

and over, and the right to restrict the use of, the following property, more particularly described as:

SEE EXHIBIT "A" ATTACHED HERETO FOR DESCRIPTION OF PROPERTY

The restrictions hereby imposed on the use of the property shall be a qualified conservation contribution in accord with Section 170(h) of the Internal Revenue Code (1954 - as amended). Grantor covenants on behalf of itself, its successors and assigns, such covenants and restrictions upon the premises as set forth below. Grantor hereby grants the following such covenants and restrictions to run with the land in perpetuity and to be referred to in any subsequent conveyance of the interest of the Grantor, although failure to so refer shall not impair the easement:

- I. Without the prior express written consent of Grantee, Grantor will not undertake nor permit to be undertaken, (a) any construction, alteration, remodeling, repainting, refinishing, or any other thing which would alter or change the present appearance of the facade of any of the improvements; or (b) any abrasive cleaning (of masonry); or (c) the exterior extension of the existing structures or the erection of any new or additional structures on the property or in the open space above the land; provided, however, the cleaning, reconstruction, repair, repainting, or refinishing of the facade in its present state, damage to which has resulted from destruction or deterioration, shall be permitted without consent of Grantee so long as it is performed in a manner which will leave unchanged the appearance of the facade as it exists at this date or as it existed at the time the improvements were first made; and provided, further, that no signs, billboards, or advertising shall be placed upon said premises, except in (i) such plaques or other markers for commemorating the historic importance of the premises or the grant of this easement, or (ii) are necessary to direct pedestrians or vehicular traffic, or (iii) indicate no more than the street address and the names of the occupants of the premises, (unless suitable signage has previously been reserved for commercial activities within the Grantor's structure). (d) For purposes of this grant of easement, the "facade" of the improvements on the property consists of the surfaces of all improvements, including without limitation, the exterior walls, roofs and chimneys, as depicted in the written description and in the photographs or drawings as

attached hereto as Exhibit A. These photographs or measured drawings shall be kept on file with the Grantee with an appropriate inscription and with the initials of the Grantor and an agent of the Grantee. It is the intent of the parties that these photographs or drawings shall constitute a convenient record of the present state of the building and property referred to in this deed of easement, as of the date of this deed of easement, and shall be used as the primary evidence of the present state, in enforcing the terms of this deed of easement; provided, however, that the nonexistence or unavailability of these photographs shall not preclude or prevent a future determination of the present state by any other means for evidence thereof.

- II. The Grantor agrees at all times to maintain the lot and structure herein described, and the exterior appearance of the property in good and sound state of repair and no extension, additional structures, or change shall be permitted without the prior, express written consent of Grantee, except that, in the event of damage resulting from casualty loss to an extent rendering repair or reconstruction of the existing improvements impracticable, erection of a comparable structure, the design of which shall be subject to prior approval of Grantee, shall be permitted.
- III. The said premises are to be used for only general business, commercial, office, residential and/or retail uses, and without the prior express written consent of Grantee, the type and use of the property shall not be changed.
- IV. Without the prior express written consent of Grantee, the property shall not be subdivided into: (a) more than two (2) separate fee simple parcels or (b) more than six (6) separate condominium units.
- V. Without the prior express written consent of Grantee, no new above ground utility transmission lines hereafter may be erected of said land.
- VI. As to adjoining gardens or grounds included in subject property, no structures above ground or below ground shall be permitted without prior express written consent of Grantee.
- VII. Grantee, in order to insure the effective endorsement of this easement, shall have, and Grantor hereby grants to it, the following rights:
 - (a) Grantor agrees that the officers of Grantee and/or a person or persons, delegated by them, shall be permitted annually, at a reasonable time, to come upon the premises to inspect for violation of any of the covenants of the deed of easement.

- (b) In the event of a violation of this easement, and upon reasonable notice of Grantor, (i) the right to institute legal proceedings to enjoin by ex parte, temporary and/or permanent injunction, to require the restoration of the premises to their prior condition, to be reimbursed for all costs and attorneys fees, and to avail itself of all other legal and equitable remedies; (ii) the right to enter upon the premises at a reasonable time and upon ten days' advance notice and correct such violations and hold Grantor responsible for the cost thereof; and (iii) the right to place a lien against the property to secure the payment of any obligations arising under this paragraph.
- (c) Grantor acknowledges that Grantee has an inadequate remedy at law.
- (d) Notwithstanding any provision to the contrary contained hereby, the Grantee's remedy shall be solely against the then present owner(s) of the property.

VIII. This Easement shall survive any termination of Grantee's existence. The rights of Grantee under this instrument then shall be run for the benefit of and may be exercised by its legal successors, the Charleston Museum and in the event of any termination of the Charleston Museum's existence, then the Carolina Art Association and in the event of any termination of the Carolina Art Association, then the City of Charleston, South Carolina.

- IX. In the event that Grantee should at some future date acquire full title to the subject property and merger of titles should occur, any reconveyance by Grantee of subject property shall occur subject to the provisions of this easement.
- X. Grantor, for himself, his heirs and assigns, agrees that Grantee, its successors and assigns, may provide and maintain a plaque on the street facade of the premises not to exceed six by eight inches in size, mounted flush on the front exterior of the house, with design approved by the Board of Architectural Review and any other applicable authority pursuant to established procedure, giving notice to the grant of this easement.
- XI. Although this facade (and/or open space) conservation easement will benefit the public in ways recited above, nothing herein shall be construed to convey a right to the public for access or use of the property by the public, and the Grantor, their heirs, successors or assigns, shall retain exclusive right to access and use, subject only to the provisions herein recited.

BK S 150PG849

TO HAVE AND TO HOLD, ALL AND SINGULAR, THIS GRANT OF CONSERVATION EASEMENT OVER SAID PREMISES, UNTO SAID HISTORIC CHARLESTON FOUNDATION, FOREVER.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 30th day of December, 1985.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

GRANTOR:
38 BROAD STREET ASSOCIATES

Jonathan J. Boston
Thomas B. Ashburner

By: [Signature]

Its Partner

GRANTEE:
HISTORIC CHARLESTON FOUNDATION, INC.

[Signature]

By: Lawrence Walker

Its: Vice President

Jonathan J. Boston

By: Douglas C. Hale

Its: Secy/Treas.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

BK S 150PG850

PERSONALLY appeared before me Henry B. Fishburne and made oath that (s)he saw the within named 38 Broad Street Associates, by Mark C. Tannenbaum, its partner, sign, seal, and as his act and deed, deliver the within written instrument; and that (s)he with Jonathan H. Poston witnessed the execution thereof.

Henry B. Fishburne

SWORN TO before me this
30 day of December, 1985.

Jonathan H. Poston
Notary Public for South Carolina
My Commission Expires: May 11, 1994

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY APPEARED before me Patricia F. Groves and made oath that (s)he saw the within named Historic Charleston Foundation, Inc., by Lawrence A. Walker, its Vice-President, and by Douglas C. Plate, its Sec'y.-Treas., sign, seal, and as his act and deed, deliver the within written instrument; and that (s)he with Jonathan H. Poston witnessed the execution thereof.

Patricia F. Groves

SWORN TO before me this
30th day of December, 1985.

Jonathan H. Poston
Notary Public for South Carolina
My Commission Expires: My Commission Expires May 11, 1994

BK S 150PG851

12/31/85 LAW
DCL
M.G.

EXHIBIT "A"

DESCRIPTION OF PROPERTY

ALL those pieces, parcels or lots of land, together with the buildings and improvements thereof, situate, lying and being in the City and County of Charleston, South Carolina, shown and designated as Lot A and Lot B on a plat by George A.Z. Johnson, Jr., Inc., dated May 26, 1975, entitled "Plat of Lots A and B (#241 & #243 East Bay St.), Charleston, S.C." and recorded in Plat Book T, Page 102, R.M.C. Office for Charleston County, South Carolina and having such size, shape, buttings, boundings, dimensions and locations as will appear by reference be all the dimensions and measurements and locations shown thereon, a little more or less. In the current numbering system of the City of Charleston, S.C., Lot A is known as 241 East Bay Street and Lot B is known as 243 East Bay Street.

Said Lot A butts and bounds and measures and contains according to said plat to the East on East Bay Street, 25.60 feet; to the South on Guignard Street, 124.42 feet; to the West on Lot C, 24.78 feet; and to the North on said Lot B, 119.95 feet; be all the said dimensions a little more or less.

Said Lot B butts and bounds and measures and contains as follows: To the East on East Bay Street, 28.00 feet; to the South on said Lot A, 119.95 feet; to the West on Lot C, 27.83 feet; and to the North on No. 245 East Bay Street 115.10 feet, be all the said dimensions a little more or less.