



[Date]

Attn: Closing Agent
[Company Name]
[Address]
[City, State ZIP]

Re: Closing Instructions — City of Chattanooga Down Payment Assistance Program

Dear [Closing Agent]:

These Closing Instructions govern the disbursement and documentation of Down Payment Assistance (“DPA”) funds provided by the City of Chattanooga (the “City”) through the City’s Down Payment Assistance Program (the “Program”). These instructions apply to all participating lenders and closing agents involved in transactions in which a borrower is receiving City DPA funds, and all parties must read and follow these instructions in full. Questions should be directed to the DPA Program Contact identified below before closing. Wiring instructions will be sent separately and/or confirmed in the City’s commitment letter.

DPA Program Contact:

Jacki Madding
City of Chattanooga Office of Economic Development
101 E. 11th Street, Second Floor
Chattanooga, TN 37402
jmadding@chattanooga.gov

DPA Mortgagee Clause:

City of Chattanooga
ISAOA/ATIMA
101 E. 11th Street, Second Floor
Chattanooga, TN 37402

Section 1. Prerequisites to Closing

1.1 City Notice to Proceed. The lender must have received a written Notice to Proceed (“NTP”) from the City confirming that the borrower’s application has been reviewed and approved for DPA funding. The NTP must be included in the loan submission package transmitted to the closing agent. No DPA funds will be disbursed by the City at a closing for

which an NTP has not been issued. The NTP is loan-specific and is not transferable to a different borrower, property, or loan amount.

1.2 Required Documents in Closing Package. The closing agent must confirm that the following documents are present in the package received from the lender: (a) City Notice to Proceed; (b) Executed Borrower Application Declaration; (c) Executed DPA Note (Subordinate Promissory Note) signed by all borrowers; (d) Executed Subordinate Deed of Trust signed by all borrowers; and (e) Executed Final Closing Disclosure.

1.3 DPA Loan Amount. The DPA loan amount is stated in the City’s Notice to Proceed and **may not exceed \$15,000**. The DPA amount may only be applied toward the verified closing gap—the difference between funds needed to close and funds available from all other sources. Any change in the approved DPA amount must be confirmed in writing by the City prior to closing, and the DPA amount must not be adjusted based on a request from the lender or borrower alone. **Each borrower is required to contribute \$1,000 of his/her own funds toward closing costs in each transaction, and the closing settlement statement must indicate the borrower’s contribution.**

Section 2. Execution of DPA Loan Documents

2.1 DPA Note. (Subordinate Promissory Note) All borrowers listed on the first mortgage must execute the DPA Note. The DPA Note must be dated the same date as the first mortgage closing. The loan amount on the DPA Note must match the amount stated in the City’s Notice to Proceed exactly. Do not modify, alter, or whiteout any provision of the DPA Note; if a correction is needed, contact the City before closing.

2.2 Subordinate Deed of Trust; Lien Position. All borrowers and, where required, all vested owners of the subject property must execute the Subordinate Deed of Trust. The Subordinate Deed of Trust must be notarized at closing. The Subordinate Deed of Trust must be recorded in the Hamilton County Register of Deeds immediately following the first mortgage deed of trust, so that the City’s lien is recorded in second lien position (or third lien position if indicated in writing by the City). **Do not record the Subordinate Deed of Trust before the first mortgage deed of trust under any circumstances.** Contact the City prior to closing to confirm lien position.

Section 3. DPA Fund Disbursement

3.1 Source of DPA Funds. DPA funds are provided directly by the City of Chattanooga. For transactions involving a THDA first mortgage product, DPA funds will be advanced by THDA on behalf of the City pursuant to a Memorandum of Understanding between the City and THDA; in those transactions, the closing agent will receive DPA funds from the first mortgage lender, and the City remains the lender of record on the DPA Note and Subordinate Deed of Trust regardless of the source of funds at closing. For transactions not involving a THDA first mortgage, the City will disburse DPA funds directly, and the disbursement source should be confirmed with the lender prior to scheduling closing.

3.2 Disbursement on the Closing Disclosure. DPA funds must be reflected on the Closing Disclosure (“CD”) as a subordinate lien or gift/grant from a government entity, as applicable under the first mortgage product guidelines. The DPA loan amount should appear in the appropriate section of the CD as a source of funds applied to the transaction. DPA funds may only be applied to eligible closing costs and down payment gap and may not be used to pay off debts, reduce the loan amount, or provide cash back to the borrower. No cash back to the borrower from DPA funds is permitted under any circumstances.

Section 4. Recording and Post-Closing Obligations

4.1 Recording. The closing agent is responsible for recording the Subordinate Deed of Trust in the Hamilton County Register of Deeds immediately following the first mortgage deed of trust or second position lien, when advised in writing by the City). The closing agent must obtain a file-stamped, recorded copy of the Subordinate Deed of Trust and return it to the City within fifteen (15) business days of closing. Recorded documents must be sent to the above address or as otherwise directed in the NTP.

4.2 Post-Closing Document Delivery. The following must be delivered to the City within fifteen (15) business days of closing: (a) Copy of the executed and disbursed Closing Disclosure; (b) Copy of the executed DPA Note; (c) Copy of the recorded Subordinate Deed of Trust (when available from the Register of Deeds); (d) Copy of the executed Borrower Application Declaration; and (e) Title insurance commitment or binder reflecting the City’s subordinate lien.

4.3 Title Insurance. The City’s subordinate lien must be covered by a lender’s title insurance policy or, at minimum, reflected on the title commitment as a scheduled exception. Contact the City if the title company raises any issues with insuring or scheduling the City’s lien.

Section 5. Key Prohibitions

The following are strictly prohibited in connection with any City DPA-assisted closing: (a) Disbursing DPA funds before receiving the City’s Notice to Proceed; (b) Applying DPA funds to any purpose other than the verified closing gap (down payment and eligible closing costs); (c) Providing cash back to the borrower from DPA funds; (d) Recording the Subordinate Deed of Trust before the first mortgage deed of trust; (e) Altering or modifying the DPA Note or Subordinate Deed of Trust without City approval; (f) Applying DPA funds approved for one borrower or property to a different transaction; and (g) Remitting DPA payoff funds to any party other than the City of Chattanooga.

Section 6. Questions and Corrections; Program Guidelines; Disclaimer

Direct all questions regarding these instructions, the DPA loan documents, or Program requirements to the DPA Program Contact identified at the top of this letter before closing, and do not proceed with a closing if there is any uncertainty about the application of these instructions. If an error is discovered after closing (including recording errors, disbursement errors, or document deficiencies), notify the City immediately and do not attempt to correct DPA loan documents without City direction. These instructions are subject to the Program Guidelines

adopted by the City of Chattanooga, as amended from time to time, and in the event of a conflict between these instructions and the Program Guidelines, the Program Guidelines control. These instructions do not constitute legal advice; lenders and closing agents should consult their own counsel as needed.

Please confirm receipt and adherence to these instructions prior to scheduling the closing by signing below on the next page and returning a copy of this letter prior to the closing of the DPA loan. If any item above is unclear or inapplicable, contact the City immediately before proceeding.

Sincerely,

Megan Miles, Director of Housing Policy
City of Chattanooga

AGREED TO and ACKNOWLEDGED this ____ day of _____, 20__.

[Title Company/Closing Entity]

By: _____
Name: _____
Title: _____