

**NORTH CAROLINA  
DURHAM COUNTY**

**GRANT CONTRACT**

**This Contract** (the "Contract"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Durham ("City") and Habitat for Humanity of Durham, Inc., a non-profit corporation organized under the laws of North Carolina, ("Recipient" – "Habitat").

**Whereas**, the City shall make available to the Recipient **\$310,000** of Dedicated Housing Funds in the form of a grant for affordable housing development activities (the "Project"); and

**Whereas**, pursuant to the goals of the City Council, the City desires to fund the activities of the Recipient in order to further provide affordable housing within the City of Durham; and

**Whereas**, the Recipient agrees to abide by each paragraph of this Contract and its attachments and all procedures, rules, regulations imposed in connection with its receiving the Grant referred to above; and

**Whereas**, the Recipient agrees that all activities conducted under this Contract shall benefit households with incomes at or below 60% of the area median income for Durham, as revised from time-to-time by the U.S. Department of Housing and Urban Development, and who are residents of the City of Durham at the time of their application to the Recipient, by providing access to affordable housing; and

**Whereas**, the Recipient further agrees that all activities conducted under this Contract shall be of a type authorized by the provisions of Part 8, Article 19 of Chapter 160A of the General Statutes of North Carolina, as amended by Chapter 206 of the Session Laws of 1987.

**Now, therefore**, in consideration of the mutual promises herein exchanged by and between the parties, it is agreed as follows:

**Section 1. Obligations of the Recipient.** The Recipient promises to perform, or cause to be performed, the obligations specified in Attachment A, Scope of Services.

**Section 2. Payment under the Contract.** The City shall reimburse the Recipient as specified in Attachment A.

**Section 3. Contract Term.** The term of this Contract shall not exceed 12 months from the date of execution.

**Section 4. Scope of Services.** The scope of Services shall be as specified in Attachment A.

**Section 5. Applicable Federal, State, and City Requirements.** The Recipient shall ensure that its sub-contractors, vendors, employees, consultants and any ultimate recipients of funds under this Contract are eligible under and abide by all applicable laws and regulations.

**Section 6. Assignment of Contract Prohibited.** No assignment of this Contract or the obligations owed under it shall be allowed without the prior written approval of the City Manager.

**Section 7. Conflict of Interest.** The Recipient shall permit no officer or employee of the Recipient, no member of the City's governing body and no other public official of any governing body in the Durham area to exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this project. Furthermore, the Recipient covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Contract. The Recipient further covenants that no person having any such interest shall be employed in the performance of this Contract.

**Section 8. Political Activity.** The Recipient shall not permit any of the funds, materials, property or services provided under this Contract to be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or for publicity or propaganda purposes designed to support or defeat legislation pending before the United States Congress, the State of North Carolina, the County of Durham or the City of Durham.

**Section 9. E-Verify Compliance under 143-133.3.** The contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS). This E-Verify compliance under 143-133.3 section is intended to apply to only the contracts to which NCGS 143-133.3 (a) applies and shall be construed in accordance with that statute. Any clause in this contract included under the authority of NCGS 160A-20.1 (b) shall be of no effect; provided, however, to the extent (if any) required to comply with NCGS 143-129 (j), a clause in this contract requiring the contractor and its subcontractors to comply with the requirements of Article 2 of Chapter 64 shall remain in effect if this contract is subject to NCGS 143-129. This E-Verify compliance under 143-133.3 section is valid only if House Bill 318, which was ratified on 29 September 2015, is signed into law by the Governor of North Carolina.

**Section 10. Recipient Liable for Leases.** N/A

**Section 11. Identification of Documents.** N/A

**Section 12. Financial Records.** The Recipient shall establish and maintain a financial management system, which shall account for all funds received under this

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Contract and expenditures made in furtherance of the project and such system shall be created and maintained in accordance with generally accepted accounting procedures. This system shall include, but shall not be limited to, the following:

a. A general ledger (balance sheet and statement of revenue and expenses) in which a summary of all accounting transactions shall be maintained.

b. In addition, the Recipient shall maintain a cash receipt and disbursement register in which receipts and disbursements will be documented. Funds disbursed by the Recipient shall be made by pre-numbered checks, used in numerical sequence and must be supported by appropriate documentation. This documentation includes items such as payroll time and attendance records, invoices, contracts, travel payments, information evidencing the nature and propriety of each payment, and notations showing the approval of an authorized official of the Recipient.

c. The Recipient shall maintain such records and accounts, including property, personal and financial records so as to assure a proper accounting for all project funds. The Recipient shall retain these records for five (5) years, commencing on the date of payment. At any time after the Contract termination, however, the Recipient may turn these documents over to the City for retention after completion and acceptance of required audits.

d. On request of the City, the Recipient shall provide an accounting for all funds paid to it by the City under this Contract. More specifically, Recipient's financial management system shall provide for:

- i. Accurate, current and complete disclosure of the financial results of activities under this Contract in accordance with generally accepted business practice. If the Recipient's accounting records are maintained on a cash basis, the Recipient must develop information of accounts payable and accounts receivable through an analysis of the documents in the file, or on the basis of its best estimates.
- ii. Records which identify adequately the source and application of funds under this Contract. These records shall contain information pertaining to contract awards and authorizations, encumbrances and unencumbered balances, assets, liabilities, outlays and income.
- iii. Effective control over and accountability for all funds, property and other assets attributable to the Contract. The Recipient shall adequately safeguard all such assets and shall assure that they are used solely for the performance of the Contract.
- iv. Comparison of actual expenditures with budgeted amounts for those expenditures and comparison of financial information with performance or productivity data, including the production of unit cost information whenever

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required by the Director of the City of Durham Department of Community Development (“DCD”).

v. Procedures for determining the allowability and allocability of costs.

e. The Recipient’s financial records shall be audited by a certified public accountant, pre-approved by the DCD, at least annually. The auditor shall be engaged by the Recipient at the Recipient’s expense. Should there be an exception taken during the audit, the Recipient shall resolve the findings and recommendations within thirty (30) days after completion of the audit. See also Section 10: Audits and Inspections.

f. A certified audit of the funds received by the Recipient under this Contract shall be commenced within sixty (60) days after the end of Recipient’s fiscal year, for each year that there are any activities being funded by this Grant, and such certified audit must be completed within 120 days of commencement. Such audit shall be performed by the auditor engaged by the Recipient at the expense of the Recipient.

g. Recipient shall provide any information which DCD may reasonably request pertaining to the Recipient’s financial management under this Contract.

**Section 13. Audits and Inspections.** At any time during normal business hours and as often as the City may reasonably deem necessary, the Recipient shall make available to the City for examination, all of the Recipient’s records with respect to matters covered by this Contract, and the City shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials payable, records of personnel, and other data relative to all matters covered by this Contract.

**Section 14. Fidelity Insurance.** N/A

**Section 15. Reporting.** Beginning on the date of the first payment, and every fiscal quarter thereafter until the project is complete, Recipient shall deliver to DCD progress and expenditure reports.

**Section 16. Proof of Contracting Requirements.** N/A

**Section 17. Prohibition Against Soliciting and Accepting Favors and Procurement.** The Recipient’s officials and employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors or potential subcontractors. The Recipient further agrees that all procurement transactions which the Recipient may enter into as a result of this Contract shall be conducted in a manner so as to provide maximum, open and free competition and in accordance with the provisions of North Carolina General Statutes.

**Section 18. Maintenance of Effort.** The Recipient shall maintain a level of aggregate expenditures for its other projects or activities which is not less than the level

of aggregate expenditures which existed prior to the execution of this Contract. The Recipient shall promptly notify the City of any matters which have a material tendency to affect compliance with this requirement.

**Section 19. Employment Opportunities for Small Business and Lower Income Persons.** The Recipient will take affirmative steps to assure that the small businesses and lower income persons of the Project area, which is the City of Durham, are utilized whenever possible as sources of supplies, equipment, construction and services.

**Section 20. Equal Business Opportunity (EBO) Ordinance.** The Contractor shall comply with all applicable provisions of Chapter 26 of the Durham City Code (Equal Business Opportunities Ordinance), as amended from time to time. The failure of the Contractor to comply with that Chapter shall be a material breach of Contract which may result in the rescission or termination of this Contract and/or other appropriate remedies in accordance with the provisions of that Chapter, this Contract, and state law. The Participation Plan submitted in accordance with that Chapter is binding on the Contractor. Section 26-10(f) of that Chapter provides, in part, "If the City Manager determines that the Contractor has failed to comply with the provisions of the Contract, the City Manager shall notify the Contractor in writing of the deficiencies. The Contractor shall have 14 days, or such time as specified in the Contract, to cure the deficiencies or establish that there are no deficiencies." It is stipulated and agreed that those two quoted sentences apply only to the Contractor's alleged violations of its obligations under Chapter 26 and not to the Contractor's alleged violations of other obligations.

**Section 21. Termination of Contract. N/A**

**Section 22. Hold Harmless Provision.** To the fullest extent permitted by law, the Recipient agrees to indemnify and hold harmless the City and its agents, officers and employees from any and all costs, damages, claims, judgments and expenses, including attorney's fees, that may arise in any manner from, as a result of, relating to, or in connection with the Recipient's performance of this Contract, unless such costs, damages, claims, judgments or expenses were caused by the City's negligence or willful misconduct.

**Section 23. Reversion of Assets.** Upon expiration of this Contract or termination with or without cause, the Recipient shall transfer to the City any Grant funds on hand at the time of expiration and any accounts receivable attributable to the use of said Grant funds. Any real property under the control of the Recipient constructed or improved in whole or in part with Grant funds must continue to be used for affordable housing as described in this Contract for a period of not less than the ten (10) year affordability period.

The Recipient shall repay to the City the full amount of any funds lost, misapplied, unaccounted for or inadequately accounted for in violation of this Contract.

**Section 24. City of Durham, Nondiscrimination Policy.** The City of Durham opposes discrimination on the basis of race and sex and urges all of its contractors to provide a fair opportunity for minorities and women to participate in their work force and as subcontractors and vendors under City contracts.

**Section 25. Records to be Maintained.** The Recipient shall maintain complete records of all expenditures and activities related to any matter that pertains to this Contract for a period of five (5) years beginning at the time that the project is placed into service.

**Section 26. Attachments.** The following documents are attached to this Contract and are hereby made an integral part of it by reference: Attachment A, Scope of Services and Attachment B, HUD 2015 Income and Rent Limits.

**Section 27. Primary Contacts.** Unless otherwise required under this Contract, notices permitted or required to be given will be deemed sufficient if given by e-mail, fax, mail, or courier service, addressed to the individual specified below, or to such other individuals as the respective parties may designate by notice from time to time. Notices so given will be effective upon receipt by the party to which the notice is given.

For the Recipient:

Blake Strayhorn, President/Exec. Director  
Habitat for Humanity of Durham, Inc.  
215 North Church Street  
Durham, NC 27701  
Tel: 919-683-1551  
Fax: 919-683-1237

For the City of Durham:

Reginald J. Johnson, Director  
City of Durham  
Dept. of Community Development  
807 E. Main Street, Suite 2-200  
Durham, NC 27701  
Tel: 919-560-4570  
Fax: 919-560-4090

**Section 28. Sole Agreement.** This document, and the attachments incorporated herein, contains the entire agreement between the parties with respect to the subject matter of this agreement and no statement, promises or inducements made by either party, or representative of either party with respect to the subject matter of this agreement, that is not contained in this written agreement, shall be valid and binding. This Contract may not be enlarged, modified or altered except in writing by the parties.

**Section 29. Warranty of Authority.** Each individual signing below warrants that he or she has the power and authority to sign on behalf of the entity listed above their signature, that such signature alone is binding on such entity, and that the governing body of such entity has duly authorized the execution of this document.

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**IN TESTIMONY WHEREOF**, the parties hereto have caused this Contract to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF DURHAM**

ATTEST

City Clerk

**HABITAT FOR HUMANITY OF DURHAM, INC.**

\_\_\_\_\_  
Blake Strayhorn, President/Executive Director

ATTEST

Corporate Secretary  
(Affix corporate seal here.)

**Pre-Audit Certification, if applicable:**

**NORTH CAROLINA  
DURHAM COUNTY**

**ACKNOWLEDGMENT BY CITY OF DURHAM**

I, a Notary Public in and for the aforesaid County and State certify that \_\_\_\_\_ personally appeared before me this day, and acknowledged that he or she is \_\_\_\_\_, the City Clerk of the City of Durham, a municipal corporation, and that by authority duly given and as the act of the City, the foregoing Contract was signed in its corporate name by Thomas J. Bonfield, its City Manager, sealed with its corporate seal, and attested by its said City Clerk or Deputy City Clerk. This the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

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

**STATE OF NORTH CAROLINA  
DURHAM COUNTY**

I, \_\_\_\_\_, a Notary Public for the County and state aforesaid, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that he/she is the \_\_\_\_\_ Secretary of Habitat for Humanity of Durham, Inc., a non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President/Executive Director, sealed with its corporate seal and attested by him/her as its \_\_\_\_\_ Corporate Secretary. Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

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

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ATTACHMENT A  
Scope of Services

The City of Durham Dedicated Housing Funds, in the amount of up to \$310,000, awarded under this Agreement will be used for the acquisition of up to eleven (11) vacant single family building lots in Southwest Central Durham, located at the following addresses and at the estimated purchase prices:

<u>Address</u>	<u>Estimated Purchase Price</u>
900 Carroll Street	\$30,000
1200 Cornell Street	40,000
812 Exum Street	30,000
1408 Halley Street	5,000
812 Kent Street	27,500
814 Kent Street	27,500
1209 Kent Street	35,000
1212 Kent Street	40,000
1214 Moreland Avenue	10,000
1018 Rosedale Avenue	25,000
1036 Rosedale Avenue	<u>40,000</u>
Total	\$310,000

Habitat will construct a new single family home on each lot that will be sold to low-mod income buyers. Construction of each house must commence within 90 days of lot purchase.

Adjustments to the use of funds may be approved in writing by the Director of the Department of Community Development, provided these adjustments do not extend the term of the agreement or increase the total funding for contract activities. Included in the definition of an adjustment is the determination of the need, should it arise, by Habitat to substitute a comparable property for acquisition, should Habitat be unable to acquire one or more of the properties identified herein; and/or to adjust the purchase price.

The individual households or families who occupy the completed units may not earn more than 60% of the HUD-determined Area Median Income, as that may be revised from time to time by HUD, (Attachment B). In addition, a Declaration of Restrictive Covenants will be attached to each property acquired with funds provided under this Contract by Habitat at the time Habitat acquires the property, imposing a Period of Affordability for 10 years.

If, for any reason Habitat does not complete the acquisition and construction of all eleven homes within twelve (12) months of the commencement of this Agreement, or for any other breach of this Agreement's terms, the City shall have the right to recapture from Habitat the amount of funds provided for the purchase of the property where a new

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single family home was not completed or, at the City's election, to have a deed of trust encumbering the parcel and any improvements constructed thereon provided to the City by Habitat, noting the entire amount of funds provided by the City under this Agreement as the secured amount, and with the City as the beneficiary. Completion of construction shall be defined as the date by which a certificate of occupancy has been issued for each home, a copy of which shall be provided to the Project Manager upon receipt by Habitat.

Habitat must construct each home to meet System Vision specifications, with Advanced Energy certifying upon completion the guaranteed energy usage required to heat and cool each home. Habitat shall provide to the Department of Community Development Project Manager a copy of the certification for each home that it meets System Vision specifications, along with other documentation provided by Advanced Energy, including the energy guarantee.

Payments

The maximum billable amount under this Contract shall be \$310,000.00. Reimbursement for eligible expenditures are subject to the submittal of documentation of the expenses incurred, with such documentation to be as the Project Manager for the Department of Community Development may reasonably require.

Payments to Habitat for the cost of each lot will be in accordance with the estimated costs above, and will only occur after a request for reimbursement has been received by the Project Manager, along with a copy of the closing statement documenting that Habitat has secured title to each parcel and a copy of the restrictive covenants that have been recorded by the Durham County Register of Deeds, imposing the period of affordability.

Enforceability

All terms of this Contract shall continue to be enforceable by the City so long as any obligations of Habitat under this Contract have not been fulfilled.

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**Attachment A-1:**  
Chart of HUD income and rent limits effective as of 6/1/2015

<b>HOME Income &amp; Rent Limits - Durham Metro Area</b>								
<p>NOTE: For all HOME-assisted rental units, the <b>maximum allowable total rent</b> is the HUD calculated Low HOME Rent for households with annual incomes at or below 50% Area Median Income (AMI); or the High HOME Rent for households with annual incomes between 50% and 80% AMI, or the Fair Market Rent for household with annual incomes above 80% AMI - but none shall exceed the HUD-published Fair Market Rent. All HUD-published rent limits include utility costs, which must be <b>deducted</b> from HUD's maximum allowable total rent limits to establish <b>maximum lease rents</b>.</p>								
<b>2015 - Income &amp; Rent Limits - Effective 6/1/15</b>								
<small>5/21/15 SBS+W/C</small>								
<b>2015 INCOME Limits based on Number of Persons in Household - Durham Metro Area - Published 5/8/15</b>								
HH Income as % of AMI	1	2	3	4	5	6	7	8+
<b>30%</b> <b>(extremely low)</b>	\$14,150	\$16,200	\$18,200	\$20,200	\$21,850	\$23,450	\$25,050	\$26,700
35%	\$16,520	\$18,900	\$21,245	\$23,590	\$25,480	\$27,370	\$29,260	\$31,150
40%	\$18,880	\$21,600	\$24,280	\$26,960	\$29,120	\$31,280	\$33,440	\$35,600
45%	\$21,240	\$24,300	\$27,315	\$30,330	\$32,760	\$35,190	\$37,620	\$40,050
<b>50% (very low)</b>	\$23,600	\$27,000	\$30,350	\$33,700	\$36,400	\$39,100	\$41,800	\$44,500
<b>60%</b>	\$28,320	\$32,400	\$36,420	\$40,440	\$43,680	\$46,920	\$50,160	\$53,400
<b>80% (low)</b>	\$37,750	\$43,150	\$48,550	\$53,900	\$58,250	\$62,550	\$66,850	\$71,150
100%				<b>\$67,400</b>				
(median)	\$47,200	\$54,000	\$60,700	\$67,400	\$72,800	\$78,200	\$83,600	\$89,000
120%	\$56,640	\$64,800	\$72,840	\$80,880	\$87,360	\$93,840	\$100,320	\$106,800
<b>2015 RENT Limits, based on Number of Bedrooms (all include utility allowances) - Published 5/11/15</b>								
Rent	Standard	Efficiency	1BR	2BR	3BR	4BR	5BR	6BR
Low HOME								
Rent	\$597	\$644	\$773	\$893	\$996	\$1,099	\$1,202	
High HOME								
Rent	\$597	\$737	\$874	\$1,127	\$1,254	\$1,365	\$1,476	
FMR	\$597	\$737	\$874	\$1,127	\$1,320	\$1,518	\$1,716	