



First Time Home Buyer (FTHB) Program
Down Payment (DPA) & Closing Cost Assistance
Soft Second Mortgage – Forgivable After 10 Years
HOME Investment Partnerships Program

Mortgage Lender Origination Agreement

THIS MORTGAGE LENDER ORIGNATION AGREEMENT (hereinafter “Agreement”) is made as of this _____ day of _____, 20_____, by and between the Kansas Housing Resources Corporation (hereinafter “KHRC”), a public, non-profit corporation, with offices at 200 SW 6th Ave, Topeka, Kansas 66603-3704, and _____ (hereinafter “Lender”), whose address is below.

Financial Institution Name: _____

DBA(s)if any: _____

Mailing Address: _____

City/State/Zip+4: _____

Phone: _____

Fax: _____

Email(s): _____

Website: _____

Tax I.D. # (FEIN): _____

[SAM.gov](https://sam.gov) UEI #: _____

NMLS #: _____

Contact Person/Persons (Loan Officers): _____

Service Area (List all counties): _____

Origination/Lender Fees Normally Charged to Homebuyer: _____

WITNESSETH:

WHEREAS, KHRC desires to assist individuals and families in the State of Kansas, whose household income does not exceed 80 percent of the area median income as set forth below, with the purchase of affordable single family housing units by implementing the U.S. Department of Housing and Urban Development (hereinafter “HUD”)’s HOME Investment Partnerships Program and First Time Home Buyer program (hereinafter the “Program”), made possible in part through the applicable provisions of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. § 12701, *et seq.*), as amended (hereinafter “NAHA”), including Subchapter II, Part A, HOME Investment Partnerships of the NAHA, and the related rules and regulations under 24 CFR Parts 91 and 92 (hereinafter “HUD Regulations”), as well as the applicable rules and regulations promulgated pursuant thereto by KHRC, which includes the Training and Operations Manual and forms, which are incorporated herein by this reference and made a part of this Agreement, and which may be amended from time to time (hereinafter the “Manual”), and all other applicable KHRC, HOME, NAHA, and HUD regulations all of which are incorporated herein by this reference and made a part of this Agreement (hereinafter the NAHA and all applicable KHRC, HOME, NAHA, and HUD regulations are collectively referred to as the “Acts and Regulations”);

WHEREAS, in order to encourage homeownership in the State of Kansas, KHRC as a participating jurisdiction has agreed to provide HOME funds for down payment assistance loans to qualified low income individuals and families, and has agreed to allow approved participating lenders to originate, process, and handle closing of KHRC’s down payment assistance loans subject to the provisions set forth herein; and

WHEREAS, Lender has agreed to use its best efforts to originate, process, and close KHRC’s aforementioned down payment assistance loans to qualified low income individuals and families in accordance with this Agreement, the Acts and Regulations, and the Manual.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, KHRC and Lender agree as follows:

ARTICLE ONE

Definitions

All words and phrases in this Agreement shall have the identical meaning as defined in the Manual unless the context herein shall otherwise dictate. Notwithstanding anything in this Agreement to the contrary:

Section 1.01. The term “affordable single family housing unit” shall mean a one-to four-family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot lying and being situate wholly outside the 100-year flood plain, whose “as built” value, as determined by a qualified appraiser approved by the Lender, may not exceed the maximum sales price limitations as defined by the Acts and Regulations in effect upon the date of the applicable KHRC Loan. The housing unit must be located within the State of Kansas but may not be located in the city limits of Kansas City, Lawrence, Topeka, or Wichita, or in Johnson County.

Section 1.02. The term “KHRC Loan(s)” shall mean a KHRC HOME Investment Partnership Loan to a Borrower, as defined below, in an amount up to 20 percent (20%) of the purchase price of an affordable single family housing unit if the Borrower’s household income is at or below 50% of the area median income of the HOME Program Income Limits, or 15 percent (15%) of the sales price if the Borrower’s household income is more 50% but does not exceed 80% of the area median income of the HOME Program Income Limits, with the maximum loan amount never exceeding \$40,000. The home must be purchased by qualified low-income individuals and families who are first time homebuyers, all in accordance with and as detailed further in the Manual and Acts and Regulations. The KHRC Loan will be evidenced by a

promissory note and secured by a second mortgage which shall be a second mortgage lien on the affordable single family housing unit.

Section 1.03. The term “low-income individuals and families” (hereinafter “Borrower,” whether one or more parties), shall mean all persons or families as are defined by the Acts and Regulations in effect on the date of the KHRC Loan(s).

ARTICLE TWO

Representations

Section 2.01. Kansas Housing Resources Corporation

KHRC represents and warrants that:

(a) KHRC is a body corporate and politic of the State of Kansas (hereinafter “State”), duly organized and existing under the laws of the State. KHRC has authorized the execution and delivery of this Agreement.

(b) KHRC, as the Participating Jurisdiction for the State, is implementing, through a formula grant from HUD, the Program for HUD under the terms of this Agreement.

(c) As part of the Program, KHRC may provide KHRC Loans through for-profit or nonprofit lending institutions that provide the first mortgage loan to a Borrower.

Section 2.02. Lender

Lender represents and warrants that:

(a) Lender is in good standing and authorized to do business in the State and customarily provides services in the State, including the financing of mortgage loans to qualified homeowners in the State.

(b) While this Agreement remains in effect, Lender shall remain subject to supervision and examination by Federal and/or State authorities, as the case may be, and will not make a change in the character of its business which would materially adversely affect its performance under this Agreement and shall at all times remain in good standing and qualified to do business under all applicable Federal and State laws. All records and documentation, whether electronic or written, of Lender pertaining to this Agreement, the Program, and/or KHRC Loans shall be maintained and open for inspection by KHRC or its agents upon reasonable notice to Lender for the duration of this Agreement and for a minimum of five (5) years after termination of the Agreement, or for a minimum of five (5) years after the maturity of any KHRC Loan, whichever is longer.

(c) Lender has the power and authority to execute, deliver, perform, and enter into all of the transactions contemplated by this Agreement, and has duly authorized the execution, delivery, and performance of this Agreement.

(d) Lender will originate and process KHRC Loans in compliance with the Acts and Regulations and the Manual, all as may be amended from time to time, and in compliance with the covenants, terms, and conditions of this Agreement. If a conflict arises, the following order of preference shall govern: (1) the Acts and Regulations; (2) this Agreement; (3) the Manual.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated herein, nor the fulfillment of, or compliance with, any of the terms and conditions of this Agreement, conflict with or will result in a breach or default of the instruments creating Lender or governing Lender’s operations, or any of the terms, conditions, or provisions of any legal restriction(s) or any agreement(s) or instrument(s) to which Lender is now a party, or by which Lender is bound.

(f) Lender shall ensure that each KHRC Loan is evidenced by a promissory note and secured by a second mortgage on the subject affordable single family housing unit located within the State, and shall ensure that each KHRC Loan is processed

in compliance with each and every requirement of the Manual and the Acts and Regulations, all as may be amended from time to time, including those requirements not specifically set forth in this Agreement. Further, Lender shall obtain a representation from the Borrower by affidavit under penalty of perjury that the affordable single family housing unit serving as collateral is occupied by the Borrower as the Borrower's principal place of residence, all as more particularly provided for in the Manual.

(g) Lender acknowledges and agrees that before Lender provides any homeownership assistance to the Borrower, KHRC must verify that the Borrower is a qualified low income individual or family as defined herein, and the affordable single family housing unit must pass an inspection in accordance with the property standards in 24 CFR 92.251.

(h) Lender acknowledges and agrees to abide by the following for the duration of the Agreement:

1. Lender must be operating in the State with an active Nationwide Multistate License System (NMLS) license.
2. Lender must be able to offer FHA, VA, or USDA RD loans, as well as conventional loans, and must provide evidence of approval from each applicable entity to KHRC upon request.
3. If Lender is a bank or savings & loan association, then Lender must be FDIC insured and provide evidence of the same to KHRC, or in the alternative, if Lender is a credit union, then Lender must be NCUA insured and provide evidence of the same to KHRC.
4. Lender must present evidence of one of the following:
 - a. E & O insurance, by providing a Certificate of Insurance, or
 - b. a Fidelity Bond, by providing evidence of Fidelity Bond.
5. Lenders must offer mortgage loans as a primary part of their business.

(i) Lender hereby certifies that Lender, and its principals, employees, and affiliates, are not, and have not been, debarred, or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs. Lender agrees to comply with the requirements of 2 C.F.R. Part 180, as well as 31 C.F.R. Part 19, throughout the period of this Agreement and to provide proof of an active registration in the System for Award Management at sam.gov to KHRC. This certification is a material representation of fact relied upon by KHRC. If it is later determined that Lender did not comply with 2 C.F.R. Part 180, in addition to remedies available to KHRC, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

(j) Lender must attend a KHRC lender training session.

ARTICLE THREE

Commitments to Originate, Process and Fund KHRC Loans

Section 3.01. Commitment to Originate and Process KHRC Loans.

Lender agrees to originate and process KHRC Loans to qualified Borrowers as defined above in accordance with the Acts and Regulations and the Manual, all as may be amended from time to time, and in accordance with the covenants, terms, and conditions of this Agreement.

Section 3.02. KHRC Commitment to Fund KHRC Loans.

KHRC agrees to provide Lender with funds for KHRC Loans originated by Lender that are pre-approved in writing by KHRC, and which are originated and processed by Lender in compliance with the Acts and Regulations, the covenants, terms, and conditions of this Agreement, and the Manual.

ARTICLE FOUR

Origination and Servicing of KHRC Loans

Section 4.01. Loan Proceeds.

The parties agree that all distributions of KHRC Loans made pursuant to this Agreement shall be disbursed solely through Lender, which may include, at Lender's direction and subject to KHRC's approval, distribution of the KHRC Loan to a title company chosen by Lender to be held in escrow by said title company on behalf of the Lender pending closing of the subject transaction.

Section 4.02. KHRC Loan Documents.

Lender and KHRC agree and acknowledge that the loan documents for the KHRC Loan(s) shall all be in the name of KHRC and for the use and benefit of only KHRC. After closing, Lender shall ensure that the original loan documents are sent to KHRC to be held by KHRC.

Section 4.03. Collateral.

Lender and KHRC agree and acknowledge that the KHRC Loan shall be secured by a second mortgage on the affordable single family housing unit purchased by the Borrower, with said second mortgage held by and in the name of KHRC at all times herein.

Section 4.04. Lender's Duties and Liability.

So long as Lender acts in good faith in originating, processing, and closing of the KHRC Loan(s) and complies with the covenants, terms, and conditions of this Agreement, the Acts and Regulations, and the Manual, Lender will incur no liability to KHRC unless any KHRC Loan:

- a. is not secured by a second mortgage lien held by KHRC;
- b. is secured by property partially or wholly within a 100-year flood plain;
- c. the Borrower is over the income limits for the Program;
- d. the sales price of the property exceeds the maximum sales price established by the Program; or
- e. the KHRC Loan is made in violation of any of the Acts and Regulations and/or the Manual.

If any of the above events occur, Lender agrees to fully indemnify and hold KHRC harmless and further agrees to repurchase the KHRC Loan from KHRC upon disclosure and demand by KHRC of such event(s) with respect to such KHRC Loan; provided however, Lender makes no representations and assumes no responsibility with respect to the collectability of any KHRC Loans, or as to the correctness, validity, or enforcement of any provision contained in any instrument, certificate, opinion, or other document delivered directly to KHRC by a third party in connection with the KHRC Loan and not received or reviewed by Lender.

Lender will maintain such files, books, and records regarding each KHRC Loan as Lender would maintain for similar loans in which Lender participates, and will fully maintain such files, books, and records as may be necessary to record and evidence the transactions contemplated by this Agreement and as required by KHRC. All records and documentation shall be maintained by Lender for the time period stated in Section 2.02(b).

All terms, conditions, and obligations set forth in this provision shall survive termination of the Agreement.

Section 4.05. Fees, Expenses.

While this Agreement remains in effect, Lender may not collect from the Borrower, nor will Lender be required to pay to KHRC, any loan or servicing fees or expenses related to any KHRC Loan other than as set forth in the Manual. No loan

processing fees (e.g., origination fees or points) may be charged to the Borrower for the KHRC Loan provided, and only expenses set out in the Manual may be charged to the Borrower. Additionally, prior to closing, KHRC must determine that the fees and other amounts charged to the Borrower by the Lender for the first mortgage financing provided by the Lender are reasonable. Lender will not be required to pay a fee to participate in the Program.

Section 4.06. Assignment.

Neither KHRC nor Lender may assign all or any portion of their respective rights or obligations under this Agreement without the prior written consent of the other, which consent will not be unreasonably withheld; provided however, succession to Lender's position under this Agreement by a surviving qualified financial institution upon merger, consolidation, or other reorganization of Lender, shall not be deemed to constitute an assignment under this paragraph.

Section 4.07. Credit and Identity of Borrower/Disclosure Statement.

As detailed further in the Manual, both Lender and KHRC shall be satisfied with the income of Borrower as it is shown on the Credit and Identity of Borrower/Disclosure Statements completed by Borrower. Further, Lender, in its sole discretion, shall be satisfied with the credit and identity of Borrower and shall have approved the title, title insurance and hazard insurance policies, and all other items required under this Agreement and/or the Manual, prior to approving and accepting any KHRC Loan. KHRC and Lender understand that this Agreement has not been registered under the Securities Act of 1933, as may have been amended from time to time, or under any state securities act and each party further understands that KHRC is acquiring such Loan(s) for its own account without issuing notice to the public.

Section 4.08. Reservation by KHRC of Right to Reject KHRC Loans.

Notwithstanding any provision in this Agreement to the contrary, KHRC reserves the right to review and reject any KHRC Loan subsequent to loan approval by Lender and prior to the disbursement of any KHRC Loan, if KHRC determines that any of the events itemized in Section 4.04 (a through e) above have occurred.

ARTICLE FIVE

Termination of Agreement

Section 5.01. Termination of Agreement.

This Agreement may be terminated by either party, without cause and without penalty, by giving the other party sixty (60) days written notice of termination. If prior to the delivery of a written notice of termination a KHRC Loan was approved by Lender and KHRC but had not yet closed, the parties agree to complete closing of the KHRC Loan(s) in accordance with all terms and conditions of this Agreement prior to termination of the Agreement. After delivery of a written notice of termination by either party, no additional KHRC Loans shall be approved.

Section 5.02. Agreement to Pay Attorneys' Fees and Expenses.

In the event KHRC or Lender fails to perform any of their obligations under any of the provisions of this Agreement or the Manual, or fails to abide by any of the Acts or Regulations, and such failure causes KHRC or Lender to employ attorneys or incur other expenses for the enforcement of performance of any obligations(s) or agreements(s) on the part of KHRC or Lender herein or therein contained, KHRC and Lender, as the case may be, each agree that the prevailing party shall be reimbursed by the losing party for all fees, costs, and expenses, including reasonable attorney's fees, incurred in enforcing their respective rights hereunder. This provision shall survive termination of the Agreement.

ARTICLE SIX

Miscellaneous Provisions

Section 6.01. Severability.

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, the validity and enforceability of the remaining provisions will in no way be affected or impaired.

Section 6.02. Further Assurances and Corrective Instruments.

Each and every provision of law and clause required by law to be inserted in this Agreement relating to the Program shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. KHRC and Lender agree that they shall execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, any amendments to the Agreement or other instruments as may reasonably be required to carry out the intention of this Agreement or to facilitate the performance of this Agreement, but only if such amendments or other instruments are in accordance with the Acts and Regulations. In the event of changes to any of the applicable Acts or Regulations regarding the Program, this Agreement shall be deemed to be amended when the statutory requirements are changed or when required to comply with any applicable law or guidance so amended, even if no written amendment is executed by the parties. Such deemed amendments shall be effective as of the effective date of the statutory or regulatory change or the date the guidance is issued.

Section 6.03. Notices.

Unless otherwise specifically provided herein, all formal notices hereunder shall be in writing and mailed by registered or certified mail, postage prepaid, to the respective parties at the addresses listed above, or to such other address as either party hereto may designate by written notice, from time-to-time hereafter.

Section 6.04. Construction.

This Agreement and the rights and obligations of Lender and KHRC hereunder shall be construed under the laws of the State of Kansas. Lender and KHRC agree that jurisdiction and venue of any suit in connection with this Agreement shall reside only in the State and Federal courts located in the County of Shawnee, State of Kansas. Lender and KHRC agree that this Agreement contains the entire understanding of Lender and KHRC with respect to the Agreement and supersedes any and all previous communications, negotiations, and agreements, whether oral, electronic, or written, with respect thereto. Except as provided in Section 6.02, this Agreement may not be changed, modified, or amended except by written agreement executed by both parties. The waiver or failure of either party to exercise in any respect any rights provided for in this Agreement will not be deemed a waiver of any further right. Nothing in this Agreement will be construed to constitute a partnership, joint venture, or agency relationship between KHRC and Lender or is intended or shall be construed to confer upon any person, other than the parties hereto, any right, remedy or claim under this Agreement. The descriptive headings of the paragraphs are for convenience only and are not to be used in the construction of the content of this Agreement. This Agreement may be executed in multiple counterparts each of which will be an original instrument, but all of which will constitute one agreement.

Section 6.05. Additional Subsidies.

It is expressly agreed that other sources of funding or subsidy may be utilized in conjunction with the KHRC Loan so long as:

- (a) The total amount of HUD funds invested in any property shall not exceed the regulatory maximum prescribed by HUD;
- (b) No funds from any seller-financed down payment assistance program shall be allowed in conjunction with a KHRC Loan, including any down payment assistance purporting to pass from the seller through a not-for-profit agency;
- (c) The KHRC Loan shall not be subordinated to a junior lien position, other than the first mortgage to Lender, without the express written consent of KHRC; and
- (d) Home Equity Lines of Credit (HELOC's) shall not be allowed in conjunction with the use of a KHRC Loan.

Section 6.06. Privacy Policy.

All parties acknowledge and agree that nonpublic personal information about consumers and customers, as defined in the Gramm Leach Bliley Act of 1999 and implementing regulations, will be maintained in a confidential manner, and shall be used and disclosed to third parties only to carry out the purposes contemplated in this Agreement and as permitted or required by law. All parties agree to establish and maintain appropriate policies and procedures to insure the confidentiality of Lender's customers' and consumers' nonpublic personal information, including appropriate administrative, technical, and physical safeguards and procedures: (1) to protect against any anticipated threats or hazards to the security and integrity of such records; (2) to protect against any unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to a customer, and (3) to provide timely notification to the other party if or when customer information is accessed in an unauthorized manner. This provision shall survive termination of the Agreement.

Ryan Vincent, Executive Director
Kansas Housing Resources Corporation

By: _____

Dated by the Corporation this _____

_____ (Typed Signer Name, Title)

_____ (Typed Financial Institution Name)

By: _____ Dated _____

Revision 3/1/25