

**NORTH CAROLINA
DURHAM COUNTY**

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (hereinafter "Declaration") is made this _____ day of _____, 2012, by Rebuild Durham, Inc., ("RDI") a non-profit corporation organized and existing under the laws of North Carolina.

Definitions

"Agreement" means a certain HOME CHDO Loan Agreement between the City and the Declarant, dated August 3, 2000, and amended on August 15, 2003. An executed original of the Agreements is on file in the office of the City Clerk and available for public review.

"City" means the City of Durham, a North Carolina municipal corporation.

"Declarant" means Rebuild Durham, Inc., a non-profit corporation, its successors, successors in title and assigns, and any and all persons and entities having any right, title or interest in the Property.

"Dwelling Unit" shall be defined as provided in the Agreement.

"Period of Affordability" means the period beginning on _____, being the completion date of the rehabilitation of the Dwelling unit, and ending on the date that is fifteen (15) years after completion of the Dwelling Unit, as evidenced by issuance of a certificate of occupancy for such Dwelling Unit;

"Property" means all and any part of the real property located at _____, as described in Exhibit A attached to and made a part of this Declaration.

Recitals

The Agreement provides, among other things, for the City to provide one or more grant(s) or loans to the Declarant to provide rehabilitation financing for the Property. A source of funding is a grant to the City from the United States Department of Housing and Urban Development (hereinafter "HUD") under the HOME Investments Partnership Program (hereinafter the "HOME Program").

HUD requires as a condition to the awarding of HOME funds that the Owner execute, deliver and record this Declaration on the official land records of the municipality in which the Property is located in order to create certain covenants running with the land for the purpose of enforcing the requirements of 24 CFR 92.252 and the use restrictions found in Section 3 hereof by regulating and restricting the use, occupancy and transfer of the Property as set forth herein.

The Declarant expressly acknowledges and recognizes the City's reliance upon this commitment by the Declarant in the City's decision to enter into the Agreement and grant funds to the Declarant. The purpose of this Declaration is to set forth certain covenants, restrictions and requirements pertaining to the Property and to give to the City and HUD, and their successors and assigns, the right to enforce this Declaration.

Covenants, Restrictions and Requirements

From and after the date of this Declaration, the Property shall be held, sold, transferred and conveyed subject to the covenants, restrictions and requirements hereinafter set forth:

1. The Owner shall not convey, transfer, sell or encumber all or any portion of the Development, or permit the same, without the prior written consent of the City which shall not be unreasonably withheld.
2. Subject to the requirements of 24 CFR Part 92, and this Declaration; and with the prior approval of the City, the Owner may sell, transfer, or exchange the entire Property at any time, but the Owner shall notify in writing any buyer or successor or other person acquiring the Property or any interest therein that such acquisition is subject to the requirements of this Declaration and to the requirements of 24 CFR Part 92 and other applicable regulations. This provision shall not act to waive any other restriction on sale, transfer, or exchange of the Property or any HOME-assisted portion of the Property. The Owner agrees that the City may void any sale, transfer, or exchange of the Property if the buyer or successor or other person fails to assume in writing the requirements of this Declaration and the requirements of 24 CFR Part 92.
3. During the Period of Affordability, the determination of whether a tenant meets the income requirement for HOME-assisted units shall be made by the Owner or his designated agent at least annually on the basis of the current income of said tenant, not to exceed 60% of Area Family Median Income as determined by HUD.
4. This Declaration is made for the benefit of the City and HUD, and confers upon the City, HUD, and their respective successors and assigns the right, without limitation, to enforce the provisions of this Declaration.
5. This Declaration may not be amended in any manner whatsoever without the prior written consent of the City and HUD. It shall be within the sole discretion of the City and HUD whether to give such consent. The Declarant shall record any such amendment with the Durham County Register of Deeds, and provide contemporaneous written notice to the City.
6. The covenants, restrictions and requirements of this Declaration shall run with the Property and, except to the limited extent provided in Paragraph 1 of this Declaration, continue in full force and effect until expiration of the Period of Affordability. Except to the limited extent provided in Paragraph 1 of this Declaration, the covenants, restrictions and requirements shall pass to and be binding upon the Declarant's assigns, successors and successors in title to all and any portion of the Property. Except to the limited extent provided in Paragraph 1 of this Declaration, each and every contract, deed or other instrument hereafter executed covering or conveying all or any

portion of the Property shall conclusively be held to have been executed, delivered and accepted subject to such covenants, restrictions and requirements regardless of whether the same are set forth in such contract, deed or other instrument. If a portion or portions of the Property are conveyed, all of such covenants, restrictions and requirements shall run to each portion of the Property.

7. Upon expiration of the Period of Affordability, this Declaration shall automatically terminate and be of no further force or effect. The Declarant may record with the Durham County Register of Deeds a written instrument approved by the City further evidencing the termination of this Declaration. The City shall be entitled to thirty (30) days' written notice prior to the recording of any such instrument.

8. If a violation of any of the provisions of this Declaration occurs or is attempted, the City, HUD and their successors and assigns may institute and prosecute any proceeding at law or in equity to: abate, prevent or enjoin any such violation or attempted violation; compel specific performance of this Declaration; and recover monetary damages caused by the violation or attempted violation. Any such violation or attempted violation shall also be an event of default under the Agreement and shall entitle the City and its successors and assigns, among other remedies, to accelerate and declare due and payable in full the outstanding balance of any loans made by the City pursuant to the Agreement.

9. Any failure by the City or HUD to insist upon a strict performance of any covenants, restriction or requirement of this Declaration, or to exercise any option, right or remedy contained or created in this Declaration, shall not be construed as a waiver or relinquishment for the future of such covenant, restriction or requirement; rather, the same shall continue and remain in full force and effect.

10. If a court of competent jurisdiction determines that any of the provisions of this Declaration are void or unenforceable, the remainder of the provisions of this Declaration shall continue in full force and effect.

11. This Declaration shall be duly recorded in of the office of the Register of Deeds for Durham County immediately following its execution.

IN WITNESS WHEREOF, _____ has executed this instrument under seal on the date and year first above written.

Rebuild Durham, Inc.

By: _____
Stancil M. Clark, President

ATTEST:

_____(Seal)
Secretary

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, _____, a notary public for the aforesaid county and state, certify that _____ personally appeared before me this day, and acknowledged that he or she is the _____ Corporate Secretary of Rebuild Durham, Inc., a non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, whose name is Stancil M. Clark, sealed with its corporate seal, and attested by him/herself as its said Corporate Secretary or Assistant Secretary. This the _____ day of _____, 2012.

My commission expires:

Notary Public