



**COMMUNITY DEVELOPMENT**

**CITY OF DURHAM**

Down Payment Assistance (DPA)  
Program for  
Low-to-Moderate Income Homebuyers

Program Policy  
and  
Underwriting Guidelines

*Before applying for the DPA Program, prospective Applicants should review the eligibility criteria outlined in the Guidelines and the Applicant Document Checklist.*

*In delivery of City of Durham programs, services, or activities, there shall be no discrimination against any member of the public based on sex, race, gender, color, ethnicity, gender identity, national origin, age, familial, status, military status, political affiliation, physical and/or mental disability, genetic information, and/or sexual orientation.*

These guidelines are not meant to be a substitute for Federal regulations nor is it exhaustive regarding all considerations affecting the sources or usage of funds. The DPA Program is governed by applicable Federal, State, and local laws, statutes, regulations, codes and ordinances. Where these guidelines and other applicable laws, statutes, regulations, codes, ordinances, or policies are, or appear to be in conflict, the stricter of the two shall apply. The City may further amend the guidelines and approve and amend a DPA Program Policy and Underwriting Guidelines in order to comply with applicable requirements of the United States Department of Housing and Urban Development (“HUD”) and other regulatory authorities and/or to ensure the efficient and proper administration of the DPA Program, provided that, without further Council approval, such administrative revisions (i) subsidy limit up to \$80,000 for properties located within the City of Durham and (ii) income requirement for program participants limited to 80% of the area median income.



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## SECTION A: DPA PROGRAM POLICIES

### 1. Program Objectives

The City of Durham Down Payment Assistance (DPA) Program provides assistance to first time homebuyers<sup>1</sup> who are low-to-moderate income individuals and families for the purchase of a home to be used as their primary residence.<sup>2</sup> **The home must be within the city limits of Durham.**

**The objectives are to:**

- Provide knowledge of homeownership through homebuyer education and counseling.
- Ensure that the Applicant(s) are ready to purchase a home and will be able to sustain it.
- Assist with funding gaps by providing down payment assistance and closing costs.

These objectives will be accomplished by partnering with local lenders and the City of Durham.

Down payment assistance is provided in the form of a zero percent (0.0%) interest free forgivable mortgage loan with a 15-year term. The loan will be forgiven at 1/15<sup>th</sup> each year if the applicant continues to occupy the residence. If the applicant no longer occupies the residence, the remainder of the loan balance will be due and will be recaptured by the City. At the end of year 15, the City of Durham Promissory Note and Deed of Trust will be satisfied, and the City of Durham, Loan Portfolio Administrator will file a Certificate of Satisfaction to release the lien as stated on the Promissory Note and Deed of Trust.

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1 See: [eCFR: Title 24 of the CFR -- Housing and Urban Development](#)

2 FHA Policy [Single-Family Handbook 4000.1] requires that an affordable housing DPA Program “must serve low-to-moderate income individuals or families.” For the City of Durham DPA Program, low-to-moderate income refers to individuals and families whose household income does not exceed 80% of the Durham-Chapel Hill AMI for family size.

## 2. Definitions

- **Affordability Period:** The period a homebuyer is required to own and occupy a property as their primary residence, which is tied to the amount of assistance provided.
- **Applicant:** A person or family that has applied for housing assistance.
- **Appraisal:** An estimate of a home's market value based on comparable recent sales in the home's immediate area or neighborhood conducted by a professional appraiser.
- **Appraiser:** An individual duly licensed and qualified by the state of North Carolina to complete the Appraisal.
- **Area Median Income (AMI):** Household income adjusted by family size for a given area as calculated by the United States Department of Housing and Urban Development (HUD).<sup>3</sup>
- **Award Commitment Letter:** Notification sent to an Applicant and if applicable, Co-Applicant indicating the action of reserving funds that are conditionally awarded to the Applicant as the second mortgage which can be applied for purchasing a specific dwelling unit. It is a pre-obligation. It is not legally binding and normally valid for 60 days.
- **Back-End-Ratio:** Also known as the Debt-to-Income Ratio, is the percentage that expresses the relationship between a borrower's total monthly obligations (including the total mortgage payment) and their gross income.
- **Closing Cost:** Ordinary and reasonable expenses above the sales price of the property incurred by buyers and sellers when transferring ownership of a property and acquiring financing through a mortgage loan.
- **Closing Disclosure:** A form that provides the final details required to complete the mortgage loan process by qualified Applicants under the DPA Program. It includes a breakdown of loan terms, projected monthly payment, closing cost and down payment applied.
- **Community Development Block Grant (CDBG):** An acronym used to reference the legal framework which HUD assigns administrative responsibilities over fixed amounts of federal funds allocated via congressional appropriation to eligible Grantees.
- **Down Payment:** A sum of money that a buyer pays in the early stages of purchasing a home. The down payment represents a portion of the total purchase price, and the buyer will often take out a loan to finance the remainder.
- **Eligible Homebuyer:** Refers to the members of a household (an individual or a married couple), which the lenders have determined that Applicants have met all the City of Durham DPA Program requirements.

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<sup>3</sup> HUD Modified Income Limits change annually. See: [Income Limits | HUD USER](#)



- **Fair Housing Act:** The Fair Housing Act of 1968, 42 U.S.C. §3601-3619, prohibits discrimination against protected classes of people in for-sale or rental housing.
- **First-Time Home Buyer:** An Applicant(s) which has never owned a home nor has any ownership interest in real estate at the time of application (i.e., primary, investment, timeshares, vacation homes, or vacant lots) or for those which haven't owned a home within the past three (3) years.
- **Front-End-Ratio:** The relationship, expressed as a percentage, between an Applicants' housing expense and their gross monthly income. That includes principal, interest, taxes, hazard insurance, and mortgage insurance.
- **Hazard Insurance:** Insurance coverage that protects a property against damage caused by fires and damages from hurricanes, earthquakes, and/or other natural disasters (exclusion of flood).
- **Household Income:** The anticipated adjusted gross amount of income from all sources of all adult family members as defined for reporting under the Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.
- **Household Member:** Any person occupying the same unit, regardless of their relationship. May include minor children, temporality absent family members and permanently absent family members (such as those who reside in a nursing home). For the DPA Program household members should not own residential property.
- **Household Size:** All persons occupying the same housing unit, regardless of their familial status or relationship. The household size includes all persons, including minor children and adults.
- **Housing Counseling Agency:** Either a public or private nonprofit organization (i) established as a HUD-approved provider of homebuyer education courses for at least one (1) year in the geographical area in which it provides services, (ii) is knowledgeable concerning the local housing market, and (iii) has met the regulations found at 24 CFR Part 214 to obtain HUD approval.
- **HUD:** The acronym for Housing and Urban Development
- **Lending Institution(s):** Financial and mortgage institution(s) duly authorized to carry out mortgage business in North Carolina and the nation. To originate subsidized loans under the DPA Program, Lenders must comply with the requirements and enter into agreements required by the City of Durham.
- **Lien:** The security interest created by a mortgage or loan on a property.
- **Long-Term or 30-Year Fixed Mortgage:** A fixed rate and fully amortized mortgage loan with a term of 30 years of payment.
- **Low and Moderate Income (LMI):** Low-to-moderate income populations have incomes not more than 80% of the Area Median Family Income established by HUD. This income

standard changes yearly and varies based on household size and geography. HUD has calculated adjusted income for the Durham-Chapel Hill Metro Area.<sup>4</sup>

- **Mortgage:** A loan in which property or real estate is used as collateral. The Borrower agrees with a mortgage lender and the City wherein the borrower receives cash up front and then makes payments over a set time until the entire lien is repaid to the mortgage lender and the City.
- **PITI:** The acronym for principal, interest, taxes, and insurance (homeowner's, flood, and mortgage insurance).
- **Primary Residence:** Refers to the dwelling where a person maintains or will maintain a primary residence, and which will be occupied for the majority of the calendar year. A Person may only have one (1) primary residence at a time.
- **Program Administrator:** Refers to the City of Durham.
- **Property Value:** The assessed value of a property under normal competitive and the open market. The property market value must be established through an appraisal.
- **Purchase Price:** The cost of acquiring a residence. To qualify for the DPA Program, the purchase price cannot be higher than the appraised value.
- **Recapture:** The City will recoup all the DPA funds provided to the Borrower(s) when the owner no longer maintains the residence during the affordability period.
- **Restrictive Condition or Deed Restriction:** Any restriction or obligation registered against the property's title deed, which binds the owner and restricts the use of the property.
- **Second Mortgage:** A deed next in rank after the first deed on the same property.
- **Subsidy:** Direct financial assistance provided to the Applicant to reduce their interest rate and mortgage principal.

### 3 Program Interest and Eligibility

#### 3.1 DPA Program Eligibility

Interested Applicant(s) may apply for the DPA Program through a participating lending institution of their choice. The applicant must be a first-time homebuyer or have not owned a home within the last three (3) years<sup>5</sup>. The buyer may not own any other property or have ownership in any real estate at the time of closing (i.e. vacation homes, timeshares, and vacant land). Property must be located within the City limits of Durham as verified by the Community Development Department.

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4 HUD Modified Income Limits change annually. See: FY 2022 Income Limits Documentation System -- Summary for Durham County, North Carolina ([huduser.gov](http://huduser.gov))

5 See: [24 CFR 572.5 - Definitions. - Content Details - CFR-2013-title24-vol3-sec572-5 \(govinfo.gov\)](#)

The Applicant(s) will be screened for eligibility to ensure compliance with the DPA Program Requirements. The Applicant(s) must provide complete and accurate information regarding their household composition, household gross monthly income, and other eligibility criteria. Cash on hand or other liquid assets held by a non-DOB (Duplicate of Benefit) will not be used to determine DPA Program eligibility, and such instances will be referred to the City of Durham DPA Program Project Manager for further action. The lending institution will conduct an eligibility review before forwarding to the DPA Program Underwriter those Applicants who meet the DPA Program criteria. DPA Program Underwriter will conduct an eligibility review to verify if the Applicant(s) are eligible to receive the DPA forgivable mortgage loan as outlined in these Guidelines.

- Must be a U.S. Citizen, non-citizen national, or qualified alien as defined within these Guidelines.
- Meet the income requirements to be at or below 80% of the AMI as outlined and established by HUD for the Durham-Chapel Hill Metro.
- Complete a Homebuyer Education Course provided by HUD and submit a *Certificate of Completion* before closing.<sup>6</sup>

An “Eligible Homeowner” includes the following: parents who owned a home with a former spouse while married, and the displaced homemakers who have owned a home with a spouse. In the case of a divorce, the Applicant will be required to provide evidence of separation through divorce decree showing stipulations indicating the former spouse owns the property. However, an individual shall not be excluded from consideration as an Applicant solely based on his or her marital status.<sup>7</sup>

An individual who is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, will not be subject to more demanding standards than other Applicants.<sup>8</sup>

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6 For more information about Housing Counseling DPA Program, locations and contacts, on current Counseling Agencies, visit [\[https://hudgov-answers.force.com/housingcounseling/s/?language=en\\_US\]](https://hudgov-answers.force.com/housingcounseling/s/?language=en_US)

7 Under Fair Housing Act, housing providers cannot not discriminate based on any protected characteristics, including race, color, national origin, religion, sex, familial status, disability or age, HU-assisted insured housing must be available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

8 The Violence Women Act of 1994 (VAWA), 34. U.S.C. § 12471 provides housing protections for survivors of domestic violence, dating violence, sexual assault, and/or stalking.

An “Eligible Homebuyer” includes an Applicant in the following non-exhaustive list who is:

- Displaced homemaker<sup>9</sup>
- Single Parent<sup>10</sup>
- Married individual but does not own a home with a spouse or partner.
- An Applicant who is a party to a court proceeding pending judgment related to the martial home property.

The DPA Program Administrator will determine eligibility for each submitted Program application received from the lending institution. Eligibility will be determined from the documentation submitted by the Applicant and verification of information by lending third-party sources.

### 3.2 Terms of Assistance

The City of Durham Down Payment Assistance Program will have a 15-year term zero percent (0.0%) interest free forgivable mortgage loan. The loan balance will be forgiven at 1/15th each year if the applicant's occupant continues to occupy the residence. If the applicant(s) no longer occupy the residence, the remainder of the loan balance would be due and be recaptured by the City.

### 3.3 Amount of Assistance

The amount provided will be up to \$80,000 for properties located within the Durham city limits.

### 3.4 Applicant Identification

As part of the DPA Program application, everyone in the Applicant(s) household must submit documentation to prove their identity. The Lending institution and/or Program Underwriter will ensure the documentation is valid and current during the eligibility review.

This documentation may include, but is not limited to, the following:

- Government Issued Photo Identification (Federal or State Issued)
- Driver’s License
- Passport
- Military ID Card
- Birth Certificate or

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<sup>9</sup> Displaced homemaker means an individual who a) an adult; b) has not worked full-time in the full year in the labor market for several years but, has such years, worked primarily without remuneration to care for the home and family; and c) is unemployed and is having trouble in obtaining or upgrading employment. 24 CFR § 92.2.

<sup>10</sup> Single parent means an individual who a) is unmarried or legally separated from a spouse; and b) has one or more minor children of whom the individual has custody or joint custody or is pregnant CFR § 92.2.

- Certificate or Naturalization or Permanent Resident Card (“Green Card”)

*\*Birth certificates may only be used as proof of identification for Applicants’ household members under the age of 18. All other Applicants over the age of 18 must submit a photo ID.*

### 3.5 Applicant Citizenship and Residency Requirements

The Applicant(s) having residency in the City of Durham or Durham County is not required at the time of application.

DPA Program eligibility is only limited to U.S. Citizens, non-citizen National, or qualified aliens as defined in the following chart:

| Status               | Definition  |
|----------------------|---|
| U.S. Citizen         | A person born in one (1) of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Island; a person born outside of the U.S. to at least one (1) U.S. parent; or a naturalized citizen          |
| Non-Citizen National | A person born in an outlying possession of the U.S. (American Samoa or Swain’s Island) on or after the U.S. acquired possession; a person born outside of the U.S. and its outlying possessions parents are U.S. non-citizen nationals. 8 USC § 1408. |
| Qualified Alien      | Legal permanent resident (“Green Card” holder), under the Immigration and Nationality Act (INA), 8 USC Chapter 12.  |

As part of the DPA Program application, all Applicants must submit documentation to prove their citizenship. This documentation may include, but not is not limited to, the following:

- Passport
- Birth Certificate
- Certificate of Citizenship or
- Permanent Resident Card (“Green Card”)

*\*Temporary tourist Visa holders, foreign students, and temporary work Visa holders are ineligible for the DPA Program.*

### 3.6 Student Status

A household which includes a full-time or part-time student at an institution of higher education, and in which the student's parent(s) (or other legal guardians) are not students, are eligible to participate in the DPA Program.

Other households with a full or part-time student at an institution of higher education may be eligible if the following statements are true for the student(s):

- Under the age of 24.
- Current United States military active members.
- Not married and does not have a dependent child who resides at least 50% of the time with the household member.
- Not receiving Section 8 assistance as of November 30, 2005.

An Applicant is not otherwise individually eligible or has parents who (individually or jointly) are not income-eligible to receive Section 8 assistance unless the student can demonstrate his or her independence from his or her parents as defined in the Federal Register per 71 FR 18145.

### 3.7 Work Status

- An applicant(s) household should work a minimum of 32 hours per week. Exceptions will be made for applicant(s) who meet one of the following criteria:
- An individual who is disabled yet has sufficient income to meet other eligibility criteria.
- An individual who is aged 65, or older.
- An independent contractor or self-employed individual who has intermittent or seasonal work, that otherwise meets DPA Program eligibility.
- An individual who is the primary caretaker of either *a)* a child under the age of 12, or *b)* a person who requires care throughout the day.

## SECTION B: UNDERWRITING GUIDELINES

### 1. Program Intake Process

The applicant(s) must be a reasonable credit risk. The lending institutions dictate credit score requirements. Non-traditional credit is not accepted.

During the intake process, the Applicant(s) will be required to furnish the information listed below to their lender:

- **Homebuyer Education Course Certificate:**
  - The Homebuyer Education Course Certificate can be obtained by enrolling in a course through the HUD Housing Counseling portal. For location(s) and contact(s) of Counseling Agencies, visit [Housing Counseling | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/department-of-housing-and-urban-development). The HUD Homebuyer Education Course is free for eligible Applicants. Upon completing the course, the Housing Counseling Agency will issue a Certificate of Completion.
- **Applicant and/or Co-Applicant Identification:**
  - The Applicant and/or Co-applicant must provide a valid copy of a government-issued photo ID (federal or state).
- **Household Members Identification:**
  - The Applicant shall provide a valid copy of a government-issued ID (federal or state) for all household members over the age of 18. For those household members under the age of 18, a birth certificate will be required.
- **Household Members Income Documentation:**
  - For Applicant and Co-applicant, and those household member(s) aged 18 and older which are wage earners must provide proof of income. The following documentation is required:
    - Three (3) most recent paystubs from the ninety (90) day period prior to the date of application.
    - Three (3) months of the most recent bank statements
    - Three (3) years most recent W2s.
    - Three (3) years of the most recent Federal income tax returns
    - Employment Verification Form (VOE)
      - *Those receiving rental income from rental properties will not be eligible for the DPA Program.*
  - For Applicant, Co-applicant, and those household member(s) who receive retirement/pension, and/or Social Security the documentation required:
    - Three (3) months of the most recent bank statements.

- Current pension/retirement and/or Social Security Award letter.
- Current 1099 form from the prior year to date to the application
  - *Those receiving rental income from rental properties will not be eligible for the DPA Program.*
- For Applicant, Co-applicant, and those household member (s) which is Self-Employed documentation required:
  - Three (3) months of the most recent personal and business bank statements.
  - Three (3) years of the most recent tax return with all schedules
  - Profit & Loss (P&L) for the past 12 months.
    - *Those receiving rental income from rental properties will not be eligible for the DPA Program.*

### 1.1 Loan Term Requirements

The applicant(s) must obtain a fixed-rate mortgage with a term of 30 years. The applicant must qualify based upon their own individual credit (no co-signers). All Co-applicants must be listed on the City's loan documents. For married applicants, both parties must sign the loan documents.

### 1.2 Loan Types

The applicant must be able to qualify for a fixed rate mortgage loan product offered through a Conventional, FHA, or VA Loan.

*\*The City of Durham market does not currently support financing through United States Department of Agriculture (USDA).*

## 2.2 Eligibility Review and Actions (Conditioned by Primary Lender)

### 2.1 Eligibility Review and Reconsiderations

Applicant(s) deemed eligible will be sent an *Eligibility Notice* via email, informing the eligibility decision. Applicant(s) can receive the *Eligibility Notice* via postal mail if requested during the intake process. The correspondence will include a notice informing the Applicant(s) of the eligibility determination and add a description of the next steps. The eligibility will be valid for **90 days**.

If at any point during the Program eligibility determination process or any other phase of the process, it is found that the Applicant(s) is ineligible for the Program, the Applicant(s) will be notified through an *Adverse Eligibility Notice*. This notice will outline the eligibility determination, the following steps, and instructions for submitting a Program based



*Reconsideration Request* and/or *Administrative Review Request*. The notification will inform the reason(s) for ineligibility and outline the process to challenge the decision. Applicant(s) who wish to contest the DPA Program determination may file a Program-based *Reconsideration Request* by submitting a written request directly to the DPA Program Project Manager within **30 calendar days** from the date the notice was sent to the Applicant.

## 2.2 Non-Responsive Applicants

Upon receipt of the *Eligibility Notice*, the applicant has **90 days or must adhere to Lending Closing Date (whatever date is sooner)**, to start the process of securing a mortgage. If the Applicant fails to begin the financing process within that period, the Program Administrator will issue a *Non-Responsive Notice* through electronic mail and regular mail. The *Non-Responsive Notice* will advise the Applicant of the next steps in the application process. The notice will also inform the Applicant(s) that they must start and complete the lending process with a participating partnering lender within **21 calendar days** of the date of the notice.

If the Applicant(s) cannot begin or continue with the lending process with a participating partnering lender within **14 calendar days**, the application will be withdrawn from the Program, and the Applicant(s) will receive a *Non-Responsive Confirmation Notice*. Withdrawal from the Program does not prevent the Applicant(s) from re-applying once the Applicant(s) is ready to begin or continue the mortgage financing process.

## 2.3 Voluntary Withdrawal

An Applicant may request to withdraw from the Program at any time. In the event this happens, a voluntary withdrawal process from the DPA Program will take place. In such an event, the Applicant will notify the Program Administrator, in writing via email or postal mail, of their desire to withdraw from the DPA Program.

Once the Program Administrator has reviewed and accepted the withdrawal request, the Program Administrator will issue a *Voluntary Withdrawal Notice*. At this stage, the Applicant's status will be updated to "Withdrawn". Upon completion of the withdrawal process, **14 calendar days** after the *Voluntary Notice*, A *Voluntary Withdrawal Confirmation Notice* will be sent to the Applicant. The *Confirmation Notice* will inform the Applicant that this has been completed and the application will be withdrawn from the Program. However, the Applicant's voluntary withdrawal does not prevent the Applicant from submitting a new application to the DPA Program in the future.

## 2.4 Denial of Assistance

Every effort will be made to address any issues with the loan well in advance of closing. However, the Program reserves the right to postpone a scheduled closing date or deny Program assistance due to any of the following circumstances:

- Falsification and/or alteration of documents.
- Reported Minimum Housing Code violations.
- Predatory loans and/or fees.
- Incomplete/missing paperwork.
- Scheduling conflicts.
- Insufficient processing time allowed for program funding (check request).
- Not receiving prior approval on any required items/matters.
- Other issues which conflict with program policy or state and/or federal regulations.

## 3 General Program Requirements

### 3.1 Languages Other than English

Applicant(s) with limited English proficiency who require an interpreter must make the request to the Program Administrator no later than **48 hours** prior to a meeting. In these situations, telephone or in person translation will be provided through the Program Administrator. Alternatively, if available, a family member or friend over the age of 18 may act as the interpreter for the Applicant(s).

#### 3.1.2 Persons with Disabilities

Applicants with a disability that need accommodation must contact the Program Administrator to make the request no later than **48 hours** prior to the meeting.

### 3.2 Criteria Instructions for Participating Partnering Lending Institutions

Lending institutions are critical to the Program's success. To qualify as a participating lending institution, the financial and mortgage institutions must meet the following criteria:

- Be duly authorized to carry out mortgage business in the state of North Carolina with a copy of the NMLS registration on file with the DPA Project Manager.
- Execute and comply with the Program Guidelines and applicable federal, state, and local laws and regulations.
- Maintain an established point of contact for the Program Underwriter and the City of Durham to ensure that mortgage officers are trained with the use of the Program platform "Neighborly" software.

The City of Durham will publish regular updates and a list of participating lending institutions via the Program website and lending institutions website (if applicable).

A lending institution inquiring how to become a participating lender should contact the Program Administrator.

### 3.2.1 Issuance of Eligibility Notice/Borrower Pre-Approval Letter

Once the lender has issued a formal pre-approval, the Lender will provide the Program Underwriter with the file for the next steps for the approval of the City funds. Upon approval, the Program Underwriter will provide the issuance of the *Eligibility Notice* to the Applicant(s) and primary lender.

The lending institution will guide the Applicant(s) through the mortgage process and provide the Applicant(s) with applicable loan conditions or stipulations.

The Applicant(s) may **only** pursue a **Long-Term 30 Year Fixed Mortgage** loan product type resulting from:

- FHA/VA loan
- Fannie Mae/Freddie Mac conventional loans
- Non-conforming loans (Jumbo)

The City of Durham market does not currently support USDA mortgage loans.

The following risky loan features or products **are not allowed** under the Program:

- Adjustable-Rate Mortgages (ARMs)
- Loans with Balloon Payments
- Loans with Pre-Payment Penalties
- Loans with Negative Amortization
- Loans which are interest only
- Loan terms less than 30 years on the primary mortgage loan

The City reserves the right to deny assistance if it finds that the transaction's structure infringes upon the Program's overall purpose.

### 3.2.2 Anti-Predatory Lending

As outlined in 24 CFR 92.254 (f) HUD Regulation, the City does not condone unscrupulous actions carried out by a lending institution to entice, induce and/or assist a borrower in taking a mortgage that carries a high-interest rate and fees or place the borrower in a lower credit-rated loan to the benefit of the lender.

### 3.2.3 Legal and Real Estate Representation

Applicant(s) are required to have a buyer's agent (a real estate agent who specializes in representing the buyer during the home buying process), preferably with experience working with down payment assistance programs.

The Applicant(s) must secure an attorney to ensure that the homeowner is receiving the property free and clear of any encumbrances and that all terms of the contract are met. It should be noted that the Program attorneys are representing the City and are responsible for ensuring the funds of the Program are disbursed and the City Deed of Trust is recorded at the courthouse.

### 3.2.4 Mortgage Clause for Homeowner's Insurance

There must be homeowner's insurance coverage in place on the subject property in an amount not less than the total amount of all loans (i.e., primary, Durham DPA Program, etc.). The City of Durham must be listed within the payable clause. This coverage must continue each time the policy is renewed until the Program's requirements are satisfied or forgiven. If the insurance company cancels its policy, the Applicant(s) must notify the City of Durham, Loan Portfolio Administrator no less than **ten (10) days** prior to the termination.

Proof of compliance with homeowners' insurance requirements should be received prior to the loan closing. The mortgage clause for the policy should reference:

**City of Durham  
Community Development Department  
Attention: Loan Portfolio Administrator  
101 City Hall Plaza  
Durham, NC 27701**

### 3.2.5 Title Commitment/Insurance

The subject property must be owned free and clear from all liens, direct or indirect.

### 3.2.6 Subsidy Layering

The Program does allow multiple programs layering (i.e., NC Finance Agency etc.). The total amount of all sources provided to the buyer(s) shall not exceed 35% of the purchase price.

## 4. Underwriting Review

To facilitate the underwriting review, the Program Underwriter will underwrite in accordance with these Guidelines. The Program Administrator will perform the underwriting review after the primary Lending institution has completed its preliminary loan underwriting with issuance of the pre-approval and prior to committing funds to the Applicant(s).

### 4.1 Asset Limitations/Available Assets to Acquire Housing

To determine eligibility, all assets must be listed on application documents. The asset limit is \$20,000 in liquid assets. This does not include long-term retirement savings (i.e., pension, 401k and IRA accounts, or life insurance cash value). Applicant(s) with liquid assets more than \$20,000 should apply the excess to the required down payment, which may decrease the amount of down payment assistance under this program.

#### 4.1.1 Applicant(s) Buyer Funding Contribution(s)

The applicant buyer must make a **minimum \$1,000** cash investment of their own funds toward the purchase transaction. Applicant buyer contribution(s) will be applied toward any up-front expenses first. Homebuyers cannot be reimbursed at closing for up front expenses paid prior to closing.

#### 4.1.2 Seller/ Agent Contribution

Seller contributions may be applied toward any expenses exceeding the \$1,000 that the applicant(s) is required to provide. The seller may contribute up to **6%** of the sales price.

#### 4.1.3 Gift Funds

Gift funds may be used and are acceptable only from the applicant(s)' immediate family members, but may not replace, the minimum required borrower contribution of \$1,000.

#### 4.1.4 Financial Reserves to Sustain Homeownership

Although not required, it is strongly recommended that the applicant have three (3) months' worth of the monthly mortgage payment in reserves (preferably in an account) as a safety net for sustainability in the event of a crisis.

## 4.2 Assessment of Applicant's Ability to Purchase

### 4.2.1 Credit

The Applicant(s) must be a reasonable credit risk. The current lending institutions dictate credit score requirements. Non-traditional credit is not acceptable (i.e., utilities, cable, furniture rentals, etc.).

### 4.2.2 Housing Expense (Front-End-Ratio)

Eligible Applicant(s) must have a housing ratio, or "Front-End-Ratio," (i.e., principal, interest, taxes, and insurance divided by the borrower's monthly income) between 25% and 32% of their monthly household income. The Front-End-Ratio cannot exceed 32%. City of Durham assistance may be reduced to ensure that the borrower(s) contributes at least the minimum percentage toward their monthly housing payment.

$$\text{Front-End-Ratio} = (\text{Housing Expenses} / \text{Gross monthly income}) \times 100$$

### 4.2.3 Monthly Debt to Income (DTI) Expense (Back-End-Ratio)

The Applicant(s) total debt-to-income (DTI), or "Back-End-Ratio," cannot exceed 45% of their total monthly qualifying income. Specifically, after the total monthly housing payment is added to all other debts, the total of these payments cannot exceed 45% of the borrower's monthly household income.

$$\text{Back-End-Ratio} = (\text{Total Monthly Debt Expense} / \text{Gross monthly income}) \times 100$$

The typical debts used to determine the qualifying Back-End-Ratios are the sum of the minimum required monthly payments on all the following types of debts:

- Student loans\*
- Auto loans
- Consumer loans or lines of credit
- Credit Cards
- Court ordered Child Support Payments to be paid

*\*The monthly payment amount if the interest rate is fixed and the loan will fully amortize within the term of the loan. One percent (1%) of the remaining loan balance reflected on the credit report for the borrower(s) if the borrower(s) cannot provide a fixed monthly payment amount. If the borrower(s) have been accepted and are actively enrolled in a Federal Income Driven Repayment Plan, then half percent (0.5%) of the remaining loan balance.*

*\*The Income Driven Payment Plan may be used, but the payment may be used only if it is greater than a half percent (0.5%) of the remaining loan balance. Proof that the borrower(s) is on a Federal Income Driven Repayment Plan must be provided.*

#### 4.3 Income Limit

Total household income cannot exceed 80% of the Area Median Income (AMI) for the HUD Durham-Chapel Hill Metro Fair Market Rent (FMR) as published by HUD.<sup>11</sup> (Exhibit B)

##### 4.3.1 Calculation of Income

All income is projected for twelve (12) months to calculate income compliance (regardless of its likelihood to continue).

City of Durham uses HUD definition of annual income in accordance with [24 CFR § 5.609 - Annual income. - Content Details - CFR-2017-title24-vol1-sec5-609 \(govinfo.gov\)](https://www.govinfo.gov/procurement/24-cfr-5-609) (which also list income “inclusions” and “exclusions”). For the Program, annual income is defined as the gross income of all adults (over the age of 18) which is expected to live in the residence being financed.

When calculating income, all projected income is annualized using the HUD CPD Income Calculator for calculating income.<sup>12</sup>

##### 4.3.2 Verification of Income

Written verification of all household members over the age of 18 is required and will be used to determine total household annual income. Household members with no income will be asked to sign an affidavit of no income. If the person is a student, a current transcript must be provided. Household income will not be re-verified at the time of closing unless more than six (6) months have elapsed since income eligibility was determined.

#### 4.4 Homebuyer Education

Prior to receiving DPA Program funding, the Applicant must receive housing counseling<sup>13</sup> and must complete a minimum of eight (8) hours of homebuyer education, which may be either in person or virtual. In cases where there are Co-applicants, only one applicant is required to complete the homebuyer education. Homebuyer education must be provided an approved HUD counseling agency.<sup>14</sup> For those Applicant(s) who opt

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11 See: [FY 2022 Income Limits Documentation System -- Summary for Durham County, North Carolina \(https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn\)](https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn)

12 See: CPD Income Eligibility Calculator and Income Limits - HUD Exchange (<https://www.hudexchange.info/incomecalculator/>)

13 See: 24 CFR § 92.25 (a)

14 See: [Housing Counseling | HUD.gov / U.S. Department of Housing and Urban Development \(https://hudgov-answers.force.com/housingcounseling/s/?language=en\\_US\)](https://hudgov-answers.force.com/housingcounseling/s/?language=en_US)

for the virtual or online course, it may be provided using Fannie Mae's HomeView course.

#### 4.5 Qualifying Loans

The DPA program only allows for 30-year fixed rate mortgages. This does not include adjustable-rate mortgages nor owner financing. The applicant must be able to qualify for a fixed-rate mortgage loan product offered through conventional, FHA, or VA financing. A purchase contract between the seller and buyer is required and will be retained in the applicant(s) loan file.

#### 4.6 Loan Terms for Primary Mortgage

The applicant(s) must obtain a fixed-rate mortgage with a term of 30 years. The applicant must qualify based upon their own individual credit (no co-signers). All co-applicants must be listed on the Program loan documents. For married applicants, both parties must sign the City of Durham loan documents.

#### 4.7 Loan Types

Eligible loan types for the Program, which can be either used with Conventional, Federal Housing Administration (FHA), or Veterans Administration (VA) loans. Mortgage lenders must be on the Program approved lender list.

#### 4.8 Lien – Securing Program Funds

Assistance is provided in the form of a 15-year term zero percent (0.0%) interest free forgivable mortgage loan. The loan balance will be forgiven at 1/15<sup>th</sup> each year if the applicant's occupant continues to occupy the residence. At the end of year 15, the City of Durham's Promissory Note and Deed of Trust will be considered satisfied, and the City of Durham, Community Development Department's Loan Portfolio Administrator will release the lien securing the Deed of Trust.

When the buyer is utilizing more than one down payment source, the request will be negotiated with the other funding source(s) as to what lien position each funder will take.

If during the 15-year period of any of the following events occur, the remainder of the loan balance will become due **IF**:

- Sale or transfer of the property
- Change in owner-occupancy status
- Default of first mortgage



In case of default, the borrower must contact City of Durham, Community Development Department's Loan Portfolio Administrator for the pay-off instructions.

#### 4.8.1 Instruments Securing Program Assistance

The Deed of Trust and Promissory Note secures the program funds; all of which are signed and notarized by the applicant buyer at closing. At the completion of closing, the Deed of Trust and Request for Notice of Sale are recorded and filed at the Durham County Register of Deeds. A copy of all documents will be placed in the Applicant(s) loan file within *Neighborly* and the original Promissory Note and Recorded Deed of Trust will remain in the Applicant(s) loan file located at the City of Durham, Community Development Department office until cancellation or satisfaction of the loan.

#### 4.8.2 Other Required Program Documents

- Iran Divestment Act Certification – the buyer must sign a statement that they are not subject to North Carolina sanctions for no investment in Iran.
- HUD Guideform Notice – the buyer and seller are required to sign a document informing the seller of the fair market value of the property, the rights of the seller, and that the borrower is not able to use eminent domain to acquire the property.
- Borrower Agreement or Purchase Contract – the buyer and the City's Program Administrator are required to sign a letter outlining the terms and conditions of the program.

#### 4.8.3 Funding Amount(s)

Eligible Applicants may receive up to \$80,000 for properties within the City of Durham.

## 5 Property Assessment

### 5.1 Appraisal

The Appraisal must meet the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, 42 USC § 4601 et seq., the definition of an appraisal appears on 49 CFR 24.2(a) and the five following requirements per this regulation:

- An adequate description of the physical characteristics of the property being appraised, including items identified as personal property, a statement of the known encumbrances, if any title information location, zoning, present use and analysis and best use, and at least the five (5) year sales history of the property.
- All relevant and reliable approaches to value. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.

- A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing and verification by a party involved in the transaction.
- A statement of the value of the real property to be acquired and a statement of the value of any damages if stated.
- The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

## 5.2 Maximum Loan to Value

The Loan to Value (LTV) cannot be greater than 100%. The Combined Loan-To-Value (CLTV) from all sources for homebuyer financing should not exceed 105% of the appraised value. In cases where the CLTV is greater than 100%, the LTV shall not exceed insurer (Conventional, FHA, and VA) limits and must be approved by the City of Durham Program Manager on a case-by-case basis.

$$\text{Loan to Value (LTV)} = \text{Mortgage Amount} / \text{Appraised Value} \times 100$$

$$\text{Combined Loan to Value (CLTV)} = \text{Mortgage Amount} + \text{Second Mortgage} / \text{Appraised Value} \times 100$$

### 5.3.1 Property Eligibility Review

Only single-family residential structures located in the City of Durham will be eligible for the Program. In addition, properties without a permanent foundation and for mobile homes which are not affixed to the ground as stated in the appraisal and CO-OPs will not be eligible for the Program.

For this program's purpose, single family may include:

- Single family houses
- Manufactured homes affixed to the ground
- Detached and attached townhomes
- Condominiums

### 5.3.2 Property Requirements

The following property requirements **must** be adhered to:

The property must be acquired through a valid deed, free and clear and encumbrance that may affect the City of Durham rights over the property under the Deed of Trust and Restrictive Conditions, and any liens reported on the Title Commitment.

The property must be classified as vacant or ready to be sold by the owner at the time of the contract signing.

The property must not be occupied by tenants at the time of contract signing. Properties must meet minimum property standards required by the Applicant's primary loan issuer and must meet the minimum Durham Housing Code. New construction properties must have a Certificate of Occupancy. The property must have no substantial adverse environmental factors as outlined in the appraisal.

### 5.3.3 Property Standards Requirement: Minimum Housing Inspection

Properties must be safe, decent, and sanitary. The City of Durham will perform a property inspection to ensure the proposed purchase home meets City Minimum Housing Code standards. Properties must be inspected by a City of Durham Inspector for compliance with the City's Minimum Housing Code. The City Inspector must complete the required checklist (Exhibit K), documenting property conditions.

The purpose of this inspection is to ensure that the property has no deficiencies that could endanger the Applicant(s) health and safety upon purchase. The inspection is basic in nature, and in no way replaces a home inspection. It is **strongly** recommended that the Applicant(s) obtain a home inspection, prior to committing to the purchase.

### 5.3.4 Lead Hazard Assessment

All pre-1978 built properties utilizing the DPA Program must comply with the lead reduction provisions found at 24 CFR Part 25 Part 35<sup>15</sup>. The Program Administrator will validate the date of construction from the appraisal and assure the seller complied with the *Disclosure requirements for seller's provisions* found at 24 CFR 35.88(a) which states:

1. The seller shall provide the buyer with an *Environmental Protection Agency (EPA) approved lead hazard information pamphlet*. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home*<sup>16</sup> or an equivalent pamphlet that has been approved for use in the State of North Carolina by the EPA.
2. The seller shall disclose to each agent the presence of any lead-based paint and/or lead based paint hazards in the target housing being sold and the existence of any available record or reports pertaining to lead based paint and/or lead based paint hazards. The seller shall also disclose any additional information available concerning the known lead-based paint and/or lead based paint hazards, such as the basis for the determination that lead-based paint and/or lead based paint hazards exist, the location of the lead-based paint and/or lead based paint hazards.
3. The seller shall provide the buyer with any records or reports available to the seller pertaining to lead based paint and/or lead based paint hazards in the target

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<sup>15</sup> See: CFR: 24 CFR Part 25 -- Mortgagee Review Board

housing being sold. This requirement includes records and reports regarding common areas. This requirement also includes records and reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.

If any of the disclosure activities identified above occurs after the buyer has provided an offer to purchase the residence, the seller shall complete the required disclosure activities prior to accepting the buyer's offer and allow the buyer an opportunity to review the information and possibly amend the offer.<sup>16</sup> Before a buyer is obligated under any contract to purchase target housing, the seller shall permit the buyer a **ten (10) day** period (unless the parties mutual agree, in writing upon a different period of time) to conduct a risk assessment or inspection for the presence of lead based paint and/or lead based paint hazards.<sup>17</sup> Nevertheless, a buyer may waive the opportunity to conduct the risk assessment or inspection by indicating in writing.<sup>18</sup>

#### 5.3.5 Home/Pest/Septic Inspections and Home Warranties

Applicant(s) are strongly urged to have performed a home inspection including pest, radon, and if applicable septic. Applicant(s) are recommended to acquire a one (1) year warranty. It is the Applicant's reasonability to request and schedule any inspections prior to closing. All repairs if noted from inspections must be satisfied.

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16 24. CFR § 35.88 (b)

17 24. CFR § 35.90 (a)

18 24. CFR § 35.90 (b)

## **SECTION C: LOAN CLOSING REQUIRMENTS, RECAPTURE and DEFAULT REMEDIES**

### **1 Loan Closing**

The closing date is the time when ownership of the property is transferred to the Borrower through the Deed of Sale and the signing of the City of Durham Promissory Note and Deed of Trust. Upon receipt of funds from the City of Durham, the lending institution has ten (10) business days to provide the City of Durham the complete closed loan with all the required Program Loan documentation. If additional time is needed, a written request may be submitted to DPA Program Project Manager.

Reasons not limited which may include:

- The seller or Buyer was not available for scheduled closing.
- The closing funds were not transferred in time for the scheduled closing.
- Unforeseen issues.
- Acts of God.

Documentation required to complete the City of Durham loan file can be found within this document under *Section D*.

The affordability period will begin at the time that the ownership of the property is transferred to the Borrower by means of the Deed of Sale and the signing of the City of Durham Promissory Note and Deed of Trust.

#### **1.1 Loan Servicing Program Funds**

Assistance is provided in the form of a 15-year term zero percent (0.0%) interest free forgivable mortgage loan. The loan balance will be forgiven at 1/15<sup>th</sup> each year if the applicant's occupant continues to occupy the residence. At the end of year 15, the City of Durham's Promissory Note and Deed of Trust will be satisfied, and the City of Durham, Community Development Department's Loan Portfolio Administrator will file a Certificate of Satisfaction to release the lien as stated on the Deed of Trust. When the buyer is utilizing more than one down payment source, the case will be negotiated with the other funding sources as what lien each funder will take.

## 1.2 Loan Default

If during the 15 years, any of the following events occur, the outstanding balance of the City's loan becomes due and subjected to recapture or pay back to the City of Durham:

- Sale or transfer of the subject property
- Change in owner occupancy, and/or
- "Uncured default" of the primary mortgage

## 1.3 Financial Hardship Assistance

In the event of default, the borrower must contact DPA Program Administrator.

## 1.4 Affordability Period and Loan Recapture

The affordability period refers to the years the property must be the Borrower's primary residence. **Recapture requires that, if the Borrower defaults, sells and/or transfers the property out of the Applicant(s) name, the Borrower must payback the outstanding balance on the City's loan.**

## 1.5 Default Remedies

Borrowers facing foreclosure that are actively working with their primary lender to restructure their primary mortgage to remain in the home, must **immediately** notify the Program's Loan Portfolio Administrator. The City of Durham will protect its interest with additional filings, if necessary.

## 1.6 Refinancing/Subordination

The Borrower may refinance the home loan but must first contact the City of Durham's Loan Portfolio Administrator. An agreement to subordinate the City of Durham residential loans is only allowed for the purpose of lowering the first mortgage loan interest rate. Subordinations will not be approved for cash out or debt consolidations. The following information must be provided to the City of Durham, Community Development Department for all requests to subordinate City of Durham residential loans:

- A letter from Lender that includes:
  - The first mortgage loan current and proposed monthly payment, P&I and PITI.
  - The current and proposed interest rates.
  - The current and proposed loan terms.
- A copy of the signed Universal Residential Loan Application (1003).
- A copy of the Home Appraisal or (other method used to determine the property value).
- Copy of the completed and signed Uniform Residential Loan Application (Form 1003- for the refinancing of the first mortgage loan).
- A copy of the Loan Estimate provided to the borrower.
- A copy of the most recent Homeowners Insurance policy.

- A copy of the executed Closing Disclosure must also be provided after closing. The City Manager will execute the necessary loan documents after the loan closing.

Consideration for a loan subordination is subject to review and approval when the new loan terms are reasonable.

### **1.7 Foreclosure/Short Sale**

For those Borrowers facing foreclosure that are actively working with a lender to restructure or refinance their primary mortgage to remain in the home, the Program's Project Manager with the City of Durham must be notified.

If a foreclosure sale occurs, the City of Durham will either:

- File a claim against the foreclosure sale surplus funds to satisfy the Program loan amount or
- The City of Durham's Loan Portfolio Administrator will analyze the short sale request and provide a recommendation to the Community Development Department Director for approval.

### **1.8 Loan Assumption**

The Program loans are transferable **only** in the event of Borrower's death or divorce with no other circumstances will the Program loan will be assumed.

## **SECTION D: AWARD and FUND DISBURSEMENT PROCESS**

### **1 Award Process of Determination**

Upon finalizing the underwriting process and securing the first mortgage, the Lending Institution will submit to the Program Project Manager all the required documentation for verification through *Neighborly*. The Program Administrator will review the underwriting process, which includes ensuring all the information and documentation registered in the system is correct and complete.

#### **A. Applicant Information:**

- Applicant and/or Co-Applicant Identification:
  - The Applicant and/or Co-applicant must provide a valid copy of a government-issued photo ID (federal or state).
- Household Members Identification:
  - The Applicant shall provide a valid copy of a government-issued ID (federal or state) for all household members over the age of 18. For those household members under the age of 18 a birth certificate will be required.
- For Applicant, Co-applicant, and those household member(s) aged 18 and older must provide proof of Income and the following Income Documentation is required:
  - For household members who are hourly/salary:
    - Three (3) paystubs from the 90-day period before the date of application
    - Three (3) most recent bank statements
    - Three (3) most recent W2s
    - Three (3) years of the most recent tax returns
    - Employment Verification Form (VOE)

Applicants receiving rental income from rental properties will not be eligible for the DPA Program.

- For household members who receive retirement/pension, and/or Social Security:
  - Three (3) most recent bank statements
  - Current pension/retirement and/or Social Security Award letter
  - Current 1099 form from the prior year to date to the application



Applicants receiving rental income from rental properties will not be eligible for the DPA Program.

○ **For household members who are Self-Employed:**

- Three (3) most recent bank statements
- Three (3) years of the most recent tax returns with all schedules
  - Profit & Loss statement for the past 12 months

Applicants receiving rental income from rental properties will not be eligible for the DPA Program.

**B. Primary Residence Information:**

- Purchase Agreement (contract) with the sale price of the property
- Appraisal Report
- Home Inspection, if applicable
- City of Durham Inspection Report

**C. Transaction Details:**

- 1003 (mortgage application)
- 1008 (uniform underwriting transmittal summary) signed by the primary lender underwriter
- Copy of the preliminary Closing Disclosure signed by the primary lender underwriter or lending institution authorized official.

**D. Other required Documentation:**

- Borrower's Affidavit
- Federal Truth-in-Lending
- City of Durham Promissory Note/Rider – original
- City of Durham Deed of Trust/Rider – original and recorded
- 1<sup>st</sup> Mortgage Promissory Note/Rider – copy
- Any other Deed of Trust (if layered) – copy
- Any other Promissory Note/Rider (if layered) – copy
- Title Commitment – copy
- Affirmation of City's Borrower's Affidavit – original
- Settlement Statement provided by primary lien Lender to the Program Administrator

Once the Program Project Manager has completed the approval process, an *Award Commitment Letter* will be issued to the Applicant's email and a copy sent to the Applicant's Lender. The final award must be determined based on the Program's underwriting review criteria.

## **EXHIBITS**

|           |  |
|-----------|--|
| Exhibit A | Program Application  |
| Exhibit B | Income Limits (80% or less AMI)                              |
| Exhibit C | Data Release & Third-Party Authorization                     |
| Exhibit D | Primary Mortgage Lender Transmittal Form                     |
| Exhibit E | Borrower Affidavit   |
| Exhibit F | DPA Program City Loan Promissory Note                        |
| Exhibit G | Deed of Trust  |
| Exhibit H | Notice of Sale   |
| Exhibit I | Reaffirmation of Borrower Affidavit                          |
| Exhibit J | Subordination and Intercreditor Agreement (Lender Agreement) |
| Exhibit K | City of Durham Home Inspection Check List                    |



## Durham Down Payment Assistance Program

### HOUSEHOLD INFORMATION

Primary Applicant First Name: \_\_\_\_\_ M.I.: \_\_\_\_\_ Last Name: \_\_\_\_\_

Current Address (street, city, state, zip): \_\_\_\_\_

Phone: (Home): \_\_\_\_\_ (Mobile): \_\_\_\_\_ Work: \_\_\_\_\_

Email: \_\_\_\_\_ Gender: \_\_\_\_\_

Co-Applicant First Name: \_\_\_\_\_ M.I.: \_\_\_\_\_ Last Name: \_\_\_\_\_

Phone: (Home): \_\_\_\_\_ (Mobile): \_\_\_\_\_ Work: \_\_\_\_\_

Email: \_\_\_\_\_

*Are you a US Citizen or Permanent Resident\*?*     Yes     No

### HOUSEHOLD DATA – Please include ALL members of the household, including minors

| Household Member<br>(include all household members and dependents) | Relationship to Primary Applicant | Date of Birth | Social Security Number |
|--|-----------------------------------|---------------|------------------------|
| <b>Applicant</b>   | <b>SELF</b>                       |               |                        |
| <b>Co-Applicant</b>  |                                   |               |                        |
|  |                                   |               |                        |
|  |                                   |               |                        |

### OTHER INFORMATION

Marital Status \_\_\_\_\_

Have you or anyone in your household has owned a home in the past 3 years?  Yes  No

Are you under contract to purchase a home?  Yes  No

Living Situation \_\_\_\_\_ Rent \_\_\_\_\_ Living with Parents \_\_\_\_\_ Other \_\_\_\_\_

## EMPLOYMENT INFORMATION

Please list income from the applicant and all household members age 18 and above from self-employment, salary/wages with overtime, commission, bonus, etc. Gross annual income means the total income received in a 12 month **before** taxes and other deductions

| Household Member    | Employer Name | Full time<br>or<br>Part time | Current annual<br><b>GROSS</b> Income | Length of<br>Employment |
|---------------------|---------------|------------------------------|---------------------------------------|-------------------------|
| <b>Applicant</b>    |               |                              |                                       |                         |
| <b>Co-Applicant</b> |               |                              |                                       |                         |
|                     |               |                              |                                       |                         |
|                     |               |                              |                                       |                         |

## OTHER INCOME (child support, SSI, alimony, disability, Social Security, Pension, rental income, etc.)

Please list **all** payments any household members (**including minors**) receive from sources other than employment

| Household Member    | Source of Income | Current annual <b>GROSS</b><br>Income |  |
|---------------------|------------------|---------------------------------------|--|
| <b>Applicant</b>    |                  |                                       |  |
| <b>Co-Applicant</b> |                  |                                       |  |
|                     |                  |                                       |  |
|                     |                  |                                       |  |
|                     |                  |                                       |  |

TOTAL GROSS ANNUAL OTHER INCOME \$ \_\_\_\_\_

If Child Support and/or Alimony is received as income, please provide the amount? \$ \_\_\_\_\_

- a. Will this payments end within 12 months of the application?    \_\_\_ Yes    \_\_\_ No
- b. If yes, when? \_\_\_\_\_

If any household member receives Social Security, SSI or Disability (SSDI) income, please provide the amount \$ \_\_\_\_\_

- a. Will this payments end within 12 months of the application?    \_\_\_ Yes    \_\_\_ No
- b. If yes, when? \_\_\_\_\_

## CURRENT FINANCIAL INFORMATION

### Part I: ASSETS

| Account Holder | Checking Balance | Saving Balance | Cash | Securities (stocks, bonds, etc.) | Other | TOTAL ASSETS |
|----------------|------------------|----------------|------|----------------------------------|-------|--------------|
|                |                  |                |      |                                  |       |              |
|                |                  |                |      |                                  |       |              |
|                |                  |                |      |                                  |       |              |
|                |                  |                |      |                                  |       |              |

Buyers must be able to pay minimum closing cost for buying and owning a home. How much do you have available to apply towards the purchase of your home (including down payment and closing cost)? \_\_\_\_\_

Are you expecting to receive a gift toward closing costs and/or the down payment?  Yes  No

### Part II: Debts (include debts held by all household members)

| Creditor's Name | Unpaid Balance | Minimum Monthly Payment |
|-----------------|----------------|-------------------------|
|                 |                |                         |
|                 |                |                         |
|                 |                |                         |
|                 |                |                         |

If you are required to pay Child Support, please provide the amount \$ \_\_\_\_\_ how long payments will continue \_\_\_\_\_

**DEMOGRAPHIC**

The following information is requested by the Federal Government for certain types of housing loan applications, in order to monitor compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information It will **not** affect your eligibility to participate in homeownership program.

**Applicant**

\_\_\_\_\_ African American  
\_\_\_\_\_ American Indian, Eskimo, or Aleut  
\_\_\_\_\_ Asian or Pacific Islander  
\_\_\_\_\_ Caucasian  
\_\_\_\_\_ Hispanic  
\_\_\_\_\_ Other

**Co-Applicant**

\_\_\_\_\_ African American  
\_\_\_\_\_ American Indian, Eskimo, or Aleut  
\_\_\_\_\_ Asian or Pacific Islander  
\_\_\_\_\_ Caucasian  
\_\_\_\_\_ Hispanic  
\_\_\_\_\_ Other

**AUTHORIZATION AND CERTIFICAITONS**

I/We authorize representatives from the City of Durham to provide and request information to Community Home Trust, Inc., staff, lenders, government agencies, counselors, and employers as necessary to facilitate my home purchase transaction. I/We authorize City of Durham representatives to be able to contact me via email and/or telephone as provided on this application with details in regards to my status and this application for the City of Durham Down Payment Assistance Program. I understand that my ability to purchase is contingent upon verification of eligibility, availability of funds and completion of all City of Durham requirements.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Applicant Signature

\_\_\_\_\_  
Date



# FY 2023 INCOME LIMITS DOCUMENTATION SYSTEM

[HUD.gov](https://www.hud.gov) [HUD User Home](#) [Data Sets](#) [Fair Market Rents](#) [Section 8 Income Limits](#) [MTSP Income Limits](#) [HUD LIHTC Database](#)

## FY 2023 Income Limits Summary

| FY 2023<br>Income<br>Limit<br>Area  | Median Family Income<br><a href="#">Click for More Detail</a> | FY 2023 Income Limit<br>Category  | Persons in Family |        |        |               |        |        |         |         |
|---|---|---|-------------------|--------|--------|---------------|--------|--------|---------|---------|
|   |   |   | 1                 | 2      | 3      | 4             | 5      | 6      | 7       | 8       |
| <b>Durham-<br/>Chapel<br/>Hill, NC<br/>HUD<br/>Metro<br/>FMR<br/>Area</b> | \$116,200   | Very Low (50%) Income<br>Limits (\$)<br><a href="#">Click for More Detail</a> | 35,400            | 40,450 | 45,500 | <b>50,550</b> | 54,600 | 58,650 | 62,700  | 66,750  |
|   |   | Extremely Low Income<br>Limits (\$)*<br><a href="#">Click for More Detail</a> | 21,250            | 24,300 | 27,350 | <b>30,350</b> | 35,140 | 40,280 | 45,420  | 50,560  |
|   |   | Low (80%) Income<br>Limits (\$)<br><a href="#">Click for More Detail</a>      | 56,650            | 64,750 | 72,850 | <b>80,900</b> | 87,400 | 93,850 | 100,350 | 106,800 |

NOTE: **Durham County** is part of the **Durham-Chapel Hill, NC HUD Metro FMR Area**, so all information presented here applies to all of the Durham-Chapel Hill, NC HUD Metro FMR Area. HUD generally uses the Office of Management and Budget (OMB) area definitions in the calculation of income limit program parameters. However, to ensure that program parameters do not vary significantly due to area definition changes, HUD has used custom geographic definitions for the Durham-Chapel Hill, NC HUD Metro FMR Area.





## Data Release Form & Third Party Authorization

*If you have an impairment, disability, language barrier, or otherwise require an alternative means of completing this form or accessing information about housing counseling, please talk to your housing counselor about arranging alternative accommodations.*

You hereby authorize and instruct the City of Durham, Community Development Department and/or its assigned agents to:

- Obtain and review your credit report, and
- Request verification of your income and rental history, and any other information deemed necessary for improving your housing situation (for example, verifying your annual property tax obligations and homeowner's insurance fees)

Your credit report will be obtained from a credit-reporting agency chosen by the City of Durham, Community Development Department (hereafter referred to as "the City"). You understand and agree that the City intends to use the credit report for the purpose of evaluating your financial readiness to purchase or rent a home and /or to engage in post-purchase counseling activities. You hereby authorize the City to share your credit report and any information that you provided (including any computations and assessments produced) with the entities listed below in order to help the City determine your viable financial options.

|                               |                            |
|-------------------------------|----------------------------|
| Lenders                       | Banks                      |
| Mortgage Servicers            | Debt Collectors            |
| Landlords                     | Public Housing Authorities |
| Property Management Companies | Social Service Agencies    |
| Counseling Agencies           |                            |

Entities such as mortgage lenders and/or counseling agencies may contact your lender to evaluate the options for which you may be eligible. In connection with such evaluation, you authorize the credit reporting and/or financial agencies to release information and cooperate with your counselor at the City. No information will be discussed about you with entities not directly involved in your efforts to improve your housing situation.

You hereby authorize the release of your information to program monitoring organizations of the City, including but not limited to Federal, State, and nonprofit partners for program review, monitoring, auditing, research, and/or oversight purposes. In addition, you authorize the City to have your credit report pulled two additional times to conduct program evaluations. You also agree to keep the City informed if any changes in address, telephone number, job status, marital status, or other conditions which may affect your eligibility for a program you have applied for or a counseling service that you are seeking.

**Finally, you understand that you may revoke consent to these disclosures at any time by notifying the City in writing.**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FIRST MORTGAGE LENDER TRANSMITTAL FORM**

To: City of Durham

From: \_\_\_\_\_  
\_\_\_\_\_

RE: City of Durham Down Payment Assistance Program

Borrower: \_\_\_\_\_

Property Address: \_\_\_\_\_

Amount Requested: \$ \_\_\_\_\_

We have approved a first mortgage in the amount of \$ \_\_\_\_\_ at \_\_\_\_\_% for \_\_\_\_\_ months, with a principal and interest payment of \$ \_\_\_\_\_ per month, and escrow of \$ \_\_\_\_\_ for taxes, \$ \_\_\_\_\_ for property insurance, \$ \_\_\_\_\_ Private Mortgage Insurance (PMI) \$ \_\_\_\_\_ for HOA (if applicable) and \$ \_\_\_\_\_ for other items

We understand that all of the following items are needed for review for the City of Durham Down Payment Assistance Program. We have placed a check mark beside the item enclosed.

- \_\_\_\_\_ Borrower photo identification
- \_\_\_\_\_ Copy of Social Security Cards for all household members
- \_\_\_\_\_ Copy of birth certificate for all household members under the age of 18
- \_\_\_\_\_ Copy of Final Application (1003)
- \_\_\_\_\_ Purchase Contract
- \_\_\_\_\_ Copy of the First Mortgage Lender's Final Loan Approval
- \_\_\_\_\_ Copy of the First Mortgage Final Underwriting Transmittal (1008)
- \_\_\_\_\_ Appraisal (1004)
- \_\_\_\_\_ Copy of completed Verification of Employment for household members
- \_\_\_\_\_ Copy of the Residential Mortgage Credit Report (Tri-Merge)
- \_\_\_\_\_ Three (3) paystubs from the 90-day period prior to date of application for applicant and those household members over the age of 18

- \_\_\_\_\_ Three (3) Three most recent bank statements for the applicant
- \_\_\_\_\_ Three (3) most recent W2 forms completed from employer for the applicant and those household members over the age of 18
- \_\_\_\_\_ Three (3) years of the most recent tax returns for applicant and those household members over the age of 18
- \_\_\_\_\_ Three (3) most recent tax returns (if self-employed applicant must include all schedules)
- \_\_\_\_\_ Three most recent 1099 or Social Security Award Letter (*for those applicants receiving income from the Social Security program i.e. disability, retirement, etc.*)
- \_\_\_\_\_ Borrower's Affidavit
- \_\_\_\_\_ Federal Truth-in-Lending Statement
- \_\_\_\_\_ City of Durham Promissory Note/Rider
- \_\_\_\_\_ City of Durham Deed of Trust
- \_\_\_\_\_ First Mortgage Promissory Note/Rider
- \_\_\_\_\_ Any other Deed of Trust (copy)
- \_\_\_\_\_ Any other Promissory Note (s)/Rider (s)
- \_\_\_\_\_ Title Commitment (copy)
- \_\_\_\_\_ Proof of Hazard Insurance (copy)
- \_\_\_\_\_ Affirmation of Borrower's Affidavit
- \_\_\_\_\_ Closing Disclosures
- \_\_\_\_\_ Homebuyer Certificate (copy)

# **BORROWER'S AFFIDAVIT**

The Borrower's Affidavit establishes the participant's eligibility for the Down Payment Assistance Loan Program and to verify conformity with federal, state, and county requirements. In addition, the affidavit details loan limitations and restrictions, which are part of the terms of the Down Payment Assistance Loan.

The Borrower's Affidavit must be completed by the first mortgage lender, reviewed and signed by the participant, and notarized before or at loan closing.

All participants must sign the Borrower's Affidavit.

EXHIBIT E

# **BORROWER'S AFFIDAVIT**

(NON-RENTAL HOUSING)

This affidavit is an essential part of an application to the CITY OF DURHAM, NORTH CAROLINA (the "City") for a loan from the City for down payment assistance (the "Down Payment Assistance Loan") for the purchase of a single-family residence and, if applicable, the land appurtenant thereto (the "Residence"). This affidavit is intended to serve two purposes:

- 1) to establish that you are eligible for the Down Payment Assistance Loan under the City's Down Payment Assistance Program and to verify conformity with federal, state and City requirements; and
- 2) to ascertain that you understand the nature and extent of the limitations and restrictions which are a part of the terms of the Down Payment Assistance Loan.

KNOWING AND INTENTIONAL FALSE STATEMENTS IN THIS AFFIDAVIT MAY SUBJECT THE APPLICANT TO PENALTIES FOR PERJURY UNDER THE LAWS OF THE STATE OF NORTH CAROLINA. FURTHER, ANY FALSE STATEMENT WHICH AFFECTS THE ELIGIBILITY OF THE DOWN PAYMENT ASSISTANCE LOAN MAY RESULT IN CANCELLATION OF THE DOWN PAYMENT ASSISTANCE LOAN COMMITMENT OR, IF THE DOWN PAYMENT ASSISTANCE LOAN IS FUNDED PRIOR TO THE DISCOVERY OF THE FALSE STATEMENT, ACCELERATION OF THE DEED OF TRUST NOTE AND THE INSTITUTION OF APPROPRIATE PROCEEDINGS, INCLUDING FORECLOSURE.

READ THIS AFFIDAVIT CAREFULLY TO BE SURE THE INFORMATION IS TRUE AND COMPLETE BEFORE SIGNING THIS FORM.

If you are uncertain as to the meaning of any questions, please ask an authorized representative of the Community Development Department for an explanation. COMPLETE ALL QUESTIONS. If any question is not applicable, answer "N/A".

Each of the undersigned, under penalties of perjury, does hereby represent, warrant, affirm and say:

**A. Eligibility of Borrowers**

- 1. The following persons are the mortgagors under the Down Payment Assistance Loan and will purchase the Residence, including, if applicable, the land appurtenant thereto, as a completed residential unit.

Names of Borrowers:

\_\_\_\_\_  
\_\_\_\_\_

(Include each person who is expected to be liable to any extent on the Down Payment Assistance Loan (collectively, the "Borrowers"))

- 2. The following persons will have an "Ownership Interest" in the Residence:

\_\_\_\_\_  
\_\_\_\_\_

(For the purpose of this paragraph, an "Ownership Interest" includes any of the following interests in the Residence: (a) a fee simple interest; (b) a joint tenancy, a tenancy in common or tenancy by the entirety; (c) a life estate. An Ownership Interest does not include a remainder interest, a lease with or without an option to purchase or a mere expectancy to inherit. Each person who will have an Ownership Interest in the Residence must be a grantor under the Deed of Trust securing the Down Payment Assistance Loan.)

- 3. The number of persons currently expected to live in the Residence is \_\_\_\_\_.

- 4. a. For the purpose of applying for the Down Payment Assistance Loan, Borrowers have disclosed all of their current gross monthly income for the calendar month prior to the date of application in the space below. For purposes of this paragraph, gross monthly income is the sum of monthly gross pay and any additional income from overtime, part-time employment, bonuses, commissions, dividends, interest, royalties, pensions, VA compensation, net rental income, and other income (e.g., alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts and income received from business activities or investments).

| Borrowers | Source | Gross Monthly Income |
|-----------|--------|----------------------|
| _____     | _____  | \$ _____             |
| _____     | _____  | _____                |
| _____     | _____  | _____                |
| _____     | _____  | _____                |

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TOTAL GROSS MONTHLY INCOME FOR THE PRIOR CALENDAR MONTH:**

\$ \_\_\_\_\_

- b. Annualized gross income is total gross monthly income multiplied by 12 and is \$ \_\_\_\_\_.
5. The combined Net Worth (Total Assets minus Total Liabilities) of all Borrowers (excluding any down payment and closing costs paid by the Borrowers) is \$ \_\_\_\_\_.
6. To the best of Borrowers' knowledge, information and belief, mortgage loans are not available to the Borrowers in connection with financing the Residence, wholly or in part, from private lenders upon terms and conditions that are reasonably equivalent to those of the Down Payment Assistance Loan. Furthermore, to the best of Borrowers' knowledge, information and belief, but for this Down Payment Assistance Loan upon its special terms (which are not typical of standard lending practices), including, without limitation, an interest rate that is at or below 3%, the balance of private financing necessary to purchase the Residence would not otherwise be available to the Borrowers.

**B. Principal Residence**

1. The Residence is or is to be located in the City at the following address:  
\_\_\_\_\_
2. The Residence is reasonably suitable for occupancy by only one family and no part thereof is leased land, unless the City in its sole discretion has approved in writing that the land underlying the structure may be leased.
3. If the Residence is to be acquired as a completed residential unit, the appraised value of the Residence, as estimated by an appraiser approved by the City, is \$ \_\_\_\_\_. Borrowers understand that the total amount of the Down Payment Assistance Loan and all other loans relating to the Residence shall not exceed such appraised value unless the City in its sole discretion waives in writing such requirement.
4. a. Borrowers will occupy the Residence as a principal residence within sixty (60) days after the mortgage financing is provided.
- b. Borrowers will continue to occupy the Residence as a principal residence for the term of the Down Payment Assistance Loan, unless

permitted otherwise by the City in writing.

c. Borrowers will not use the Residence as a recreational dwelling, second home, vacation or weekend home.

d. Borrowers will not use the Residence as an investment property nor be used as an Airbnb or other vacationing rental.

e. The Residence will not be used by Borrowers in such Borrowers' trades or businesses, provided however, that Borrowers may engage in remote work for a traditionally in-person employer. In particular, Borrowers are prohibited from using the premises:

(i) as a place that is used for the purpose of meeting or dealing with patients, clients or customers in the course of trade or business or that is otherwise used for or in connection with any trade or business;

(ii) as a place where inventory is held for use in the trade or business of selling products at wholesale or retail;

(iii) as a place that is used in the trade or business of providing day care for children, for individuals who have attained the age of 65 or for individuals who are physically or mentally incapable or caring for themselves; or

(iv) for rental to any person (daily, weekly, monthly, or yearly).

5. None of the proceeds from the Down Payment Assistance Loan will be used by Borrowers to:

a. Purchase any land in excess of the amount reasonably required to maintain the basic livability of the Residence [new construction];

b. Purchase any personal property other than (i) fixtures that are considered an integral part of the Residence under the laws of the State of North Carolina, and (ii) with the prior written approval of the City, air conditioners, a refrigerator, a stove, a washer and dryer or other appliances; or

c. Repay, directly or indirectly, any existing loan or financing Borrowers may have obtained or any cost Borrowers may have paid other than a construction period loan or bridge loan or similar temporary initial financing having a term of one year or less which was obtained or costs which were paid (i) in connection with the purchase or construction of the Residence for a purpose eligible for a Down Payment Assistance Loan under the City's Down Payment Program and (ii) in anticipation of obtaining the Down



Payment Assistance Loan or similar tax-exemption assisted financing and using the proceeds thereof to repay such existing loan or financing or costs.

6. Borrowers will maintain the Residence, both inside and outside, in a good state of repair and preservation, except for ordinary wear or tear or obsolescence in spite of repair. Borrowers will not use or permit the use of any part of the Residence for any unlawful purpose or permit any unsafe or unsanitary condition or nuisance to exist thereon.

### **C. Cost of Residence**

1. Borrowers understand that:
  - a. "settlement costs" including titling and transfer costs, title insurance, survey fees and other similar costs and "financing costs" including credit reference fees, legal fees, appraisal expenses, "points" which are paid by the Borrowers or other costs of financing the Residence, except to the extent that they are usual and reasonable and are approved in writing by the City.
2. To the extent applicable, Borrowers have inspected the Residence and have determined that:
  - a. to the best of Borrowers' knowledge, information and belief, the Residence meets or will meet the minimum applicable health, zoning and occupancy standards; and
  - b. the Residence is or will be of sufficient size for all residents with the defined additions or improvements as stated in the sales or other related contract or contracts; and
  - c. the Residence includes or will include all necessary property and fixtures necessary for occupancy, such as kitchen equipment, bathing facilities, heat and hot water.

### **D. General**

1. Borrowers have been advised and understand that any transfer of title or any other beneficial interest of Borrowers in the Residence, in whole or in part, except in circumstances in which the City in its sole discretion consents in writing to an assumption of the Down Payment Assistance Loan, shall constitute a default under the Down Payment Assistance Loan and the Note will become due and payable in full upon any such transfer of title or beneficial interest.
2. Borrowers have been advised and understand that if any statement or

representation herein is breached or is found to be untrue or misleading, then such breach or misrepresentation or omission shall constitute a default under the Down Payment Assistance Loan, and entitle the holder thereof to exercise any and all of its rights and remedies hereunder, including, without limitation, the initiation of foreclosure proceedings.

3. Borrowers will assist any originator or servicer of the Down Payment Assistance Loan and the City in obtaining any information or documentation required to verify the statements made in this affidavit. Borrowers hereby consent to any inspection of the Residence required for such verification and agree to supply any information or documentation required for such verification within such Borrowers' control as the City may request.
4. Borrowers have the ability and intent to repay the Down Payment Assistance Loan in accordance with the terms of the Note.
5. Borrowers understand and acknowledge that with respect to the City's Down Payment Assistance Program, under which the Down Payment Assistance Loan is being offered by the City to such Borrowers, the City is acting in a limited capacity only as a second mortgage lender and is not otherwise responsible in any way with respect to the acquisition or construction of the Residence.
6. Borrowers further understand and acknowledge that the City does not have present authority nor is obligated in any way whatsoever to provide financial relief for any present or future repairs to the Residence which may be required for any reason. All of the representations, statements and warranties contained herein are intended and shall survive the closing for the purchase of the Residence and, accordingly, shall continue in full force and effect after such closing and not merge upon delivery of the deed to Borrowers evidencing Borrowers' title to the Residence or upon delivery of the Deed of Trust securing the Down Payment Assistance Loan. Pursuant to Section 14-209 of the General Statutes of North Carolina, each Borrowers declare under penalty of perjury that the foregoing representations and warranties are true and correct.
7. Borrowers have not owned a home within the last three years OR Borrowers owned a home together with a former spouse. Borrowers do not currently have an Ownership Interest (as defined in Section A.2) in any real estate except, in the case of a pending divorce, marital home property.

AFFIANT: \_\_\_\_\_ [SEAL]  
Borrower

AFFIANT \_\_\_\_\_ [SEAL]  
Borrower

AFFIANT: \_\_\_\_\_ [SEAL]  
Borrower

AFFIANT \_\_\_\_\_ [SEAL]  
Borrower

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

**CITY OF DURHAM  
DOWN PAYMENT ASSISTANCE PROGRAM**

**PROMISSORY NOTE**

**\$80,000.00**

**Durham, North Carolina  
\_\_\_\_\_, 2023**

---

(PROPERTY ADDRESS)

FOR VALUE RECEIVED, the receipt of which is hereby acknowledged, the undersigned, \_\_\_\_\_ (“Borrower”) promises to pay to the order of City of Durham, North Carolina c/o Community Development Department (“City”) at the office of City of Durham, Community Development Department, 101 City Hall Plaza, Durham, NC 27701 or at different place if required by the Note Holder the principal sum of **Eighty Thousand and No/100 Dollars (\$80,000.00)** at the rate of **Zero percent (0.00%) per annum simple interest**.

The term of the loan shall be fifteen (15) years from the date of this Note, ending on \_\_\_\_\_, **2043** (the “Maturity Date”). **Payments are forgiven at 1/15<sup>th</sup> each year on the anniversary date.** However, in the event of an event of default, as defined below, the entire balance of the loan shall become due and payable.

The following are events of default:

- (a) The Property is sold, rented, or title is otherwise transferred by conveyance, operation of law or otherwise, voluntarily or involuntarily;
- (b) The Property is no longer the principal residence of the Borrower and Borrower did not obtain prior written approval from the City;
- (c) A default under any senior mortgage on the Property;
- (d) A default under the Deed of Trust securing this Note or under the Borrower’s Affidavit of even date herewith;
- (e) Any representation, as contained in the Borrower’s Affidavit or any other application, affidavit, statement or certification executed by the Borrower in connection with this transaction, is breached or is found to be untrue or misleading in any material respect.

In the event of (a) an event of default under this Note, (b) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10)

days from the due date, or (c) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of 8% per annum after default until paid.

Notwithstanding the above events of default, in the event of the Borrower's death, this Note may be assumed by the Borrower's heirs or devisees. Only the Borrower's heirs or devisees may assume the City's loan in the event of the Borrower's death. In such event, the City of Durham, Community Development Department must be contacted to discuss assumption options. If subsequent heirs or devisees do not assume the balance of the Note, it shall become immediately due and payable.

The indebtedness evidenced by this Note may be prepaid, in whole or in part, at any time without penalty.

This Note is given as an actual loan in the above amount and is secured by a Deed of Trust of even date herewith to the City of Durham c/o Community Development Department, which is a lien upon the Property and which has been duly recorded in the office of the Register of Deeds of Durham County, North Carolina.

No delays on the part of City in exercising any right hereunder or under the Deed of Trust, the Borrower's Affidavit, or any other documents securing this Note shall operate as a waiver thereof or preclude the exercise thereof at any time during the continuance of any default or during the continuance of any subsequent default.

This Note may not be modified or terminated orally.

This Note shall be construed and enforced in accordance with the laws of North Carolina.

If any term of this Note or application hereof shall be invalid, illegal or unenforceable, the remainder of this Note and any other application of such term shall not be affected thereby.

*[Signatures Begin on Succeeding Page]*



IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed under seal as of the day and year first above written.

**BORROWER(S):**

Signature: \_\_\_\_\_ [SEAL]

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ [SEAL]

Name: \_\_\_\_\_

EXHIBIT

**CITY OF DURHAM  
DOWN PAYMENT ASSISTANCE PROGRAM  
NORTH CAROLINA DEED OF TRUST**

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Prepared by and return after recording to: [RECORDING ATTORNEY]

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THIS DEED of TRUST made this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between:

| GRANTOR | TRUSTEE   | BENEFICIARY   |
|---------|---|---|
|         | <b>City Manager<br/>City of Durham<br/>101 City Hall Plaza<br/>Durham, North Carolina 27701</b> | <b>City of Durham<br/>c/o Community Development<br/>Department<br/>101 City Hall Plaza<br/>Durham, North Carolina 27701</b> |

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The designation Grantor, Trustee, and Beneficiary as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, That whereas the Grantor is indebted to the Beneficiary in the principal sum of **Eighty Thousand and No/100 Dollars (\$80,000.00)**, as evidenced by a Promissory Note of even date herewith (the "Note"), the terms of which are incorporated herein by reference. The maturity date for payments under said Note, if not sooner paid, is \_\_\_\_\_, **2043**.

NOW, THEREFORE, as security for said indebtedness, advancements and other sums expended by Beneficiary pursuant to this Deed of Trust and costs of collection (including attorneys fees as provided in the Promissory Note) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor has bargained, sold, given and conveyed and does by these presents bargain, sell, give, grant and convey to said Trustee, his heirs, or successors, and assigns, all of that certain lot, parcel of land or condominium unit situated in the City of Durham, Durham County, North Carolina, (the "Property") and more particularly described as follows:

See attached **Exhibit A** which is attached hereto and herein incorporated by reference which has the address of \_\_\_\_\_ (herein "property address");

TO HAVE AND TO HOLD said Property with all privileges and appurtenances thereunto belonging, to said Trustee, his heirs, successors, and assigns forever, upon the trusts, terms and conditions, and for the uses hereinafter set forth.

If the Grantor shall pay the Note secured hereby in accordance with its terms and shall comply with all of the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and the expense of the Grantor.

Unless otherwise paid, this Deed of Trust shall also be null and void upon the forgiving of the loan under the terms of the Note.

Notwithstanding any senior mortgages on the Property, if there shall be any default in any of the covenants, terms or conditions of the Note secured hereby, or any failure or neglect to comply with the covenants, terms or conditions contained in this Deed of Trust or any other instrument securing the Note and such default is not cured within fifteen (15) days after written notice, then and in any of such events, without further notice, it shall be lawful for and the duty of the Trustee, upon request of the Beneficiary, to sell the land herein conveyed at public auction for cash, after having first giving such notice of hearing as to commencement of foreclosure proceedings and obtained such findings or leave of court as may then be required by law and giving such notice and advertising the time and place of such sale in such manner as may then be provided by law, and upon such and any resales and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey title to the purchaser in as full and ample manner as the Trustee is empowered. The Trustee shall be authorized to retain an attorney to represent him in such proceedings.

The proceeds of the Sale shall after the Trustee retains his commission, together with reasonable attorneys fees incurred by the Trustee in such proceedings, be applied to the costs of sale, including, but not limited to, costs of collection, taxes, assessments, costs of recording, service fees and incidental expenditures, the amount due on the Note hereby secured and advancements and other sums expended by the Beneficiary according to the provisions hereof and otherwise as required by the then existing law relating to foreclosures. The Trustee's commission shall be five percent (5%) of the gross proceeds of the sale for a completed foreclosure. In the event foreclosure is commenced, but not completed, the Grantor shall pay all expenses incurred by Trustee, including reasonable attorneys fees, and a partial commission computed on five per cent (5%) of the outstanding indebtedness or the above stated minimum sum, whichever is greater, in accordance with the following schedule, to-wit: one-fourth ( $\frac{1}{4}$ ) thereof before the Trustee issues a notice of hearing on the right to foreclosure; one-half ( $\frac{1}{2}$ ) thereof after issuance of said notice, three-fourths ( $\frac{3}{4}$ ) thereof after such hearing; and the greater of the full commission or minimum sum after the initial sale.

And the said Grantor does hereby covenant and agree with the Trustee as follows:

1. PAYMENT OF PRINCIPAL AND INSURANCE. Borrower shall pay promptly when due the principal and interest on the debt evidenced by the Note and late charges provided in the Note.

2. INSURANCE. Grantor shall keep all improvements on said land, now or hereafter erected, constantly insured for the benefit of the Beneficiary against loss by fire, windstorm and such other casualties and contingencies, in such manner and in such companies and for such amounts, not less than that amount necessary to pay the sum secured by this Deed of Trust, and as may be satisfactory to the Beneficiary. Grantor shall purchase such insurance, pay all premiums therefor, and shall deliver to Beneficiary such policies along with evidence of premium payments as long as the Note secured hereby remains unpaid. If Grantor fails to purchase such insurance, pay premiums therefor or deliver said policies along with evidence of payment of premiums thereon, then Beneficiary, at his option, may purchase such insurance. Such amounts paid by Beneficiary shall be added to the principal of the Note secured by this Deed of Trust, and shall be due and payable upon demand of Beneficiary. All proceeds from any insurance so maintained shall at the option of Beneficiary be applied to the debt secured hereby and if payable in installments, applied in the inverse order of maturity of such installments or to the repair or reconstruction of any improvements located upon the Property. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. If Borrower abandons the Property, or if Borrower does not respond within 30 days to a notice from the date notice is mailed by Lender to Borrower that the insurance carrier offered to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

3. TAXES, ASSESSMENTS, CHARGES. Grantor shall pay all taxes, assessments and charges as may be lawfully levied against said Property within thirty (30) days after the same shall become due. In the event that Grantor fails to so pay all taxes, assessments and charges as herein required, then Beneficiary, at his option, may pay the same and the amounts so paid shall be added to the principal of the Note secured by this Deed of Trust, and shall be due and payable upon demand of Beneficiary.

4. FUNDS FOR TAXES AND INSURANCE. Subject to Applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equals to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Deed of Trust, and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or Deed of Trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or State agency (including Lender if Lender is such an institution). Lender shall apply the Funds to a pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Deed of Trust that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Deed of Trust.

If the amount of the funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Deed of Trust, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Deed of Trust.

5. APPLICATION OF PAYMENTS. Unless Applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, and then to the principal of the Note.

6. PRIOR MORTGAGES AND DEED OF TRUST; CHARGES; LIENS. Borrower shall perform all of Borrower's obligations under any mortgage, Deed of Trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments, and other charges, fines, and impositions attributable to the Property, which can attain priority over this Deed of Trust, and leasehold payments or ground rents.

7. ASSIGNMENTS OF RENTS AND PROFITS. Subject to any senior mortgages, Grantor assigns to Beneficiary, in the event of default, all rents and profits from the land and any improvements thereon, and authorizes Beneficiary to enter upon and take possession of such land and improvements, to rent same, at any reasonable rate of rent determined by Beneficiary, and after deducting from any such rents the cost of reletting and collection, to apply the remainder to the debt secured hereby.

8. PARTIAL RELEASE. Grantor shall not be entitled to the partial release of any of the above described property unless a specific provision providing therefor is included in this Deed of Trust. In the event a partial release provision is included in this Deed of Trust, Grantor must strictly comply with the terms thereof. Notwithstanding anything herein contained, Grantor shall not be entitled to any release of property unless Grantor is not in default and is in full compliance with all of the terms and provisions of the Note, this Deed of Trust, and any other instrument that may be securing said Note.

9. WASTE. The Grantor covenants that he will keep the Property herein conveyed in as good order, repair and condition as they are now, reasonable wear and tear excepted, and will comply with all governmental requirements respecting the Property or their use, and that he will not commit or permit any waste.

10. CONDEMNATION. In the event that any or all of the Property shall be condemned and taken under the power of eminent domain, Grantor shall give immediate written notice to Beneficiary and Beneficiary shall have the right to receive and collect all damages awarded by reason of such taking, and the right to such damages hereby is assigned to Beneficiary who shall have the discretion to apply the amount so received, or any part thereof, to the indebtedness due hereunder and if payable in installments, applied in the inverse order of maturity of such installments, or to any alteration, repair or restoration of the Property by Grantor.

11. WARRANTIES. Grantor covenants with Trustee and Beneficiary that he is seized of the Property in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that he will warrant and defend the title against the lawful claims of all persons whomsoever.

12. SUBSTITUTION OF TRUSTEE. Grantor and Trustee covenant and agree to and with Beneficiary that in case the said Trustee, or any successor trustee, shall die, become incapable of acting, renounce his trust, or for any reason the holder of the Note desires to replace said Trustee, then the holder may appoint, in writing, a trustee to take the place of the Trustee; and upon the probate and registration of the same, the trustee thus appointed shall succeed to all rights, powers and duties of the Trustee.

13. SALE OF PROPERTY. Grantor agrees that if the Property or any part thereof or interest therein is sold, assigned, transferred, conveyed or otherwise alienated by Grantor, whether voluntarily or involuntarily or by operation of law without the prior written consent of Beneficiary, Beneficiary, at its own option, may declare the Note secured hereby and all other obligations hereunder to be forthwith due and payable. Any change in the legal or equitable title of the Property or in the beneficial ownership of the Property, including the sale, conveyance or disposition of a majority interest in the Grantor if a corporation or partnership, whether or not of record and whether or not for consideration, shall be deemed to be the transfer of an interest in the Property.

14. ADVANCEMENTS. If Grantor shall fail to perform any of the covenants or obligations contained herein or in any other instrument given as additional security for the Note secured hereby, the Beneficiary may, but without obligation, make advances to perform such covenants or obligations, and all such sums so advanced shall be added to the principal sum, shall bear interest at the rate provided in the Note secured hereby for sums due after default and shall be due from Grantor on demand of the Beneficiary. No advancement or anything contained in this paragraph shall constitute a waiver by Beneficiary or prevent such failure to perform from constituting an event of default.

15. INDEMNITY. If any suit or proceeding be brought against the Trustee or Beneficiary or if any suit or proceeding be brought which may affect the value or title of the Property, Grantor shall defend, indemnify and hold harmless and on demand reimburse Trustee or Beneficiary from any loss, cost, damage or expense and any sums expended by Trustee or Beneficiary shall bear interest as provided in the Note secured hereby for sums due after default and shall be due and payable on demand.

16. WAIVERS. Grantor waives all rights to require marshaling of assets by the Trustee or Beneficiary. No delay or omission of the Trustee or Beneficiary in the exercise of any right, power or remedy arising under the Note or this Deed of Trust shall be deemed a waiver of any default or acquiescence therein or shall impair or waive the exercise of such right, power or remedy by Trustee or Beneficiary at any other time.

17. CIVIL ACTION. In the event that the Trustee is named as a party to any civil action as Trustee in this Deed of Trust, the Trustee shall be entitled to employ an attorney at law, including himself if he is a licensed attorney, to represent him in said action and the reasonable attorney's fee of the Trustee in such action shall be paid by the Beneficiary and added to the principal of the Note secured by this Deed of Trust and bear interest at the rate provided in the Note for sums due after default.

18. PRIOR LIENS. Default under the terms of any instrument secured by a lien to which this Deed of Trust is subordinate shall constitute default hereunder.

19. INSPECTIONS. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that the Lender shall give Borrower notice prior to any such inspection specifying reasonable cause thereof related to Lender's interest in the Property

20. BORROWER NOT RELEASED; FORBEARANCE BY LENDER NOT A WAIVER. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor or interest of Borrower shall not operate to release, in any manner, in liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower and Borrower's successor in interest. Any forbearance by Lender in

exercising and right or remedy hereunder, or otherwise afforded by Applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

21. **TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Deed of Trust.

22. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affect Lender's interest in the Property, then Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 22, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Deed of Trust. Nothing contained in this paragraph 22 shall require Lender to incur any expense or take any action hereunder.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

1. **ACCELERATION; REMEDIES.** Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, Lender prior to acceleration shall give notice to Borrower specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to Borrower, by which the breach must be cured; and (4) that failure to cure the breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to the non-existence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, at Lender's option, may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by Applicable law. Lender shall be entitled to collect all reasonable cost and expenses incurred in pursuing the remedies.

If Lender invokes the power of sale, and if it is determined in a hearing held in accordance with applicable law that Trustee can proceed to sale, Trustee shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as applicable law may require. After the lapse of time as may be required by applicable law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee determine. Lender or its Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser a deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made herein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable cost and expenses of the sale, including, but not limited to, Trustee's fees of five percent (5%) of the gross sale price and cost of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled hereto.

2. **BORROWER'S RIGHT TO REINSTATE AFTER ACCELERATION.** Notwithstanding Lender's acceleration of the sum secure by this Deed of Trust, due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to the earliest of: (i) the fifth day before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (ii) entry of a judgment enforcing this Deed of Trust if: (a) Borrower pays Lender all sums which then would be due under this Deed of Trust and the Note had no acceleration; (b) Borrower cures any breach of any other covenants or agreements of Borrower contained in this Deed of Trust; (c) Borrower pays all expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, and in enforcing Lender's and Trustee's remedies as provided in paragraph 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and obligations secured hereby shall remain fully effective as if no acceleration had occurred.

3. RELEASE. Upon the satisfaction of the terms of the Note, Lender or Trustee shall cancel this Deed of Trust without charge to Borrower. If Trustee is requested to release this Deed of Trust, all Notes evidencing debt secured by this Deed of Trust shall be surrendered to Trustee. Borrower shall pay all recordation costs.

*[Signatures Begin on Succeeding Page]*

EXHIBIT G

IN TESTIMONY WHEREOF, Grantor has executed this instrument under seal on the date first above written.

GRANTOR(S):

Signature: \_\_\_\_\_ (SEAL)

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ (SEAL)

Printed Name: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[NOTARY SEAL] Notary Public

\_\_\_\_\_  
Print Name of Notary  
My Commission Expires: \_\_\_\_\_



STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

Exhibit A  
Legal Description

EXHIBIT G

**Prepared by:**

**Return to:**

City of Durham  
Community Development Department  
Attn: Loan Portfolio Administrator  
101 City Hall Plaza  
Durham, NC 27701

**REQUEST FOR COPY OF NOTICE OF SALE**

In accordance with the provisions of N.C.G.S. 45-21.17A, request is hereby made that a copy of any Notice of Sale under the Deed of Trust recorded on \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_, Durham County Registry, executed by \_\_\_\_\_ as Mortgagor, in which \_\_\_\_\_ is named as Trustee, and \_\_\_\_\_ is named as Beneficiary, be mailed to the following address:

City of Durham  
Community Development Department  
Attn. Loan Portfolio Administrator  
101 City Hall Plaza  
Durham, NC 27701

This the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

City of Durham

By: \_\_\_\_\_ [SEAL]  
Reginald J. Johnson, Director of Community Development Department

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day acknowledging to me that he signed the foregoing document for the purpose stated therein and in the capacity indicated: Reginald J. Johnson, Director of the Community Development Department, City of Durham.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_



STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_;  
or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_;  
or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_;  
or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_



## LENDER AGREEMENT

---

Prepared by and return after recording to: \_\_\_\_\_

THIS LENDER AGREEMENT is made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between CITY OF DURHAM, NORTH CAROLINA, a North Carolina municipal corporation (the “City”), and \_\_\_\_\_ (the “First Mortgage Lender”);

### **WITNESSETH:**

**WHEREAS**, to promote affordable housing opportunities in Durham, North Carolina, the City created the City of Durham Down Payment Assistance Program for Low-to-Moderate Income Homebuyers (the “Program”) to provide assistance to eligible homebuyers; and

**WHEREAS**, \_\_\_\_\_ (“Borrower”) is an eligible homebuyer under the Program and intends to borrow funds from the City in an amount not to exceed **\$80,000** (the “Junior Loan”) to assist in providing a down payment on the property located at \_\_\_\_\_, including any existing construction and fixtures (the “Property”), and the City wishes to lend the Junior Loan to the Borrower; and

**WHEREAS**, to enable Borrower to acquire the Property, the First Mortgage Lender intends to lend to Borrower the purchase price of the Property (the “Senior Loan”); and

**WHEREAS**, the City and the First Mortgage Lender desire to enter into this Agreement to acknowledge the use of the Junior Loan to provide down payment assistance for Borrower’s purchase of the Property.

### **AGREEMENT:**

**NOW, THEREFORE**, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **Use of Program Funds.** The First Mortgage Lender agrees to the Borrower's use of the Junior Loan to assist Borrower's down payment on the purchase price of the Property.
2. **City's Interest Subordinate.** Any security interest that the City acquires in the Property in connection with lending the Junior Loan to the Borrower will be subordinate in all respects to the First Mortgage Lender's security interest in the Property. In the event the First Mortgage Lender's security interest in the Property is not recorded before the City's security interest in the Property, City will execute a separate subordination agreement and subordinate its rights in the Property to the rights of the First Mortgage Lender.
3. **Terms of First Mortgage.** The First Mortgage Lender affirms to the City that the Senior Loan will be a 30-year fixed rate loan.
4. **Iran Divestment Act.** The First Mortgage Lender affirms to the City that it is not on the Final Divestment List created by the State Treasurer pursuant to North Carolina General Statute 147-86.58.
5. **Divestment from Companies Boycotting Israel.** The First Mortgage Lender affirms to the City that it is not on the Final Divestment List created by the State Treasurer pursuant to North Carolina General Statute 147-86.80.
6. **Borrower Not a Beneficiary; No Other Third Party Beneficiaries.** The provisions of this Agreement are solely for the purpose of (i) the priority of the City's security interest and the First Mortgage Lender's security interest in the Property, and (ii) the right of the City and the First Mortgage Lender to exercise their rights and remedies as creditors of the Borrower. The provisions of this Agreement are for the benefit of the City and the First Mortgage Lender only, and Borrower shall have no right to enforce the provisions hereof. NO person or entity not a party to this Agreement shall be a third party beneficiary of this Agreement.
7. **Security Interests Otherwise Unaffected.** The security interest in the Property granted by Borrower to the City and the security interest in the Property granted by Borrower to the First Mortgage Lender are otherwise unaffected by this Agreement.
8. **Duration of Agreement; Waiver and Amendments.** This Agreement is of a continuing nature, and it shall continue in force so long as any portion of the Senior Loan has not been indefeasibly paid in full. Except as otherwise provided herein, this Agreement may be changed, modified or waived only by a writing signed by the parties hereto.

[SEPARATE SIGNATURE PAGE FOLLOWS]

[Signature page 1 of 2 to Lender Agreement]

IN WITNESS WHEREOF, the parties hereto have executed the foregoing instrument by and through their duly authorized representatives as of the date above.

**CITY OF DURHAM, NORTH CAROLINA**  
a North Carolina municipal corporation

By: \_\_\_\_\_ [SEAL]

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_  
City Clerk

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_;  
or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2023

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary  
My Commission Expires: \_\_\_\_\_

[Signature page 2 of 2 to Lender Agreement]

IN WITNESS WHEREOF, the parties hereto have executed the foregoing instrument by and through their duly authorized representatives as of the date above.

[NAME OF FIRST MORTGAGE LENDER]

a \_\_\_\_\_

By: \_\_\_\_\_ [SEAL]

Its: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_;  
or
- A credible witness has sworn to the identity of the principal.

each acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2023

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name of Notary

My Commission Expires: \_\_\_\_\_

**City of Durham**  
**Down Payment Assistance (DPA)**  
**MINIMUM HOUSING CODE INSPECTION CHECKLIST**

|  | Yes | No<br>(If no, please explain) | N/A |
|--|-----|-------------------------------|-----|
| <b>(f) GENERAL REQUIREMENTS RELATING TO SAFETY AND MAINTENANCE</b>   |     |                               |     |
| 1) Smoke detectors are properly installed and operational  |     |                               |     |
| 2) Carbon Monoxide detectors are properly installed and operational (if required)  |     |                               |     |
| 3) Kitchen has sink and food preparation area.   |     |                               |     |
| 4) Room dimensions are in compliance with the local codes  |     |                               |     |
| 5) Bedroom windows for emergency egress are in compliance with the local codes   |     |                               |     |
| 6) Bathrooms doors, lighting and ventilation are in compliance with local codes  |     |                               |     |
| 7) Hallways, exits, stairways, doorways, elevators, accessible routes, etc., are free of blockages, trash/litter and clutter |     |                               |     |
| 8) Emergency lighting is operating properly if required.   |     |                               |     |
| 9) Free of insect, mice or rat infestation   |     |                               |     |
| 10) Service walks/steps are free of all trip hazards   |     |                               |     |
| 11) All exposed exterior surfaces are properly sealed and free of flaking or peeling paint.                                  |     |                               |     |
| 12) All exposed interior surfaces are free of flaking or peeling paint   |     |                               |     |
| 13) All construction, electrical, and plumbing is in compliance with the local codes   |     |                               |     |
| 14) All elements of the property is in good repair   |     |                               |     |
| 15) R-19 insulation in attic spaces  |     |                               |     |
| <b>(g) STRUCTURAL STANDARDS</b>  |     |                               |     |
| 1) Brick mortar is in good condition   |     |                               |     |
| 2) Bricks and/or blocks are in good condition  |     |                               |     |
| 3) Foundation walls are free of cracks   |     |                               |     |
| 4) Crawlspace/basement does not have standing water  |     |                               |     |
| 5) Crawl space access door is in good condition  |     |                               |     |
| 6) Water is properly draining away from the foundation   |     |                               |     |
| 7) Siding is in good condition   |     |                               |     |
| 8) Trim, fascia, and soffit boards are in good condition   |     |                               |     |
| 9) Roofing materials are in good condition   |     |                               |     |
| 10) Flashing and valleys are in good condition   |     |                               |     |
| 11) Built-in gutters are in good condition   |     |                               |     |
| 12) Gutters and downspouts are in good condition   |     |                               |     |
| 13) Awnings or canopies are in good condition  |     |                               |     |
| 14) Porch floors, skirting, trim, and ceilings are in good condition   |     |                               |     |
| 15) Exterior step treads, risers, and stringers are in good condition  |     |                               |     |
|  |     |                               |     |
|  |     |                               |     |

**City of Durham**  
**Down Payment Assistance (DPA)**  
**MINIMUM HOUSING CODE INSPECTION CHECKLIST**

|   | Yes | No<br>(If no, please explain) | N/A |
|---|-----|-------------------------------|-----|
| 16) Exterior handrails, balusters, and guardrails are in good condition   |     |                               |     |
| 17) Porch supports are in good condition  |     |                               |     |
| 18) Exterior stairs of more than 3 risers including service walks are installed with handrails                          |     |                               |     |
| 19) Exterior handrail and guardrail balusters prevent passage of objects greater than 4 inches in diameter              |     |                               |     |
| 20) Exterior guardrails are properly installed on raised surfaces that are 30 inches or more above floor or grade level |     |                               |     |
| 21) Interior handrails, balusters, and guardrails are properly installed  |     |                               |     |
| 22) Interior step treads, risers, and stringers are properly installed  |     |                               |     |
| 23) Interior stairway floor coverings are in good condition   |     |                               |     |
| 24) Interior stairway supports are in good condition  |     |                               |     |
| 25) Walls and ceilings are in good condition  |     |                               |     |
| 26) Plaster, drywall, or other surface materials are in good condition  |     |                               |     |
| 27) All space is properly utilized (with required access)   |     |                               |     |
| 28) All floors are in good condition  |     |                               |     |
| 29) All space is free of all trash and debris   |     |                               |     |
| 30) All floor coverings are in good condition   |     |                               |     |
| 31) All floor coverings in kitchen and laundry rooms are impervious to water  |     |                               |     |
|   |     |                               |     |
| <b>(h) PROPERTY MAINTENANCE</b>   |     |                               |     |
| 1) Yard, outdoor storage and trash containers are in good condition   |     |                               |     |
| 2) Fences are in good condition   |     |                               |     |
| 3) Retaining walls are in good condition  |     |                               |     |
| 4) Premises are free of rubbish and garbage   |     |                               |     |
| 5) Premises are free of overgrown weeds, grass, trees or bushes   |     |                               |     |
| 6) Exterior storage is in good condition  |     |                               |     |
| 7) Property is free of all hazardous/junk/abandoned vehicles  |     |                               |     |
| 8) No interior furniture on porch or in yard  |     |                               |     |
| <b>(i) ELECTRICAL STANDARDS</b>   |     |                               |     |
| 1) Light fixtures are operating properly with intact covers/shades  |     |                               |     |
| 2) Electrical receptacles and switches are operating properly   |     |                               |     |
| 3) Exterior entrance lights are operating properly  |     |                               |     |
| 4) Service panels are operating properly with adequate working clearance  |     |                               |     |
| 5) Electrical wiring is in good condition   |     |                               |     |
| 6) GFCI receptacles are operating properly  |     |                               |     |
|   |     |                               |     |

**City of Durham**  
**Down Payment Assistance (DPA)**  
**MINIMUM HOUSING CODE INSPECTION CHECKLIST**

|   | Yes | No<br>(If no, please explain) | N/A |
|---|-----|-------------------------------|-----|
| 7) Electrical conduit is installed in general accordance with the local codes                                       |     |                               |     |
| 8) Electrical panels and receptacles are properly covered   |     |                               |     |
| <b>(j) PLUMBING STANDARDS</b>   |     |                               |     |
| 1) Sinks, faucets, toilets, showers, tubs, etc. are operating properly  |     |                               |     |
| 2) Water heaters (maintain 120 degrees), laundry sinks, laundry hookups, hose faucets, etc., are operating properly |     |                               |     |
| 3) Drains, drain piping and vent piping are operating properly  |     |                               |     |
| 4) Water lines are in good condition  |     |                               |     |
| 5) Gas piping is in good condition  |     |                               |     |
| 6) Plumbing is installed in accordance with the local codes   |     |                               |     |
| <b>ACCESSORY BUILDING</b>   |     |                               |     |
| 1) Accessory building walls, roofs and siding ARE in good condition   |     |                               |     |
| 2) Accessory building trim, fascia, and eave boards are in good condition   |     |                               |     |
| 3) Accessory building windows and doors are operating properly  |     |                               |     |
| 4) Accessory building is free of flaking and peeling paint  |     |                               |     |
|   |     |                               |     |

**Owners should recognize that the Self-Certification checklist is not all inclusive and that in addition to the items listed herein, owners are responsible for ensuring that their rental units are in compliance with applicable provisions of the Durham Code of Ordinances. You may download a copy of the Durham Code of Ordinances from our website at <http://durhamnc.gov/ich/cb/nis/Pages/Home.aspx>**