AMENDMENT TO
DECLARATION OF COVENANTS

This Amendment to Declaration of Covenants is entered into the **30th** day of **December, 2002,** by and among HIGH STREET COLUMBIA, LLC, a Delaware limited liability company ("Grantor"), successor in interest to the Columbia Hospital for Women ("Original Grantor"); ADVISORY NEIGHBORHOOD COMMISSION 2A ("ANC 2A") and the FOGGY BOTTOM ASSOCIATION ("FBA", ANC 2A and FBA being hereinafter collectively referred to as "Grantees").

W I T N E S S E T H:

WHEREAS, on or about September 2, 1987, Original Grantor executed and delivered that certain Declaration of Covenants dated September 2, 1987, for the benefit of Grantees which was recorded among the Land Records of the District of Columbia on September 21, 1987, as Instrument No. 53557 affecting certain real property and the improvements thereon ("Improvements") owned by the Original Grantor as described therein and herein as Lot 19 of Square 25 in the District of Columbia as shown on the records of the Surveyor of the District of Columbia in Book 153, Page 89, as attached hereto and made a part hereof as Exhibit "A" (the "Property"); and

WHEREAS by Deed from Original Grantor to Grantor dated September 18, 2002, and recorded among the Land Records of the District of Columbia on September 20, 2002, as Instrument No. 2002109427, Grantor acquired the Property from Original Grantor; and

WHEREAS, pursuant to a certain legislative amendment adopted as part of the Balanced Budget Act of 1997, Section 11716, as attached hereto and made a part hereof as Exhibit "B", the restriction imposed on the Property limiting the use of a portion of the Property to a hospital for women was removed; and

ZONING COMMISSION
District of Columbia
CASE NO.03-11
EXHIBIT NO.3H

WHEREAS Grantor desires to renovate the existing Improvements pursuant to the Redevelopment Plan described in Exhibit "C" attached hereto and made a part hereof, subject to such modifications during the course of proceedings as may be ordered by the relevant District of Columbia agencies and agreed to by Grantor; and

WHEREAS, Grantees, having reviewed and approved the Redevelopment Plan as described in Exhibit C and having recognized that the rezoning of the Property was necessary to permit this use of the Property as set forth in the Redevelopment Plan and wishing to minimize any adverse impact of any rezoning on the neighborhood, support Grantor's application for rezoning from the R-5-D to C-2-C District, and any other approvals necessary from any other District of Columbia agency to implement the Redevelopment Plan subject to Grantor's agreement to amend the Original Declaration as hereinafter described.

NOW, THEREFORE, in consideration of Ten Dollars ($10.00) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantees, Grantor and Grantees do hereby covenant and agree to amend the Original Declaration as follows:

1. Paragraph 1 of the Original Covenant is deleted in its entirety and replaced with the following:

> "1. The amount of gross floor area, as defined in section 199 of the Zoning Regulations, of the improvements on the Subject Property shall not exceed 350,000 square feet, nor exceed a density of 3.5 floor area ratio ("FAR"). Not more than 28,000 of the 350,000 square feet of gross floor area shall be devoted to service or retail uses listed in sections 701 and 721 of the Zoning Regulations, except that the improvements on the Subject Property shall not include commercial office or hotel space. The balance of the gross floor area square footage on the Property shall be devoted to residential apartment house uses, as defined in section 199 and as permitted pursuant to sections 350 and 354 of the District of Columbia Zoning Regulations. The residential units shall be sold as condominiums.

2. Paragraph 5 of the Original Declaration is hereby deleted; provided, however, these covenants, conditions and restrictions are to run with the land and are not deemed to be personal to the Grantor or any Grantee and shall be binding upon the Grantor, its successors, heirs and assigns and all parties claiming by, through or under it shall be taken to hold, agree and covenant with the Grantor, its successors, heirs and assigns, to conform to and observe said restrictions.

3. The last sentence of Paragraph 6 of the Original Declaration is hereby deleted and replaced with the following sentence: "These covenants shall terminate and be released automatically, without the need for any further approval from any party, on September 20, 2037."

4. Paragraph 9 of the Original Covenant is hereby amended to change the notice addresses as follows:

High Street Columbia, LLC
c/o Trammell Crow Company
1055 Thomas Jefferson Street, N.W.
Suite 600
Washington D.C. 20007
Attn: Jeffrey Sherman or Robert Murphy

and is hereby substituted for Columbia Hospital for Women.

5. Paragraph 11 of the Original Covenant is deleted in its entirety and replaced with the following:

"11. The obligation of the parties to this Declaration of Covenants shall only become effective either:

"(a) after the issuance of the final written order of the Zoning Commission granting the zoning change requested by the Grantor and no appeal has been taken from said final order of the Zoning Commission, or if an appeal is timely filed, upon a decision by the court upholding the zoning change; or

"(b) upon a determination by the Grantor, at Grantor's sole discretion, to develop a residential apartment house project in excess of 230,000 square feet of gross floor area notwithstanding the disposition of the Zoning Commission case."

6. This amendment to the Declaration of Covenants shall be recorded among the Land Records of the District of Columbia at the later of (a) the expiration of the appeal period for the Zoning Commission order approving the requested rezoning or a Board of Zoning Adjustment order approving any other necessary zoning relief, or if a timely appeal is taken, upon a decision by the court upholding the zoning change; or (b) the expiration of the appeal period for any final decision or order approving the Redevelopment Plan issued by the District of Columbia Historic Preservation Review Board or the Mayor's Agent for Historic Preservation.

7. This Amendment to the Declaration of Covenants may be executed in counterparts, each of which shall be deemed an original and all counterparts together shall constitute one and the same Amendment.

[Signature Pages Follow]

IN WITNESS WHEREOF, on the day and year first hereinabove written, the said High Street Columbia, LLC, a Delaware limited liability company, has caused these presents to be executed with its name by Jeffrey Sherman, its Ex. V.P., and does hereby constitute and appoint Jeffrey Sherman its true and lawful attorney-in-fact for it and in its name to appear before any officer authorized by law to take and certify acknowledgements and then and thereto acknowledge and deliver these presents as its act and deed.

ATTEST:

Mary Carolyn Brown

HIGH STREET COLUMBIA, LLC,
a Delaware limited liability company

By: High Street Columbia, Inc., a
Delaware corporation

By: Jeffrey Sherman
Name: Jeffrey Sherman
Title: Exec. Vice President

DISTRICT OF COLUMBIA, ss:

I, Myra F. Powe, a Notary Public in and for the District of Columbia, do hereby certify that Jeffrey Sherman, who is named as attorney-in-fact for High Street Columbia, LLC, party to the foregoing and attached Amendment to Declaration of Covenants bearing date of the 30 day of December, 2002, personally appeared before me and the said Jeffrey Sherman, being personally well known to me as the person named as attorney-in-fact in said Amendment to Declaration for said High Street Columbia and acknowledged said Amendment to Declaration to be the act and deed of said High Street Columbia, LLC and delivered the same as such.

GIVEN under my hand and seal this 30 day of December, 2002.

Myra F. Powe
Notary Public, D.C.

My commission expires: My Commission Expires July 14, 2004

IN WITNESS WHEREOF, on the day and year first hereinabove written, the said ADVISORY NEIGHBORHOOD COMMISSION 2A has caused these presents to be signed by ELIZABETH B. ELLIOTT, its CHAIRPERSON, and does hereby constitute and appoint ELIZABETH B. ELLIOTT its true and lawful attorney-in-fact for it and in its name to appear before any officer authorized by law to take and certify acknowledgements and then and thereto acknowledge and deliver these presents as its act and deed.

ATTEST:

ADVISORY NEIGHBORHOOD COMMISSION 2A

By:

DISTRICT OF COLUMBIA, ss:

I, Myra F. Power, a Notary Public in and for the District of Columbia, do hereby certify that Elizabeth B. Elliott, who is named as attorney-in-fact for Advisory Neighborhood Commission 2A, party to the foregoing and attached Amendment to Declaration of Covenants bearing date of the 30 day of December, 2002, personally appeared before me and the said Elizabeth B. Elliott, being personally well known to me as the person named as attorney-in-fact in said Amendment to Declaration for said Advisory Neighborhood Commission 2A and acknowledged said Amendment to Declaration to be the act and deed of said Advisory Neighborhood Commission 2A and delivered the same as such.

GIVEN under my hand and seal this 30 day of December, 2002.

Notary Public, D.C.

My commission expires: My Commission Expires July 14, 2004.

IN WITNESS WHEREOF, on the day and year first hereinabove written, the said FOGGY BOTTOM ASSOCIATION has caused these presents to be signed by RONALD COCOME, its PRESIDENT, and does hereby constitute and appoint RONALD COCOME its true and lawful attorney-in-fact for it and in its name to appear before any officer authorized by law to take and certify acknowledgements and then and thereto acknowledge and deliver these presents as its act and deed.

ATTEST:

FOGGY BOTTOM ASSOCIATION

By: Ronald Cocome
Its: PRESIDENT

DISTRICT OF COLUMBIA, ss:

I, Myra F. Powe, a Notary Public in and for the District of Columbia, do hereby certify that Ronald Cocome, who is named as attorney-in-fact for Foggy Bottom Assiation, party to the foregoing and attached Amendment to Declaration of Covenants bearing date of the 30 day of December, 2002, personally appeared before me and the said Ronald Cocome, being personally well known to me as the person named as attorney-in-fact in said Amendment to Declaration for said Foggy Bottom Association and acknowledged said Amendment to Declaration to be the act and deed of said Foggy Bottom Association and delivered the same as such.

GIVEN under my hand and seal this 30 day of December, 2002.

Myra F. Powe
Notary Public, D.C.

My commission expires: My Commission Expires July 14, 2004

EXHIBIT "A"

Legal Description

Lot 19, Square 25 in the District of Columbia as shown on the records of the Surveyor of the District of Columbia in book 153, Page 89.

EXHIBIT "B"

Legislative Amendment

BALANCED BUDGET ACT OF 1997

For Legislative History of Act, see Report for P.L. 105–33 in U.S.C.C. & A.N. Legislative History Section.

For Signing Statement of Act, see Statement for P.L. 105–33 in U.S.C.C. & A.N. Legislative History Section (U.S.C.C. & A.N. No. 8).

An Act to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Balanced Budget Act of 1997.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Food Stamp Provisions
Title II—Housing and Related Provisions
Title III—Communications and Spectrum Allocation Provisions
Title IV—Medicare, Medicaid, and Children's Health Provisions
Title V—Welfare and Related Provisions
Title VI—Education and Related Provisions
Title VII—Civil Service Retirement and Related Provisions
Title VIII—Veterans and Related Provisions
Title IX—Asset Sales, User Fees, and Miscellaneous Provisions
Title X—Budget Enforcement and Process Provisions
Title XI—District of Columbia Revitalization

TITLE I—FOOD STAMP PROVISIONS

SEC. 1001. EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) 15-PERCENT EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CASELOAD.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

"(ii) COVERED INDIVIDUAL.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

"(I) is not eligible for an exception under paragraph (3);

"(II) does not reside in an area covered by a waiver granted under paragraph (4);

*Note: This is a hand enrollment pursuant to Public Law 105–33.

SEC. 11716. REPEAL TERM OF DEED OF CONVEYANCE TO CERTAIN HOSPITAL.

Section 2 of the Act of June 6, 1952 (chapter 486; 66 Stat. 288) (DC Code, sec. 32–121) is hereby repealed.

SEC. 11717. SHORT TITLE OF HOME RULE ACT.

(a) IN GENERAL.—Section 101 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking "District of Columbia Self-Government and Governmental Reorganization Act" and inserting "District of Columbia Home Rule Act".

(b) REFERENCES IN LAW.—Any reference in law or regulation to the District of Columbia Self-Government and Governmental Reorganization Act shall be deemed to be a reference to the District of Columbia Home Rule Act.

CHAPTER 3—EFFECTIVE DATE; GENERAL PROVISIONS

18 USC 4246 note.

SEC. 11721. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.

SEC. 11722. TECHNICAL ASSISTANCE.

Any Federal agency (as defined in section 101 of title 31, United States Code) may provide, at the discretion of the head of the agency, technical assistance to, and training for, personnel of the Government of the District of Columbia. Such assistance shall be limited to assistance that does not interfere with the mission of the agency. The authority provided by this section shall expire three years from the date of enactment of this statute.

SEC. 11723. LIABILITY.

(a) DISTRICT OF COLUMBIA.—The District of Columbia shall defend any civil action or proceeding pending on the effective date of this title in any court or other official municipal, state, or federal forum against the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding.

(b) STATE JUSTICE INSTITUTE.—The State Justice Institute shall not be liable for damages or equitable relief on the basis of the activities or operations of any federal or District of Columbia agency which receives funds through the State Justice Institute pursuant to this title.

(c) UNITED STATES.—The United States, its officers, employees, and agents, and its agencies shall not—

(1) be responsible for the payment of any judgments, liabilities or costs resulting from any action or proceeding against the District of Columbia or its agencies, officers, employees, or agents;

(2) be subject to liability in any case on the basis of the activities of the District of Columbia or its agencies, officers, employees, or agents; or

(3) be subject to liability in any case under section 1979 of the Revised Statutes (42 U.S.C. 1983).

(d) LIMITATIONS.—Nothing in this section shall be construed as a waiver of sovereign immunity, or as limiting any other defense or immunity that would otherwise be available to the United States, the District of Columbia, their agencies, officers, employees, or agents.

Approved August 5, 1997.

LEGISLATIVE HISTORY—H.R. 2015 (S. 947):

HOUSE REPORTS: Nos. 105–149 (Comm. on the Budget) and 105–217 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 143 (1997):

June 25, considered and passed House; considered and passed Senate, amended, in lieu of S. 947.

July 30, House agreed to conference report. Senate considered conference report.

July 31, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 33 (1997):

Aug. 5, Presidential remarks and statement.

Aug. 11, Presidential remarks and special message on line item veto.

FEDERAL REGISTER, Vol. 62 (1997):

Aug. 12, Cancellation of item pursuant to Line Item Veto Act.

June thirtieth, nineteen hundred and seventeen, and for other purposes", approved July 28, 1916 (sec. 556, title 39, U. S. C.),[15] and insert in lieu thereof, the following: "Railroad companies carrying the mails shall submit, under the signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence as to the performance of service."

(5) Subsection (j) of section 405, title IV of the Act entitled "An Act to create a Civil Aeronautics Authority, and to promote the development and safety and to provide for the regulation of civil aeronautics", approved June 23, 1938, as amended (sec. 485, title 49, U. S.C),[16] is hereby further amended to read as follows:

"(j) Air carriers transporting or handling United States mail shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the performance of mail service; and air carriers transporting or handling mails of foreign countries shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the amount of such mails transported or handled, and the compensation payable and received therefor."

Approved June 28, 1952.

DISTRICT OF COLUMBIA—CONVEYANCE OF LAND

CHAPTER 486—PUBLIC LAW 423

[H. R. 7253]

An Act to authorize the conveyance to the Columbia Hospital for Women and Lying-in Asylum of certain parcels of land in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Subject to the provisions of section 2 of this Act, the Administrator of General Services and the Commissioners of the District of Columbia are directed to convey, without monetary consideration, to the Columbia Hospital for Women and Lying-in Asylum, Washington, District of Columbia, a corporation created by the Act of June 1, 1866 (14 Stat. 55), all right, title, and interest of the United States and of the District of Columbia in and to those pieces or parcels of land in the District of Columbia, described as follows, together with all improvements thereon and appurtenances thereto:

(a) All that piece or parcel of land situate and lying in the city of Washington in the District of Columbia and known as part of square numbered 25, as laid down and distinguished on the plat or plan of said city, as follows: Beginning at the southeast corner of said square and running thence north with Twenty-fourth Street two hundred and thirty-one feet and seven inches; thence west two hundred and thirty feet and six inches; thence north to M Street two hundred and thirty-one feet and ten inches; thence west with M Street two hundred and fifteen feet and six inches to Twenty-fifth Street; thence south with Twenty-fifth Street two hundred and sixty-three feet and five inches; thence east two hundred feet; thence south to L Street two hundred feet; thence east with L Street two hundred and forty-six feet to the beginning; and being the property conveyed to the United States of America by deed dated October 17, 1876, from the Columbia Hospital for Women and Lying-in Asylum, recorded in liber 836, folio 159, of the land records of the District of Columbia.

(b) All that piece or parcel of land situate and lying in the city of Washington in the District of Columbia on the northeast corner of L and Twenty-fifth Streets Northwest, being a part of original square num-

15. 39 U.S.C.A. § 556.
16. 49 U.S.C.A. § 485.

bered 25, as follows: Beginning at the southwest corner of said square and running thence east with the line of said L Street two hundred feet for a corner; thence north two hundred feet for a corner; thence west two hundred feet for a corner; and thence south two hundred feet to the place of beginning; containing forty thousand square feet of ground, more or less, and being the property conveyed to the United States of America by deed dated July 6, 1872, from the Columbia Hospital for Women and Lying-in Asylum and Edward Maynard, recorded in liber 811, folio 481 of the land records of the District of Columbia.

Sec. 2. The deed conveying the property described in the first section of this Act shall provide that no part of said property shall, without the consent of the United States, be devoted to any other purpose than a hospital for women.

Sec. 3. The provisions of the paragraph following the appropriation for the Washington Hospital for Foundlings in the Act of March 3, 1893 (27 Stat. 552, 553, D.C.Code, title 32, sec. 1003), creating a lien in favor of the United States with respect to the appropriations referred to therein, shall also apply to the appropriations in the aggregate amount of $50,000, granted in the Act of June 10, 1872 (17 Stat. 360), and in the Act of March 3, 1875 (18 Stat. 386), for the purchase by the United States of the property described in the first section of this Act, and the acceptance by the Columbia Hospital for Women and Lying-in Asylum of the conveyance of said property shall be deemed an acceptance of and agreement to this provision.

Sec. 4. (a) The following provisions of law are hereby repealed:

(1) So much of the second paragraph under the heading "Columbia Hospital for Women and Lying-in Asylum, and Other Charities," in the Act of June 10, 1872 (17 Stat. 360), as reads: "; and that in addition to the directors, whose appointments are now provided for by law, there shall be three other directors appointed in the following manner: One Senator by the President of the Senate, and two Representatives by the Speaker of the House; these directors shall hold their office for the term of a single Congress, and be eligible to a reappointment";

(2) The provisos which immediately follow the appropriations for the Columbia Hospital for Women and Lying-in Asylum, in the Acts of June 4, 1880 (21 Stat. 157), July 14, 1892 (27 Stat. 164), and March 3, 1893 (27 Stat. 551, D.C.Code, title 32, sec. 315); and

(3) The proviso under the heading "Columbia Hospital for Women and Lying-in Asylum", in the Act of March 4, 1915 (38 Stat. 1147, D.C.Code, title 32, section 314), as amended.

(b) The repeals effected by paragraphs (1) and (2) of subsection (a) of this section shall not affect the current term of office of any trustee or director of the Columbia Hospital for Women and Lying-in Asylum appointed prior to the date of the enactment of this Act, and the existing directors and their successors shall have all the powers and authority of the original incorporators named in the Act of Incorporation of said hospital (Act of June 1, 1866, 14 Stat. 55) and the power to fill vacancies on the board of directors.

Approved June 28, 1952.

EXHIBIT "C"

Redevelopment Plan

The Redevelopment Plan contemplates the retention of the original 1915-16 portion of the Columbia Hospital for Women building as designed by Nathan Wyeth, removal of all non-contributing additions and alterations, and construction of new wings on the east and west side of the building. The rear wall of the original building will be modified and the depth of the building increased slightly to accommodate residential use. The new construction will be built to a height of ninety feet. The retained historic building and the new construction together will contain approximately 350,000 square feet of gross floor area, or an approximate density of 3.5 FAR, which will accommodate approximately 28,000 square feet of space devoted to retail and service uses, with the remainder of the space devoted to residential uses, and no space devoted to commercial office or hotel use.