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5/27/05

Decl. of Mod. to Declaration of Covenants Restrictions  
8906-9 Deeds May 13, 1980 aa

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BUFFALO WATERFRONT RETAIL CENTER

DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS

THIS DECLARATION, made as of the <sup>27<sup>th</sup> day of January, 1980</sup> by the CITY OF BUFFALO URBAN RENEWAL AGENCY, a public body corporate, established pursuant to Article 15-A of the General Municipal Law of the State of New York, ("Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is, as of the date hereof, the owner of 17 parcels of land (collectively the "Property"), and

WHEREAS, Declarant desires to impose upon the Property mutual and beneficial restrictions, covenants, conditions, equitable servitudes and charges under a general plan and scheme of development and improvement for the benefit of the Property;

NOW, THEREFORE, Declarant declares that the Property is held, and shall be held, conveyed, encumbered, leased, used, occupied and improved subject to the provisions hereinafter set forth, in furtherance of a plan for the development and improvement of the Property and for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property.

ARTICLE I

1.01. These Restrictions are entered into by Declarant for itself, its successors, and assigns as covenants running with, and for the benefit of, the Property. No other lands of Declarant shall be affected by the imposition of these Restrictions, nor shall a "common scheme of development" be inferred from the imposition of these or similar restrictions upon other land of Declarant heretofore or hereafter conveyed.

ARTICLE II

Definition of Terms

2.01. Wherever used in this Declaration, the following terms shall have the following meanings:

"Architectural Committee" means that body the membership of which is provided for in Section 5.01 hereof.

"Building" means a free-standing Structure containing Floor Area and having at least one Entrance.

"BURA" means the City of Buffalo Urban Renewal Agency.

"Commercial Parcels" means the parcels designated on Exhibit A as Parcels 2 through 7 and Parcel 9.

"Common Areas" has the meaning ascribed to it in Section 1 of the DADA.

"Condominium Board of Managers" means, with respect to any condominium-type or horizontal-type property regime established on any Parcel comprising a portion of the Property, the board, council or other association of Unit Owners acting as a group in accordance with the instruments establishing such property regime.

Certificate of Compliance 9111-280 Deeds B.  
Certificate of Compliance 9095-494 Deeds aa  
Certificate of Compliance 9111-4072  
Certificate of Compliance 9354-313 Deeds m37  
Certificate of Compl. 9113-259 Deeds  
Certificate of Compliance 9107-581 Deeds 88  
Certificate of Compliance 9262-484 Deeds m37  
Certificate of Compliance 9375-380 Deeds m37

Certificate of Compliance 9145-435 Deeds cc  
Certificate of Compliance 9162-284 Deeds aa  
Certificate of Compliance 9165-102 Deeds aa  
Certificate of Compliance 9168-99 Deeds dd  
Certificate of Compliance 9286-113 Deeds m37

Certificate of Compliance 9213-421 Deeds J.  
LIBER 8876 PAGE 657.  
Certificate of Compliance 9175-563 Deeds aa  
Certificate of Compliance 9140-270 Deeds Jaa  
Certificate of Compliance 9109-331 Deeds waa  
Certificate of Compliance 9122-343 Deeds waa

*Certificate of Compliance 9214-591 Deeds, Jr.*

"Condominium Unit" means, with respect to any condominium-type or horizontal-type property regime established on any Parcel comprising a portion of the Property, any portion of such regime which is designed and intended for individual ownership.

"DADA" means the Development Area Declaration and Agreement which Declarant intends to record among the Land Records of Erie County, New York immediately prior to the recordation hereof.

"Declarant" means BURA until it transfers control to WOA in the manner contemplated in Section 8.01 below, and thereafter, it means WOA.

"Declaration" means this Declaration of General Covenants and Restrictions.

"Deed" means any deed, ground lease or other instrument of conveyance by which any portion of the Property is transferred, including, in the case of any condominium-type or horizontal-type property regime established on any portion of the Property, those instruments which create such regime, but excluding, however, any space lease of any portion of the Property from any Owner and any instrument made and/or given as security for the payment of an obligation.

"Entrance" means a point or points of ingress to or egress from a Building, other than a point of ingress or egress designed primarily as an emergency exit, service entrance or the like, as determined by the Architectural Committee in accordance with generally accepted standards of design, for use by any Owner, and its tenants, licensees, invitees, customers, agents and employees.

"Floor Area" means, with respect to any Structure or space within the Property, the total area on all floors within such Structure or space (including any basement and any mezzanine levels) measured from the interior faces of exterior walls or, where applicable, the center line of party walls, designed for the exclusive occupancy by the Owner, a tenant or other occupant, but shall not include space occupied by elevator penthouses, transformer vaults, furnace rooms and other mechanical rooms, vertical penetrations such as elevator shafts, escalator machine pits, elevators devoted solely for freight use, fire stairs, stairwells, stairways, corridors, lobbies, restrooms, fire exits, telephone rooms, and the Common Areas or any part thereof. The Floor Area devoted to any particular use shall include appurtenant and ancillary facilities used directly in conjunction with any primary use, excluding, however, those facilities expressly excluded from the definition of Floor Area in the immediately preceding sentence.

"Front Setback" means the distance between the street on which the Property or portion thereof fronts and the nearest Setback Line parallel thereto. Front Setbacks shall be measured from the boundary of the easement or right-of-way for such street and shall extend from side boundary line to side boundary line of a Parcel.

"Hotel/Motel" means any Structure which contains guest rooms designed or intended to be used, let or hired out for transient occupancy by ten or more Persons for compensation.

"Owner" means the record owner(s) from time to time of fee title to any portion of any Parcel, or the ground lessees from time to time of leasehold title to any portion of any Parcel for a period in excess of seven (7) years, or any Condominium Board of Managers of any Condominium on any Parcel; excluded are Unit Owners, space

*Certificate of Compliance 9183-513 Deeds as (Duplicate)  
\*Certificate of Compliance 9183-513 Deeds as*

*Cert. of Compliance 9291-313 Deeds mrg  
Cert. of Compliance 9291-450 Deeds mrg  
Cert. of Compliance 9493-404 Deeds mrg  
Declaration 9530-466 Deeds (M.P.)  
Decl of Prod 9907-524 Deeds mrg*

tenants, Persons holding interests in any Parcel as security for the payment of an obligation and ground lessors during the term of any ground lease, but included are any mortgagee, trustee, or other security holder, or any ground lessor, in actual possession of any portion of any Parcel, as a result of a foreclosure, exercise of a ground lease remedy or otherwise.

"Parking Additions" means additional Parking Facilities constructed on Parcels 1 through 9 or 13 by any Owner (other than Declarant) to satisfy the requirements of Section 10 of the DADA.

"Parking Deck" has the meaning ascribed to it in Section 1 of the DADA.

"Parking Facilities" has the meaning ascribed to it in Section 1 of the DADA.

"Parking Parcels" means the parcels designated on Exhibit A as Parcels 10 through 13.

"Parking Spaces" has the meaning ascribed to it in Section 1 of the DADA.

"Parcel" means any one of the undivided parcels existing from time to time which comprise the Property.

"Person" means artificial persons and entities as well as natural persons.

"Plaza" means the Parcel designated on Exhibit A as Parcel 27.

"Property" means that certain real property described more particularly in Exhibit B attached hereto and made a part hereof.

"Residential Parcels" means the parcels designated on Exhibit A as Parcels 1 and 8.

"Restaurant Parcel" means the Parcel designated on Exhibit A as Parcel 14.

"Restrictions" means the covenants and restrictions contained herein, as the same may be modified in accordance with the provisions of Section 3.02 hereof.

"Rear Setback" means the distance between a rear boundary line of the Property or portion thereof (not adjacent to a street) and the nearest Setback Line parallel thereto and shall extend from the side boundary line to side boundary line of a Parcel.

"Setback Area" means that portion of the Property (or a Parcel contained therein) which lies between a street, side line or rear line thereof (as the case may be) and the nearest Setback Line parallel thereto.

"Setback Line" means a line established by the Architectural Committee or the appropriate governmental authorities upon the Property or portion thereof lying parallel to a boundary line thereof or to a street which touches the Property or portion thereof.

"Side Setback" means the distance between a side boundary line of the Property or portion thereof and the nearest Setback Line parallel thereto, beginning at the front setback line and ending at the rear Setback Line.

"Street" means any street, highway or other thoroughfare within the Property whether designated as a street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.

"Strip Parcel" means the Parcel designated on Exhibit A as Parcel 1A.

"Structure" means any thing or device the placement of which upon any portion of the Property might affect the physical appearance thereof, including, by way of illustration and not limitation, Buildings, Parking Decks, Parking Additions, sheds, covered patios, fountains, swimming, wading or other pools, trees, shrubbery, paving, curbing, landscaping, fences, walls, seawalls or any sign or signboard, and it also means any excavation or fill, the volume of which exceeds ten (10) cubic yards, or any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across the Property or which affects or alters the flow of any water in any natural or artificial stream, wash or drainage channel upon or across the Property.

"Unit Owner" means any Person who owns any Condominium Unit.

"Vicinity" means a reasonable geographical area extending on all sides of the Property.

"WOA" means the Waterfront Owners Association, Inc., a New York non-profit corporation formed by Declarant for the purpose of providing non-profit, civic oriented services, as well as constituting the organization (whose membership consists of all Owners of the Commercial, Residential, Parking and Restaurant Parcels) responsible for maintaining the Common Areas, as contemplated in the DADA, and for representing the interests of all Persons having any interest in any portion of the Property.

#### ARTICLE III

##### Duration and Modification of Restrictions

3.01. Duration. The provisions of this Declaration shall be binding upon all persons claiming an interest in the Property until December 31, 2025, after which time the same shall be deemed extended for successive periods of ten (10) years each unless terminated in the manner set forth in Section 3.02(b) below.

##### 3.02. Modification and Termination.

(a) Except for Sections 4.01(c), (d), (e) and (h), which can only be amended as set forth therein, Declarant reserves the right, on 30 days' prior notice to all Owners, to modify and amend this Declaration; provided, that Owners (other than Declarant) of 50% of the Residential and Commercial Parcels consent to the amendment, such consent not to be unreasonably withheld, and provided, further, that no modification or amendment shall be effective until a declaration of modification, signed by Declarant and Owners (other than Declarant) of 50% of the Residential and Commercial Parcels is recorded among the Land Records of Erie County, New York.

(b) At any time after December 31, 2025, the then-record Owners (other than Declarant) of 75% of the Commercial, Residential, Parking and Restaurant Parcels may terminate this Declaration in its entirety by duly executing and recording in the Land Records of Erie County, New York, an agreement to terminate this Declaration.

ARTICLE IV

Use of Property; Restrictions

4.01. Limitations. (a) No portion of any Commercial Parcel shall be used, or permitted to be used, for the establishment or maintenance, permanently or temporarily, of any residence; the foregoing shall not, however, prevent the establishment of a Hotel/Motel on any portion of any Commercial Parcel.

(b) No portion of any Residential Parcel shall be used, or permitted to be used, for the establishment or maintenance, permanently or temporarily, of any office, retail or commercial activity; the foregoing shall not, however, be deemed to prohibit the sale, by vending and dispensing machines of such items as are customarily sold in multi-family residential Structures, nor shall the foregoing be deemed to prohibit the establishment of laundry or similar type facilities for which user-charges are imposed and which are customarily located in multi-family residential Structures, nor shall the foregoing be deemed to prohibit the establishment of any sales office or model unit in connection with any marketing program or any management office; the foregoing shall, however, be deemed to preclude the establishment of any medical office or facility within any residential Structure.

(c) No Structures other than as hereinafter enumerated may be constructed on any portion of the Plaza, nor may the Plaza be used for any purpose other than that for which it was originally intended and designed. The foregoing shall not prevent the erection of Structures such as fountains, sitting benches, trees, shrubbery, curbing, landscaping, statues and the like which are customarily erected in or located on open-space plaza-type areas, nor shall the foregoing be deemed to prohibit portions of the Plaza from being used by, or under the direction of, the Owners of Parcels 3, 4, 5 and 6 for outdoor dining facilities, kiosks, exhibits, displays and the like, provided the approval of the Architectural Committee is obtained. This Section 4.01(c) may be amended on 30 days' prior notice to all Owners (including Declarant), with the consent of Declarant and all Owners of the Residential and Commercial Parcels (which consent shall not be unreasonably withheld), any such amendment to be effective upon the recordation among the Land Records of Erie County, New York, of a declaration of modification duly executed by Declarant and all Owners of the Residential and Commercial Parcels.

(d) No portion of any Parking Parcel shall be used for other than the location of at-grade Parking Facilities except in accordance with the following:

(i) The provisions of the DADA pertaining to the use of Parking Parcels and the required number of Parking Spaces necessary (including any Parking Spaces displaced because of the uses specified in subsection (ix)(A-G) below) shall be satisfied.

(ii) Any transfer of Parcel 10, Parcel 12 and/or Parcel 13 by Declarant shall be preceded by the subdivision(s) thereof to the extent necessary to enable Declarant to transfer all of such Parcel(s) (together with such appurtenant rights as are necessary to enable the transferee(s) to construct the Structure(s) thereon which are contemplated herein) except such portion(s) thereof on which at-grade Parking Facilities constituting part of the Common Areas are located, title(s) to which portion(s) shall remain vested in Declarant notwithstanding such transfer(s).

(iii) Except to the extent of any displacement necessary solely because of the uses specified in

subsection (ix)(A-G) below, the at-grade Parking Facilities constituting part of the Common Areas referred to in subsection (ii) above shall remain Parking Facilities constituting part of the Common Areas notwithstanding such transfer and construction.

(iv) Parcel 11 may only be used for at-grade Parking Facilities and no Structures may be built thereon except in connection with said at-grade Parking Facilities.

(v) No more than one Structure, consisting of an integrated project comprised of a Building and appurtenant Parking Deck and having no more than one grade-level lobby (excluding service entrance and emergency egress facilities) may be built on each of Parcels 10 and 12.

(vi) No more than two grade-level lobbies (excluding service entrance and emergency egress facilities) may be built on Parcel 13.

(vii) No Setback Line for any Structure erected on Parcel 10 may be less than 60 feet from the southeasterly exterior boundary line of Parcel 10 closest to the northwesterly exterior boundary line of Parcel 5 as such exterior boundary lines are now constituted; no Setback Line for any Structure erected on Parcel 12 may be less than 60 feet from the northwesterly exterior boundary line of Parcel 12 closest to the southeasterly exterior boundary line of Parcel 4 as such exterior boundary lines are now constituted.

(viii) The highest finished grade elevation of any Structure erected on Parcel 10 may not exceed the minimum distance between the Setback Line of such proposed Structure and the southeasterly exterior boundary line of Parcel 10 closest to the northwesterly exterior boundary line of Parcel 5 as such exterior boundary lines are now constituted; the highest grade elevation of any Structure erected on Parcel 12 may not exceed the minimum distance between the Setback Line of such proposed Structure and the northwesterly exterior boundary line of Parcel 12 closest to the southeasterly exterior boundary line of Parcel 4 as such exterior boundary lines are now constituted.

(ix) No grade level of any Structure constructed on Parcel 10, Parcel 12 or Parcel 13 may be used for any purpose except the following:

(A) Stairways and pedestrian ingress/egress facilities.

(B) Elevator lobbies for pedestrian and service elevators.

(C) Utility rooms for electrical, telephone, mechanical and similar utilities.

(D) Trash rooms.

(E) Enclosed circulation walkways, paths, etc. leading to the general pedestrian circulation systems in the Property.

(F) Ramps, which shall not be used for parking, and which have an average grade in excess of 6%.

(G) Foundations, footings and columns.

(x) The clear height above the grade level of all Structures constructed on Parcel 10, Parcel 12 and/or Parcel 13, measured from the ground to the underside of the first level of such Structures shall not be less than 10 feet nor more than 14 feet.

(xi) Except as permitted in clause (ii) above, no subdivision of any Parking Parcel shall, in any way, affect, expand or modify the foregoing limitations, which may not be amended except upon (A) 30 days' prior notice to all Owners (including Declarant), and (B) the unanimous consent of all Owners (including Declarant but excluding the Owner of the Restaurant Parcel). Any amendment, consented to as contemplated herein, shall be effective upon the recordation among the Land Records of Erie County, New York of a declaration of modification duly executed and recorded by all Owners (including Declarant but excluding the Owner of the Restaurant Parcel).

(e) No portion of any Structure may be located beyond the exterior boundary line of any Parcel, as the same exists on the date hereof, without the unanimous consent of all Owners (including Declarant), which consent shall not be unreasonably withheld. Any such consent shall be contained in a declaration of modification which shall be recorded among the Land Records of Erie County, New York by all Owners (including Declarant). The foregoing shall not, however, be deemed to prohibit the construction of any at-grade or above-grade enclosed walkways designed for pedestrian traffic between Parcels or between any Parcel and any other property in the Vicinity, the construction of which shall be subject to all provisions of this Declaration except this Section 4.01(e).

(f) The Restaurant Parcel shall be used for a restaurant business, provided, however, that this Section 4.01(f) may be amended, solely by Declarant, on 30 days' prior notice to all Owners. Any amendment shall be effective upon the recordation among the Land Records of Erie County, New York, of a declaration of modification, duly executed and recorded solely by Declarant.

(g) Until a transfer of title to the Strip Parcel by BURA, the Strip Parcel shall, for purposes of this Declaration, be deemed a part of the Common Areas. BURA may transfer title to the Strip Parcel only in conjunction with a simultaneous transfer of title to either Parcel 1 or Parcel 2. Thereafter, the Strip Parcel shall, for purposes of this Declaration, be deemed part of Parcel 1 if owned by the Owner of Parcel 1, or part of Parcel 2, if owned by the Owner of Parcel 2. In the event of any such transfer by BURA, the ownership of the Strip Parcel shall not thereafter be separate from the ownership of Parcel 1 or Parcel 2, as the case may be, and shall be deemed to be conveyed or encumbered with Parcel 1 or Parcel 2, as the case may be, even if not expressly mentioned or described in the instrument of conveyance or encumbrance. All rights which the Owner of Parcel 1 shall have in the Strip Parcel as the owner of the Strip Parcel or, alternatively, all rights which the owner of Parcel 2 shall have in the Strip Parcel as the owner of the Strip Parcel, shall be appurtenant to Parcel 1 or Parcel 2, as the case may be, and upon the transfer or passing of title to Parcel 1 or Parcel 2, as the case may be, such rights in and to the Strip Parcel shall pass as an appurtenance to Parcel 1 or Parcel 2, as the case may be.

(h) In addition to the limitations set forth herein, Declarant may, at its sole option, further limit the use of any undeveloped Commercial or Residential Parcel or the Strip Parcel by including such limitation in a Deed. In such event, the limitation is hereby deemed a covenant running with the land.

4.02. Underground Utilities, Pipes, Etc. No pipe, conduit, cable, line or the like for water, gas, sewage, drainage, steam, electricity or any other energy or service shall be installed or maintained upon the Property (outside of any Building) above the surface of the ground, except for hoses and moveable pipes used for irrigation or other purposes if specifically approved in writing by the Architectural Committee. All auxiliary machinery, equipment or facilities used on the Property in connection with any such energies or services shall be located only in such manner, and upon such conditions, as may be specifically approved by the Architectural Committee.

4.03. Parking. No parking of vehicles shall be permitted on any portion of the Property, unless the scheme, plans and specifications in respect to the Parking Spaces on such portion of the Property shall have been approved by the Architectural Committee. All paved areas, including such permitted Parking Spaces, shall be paved so as to provide dust-free, all-weather surfaces.

4.04. Outside Storage. No outside storage of any kind shall be permitted on the Property unless such activity is located on a portion of the Property, and visually screened in a manner, approved by the Architectural Committee. No outside storage shall extend above the top of such screening.

4.05. Signs. The location, size, design and construction of all exterior signs or interior signs designed to be visible from the exterior of any Structure must be in keeping with the character of the Property, and all such signs must be approved by the Architectural Committee.

4.06. Noise. At no point on any exterior boundary line of any Parcel shall the sound pressure level of any individual plant or operation (other than the operation of motor vehicles or other transportation facilities, or isolated and non-continuing sounds such as whistles, bells or sirens) exceed the decibel levels in the designated octave bands shown below:

<u>Octave Band Cycles Per Second</u>	<u>Maximum Permitted Sound Level in Decibels</u>
0 - 300	75
300 - 1200	55
1200 - 4800	45
4800 and above	40

4.07. Vibration. Structures shall be constructed, and machinery and equipment installed and insulated, on the Property so that the ground vibration inherently and recurrently generated is not perceptible without instruments at any point along any of the exterior boundary lines of any Parcel.

4.08. Smoke and Particulate Matter. Visible emissions of smoke, other than the exhausts emitted by motor vehicles or other transportation vehicles, which exceed applicable Federal, State or local environmental laws, rules or regulations will not be permitted outside any Building. This requirement shall also be applicable to the disposal of trash and waste materials. Wind-borne dust, sprays

and mists originating in plants will not be permitted. The foregoing shall not, however, be deemed to prohibit the emission of any visible smoke emitted by any fireplace, wood-burning stove or similar type apparatus properly installed on any portion of the Property.

4.09. Fumes, Gases, Odors, Etc. No fumes, odors, gases, vapors, acids or other substances shall be permitted to escape or be discharged into the atmosphere which, in the opinion of the Architectural Committee, may be detrimental to the health, safety or welfare of persons, or may interfere with the comfort of persons within the area, or which may be harmful to property or vegetation.

4.10. Glare or Heat. Any operation producing intense glare or heat shall be performed only within an enclosed or screened area and then, only in such manner that the glare or heat emitted will not be discernible from any exterior boundary line of any Parcel.

4.11. Noxious or Offensive Activities. No noxious or offensive trade or activity shall be carried on upon any portion of the Property nor shall any act be done or condition maintained thereon which may be or become an annoyance or nuisance to persons or property in the Vicinity.

4.12. Maintenance; Refuse or Trash. Except as contemplated in Section 5 of the DADA, each Owner of a Parcel shall keep his Parcel and Structures in a safe, clean, neat and sanitary condition, and shall comply in all respects with all government zoning, building, health, fire and police requirements. To the extent not removed by the appropriate municipal authorities, each Owner shall remove, at his expense, any rubbish of any character which may accumulate on that portion of the Property owned by him. During construction of any Structures, each Owner shall keep any construction site free of unsightly accumulations of rubbish and scrap materials, and construction materials, trailers, shacks and the like employed in connection with such construction shall be kept in a neat and orderly manner.

4.13. Animals. No livestock, poultry or other animals shall be kept on the Property except as required for research and development activities. The foregoing shall not, however, preclude the operation of a pet store on any portion of a Commercial Parcel, if such operation is approved by the Architectural Committee, or preclude any Unit Owner or, if no condominium-type or horizontal-type property regime is established, any Owner, from keeping domesticated dogs, cats, birds, fish or similar type animals as pets, provided such Unit Owner (or Owner) abides by the rules and regulations pertaining to the keeping of pets which are issued by the Architectural Committee from time to time.

4.14. Dirt, Dust and Waste Discharge. No use of the Property will be permitted which emits dust, sweepings, dirt or cinders into the atmosphere, or discharges liquid, solid wastes or other harmful matter into any stream, river or other body of water which, in the opinion of the Architectural Committee may adversely affect the health, safety, comfort of, or intended Property use by, Persons in the Vicinity.

4.15. Landscaping. The land area of each Parcel contained within the Property not occupied by Structures, hard-surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or shrubs or other ground coverings or landscaping as approved by the Architectural Committee. To the extent WOA is not obligated

to manage and maintain such land areas and landscaping pursuant to the DADA, such land areas and landscaping shall be maintained in a neat, clean, and wholesome condition, free of weeds, rubbish and litter, by the Owner.

Section 4.16. Subdivision. Except as contemplated in Section 4.01(d) above, no Parcel shall be split, divided, subdivided, or combined for sale, resale, gift, transfer or otherwise without the approval of the Architectural Committee. No such approval shall be deemed to constitute approval of, or consent to, a change in the permitted use of any Parcel.

#### ARTICLE V

##### Architectural Committee; Architectural Control

5.01. Architectural Committee. (a) The Architectural Committee shall be composed of those three (3) or more individuals so designated from time to time by Declarant. BURA agrees that until the transfer of control to WOA, as contemplated in Section 8.01 below, it will (i) appoint the Architectural Committee, and (ii) bear such costs of the Architectural Committee as are necessary to its effective operation. Upon such transfer of control, BURA shall, by an appropriate instrument in recordable form, assign its rights and obligations with respect to the Architectural Committee to WOA. From and after the delivery of such notice, and the execution of such assignment, the members of the Architectural Committee shall be appointed by WOA, and from and after such date, BURA shall be relieved of all duties and obligations with respect to the Architectural Committee as herein set forth. Notwithstanding the foregoing, at such time as five Parcels are Owned by Persons other than BURA, provided control has not previously been transferred by BURA to WOA as contemplated in Section 8.01 below, BURA agrees that at least one member of the Architectural Committee shall be appointed annually by the Owners of said five Parcels, it being understood that said appointee need not be an Owner. If said Owners are unable to agree on an appointment at least 30 days prior to the expiration of their current appointee's annual term (or, in the case of the first appointee, within 60 days of a request for designation from BURA), then the right to appoint one member of the Architectural Committee shall be deemed waived for the forthcoming annual term and said right shall revert to BURA, it being understood that such right of appointment shall be restored to said Parcel Owners with respect to the succeeding annual appointment.

(b) The affirmative vote of a majority of the membership of the Architectural Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, authorization or approval pursuant to directives or authorizations contained herein, and all decisions of the majority shall be final and binding.

5.02. Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on the Property, nor shall any existing Structure upon the Property be altered in any way which materially changes the exterior appearance thereof, nor shall any new permitted use be commenced on the Property, unless plans and specifications (including a description of any proposed new use) therefor shall have been submitted to and approved in writing by the Architectural Committee. Such plans and specifications shall be in such form and shall contain such information, as may be required by the Architectural Committee, but in any event shall include (i) a site plan of the Parcel, or portion thereof, showing the nature, exterior color scheme, kind,

shape, height, materials and location with respect to the Parcel, or portion thereof (including proposed Front, Rear and Side Setbacks and free spaces, if any free spaces other than Setbacks are proposed), of all Structures, the location thereof with reference to Structures on areas adjoining the Parcel, or portion thereof, and the number and location of all Parking Spaces and driveways on the Parcel, or portion thereof; and (ii) a grading plan for the Parcel, or portion thereof.

5.03. Disapproval. The Architectural Committee shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) Failure to comply with any of the Restrictions;
- (b) failure to include information in such plans and specifications as may have been reasonably requested by the Architectural Committee;
- (c) objection to the exterior design, appearance or materials of any proposed Structure;
- (d) objection on the ground of incompatibility of any proposed Structure or use with existing Structures or uses upon the Property or portions thereof or other land in the Vicinity;
- (e) objection to the effect of the location of any proposed Structure upon other areas in the Vicinity;
- (f) objection to the grading plan for the Property, or portion thereof;
- (g) objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed Structure;
- (h) inadequacy of existing parking spaces on the Parking Parcels pursuant to the terms of the DADA, or the inadequacy of any proposed parking spaces to be located on the portion of the Property in question; or
- (i) objection to the design of any proposed Structure because of its relationship to the shoreline of Lake Erie;
- (j) objection to the hazard protection system for the Property; or
- (k) any other matter which, in the judgment of the Architectural Committee, would render the proposed Structure(s) or use(s) inharmonious with the general plan of improvement of the Property or other areas in the Vicinity.

In any case where the Architectural Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case, the Architectural Committee shall, if requested, make reasonable

efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

5.04. Approval. Upon approval by the Architectural Committee of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

5.05. Rules and Regulations; Time for Approval. The Architectural Committee shall, from time to time, promulgate rules and regulations governing the form and content of plans and specifications to be submitted for approval, and shall issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters which may be presented for approval. Such rules and regulations and such statements of policy may be amended or revoked by the Architectural Committee at any time, and no inclusion in, omission from, or amendment of, any such rule or statement shall be deemed to bind the Architectural Committee to its approval or disapproval of any feature or matter subject to approval, or to waive the exercise of the approval of any such plans and specifications relating to the Property or portion thereof; provided, however, that any such approval, once given, shall be final and may not be revoked or rescinded thereafter, provided that (i) the Structures or uses shown or described on or in such plans, and (ii) the plans and specifications, as approved, and any conditions attached to any such approval, have been adhered to and complied with in regard to all Structures and uses on the Property.

If the Architectural Committee fails to approve or disapprove any plans and specifications as herein provided within sixty (60) days after submission thereof, then upon written demand of the submitting Owner, said Committee shall act upon said plans within ten (10) days of receipt of such demand or, upon failure to do so, the same shall be deemed to have been approved, as submitted, and no further action shall be required to evidence such approval.

5.06. Construction Without Approval. If any Structure is altered, erected, placed or maintained upon any portion of the Property, or any new use is commenced thereon, otherwise than in accordance with the approval by the Architectural Committee pursuant to the provisions of this Article V, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this Article V and without the approval required herein, and, upon notice from the Architectural Committee, any Structure so altered, erected, placed or maintained upon any portion of the Property in violation hereof shall be removed or realtered, and any such use shall be terminated, so as to extinguish such violation.

5.07. Certificate of Compliance. Upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Committee, the Architectural Committee shall, upon request from time to time, as requested by any Owner of a portion of the Property, issue a certificate of compliance in form suitable for recordation, identifying such Structure and the portion of the Property, and stating that the plans and specifications, the location of such Structure and the use(s) to be conducted thereon have been approved and that such Structure complies therewith. Preparation and recording of such certificate shall be at the expense of such Owner. Any certificate of compliance issued in accordance with the provisions of this Section 5.07 shall be prima facie evidence of the facts therein stated and, as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all

Structures on the stated portion of the Property, and the use(s) described therein, comply with all the requirements of this Article V and with all other requirements of these Restrictions as to which the Architectural Committee exercises any discretionary or interpretive powers.

5.08. Inspection. Any agent of Declarant or the Architectural Committee may, at any reasonable time, enter upon and inspect any portion of the Property and any improvements thereon for the purpose of ascertaining whether the maintenance of the portion of the Property and the maintenance, construction, or alteration of any Structure thereon and the use(s) conducted thereon are in compliance with the provisions hereof; and neither Declarant, the Architectural Committee or any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. The right of inspection granted herein shall be subject to any security requirements of the governments of the United States, the State of New York or the City of Buffalo (or any agencies thereof) with respect to such portion of the Property or any Structure.

5.09. Temporary Structures. No temporary Structure shall be installed or maintained on any portion of the Property without the specific approval of the Architectural Committee. All applications for approval of any temporary Structure shall include a specific date prior to which such temporary Structure will be dismantled and removed.

5.10. Notices. All notices, approvals, requests and similar type communications shall not be valid or effective unless contained in a writing signed by the party(s) sought to be charged.

#### ARTICLE VI

##### Setback Areas

6.01. Front, Side and Rear Setback Areas for each Parcel shall be as designated in plans therefor which have been submitted and approved in the manner set forth in Article V hereof. Without the approval of the Architectural Committee, no Structure (or any portion of any Structure) shall be permitted within any Front Setback Area, or within any Side Setback Area adjacent to any street.

#### ARTICLE VII

##### Construction of This Declaration

###### 7.01. Conflict or Ambiguity; Construction by Declarant.

(a) If any discrepancy, conflict or ambiguity is found to exist with regard to any matter set forth in this Declaration, such ambiguity, conflict or discrepancy shall be resolved and determined by Declarant in its sole discretion. Declarant shall have the right to interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretations shall be final and binding as to all Persons or property benefited or bound by the provisions hereof. Any conflict between any construction or interpretation by Declarant and that of any other Person entitled to enforce any of the provisions hereof shall be resolved in favor of the construction or interpretation of Declarant.

(b) Declarant and the Architectural Committee, to the extent specifically provided herein, may adopt reasonable rules and regulations regarding the administration, interpretation and

enforcement of the provisions of this Declaration. In so adopting such rules and regulations, and in making any finding, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, Declarant and the Architectural Committee shall take into consideration the best interests of each Owner of a portion of the Property.

7.02. Validity of Declaration. The determination by any court that any provision of this Declaration is unlawful, void or unenforceable, in whole or in part, shall not affect the validity of any other provision hereof.

7.03. Waiver of Reversionary Right. This Declaration shall not be construed as containing conditions subsequent, or creating a possibility of reverter, and no provision hereof shall be deemed to vest in Declarant or any other Person any reversionary right with respect to the Property. Any such reversionary right is hereby expressly waived by Declarant.

7.04. Effect of Headings. The headings of the Articles and Sections herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

7.05. Conflict With Applicable Laws. This Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or any laws, ordinances or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, Deeds or this Declaration shall govern and control.

#### ARTICLE VIII

##### Transfer of Control

8.01. Upon the earlier of the conveyance by Deed from BURA of the last of the Parcels comprising the Property, or the recordation by BURA among the Land Records of Erie County, New York of a notice of withdrawal and transfer, the rights, duties and obligations vested in BURA, as Declarant, shall be deemed assigned to WOA, as Declarant, and thereafter all of such rights, duties and obligations shall be vested in WOA to the same extent as if it had originally been vested with the same.

#### ARTICLE IX

##### Violation of Declaration; Enforcement

9.01. Removal of Violations; Liens. If any violation or breach of any of the provisions of this Declaration shall exist on any portion of the Property, and the Owner of that portion shall not have taken reasonable steps toward the removal or termination of the same within fifteen (15) days after written notice thereof, Declarant shall have the right, through its agents and employees, to enter upon the affected portion of the Property, subject to any security controls imposed by the governments of the United States, the State of New York or the City of Buffalo (or any agencies thereof) with respect to any operation being conducted thereon, and summarily abate, remove and extinguish any thing or condition that may be or exist thereon contrary to the provisions hereof. Neither Declarant nor any agent or employee shall thereby be deemed to have trespassed upon such portion of the Property and none shall be subject to

liability to the Owner or occupant of such portion for such entry, abatement, or removal.

The cost of any abatement or removal of violations authorized under this Section 9.01 shall be a binding, personal obligation of the Owner (or Unit Owners, as the case may be) of the affected portion of the Property as well as a lien (enforceable in the same manner as a mortgage) upon the affected portion of the Property. The lien provided in this Section 9.01 shall not be valid as against a bona fide purchaser (or bona fide mortgagee) of the affected portion of the Property in question unless a suit to enforce said lien shall have been filed in a court of record in Erie County, New York prior to the recordation among the Land Records of Erie County, New York of a Deed (or mortgage) conveying the affected portion of the Property in question to such purchaser (or subjecting the same to such mortgage).

9.02. Legal Action Upon Violation. Violation of any of the terms contained in this Declaration may be enjoined, abated, restrained or otherwise remedied by appropriate legal or equitable proceedings. Proceedings to restrain violation of this Declaration may be brought at any time that such violation appears reasonably likely to occur in the future. If proceedings are brought by any party(s) to enforce or restrain violation of any of the terms of this Declaration, or to determine the rights or duties of any Person hereunder, the prevailing party(s) in such proceedings may recover reasonable attorneys' fees and expenses, to be fixed by the court, in addition to court costs and any other relief awarded by the court in such proceedings.

9.03. Failure to Enforce. This Declaration shall bind and inure to the benefit of, and be enforceable by, Declarant and its successors and assigns. The failure of any Person entitled to enforce any provision contained in this Declaration shall in no event be deemed a waiver of the right of any such Person to enforce the same thereafter.

9.04. Enforceability After Waiver. Waiver or attempted waiver of any provision contained in this Declaration shall not be deemed a waiver thereof with regard to any subsequent violation with respect to such provisions or any other provision of this Declaration.

#### ARTICLE X

##### Good Faith Lenders Clause

10.01. No violation of any of the terms of this Declaration shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee, or trustee or beneficiary under any deed of trust in actual possession, or any purchaser at any trustees', mortgagees' or foreclosure sale, shall be bound by and subject to the terms of this Declaration as fully as the Owner (or Unit Owner) of the particular portion of the Property.

#### ARTICLE XI

##### Owner's Covenant

11.01. Each Owner (and Unit Owner) of a portion of the Property covenants, as a result of his acceptance of a Deed for any portion of the Property, for himself, his heirs, successors and

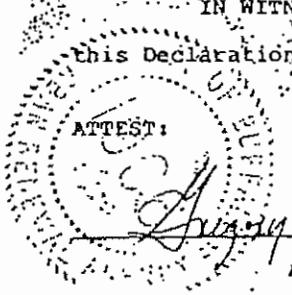
assigns to observe, perform and be bound by this Declaration and to incorporate this Declaration by reference in any Deed or other conveyance of all or any portion of the Property.

ARTICLE XII

Gender and Number

12.01. Terminology herein relating to gender and number is employed for convenient expression and not for purposes of limiting the applicability of the provisions hereof. The use of the singular shall be taken to include the plural and the use of the masculine gender shall be taken to include all genders.

IN WITNESS WHEREOF, Declarant has executed and delivered this Declaration the day and year first above written.



ATTEST:

CITY OF BUFFALO URBAN RENEWAL AGENCY

Gregory J. Dudek

By: [Signature]

STATE OF NEW YORK, COUNTY OF ERIE, TO WIT:

I HEREBY CERTIFY, that on this 29<sup>th</sup> day of January, 1980, before me, the undersigned, a Notary Public of the State of New York, personally appeared Rince C. Bassil, who is personally known to me and, being by me duly sworn, did depose and say that he resides at 366 Norwood, Buffalo, New York, that he is the Vice-Chairman of the CITY OF BUFFALO URBAN RENEWAL AGENCY, and that he, as said Vice-Chairman, executed the foregoing instrument on behalf of said CITY OF BUFFALO URBAN RENEWAL AGENCY for the purposes therein contained by signing its name by himself as Vice-Chairman.

WITNESS my hand and Notarial Seal.

Gregory J. Dudek  
Notary Public  
GREGORY J. DUDEK  
NOTARY PUBLIC STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires March 30, 1982

My commission expires \_\_\_\_\_

WOA joins in the execution and delivery of this instrument to indicate its acceptance of the obligations imposed on it hereunder.

ATTEST:

WATERFRONT OWNERS ASSOCIATION, INC.

Gregory J. Dudek  
(CORPORATE SEAL)

By: James P. Carter

STATE OF NEW YORK, COUNTY OF ERIE, TO WIT:

I HEREBY CERTIFY, that on this 24<sup>th</sup> day of January, 1980, before me, the undersigned, a Notary Public of the State of New York, personally appeared James P. Caher, who is personally known to me and, being by me duly sworn, did depose and say that he resides at 59 Russell, Buffalo, New York, that he is the President of the WATERFRONT OWNERS ASSOCIATION, INC., and that he, as said President, executed the foregoing instrument on behalf of said WATERFRONT OWNERS ASSOCIATION, INC. for the purposes therein contained by signing its name by himself as President.

WITNESS my hand and Notarial Seal.

  
Notary Public

My commission expires \_\_\_\_\_

GREGORY J. DUDEK  
NOTARY PUBLIC STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires March 30, 1980

BISSELL, MERRILL & ASSOCIATES, ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS



EXHIBIT A - DECLARATION OF GENERAL  
COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

3757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14223)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #1

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer lot 4, and the abandoned Right of way of Erie Street (99 feet wide), and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence South  $60^{\circ} 59' 41''$  West along said Northerly Right of way of Erie Street, 200.19 feet to a Point; Thence continuing along said Northerly Right of way, the following courses and distances, South  $14^{\circ} 39' 13''$  West, 6.89 feet to a Point; Thence South  $61^{\circ} 00' 10''$  West, 35.15 feet to a Point of Curvature; Thence along a Curve to the left of 195.0 feet Radius an Arc distance of 154.86 feet to a Point of Tangency; Thence South  $15^{\circ} 30' 00''$  West 333.34 feet to a Point of Curvature; Thence along a Curve to the Right of 273.0 feet Radius, an Arc distance of 367.28 feet to a Point of Tangency, said Point being in the Northerly Right of way of the Marina Access Road; Thence continuing along said Right of way line, North  $87^{\circ} 25' 00''$  West, 110.00 feet to a Point in a Diagonal line to the Westerly Right of way of Templeton Terrace (60 feet wide); Thence North  $47^{\circ} 35' 00''$  East along a Diagonal line 21.21 feet to a Point in the Westerly Right of way line of Templeton Terrace; Thence along said Westerly Right of way line of Templeton Terrace on the following Courses and Distances, North  $02^{\circ} 35' 00''$  East 31.12 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West

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*PRINCIPAL*  
198.76 feet to the *PRINCIPAL* Point of Beginning; Thence continuing North  $38^{\circ} 30' 19''$  West along a line 240.59 feet to a Point in the boundary of the Erie Marina Basin; Thence along the following courses and distances along said Erie Marina Basin, North  $61^{\circ} 05' 54''$  East, 115.20 feet to a Point; Thence North  $15^{\circ} 47' 39''$  West, 35.72 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East along a line and the Southerly Right of way line of La Riviere Drive, 82.63 feet to a Point; Thence South  $83^{\circ} 30' 19''$  East along said Right of way line 14.14 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East along said Right of way line and it's projection 244.32 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West along a line 220.00 feet to the *PRINCIPAL* Point or Place of Beginning containing .122 Acres more or less.  
Subject to a Utility Easement.  
Subject to the Easement Rights of others; as yet to be conveyed.

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EXHIBIT A - DECLARATION OF GENERAL  
COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL 1A

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer lots 4 and 6, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the Former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472: Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence South  $49^{\circ} 18' 35''$  West along a line 148.94 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Northerly Right of way line of La Riviere Drive (60 feet wide); Thence South  $06^{\circ} 29' 41''$  West along said Diagonal line 14.14 feet to a Point in the Northerly Right of way line of said La Riviere Drive; Thence South  $51^{\circ} 29' 41''$  West along said Northerly Right of way line 540.00 feet to an Angle Point; Thence North  $38^{\circ} 30' 19''$  West continuing along said Right of way line 70.00 feet to an Angle Point; Thence South  $51^{\circ} 29' 41''$  West continuing along said Right of way line 120.00 feet to an Angle Point; Thence South  $08^{\circ} 18' 29''$  West continuing along said Right of way line 58.45 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence South  $38^{\circ} 30' 19''$  East 90.00 feet to a Point on the Southerly Right of way line of said La Riviere Drive; Thence South  $51^{\circ} 29' 41''$  West, 60.01 feet to a Point in the Easterly boundary of the Erie Marina Basin; Thence along the following Courses and Distances on said Erie Marina Basin

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Boundary; North  $15^{\circ} 47' 39''$  West, 38.76 feet to a Point; Thence North  $88^{\circ} 38' 07''$  West 84.63 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East 110.00 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 0.14 Acre more or less.

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EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #2

All that Tract or Parcel of Land, situate in the City of Buffalo, County of Erie and State of New York, being part of Outer lots 4 and 6, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence South  $49^{\circ} 18' 35''$  West along a line 148.94 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Northerly Right of way line of La Riviere Drive (60 feet wide); Thence South  $06^{\circ} 29' 41''$  West along said Diagonal line 14.14 feet to a Point in the Northerly Right of way line of said La Riviere Drive; Thence South  $51^{\circ} 29' 41''$  West along said Northerly Right of way line 540.00 feet to an Angle Point; Thence North  $38^{\circ} 30' 19''$  West continuing along said Right of way line 70.00 feet to an Angle Point; Thence South  $51^{\circ} 29' 41''$  West continuing along said Right of way line 25.00 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning; Thence South  $51^{\circ} 29' 41''$  West continuing along said Right of way line 95.00 feet to an Angle Point; Thence South  $08^{\circ} 18' 29''$  West continuing along said Right of way line 58.45 feet to an Angle Point; Thence South  $51^{\circ} 29' 41''$  West continuing along said Right of way line 110.00 feet to a Point

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STORM DRAINAGE  
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on the Easterly boundary of the Erie Marina Basin: Thence along the following Courses and Distances on said Erie Marina Basin Boundary North  $88^{\circ} 38' 07''$  West 35.46 feet to a Point; Thence North  $48^{\circ} 37' 57''$  West 78.12 feet to a Point; Thence North  $18^{\circ} 38' 10''$  West 113.53 feet to a Point; Thence North  $41^{\circ} 22' 02''$  East 77.56 feet to a Point; Thence North  $61^{\circ} 21' 56''$  East 176.23 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East along a line 149.84 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 1.19 Acres more or less.

**BISSELL, MERRILL & ASSOCIATES, ENGINEERS**  
**ENGINEERS - SURVEYORS - PLANNERS**



**EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS**  
DATED JANUARY 27, 1980

3757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL #3

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer lot 6, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence South  $49^{\circ} 18' 35''$  West along a line 148.94 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Northerly Right of way line of La Riviere Drive (60 feet wide); Thence South  $06^{\circ} 29' 41''$  West along said Diagonal line 14.14 feet to a Point in the Northerly Right of way line of said La Riviere Drive; Thence South  $51^{\circ} 29' 41''$  West along said Northerly Right of way line 345.00 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence continuing South  $51^{\circ} 29' 41''$  West along said Northerly Right of way line 195.00 feet to an Angle Point; Thence North  $38^{\circ} 30' 19''$  West continuing along said Right of way line 70.00 feet to an Angle Point; Thence South  $51^{\circ} 29' 41''$  West continuing along said Right of way line 25.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West along a line 90.00 feet to a Point; Thence NORTH  $51^{\circ} 29' 41''$  East along a line 220.00 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East along a line 160.00 feet to the <sup>PRINCIPAL</sup> Point of Place of Beginning, containing 0.77 Acre more or less.

ARTHUR D. BISSELL II, P.E., L.S.

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CONSULTANT

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STONE DRAINAGE  
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EXHIBIT A - DECLARATION OF GENERAL  
COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL NO. 4

All that Tract or Parcel of Land, situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 5 & 6, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue Line of the Former Erie Canal, now the Westerly line of P.S.G. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence South  $49^{\circ} 18' 35''$  West along a line 148.94 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal Line to the Northerly Right of way line of La Riviere Drive (60 feet wide); Thence South  $06^{\circ} 29' 41''$  West along said Diagonal line, 14.14 feet to a Point in the Northerly Right of way line of said La Riviere Drive; Thence South  $51^{\circ} 29' 41''$  West along said Northerly Right of way line, 65.00 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence South  $51^{\circ} 29' 41''$  West along said Northerly Right of way line 280.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West along a line, 160.00 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East along a line, 120.00 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East along a line, 15.00 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East along a line 160.00 feet to a Point; Thence South  $30^{\circ} 30' 19''$  East along a line, 145.00 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning, containing 0.97 Acre more or less.

ARTHUR D. BISSELL II, P.E., L.S.

WILLIAM H. MERRILL, JR., P.E., L.S.

HAROLD J. SEMON, P.E., L.S.  
CONSULTANT

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STORM DRAINAGE  
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BISSELL, MERRILL & ASSOCIATES, ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS



EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL #5

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 5, 6, 7 and 8, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.Q. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence NORTH  $50^{\circ} 55' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip [redacted]; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West 99.66 feet to a Point in the North line of the former Peacock Slip [redacted] and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West 227.11 feet along said Blue line to a Point; Thence South  $24^{\circ} 30' 59''$  West along a line 124.34 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $83^{\circ} 30' 19''$  West along said Diagonal line 14.14 feet to a Point in the Southerly Right of way line of said Waterfront Circle; Thence South  $51^{\circ} 29' 41''$  West along said Southerly Right of way line 65.00 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence South  $38^{\circ} 30' 19''$  East along a line 205.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West along a line 160.00 feet to a Point; Thence North  $30^{\circ} 30' 19''$  West along a line 205.00 feet to a Point in the Southerly

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STORM DRAINAGE  
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Right of way line of Waterfront Circle (60 feet wide); Thence North  $51^{\circ} 29'$   
41" East along said Southerly Right of way line 160.00 feet to the <sup>PRINCIPAL</sup> Point or  
Place of Beginning containing 0.75 Acre more or less.

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EXHIBIT A - DECLARATION OF GENERAL  
COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #6

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot 8, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the Former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence North  $50^{\circ} 58' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip ~~\_\_\_\_\_~~; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West, 99.66 feet to a Point in the North line at the former Peacock Slip ~~\_\_\_\_\_~~ and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West 277.11 feet along said Blue line to a Point; Thence South  $24^{\circ} 30' 59''$  West along a line 124.34 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $83^{\circ} 30' 19''$  West along said Diagonal line 14.14 feet to a Point in the Southerly Right of way line of said Waterfront Circle; Thence South  $51^{\circ} 29' 41''$  West along said Southerly Right of way line 225.00 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence South  $38^{\circ} 30' 19''$  East along a line 100.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West along a line 195.00 feet to a Point; Thence North  $83^{\circ} 09' 39''$  West along a line 70.29 feet to a Point; Thence North  $38^{\circ}$

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30' 19" West 130.00 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East along a  
line and Southerly Right of way of Waterfront Circle, 30.00 feet to a Point;  
Thence continuing along said Right of way the following courses and distances,  
South  $38^{\circ} 30' 19''$  East 20.00 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East  
100.00 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East 60.00 feet to a Point;  
Thence North  $51^{\circ} 29' 41''$  East 114.40 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning  
containing 0.73 Acre more or less.

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#35679

ginning; Thence South  $51^{\circ} 29' 41''$  West along a line, 15.00 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East, 157.87 feet to a Point in the boundary of the Erie Marina Basin; Thence South  $69^{\circ} 22' 05''$  West along said boundary, 157.52 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 150.17 feet to a Point; Thence North  $13^{\circ} 35' 39''$  West, 65.44 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East along a line, 137.35 feet to a Point in the Westerly Right of way line of Water-front Circle; Thence South  $33^{\circ} 30' 19''$  East along said Right of way line, 100.00 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning, containing 0.82 Acre, more or less.

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EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL NO. 8

All that Tract or Parcel of Land, situate in the City of Buffalo, County of Erie and State of New York, being Part of Outer Lots 10 and 12, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.G. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $30^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence NORTH  $50^{\circ} 58' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip [REDACTED]; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West, 99.66 feet to a Point in the North line of the former Peacock Slip [REDACTED] and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West <sup>227</sup> .11 feet along said Blue line to a Point; Thence South  $24^{\circ} 30' 59''$  West along a line 124.34 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $83^{\circ} 30' 19''$  West along said Diagonal line, 14.14 feet to a Point in the Southerly Right of way line of said Waterfront Circle; Thence on the following Courses and Distances along said Right of way, South  $51^{\circ} 29' 41''$  West, 339.4 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 60.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West, 100.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 20.00 feet

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to a Point; Thence South  $51^{\circ} 29' 41''$  West, 15.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 100.00 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence South  $51^{\circ} 29' 41''$  West, 137.35 feet to a Point; Thence North  $13^{\circ} 35' 39''$  West along a line 181.92 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East, 190.72 feet to a Point in the Westerly Right of way line of Waterfront Circle; Thence South  $38^{\circ} 30' 19''$  East along said Right of way line, 165.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West continuing along said Right of way line 130.00 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning, containing 0.87 Acre more or less.

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**EXHIBIT A - DECLARATION OF GENERAL**  
**COVENANTS AND RESTRICTIONS**  
**DATED JANUARY 29, 1980**

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL NO. 9

All that Tract or Parcel of Land, situate in the City of Buffalo, County of Erie and State of New York, being Part of Outer Lots 8, 10, and 12, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence NORTH  $50^{\circ} 58' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip ■■■; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West, 99.66 feet to a Point in the North line of the former Peacock Slip ■ and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West, 227.11 feet along said Blue line to a Point; Thence South  $24^{\circ} 30' 59''$  West along a line 124.34 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $83^{\circ} 30' 19''$  West along said Diagonal line, 14.14 feet to a Point in the Southerly Right of way line of said Waterfront Circle; Thence on the following Courses and Distances along said Right of way South  $51^{\circ} 29' 41''$  West, 339.4 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 60.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West, 100.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 20.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West, 15.00 feet to a Point,

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Thence North  $38^{\circ} 30' 19''$  West, 100.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West, 137.35 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence South  $13^{\circ} 35' 39''$  East along a line 65.44 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East, 150.17 feet to a Point in the boundary of the Erie Marina Basin; Thence on the following Courses and distances along said boundary South  $69^{\circ} 22' 05''$  West, 31.11 feet to a Point; Thence North  $53^{\circ} 38' 06''$  West, 120.28 feet to a Point; Thence North  $13^{\circ} 35' 39''$  West, 348.76 feet to a Point; Thence North  $14^{\circ} 50' 41''$  East, 39.52 feet to a Point; Thence North  $36^{\circ} 39' 44''$  East, 69.55 feet to a Point; Thence North  $61^{\circ} 47' 02''$  East, 20.14 feet to a Point; Thence South  $38^{\circ} 59' 02''$  East 5.68 feet to a Point; Thence North  $60^{\circ} 15' 46''$  East, 116.70 feet to a Point in the Westerly Right of way line of Waterfront Circle; Thence South  $05^{\circ} 44' 48''$  East along said Right of way line 46.45 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East, along said Right of way line 42.71 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West along a line 190.72 feet to a Point; Thence South  $13^{\circ} 35' 39''$  East along a line 181.92 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning, containing 0.90 Acre more or less.

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**EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980**

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #10

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 9, 10, 11 and 12, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence North  $50^{\circ} 58' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip [redacted]; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West, 99.66 feet to a Point in the North line of the former Peacock Slip [redacted] and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West 27.11 feet along said Blue line to a Point; Thence South  $65^{\circ} 50' 12''$  West along a line 107.20 feet to the <sup>PRINCIPAL</sup> Point of Beginning, being the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (width varies) with the Diagonal line to the Northerly Right of way line of Waterfront Circle (60 feet wide); Thence South  $11^{\circ} 29' 41''$  West along said Diagonal line 22.98 feet to a Point in the Northerly Right of way line of said Waterfront Circle; Thence on the following Courses and Distances along the Right of way of Waterfront Circle, South  $51^{\circ} 29' 41''$  West, 214.23 feet to a Point; Thence South  $78^{\circ} 03' 35''$  West, 37.27 feet to a Point; Thence North  $65^{\circ} 04' 14''$  West, 37.27 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 236.51 feet to a Point; Thence North

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22° 07' 34" West, 38.38 feet to a Point; Thence North 05° 44' 48" West, 73.42 feet to a Point; Thence North 22° 52' 26" East 35.11 feet to a Point; Thence North 51° 29' 41" East 218.63 feet to a Point; Thence South 83° 30' 19" East 14.14 feet to a Point in the Westerly Right of way line of Lakefront Boulevard (60 feet wide); Thence South 38° 30' 19" East along said Westerly Right of way 217.38 feet to a Point; Thence South 28° 30' 19" East along said Westerly Right of way 162.20 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 2.70 Acres more or less.

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EXHIBIT A - DECLARATION OF GENERAL  
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5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 718 832-7000

DESCRIPTION PARCEL #11

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer lots 5 and 7, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence South  $49^{\circ} 18' 35''$  West along a line 140.94 feet to the <sup>PRINCIPAL</sup> Point of Beginning being the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Northerly Right of way line of LaRiviere Drive (60 feet wide); Thence South  $06^{\circ} 29' 41''$  West along said Diagonal line 14.14 feet to a Point in the Northerly Right of way line of said LaRiviere Drive; Thence South  $57^{\circ} 29' 41''$  West along said Northerly Right of way line 65.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West along a line 350.00 feet to a Point in the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $57^{\circ} 29' 41''$  East along said Southerly Right of way line 65.00 feet to a Point; Thence South  $83^{\circ} 30' 19''$  East along a Diagonal line 14.14 feet to a Point in the Westerly Right of way line of Lakefront Boulevard (80 feet wide); Thence South  $38^{\circ} 30' 19''$  East along said Westerly Right of way line 330.00 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 0.60 Acre more or less.

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EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS DATED JANUARY 21, 1980  
5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #12

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2, 3, 4 and 5, and the abandoned Right of way of Erie Street (99 feet wide), and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence South  $60^{\circ} 59' 41''$  West along said Northerly Right of way of Erie Street 152.17 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence continuing along said Northerly Right of way and the Northerly Right of way of Marina Access Drive on the following Courses and Distances, South  $60^{\circ} 59' 41''$  West, 48.02 feet to a Point; Thence South  $14^{\circ} 39' 13''$  West, 6.89 feet to a Point; Thence South  $61^{\circ} 00' 10''$  West 35.15 feet to a Point of Curvature; Thence along a Curve to the Left of 195.00 foot Radius an Arc distance of 154.86 feet to a Point of Tangency; Thence South  $15^{\circ} 30' 00''$  West, 112.65 feet to a Point; Thence South  $60^{\circ} 30' 00''$  West along a line 21.21 feet to a Point in the Easterly Right of way line of Wilkeson Way (60 feet wide); Thence along the following Courses and Distances along said Easterly Right of way line of Wilkeson Way, North  $74^{\circ} 30' 00''$  West, 82.96 feet to a Point; Thence North  $30^{\circ} 30' 19''$  West, 355.25 feet to a Point; Thence North  $06^{\circ} 29' 41''$  East, 14.14 feet to a Point in the Southerly Right of way line of La Riviere Drive (60 feet wide), North  $51^{\circ} 29' 41''$  East along said Southerly Right of way line, 390.00 feet to a Point; Thence South  $83^{\circ} 30' 19''$  East 14.14 feet

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to a Point in the Westerly Right of way line of Lakefront Boulevard (80 feet wide);  
Thence South  $38^{\circ} 30' 19''$  East along said Westerly Right of way line 322.01 feet  
to a Point; Thence South  $11^{\circ} 14' 41''$  West along a Diagonal line 19.38 feet to  
the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 3.44 Acres more or less.  
Subject to a Sanitary Sewer Easement.

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5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #13

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2 and 4, and the abandoned Right of way of Erie Street (99 feet wide), and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the westerly line of P.S.C. grade crossing elimination case #5472; Thence South  $60^{\circ} 59' 41''$  West along said Northerly Right of way of Erie Street, 200.19 feet to a Point; Thence continuing along said Northerly Right of way, the following courses and distances, South  $14^{\circ} 39' 13''$  West, 6.89 feet to a Point; Thence South  $61^{\circ} 00' 10''$  West, 35.15 feet to a Point of Curvature; Thence along a Curve to the left of 195.0 feet Radius an Arc distance of 154.86 feet to a Point of Tangency; Thence South  $15^{\circ} 30' 00''$  West 202.65 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence along said Northerly Right of way line of Marina Access Drive on the following Courses and Distances, South  $15^{\circ} 30' 00''$  West, 130.69 feet to a Point of Curvature; Thence along a Curve to the Right of 273.00 foot Radius an Arc distance of 367.28 feet to a Point of Tangency; Thence North  $87^{\circ} 25' 00''$  West 20.00 feet to a Point; Thence North  $42^{\circ} 25' 00''$  West along a line 21.21 feet to a Point in the Easterly Right of way line of Templeton Terrace (60 feet wide); Thence along the following Courses and Distances along said Easterly Right of way line of Templeton Terrace, North  $02^{\circ} 35' 00''$  East, 53.61 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 221.24 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East along a line, 160.00 feet to a

ARTHUR D. BISSELL, P.E., L.S.

WILLIAM H. MERRILL, JR., P.E., L.S.

HAROLD J. BENION, P.E., L.S.  
CONSULTANT

LIBER 8876 PAGE 637

STONE DRAINAGE  
SEWERS AND SEWAGE TREATMENT  
WATER SUPPLY AND TREATMENT

HIGHWAYS  
SUBDIVISIONS  
TOPOGRAPHIC AND BOUNDARY SURVEYS

LAND PLANNING  
COMPUTER SERVICE  
INDUSTRIAL AND MUNICIPAL REPORTS

2.  
#35628

Point; Thence North  $38^{\circ} 30' 19''$  West along a line 224.32 feet to a Point, said Point being in the Southerly Right of way of LaRiviere Drive; Thence along the following Courses and Distances along said Right of way line of LaRiviere Drive, North  $51^{\circ} 29' 41''$  East 120.0 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 20.00 feet to a Point; Thence North  $06^{\circ} 29' 41''$  East, 14.14 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East, 70.00 feet to a Point; Thence South  $83^{\circ} 30' 19''$  East 14.14 feet to a Point, said Point being in the Westerly Right of way line of Wilkeson Way, (60 feet wide); Thence South  $38^{\circ} 30' 19''$  East along said Right of way line 374.75 feet to a Point; Thence continuing along said Right of way line South  $74^{\circ} 30' 00''$  East 102.45 feet to a Point; Thence South  $29^{\circ} 30' 00''$  East along a Diagonal line 21.21 feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 4.18 Acres more or less.

LIBER 8876 PAGE 638

BISSELL, MERRILL & ASSOCIATES, ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS



*EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS DATED JANUARY 29, 1980*

8757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL # 14

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2, 4, 150, 151 and 20, and the abandoned Right of way of Erie Street (99 feet wide), and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue Line of the former Erie Canal, now the Westerly line of P.S.G. grade crossing elimination case #5472; Thence South  $60^{\circ} 59' 41''$  West along said Northerly Right of way of Erie Street, 200.19 feet to a Point; Thence continuing along said Northerly Right of way, the following courses and distances, South  $14^{\circ} 39' 13''$  West, 6.89 feet to a Point; Thence South  $61^{\circ} 00' 11''$  West, 35.15 feet to a Point of Curvature; Thence along a Curve to the left of 195.0 feet Radius an Arc distance of 154.86 feet to a Point of Tangency; Thence South  $15^{\circ} 30' 00''$  West 333.34 feet to a Point of Curvature; Thence along a Curve to the Right of 273.0 feet Radius, an Arc distance of 367.28 feet to a Point of Tangency, said Point being in the Northerly Right of way of the Marina Access Road; Thence continuing along said Right of way line, North  $87^{\circ} 25' 00''$  West, 110.00 feet to the Point of Beginning; thence continuing along said Right of way line of Marina Access Drive on the following Courses and Distances North  $87^{\circ} 25' 00''$  West, 131.90 feet to a Point of Curvature; Thence along a Curve to the Right of 1493.00 foot Radius an Arc distance of 141.15 feet to a Point of Reverse Curvature; Thence along a Curve to the left of 487.26 foot Radius an Arc distance of 139.90 feet to a Point of Tangency; Thence South  $81^{\circ} 32' 59''$  West 59.44 feet to a

ARTHUR D. BISSELL II, P.E., L.S.

WILLIAM H. MERRILL JR., P.E., L.S.

MARLEO J. SENOR, P.E., L.S.  
CONSULTANT

LIBER 8876 PAGE 659

STORM DRAINAGE  
SEWERS AND SEWAGE TREATMENT  
WATER SUPPLY AND TREATMENT

HIGHWAYS  
SUBDIVISIONS  
TOPOGRAPHIC AND BOUNDARY SURVEYS

LAND PLANNING  
COMPUTER SERVICE  
INDUSTRIAL AND MUNICIPAL REPORTS

2.  
#35629

Point; Thence North  $08^{\circ} 43' 10''$  West along a line 266.54 feet to a Point in the Boundary of the Erie Marina Basin; Thence along the following Courses and Distances along said Erie Marina Basin, North  $69^{\circ} 52' 33''$  East, 139.85 feet to a Point; Thence North  $61^{\circ} 05' 54''$  East, 140.60 feet to a Point; Thence South  $38^{\circ} 30' 19''$  East along a line and the Westerly Right of way line of Templeton Terrace (60 feet wide); 439.35 feet to a Point; Thence South  $02^{\circ} 35' 00''$  West along said Westerly Right of way line 31.12 feet to a Point; Thence South  $47^{\circ} 35' 00''$  West along the diagonal line 21.21 feet to the Point or Place of Beginning containing 3.72 Acres more or less.

LIBER 8876 PAGE 700

BISSELL, MERRILL & ASSOCIATES, ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS



EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL #26

All that Piece or Parcel of Land, situate, lying and being in the City of Buffalo, County of Erie, State of New York, being part of Outer Lots 3,5,7,9, 11 and 13, Buffalo Village, Township 11, Range B of the Holland Land Company's Survey

Beginning at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S & grade crossing elimination case #5472; Thence South  $60^{\circ} 59' 41''$  West along said Northerly Right of way of Erie Street, 31.06 feet to a Point; Thence North  $84^{\circ} 07' 44''$  West along a line 34.50 feet to a Point in the Easterly Right of way line of Lakefront Boulevard (80 feet wide); Thence continuing along said Easterly Right of way, the following courses and distances, North  $38^{\circ} 30' 19''$  West, 891.20 feet to a Point; Thence North  $28^{\circ} 30' 19''$  West, 89.82 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West 261.39 feet to a Point; Thence North  $33^{\circ} 46' 27''$  West, 31.35 feet to a Point; Thence North  $51^{\circ} 29' 41''$  East, 30.20 feet to a Point, said Point being in the Westerly Blue line of the former Erie Canal; Thence on the following Courses and distances along said Blue line, South  $36^{\circ} 07' 10''$  East, 65.74 feet to a Point; Thence South  $36^{\circ} 24' 34''$  East, 100.03 feet to a Point; Thence South  $36^{\circ} 26' 22''$  East, 310.03 feet to a Point; Thence South  $40^{\circ} 25' 16''$  East 227.11 feet to a Point in the North line of the former Peacock Slip No. 1; Thence South  $27^{\circ} 10' 49''$  East 99.66 feet to a Point in the South line of the former Peacock Slip [redacted]; Thence North  $62^{\circ} 49' 43''$  East along said South line 40.14 feet to a Point in the

ARTHUR D. BISSELL E. P. E., L. S.

WILLIAM H. MERRILL JR., P. E., L. S.

MAROLD J. SENIOR, P. E., L. S.  
CONSULTANT

LIBER 8876 PAGE 701

STORM DRAINAGE  
SEWER AND SEWAGE TREATMENT  
WATER SUPPLY AND TREATMENT

HIGHWAYS  
SUBDIVISIONS  
TOPOGRAPHIC AND BOUNDARY SURVEYS

LAND PLANNING  
COMPUTER SERVICE  
INDUSTRIAL AND MUNICIPAL REPORTS

2.  
#35691

said Blue line; Thence South  $50^{\circ} 58' 05''$  East along said Blue line 49.31 feet;  
Thence South  $36^{\circ} 28' 10''$  East, 382.36 feet to a Point; Thence South  $38^{\circ} 33' 02''$  East along said Blue line 63.20 feet to the Point or Place of Beginning containing 1.24 Acres more or less.

LIBER 8876 PAGE 702.

BISSELL, MERRILL & ASSOCIATES, ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS



EXHIBIT A - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980

5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 832-7000

DESCRIPTION PARCEL #27

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 6 and 8, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.G. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence North  $50^{\circ} 58' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip [REDACTED]; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West, 99.66 feet to a Point in the North line of the former Peacock Slip [REDACTED] and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West 227.11 feet along said Blue line to a Point; Thence South  $24^{\circ} 30' 59''$  West along a line 124.34 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $83^{\circ} 30' 19''$  West along said Diagonal line 14.14 feet to a Point in the Southerly Right of way line of said Waterfront Circle; Thence South  $51^{\circ} 29' 41''$  West along said Southerly Right of way line 225.00 feet to a Point; Thence South  $36^{\circ} 30' 19''$  East along a line 100.00 feet to the <sup>PRINCIPAL</sup> Point of Beginning; Thence continuing South  $36^{\circ} 30' 19''$  East along a line 90.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West along a line 340.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West along a line 59.84 feet to a Point in the Boundary of Erie Marina Basin;

ARTHUR D. BISSELL S. P. E., L. S.

WILLIAM H. MERRILL, JR., P. E., L. S.

HAROLD J. SENIOR, P. E., L. S.  
CONSULTANT

LIBER 8876 PAGE 703

STORM DRAINAGE  
SEWERS AND SEWAGE TREATMENT  
WATER SUPPLY AND TREATMENT

HIGHWAY  
SURVEYING  
TOPOGRAPHIC AND BOUNDARY SURVEYS

LAND PLANNING  
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INDUSTRIAL AND MUNICIPAL REPORTS

2.  
#35686

Thence along the Erie Marina Basin on the following Courses and Distances North  
61° 21' 56" East, 101.68 feet to a Point; Thence North 28° 37' 56" West 65.59  
feet to a Point; Thence South 69° 22' 05" West 16.62 feet to a Point; Thence  
North 30° 30' 19" West along a line 27.87 feet to a Point; Thence South 83° 09'  
39" East 70.29 feet to a Point; Thence North 51° 29' 41" East along a line 195.00  
feet to the <sup>PRINCIPAL</sup> Point or Place of Beginning containing 0.63 Acre more or less.

LIBER 8876 PAGE 704

**BISSELL, MERRILL & ASSOCIATES, ENGINEERS**  
**ENGINEERS - SURVEYORS - PLANNERS**



5757 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)

AREA CODE 716 832-7000

January 11, 1980

All that Piece or Parcel of Land, situate, lying and being in the City of Buffalo, County of Erie, State of New York, being part of Outer Lots, 2, 4, 6, 8, 10, 12, 14, 3, 5, 7, 9, 11, 13, 150, 151 and 20, Buffalo Village, Township 11, Range 8 of the Holland Land Company's Survey and the abandoned Right of way of Erie Street (99 feet wide), **together being bounded and described as follows:**

Beginning at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue Line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence South  $60^{\circ} 59' 41''$  West along said Northerly Right of way of Erie Street, 200.19 feet to a Point; Thence continuing along said Northerly Right of way, the following courses and distances, South  $14^{\circ} 39' 13''$  West, 6.89 feet to a Point; Thence South  $61^{\circ} 00' 10''$  West, 35.15 feet to a Point of Curvature; Thence along a Curve to the left of 195.0 feet Radius an Arc distance of 154.86 feet to a Point of Tangency; Thence South  $15^{\circ} 30' 00''$  West 333.34 feet to a Point of Curvature; Thence along a Curve to the Right of 273.0 feet Radius, an Arc distance of 367.28 feet to a Point of Tangency, said Point being in the Northerly Right of way of the Marina Access Road; Thence continuing along said Right of way line, the following Courses and Distances North  $87^{\circ} 25' 00''$  West, 241.90 feet to a Point of Curvature; Thence along a Curve to the Right of 1493.00 feet Radius an Arc distance of 141.15 feet to a Point of Reverse Curvature; Thence along a Curve to the left of 487.26 feet Radius an Arc distance of 139.90 feet to a Point of Tangency; Thence South  $81^{\circ} 32' 59''$  West 59.44 feet to a Point; Thence North  $08^{\circ} 43' 10''$  West along a line 266.54 feet

**EXHIBIT B - DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS DATED JANUARY 29, 1980**

ARTHUR D. BISSELL D. P.E., L.S.

WILLIAM H. MERRILL, JR., P.E., L.S.

HAROLD J. SENIOR, P.E., L.S.  
CONSULTANT

LIBER 8876 PAGE 705

STORM DRAINAGE  
SEWERS AND SEWAGE TREATMENT  
WATER SUPPLY AND TREATMENT

HIGHWAYS  
SUBDIVISIONS  
TOPOGRAPHIC AND BOUNDARY SURVEYS

LAND PLANNING  
CONSULTING SERVICE  
INDUSTRIAL AND MUNICIPAL REPORTS

to a Point on the Waters edge of the Erie Basin as now existing; Thence along the following Courses and distances along said Erie Basin:

North  $69^{\circ} 52' 33''$  East along a line 139.85 feet to a Point; Thence  
North  $61^{\circ} 05' 54''$  East along a line 255.80 feet to a Point; Thence  
North  $15^{\circ} 47' 39''$  West along a line 74.47 feet to a Point; Thence  
North  $88^{\circ} 38' 07''$  West along a line 120.08 feet to a Point; Thence  
North  $48^{\circ} 37' 57''$  West along a line 78.12 feet to a Point; Thence  
North  $18^{\circ} 38' 10''$  West along a line 113.53 feet to a Point; Thence  
North  $41^{\circ} 22' 02''$  East along a line 77.56 feet to a Point; Thence  
North  $61^{\circ} 21' 56''$  East along a line 277.91 feet to a Point; Thence  
North  $28^{\circ} 37' 56''$  West along a line 65.59 feet to a Point; Thence  
South  $69^{\circ} 22' 05''$  West along a line 205.24 feet to a Point; Thence  
North  $53^{\circ} 38' 06''$  West along a line 120.28 feet to a Point; Thence  
North  $13^{\circ} 35' 39''$  West along a line 348.76 feet to a Point; Thence  
North  $14^{\circ} 50' 41''$  East along a line 39.52 feet to a Point; Thence  
North  $36^{\circ} 39' 44''$  East along a line 69.55 feet to a Point; Thence  
North  $61^{\circ} 47' 02''$  East along a line 20.14 feet to a Point; Thence  
South  $38^{\circ} 59' 02''$  East along a line 5.68 feet to a Point; Thence  
North  $60^{\circ} 15' 46''$  East along a line 116.70 feet to a Point; Thence  
North  $28^{\circ} 41' 22''$  West along a line 96.01 feet to a Point; Thence  
North  $51^{\circ} 10' 34''$  East along a line 90.22 feet to a Point; in the Northerly  
Right of way line of Waterfront Circle (60 feet wide); Thence North  $51^{\circ} 29' 41''$   
East along said Northerly Right of way line and production there of 331.06 feet  
to a Point; said Point being in the Westerly blue line of the former Erie Canal;

3.  
#35200

Thence on the following Courses and distances along said Blue line, South  $36^{\circ} 07' 10''$  East, 65.74 feet to a Point; Thence South  $36^{\circ} 24' 34''$  East, 100.03 feet to a Point; Thence South  $36^{\circ} 26' 22''$  East, 310.03 feet to a Point; Thence South  $40^{\circ} 25' 16''$  East 227.11 feet to a Point in the North line of the former Peacock Slip No. 1; Thence South  $27^{\circ} 10' 49''$  East 99.66 feet to a Point in the South line of the former Peacock Slip [REDACTED]; Thence North  $62^{\circ} 49' 43''$  East along said South line 40.14 feet to a Point in the said Blue line; Thence South  $50^{\circ} 58' 05''$  East along said Blue line 49.31 feet; Thence South  $36^{\circ} 28' 10''$  East 382.36 feet to a Point; Thence South  $38^{\circ} 33' 02''$  East along said Blue line 63.20 feet to the Point or Place of Beginning containing 30.59 Acres more or less.

①

BUFFALO WATERFRONT RETAIL CENTER

DECLARATION OF MODIFICATION  
TO  
DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS

THIS DECLARATION, made as of the 12<sup>th</sup> day of May, 1980 by the CITY OF BUFFALO URBAN RENEWAL AGENCY, a public body corporate, established pursuant to Article 15-A of the General Municipal Law of the State of New York, having its principal office at 920 City Hall, Buffalo, New York 14202 (hereinafter "BURA"), and PIONEER PROPERTIES COMPANY OF BUFFALO, a general partnership organized and existing under the laws of the State of New York, having its principal office at Suite 1000, 500 South Salina Street, Syracuse, New York 13202 (hereinafter "Pioneer"),

W I T N E S S E T H :

WHEREAS, BURA, as Declarant, did, on January 29, 1980, execute a certain Buffalo Waterfront Retail Center, Declaration of General Covenants and Restrictions (hereinafter "DGCR") which was recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8876 of Deeds at page 657, and which DGCR affects premises located in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2, 4, 6, 8, 10, 12, 14, 3, 5, 7, 9, 11, 13, 150, 151 and 20, Buffalo Village, Township 11, Range 8 of the Holland Land Company's Survey and the abandoned Right of Way of Erie Street (99 feet wide) as more particularly described therein, and

WHEREAS, BURA was, at the time of recordation of said DGCR, the sole owner in fee simple of all lands described therein and, as of the date hereof, continues to be the sole owner of such lands, except for Parcel 4 and Parcel 5 described therein, which were conveyed by BURA to Pioneer by deed dated January 29, 1980 and recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8877 of Deeds at page 66, and

WHEREAS, Pioneer has commenced the construction of a commercial building on Parcel 4 (as described in the DGCR) and a commercial building on Parcel 5 (as described in the DGCR), the plans and specifications for which buildings have been approved by BURA, and

WHEREAS, the plans for said commercial buildings provide that they shall be physically connected at their second-story and third-story levels with a structure containing space to be leased by Pioneer to tenants of the buildings; and

WHEREAS, Section 4.01(e) of the DGCR provides, in part, that "No portion of any Structure may be located beyond the exterior boundary line of any Parcel, as the same exists on the date hereof, without the unanimous consent of all Owners (including Declarant), which consent shall not be unreasonably withheld. Any such consent shall be contained in a declaration of modification which shall be recorded among the Land Records of Erie County, New York by all Owners (including Declarant).", and

recitation 9530 - 466 Deeds (M.P.)

BUFFALO WATERFRONT RETAIL CENTER

DECLARATION OF MODIFICATION  
TO  
DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS

THIS DECLARATION, made as of the 12<sup>th</sup> day of May, 1980 by the CITY OF BUFFALO URBAN RENEWAL AGENCY, a public body corporate, established pursuant to Article 15-A of the General Municipal Law of the State of New York, having its principal office at 920 City Hall, Buffalo, New York 14202 (hereinafter "BURA"), and PIONEER PROPERTIES COMPANY OF BUFFALO, a general partnership organized and existing under the laws of the State of New York, having its principal office at Suite 1000, 500 South Salina Street, Syracuse, New York 13202 (hereinafter "Pioneer"),

W I T N E S S E T H :

WHEREAS, BURA, as Declarant, did, on January 29, 1980, execute a certain Buffalo Waterfront Retail Center, Declaration of General Covenants and Restrictions (hereinafter "DGCR") which was recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8876 of Deeds at page 657, and which DGCR affects premises located in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2, 4, 6, 8, 10, 12, 14, 3, 5, 7, 9, 11, 13, 150, 151 and 20, Buffalo Village, Township 11, Range 8 of the Holland Land Company's Survey and the abandoned Right of Way of Erie Street (99 feet wide) as more particularly described therein, and

WHEREAS, BURA was, at the time of recordation of said DGCR, the sole owner in fee simple of all lands described therein and, as of the date hereof, continues to be the sole owner of such lands, except for Parcel 4 and Parcel 5 described therein, which were conveyed by BURA to Pioneer by deed dated January 29, 1980 and recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8877 of Deeds at page 66, and

WHEREAS, Pioneer has commenced the construction of a commercial building on Parcel 4 (as described in the DGCR) and a commercial building on Parcel 5 (as described in the DGCR), the plans and specifications for which buildings have been approved by BURA, and

WHEREAS, the plans for said commercial buildings provide that they shall be physically connected at their second-story and third-story levels with a structure containing space to be leased by Pioneer to tenants of the buildings, and

WHEREAS, Section 4.01(e) of the DGCR provides, in part, that "No portion of any Structure may be located beyond the exterior boundary line of any Parcel, as the same exists on the date hereof, without the unanimous consent of all Owners (including Declarant), which consent shall not be unreasonably withheld. Any such consent shall be contained in a declaration of modification which shall be recorded among the Land Records of Erie County, New York by all Owners (including Declarant).", and

Declaration 9530 - 466 Deeds (M.P.)

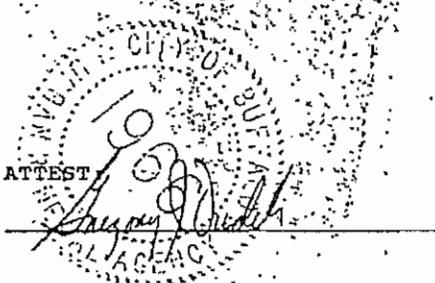
WHEREAS, BURA and Pioneer, as Owners of all of the Parcels affected by the DGCR, desire to indicate their consents to the physical connection of the commercial buildings being constructed on Parcel 4 and Parcel 5 by Pioneer,

NOW, THEREFORE, pursuant to the provisions of Section 4.01(e) of the DGCR, the parties hereto do declare as follows:

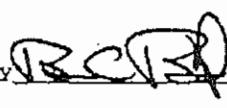
1. BURA and Pioneer each do hereby consent to the construction by Pioneer of a physical connection at the second-story and third-story levels of the buildings being constructed by Pioneer on Parcel 4 and Parcel 5 (as described in the DGCR) notwithstanding that said connection shall cross the common exterior boundary line between said Parcel 4 and Parcel 5.

2. As herein modified, the parties hereto do hereby ratify and reaffirm the DGCR.

IN WITNESS WHEREOF, BURA and Pioneer have each executed and delivered this Declaration the day and year first above written.

ATTEST  


CITY OF BUFFALO URBAN RENEWAL  
AGENCY

By 

PIONEER PROPERTIES COMPANY OF  
BUFFALO

By   
A PARTNER

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ERIE )

On this 12<sup>th</sup> day of May, 1980, before me personally came Bruce C. Baird, to me personally known, who being by me duly sworn, did depose and say that he resides in Buffalo, New York; that he is the Vice-Chairman of CITY OF BUFFALO URBAN RENEWAL AGENCY, the corporation described in, and which executed the within instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

MAY 13 3 58 PM '80  
FILED  
ERIE COUNTY  
CLERK'S OFFICE

Gregory J. Dudge  
Notary Public  
GREGORY J. DUDGE  
NOTARY PUBLIC STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires March 30, 1982

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ERIE )

On this 13<sup>th</sup> day of May, 1980, before me personally came EDWARD W. MCNEIL, to me personally known, who being by me duly sworn, did depose and say that he resides in Syracuse, New York; that he is a Partner of PIONEER PROPERTIES COMPANY OF BUFFALO; that he is known to me to be one of the partners of the Partnership that executed the within instrument; and he acknowledged to me that he executed the same on behalf of and in the name of such Partnership.

Dale L. Van Epps  
Notary Public  
DALE L. VAN EPPS  
Notary Public State of New York  
Qualified in Erie County  
My Commission Expires March 30, 1982

Box 38 (Tc)  
DECLARATION OF MONITORATION  
TO DECLARATION OF GENERAL  
COVENANTS AND RESTRICTIONS  
MADE BY 171  
THE CITY OF BUFFALO  
URBAN RENEWAL AGENCY  
DATED: MAY 12, 1980

LIBER 8906 PAGE 11

STATE OF NEW YORK  
ERIE COUNTY CLERK'S OFFICE  
Recorded in Liber 8906 Page 9  
of 9  
on the 13 day of May  
A. D. 1980, at 3:58 o'clock P.M.  
and examined.

Annice M. Hoffmann  
County Clerk

7-1025 30  
702

DECLARATION OF MODIFICATION  
TO  
DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS

THIS DECLARATION, made as of the 20<sup>th</sup> day of August, 1988 by the CITY OF BUFFALO URBAN RENEWAL AGENCY, a public body corporate, established pursuant to Article 15-A of the General Municipal Law of the State of New York, having its principal office at 920 City Hall, Buffalo, New York 14202 (hereinafter "BURA"), and PIONEER PROPERTIES COMPANY OF BUFFALO, a general partnership organized and existing under the laws of the State of New York, having its principal office at Suite 1000, 500 South Salina Street, Syracuse, New York 13202 (hereinafter "Pioneer"), and WATERFRONT ASSOCIATES, a general partnership organized and existing under the laws of the State of New York having its principal office at Suite 1000, 500 South Salina Street, Syracuse, New York 13202 (hereinafter "Associates").

WHEREAS, BURA, as Declarant, did, on January 29, 1980, execute a certain Buffalo Waterfront Retail Center, Declaration of General Covenants and Restrictions (hereinafter "DGCR") which was recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8876 of Deeds at page 657, and which DGCR affects premises located in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2,4,6,8,10,12,14,3,5,7,9,11,13,150,151 and 20, Buffalo Village, Township 11, Range 8 of the Holland Land Company's Survey and the abandoned Right of Way of Erie Street (99 feet wide) as more particularly described therein; and

WHEREAS, DGCR has been modified by BURA and Pioneer pursuant to a Declaration of Modification dated May 12, 1980 as recorded in the Erie County Clerk's office on May 13, 1980 Liber 8906 of Deeds at Page 9; and

WHEREAS, BURA has entered in a Contract for Sale of Land for Private Redevelopment with GULL LANDING, INC. (GULL) dated September 2, 1987 (hereinafter LDA), incorporated herein by reference, which provides for Gull to purchase Parcels 6,7,8 and 9 (as described in the DGCR); and

WHEREAS, the DGCR at Article II, Section 2.01 defines Commercial Parcels to mean Parcels 2 through 7 and Parcel 9 and Residential Parcels to mean Parcels 1 and 8; and

WHEREAS, the DGCR at Section 4.01(e) provides, in part, that "No portion of any structure may be located beyond the exterior boundary line of any parcel, as the same exists on the date hereof, without the unanimous consent of all owners (including Declarant), which consent shall not be unreasonably withheld"; and

~~BOX 150  
DECLARATION OF  
MODIFICATION TO  
DECLARATION OF  
GENERAL COVENANTS  
AND RESTRICTIONS  
BY  
CITY OF BUFFALO  
URBAN RENEWAL  
AGENCY,  
PIONEER PROPERTIES  
COMPANY OF BUFFALO  
AND  
WATERFRONT  
ASSOCIATES~~

LIBER 9907 PAGE 524

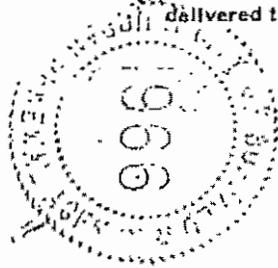
WHEREAS, the LDA Inpart, provides: that Gull may at its option construct a residential condominium tower on Parcel 6; that Gull shall construct a retail structure on Parcel 6 which structure may, and the parking facilities and landscaping of which structure shall, be constructed beyond the exterior boundary of said Parcel 6 onto the area now known as Keeler Court and only the landscaping and sidewalks of which shall be constructed upon a portion of the Waterfront Circle right-of-way adjacent to the westerly boundary of Parcel 6; that Gull shall construct a residential structure on Parcel 7, the landscaping and other amenities (including, but not limited to a private walkway) of which shall be constructed upon Parcel 9; that Gull shall construct a residential structure on Parcel 8, a portion of which structure shall be located beyond the exterior boundary line of said Parcel 8 and the landscaping and other amenities (including, but not limited to a private walkway) of which shall be constructed upon Parcel 9; and

WHEREAS, BURA, Pioneer and Associates, as Owners of all the Parcels affected by the DCCR desire to indicate their consents to the change of use of the Parcels for the Gull project and to permit the retail and residential structures on Parcels 6, 7 and 8 respectively to be located beyond the exterior boundaries of said Parcels 6, 7 and 8.

NOW THEREFORE, pursuant to the provisions of Section 3.02 and Section 4.01(e) of the DCCR, the parties hereto do declare as follows:

1. That Article II Section 2.01 of the DCCR shall be amended as follows:  
"Commercial Parcels" means the parcels designated on Exhibit A as Parcels 2 through 5 and Parcel 6, which parcel, shall also be deemed to be a Residential Parcel.  
"Residential Parcels" means the parcels designated on Exhibit A as Parcels 1,7,8 and 9 and Parcel 6, which parcel, shall also be deemed to be a Commercial Parcel.
2. BURA, Pioneer and Associates each do hereby consent to the construction by Gull of a portion of a retail structure and/or its parking facilities and landscaping to be constructed beyond the exterior boundary line of Parcel 6 onto the area now known as Keeler Court and only the landscaping and sidewalks of which to be constructed upon a portion of the Waterfront Circle right-of-way adjacent to the westerly boundary of Parcel 6.
3. BURA, Pioneer and Associates each do hereby consent to the construction by Gull of a portion of a residential structure and/or its landscaping and other amenities to be constructed beyond the exterior boundary line of Parcel 7 onto Parcel 9.
4. BURA, Pioneer and Associates each do hereby consent to the construction by Gull of a portion of a residential structure to be constructed beyond the exterior boundary line of Parcel 8 onto Parcel 9.
5. As herein modified, the parties hereto do hereby ratify and reaffirm the DCCR.

IN WITNESS WHEREOF, BURA, Pioneer and Associates have each executed and delivered this Declaration the day and year first above written.



APP. D 45 CITY OF BUFFALO  
TO FORM URBAN RENEWAL AGENCY

Daniel P. Dent  
AUG 2 - 1956

GREGORY J. DUFFEK  
CITY COMMISSIONER

BY [Signature]

PIONEER PROPERTIES COMPANY  
OF BUFFALO

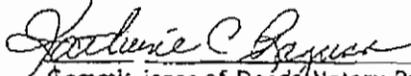
BY [Signature]

WATERFRONT ASSOCIATES

BY [Signature]

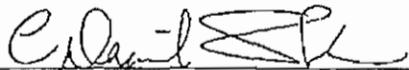
STATE OF NEW YORK)  
COUNTY OF ERIE ) SS.  
CITY OF BUFFALO )

On this 24<sup>th</sup> day of August, 1988, before me, the subscriber, personally came LAURENCE K. RUBIN to me known, who, being by me duly sworn, did depose and say that he resides at 162 Norwood Avenue, Buffalo, New York; that he is the Vice-Chairman of the City of Buffalo Urban Renewal Agency, the Corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the members of said corporation; and that he signed his name thereto by like order.

  
Commissioner of Deeds/Notary Public Ex 12/31/88  
KATHERINE C. RAGUSA

STATE OF NEW YORK)  
COUNTY OF ONONDAGA ) SS:  
CITY OF SYRACUSE )

On this 20<sup>th</sup> day of August, 1988, before me personally came EDWARD W. MCNEIL to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he is a member of the firm of PIONEER PROPERTIES COMPANY OF BUFFALO, a co-partnership, and that he executed the foregoing instrument in the firm name of PIONEER PROPERTIES COMPANY OF BUFFALO, and that he had the authority to sign the same, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

  
Notary Public

C. DANIEL SHULMAN  
Notary Public State of N.Y.  
Qual. Onon. Co., No. 34-8981350  
My Comm. Exp. 2/28/89

STATE OF NEW YORK)  
COUNTY OF ONONDAGA ) SS:  
CITY OF SYRACUSE )

On this 20<sup>th</sup> day of August, 1988, before me personally came EDWARD W. MCNEIL to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he is a member of the firm of WATERFRONT ASSOCIATES, a co-partnership, and that he executed the foregoing instrument in the firm name of WATERFRONT ASSOCIATES, and that he had the authority to sign the same, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

  
Notary Public

C. DANIEL SHULMAN  
Notary Public State of N.Y.  
Qual. Onon. Co., No. 34-8981350  
My Comm. Exp. 2/28/89

Boyd 150

8876-58013

W. Noel  
P.  
H.  
D.H.  
F. J. G.  
M. Noel

THIRD  
DECLARATION OF MODIFICATION  
TO  
DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS

THIS DECLARATION, made as of the <sup>14</sup> day of March, 1993 by the CITY OF BUFFALO URBAN RENEWAL AGENCY, a public body corporate, established pursuant to Article 15-A of the General Municipal Law of the State of New York, having its principal office at 920 City Hall, Buffalo, New York 14202 ("BURA"), PIONEER PROPERTIES COMPANY OF BUFFALO, a general partnership organized and existing under the laws of the State of New York, having its principal office at Suite 1000, 500 South Salina Street, Syracuse, New York 13202 ("Pioneer"), WATERFRONT ASSOCIATES, a general partnership organized and existing under the laws of the State of New York having its principal office at Suite 1000, 500 South Salina Street, Syracuse, New York 13202 ("Associates"), GULL LANDING JOINT VENTURE, a partnership organized and existing under the laws of the State of New York, having its principal office at 9 Waterfront Circle, Buffalo, New York 14202, and GULL LANDING CONDOMINIUM ASSOCIATION, a not-for-profit condominium association organized and existing under the laws of the State of New York, with its principal office at 9880 Transit Road, East Amherst, New York 14051.

WHEREAS, BURA, as Declarant, did on January 29, 1980, execute a certain Buffalo Waterfront Retail Center, Declaration of General Covenants and Restrictions (the "DGCR") which was recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8876 of Deeds at Page 586, and which DGCR affects premises located in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 2, 4, 6, 8, 10, 12, 14, 3, 5, 7, 9, 13, 150, 151 and 20, Buffalo Village, Township 11, Range 8 of the Holland Land Company's Survey and the abandoned Right of Way of Erie Street (99 feet wide) as more particularly described therein;

WHEREAS, the DGCR has been modified by BURA, PIONEER, and ASSOCIATES, pursuant to a Declaration of Modification dated May 12, 1980 as recorded in the Erie County Clerk's Office in Liber 8906 of Deeds at Page 9 on May 13, 1980;

WHEREAS, the DGCR has been further modified by BURA, PIONEER and ASSOCIATES, pursuant to a second Declaration of Modification dated August 20, 1988, as recorded in the Office of the Erie County Clerk in Liber 9907 at Page 524 on August 24, 1988;

WHEREAS, the DGCR at Article II, Section 2.01 defines "Commercial Parcels" as "the parcels designated on Exhibit A as parcels 2 through 5 and Parcel 6, which [such] parcel [6] shall also be deemed to be a Residential Parcel"; and

WHEREAS, the DGCR at Article II, Section 2.01 defines "Residential Parcels" as "the parcels designated on Exhibit A as 1, 7, 8, and 9, and Parcel 6, which [such] parcel [6] shall also be deemed to be a Commercial Parcel".

NOW, THEREFORE, pursuant to the provisions of Section 3.02 of the DGCR, the parties hereto do declare as follows:

- 1. Section 2.01 of the DGCR shall be amended to read as follows:

"Commercial Parcels" means the Parcels designated on Exhibit A to DGCR as 2, 3, 4, 5, and 6.

"Declarant" means BURA.

"Residential Parcels" means the Parcels designated on Exhibit A to DGCR as Parcel 1, 7, 8, and 9.

"WOA" means the Waterfront Owners Association, Inc., a New York non-profit corporation formed by Declarant for the purpose of providing non-profit, civic oriented

services, as well as constituting the organization (whose membership consists of all Owners of the

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F225-2250  
7C-3-1

**BISSELL, MERRILL & ASSOCIATES, ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS**



**EXHIBIT A - DECLARATION OF GENERAL  
COVENANTS AND RESTRICTIONS  
DATED JANUARY 29, 1980.**

5787 MAIN ST., WILLIAMSVILLE, N. Y. (BUFFALO 14221)  
AREA CODE 716 632-7000

DESCRIPTION PARCEL NO. 7

All that Tract or Parcel of Land, situate in the City of Buffalo, County of Erie and State of New York, being Part of Outer Lots 8 and 10, and being more particularly bounded and described as follows:

Commencing at the Point of Intersection of the Northerly Right of way line of Erie Street (99 feet wide) with the Westerly Blue line of the former Erie Canal, now the Westerly line of P.S.C. grade crossing elimination case #5472; Thence on the following Courses and Distances along said Blue line, North  $38^{\circ} 33' 02''$  West, 63.20 feet to a Point; Thence North  $36^{\circ} 28' 10''$  West, 382.36 feet to a Point; Thence North  $50^{\circ} 58' 05''$  West, 49.31 feet to a Point in the South line of the former Peacock Slip [REDACTED]; Thence South  $62^{\circ} 49' 43''$  West along said South line 40.14 feet to a Point; Thence North  $27^{\circ} 10' 49''$  West, 99.66 feet to a Point in the North line of the former Peacock Slip [REDACTED] and the said Blue line; Thence North  $40^{\circ} 25' 16''$  West 227.11 feet along said Blue line to a Point; Thence South  $24^{\circ} 30' 59''$  West along a line 124.34 feet to the Point of Intersection of the Westerly Right of way line of Lakefront Boulevard (80 feet wide) with the Diagonal line to the Southerly Right of way line of Waterfront Circle (60 feet wide); Thence North  $03^{\circ} 30' 19''$  West along said Diagonal line, 14.14 feet to a Point in the Southerly Right of way line of said Waterfront Circle; Thence on the following Courses and Distances along said Right of way South  $51^{\circ} 29' 41''$  West, 339.4 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 60.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West, 100.00 feet to a Point; Thence North  $38^{\circ} 30' 19''$  West, 20.00 feet to a Point; Thence South  $51^{\circ} 29' 41''$  West, 15.00 feet to the <sup>PRINCIPAL</sup> Point of Be-

ARTHUR D. BISSELL, P.E., L.S.

WILLIAM H. MERRILL, JR., P.E., L.S.

KAROLD J. SENIOR, P.E., L.S.  
CONSULTANT

LIBER 8876 PAGE 686

STORM DRAINAGE  
SEWER AND SEWAGE TREATMENT  
WATER SUPPLY AND TREATMENT

HIGHWAYS  
SUBDIVISIONS  
TOPOGRAPHIC AND BOUNDARY SURVEYS

LAND PLANNING  
COMPUTER SERVICE  
INDUSTRIAL AND MUNICIPAL REPORTS

Commercial, Residential [except Parcels 7, 8, and 9], Parking and Restaurant Parcels) responsible for maintaining the Common Areas, as contemplated in the DADA, and for representing the interests of all Persons having any interest in any portion of the Property.

2. Article VIII, Section 8.01 of the DGCR shall be deleted.
3. It is the intention of this Third Declaration of Modification to remove the Owner of Parcels 7, 8 and 9 and those Parcels from the Waterfront Owners Association (and membership therein).
4. The Owner(s) of Residential Parcels 7, 8 and 9, their successors, assigns, or tenants shall be non-voting owners with respect to any matters which, pursuant to DGCR, requires the vote of any or all owners. Further, the owners of Residential Parcels 7, 8 & 9, shall not be entitled to participate in any such meetings and shall not be counted for purposes of determining whether a quorum is present. However, any future modification of DGCR which specifically ~~and exclusively~~ affects Residential Parcels 7, 8 and 9, individually or collectively, shall require the consent of the owners of said Parcels and such consent shall not be unreasonably withheld.

*E*  
*JK*  
*570*

As herein modified, the parties hereto ratify and reaffirm the DGCR.

IN WITNESS WHEREOF, BURA, ASSOCIATES, GULL LANDING JOINT VENTURE, and GULL LANDING CONDOMINIUM ASSOCIATION have each executed and delivered this Declaration the day and year first above written.

CITY OF BUFFALO URBAN RENEWAL AGENCY

BY: *Samuel Deane*

PIONEER PROPERTIES COMPANY OF BUFFALO

BY: *[Signature]*

WATERFRONT ASSOCIATES, INC.

BY: *[Signature]*

GULL LANDING JOINT VENTURE

BY: FLC WATERFRONT, INC.

BY: *Frank Cimino*  
*President*

GULL LANDING CONDOMINIUM ASSOCIATION

BY: *John R. [Signature]*  
*President*

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS.:  
CITY OF BUFFALO )

On this 30th day of March, 1993, before me personally came SAMUEL F. IRACI, JR., to me known, who being by me duly sworn, did depose and say that he resides at 166 Nicholson Avenue, Buffalo, New York; that he is the Vice-Chairman of the CITY OF BUFFALO URBAN RENEWAL AGENCY, the corporation described in, and which executed the foregoing instrument; that he knows the seal of said corporation and that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

ELEANOR D. LUTHRINGER  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires April 16, 1994

*Eleanor D. Luthringer*  
Notary Public

106346779

STATE OF NEW YORK )  
COUNTY OF ONONDAGA ) SS.:  
CITY OF SYRACUSE )

On this <sup>8<sup>th</sup></sup> day of ~~March~~ <sup>April</sup>, 1993, before me personally came EDWARD W. MCNEIL, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he is a member of the firm of PIONEER PROPERTIES COMPANY OF BUFFALO, a co-partnership, and that he executed the foregoing instrument in the firm name of PIONEER PROPERTIES COMPANY OF BUFFALO, and that he had authority to sign the name, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

Donna M. Clary  
Notary Public

DONNA M. CLARY  
Notary Public in the State of New York  
Qualified in Onondaga County No. 480771  
My Commission Expires May 31, 1994

STATE OF NEW YORK )  
COUNTY OF ONONDAGA ) SS.:  
CITY OF SYRACUSE )

On this <sup>8<sup>th</sup></sup> day of ~~March~~ <sup>April</sup>, 1993, before me personally came EDWARD W. MCNEIL, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he is a member of the firm of WATERFRONT ASSOCIATES, <sup>INC.</sup> a co-partnership, and that he executed the foregoing instrument in the firm name of WATERFRONT ASSOCIATES, and that he had the authority to sign the same, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

Donna M. Clary  
Notary Public

DONNA M. CLARY  
Notary Public in the State of New York  
Qualified in Onondaga County No. 480771  
My Commission Expires May 31, 1994

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS.:  
CITY OF BUFFALO )

On this <sup>11<sup>th</sup></sup> day of March, 1993, before me personally came FRANK CIMINELLI, to me known to be the person who executed the foregoing instrument and who being duly sworn by me, did depose and say that he is the President of FLC WATERFRONT, INC., a corporation which is a partner of GULL LANDING JOINT VENTURE, and which he further deposes and says that he is a member of the partnership of GULL LANDING JOINT VENTURE, and that he executed the foregoing instrument in the partnership name of GULL LANDING JOINT VENTURE, and that he had authority to sign the same, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

William H. Mattrey  
Notary Public

WILLIAM H. MATTREY  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Feb. 28, 1995

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS.:  
CITY OF BUFFALO )

On this <sup>30<sup>th</sup></sup> day of March, 1993, before me personally came John Fehr, to me known, who being by me duly sworn, did depose and say that he resides at 204 GULL LANDING Buffalo, NY; that he is the PRESIDENT of GULL LANDING CONDOMINIUM ASSOCIATION, the corporation described in, and which executed the foregoing instrument; that he knows the seal of said corporation and that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Eleanor D. Luthringer  
Notary Public

ELEANOR D. LUTHRINGER  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires April 16, 1994

RECORDS  
AT 350  
ESSAY  
CIRCLE  
WATERFRONT  
NEW YORK

10634780

ERIE COUNTY CLERKS OFFICE  
County Clerk's Recording Page



Return To:

C DANIEL SHULMAN ESQ  
250 SOUTH CLINTON ST SUITE 502  
SYRACUSE NY 13202

Index DEED LIBER  
Book 10931 Page 8517  
No. Pages 0009  
Instrument AMEND/SUPPLEMNT  
Date : 5/01/1998  
Time : 2:49:42  
Control # 199805011114

CITY OF BUFFALO URBAN RENEWAL  
AGENCY

Employee ID EMS

MORTGAGE TAX

COUNTY	\$	32.50
	\$	.00
COE	\$	5.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
Total:	\$	37.50

Basic	\$	.00
Special	\$	.00
Special Addl	\$	.00
Total	\$	.00

STATE OF NEW YORK  
ERIE COUNTY CLERKS OFFICE

TRANSFER TAX

WARNING - THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 316-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH

AMOUNT	\$	.00
Transfer Tax	\$	.00

DAVID J SWARTS  
COUNTY CLERK



D109318517



FOURTH DECLARATION OF MODIFICATION  
TO  
DECLARATION OF GENERAL COVENANTS AND RESTRICTIONS

Declaration, made as of the day of 20th March, 1998 by the BUFFALO URBAN RENEWAL AGENCY, a public body corporate, established pursuant to Article 15-A of the General Municipal Law of the State of New York, having its principal office at 920 City Hall, Buffalo, New York 14202 (hereinafter "BURA"), PIONEER PROPERTIES COMPANY BUFFALO, a general partnership organized and existing under the laws of the State of New York, having its principal office at Suite 200, 250 South Clinton Street, Syracuse, New York 13202 (hereinafter "Pioneer"), WATERFRONT ASSOCIATES, a general partnership organized and existing under the laws of the State of New York having its principal office at Suite 200, 250 South Clinton Street, Syracuse, New York 13202 (hereinafter "Associates").

WITNESSETH

WHEREAS, BURA, as Declarant, did, on January 29, 1980, execute a certain Buffalo Waterfront Retail Center, Declaration of General Covenants and Restrictions (hereinafter "DGCR") which was recorded in the Erie County Clerk's Office on January 29, 1980 in Liber 8876 of Deeds at page 657, and which DGCR affects premises located in the City of Buffalo, County of Erie and of New York, being part of Outer Lots 2,4,6,8,10,12,14,3,5,7,9,11,13,150,151 and 20, Buffalo Village Township 11, Range 8 of the Holland Land Company's Survey and the abandoned Right of Way of Erie Street (99 feet wide) as particularly described therein; and

1

AMD-8-1 ~~ems~~ 1114

Record & Return To: C David Shulman Esq.  
250 South Clinton Street - Suite 502  
Syracuse, NY 13202

WHEREAS, BURA was, at the time of recordation of said DGCR, the sole owner in fee simple of all lands described therein and, as of the date hereof, continues to be the sole owner of such lands, except for Parcel 4 and Parcel 5 described therein, which were conveyed by BURA to Pioneer by deed dated January 29, 1980 and recorded in the Erie County Clerk's Office in Liber 8977 of Deeds at Page 66, and Parcel 3 described therein, which was conveyed by BURA to Associates by Deeds dated February 26, 1985 and recorded in the Erie County Clerk's Office in Liber 9425 of Deeds at Page 590 on February 27, 1985 and dated April 10, 1985 and recorded in the Erie County Clerk's Office in Liber 9438 of Deeds at page 487 on April 18, 1985 and Parcel 7 and part of Parcel 9 described therein, which were conveyed by BURA to Gull Landing, Inc. by deed dated August 24, 1988 and recorded in the Erie County Clerk's Office in Liber 9907 of Deeds at page 514 on August 24, 1988; and

WHEREAS, the DGCR was modified by a Declaration of Modification by BURA, Pioneer and Associates pursuant to a Declaration of Modification dated May 12, 1980 and recorded in the Erie County Clerk's Office on May 13, 1980 in Liber 8906 of Deeds at Page 9; and

WHEREAS, DGCR was further modified by a Second Declaration of Modification dated August 20, 1988 and recorded in the office of the Clerk of the County of Erie in Liber 9907 of Deeds at 524 on August 24, 1988; and

WHEREAS, DGCR was further modified by a Third Declaration of Modification dated March 11, 1993 and recorded in the Office of the Clerk of the County of Erie in Liber 10634 of Deeds at page 778 on April 19, 1993; and

WHEREAS, Associates may enter into an agreement to lease certain premises owned by Associates and situate on Parcel 3 (as described in the DADA) to Graphic Controls Corporation (Graphic) (the Lease); and

WHEREAS, if Associates and Graphic enter into the Lease then BURA shall enter into a Contract for Sale of Land for Private Redevelopment with Associates (hereinafter LDA), incorporated herein by reference, which provides for Associates to purchase a portion of Parcel 12 (as described in the DADA) and acquire by purchase, easement, lease or license certain portions of LaRiviere Drive in order to expand the building located on Parcel 3 (the Project); and

WHEREAS, BURA, PIONEER and ASSOCIATES have reviewed the proposal submitted by Associates for the LDA; and

WHEREAS, BURA, Pioneer and Associates, as Owners of Parcels affected by the DGCR desire to indicate their consents to the modification of DGCR for the Project as follows:

NOW, THEREFORE, pursuant to the provisions of Section 3.02 of the DGCR, the parties hereto do declare as follows:

1. Section 2.01 of DGCR is amended to read:

"Commercial Parcels" means the parcels designated on Exhibit A as Parcels 1, 1A, 3, 4 and 5, and Parcels 6 and 12 which shall also be deemed to be Parking Parcels.

"Parking Parcels" means the Parcels designated on Exhibit A, as Parcels 2, 10, 11 and 13 and Parcels 6 and 12 which shall also be deemed to be Commercial Parcels.

"Residential Parcels" means the Parcels designated on Exhibit A as Parcels 7, 8 and 9.

2. Further, pursuant to the provisions of Section 3.02 (a) of DGCR, Section 4.01 (d) is hereby amended to read as follows:

(vii) the wording, "are now constituted" in the last line thereof is hereby deleted and the words "shall be constituted following the relocation of LaRiviere Drive in connection with the Project," is substituted therefor;

(viii) the wording, "are now constituted" in the last line thereof is hereby deleted and the words "shall be constituted following the relocation of LaRiviere Drive in connection with the Project" is substituted therefore;

(ix) (h) is added to state: (h) grade-level parking;

(x) "Parcel 12 and/or Parcel 13" is hereby deleted; and

A new subsection 4.01(d)(xii) is hereby added:

"(xii) BURA shall have the right, upon notice to, but without the need for, consent by any signatories of DGCR, to construct or authorize or allow to be constructed a commercial structure or structures having a square footage no greater than 60,000 square feet on Parcels 1 and/or 1A.

In the event that BURA constructs, authorizes or allows to be constructed a commercial structure or structures having a square footage greater than 60,000 square feet on Parcels 1 and/or 1A then BURA shall obtain the consent of the other signatories to the DGCR for such construction. The consent BURA shall obtain shall be limited to site plan approval/consent by the other signatories. In the event that a signatory has not responded to BURA with either a consent/approval or rejection within 30 days from

the presentation of site plans to such signatory, the consent of such signatory shall be deemed given without further action required by BURA or the other signatories to the DGCR."

"In connection with such construction BURA shall have the right to revise the boundary line of Parcel 1A in order to incorporate into Parcel 1A for all purposes any of the land which is presently the cul-de-sac area at the southerly end of La Riviere Drive and which presently lies to the southeast of the south line of Parcel 3 as extended southwesterly in a straight line to the northeast boundary of Parcel 1A which line forms a ninety degree (90) angle with the northeast boundary of Parcel 1A. This area may be available for use following a reconfiguration of said La Riviere Drive to alter or eliminate such cul-de-sac."

A new subsection 4.01(d) (xiii) is hereby added:

Parcel 2 shall not be changed from a Parking Parcel (however, the construction thereon as of the date of this Declaration is ratified by the parties hereto)

Parking Spaces to be developed on Parcel 2 shall be limited to at-grade parking only and construction thereon of a parking deck or other parking structure shall not be permitted. Parking Spaces on Parcel 2 shall be developed with green areas comparable to those green areas in the existing Parking Parcels as of the date hereof."

Subsection 4.01(d) (xi) is hereby renumbered as subsection 4.01(d) (xiv).

3. Section 4.01(e) is hereby amended to read as follows:

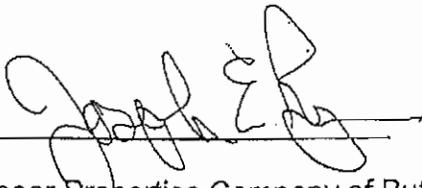
"No portion of any Structure may be located beyond the exterior boundary line of any Parcel, as the same exists on the date hereof, without the unanimous consent of all Owners (including Declarant) which consent shall not be unreasonably withheld.

Any such consent shall be contained in a declaration of modification which shall be recorded among the Land Records of Erie County, New York by all Owners (including Declarant). The foregoing shall not, however, be deemed to prohibit the construction of any at grade or above grade enclosed walkways designed for pedestrian traffic between Parcels or between any Parcel and any other property in the Vicinity, the construction of which shall be subject to all provisions of the Declaration except this Section 4.01(e). Notwithstanding anything to the contrary contained in this Section 4.01(e) or elsewhere in this Agreement, the Owners of Parcels 1 and 1A may locate structures over the boundaries common to Parcels 1 and 1A and the owners of Parcels 3 and 4 may locate structures over the boundaries common to Parcels 3 and 4; and the owner of Parcels 3 and 4 may locate structures over the boundaries of Parcels 3 and 4 which abut LaRiviere Drive and the Owner of Parcels 3 and 4 shall also be permitted to build on LaRiviere Drive or any portion thereof which may be abandoned by the City without the consent of the other Owners."

As hereby modified, the parties hereto ratify and reaffirm the DGCR.

IN WITNESS WHEREOF BURA, PIONEER and ASSOCIATES have executed this Fourth Declaration the day and year above written.

City of Buffalo Urban Renewal Agency

By  \_\_\_\_\_

Pioneer Properties Company of Buffalo

By  \_\_\_\_\_

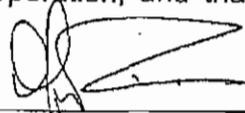
Waterfront Associates

By  \_\_\_\_\_

State of New York)

County of Erie ) ss.:  
City of Buffalo )

On this 20 day of March, 1998, before me personally came Joseph Ryan, to me known, who being by me duly sworn, did depose and say that he resides at 920 City Hall, Buffalo, New York; that he is the Vice Chairman of the CITY OF BUFFALO URBAN RENEWAL AGENCY, the corporation described in, and which executed the foregoing instrument; that he knows the seal of said corporation and that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.



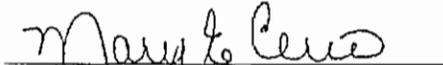
Notary Public

MICHAEL C. TRIMBLE  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires April 30, 1999

State of New York )  
County of Onondaga ) ss.:  
City of Syracuse )

On this 16<sup>th</sup> day of March, 1998 before me personally came Michael J. Lazar, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he is a member of the firm of PIONEER PROPERTIES COMPANY OF BUFFALO, a co-partnership, and that he executed the foregoing instrument in the firm name of PIONEER PROPERTIES COMPANY OF BUFFALO, and that he had authority to sign the name, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

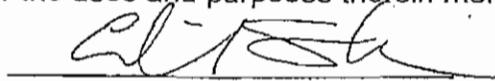
MARY E. CERIO  
Notary Public, State of New York  
Registered in Onondaga County  
No. 4996808  
Commission Expires 05/26/98

  
Notary Public

State of New York )  
County of Onondaga ) ss.:  
City of Syracuse )

On this 13<sup>th</sup> day of March, 1998, before me personally came Daniel J. Murphy, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he is a member of the firm of WATERFRONT ASSOCIATES, a co-partnership, and that he executed the foregoing instrument in the firm name of WATERFRONT ASSOCIATES, and that he has the authority to sign the same, and he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

C. DANIEL SHULMAN  
Notary Public, State of New York  
Qualified in Onondaga County  
No. 34-8981350  
Commission Expires 2/28/99

  
Notary Public