

parking & access easement
RESOLUTION OF THE CITY COUNCIL

No. 731

Approved November 10, 2000

RESOLVED, that His Honor, the Mayor, is hereby authorized to execute a document entitled, "Exclusive Parking and Access Easement" between the City of Providence and 530 Realty Trust for an easement located at the corner of Broadway and Bainbridge Avenue in the City of Providence, substantially in the form attached.

IN CITY COUNCIL
NOV 2 2000
READ AND PASSED


PRES.

CLERK

APPROVED

NOV 10 2000


MAYOR

IN CITY COUNCIL

SEP 7 2000

FIRST READING

REFERRED TO COMMITTEE ON

CITY PROPERTY

THE COMMITTEE ON
CITY PROPERTY
Approves Passage of
The Within Resolution:

Claire Pettit
10/12/2000 Clerk

Michael R. Clement

Council President Lombardi

**EXCLUSIVE
PARKING AND ACCESS EASEMENT**

This Easement is made as of the _____ day of November, 2000, by and between the **CITY OF PROVIDENCE**, a municipal corporation having an address of 25 Dorrance Street, in the City of Providence, State of Rhode Island 02903 (the "City") and _____, **as Trustee of the 530 Realty Trust**, a _____ Realty Trust with an address of 530 Broadway, Providence, Rhode Island (the "Trust").

W I T N E S S E T H:

WHEREAS, the City owns and has title to a certain real estate on the westerly side of Bainbridge Avenue in the City of Providence as more particularly described on Exhibit A attached hereto and incorporated herein (the "Easement Area") and as shown on the Confirmatory Easement Plan attached hereto as Exhibit B, which Easement Area is a portion of Lot 543 on the City of Providence Tax Assessor's Plat 35, as presently _____;

WHEREAS, the Trust owns and has title to certain real estate located on the corner of Broadway and Bainbridge Avenue in the City of Providence identified as Lot _____ on the City of Providence Tax Assessor's Plat 35, as presently constituted (the "Trust Property");

WHEREAS, the Easement Area and the Trust Property are adjacent to each other so that the southerly line of the Easement Area forms the northerly line of the Trust Property;

WHEREAS, the City desires to grant to the Trust an exclusive easement over the Easement Area for the purpose of providing to the Trust, its successors and assigns access across and parking on the Easement Area; and

WHEREAS, pursuant to Resolution No. _____ of the Providence City Council adopted _____, a copy of which is attached hereto as Exhibit C, the City Council of the City of Providence has authorized the execution of this instrument.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Grant of Easement

1.1 City grants to the Trust, its successors and assigns and declares for the benefit of the Trust Property, the right and exclusive easement for the sole purpose to pass and repass on foot and in vehicles across the Easement Areas and the right to park vehicles thereon. Said easement shall be subject to a right-of-reverter/right-of-reversion in the event the Easement Area is no longer utilized for the aforestated purposes. Said easement is also conditioned upon such other terms and conditions as memorialized in the minutes of the City Council Committee on City Property held on October 12, 2000.

1.2 The Trust shall have the right to maintain, or cause to be maintained, at its sole cost and expense, in good order, condition and repair, the Easement Area, which maintenance may include, without limitation, the right to pave and stripe such area. Said repair or replacement, however, must be approved by the Director of the Department of Public Property of the City of Providence. The Trust shall not have an adverse impact on any local utility present on the Easement Area and shall allow access to any local utility company for repairs and/or replacements. The City of Providence also reserves the right to utilize said Easement Area for repair and restoration of the adjacent City property.

1.3 The City and the Trust shall not, without prior written consent, grant an easement for the use of the Easement Area to any other party and shall not permit any other party to use the Easement Area.

1.4 The Trust shall not construct or affix to the realty temporary or permanent structures without the approval of the Director of Public Property of the City of Providence.

2. Miscellaneous

2.1 Notices. All notices, demands, statements, and request ("notice") required or permitted to be given under this Easement must be in writing and mailed by certified mail, return receipt requested, postage prepaid. Any notice to the City of Providence shall be addressed to City Clerk, Providence City Hall, 25 Dorrance Street, Providence, Rhode Island 02903 with a copy to the City Solicitor, 100 Fountain Street, City of Providence. Any notice to 530 Realty Trust shall be addressed to 530 Broadway, Providence, Rhode Island 02909 with a copy to Tom Moses, Moses & Afonso, 170 Westminster Street, Providence, RI. The parties may from time to time designate such other address for notice purposes.

2.2. Condemnation. In the event of a condemnation or a sale in lieu thereof concerning all or any portion of the Easement Area, the award or purchase price paid for such taking shall be paid to the party entitled thereto in accordance with the laws of the State of Rhode Island.

2.3 Binding Effect, Appurtenant Easements and Covenants. The terms of this Agreement and all covenants and easements granted by this Agreement shall constitute covenants and easements running with, and appurtenant to, the land affected thereby. All terms, covenants and easements shall inure to the benefit of and be binding upon the parties hereto, and all successors and assigns to the extent they have an interest in the benefited or burdened land.

2.4 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Easement Area or of any parcel, building or portion thereof to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges or immunities of any party shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary or any of the provisions contained herein.

2.5. No Third Party Rights. It is specifically understood and agreed that the only parties who may enforce the terms and conditions of this instrument are the parties hereto and their successors or assigns, to the extent they have an interest in the benefited or burdened land.

2.6 Indemnity. Each of the parties who commits any negligent act or omission on or in connection with the property covered by this Agreement, covenants and agrees to indemnify, defend, and hold harmless all other parties, as applicable from and against all claims, costs, expenses, and liability, including any action or proceedings brought thereon, arising from, or as a result of the injury to, or death of any person, or damage to the property of any person or entity which shall occur as a result of any such negligent act or omission. The Trust shall also execute an indemnification and hold-harmless agreement regarding use of the Easement Area approved by the Department of Law of the City of Providence and the same shall run with the land for as long as said easement is utilized. The Trust shall also supply the City of Providence with an insurance policy naming said City of Providence, its officers, employees and agents as additional-named insureds in a sum not less than one hundred thousand dollars (\$100,000.00), which policy shall remain in full force and effect for the duration of said easement and which shall be approved by the Department of Law for the City of Providence.

2.7 Governing Law. This instrument shall be governed and construed under the laws of the State of Rhode Island.

2.8 Negation of Partnership. None of the terms or provisions hereof shall be deemed to create a partnership between or among the parties in their respective businesses or otherwise, nor shall it cause them to be considered joint ventures or members of any joint enterprise. Each party shall be considered a separate owner, and no party shall have the right to act as an agent for another party, unless expressly authorized to do so herein or by separate written instruments signed by the party to be charged.

2.9 Headings. The headings of the various paragraphs herein have been inserted for convenient reference only and shall not to any extent have the effect of modifying or amending the express terms and provisions of this Agreement.

2.10 Termination and Amendments. This Agreement may be terminated or amended by, and only by, a written agreement which shall be deemed effective only when recorded with the Land Evidence Records of the City of Providence and executed by all parties hereto, or their successors and assigns.

IN WITNESS WHEREOF, the City and the Trust has caused this instrument to be duly executed by their duly authorized officers this _____ day of November, 2000.

CITY OF PROVIDENCE

By: _____
Vincent A. Cianci, Jr., Mayor

530 REALTY TRUST

By: _____

Name: _____

Title: _____

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, in said County, on this _____ day of November, 2000, before me personally appeared Mayor Vincent A. Cianci, Jr., the Mayor of the City of Providence, to me known and known by me to be the party executing the foregoing instrument on behalf of said municipality, and acknowledged said instrument and the execution thereof, to be his free act and deed in said capacity and the free act and deed of said municipality.

Notary Public

Printed Name: _____

My commission expires: _____

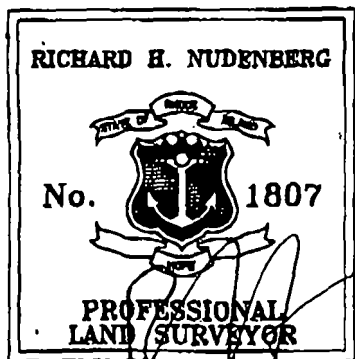
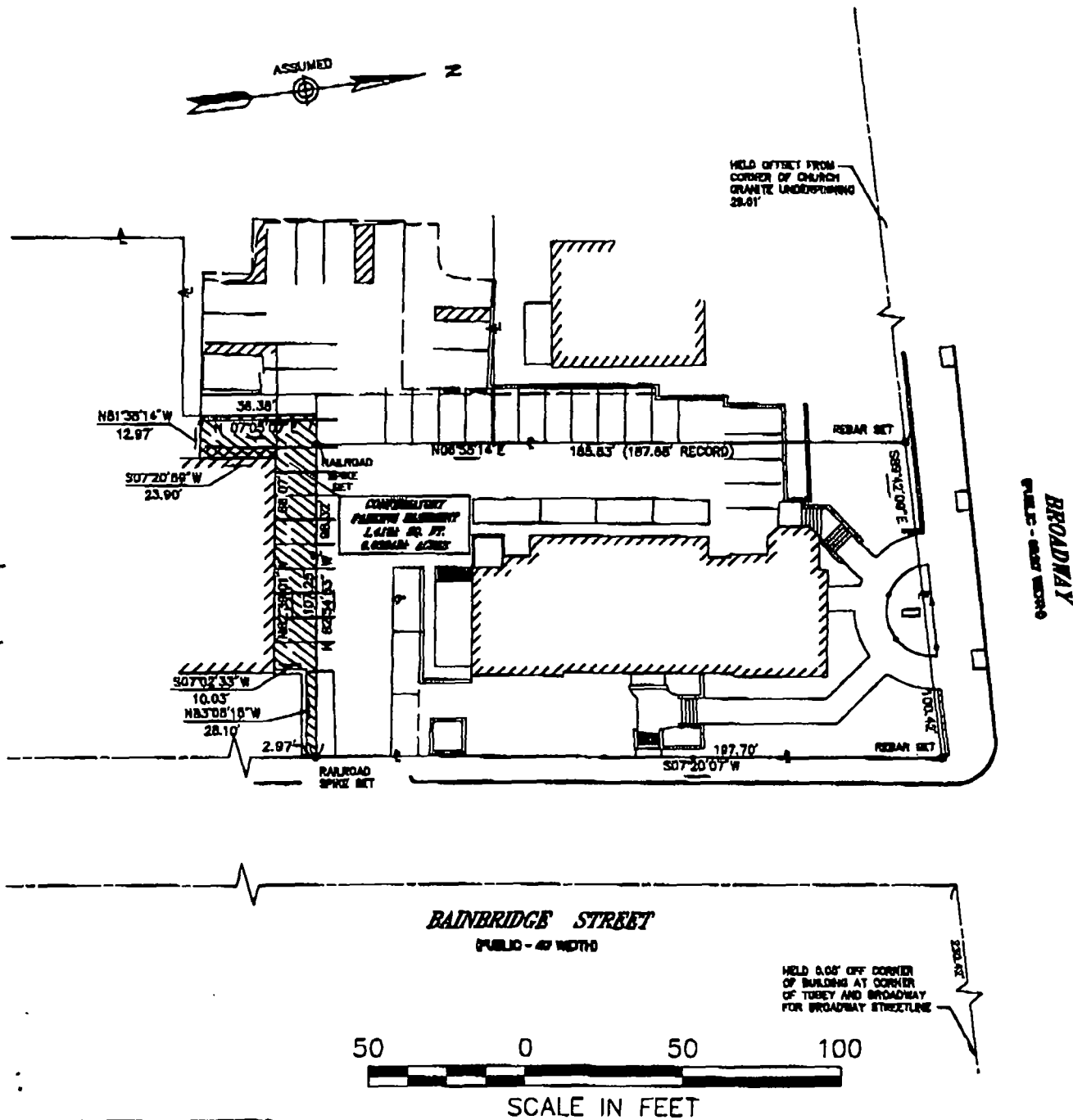
STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, in said County, on this _____ day of November, 2000, before me personally appeared _____, duly authorized on behalf of the 530 Realty Trust, to me known and known by me to be the party executing the foregoing instrument on behalf of said Trust, and acknowledged said instrument and the execution thereof, to be his free act and deed in said capacity and the free act and deed of said Trust.

Notary Public

Printed Name: _____

My commission expires: _____



THIS BOUNDARY SURVEY AND PLAN CONFORMS TO A CLASS I STANDARD AS ADOPTED BY THE RHODE ISLAND BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS.

RICHARD H. NUDENBERG, P.L.S. #1807

DATE

**Confirmatory
Easement Plan
Over A.P. 35 Lot 543**

530 Broadway
Realty Trust
Providence, R.I.
August 15, 2000
Scale: 1"=50'
File No. 530PARKING-EASE

VHB

Vanasse Hangen Brustlin, Inc.
Transportation Land Development Environmental Services
530 Broadway Providence, Rhode Island 02909
401 272 8100 • FAX 401 273 9694

EXHIBIT B