

MODEL ARCHITECTURAL FAÇADE EASEMENT

**** Highlighted sections are subject to change depending on circumstances. All anticipated alternatives are included in this document.**

DEED OF EASEMENT FOR HISTORIC PRESERVATION (ARCHITECTURAL FAÇADE)

STATE OF NORTH CAROLINA

PIN:

COUNTY OF _____

Prepared by and After Recording Return to:

Capital Area Preservation, Inc.
Post Office Box 28072
Capitol Station
Raleigh, North Carolina 27611-8072

Brief Description for Index:

THIS DEED OF EASEMENT FOR HISTORIC PRESERVATION (ARCHITECTURAL FAÇADE) ("Preservation Agreement") is made by and between _____, (hereinafter "Grantor"), of _____, the County of _____, State of North Carolina and **CAPITAL AREA PRESERVATION, INC.** (hereinafter "Grantee"), a North Carolina non-profit corporation with offices located at 1111 Haynes Street, Raleigh, County of Wake, State of North Carolina. The Effective Date of this Preservation Agreement shall be the date this Preservation Agreement is signed by Grantor, if Grantor is the last to sign, or by Grantee, if Grantee is the last to sign.

I. RECITALS

A. Whereas, Grantee is a non-profit corporation organized under the laws of North Carolina, is chartered to preserve historically important properties, and is authorized to accept and administer gifts of real and personal property, including easements for conservation purposes, in furtherance of its preservation mission; and

B. Whereas, Section 170 (h) of the Internal Revenue Code of 1986 ("Code") creates an opportunity for taxpayers to make qualified conservation contributions to qualified organizations and to claim allowable federal income tax deductions therefore; and

C. Whereas, Grantee is a *qualified organization* as that term is defined in Section 170(h) (3) of the Code; and

D. Whereas, the North Carolina General Assembly has enacted the Historic Preservation and Conservation Agreements Act, North Carolina General Statutes ("NCGS") Chapter 121, Article 4 (the "Act"), validating restrictions, easements, covenants, conditions or otherwise, appropriate to the preservation of a structure or site historically significant for its architectural, archeological or historical associations; and

E. Whereas, Grantee qualifies as a *holder* of preservation agreements pursuant to the Act; and

F. Whereas, NCGS §105-151.12 creates an opportunity for taxpayers to make conservation contributions to qualified holders and claim allowable state income tax credits therefore; and

G. Whereas, Grantor owns the _____ Building, located at _____ in _____, _____ County, North Carolina (hereinafter the "Building"), which is a property of recognized historical, cultural and architectural significance; and

H. Whereas, the Building, and the land it sits upon (hereinafter collectively referred to as the "Property") is commonly identified by PIN _____, Records of the _____ County Revenue Collector, _____ County, North Carolina, and is more particularly described on the attached Exhibit "A" which is incorporated herein by reference.

I. Whereas, the term "Facade" as used herein consists of all exterior surfaces of the Building, including without limitation all walls roofs and chimneys. Said exterior surfaces may also be hereinafter collectively referred to as the Building's "Conservation Values" or "Architectural Features;" and

J. Whereas, Grantee and Grantor desire that the Building and Façade remain essentially

unchanged. Written descriptions and/or photographs of the Facade are inventoried on Exhibit "C" attached hereto and are on file in the offices of Grantee but are not appended hereto, and, in case of ambiguity, the photographs and descriptions constituting Exhibit "C" shall control.; and

K. Whereas, the parties hereto acknowledge that the conveyance from Grantor to Grantee of this Preservation Agreement pursuant to the Act will provide a method for preserving the Property; and

L. Whereas, the parties hereto intend this document to be a conservation agreement as defined in the Act, and to create an interest in real property that may serve as a qualified conservation donation under NCGS §105-15.12 and Sec. 170(h) of the Code; and

M. Whereas, the designations Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter gender as required by context.

NOW, THEREFORE, in consideration of the promises and the mutual benefits recited herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, and pursuant to the Act and Section 170(h) of the Code, the parties hereto enter into this Preservation Agreement, Grantor hereby unconditionally and irrevocably gives, grants and conveys forever and in perpetuity to Grantee, its successors and assigns, and Grantee hereby accepts an easement in gross, in perpetuity, in, on, and to the Property, of the nature and character and to the extent hereinafter set forth, together with the right to preserve and protect the Facade and to further the conservation purposes as described herein.

II. DURATION OF EASEMENT

This Preservation Agreement shall remain in effect in perpetuity. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, its personal representatives, heirs, successors, assigns, lessees, agents, and licensees.

III. CONSERVATION PURPOSE

It is the purpose of this Preservation Agreement to assure that the Building and Façade will be retained and maintained forever in its current condition for conservation and preservation purposes, and to prevent any use or change of the Property that will alter or change the appearance of the Conservation Values. Grantor and Grantee agree that in order to preserve the Facade, no removal, addition to or alteration of the Facade should be made except as provided for herein.

IV. ACTIVITIES PROHIBITED/RESTRICTED

A. Consent. Without the express written consent of Grantee, which consent may be withheld, conditioned or delayed in the sole and absolute discretion of Grantee, Grantor will not undertake nor suffer nor permit to be undertaken:

1. Any alteration, construction or remodeling of existing improvements on the Property, or the placement thereon or on the Building of signs or markers, which would alter or change the appearance of the Facade;

2. The exterior extension of existing improvements on the Property or the erection of any new or additional improvements on the Property or in the open space above or surrounding the existing improvements, except that new improvements may be erected consistent with section V., paragraph I. herein, including an architecturally consistent Facade, to replace existing improvements which have been wholly or partially destroyed by casualty; or

3. The painting or cleaning of the Facade in a manner incompatible with the protection and preservation of the Facade; providing, however, that the maintenance, reconstruction, repair and refinishing of presently existing elements of the Facade, damage to which has resulted from casualty loss, destruction or deterioration, is permitted so long as it is conducted in a manner which will maintain or recreate the appearance of the Facade as it exists at the date of this Preservation Agreement or as it existed at the time the improvements were first constructed; and provided, further, that dignified signs or markers may be placed on the Building without consent of Grantee so long as they (i) indicate no more than the street address and occupants of the premises; or (ii) are necessary to direct pedestrians or vehicular traffic; or (iii) commemorate the history of the Property or the grant of this easement.

B. Maintenance. Grantor further undertakes periodically to clean the Building and Facade, to keep Grantee's marker (if any) polished and visible from the street, and to maintain the Building and Facade in good repair and condition at all times.

V. GRANTOR'S RESERVATION OF RIGHTS AND DECLARATION OF WARRANTIES, COVENANTS AND OBLIGATIONS

Grantor, for itself, its administrators, successors or assigns, agrees as follows:

A. Title. Grantor covenants and represents that Grantor is the sole owner and is seized of

the Property in fee simple and has good right to grant and convey the aforesaid Preservation Agreement; that there is legal access to the Property, that the Property is free and clear of any and all encumbrances, except easements of record, none of which would nullify, impair or limit in any way the terms or effect of this Preservation Agreement; Grantor shall defend its title against the claims of all persons whomsoever, and Grantor covenants that Grantee, its successors and assigns, shall have the right to monitor and defend the terms of the aforesaid Preservation Agreement.

B. Reservation of Rights. Grantor reserves unto itself the right to engage in all of those acts and uses that (i) are permitted by law; (ii) are not Prohibited/Restricted Activities as set forth in section IV herein; and (iii) are not inconsistent with the Conservation Purpose hereof.

C. Rehabilitation. Grantor shall rehabilitate the Facade according to the terms, conditions, and deadlines of that certain rehabilitation agreement ("Rehabilitation Agreement") entered into by the parties on _____ and, after rehabilitation, to continuously maintain, repair, and administer the Building herein described in accordance with *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (36 CFR §67) as these may be amended from time to time (hereinafter the "Secretary's Standards") so as to preserve the historical integrity of features, materials, appearances, workmanship and environment of the Facade. Maintenance shall be continuously provided. Said standards are attached hereto as Exhibit "B" and incorporated herein by reference.

OR

at all times maintain the Facade in the same structural condition and state of repair as that existing on the effective date of this Preservation Agreement. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the Facade in the same structural condition and state of repair as that existing on the date hereof, in accordance with *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (36 CFR §67) as these may be amended from time to time (hereinafter the "Secretary's Standards") so as to preserve the historical integrity of features, materials, appearances, workmanship and environment of the Facade. Maintenance shall be continuously provided. Said standards are attached hereto as Exhibit "B" and incorporated herein by reference.

D. Compliance with Laws. Any rehabilitation work or new construction work on the Property including the landscaping, will comply with the requirements of all applicable federal, state and local governmental laws and ordinances. Also, in making use of the Property, Grantor shall abide by all federal, state, and local laws and ordinances. In the event that Grantor receives a notice of violation or lien relating to the Property from any governmental authority, Grantor shall immediately and in no event less than five (5) days from the date of receipt of said notice, furnish to Grantee a copy of such notice.

E. Timing of Requests for Approval. When seeking such approvals as are contemplated herein, Grantor shall give written notice to Grantee no later than 30 days prior to the anticipated date the work is to be undertaken.

F. No Subdivision. No portion of the Property may be subdivided, nor may the Building be separated from the grounds except as may otherwise be allowed herein and with the express written permission of Grantee.

G. Taxes. Grantor shall immediately pay when due, all taxes, special assessments and any other fees or charges that may become a lien on the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor will reimburse Grantee for the same. If Grantee ever elects to pay any taxes or assessments due on the Property in order to protect its interest in the Property, Grantor will immediately reimburse Grantee for the same.

H. Upkeep, Maintenance and Insurance. (i) Grantor shall be solely responsible for the upkeep and maintenance of the Property, and Grantee shall have no obligation therefore. (ii) Grantor shall keep insurance on the Property and keep the Property in good repair. The Property insurance shall be obtained from an insurance company rated "A1" or better by Best's for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Property without cost or expense to Grantor or contribution or coinsurance from Grantor. Such insurance shall include Grantee's interest and name Grantee as an additional insured. Grantor shall deliver to Grantee, within ten (10) business days of Grantee's written request therefore, certificates of insurance coverage. Provided however, that whenever the Property is encumbered with a mortgage or deed of trust, nothing contained in this section shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

I. Casualty Loss. In the event that the Property or any part thereof is damaged or destroyed by fire, flood, windstorm, hurricane, earth movement, or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. Grantor shall undertake no repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety, without Grantee's prior written consent. Within thirty (30) days of

the date of the damage or destruction, Grantor at its expense shall submit to Grantee a written report prepared by a qualified restoration architect and an engineer who are mutually acceptable to the parties hereto, which shall include the following: (i) an assessment of the nature and extent of the damage; (ii) a determination of the feasibility of the restoration of the Building and Facade and/or reconstruction of damaged or destroyed portions of the Building and Facade; and (iii) a report of such restoration/reconstruction work necessary to return the Facade to the condition existing on the date hereof.

After reviewing the report prescribed hereinabove and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, if Grantee determines that the purpose of this Preservation Agreement will be served by such restoration/reconstruction, then Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Property and Facade. Such restoration/reconstruction (iv) shall be in accordance with plans and specifications prepared by a qualified restoration architect selected by Grantee, (v) shall comply with the Secretary's Standards, (vi) shall be approved by Grantee, and (vii) shall provide for restoration/reconstruction of the Building and Facade up to at least the total of the casualty insurance proceeds available to Grantor.

J. Liability and Indemnification. Grantor agrees to the fullest extent permitted by law, to defend, protect, indemnify and hold harmless Grantee, its agents, directors and employees, from and against any and all claims, actions, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorneys fees) arising out of or in connection with injury to or death of any person; damage to property; suffered as a direct or indirect result of any violation of any federal, state, or local environmental or land use law or regulation, or of the use or presence of any hazardous substance, waste or other regulated material in, on or under the Property, unless such injury or damage is caused by Grantee's negligence, or the negligence of any agent, director, or employee of Grantee.

K. Environmental Condition. Grantor acknowledges (i) that the Property may contain certain hazards as a result of outdated building practices or use of certain materials that may contain lead paint, asbestos, or some other hazards that may need to be removed or encapsulated before the Building is habitable; (ii) addressing these problems is one of the challenges of owning and restoring a historic property; (iii) Grantee does not have the resources to correct these problems and will not take responsibility for the condition of the Property; and (iv) Grantee is not liable in any way for any hazards, defects, or other problems of the Property.

VI. GRANTEE'S RIGHTS AND OBLIGATIONS

This Preservation Agreement shall be administered solely by Grantee, its successors in interest or assigns; and in all subsequent conveyances of the Property, Grantee, its successors in interest or assigns shall be the sole party entitled to administer these covenants. In order to ensure the effective enforcement of this Preservation Agreement, Grantee shall have, and Grantor hereby grants Grantee, the following rights and Grantee hereby accepts said rights and affirms the following obligations:

A. Right of Entry. At reasonable times and upon reasonable notice, the right to enter upon the Property for the purpose of inspecting the Building and Façade to determine if there is compliance by Grantor with the terms of these covenants, and for the purpose of enforcing the terms of this Preservation Agreement.

B. Right to Monitor and enforce. The right to prevent any activity or use on the Property that is inconsistent with the purpose of this Preservation Agreement, and to require the restoration of such areas or features of the Building and Facade that may be damaged by inconsistent activity or use, pursuant to the remedies set forth herein below.

C. Review of Plans. In reviewing the plans and designs for any addition or additional structure, Grantee will consider the following criteria: Building materials; height, fenestration; roof shapes, forms and materials; surface textures; expression of architectural detailing; scale; relationship or any additions to the main structure; general form and proportion of structures; orientation to street; setback; spacing of buildings, defined as the distance between adjacent buildings; lot coverage; use of local or regional architectural traditions; and effect on archeological resources. Designs for additions or additional structures shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is contemporary compatible with the size, color, material and character of the property and its environment.

D. Signage. The right (i) to place a marker on the Building providing historical information and/or indicating Grantee's ownership of this Preservation Agreement, and (ii) to keep such marker clean and visible from the street.

E. Public Access; Use for Education Purposes. Researchers, scholars and groups especially interested in historic preservation shall have access to view the Building and Facade by special appointment at various times and intervals during each year. Grantee may make photographs, drawings, and other representations documenting the significant historical, cultural and architectural characteristics and features of the Building, and distribute them to magazines, newsletters, or publicly available publications, or use them to fulfill its charitable and educational purposes.

VII. ADMINISTRATION, ENFORCEMENT AND REMEDIES

A. Remedies; Delay no Waiver. In the event of a violation of these covenants and restrictions, all legal and equitable remedies, including injunctive relief, specific performance, and damages, and the option to purchase the Property as further described below, shall be available to Grantee. No failure on the part of Grantee to enforce any covenant or restriction herein nor the waiver of any right hereunder by Grantee shall discharge or invalidate such covenant or restriction or any other covenant, condition or restriction hereof, or affect the right of Grantee to enforce the same in event of a subsequent breach or default.

B. Option to Purchase. In the event of a violation of covenants contained hereunder, Grantee then shall have an option to purchase the Property, provided it shall give Grantor written notice of the nature of the violation and Grantor shall not have corrected same within the ninety (90) days next following the giving of said notice. The purchase of the Property, pursuant to the exercise of the option retained hereby, shall be at a price equal to the then market value of the Property, subject to restrictive covenants, as determined by agreement of the then owner and Grantee, or, in the absence of such an agreement, by a committee of three appraisers, one to be selected by Grantee, one to be selected by the then owner and the other to be designated by the two appraisers selected by Grantee and the owner respectively. Provided, however, that if there are any outstanding deeds of trust or other encumbrances against the Property, any right to purchase shall be subject to said deeds of trust or encumbrances.

C. Notice. Any notice which by any provision of this instrument is required or allowed to be given by either party to the other shall be in writing and shall be deemed to have been sufficiently given for all purposes when sent by certified or registered United States mail, postage prepaid, and addressed as follows:

If to Grantor:

If to Grantee:

Capital Area Preservation
Attn: President and CEO
1111 Haynes Street, Suite 105
Raleigh, N.C. 27604.

D. Changed Conditions. The grant or donation of this Preservation Agreement gives rise to a property right immediately vested in Grantee, with a fair market value equal to the proportionate value that the Preservation Agreement bears to the value of the Property as a whole. That proportionate value of Grantee's property rights shall remain constant. If a change in conditions occurs, which makes impossible or impractical any continued protection of the Property for conservation purposes, the restrictions contained herein may only be extinguished by judicial proceeding. Upon such proceedings, such portion shall be equal to the proportionate value that Grantees', its successors' and assigns', interest in the Property bears to the value of the Property as a whole as of the date of the recording of this Preservation Agreement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Area, or any damages otherwise awarded as a result of judicial proceeding, *minus* Grantor's expenses from such transaction or proceeding. Grantee shall use its share of the proceeds of sale in a manner consistent with the conservation purposes set forth herein.

E. Condemnation. Whenever all or part of the Property is taken by exercise of eminent domain by public, corporate or other authority, or by negotiated sale in lieu of condemnation, so as to abrogate the restrictions imposed by this Preservation Agreement, Grantor shall immediately give notice to Grantee and shall take all appropriate actions at the time of such taking or sale to recover the full value of the taking and all incidental or direct damages resulting from the taking, which any proceeds recovered in such actions shall be divided in accordance with the proportionate value of Grantor's and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by Grantor and Grantee in such action shall be paid out of the recovered proceeds to the extent not paid by the condemning authority. Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Such portion shall be equal to the proportionate value that Grantees', its successors' and assigns' interest in the Property bears to the value of the Property as a whole as of the date of the recording of this Preservation Agreement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Area, or any damages otherwise awarded as a result of judicial proceeding, *minus* Grantor's expenses from such transaction or proceeding. . Grantee shall use its share of the proceeds of sale in a manner consistent with the conservation purposes set forth herein.

F. Acts Beyond Grantor's Control. Nothing contained in this Preservation Agreement shall be construed to entitle Grantee to bring any action against Grantor for any injury or change in the Property caused by third parties, resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to Property or harm to the Property resulting from such causes.

G. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Preservation Agreement against Grantor, including, without limitation, attorney's fees, costs of mediation, and any costs of restoration necessitated by Grantor's acts or omissions in violation of the terms of this Preservation Agreement, shall be paid by Grantor.

VIII. MEDIATION

A. Agreement to Mediate. The parties agree to make good faith efforts to resolve any controversies arising out of this Preservation Agreement through the process of mediation. They agree that any such controversies shall be resolved with the aid of a neutral and impartial third party who assists in the negotiation process and to the extent that the controversies arise from the interpretation of terms in the context of the Building and Facade will rely upon an architect experienced in historic preservation matters to serve as the "Mediator."

B. Goal of Mediation. The goal of the parties is through mediation to reach an agreement which resolves any controversy that arises under this Preservation Agreement in a manner that takes into account the interests of both parties and is fair to all.

C. Mediator's Qualifications. The Mediator will be compensated for time spent in the conduct of mediation and in working on behalf of the parties in related matters to achieve the goals of mediation. The parties agree to select as Mediator a person who is unaffiliated with either of the parties, is licensed to practice architecture in the State of North Carolina, and has had not less than ten (10) years of practical experience as a project architect dealing with the adaptive reuse of historic properties for office and/or commercial use. The role of the Mediator will be that of a neutral and impartial third party who will endeavor to assist the parties in achieving a fair, negotiated settlement of any controversy or controversies arising under this agreement. In the event the parties are unable to agree on the Mediator, each party shall appoint an architect who is affiliated with the parties but otherwise qualified to serve and those two individuals shall appoint a third architect who is fully qualified to serve and who shall serve as Mediator hereunder.

D. Confidentiality Observed. To the extent the parties agree to allow individual caucuses or private sessions with the Mediator, it is understood that the Mediator will not disclose confidential information imparted by either party or their attorney unless specifically authorized to do so. Further, no information obtained during Mediation will be released to any outside person or organization unless both parties agree.

E. Settlement Negotiations. The parties agree that mediation sessions are considered as settlement negotiations and communications made in mediation shall be inadmissible in court or any legal proceeding.

F. Mediator No Witness. The parties agree that neither will call the Mediator or any of his or her employees as witnesses to testify in any proceeding, or subpoena any records of the Mediator, in any matter related to the mediation. If subpoenaed or otherwise noticed to testify, the Mediator will inform the participants immediately so as to afford them an opportunity to quash the process.

G. Mediation Voluntary. Mediation is a voluntary process, and either party or the mediator may terminate the mediation at any time. However, the parties agree that the party wishing to terminate mediation will do so during a mediation session so that both parties and the Mediator may have an opportunity to discuss termination of the mediation.

H. Mediation Binding. If the parties reach an agreement through mediation, such agreement shall be binding.

I. Inability to Agree. If the parties are unable to reach an agreement about any of the issues to be mediated, the parties and the Mediator will discuss options for resolution of the issues. These options may include separate sessions with the Mediator, referral or particular issues to other professionals, or suspension or termination of the mediation.

IX. MISCELLANEOUS

A. Right of First Refusal. In case of any contemplated sale of the Property or any portion thereof by Grantor or any successor in title thereto, first refusal as to any bona fide offer of purchase must be given to Grantee, its successors or assigns. If Grantee so decides to purchase, it shall notify the then owner of its willingness to buy upon the same terms within thirty (30) days of receipt of written notice of such bona fide offer. Failure of Grantee to notify the then owner of its intention to exercise this right of first refusal within such thirty (30) day period shall free the owner to sell pursuant to the bona fide offer. In any event, Grantee shall have the opportunity to explain to the proposed purchaser the terms of the Preservation Agreement prior to the closing of any sale.

B. Other Liens Subordinate. The Property is currently encumbered by a Deed of Trust recorded in the land records of the County of _____, North Carolina securing a loan payable to _____ ("Lender"). Lender hereby subordinates its rights in the Property to the right of Grantee, its successors or assigns, to enforce the conservation purposes of this Preservation Agreement

in perpetuity, and joins in the execution of this Preservation Agreement for the sole and limited purpose of so subordinating its interest.

And/or

Nothing in this Preservation Agreement shall be construed to prohibit Grantor's ability to use the Property as collateral for subsequent liens or mortgage. All subsequent mortgages and rights in the Property of all mortgagees are subject and subordinate at all times to the rights of Grantee to enforce the purposes of this Preservation Agreement. Grantor will provide a copy of this Preservation Agreement to all mortgagees of the Property. The subordination provisions as described above relate only to the purposes of the Preservation Agreement, namely the preservation of the Façade.

C. Covenants Run with the Land. Grantor hereby covenants to carry out the duties specified herein, and these restrictions shall be covenants and restrictions running with the land, which shall bind Grantor, Grantor's administrators, successors and assigns, and Grantor agrees for Grantor's administrators, successors and assigns, that in the event the Property is sold or otherwise disposed of, the covenants and restrictions contained herein will be inserted in the deed or other instrument conveying or disposing of the Property; provided however, that these covenants shall terminate and be of no further force or effect in the event that the Property is damaged beyond restoration as a result of fire or other casualty. Damage beyond restoration is defined as damage to an extent exceeding fifty percent (50%) of the insurable value of the building.

D. Assignment. Grantee may convey, assign, or transfer this Preservation Agreement to a unit of federal, state or local government or to a similar local, state, or national organization that is a *qualified organization* under Section 170(h) of the Code, and a *qualified holder* under the Act.

E. Interpretation. This Preservation Agreement shall be construed and interpreted under the laws of the State of North Carolina, and any ambiguities herein shall be resolved so as to give maximum effect to the conservation purposes protected herein.

F. Merger. The Parties agree that the terms of this Preservation Agreement shall survive any merger of the fee and easement interest in the Property or any portion thereof

G. Entire Agreement. This Preservation Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. All recitals, exhibits, schedules and other attachments hereto are incorporated herein by reference.

H. Headings. The headings of the various sections of this Preservation Agreement have been inserted for convenience only and shall not modify, define, limit or expand the express provisions of this Preservation Agreement.

I. Amendments. Grantor and Grantee are free to jointly amend this Preservation Agreement to meet changing conditions, provided that no amendment will be allowed that is inconsistent with the purposes of this Preservation Agreement or affects the perpetual duration of this Preservation Agreement. Such amendment(s) require the written consent of both Grantor and Grantee and shall be effective upon recording in the public records of _____ County, North Carolina.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals and if corporate, have caused this instrument to be signed and sealed by the appropriate corporate officers in accordance with the authority directed by the board of directors, all as of the day and year first above written.

GRANTOR:

BY: _____ (SEAL)
NAME: _____
TITLE: _____

GRANTEE:

CAPITAL AREA PRESERVATION, INC.,
a North Carolina non-profit corporation

BY: _____ (SEAL)
NAME: _____
TITLE: President & CEO/ Board Chair

NORTH CAROLINA

_____ COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that _____, Grantor personally came before me this day and acknowledged the due execution of the foregoing and annexed instrument for the purposes and intents therein expressed. Witness my hand and official stamp or seal, this the _____ day of _____, 200_.

Notary Public
Stamp/Seal

My Commission Expires: _____

NORTH CAROLINA
_____ COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that _____ personally came before me this day and acknowledged that (s) he is President & CEO/Board Chair of **CAPITAL AREA PRESERVATION, INC.**, a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, executed the foregoing instrument on behalf of the corporation. Witness my hand and official stamp or seal, this the _____ day of _____, 200_.

Notary Public
Stamp/Seal

My Commission Expires: _____

EXHIBIT A
Map or Legal Description of the Property

EXHIBIT B

The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (36 CFR §67)

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.