

012727

RECEIVED
AND
RECORDED

02 NOV 14 AM 9:49

Barbara A. Donnelly
HUDSON COUNTY
REGISTER OF DEEDS59244
02-15294-TLOT 4.01 - LOT 4.05
ACCESS EASEMENT AGREEMENT

This Declaration of Easement Agreement (hereinafter referred to as the "Declaration" or this "Agreement") is made this 30th day of October, 2002 by and between NEWPORT ASSOCIATES DEVELOPMENT COMPANY ("NADC"), a New Jersey general partnership, NC COMMUNITY CENTER ASSOCIATES ("NCCC"), a New Jersey general partnership and NEWPORT DEVELOPERS 18TH STREET LIMITED PARTNERSHIP ("18 St LP"), a New Jersey limited partnership, each with an office at #2 Sixth Street, Jersey City, New Jersey 07310, and sometimes hereinafter collectively referred to as "Declarants").

WHEREAS, NADC is the owner of certain land located in Newport, Jersey City, New Jersey, which land is more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "NADC Land") and contains a certain internal roadway (the "NADC Roadway") as more particularly shown on Exhibit B attached hereto and made a part hereof; and

and WHEREAS, NCCC is the holder of a leasehold estate in the NADC Land;

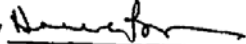
WHEREAS, 18 St LP is the owner of certain land located in Newport, Jersey City, New Jersey, which land is more particularly described in Exhibit C attached hereto and made a part hereof (hereinafter referred to as the "18 St Land") and is contiguous to the NADC Land as more particularly shown on Exhibit D attached hereto and made a part hereof; and

WHEREAS, the 18 St Land has been improved by a 138,000 square feet store retail development and parking lots (hereinafter collectively referred to as the "18 St Development"); and

WHEREAS, the present plans for the redevelopment of the 18 St Development include a certain driveway to be located on the 18 St Land as more particularly shown on said Exhibit D (hereinafter referred to as the "18 St Driveway") which as presently contemplated, will connect with the NADC Roadway at the location shown on said Exhibit D, and

WHEREAS, NADC and NCCC desire to establish and create for the benefit of the 18 St Land, the 18 St Development and 18 St LP, its successors and assigns, a perpetual non-exclusive easement over and across the NADC Land and the NADC Roadway for the sole purpose of (i) connecting the 18 St Driveway to the NADC Roadway, and (ii) ingress, egress and access for delivery vehicles and truck traffic, all in the event the 18 St Development is subsequently redeveloped; and

WHEREAS, 18 St LP desires to have NADC and NCCC establish and create for the benefit of the 18 St Land and for itself and its successors and assigns, a perpetual non-exclusive easement over and across the NADC Land and the NADC Roadway for the sole purpose of (i) connecting the 18 St Driveway to the NADC Roadway, and (ii) ingress, egress and access for delivery vehicles and truck traffic, all in the event the 18 St Development is subsequently redeveloped.

This instrument was prepared by 
Howard L. Boris, Attorney-at-Law

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NADC, NCCC and 18 St LP, hereby declare that the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway, and the 18 St Development are and shall be subject to the "Restrictions" (hereinafter defined) for the purposes hereinafter set forth.

ARTICLE I

Incorporation by Reference

Section 1. The above WHEREAS clauses are hereby incorporated by this reference to become part of this Lot 4.01- Lot 4.05 Access Easement Agreement.

ARTICLE II

Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto shall, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Declarants" shall mean and refer to NADC, NCCC, 18 St LP, and their respective successors and assigns who may be designated in one or more written recorded instruments to have the rights hereunder, including, but not limited to, any mortgagees acquiring title to any part of the NADC Land, the NADC Roadway, the leasehold interest of NCCC in the NADC Land, the 18 St Land, the 18 St Driveway and the 18 St Development pursuant to the exercise of rights under, or foreclosure of, a mortgage extended by a respective Declarant, including a deed in lieu of foreclosure.

(b) Easement Area shall mean the NADC Roadway as shown on said Exhibit B.

(c) "Mortgagee" shall mean and refer to the holder of a recorded mortgage lien on any part of the NADC Land, the leasehold interest of NCCC in the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway, and the 18 St Development.

(d) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any part of the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development, as the case may be, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired fee simple title to any part of the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development, as the case may be, but upon so acquiring fee simple title to any part thereof, a mortgagee or tenant shall be an Owner.

(e) "Person" shall mean and refer to an individual, firm, corporation, partnership, limited liability company or other legal entity or any combination thereof.

(f) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, changes, liens and other provisions set forth in this Agreement, as the same may be amended from time to time.

ARTICLE III

Agreement, Easement Areas and Rights Therein

Section 1. Agreement. Declarants hereby expressly declare that the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development shall be held, transferred and occupied subject to the Restrictions and as set forth herein. The Owner of any part the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development subject to these Restrictions and all other Persons shall, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from a Declarant or a subsequent Owner of any part of the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development, or (ii) by the act of occupancy of any part of the Easement Area, be conclusively deemed to have accepted such deed, executed such contract, or undertaken such occupancy, subject to the Restrictions herein contained. By acceptance of such deed, or execution of such contract, or undertaking of such occupancy, each such Owner and all other Persons acknowledge the rights and powers of Declarants with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarants and the Owners and subsequent Owners of each part of the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development affected by these Restrictions to keep, observe, comply with and perform such Restrictions.

Section 2. Ingress and Egress Easements. Subject to the Restrictions, Declarants do hereby establish and create for the benefit of (i) 18 St LP, its successors and assigns and its tenants (present and future) invitees, guests, agents, employees, ("Permittees") and (ii) the improvements located or to be located on the 18 St Land or as part of the 18 St Development, a non-exclusive easement in perpetuity over, upon and across the NADC Land and NADC Roadway for the sole purpose of ingress, egress and access for delivery vehicles and truck traffic. In addition all public and quasi-public vehicles, including, but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles and delivery vehicles and trucks shall have the right to enter upon and use the NADC Land and the NADC Roadway to the extent permitted herein in the performance of their duties.

Section 3. Limitation on Grant of Easements. The non-exclusive easements, licenses, rights and privileges established, created and granted by this Agreement shall be for the benefit of 18 St LP and all its present and future tenants, invitees, guests, agents and employees to the use and benefit of such easements, liens, rights and privileges for the duration of their tenancies, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public. Nothing herein shall be deemed to preclude any of the Declarants from dedicating any part, or all of any street, avenue, alley, path, walkway, sidewalk, land or other passage on, over or through any part of the NADC Land, NADC Roadway the 18 St Land, the 18 St Driveway, the 18 St Development and/or subdivision easements and rights of way to any state or municipal authority for the purpose of establishing a public right of way thereon except to the extent that any such dedication shall result in a zoning violation.

Section 4. Further Restrictions Re: Connecting the 18 St Driveway to the NADC Land and NADC Roadway

A. It is understood and agreed that without the prior written consent of NADC, which shall not be unreasonably withheld or delayed, 18 St LP, its successors and assigns shall have no right to use, disturb or in any manner affect any part of the NADC Land or the NADC Roadway or commence any of the demolition, work or construction to connect the 18 St Driveway to the NADC Roadway. Any work done by 18 St LP or its Permittees upon or within the NADC Land and the NADC Roadway shall be done only after written notice to NADC of the anticipated date of the work, at such a time and in such a manner to the greatest extent possible as will minimize interference with said area and with the business being conducted by NADC or its Permittees upon its land surrounding and adjoining the Easement Area. Prior to the commencement of any work by 18 St LP, or its Permittees, NADC shall have the right to approve the plans and specifications for the work and the contractor and its contract, (or 18 St LP, may

have NADC approve, prior to any work being performed in or on any part of the NADC Land or the NADC Roadway, a contractor and its form of contract) and NADC shall receive assurances reasonably acceptable to NADC (x) that 18 St LP has the necessary funds available for the estimated cost of the work, it being understood that cash deposited with an escrow agent reasonably acceptable to NADC and which can be used for the payment of the work or an irrevocable letter of credit in form reasonably acceptable to NADC, each for 110% of the contract price shall satisfy this requirement, and (y) from Lawyers Title Insurance Corporation (or other title company approved by NADC) that no lien shall attach to any of the real estate of NADC or the leasehold estate of NCCC in the NADC Land regarding the work performed by or on behalf of 18 St LP. Any approval by NADC shall not constitute an acknowledgment that the plans and specifications comply with all applicable laws, rules, regulations or ordinances and requirements of all applicable governmental authorities (collectively, "Laws"). 18 St LP shall, as required, restore the surface and subsurface of the NADC Roadway (including necessary subsurface and subbase compaction) and shall make, or cause to be made, any and all necessary repairs and replacement of grass, landscaping, pavement, concrete and all other improvements which may have been removed and/or excavated in the course of doing any such work within the Easement Area. 18 St LP shall carry (i) insurance against bodily injury, including death, and personal injury, for any one occurrence of not less than One Million Dollars (\$1,000,000.00) and property damage of not less than One Million Dollars (\$1,000,000.00) or a combined single policy of not less than One Million Dollars (\$1,000,000.00); with an umbrella liability policy of not less than Ten Million Dollars (\$10,000,000.00), and name NADC, NCCC and their respective mortgagees as additional insureds, all of which shall be in substantially the same form obtained by 18 St LP for its policy at Newport and (ii) worker's compensation insurance. Thereafter, NADC and NCCC shall be responsible to maintain and repair the NADC Roadway (including subsurface and subbase compaction). All work performed in any part of the Easement Area shall be done in accordance with the Laws, and in accordance with terms and conditions of the Newport Development Project Phase II Construction Activities Remedial Plan, dated August 1995 and the Newport Development Project Phase III Post Construction Remedial Plan, dated July 1995, both prepared for the Jersey City Redevelopment Agency by Dresdner Robin Environmental Management Inc., and as the same may be further modified, supplemented, amended or replaced.

B. 18 St LP and its Permittees shall not erect, install or maintain any structures or other improvements on the surface of the Easement Agreement. NADC shall have the right to erect, install and maintain asphalt, concrete or other hard surface material on the surface of any part of the NADC Land and the NADC Roadway, to be used for roadways, or other uses which are not inconsistent with the rights granted under this Agreement. NADC may (without the approval of 18 St LP) dedicate all or part of the Easement Area owned by it to the City of Jersey City, Hudson County or any agency, board or other entity related to the City, Hudson County or to any third party, (collectively, the "Agencies"). Upon such dedication and acceptance of all or partial responsibility, this Agreement shall terminate as to such portion dedicated and NADC shall have no further liability or responsibility under this Agreement as to such portion dedicated and liability accepted. 18 St LP agrees to fully cooperate and join in such dedication if requested by NADC so that all or part of the Easement Area owned by NADC can be dedicated to the City.

C. NADC reserves unto itself and others to whom easements may be granted the right to use the Easement Area for all purposes not inconsistent with the obligations set forth in this Agreement.

D. 18 St LP acknowledges that (i) NADC and NCCC are not making any representations with respect to the adequacy or appropriateness of the NADC Roadway and the Easement Area, and (ii) it accepts the same "AS IS" and waives all claims against and releases NADC and NCCC from any and all liability resulting from the inability of 18 St LP and its Permittees to use all or any portion of the proposed Easement granted herein.

except as a result of NADC's and/or NCCC's willful failure to comply with their respective obligations set forth in this Agreement.

E. It is understood and agreed that the same or similar easements and rights to use the Easement Area owned by NADC as are hereby granted to Declarants hereunder have also been or may be granted by NADC to one or more other public or private utilities, municipal corporations or authorities or companies, tenants, invitees, licensees or other third parties including, without limitation, police, fire and other emergency vehicles for the purpose of using the NADC Roadway in common with Declarants hereunder under similar or different terms as this Agreement, and that to this extent, the rights of Declarants hereunder shall be non-exclusive and joint and mutual with the rights of 18 St LP and any such other parties for such uses and purposes.

F. The Easement granted hereunder to connect the 18 St Driveway to the NADC Land and the NADC Roadway is not intended, and shall not be construed, as a dedication of any part of the Easement Area for public use, and 18 St LP agrees to take, or refrain from taking any action that is necessary to avoid such dedication until requested to so act by NADC.

G. If NADC or NCCC do not timely perform any of their respective obligations under this Agreement, 18 St LP may cause the same to be performed at the cost of NADC and NCCC. NADC and NCCC each agree to indemnify, defend and hold harmless 18 St LP from and against any and all obligations, liabilities, claims, liens, encumbrances, losses, damages, and reasonable costs, expenses, attorneys' fees and disbursements, suffered or incurred by 18 St LP (including claims by third parties) arising out of or otherwise related to the use of the Easement Area and caused by the acts or omissions of NADC, NCCC, their respective successors and assigns, or Permittees. This indemnity shall not be affected or limited to any insurance proceeds received by NADC, NCCC or 18 St LP.

H. There shall be no personal liability of any of the partners, officers, directors, shareholders, members or employees of NADC, NCCC or 18 St LP to the other party, it being understood that any liability under this Agreement shall be limited to the assets of NADC, NCCC or 18 St LP, as the case may be.

I. TO HAVE AND TO HOLD unto Declarants, their respective successors and assigns, for the purposes herein described and pursuant to the terms of this Agreement, but subject to (i) all prior liens, encumbrances, restrictions and easements of record, (ii) all agreements with and rights of governmental authorities and public utilities, recorded or unrecorded, (iii) requirements of all applicable insurance bodies; (iv) reasonable rules and regulations promulgated by NADC, and/or NCCC and (v) laws, rules, regulations, ordinances and requirements of all applicable governmental authorities, including environmental and administrative consent orders, now or hereafter in effect. This Agreement shall (a) run with the lands, buildings and improvements affected hereby, (b) inure to the benefit of Declarants and their successors and assigns having an interest in the properties affected hereby, (c) be binding upon Declarants and their respective successors and assigns and (d) to the extent assigned to a mortgagee, be enforceable by any such mortgagee after a default by a mortgagor under its mortgage.

ARTICLE IV Term of Easement

Section 1. Term. The easement granted herein shall, subject to the Restrictions and the terms hereof, (a) commence upon the recording of this instrument with the Hudson County New Jersey Register of Deeds, and shall exist until the earlier of (i) the date when any such easement provided for herein is no longer required or (ii) perpetuity, and (b) run with and bind the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway and the 18 St Development, each Owner thereof and their respective successors and assigns.

ARTICLE V
Condemnation

Section 1. Award. In the event of a taking under the power of eminent domain of all or any part of the NADC Land, the NADC Roadway, the 18 St Land, the 18 St Driveway or the 18 St Development, that portion of the award for the land so taken shall be payable only to the owner of the property so condemned, or to its successors in interest, as their interest may appear; provided, however, that if any of the property so condemned was encumbered by a mortgage, then the proceeds applicable to said mortgaged portion shall be payable to the respective Mortgagee to be held in accordance with its mortgage. No claim thereon shall be made by any Declarant against another Owner's award, or any tenant, provided, however, that another Owner may file collateral claims with the condemning authority over and above the value of the land and improvements so taken, to the extent of any damage suffered by it resulting from the loss of the easement, rights and privileges so taken. A Declarant or its successors in interest shall, if net award proceeds are sufficient and available therefor, promptly repair and restore the property so taken nearly as practicable to the condition existing immediately prior to such taking. However, if the net proceeds of such awards are insufficient to pay the cost of such restoration and repair, each Declarant may contribute to the net awards, if any, received by it to the extent necessary to make up such deficiency.

ARTICLE VI
Arbitration

Section 1. Notice to Arbitrate. If a dispute shall arise between Declarants or any party claiming any benefits under this Agreement or required to pay monies pursuant to any provision hereof, such dispute shall be settled by arbitration and be arbitrated pursuant to this Article VI in the appropriate jurisdiction in the State of New Jersey. Any party to the dispute may send a written notice to the other parties involved demanding that this dispute be arbitrated pursuant to the provisions of Article VI of this Agreement.

Section 2. Appointment of Arbitrators. Within thirty (30) days after giving of a notice to arbitrate pursuant to Section 1 hereof, each party to the dispute shall notify the American Arbitration Association sitting in Jersey City or if none the nearest office thereto, of such dispute and said dispute shall be resolved pursuant to the rules of the American Arbitration Association then obtaining and any such decision shall be binding upon the parties to the dispute. Judgment upon the determination rendered by the Arbitrator (or arbitrators) may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrators shall be paid by the party against whom the decision is rendered. If any party shall fail to pay its share of any fees or expenses of the arbitrators, then the other party may pay the same and demand reimbursement therefor. All costs of collection thereof, including, without limitation, reasonable legal fees shall also be paid by said defaulting party.

ARTICLE VII
Miscellaneous

Section 1. Estoppel Certificates. Declarants and their respective successors and assigns shall, upon request by another party, its successors or assigns, certify by a writing duly acknowledged in form for recording, to the other party or its designee, any mortgagee or proposed mortgagee, or proposed assignee of a mortgagee, a statement including the following information:

- A. (i) That there has been no violation of the terms and conditions of this Agreement to the best knowledge of the party executing the certificate; or
- (ii) The nature of any alleged violation of this Agreement; and

- B. (i) That no sum is due and payable under this Agreement; or
(ii) The amount of any sum allegedly due and payable pursuant to this Agreement.

This certification shall be made and sent within ten (10) days of receipt of the request therefor.

Section 2. Communications. All notices, demands, or other communications to be given under this Agreement shall be in writing or by telephone (where applicable) and shall be hand delivered (only to the addressee) or sent by U.S. certified mail or registered mail, postage prepaid, or by nationally recognized overnight courier for next day receipted delivery, or by telephone to the following:

Any Declarant: #2 Sixth Street
Jersey City, NJ 07310
Attn: William Wissemann
(201) 626-2010

and

97-77 Queens Boulevard
Rego Park, NY 11374
Attn: Richard S. Lefrak
(718) 459-9021

with a copy to:

Melvin Simon & Associates, Inc.
P.O. Box 7033
Indianapolis, IN 46207
Attn: R.L. Foxworthy, Esq.
(317) 636-1600

and

Howard L. Boris, Esq.
97-77 Queens Boulevard
Rego Park, NY 11374
(718) 459-9021

Either party may designate, from time to time, another location address, telephone number or designee for purposes of notice under this Agreement.

Section 3. Costs and Attorneys' Fees. In any proceeding arising because of the failure of a Declarant to comply with any provisions of this Agreement as may be further amended from time to time, such party shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 4. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Agreement shall not impair or effect in any manner the validity, enforceability or effect of the balance of this Agreement and each shall be enforceable to the greatest extent permitted by law.

Section 5. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 6. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Agreement are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Easement or any provision hereof.

Section 7. Waiver. The failure by Declarants, their respective successors and assigns, to enforce any easement, covenant, restriction, charge or lien in, or created by, this Agreement shall not be deemed a waiver of the right to enforce same thereafter as to the same breach, nor as to one occurring prior or subsequent thereto. Any waiver made by any party subject to this Agreement must be duly made in writing in order to be considered a waiver, and the waiver of one provision shall not be considered a waiver of any other provision unless specifically made in writing as aforementioned.

Section 8. Amendment and Modification. This Agreement may be further amended, or modified, in whole or in part, only by written instrument, in recordable form, executed by Declarants, their successors and assigns.

Section 9. Invalidity. The invalidity, in whole or in part, of any covenant or restriction, or of any section, subsection or other provision of this Agreement, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof.

Section 10. Interpretation. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of plural shall include the singular, and the singular shall include the plural. Provisions of this Agreement shall be liberally construed to effectuate its purposes.

Section 11. Complete Agreement. It is agreed that this agreement covers all of the agreements between the parties relating to the subject matter of this Agreement and no representations or statements, verbal or written, have been made modifying, adding to or changing the terms of this Agreement.

IN WITNESS WHEREOF, the Declarants have executed this Agreement ^{As of} ~~this~~ 30th day of October, 2002.

NEWPORT ASSOCIATES DEVELOPMENT COMPANY,
a New Jersey general partnership

By: SIMON NEWPORT LIMITED PARTNERSHIP,
an Indiana limited partnership, General Partner

ATTEST:

By: S.N.P., INC., an Indiana corporation,
General Partner

R.L. Foxworthy
R.L. Foxworthy, Secretary

By: R.L. Foxworthy
R.L. Foxworthy, Vice President

By: LF NEWPORT JERSEY LIMITED PARTNERSHIP,
a New Jersey limited partnership, General Partner

ATTEST:

By: NEWPORT REAL ESTATE DEV. CORP.,
a New Jersey corporation, General Partner


Donald J. Olenick
Donald J. Olenick
Assistant Secretary


By: Howard L. Boris
Howard L. Boris, Vice President

NC COMMUNITY CENTER ASSOCIATES,
a New Jersey general partnership

By: Newport Associates Development, Inc.
an Indiana limited partnership,
General Partner

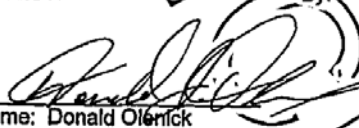
ATTEST:


Name: R.L. Foxworthy
Title: Secretary

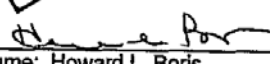
By: 
Name: R.L. Foxworthy
Title: Vice President

NEWPORT DEVELOPERS 18TH STREET LIMITED
PARTNERSHIP

ATTEST:


Name: Donald Olenick
Title: Assistant Secretary

By: Newport 18th Street Land Corp.,
its General Partner

By: 
Name: Howard L. Boris
Title: Vice President

STATE OF INDIANA)

SS:

COUNTY OF MARION)

BE IT REMEMBERED, that on October 31, 2002, before me, the subscriber, a Notary Public of the State of Indiana personally appeared R. L. Foxworthy, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Vice President of S.N.P., INC. an Indiana corporation, which is the general partner of SIMON NEWPORT LIMITED PARTNERSHIP, an Indiana limited partnership, a general partner of NEWPORT ASSOCIATES DEVELOPMENT COMPANY, a New Jersey general partnership and the corporation named in the within instrument; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation; that the deponent well knows the corporate seal and was thereto affixed and said instrument signed and delivered by said R.L. Foxworthy, Vice President as and for the voluntary act and deed of said corporation as general partner of SIMON NEWPORT LIMITED PARTNERSHIP, a general partner of NEWPORT ASSOCIATES DEVELOPMENT COMPANY, a New Jersey general partnership.

DONNA L. McLAUGHLIN
Notary Public, State of Indiana
Morgan County
My Commission Expires: June 30, 2008

Notary Public

STATE OF NEW YORK)

SS:

COUNTY OF QUEENS)

BE IT REMEMBERED, that on ~~October~~ November 8, 2002, before me, the subscriber, a Notary Public of the State of New York personally appeared Howard L. Boris, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Vice President of NEWPORT REAL ESTATE DEV. CORP., a New Jersey corporation which is the general partner of LF NEWPORT JERSEY LIMITED PARTNERSHIP, a New Jersey limited partnership, a general partner of NEWPORT ASSOCIATES DEVELOPMENT COMPANY, a New Jersey general partnership and the corporation named in the within instrument; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation; that the deponent well knows the corporate seal and was thereto affixed and said instrument signed and delivered as and for the voluntary act and deed of said corporation as general partner of LF NEWPORT JERSEY LIMITED PARTNERSHIP, a general partner of NEWPORT ASSOCIATES DEVELOPMENT COMPANY, a New Jersey general partnership.

Notary Public

EILEEN M. SPELLMAN
Notary Public, State of New York
No. 01SP4778065
Qualified in Queens County
Commission Expires September 30, 2008

STATE OF INDIANA)
)
) SS:
COUNTY OF MARION)

BE IT REMEMBERED, that on October 31, 2002, before me, the subscriber, a Notary Public of the State of Indiana personally appeared R. L. Foxworthy, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Vice President of NEWPORT ASSOCIATES DEVELOPMENT, INC. an Indiana corporation, which is a general partner of NC COMMUNITY CENTER ASSOCIATES., a New Jersey general partnership and the corporation named in the within instrument; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation; that the deponent well knows the corporate seal and was thereto affixed and said instrument signed and delivered by said R.L. Foxworthy, Vice President as and for the voluntary act and deed of said corporation as general partner NC COMMUNITY CENTER ASSOCIATES, a New Jersey general partnership

DONNA L. McLAUGHLIN
Notary Public, State of Indiana
Morgan County
My Commission Expires: June 30, 2008

Donna L. McLaughlin
Notary Public

STATE OF NEW YORK)
)
) SS:
COUNTY OF QUEENS)

BE IT REMEMBERED, that on ~~October~~ ^{November 8}, 2002, before me, the subscriber, a Notary Public of the State of New York personally appeared Howard L. Boris, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Vice President of NEWPORT, 18TH STREET LAND CORP., a New Jersey corporation which is the general partner of NEWPORT DEVELOPERS 18TH STREET LIMITED PARTNERSHIP, a New Jersey limited partnership, and the corporation named in the within instrument; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation; that the deponent well knows the corporate seal and was thereto affixed and said instrument signed and delivered as and for the voluntary act and deed of said corporation as general partner of NEWPORT DEVELOPERS 18TH STREET LIMITED PARTNERSHIP, a New Jersey limited partnership.

Eileen M. Spellman
Notary Public

EILEEN M. SPELLMAN
Notary Public, State of New York
No. 01SP4778095
Qualified in Queens County
Commission Expires September 30, 2008

This Agreement was prepared by and
after recording should be returned to:

Howard L. Boris, Esq.
97-77 Queens Boulevard
Rego Park, NY 11374

EXHIBIT "A"

Page 1 of 3

89-243-05
December 14, 1990
Page 1 of 3

DESCRIPTION OF LOT 4.01 IN BLOCK 20 AT NEWPORT, CITY OF JERSEY
CITY, HUDSON COUNTY, NEW JERSEY

BEGINNING at a point at the intersection of the northerly right-of-way line of Fourteenth Street with the westerly line of the lands now or formerly of the Regal Oil Co., having coordinates in the NJPCS of north 692,060.5137 feet and east 2,173,858.3515 feet said point further described as being S 83° 48' 48" E, 100.64 feet as measured along the aforesaid line of Fourteenth Street from the intersection of the same with the easterly right-of-way line of Luis Munoz Marin Boulevard, all as shown on a certain map entitled, "Final Subdivision Plat, Northwest Quadrant at Newport, City of Jersey City, County of Hudson, New Jersey, Date: November 12, 1990 NADC Dwg. No. 120.05" said map to be filed in the Hudson County Clerks Office, and running, thence;

1. Along the aforesaid line of the Regal Oil Co., N 06° 15' 42" E, 60.17 feet, thence;
2. Still along lands of the Regal Oil Co., N 83° 44' 18" W, 30.00 feet, thence;
3. Still along said lands and continuing along the easterly right-of-way line of Fifteenth Street, N 06° 15' 42" E, 160.00 feet, thence;
4. Along the northerly right-of-way of Fifteenth Street, N 83° 44' 18" W, 70.64 feet, thence;
5. Along the aforesaid easterly line of Luis Munoz Marin Boulevard, N 06° 15' 42" E, 199.85 feet, thence;
6. Along the same, S 83° 44' 18" E, 10.00 feet, thence;
7. Still along the same, N 06° 15' 42" E, 243.48 feet, thence;
8. Along lands now or formerly of New Jersey Transit, S 83° 44' 18" E, 116.989 feet, thence;
9. Along the same, N 57° 36' 01" E, 49.32 feet, thence;
10. Still along the same, N 27° 12' 41" W, 111.85 feet, thence;
11. Still along the same, N 83° 44' 18" W, 93.61 feet, thence;

BK6081PG012

EXHIBIT "A"
Page 2 of 3

89-243-05
December 14, 1990
Page 2 of 3
Lot 4.01

12. Along the aforesaid easterly line of Luis Munoz Marin Boulevard, N 06° 15' 42" E, 2.70 feet to a point of curvature, thence;
13. Northerly, easterly, then southeasterly along a curve to the right having a radius of 45.00 feet and an arc length of 90.24 feet to a point of tangency, thence;
14. Along the proposed southerly right-of-way line of Eighteenth Street, S 58° 50' 22" E, 110.09 feet to a point of curvature, thence;
15. Southeasterly, along the same, along a curve to the left having a radius of 618.00 feet and an arc length of 269.65 feet to a point of tangency, thence;
16. Still along the aforesaid line of Eighteenth Street, S 83° 50' 22" E, 184.92 feet, thence;
17. S 06° 15' 42" W, 686.15 feet, thence;
18. Southeasterly, along a curve to the right to which a radial line bears N 60° 56' 18" E, having a radius of 507.35 feet and an arc length of 14.275 feet to a point of tangency, thence;
19. S 27° 26' 58" E, 53.38 feet, thence;
20. Westerly, along the proposed northerly right-of-way line of Fourteenth Street, along a curve to the right to which a radial line bears S 09° 03' 50" W, having a radius of 858.00 feet and an arc length of 74.345 feet to a point of reverse curvature, thence;
21. Westerly, still along the proposed line of Fourteenth Street, along a curve to the left having a radius of 902.00 feet and an arc length of 123.44 feet to a point of tangency, thence;
22. Along the aforesaid northerly line of Fourteenth Street, N 83° 48' 48" W, 360.00 feet to the point of BEGINNING.

Herein described, containing 435,673 square feet or 10.0017 acres.

BK6081PG013

EXHIBIT "A"

Page 3 of 3

89-243-05
December 14, 1990
Page 3 of 3
Lot 4.01

Subject to Sewer and Drainage Easements.

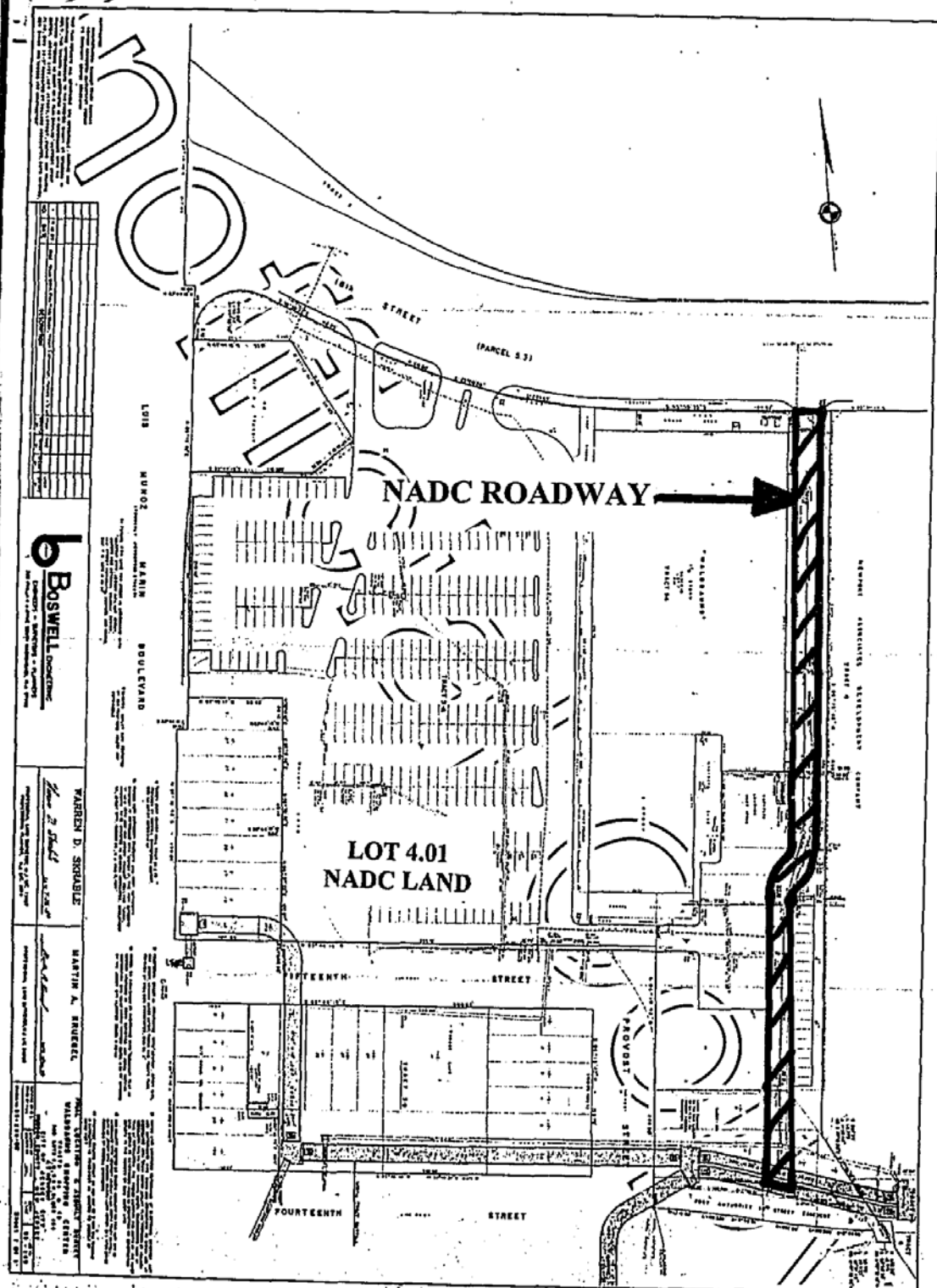
Description in accordance with a map entitled, "Final Subdivision Plat, Northwest Quadrant at Newport, City of Jersey City, County of Hudson, New Jersey, Date: November 12, 1990, NADC Dwg. No. 120.05" prepared by Boswell Engineering, South Hackensack, New Jersey, said map to be filed in the Hudson County Clerks Office.

BOSWELL ENGINEERING

MARTIN A. KRUEGEL, P.L.S.
New Jersey Lic. No. 24202

BK6081PG014

EXHIBIT "B"
Page 1 of 1



BK608/PG015

EXHIBIT "C"

Page 1 of 3

October 2, 1992
Rev. April 12, 1993
85-269-17
Newport Pace
Subdivision

PAGE 1 OF 3

**DESCRIPTION OF
PACE DEVELOPMENT PROPERTY
PROPOSED LOT 4.05, BLOCK 20
ALSO KNOWN AS
DEMISED PREMISES PORTION OF LOT 4.02 IN BLOCK 20
AT NEWPORT, CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY**

BEGINNING at a point in the proposed northerly right-of-way line of Fourteenth Street, having coordinates in the NJPCS of north 691,915.6725 feet and east 2,175,041.8013 feet said point further described as being N 83° 48' 48" W, 24.07 feet as measured along the projection of the aforesaid line of Fourteenth Street from the intersection of said line with the westerly right-of-way line of Washington Boulevard, all as shown on a certain map entitled, "Final Subdivision Plat, Northwest Quadrant at Newport, City Of Jersey City, County Of Hudson, New Jersey, Date: November 12, 1990," and filed with the Hudson County Clerks Office on February 11, 1991, as Map No. 3465, and running, thence;

1. Along the aforesaid northerly line of Fourteenth Street, N 83° 48' 48" W, 592.04 feet to a point of curvature, thence;
2. Westerly, along a curve to the right having a radius of 858.00 feet and an arc length of 43.09 feet, thence;
3. N 27° 26' 58" W, 53.38 feet to a point of curvature, thence;
4. Northwesterly, along a curve to the left having a radius of 507.35 feet and an arc length of 14.275 feet, thence;
5. N 06° 15' 42" E, 686.15 feet, thence;
6. Along the southerly right-of-way line of Eighteenth Street, S 83° 50' 22" E, 465.72 feet to a point of curvature, thence;

BK608/PG016

EXHIBIT "C"
Page 2 of 3

October 2, 1992
Rev. April 12, 1993
85-269-17
Newport Pace
Subdivision

PAGE 2 OF 3

7. Easterly, along said line, along a curve to the right having a radius of 265.00 feet for an arc length of 8.17 feet then continuing along said curve easterly, southeasterly then southerly, along the westerly right-of-way line of Washington Boulevard, an arc length of 380.04 feet, for a total curve length of 388.21 feet, thence;

8. Still along the aforesaid line of Washington Boulevard, N 83° 50' 22" W, 5.03 feet, thence;

9. Southerly, still along the line of Washington Boulevard, along curve to the right, being concentric with the curve described in course seven, having a radius of 260.00 feet and an arc length of 37.99 feet to a point of tangency, thence;

10. Still along Washington Boulevard, S 08° 21' 03" W, 231.99 feet, thence;

11. Still along the same, N 83° 48' 48" W, 12.01 feet, thence;

12. Still along the same, S 08° 21' 03" W, 213.10 feet to a point of curvature, thence;

13. Southerly, southwesterly then westerly, along a curve to the right having a radius of 25.00 feet and an arc length of 38.33 feet to a point of tangency and the point of BEGINNING.

Excepting from the hereinbefore described a 12,855.5 square feet (0.29512 acre) OUTLOT located at the southeast corner of Lot 4.02, Block 20, and being known as Proposed Lot 4.04, Block 20 as shown on a map entitled, "Subdivision Plat, Of Lot 4.02, Block 20, At Newport, City Of Jersey City, Hudson County, New Jersey, Date: April 1993," prepared by Boswell Engineering, (said map and subdivision pending review and approval by the City of Jersey City), said OUTLOT being more precisely described as follows:

BK6081PG017

EXHIBIT "C"
Page 3 of 3

October 2, 1992
Rev. April 12, 1993
85-269-17
Newport Pace
Subdivision

PAGE 3 OF 3

BEGINNING at a point having coordinates in the New Jersey Plane Coordinate System of North 691,977.6385 feet and East 2,175,027.6504 feet said point further described as being the following courses from the intersection of the westerly right-of-way line of Washington Boulevard with the projection of the proposed northerly right-of-way line of Fourteenth Street as laid down on a certain map entitled, "Final Subdivision Plat, Northwest Quadrant at Newport, City of Jersey City, County of Hudson, New Jersey," filed with the Hudson County Clerks Office, February 11, 1991 as Map No. 3465;

a) N 83° 48' 48" W, 44.82 feet to a point in the aforesaid northerly line of Fourteenth Street, thence;

b) N 06° 11' 12" E, 60.08 feet to the point of BEGINNING and running, thence;

1. Parallel with the aforesaid line of Fourteenth Street, N 83° 48' 48" W, 104.00 feet, thence;

2. N 06° 11' 12" E, 123.61 feet, thence;

3. S 83° 48' 48" E, 104.00 feet, thence;

4. S 06° 11' 12" W, 123.61 feet to the point of BEGINNING.

Area of OUTLOT being 12,855.5 square feet (0.29512 acres).

Net area of aforescribed Demised Premises being 505,013.5 square feet (11.59351 acres).

Property subject to PATH, LRT, Ingress/Egress and Utility easements.

Description in accordance with map entitled, "ALTA/ACSM Survey, Pace Development Property And Outlot, Lot 4.02, Block 20, At Newport, City Of Jersey City, County Of Hudson, New Jersey, Date: April 1993," Dwg. No. 85-269-113, prepared by Boswell Engineering, 330 Phillips Avenue, South Hackensack, New Jersey.

BOSWELL ENGINEERING

Martin A. Kruegel
MARTIN A. KRUEGEL, P.L.S.
New Jersey Lic. No. 24202

BK6081PG018

18TH STREET LAND

BK 608 / PG 019