 feet to a point; thence
- 10) South 89° 56' 22" East, 184.82 feet to a point, said point being a point on a curve deflecting to the right having an
- 11) Arc length of 211.14 feet, a radius of 972.27 feet and a chord bearing and distance of South 07° 43' 03" East, 210.73 feet to a point on said curve, thence
- 12) Due East, 22.93 feet to a point, said point being on the aforesaid Westerly Right of Way line of 2nd Street, N.W., thence running with part of the Westerly Right of Way line of 2nd Street, N.W.
- 13) Due South, 76.42 feet to the place of beginning, containing an area of 72,342 square feet or 1.6607 acres, more or less, which area constitutes the horizontal plane defining the lower horizontal limits of the above-mentioned three-dimensional air space.

VERTICAL DESCRIPTION

The vertical limits of above-described three-dimensional area are described as follows:

- i) the lower limits being the top side of the concrete slab which forms the Upper Deck of the Parking Garage structure, said top side having an Elevation of 58.52± feet (D.C. Highway Datum). This elevation is based on D.C. Highway Datum and originates from D.C. Highway Bench Marks Nos. 9-72, 10-62, and NE 134-A. See Bench Mark Data added to Plat of Survey, dated 10/9/89.
- ii) The upper vertical limits being the sky (i.e., infinity).

Subject to: Easement #2 as shown on drawing entitled "Closing of Public Streets and Alleys, Square 560 and 562" filed among the records of the Office of the Surveyor, District of Columbia, in Book 168 at Page 10 and as recited in deed recorded as Instrument No. 35887, D.C. Office of the Recorder of Deeds.

Subject to: Deed of Easement dated March 22, 1985, being a three-dimensional surface and subsurface easement for the construction, repair, operation, use, and maintenance of a Public Freeway and Multiple-Use Deck and Ventilation System and all necessary appurtenances, recorded September 9, 1985 as Instrument No. 33147, D.C. Office of the Recorder of Deeds, and an Amendment and Addendum to said Deed of Easement, dated June 22, 1988, and recorded July 1, 1988, as Instrument No. 36032, and re-recorded July 18, 1988, as Instrument No. 38715. The easement set forth in said Deed of Easement recorded on September 9, 1985, as Instrument No. 33147, is also delineated on a plat of computation dated May 1, 1979, and recorded in the Office of the Surveyor of the District of Columbia in Survey Book 199 at Page 206.

Subject to: Rights of Way, easements, and covenants or conditions of Record.

