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Prepared by
The Banks Law Firm, P A
P O Box 14350
Research Triangle Park, NC 27709



2003052454

FOR REGISTRATION REGISTER OF DEEDS
REBECCA T CHRISTIAN
NEW HANOVER COUNTY, NC
2003 AUG 14 04 30 38 PM
BK 3955 PG 954-963 FEE \$38 00
NS \$25 00
INSTRUMENT # 2003052454

**STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER**

**DECLARATION OF TRUST
AND RESTRICTIVE COVENANTS**

THIS DECLARATION OF TRUST AND RESTRICTIVE COVENANTS (the "Declaration") is made and entered into as of this 1st day of July, 2003 by and between the Housing Authority of the City of Wilmington, North Carolina, a public body corporate and politic, organized and existing under the laws of the State of North Carolina (the "Authority") and New Dawson Limited Partnership (the "Partnership"), a limited partnership organized and existing under the laws of the State of North Carolina (the "Owner"), for the benefit of the United States of America, acting by and through the Secretary Of Housing And Urban Development ("HUD")

WITNESS THAT:

WHEREAS, pursuant to the U S Housing Act of 1937, as amended, and any successor legislation (the "Act") the Authority and HUD have entered into Consolidated Annual Contributions Contract ("ACC") number A-4312, dated July 30, 2002, as the same may be amended from time to time, which provides for grants and annual contributions to be made by HUD to assist the Authority in developing, maintaining, and operating its public housing units in accordance with all requirements applicable to public housing

WHEREAS, as of the date of execution of this Declaration, HUD and the Authority have entered into a certain Mixed Finance Amendment, No A-4312, Amendment No 3 to the ACC ("Mixed Finance ACC Amendment"), adding the seventy-one (71) one-, two- and three-bedroom public housing units and any associated appurtenances to the ACC under project number NC19P001015 in the City of Wilmington, New Hanover County, in the State of North Carolina (which, together with any fixtures and personalty related to such units and appurtenances shall hereafter collectively be referred to as the "Project") The Project is part of a larger development known as Robert S Jervay Place

WHEREAS, the Authority and the Owner have entered into a Regulatory and Operating Agreement, and other Agreements, whereby the Authority has agreed to provide the Owner with assistance obtained under the Mixed Finance ACC Amendment to pay a portion of the development costs of the Project and with Operating Subsidy assistance to assist in operating and maintaining the low income character of the public housing units in the Project

WHEREAS, in return for the receipt of such assistance, the Owner has agreed to develop, operate and maintain the Project in accordance with all requirements applicable to public housing (including, without limitation, the ACC, the Act, the Regulatory and Operating Agreement and all Federal statutory, executive order, and regulatory requirements, as those

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requirements now exist or as they may be amended from time to time) (hereafter collectively referred to as the "Requirements"), for the period of the low income use restrictions, as required by law and as further set forth below

WHEREAS, as of the date of execution of this Declaration, title to the Project Site (as more particularly described on Exhibit A to this Declaration) is held by the Owner and the Owner acknowledges that it has taken title to the Project Site subject to the terms and conditions of (i) the General Warranty Deed, and (ii) this Declaration

NOW, THEREFORE, to assure HUD of the performance by the Authority and the Owner, and any successors in interest to the Authority and Owner, of the Requirements in connection with the development, operation and maintenance of the Project for the term of the low-income use restrictions, the parties hereby acknowledge and agree

- 1 The Owner does hereby acknowledge and declare that it is possessed of and holds title to the Project Site in trust for the benefit of HUD, for the purposes hereinafter stated, the Project Site being the real property situated in the City of Wilmington, County of New Hanover, in the State of North Carolina, as more fully described in Exhibit A to this Declaration, and which is made a part hereof,
- 2 The Owner and Authority hereby declare and acknowledge that during the existence of the trust hereby created, the restrictive covenants set forth in this Declaration shall be, and are, covenants running with the Project Site for the period of the low income use restrictions, and are binding upon the Owner and the Authority, and their successors and assigns, for such term and are not merely personal covenants of the Owner or the Authority,
- 3 The Authority shall cause the Owner to, and the Owner shall, develop, operate, and maintain the Project in compliance with the Requirements throughout the term of the low income use restrictions,
- 4 The Owner shall not, without the prior written approval of HUD or as may otherwise be authorized by law, dispose of the Project by operating or maintaining the Project in a manner other than in accordance with the Requirements until December 31, 2043,
- 5 The Owner shall remain seized of title to the Project Site and shall refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer of any kind of the Project Site, or any part thereof, or any rent, revenues, income, or receipts therefrom or in connection therewith, or any of the benefits or contributions granted to it by or pursuant to the ACC, or any interest in any of the same, except to the extent approved in writing by HUD, as otherwise authorized by the ACC, or as authorized below


- A Deeds of Trust and financing arrangements approved by HUD under the terms of the Mixed Finance ACC Amendment, and transfer of the Project Site to the beneficiary under any such approved loans, by foreclosure or deed-in-lieu of foreclosure, or to a third-party purchaser at a foreclosure sale, provided that any such transfer shall be subject to the terms of this Declaration,
 - B Dwelling leases with eligible families in the Project,
 - C Conveyance or dedication of land for use as streets, alleys, or other public rights-of-way, and grants and easements for the establishment, operation, and maintenance of public utilities,
 - D Recording of a Master Declaration of Covenants, Conditions, Restrictions, Easements and Rights for Robert S Jervay Place,
 - E Recording of a Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits, and
 - F Normal uses and encumbrances associated with the operation of the Project, to the extent authorized by the ACC
- 6 No transfer, conveyance, or assignment shall be made without the approval of HUD of (A) any interest of a managing member, general partner, or controlling stockholder (any such interest being referred to as a "Controlling Interest") of the Owner, or (B) a Controlling Interest in any entity which has a Controlling Interest in the Owner, or (C) prior to the payment in full of all equity contributions described in the approved evidentiary documents listed in the Mixed Finance ACC Amendment, any other interest in the Owner, or in any partner or member thereof HUD will not unreasonably withhold, delay, or condition a request by the Owner for HUD's consent to an internal reorganization of the ownership interest structure of the Owner or any members of the Owner
- 7 This Declaration shall not be amended, modified or released without the prior written consent of HUD
- 8 Upon expiration of the period during which the Project is required to be operated and maintained as public housing in accordance with the Requirements, HUD will release this Declaration by an instrument to be recorded in the Register of Deeds for New Hanover County, North Carolina

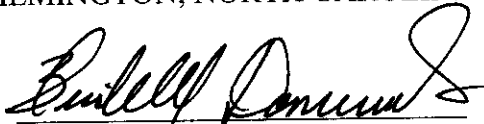
[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Authority, by its duly authorized officers, and the Owner by its duly authorized general partner have caused this Declaration to be executed for proper recording in the public records of New Hanover County

HOUSING AUTHORITY OF THE CITY
OF WILMINGTON, NORTH CAROLINA

ATTEST



Benjamin J. Quattlebaum, II
Secretary

By 
Name Windell Daniels
Title Chairman of the Board
of Commissioners

NEW DAWSON LIMITED PARTNERSHP,
OWNER

By New Dawson, LLC,
its General Partner

By New Dawson, Inc ,
its Managing Member

By 
Gregory A. Hyson
its Vice President

DISTRICT OF COLUMBIA

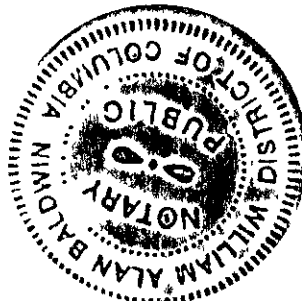
I, William Alan Baldwin, a Notary Public of Washington, D C certify that Gregory A Hyson, personally appeared before me this day and acknowledged that he is the Vice President of New Dawson, Inc., Managing Member of New Dawson, LLC, a Delaware limited liability company, ~~Manager~~ ^{General Partner} of New Dawson Limited Partnership, a North Carolina limited partnership and further acknowledges the due execution of the foregoing instrument on behalf of the limited partnership

Witness my hand and notarial seal or stamp, this the 11th day of July, 2003

William Alan Baldwin
Notary Public

My Commission Expires

William Alan Baldwin
Notary Public, District of Columbia
My Commission Expires 06-30-2006

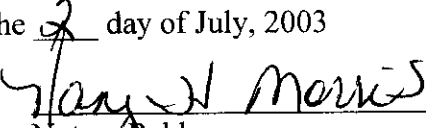


NORTH CAROLINA
COUNTY OF NEW HANOVER

ACKNOWLEDGMENT

This is to certify that on this day personally came before me Benjamin J Quattlebaum, II whom I am personally acquainted, and being by me duly sworn, says that he is the Secretary and that Windell Daniels is the Chairman of the Board of Commissioners of the Housing Authority of the City of Wilmington, North Carolina, the public body corporate and politic named within and which executed the foregoing instrument, that he knows the common seal of said public body corporate and politic, ~~that the seal affixed to said instrument is said common seal;~~ that the name of the public body corporate and politic was subscribed thereto by the Chairman and that the same Chairman subscribed his name hereto, all by order of the Housing Authority of the City of Wilmington, North Carolina and that said instrument is the act and deed of said public body corporate and politic

Witness my hand and notarial seal or stamp, this the 2 day of July, 2003


Notary Public

My Commission Expires

3/25/2006
[Notarial Seal/Stamp]

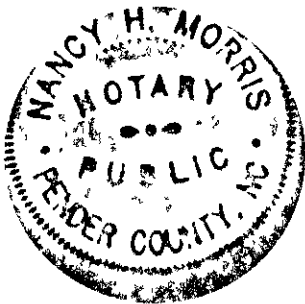


Exhibit A

Project Site

COVIL SITE

Located in the City of Wilmington, New Hanover County, State of North Carolina, and being described as follows

Beginning at a point where the eastern right of way line of Covil Avenue (60' public right of way) intersects the northern line of Broad Street (60' public right of way), said point being located North 02 degrees 36 minutes 00 seconds East - 30 29' from a point in the centerline of Broad Street, said point in the centerline of Broad Street being located South 84 degrees 44 minutes 00 seconds West - 3 00' from a concrete monument in the centerline of Broad Street and also being located North 84 degrees 44 minutes 00 seconds East - 33 29' from a point in the centerline intersection of Covil Avenue and Broad Street, and runs thence from said point of beginning, with the eastern right of way line of Covil Avenue, North 02 degrees 36 minutes 00 seconds East - 141 11' to a point, thence with the line of the Easter property, North 84 degrees 48 minutes 06 seconds East, (passing an inline concrete monument at 3 09'), 366 86' to a concrete monument in the line of the Thetford Property III Limited Partnership, thence with the Thetford line, South 02 degrees 48 minutes 00 seconds West - 140 74' to an iron pipe in the northern right of way line of Broad Street, thence with the northern right of way line of Broad Street, South 84 degrees 44 minutes 00 seconds West, (passing an inline iron pipe at 363 28'), 366 42' to the point of beginning, containing 1 175 Acres more or less, and being that land described in a deed to Carolyn Holden Leitch and Janice Holden Roach as recorded in Book 1526, Page 375 of the New Hanover County Registry, and also the same land described in a deed to New Dawson Limited Partnership as recorded in Book 3214, Page 447 of the New Hanover County Registry

DOVE MEADOWS SITE

Located in the City of Wilmington, New Hanover County, State of North Carolina, and being described as follows

Beginning at an "X" in concrete, in the eastern line of Adams Street (60' public right of way), said beginning point being located South 02 degrees 43 minutes 03 seconds East - 122 50' from an existing iron pipe at the intersection of the eastern right of way line of Adams Street with the southern right of way line of Southern Boulevard (90' public right of way), said beginning point being the southwest corner of the property owned by Prayer and Bible Independent Church of God for All People, Inc., and runs thence from said point of beginning, with the line of the church property, North 87 degrees 24 minutes 38 seconds East - 177 96' to an iron rod in the line of the G C Bordeaux Subdivision as shown on a map recorded in Book 299, Page 593 of the New Hanover County Registry, thence with the line of the Bordeaux Subdivision, South 02 degrees 34 minutes 11 seconds East - 549 60' to an iron rod, thence South 87 degrees 16 minutes

57 seconds West - 176 54' to an "X" in concrete in the eastern right of way line of Adams Street, thence with the eastern right of way line of Adams Street, North 02 degrees 43 minutes 03 seconds West - 550 00' to the point of beginning, containing 2 237 Acres more or less, and being a part of that land described in a deed to Wilmington Housing Authority as recorded in Book 3026, Page 165 of the New Hanover County Registry, and being lots 16-26, Block 6 of Sunset Park as shown in Map Book 3, Page 6 of the New Hanover County Registry

MAIN JERVAY SITE (EXCLUDING PHASE I)

Beginning at an iron rod located at the intersection of the southerly street boundary of Dawson Street (Public Right-of-Way, 80' in width) with the easterly street boundary of 8th Street (Public Right-of-Way, 66' in width), said iron rod located south 45 degrees 07 minutes 21 seconds east a distance of 51 87 feet from a concrete monument located at the centerline intersection of 8th Street and Dawson Street,

Thence north 84 degrees 23 minutes 00 seconds east along the southerly street boundary of Dawson Street a distance of 727 34 feet to a 5/8" iron rod, said iron rod located on the westerly street boundary of 10th Street (Public Right-of-Way, 66' in width),

Thence south 05 degrees 37 minutes 00 seconds east along said street boundary a distance of 853 51 feet to 5/8" iron rod, said iron rod located on the northerly street boundary of Meares Street (Public Right-of-Way, 66' in width),

Thence south 84 degrees 23 minutes 00 seconds west along said street boundary a distance of 615 34 feet to a 5/8" iron rod, said iron rod located on the easterly street boundary of Sugar Ray Leonard Lane (Public Right-of-Way, 25' in width),

Thence north 05 degrees 37 minutes 00 seconds west along said street boundary a distance of 710 00 feet to a 5/8" iron rod; said iron rod located on the northerly street boundary of Virgil Rhodes Lane (Public Right-of-Way, 25' in width),

Thence south 84 degrees 23 minutes 00 seconds west along said street boundary a distance of 112 00 feet to a 5/8" iron rod located on the easterly street boundary of 8th Street,

Thence north 05 degrees 37 minutes 00 seconds west along said street boundary a distance of 143 51 feet to the point of beginning, containing 541,274+/- square feet or 12.426 acres, more or less

WATER TOWER SITE

BEGINNING at a point in the present Northern line of Dawson Street (40 feet from the center thereof), said point being South eighty-four (84) degrees twenty-three (23) minutes West eighty-two and fifty one-hundredths (82 50) feet from Western line of Tenth Street (33 feet from the center thereof), running thence from said beginning with the present Northern line of Dawson South eighty-four (84) degrees twenty-three (23) minutes West two-hundred forty-eight and twenty-two one-hundredths (248 22) feet to a point in the Eastern line of Ninth Street, (33 feet from the center thereof), thence with said Eastern line North five (05) degrees thirty-seven (37) minutes West one-hundred twenty-three and forty-five one-hundredths (123 45) feet to a point, thence North eighty-four (84) degrees twenty-three (23) minutes East one hundred forty-eight and twenty-two one-hundredths (148 22) feet to a point, thence North five (05) degrees thirty-seven (37) minutes West thirty (30 00) feet to a point, thence North eighty-four (84) degrees twenty-three (23) minutes East one-hundred and three one-hundredths (100 03) feet to a point, said point being Westwardly and perpendicular 82 50 feet from the Western line of Tenth Street, running thence South five (05) degrees thirty-seven (37) minutes East one-hundred fifty-three and forty-five one-hundredths (153 45) feet to the point of beginning, containing 33,648± square feet (0 772± acres) of area and being a part of those tracts described in Deed Book 313 at Page 433 and Deed Book 472 at Page 473 of the New Hanover County Registry



REBECCA T CHRISTIAN
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration. 08/14/2003 04 30 38 PM
Book RE 3955 Page. 954-963
Document No.: 2003052454
DECL 10 PGS \$38.00
NS. \$25.00
Recorder MARVIS ANN STORER

State of North Carolina, County of New Hanover

The foregoing certificate of WILLIAM ALAN BALDWIN , NANCY H MORRIS Notaries are certified to be correct
This 14TH of August 2003

REBECCA T. CHRISTIAN , REGISTER OF DEEDS

By: *Marvis Ann Storer*
Deputy/Assistant Register of Deeds

YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.

2003052454

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