



CITY OF GILROY BELOW MARKET RATE PROGRAM

LOAN OFFICER ORIGINATION AGREEMENT

THIS LOAN OFFICER ORIGINATION AGREEMENT (“Agreement”) effective as of _____, 20__ (the “Effective Date”), entered by and between House Keys, Inc. (“Administrator”) and _____ (“Loan Officer” or “LO”), collectively referred to herein as the “Parties”, and each individually referred to herein as a “Party.”

RECITALS

A The City of Gilroy, a California municipal corporation (the “City”) established its Residential Development Ordinance (“RDO”) Section 30.50.60 of the City’s Municipal Code in part to encourage a sustainable rate of growth which will not exceed the City’s ability to provide adequate and efficient public services, create a process that fosters and promotes a balanced community with adequate housing to meet the needs of local employment and residents, encourage and promote the construction of an appropriate share of the regional need for housing, encourage and promote housing programs and activities to enable the City to meet the needs of all economic segments of the community, and promote the development and implementation of specific plans and master plans within the City. The provisions of the RDO apply to all residential development projects proposed to be constructed within the City, except for those residential development projects specifically listed as exempt under the RDO.

B. In 2014, the City Council amended the City’s Density Bonus Law (Municipal Ordinance 30.46.40) to provide incentives to developers to build additional affordable housing units for very low-income, low-income, moderate-income, and senior households in exchange for allowing developers to build more market-rate units. Additionally, through the Density Bonus Law, the City further intended to implement the goals, objectives, and policies of the City’s General Plan Housing Element, which includes a goal to encourage the provision of housing affordable to a variety of household income levels and identifies a density bonus policy as one method to encourage the development of affordable housing.

C. Pursuant to the City’s affordable housing program (the “BMR Program”), the City provides for the provision of housing units to meet the City’s need for low, moderate income and senior housing. The BMR Program assists the City in achieving the goals set forth in the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity.

D. The Program includes mortgage lenders as approved program participants and vendors due to the integral role that mortgage loan officers and lenders play in purchase and refinance transactions, first mortgage and subordinate loan officers and lenders must be approved by the



administrator and a lender agreement will be put in place concerning BMR program compliance during loan origination, underwriting and servicing.

E. Administrator may recommend for approval by the City certain policies and procedures (the “Policies”) and thereafter from time to time updates to the Policies pertaining to the BMR Program which may affect the rights, duties and obligations of the Loan Officer under this Agreement.

F. The City has contracted responsibility for administration of the BMR Program and monitoring compliance with the Policies to the Administrator pursuant to a Consultant Agreement.

G. The Loan Officer desires to participate in the BMR Program by originating loan applications for loans (“First Mortgage Loans”) to eligible borrowers “Eligible Borrowers” and by managing a pipeline of Program applicants (“Applicants”). Program participation also includes cooperating with the Administrator to match Eligible Borrowers with available properties and performing all escrow and lending functions to ensure that property purchases close successfully.

H. Each loan officer whether originating on a retail, correspondent or wholesale basis, must be individually registered and approved by Administrator and/or the City to participate in the Program.

I. Each entity funding the mortgage loan must sign an Affordable Lending Participation Agreement. Loan Officers who are originating through a wholesale or correspondent channel must do so with a Loan Officer with a valid Affordable Lending Participation Agreement in place.

NOW THEREFORE, in consideration of the foregoing and other valuable consideration, the Parties agree as follows:

1. **Program Documents.** The Administrator will provide the Loan Officer with a copy of the Program Documents. The Administrator agrees to provide the Loan Officer with any amendments to such documents, and the Loan Officer agrees to comply with all such documents, as they may be amended from time to time, in performing its obligations under this Agreement.

2. **Agent.** The Administrator hereby designates the Loan Officer as one of the Administrator’s agents for receipt and processing of applications for the BMR Program in accordance with this Agreement and the Program Documents. The Loan Officer acknowledges that the City and Administrator may enter into Loan Officer Origination Agreements with other financial institutions in connection with the BMR Program.



3. **Loan Officer Orientation/Training**. As a condition to the Loan Officer’s continuing participation in the Program, the Loan Officer will attend any orientation and/or training programs provided by the Administrator in connection with the BMR Program.
4. **Education of Potential Eligible Borrowers**. The Loan Officer will provide Applicants access to and ensure compliance with the requirements in the Program Manual for the education of Applicants. Additionally, the Loan Officer must submit evidence to the Administrator that an Applicant has completed education concerning the Policies for participation in the BMR Program.
5. **Eligibility Criteria**. The Loan Officer will screen prospective Eligible Borrowers for compliance with the BMR Program eligibility criteria as described in the Program Documents.
6. **Applications for the BMR Program**
 - (a) The Administrator will provide the Loan Officer with a BMR Program application (the “Application”) in a form approved by the City. The Loan Officer will require that all prospective Eligible Borrowers complete the Application and provide additional information necessary to verify the Application.
 - (b) The Loan Officer will review and verify the information in each Application and supporting documentation to determine whether an Applicant qualifies as an Eligible Borrower.
7. **Submissions to the Administrator for Program Applicants**
 - (a) Following the Loan Officer’s determination that an Applicant may qualify as an Eligible Borrower, the Loan Officer shall deliver to the City Applicant’s completed Application and supporting documents, together with a copy of the proposed loan documents for the First Mortgage Loan, including a Loan Application Form (1003), Transmittal Summary (1008), Tri-Merge Credit Report, and an Automated Underwriting System Acceptance from Fannie Mae, Freddie Mac or another acceptable Automated Underwriting System as approved by the Administrator. The Loan Officer must include information about any down payment assistance or closing cost assistance programs that the Applicant is seeking.
 - (b) Upon the Administrator’s review and approval of the Application documents and the First Mortgage Loan Documents, the Administrator may, in its sole discretion, issue a Certification of Eligibility to the Applicant.
 - (c) **Limitation of Liability**. Notwithstanding any other provision of this Agreement, in no event shall the City or its Administrator be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not



limited to lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

8. **Loan Officer BMR Application Pipeline.** The Loan Officer must maintain a pipeline of Applicants and submit a report (“the Pipeline Report”) no less than once per week to an email address designated by the Administrator. The Pipeline Report shall include a BMR Application ID Number, Last Name, Loan Number, Loan Amount, Interest Rate, Loan Program, all details regarding lock expiration date, date of underwriter approval and date of initial disclosures and the date of the appraisal order. The Loan Officer also shall submit all loan approval documentation and conditions to the Administrator to enable the Administrator to monitor the progress of each loan transaction submitted by Loan Officer.

9. **Escrow Company.** Loan Officer must open escrow with an approved escrow officer and escrow company for ALL transactions (including purchase and refinance loans). During sale transactions, the Preliminary Change of Ownership Report must properly identify each Below Market Rate Unit as a transfer subject to governmentally imposed restrictions. Escrow instructions on loan transactions must comply with BMR Program Documents.

10. **Loan Officer’s Performance.**

(a) The Administrator shall periodically review Loan Officer’s performance under this Agreement, including but not limited to the number of loans originated, loan performance, types of loans made to Eligible Borrower including the servicing of first mortgages made on homes with Below Market Rate Resale Restrictions. In the event the Administrator determines that the Loan Officer has not satisfactorily performed its obligations under this Agreement, the City shall provide written Notice of that fact to the Loan Officer. If, in the City’s reasonable judgment, the Loan Officer has not remedied this situation within sixty (60) days of the City’s Notice, the City may automatically terminate this Agreement by written Notice to the Loan Officer.

(b) This Agreement is applicable to all City first-time homebuyer programs. The participating Loan Officer will adhere to the City Below Market Rate Program loan processing time lines and perform business in a professional manner at all times, and comply with any applicable standards of NMLS, California Bureau of Real Estate (BRE), California Department of Business Oversight (DBO) and any other applicable state and/or federal laws.

11. **Term.**

(a) This Agreement shall continue until terminated for any reason by either the City, Administrator, or the Loan Officer upon sixty (60) days prior written Notice to the other Parties. The City or Administrator may terminate this Agreement effective as of the date of the written



Notice to the Loan Officer. in the event of Loan Officer’s failure to comply with any provision of this Agreement. In the event of any termination, the Loan Officer may no longer participate in or make First Mortgage Loans in connection with the City’s first-time homebuyer programs.

(b) Any termination of this Agreement shall not affect (i) the City’s Completed Eligibility Approval, or (ii) any outstanding Resale Restriction Agreement.

12. **Amendments.** This Agreement may be amended only by a written amendment executed by the Administrator and the Loan Officer.

13. **Notices.** Any notice or other communication shall be effective only if in writing and given by delivering the Notice in person, by sending it first class mail or certified mail with a return receipt requested or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

To Administrator:

HouseKeys. Inc.
City of Gilroy BMR Program Administrator
409 Tennant Station #495
Morgan Hill, CA 95037

To Loan Officer:

14. **Nondiscrimination.** In the performance of this Agreement, the Loan Officer covenants and agrees not to discriminate against any employee of, any City employee working with, or applicant for employment with, Lender or against any person seeking services from Lender in accordance with this Agreement, on the basis of the fact or perception of a person’s race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status).

15. **Americans with Disabilities Act.** The Loan Officer acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Loan Officer shall provide the services specified in this Agreement in a



manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. The Loan Officer agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of the Loan Officer, its employees, agents or assigns will constitute a material breach of this Agreement.

16. **Loan Officer Participation Fee.** Each Loan Officer participating in the BMR Program must pay an initial participation fee of Three Hundred Fifty Dollars (\$350). For each subsequent year, each Loan Officer shall pay a Three Hundred Fifty Dollars (\$350) annual renewal fee on July 1. All fees paid by the Loan Officer shall be non-refundable.

SIGNATURES ON FOLLOWING PAGES



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

LOAN OFFICER:

Printed Name	[Name]
NMLS ID Number	[NMLS ID Number]
Signature	
Date:	

ADMINISTRATOR:

HOUSE KEYS, Inc.

By: _____
Julius Nyanda, Chief Executive Officer