

DECLARATION OF TRUST  
CITY OF SALEM AFFORDABLE HOUSING TRUST

This Declaration of Trust is hereby made on this 17<sup>th</sup> day of September, 2007, by the City of Salem acting by and through its City Council, as approved by City Ordinance Chapter 2, Article IV Boards, Commissions, Committees and Authorities, Division 14, Affordable Housing Trust Funds Board of Trustees on October 31, 2006.

ARTICLE FIRST: Name of the Trust

The Trust shall be called the "City of Salem Affordable Housing Trust Fund".

ARTICLE SECOND: Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the City of Salem for the benefit of those low- and moderate-income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property held by the Trust and the net earnings thereof shall be used exclusively for the preservation and creation in the City of Salem of affordable housing for the purposes for which this Trust was formed.

ARTICLE THIRD: Trustees

There shall be a Board of Trustees (Board) composed of twelve Trustees, including the Mayor, City Council President and two members of the City Council. The Mayor shall serve as a Trustee and appoint annually in January, subject to confirmation by the City Council, four Trustees who shall serve for a term of one year; and appoint biennially, subject to confirmation by City Council, four Trustees who shall serve for a term of two years. The City Council shall annually elect two members of the City Council to serve for a term of one year. The City Council President or his or her designee shall serve for a term of one year. No Trustee, excluding the Mayor, shall serve for a term exceeding two years. If a vacancy shall occur among the Trustees, it shall be filled in the same manner as the original appointment for the unexpired term. Trustees may be removed by a majority vote of the City Council, subject to approval of the Mayor. Any Trustee who ceases to be a resident of the City of Salem shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the City Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the City Clerk. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

ARTICLE FOURTH: Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions

of the Open Meeting Law, G.L. Chapter 39 Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

#### ARTICLE FIFTH: Powers of the Trustees

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of G.L. Chapter 44, Section 55C:

- (1) to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with provisions of any zoning ordinance or by-law or any other ordinance or by-law;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the Trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
- (10) to carry property for accounting purposes other than acquisition date values;
- (11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge Trust assets as collateral;
- (12) to make distributions or divisions of principal in kind;
- (13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;
- (14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

- (15) to hold all or part of the Trust property uninvested for such purposes and for such time as the board may deem appropriate; and
- (16) to extend the time for payment of any obligation to the Trust.

The power and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the City Council.

#### ARTICLE SIXTH: Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any Zoning Ordinance, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the board within one year of the date they were appropriated into the Trust, remain Trust property.

#### ARTICLE SEVENTH: Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

#### ARTICLE EIGHTH: Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the City, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of G.L. Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. Chapter 268A.

#### ARTICLE NINTH: Taxes

The Trust is exempt from G.L. Chapter 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

#### ARTICLE TENTH: Custodian of Funds

The City Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

#### ARTICLE ELEVENTH: Governmental Body

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. Chapter 39.

#### ARTICLE TWELFTH: Board of the City

The Trust is a board of the City for purposes of G.L. Chapter 30B and Section 15A of G.L. Chapter 40; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the City shall be exempt from said Chapter 30B.

**ARTICLE THIRTEENTH: Duration of the Trust**

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the City and held by the Mayor for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Mayor, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

**ARTICLE FOURTEENTH: Authorization**

The Trustees are authorized to execute, deliver, and record with the Registry of Deeds any documents required for any conveyance authorized hereunder.

**ARTICLE FIFTEENTH: Rules and Regulations**

The Board may adopt such rules and regulations as required to conduct its affairs, and in keeping with the provisions and intent of G.L. Chapter 44, Section 55C.

**ARTICLE SIXTEENTH: Titles**

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.

**ARTICLE SEVENTEENTH:**

The Trustees shall keep a record of its doings and at the close of every fiscal year, make a report thereof to the City Council. The report shall include a description and source of funds received and expended and the type of affordable housing programs or properties assisted with the funding. The Trustees shall also provide the City Council with a copy of the Trust's annual audit.

**ARTICLE EIGHTEENTH: Amendment**

This Trust may be amended from time to time by vote of at least seven members of the Board and approved by both the Mayor and City Council, provided, however, that no such amendment shall violate the purposes of this trust, nor of G.L. Chapter 44, Section 55C.

**ARTICLE NINETEENTH: Validity**

If any provision of this trust shall be deemed illegal or unenforceable by final Judgment, order or decree by a Court of competent jurisdiction, the remaining provisions of this trust shall not be affected thereby.

The Mayor, for herself and her successors, hereby acknowledge and agree to the terms of this Trust, and the Trustees named hereunder, hereby acknowledge and agree for themselves and their successors to hold the Trust property for the purposes hereof in Trust for the benefit of all of the inhabitants of the City of Salem, Massachusetts, in the manner and under the terms and conditions set forth here in.