RESOLUTION NO. 16-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO ADOPTING AMENDMENTS TO THE POLICY AND PROCEDURES MANUAL FOR ADMINISTERING DEED RESTRICTED AFFORDABLE HOUSING UNITS

WHEREAS, the City of Cupertino (the "City") has since 1993 implemented an Office and Industrial Housing Mitigation Program and a Residential Housing Mitigation Program, described in the Housing Element of the General Plan, requiring the payment of housing mitigation fees by non-residential development and residential projects with six units or less, and requiring the provision of moderate-income and median-income housing in developments with seven units or more (the "Housing Mitigation Program"); and

WHEREAS, the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units serves as the day-to-day operational manual for both City staff and its Below Market-Rate (BMR) program administrator for BMR units generated by the City's Housing Mitigation Program; and

WHEREAS, from time to time the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing units is to be updated for clarity, to ensure consistency in review of applications, to reflect policy changes, and to ensure compliance with state and federal law.

THEREFORE, BE IT RESOLVED:

Section 1. After careful consideration of the facts, exhibits, staff report, testimony, and other evidence submitted in this matter, the City Council finds as follows:

1. The foregoing recitals are true and correct and incorporated into this resolution by this reference.

2. The Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units has been updated to amend certain provisions as shown in Exhibit A.

3. Adoption of this resolution is exempt from the California Environmental Quality Act because the proposed changes to the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units are not a project, in that the adoption of the

Manual is an administrative activity that will not result in direct or indirect physical changes in the environment (CEQA Guidelines Section 15378(b)(5)).

Section 2.

The City Council hereby approves the amendments to the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units as shown in Exhibit A attached to this resolution.

PASSED AND ADOPTED at a Regular Meeting of the City Council of the City of Cupertino the 20th day of September 2016, by the following vote:

Vote	Members of the City Council
AYES:	Chang, Vaidhyanathan, Paul, Sinks, Wong
NOES:	None
ABSENT:	None
ABSTAIN:	None

ATTEST:

Grace Schmidt, City Clerk

APPROVED:

Barry Chang, Mayor, City of Cupertino

Exhibit A

Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units

(Attached)

Approved by the City Council
September 20, 2016
Resolution No. 16-102

City of Cupertino Housing
Division Department of
Community Development

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Exhibit 4	Buyer's Disclosure Statement
Exhibit 5	BMR Renter Occupancy Certification
Exhibit 6	Certificate of Receipt of Administrative Procedures Manual

1.0 Introduction

As required by Section 19.172.030 of the Cupertino Municipal Code, this manual establishes procedures for the on-going administration of the inventory of affordable units, also referred to as Below Market Rate (BMR) units, created by the City of Cupertino's Residential Housing Mitigation Program. The manual includes procedures and guidelines for prioritizing applicants, evaluating the eligibility of applicants, setting maximum affordable rents and sales prices, and monitoring compliance of tenants and homeowners with the recorded affordability covenants. The manual will provide guidance to City staff, the City's program administrator, BMR homeowners, BMR renters, and property managers of rental complexes that contain BMR units. The attached exhibits and certain portions of this manual will be updated as necessary to comply with regulations and policies of the United States Department of Housing and Urban Development (HUD), State of California Department of Housing and Community Development (HCD), and City Housing Element and zoning ordinance.

A separate manual, the "Below Market Rate (BMR) Housing Mitigation Program Procedural Manual," describes the procedures for implementing requirements applicable to developers under the Residential Housing Mitigation Program.

The City of Cupertino has overall responsibility for the BMR program although the administration may be contracted out to another agency. The guidelines in this Manual must be interpreted in conjunction with the City's Housing Element, zoning, and documents implementing the BMR program.

2.0 Applicant Selection Process

2.1. Minimum Tenant/Homebuyer Eligibility Requirements

Every tenant or purchaser of a BMR unit must meet specific minimum eligibility requirements, as follows:

- Annual household income (including the income of all household members 18 years of age and older) must not exceed the maximum income limits established for the BMR unit;
- All owners must live in the BMR unit as a primary residence;
- Potential BMR homeowners must meet the definition of a first-time homebuyer; and
- Potential BMR homeowners must be able to obtain primary mortgage financing and have a minimum of 5.0% of the BMR purchase price for down payment plus closing costs (gift funds are allowed)

2.2. Conflict of Interest

The following individuals are ineligible to purchase or rent a BMR unit:

- City employees and officials (and their immediate family members and dependents) who have policy-making authority or influence regarding City housing programs, participate in making decisions regarding City housing programs, administer City housing programs, or whose salary is paid in any part from a City housing program;
- Any consultant to the City and employees of the consultant (and their immediate family members and dependents) who have policy-making authority or influence regarding City housing programs, participate in making decisions regarding City housing programs, administer City housing programs, or whose salary is paid in any part from a City housing program;
- An applicant for or developer of the project containing the BMR units and its officers and employees (and their immediate family members), and the property owner of the project and its officers and employees (and their immediate family members); or
- Any other individual who has a conflict of interest as defined by federal or state law or the City's adopted Conflict of Interest Code.

In addition, if an employee of any consultant involved with City housing programs is on the waiting list for any BMR unit, all review of that employee's application must be performed by the City.

In order to track applicants who potentially fall under this conflict of interest policy, the City will ensure that the waitlist of BMR Program applicants contains the employer and position for each person on the waitlist.

2.3. Priority Point Placement System

The City has established a priority point placement system that reflects the City's priorities regarding placement of households into the limited number of BMR affordable units in the City. While not a minimum requirement, the selection of BMR tenants and homebuyers will be based on a priority point placement system that reflects the City's priorities regarding placement of households into the limited number of BMR affordable units in the City. Under the priority point placement system, preference is given to applicants who live and/or work in Cupertino, with an additional priority point awarded to public employees who work in Cupertino (for instance, teachers, other school district employees, and city employees, including police and firefighters). The priority point placement system point scale is listed below.

Applicants can receive up to a maximum of 4 points based on the following criteria below:

One Point	=	Cupertino resident
Two Points	=	Working in Cupertino
One Point	=	Public Employee Working in Cupertino

Applicants receiving four points shall be considered the highest priority; applicants receiving three points shall be considered the second highest priority; applicants receiving two points shall be considered the third highest priority; applicants receiving one point shall be considered the fourth highest priority; and applicants receiving zero points shall be considered the lowest priority.

In addition, applicants who have been displaced from rental housing in Cupertino by public or private redevelopment shall receive a priority over all other applicants.

2.3.1. BMR Applicant Waiting Lists

The waitlist application period for BMR for-sale and rental units will open on the first business day of October annually. At that time, BMR for-sale and rental unit eligibility forms will be accepted. The waitlist application period will close on the last business day of October annually. Anyone who wishes to be included on the waitlist must apply each year within this time frame, including those who were on the waitlist in previous years. Each eligibility form will be separated into a subgroup based on priority points. For applicants reapplying for a position on the waitlist, the applicant will maintain their current position on the waitlist from the previous year, provided the applicant continues to qualify for a BMR unit and their priority points remain unchanged. Applicants who are no longer income eligible, or who do not reapply, will be removed from the waitlist each year.

Within 30 business days of the submission deadline (the last business day of October), the City or its agent will conduct a lottery for new applicants. Along with the City or its agent, two witnesses must assist with the lottery. New applicants will be added to the bottom of the list of the priority group for which they are eligible, after applicants who were on the list in previous years and continue to qualify. The lottery will be performed for the new applicants within each priority group to randomly assign each applicant a waitlist number. For example, a new applicant who qualifies for three priority points will be placed into the

lottery with the other new applicants who qualify for three priority points and all of the new applicants will be placed in the order generated by the lottery below those with priority points who were already on the list within that priority group and who continue to be eligible.

All candidates will be mailed results of their applications by the end of December annually specifying if they have been denied or approved, and if approved, their applicant number on the waitlist.

When selecting BMR tenants or homebuyers for an available BMR unit, the City or its agent will first attempt to identify an eligible household from the highest priority group within the appropriate applicant pool and income designation. BMR units that become available will be offered based upon the order of the waitlist within each priority group. If there is no eligible household in the highest priority group, the City or its agent will then look at applicants in the second highest priority group and so on.

2.3.2. *Applicant's Right to Refuse BMR Unit*

An applicant has two opportunities annually to refuse a BMR unit and retain their place on the waitlist. If an applicant refuses a third time, then they will be placed at the bottom of the waitlist.

2.3.3. *Housing Constructed for People with Disabilities*

Some BMR units may be specially constructed to be accessible for people with disabilities. In the event that an accessible unit becomes available, persons with disabilities on the waitlist will be provided a preference for those BMR units.

2.3.4. *Requests for Reasonable Accommodation.*

If an applicant or member of the applicant's household has a disability or handicap, an applicant may request a reasonable accommodation in the City's policies or procedures so that the applicant may take advantage of the City's BMR program. Examples may include making large-type documents or a reader available to visually impaired applicants, permitting an outside agency to assist with the application process, or allowing another family member to co-sign a loan or lease. An applicant may request a reasonable accommodation at any time in the application process or after having been selected for a BMR unit.

2.3.5. *Household Minimum Size to Occupy the BMR Unit*

To ensure that the City's limited BMR units are used efficiently, a household must be of a size equal to the number of bedrooms in the BMR unit. For instance, to be eligible to purchase a three- bedroom unit, a household must contain at least three members. Minimum household size occupancy standards for BMR units are:

1 bedroom unit = 1 persons
2 bedroom unit = 2 persons

3 bedroom unit = 3 persons
4 bedroom unit = 4 persons

2.3.6. *Solicitation of Applicants*

Applications for BMR rental and ownership units shall be solicited as necessary to maintain an adequate number of applications in each of the following applicant pools:

- Very Low Income (up to 50% AMI) – BMR Rental Units
- Low Income (up to 80% AMI) – BMR Rental Units
- Median Income (up to 100% AMI) – BMR Ownership Units
- Moderate Income (up to 120% AMI) – BMR Ownership Units

Outreach shall be conducted through the City's website, program brochures, community workshops, presentations and periodic print media advertising. The City and/or its agent shall be responsible for updating the content on the City's website and distributing program brochures that are culturally and linguistically appropriate to the community. These brochures will be available at City Hall, the Cupertino Public Library, the Quinlan Community Center, the Cupertino Senior Center and other appropriate locations. Furthermore, the City or its agent shall conduct outreach efforts through local media that are culturally and linguistically appropriate to the community.

2.3.7. *Submitting an Eligibility Form for a BMR Unit*

A sample copy of the BMR Eligibility Form for purchasing or renting is provided as Exhibit 1.

2.3.8. *Eligibility Process to Reapply on BMR Waitlist*

An applicant must reapply each year to remain on the waitlist. All applicants must apply annually in October, except that those desiring an additional priority as displacees must apply within 90 days of receiving a displacement notice.

Provided the applicant continues to qualify for a BMR unit and their priority points remain unchanged, the applicant will maintain their current position on the waitlist from the previous year. Applicants who are no longer income eligible or who do not reapply will be removed from the waitlist each year.

Priority points are not guaranteed from year to year. If an applicant loses any priority points since the last year's application, that applicant will be assigned to the next appropriate priority group and will receive a waitlist number within that priority group based on their date of initial application. If there are other applicants on the list in the lower priority group who initially applied during the same year, the applicant who lost the priority point(s) will be placed below the person who was already in that priority group during the previous year. A similar process will be followed if an applicant gains priority points.

Candidates must keep the City or its agent informed about their current mailing address, telephone contact information, employment information, household composition, or any substantial changes in income that may affect the applicant's eligibility to remain on the waitlist.

2.3.9. *Application Fees*

BMR application and administrative fees may change from time to time. As a result, the most recently approved application and administrative fees will be disclosed by the City or its agent at the time of application annually in October for both BMR for-sale and rental units. There will be no annual fee to maintain an applicant's place on the waitlist.

Exhibit 2 shows a sample copy of the BMR application with required documentation to be certified for the BMR program.

2.3.10. *Definition of Employment in Cupertino*

A letter or verification of employment shall serve as sufficient proof of employment in Cupertino.

2.4. Annual Gross Income

Applicants' household annual gross income shall be calculated in accordance with the *Technical Guide for Determining Income and Allowances for the HOME Program* published by the U.S. Department of Housing and Urban Development, as it may be amended (the HOME Guide), and 24 CFR 5.609. Excerpts from the HOME Guide and 24 CFR 5.609 are attached as Exhibit 3.

> A copy of the entire HOME Guide is available for download here: http://portal.hud.gov/huddoc/19754_1780.pdf
>
> 24 CFR 5.609 is available to be viewed here: https://www.gpo.gov/fdsys/pkg/CFR-2016-title24-vol1/xml/CFR-2016-title24-vol1-sec5-609.xml

Exhibit 3 provides the definitions of what is included and excluded from the determination of annual gross income in accordance with the Code of Federal Regulations. In summary, gross household income is the sum of all the income for every adult, 18 years or older, living in the unit. Sources of income include all wages or salaries, overtime pay, commissions, fees, tips, bonuses and other compensation, net income from a business or profession or from the rental of real or personal property, interest and dividends, payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, payments in lieu of earnings, public assistance, alimony and child support received, and any other sources of income.

2.4.1. *Documentation to Verify Sources of Income*

The gross annual incomes of all household members age 18 or older are considered when determining eligibility. The types of income to be verified and the type of documentation that will be requested will include:

- Signed copies of federal tax return for the most recent year. If the federal tax return for the most recent year has not been filed, then a signed copy of the federal tax return for the previous year plus evidence of income in the most recent year (W2 forms, 1099 forms) shall be provided.
- Copies of the last three consecutive payroll stubs or other verification of employment.
- Bank statements for the last two consecutive months (used to verify that the applicant currently has enough assets for the down payment for the BMR unit and closing costs, but does not possess assets in excess of $100,000).

All income determinations are based primarily on the applicant's income for the past year as evidenced by the documents listed above and additional verification, if requested, as listed below. Income calculations will not factor in any speculative or uncertain projections of future earnings, such as calculations of bonuses and overtime. Where major changes have occurred in life circumstances since the applicant's last year of employment, including only such major changes as retirement, job loss or gain, changes in base pay, or disability or death of a wage earner, the City may deduct projected income losses or add projected income gains from the applicant's income for the past year.

Additional income verification may also be requested as follows:

Source of Income	**Documentation**
Salaries and wages	Verification from employer
Business income	Verification of income by a certified public accountant or bookkeeper including a most recent quarterly profit/loss statement
Interest and dividend income	Current bank statements or dividend statements
Retirement and Insurance Income	Verification from source
Unemployment & Disability Income	Verification from source
Welfare Assistance	Verification from source
Alimony, Child Support and Gift Income	Verification from source
Armed Forces Income	Verification from source
Other	Verification from source

2.5. Assets

There are limits to the amount of net assets that are used for eligibility for BMR for-sales and rental units. For households applying to be an owner of a BMR unit, the limit is $100,000. For households applying to be a tenant of a BMR unit, the limit is equal to the maximum household income limited adjusted for household size that is allowable in order to be eligible for the program. The maximum allowable household income limits for the BMR rental program are published annually in the BMR Program brochure.

The table below represents what is included and excluded as assets.

2.5.1. *Documentation to Support Assets*

The following chart contains the types of assets to be verified and the type of documentation that will be requested.

Assets	Documentation
Checking Account, Savings Account, Mutual Fund/Money Market Fund, Certificates of Deposit (C.D.)	Copies of two most recent statements
Stocks, including Options	Copy of stock certificate or proof of purchase and statement of current value; for stock prices attach a copy of recent dated newspaper or online source that shows the value of each company's stocks
Bonds, including savings bonds	Copies of most recent document
Trust	Copies of most recent document
Gift	Signed Gift Letter by all parties
Personal Loan	Letter or loan agreement
Down Payment Assistance Loan	Copy of Agreement
Individual Development Match Account	Copy of two most recent statements
Other	Verification from source

2.6. False Statements

During the BMR application process, applicants who intentionally make false statements or misrepresent any facts on the application to purchase or rent a BMR unit will be removed from the BMR waiting list and barred from re-applying for a BMR unit in Cupertino in the future.

If the City or its agent should discover that a contract was completed by a purchaser or renter who intentionally made false statements or misrepresented the facts in order to appear eligible, the

City will treat this as a breach of the resale and/or rental restrictions and may exercise any remedies allowed under the resale and/or rental agreement including a forced sale of the unit or eviction and the imposition of any civil penalties that apply.

3.0 Ownership Units

Requirements for Buying a BMR Unit

3.1. Income Limits for Ownership Units

The BMR for-sale program is designed to assist first-time median and moderate-income homebuyers. The BMR for-sale program uses income limits published by HCD annually for Santa Clara County, per household size. HCD's income limits include the median and moderate-income categories and income limits are adjusted per household size. BMR

for-sale program income limits per household size are published annually in the City's BMR program brochure. An example of median and moderate-income ranges is listed below.

- Median Income (up to 100% AMI) – BMR Ownership Units
- Moderate Income (up to 120% AMI) – BMR Ownership Units

3.1.1. *Co-applicants*

The City or its agent will accept one application per household. A co-applicant is defined as an adult member of the household whether related or unrelated who intends to apply for the BMR unit, be on the title of the property with the applicant, and occupy the unit as his or her primary residence. The combined income and assets of all adult members of the household (including co- applicants) to purchase a BMR unit must not exceed the maximum income limits per household size and asset limitations of the program. All co-applicants must go through the same process as the applicant and must agree to comply with the program requirements. Non-occupant co-signors are not allowed to assist with the BMR purchase.

3.1.2. *Household Composition*

A household is comprised of one or more persons who may or may not be related. An unborn child can be counted in family size once there is medical confirmation of pregnancy. An adoption in process will be counted in family size with verification of the adoption process being underway. A child will be considered part of the household when the child lives with a single parent for at least 75% of the time or in instances of joint custody, at least 50%. The applicant will need to submit a copy of the divorce decree and/or child custody agreement as verifiable documentation. If a divorce is in process, it may not be possible to qualify an applicant because family size and financial status are unclear.

If the applicants are proposing to combine households with the purchase of the BMR, the combined household must meet eligibility requirements and combined income must meet the household income limits.

3.2. Asset Limit for Ownership Units

Households with net assets over $100,000 held in the United States or foreign countries will not be eligible to purchase a BMR home. Excluded from net assets are: 1) all non-accessible funds, including any assets that generate a penalty when withdrawn i.e. 401K, CALPERS, STRS and other pension plans; and 2) assets that will be used to fund the down payments. Section 2.4 of this manual defines assets and provides the documents that must be submitted to support the calculation of assets.

3.3. Definition of First-time Homebuyer

An applicant must be a first-time homebuyer to be considered for a BMR for-sale unit. An applicant shall be considered a first-time homebuyer if they have not owned a home for

at least three years. This definition applies to properties owned in foreign countries as well as the United States. An exception will be made for people who were homeowners prior to a divorce or legal separation.

The City or its agent may verify first-time homebuyer status by (1) reviewing mortgage deductions on the three most recent years of federal tax returns for each adult in the applicant's household; (2) a signed statement on the application stating homeownership status: and (3) a title search.

3.4. Affordable Sale Price Determination

3.4.1. *Initial Prices of Newly Constructed Units*

Newly constructed initial BMR sales prices will be determined by the City or its agent. The City or its agent will calculate newly constructed initial BMR sales prices for both median and moderate-income based on the maximum affordable housing cost provisions of Section 50052.5 of the California Health and Safety Code and most recent published HCD income limits.

3.4.2. *Prices of Existing BMR Units*

Resale prices for existing BMR units will be determined by the City or its agent. The City or its agent will reference the Occupancy, Refinancing, and Resale Restriction Agreement with Option to Purchase (Resale Agreement) recorded on the title of the existing BMR unit when calculating the BMR resale price.

3.5. Financing

3.5.1. *Lenders*

Prospective purchasers of BMR units must seek and obtain their own primary mortgage financing in order to purchase a BMR unit. There is no prearranged City financing; however the City and its agent maintain a list of City approved BMR lending institutions who have provided written confirmation through their underwriting and/or bond department that their lending institution is able to provide primary mortgage financing with the City's BMR requirements. In order to qualify as an approved BMR lender the institution must have reviewed and approved the City's Resale Restriction Agreement, Deed of Trust and Promissory Note in advance. From time to time the City may require additional training in order for a lending institution to maintain its status as an approved City BMR lender.

3.5.2. *Loan Requirements*

The primary first mortgage loan must be a fully amortized 30-year term fixed principal and interest loan. Interest only loans, negative amortization loans, adjustable rate loans and reverse mortgage loans are not permitted.

In some cases the primary 30-year fixed principal and interest loan may be combined with down payment assistance, mortgage assistance or a community program second loan. Under this scenario the primary and secondary lenders must receive written approval from the City.

3.6. Insurance Requirements

Prior to the sale of any unit, the City shall require that each purchaser secure a standard homeowner's insurance policy, with the City named as an additional insured. The City will be entitled to any policy proceeds in excess of the affordable unit purchase price if the proceeds are not used to rebuild the home. The insurance policy shall be in an amount equal to the replacement value of the home. At least every five (5) years, the replacement value must be reviewed and adjusted as needed. If the owner hires a contractor to work on the home, the contractor must be licensed and carry liability and workers compensation insurance.

3.7. Required Pre-Purchase Education

After the applicant is placed on the BMR Homeownership waitlist and before receiving an offer to purchase a BMR unit, the applicant(s) must attend a BMR pre-purchase education workshop or program offered by the City of Cupertino or a qualified HUD approved agency. If an applicant completes the HUD approved workshop or City approved program, the applicant will receive a certificate of completion. The certificate of completion must be provided as proof of participation in the workshop or program and will be submitted at, or prior to, close of escrow. The applicant must complete pre-purchase education within a reasonable timeframe established by the City or its agent, or the applicant will be removed from the waitlist.

3.8. Minimum Cash Available

The applicant(s) should have sufficient readily available assets for a minimum of 5% of the purchase price for down payment, plus closing costs and other associated fees. Gifts funds can be applied towards applicant's 5% down payment assistance; a signed gift letter is required by all parties involved.

3.9. Documents for Completing Home Purchase

The following documents must be read and signed by the Owner(s) before the sale or resale of a BMR unit is completed:

- Buyer's Disclosure Statement (Exhibit 4)
- Promissory Note
- Deed of Trust
- Occupancy, Refinancing, and Resale Restriction Agreement with Option to Purchase
- (Resale Agreement)
- Request for Notice Under Section 2924b of California Civil Code

The Resale Agreement requires owners of BMR units to live in their home as their principal place of residence and prohibits renting the home except in cases of hardship. It also limits the price at which the homes can be sold. If the owner sells the home above the restricted price, then the owner must pay the City the difference between the restricted price and the sales price. In addition, the owner must follow certain steps and procedures when deciding to sell the home.

The City has an option to purchase a BMR home at the restricted price whenever the owner decides to sell the home or if the owner violates any agreements. The purpose of the Promissory Note, Resale Agreement, and Deed of Trust is to make sure that BMR homes remain affordable to other BMR households upon resale.

The Buyer's Disclosure Statement is attached as Exhibit 4 and should be reviewed by all applicants who desire to purchase BMR homes. It summarizes the major provisions of the other documents to ensure that a BMR owner understands his or her obligations under the program. The City or its agent will provide the other documents to any interested applicant and to all applicants who are considered for purchase of a particular BMR unit.

3.10. Term of Affordability

The deed restrictions imposed on each BMR affordable unit pursuant to the program shall remain in effect for a period of 99 years from the date of original sale of that unit. Furthermore, the resale restrictions shall renew at each change of title.

4.0 Rental Units

Requirements for Renting a BMR Unit

4.1. Income Limits for BMR Rental Units

The BMR rental program is designed to assist very low and low-income households. The BMR rental program uses income limits published by HCD annually for Santa Clara County. HCD's income limits include the very low and low-income categories, and income limits are adjusted for household size. BMR rental program income limits per household size are published annually in the City's BMR program brochure. An example of very low and low-income ranges is listed below.

- Very Low Income (up to 50% AMI) – BMR Rental Units
- Low Income (up to 80% AMI) – BMR Rental Units

4.1.1. *Co-Signers*

Non-occupant co-signers are not allowed to assist with the BMR rentals.

4.1.2. *Household Composition*

A household is comprised of one or more persons who may or may not be related. An unborn child can be counted in family size once there is medical confirmation of

pregnancy. An adoption in process will be counted in family size with verification of the adoption process being underway. A child will be considered part of the household when the child lives with a single parent for at least 75% of the time or in instances of joint custody, at least 50%. The applicant will need to submit a copy of the divorce decree and/or child custody agreement as verifiable documentation. If a divorce is in process, it may not be possible to qualify an applicant because family size and financial status is unclear.

4.2. Applicant Assets

For households applying to be a tenant of a BMR unit, the maximum asset limit is equal to the maximum household income adjusted for household size that is allowable in order to be eligible for the program. The maximum allowable household income limits for the BMR rental program are published annually in the BMR Program brochure.

4.2.1. *Documentation to Support Assets*

The following chart contains the types of assets to be verified and the type of documentation that will be requested.

Assets	**Documentation**
Checking Account, Savings Account, Mutual Fund/Money Market Fund, Certificates of Deposit (C.D.)	Copies of two most recent statements
Assets	**Documentation**
Stocks, including Options	Copy of stock certificate or proof of purchase and statement of current value; for stock prices attach a copy of recent dated newspaper or online source that shows the value of each company's stocks
Bonds, including savings bonds	Copies of most recent document
Trust	Copies of most recent document
Gift	Signed Gift Letter by all parties
Personal Loan	Letter or loan agreement
Down Payment Assistance Loan	Copy of Agreement
Individual Development Match Account	Copy of two most recent statements
Other	Verification from source

4.3. Rental Rate Determination

The City or its agent will determine the rental rates for BMR units by income level and household size. The rents will be determined based on annual HCD published income limits and section 50053 of the California Health and Safety Code.

Annual Rent (inclusive of fees and utilities) for very low-income units cannot exceed 30% of 50% of the area median income adjusted for the size of the household appropriate for the unit. Annual Rent (inclusive of fees and utilities) for low-income

units cannot exceed 30% of 60% of the area median income adjusted for household size appropriate for the unit.

Rent includes all charges related to occupancy of the unit including utilities, parking fees, fees for use of common facilities and other fees and charges. If utilities are not paid by the property owner, the rent for the BMR units must be adjusted downward to allow for a utility allowance calculated in accordance with the utility allowances published by the Santa Clara Housing Authority annually.

4.4. Previewing of Unit

The City or its agent will coordinate with the apartment manager/ property manager to preview the BMR unit.

4.5. Owning Property

Candidate(s) cannot own a home and/or be on title of a property when applying for the BMR rental program.

Living in a BMR Rental Unit

4.6. Occupancy Conditions

The approved BMR tenant(s) must occupy the BMR unit during the entire term of the lease. If an additional occupant (roommate, family member, etc.) moves into the BMR unit, he/she will be considered part of the existing household. In such cases, the BMR tenant must notify the City or its agent prior to the move in date, and the entire household (including the new occupant) will be reevaluated to determine eligibility, including household income requirements. If the tenant(s) fail to receive approval from the City for any changes in occupancy or if the tenant(s) subleases the property, the tenant household will no longer be eligible to occupy the BMR unit.

4.7. Annual Rent Adjustments

Maximum BMR rents will be adjusted annually based on the most recently published HCD income limits for Santa Clara County per household size and also in accordance with the California Health and Safety Code Section 50053. The most recent BMR rent levels will be included in the BMR program brochure. The City or its agent will notify the property owner of the new rental rates. If the owner chooses to raise rents, the tenant will be given a 60 day notice before any rent increase.

4.8. Annual Re-Certification of Income

At least once a year, the property owner shall requalify BMR tenants to verify that they are eligible to remain in BMR rental units. The City will provide the "BMR Renter Occupancy Certification Form" (Exhibit 5) to the property owners. If the BMR renter fails to submit a signed Certification within thirty (30) days of the written request, then the lease shall automatically terminate, and the renter must vacate the unit within thirty

(30) days of written notice from the apartment owner/property manager. If the renter fails to vacate the unit, the apartment owner/ property manager will institute evictions proceedings.

On an annual basis, Requalification shall be based upon the BMR tenant's household income, as determined by the three most recent pay stubs, prior year tax returns and household size. If a very low income BMR tenant's household income increases and exceeds the BMR income limits for very low income household but does not exceed the BMR income limits for a BMR low income household, then the tenant's rent will be increased to BMR low income rents, and the tenant main remain in the unit until either a suitable BMR low income unit becomes available. If a tenant's household income increases and exceeds the BMR income limits for a low income household, the tenant will be given three months to locate alternate housing and vacate the BMR rental unit. A three month extension may be granted in cases of extreme hardship.

4.9. Terms of Tenancy

BMR tenants will be subject to the same conditions of tenancy as other tenants occupying the same property, except for terms relating to occupancy, income eligibility, annual recertification, and limits on rents. The initial BMR lease term is for one year.

Requirements of BMR Property Owners and Managers

4.10. Availability of New Units for Lease

An affordable BMR unit may not be leased until the City has approved the unit for occupancy.

4.11. Eligible Prospective Tenants

All BMR units must be rented to BMR tenants approved by the City and/or its agent. The services of this agency shall be funded out of the City's Below Market-Rate (BMR) Affordable Housing Fund (AHF) and shall be monitored by the City.

An apartment owner/ property manager shall notify the City or its agent of any available BMR units and the City and/or its agent shall have fourteen days to provide owner with an income eligible candidate or candidates. In reviewing each candidate, the owner or property manager may apply the same tenant selection criteria, such as past performance in meeting financial obligations and credit references, as those applied to applicants for non-BMR units on the property, except for those standards relating to income eligibility.

4.12. Prospective Tenant's Previewing of Unit

The City or its agent will coordinate with the apartment owner/ property manager so that a prospective tenant may view the unit.

4.13. Executed Lease Agreement

The apartment owner/property manager will provide City or its agent with a copy of the executed lease agreement.

4.14. Annual Rent Adjustments

Maximum BMR rents will be adjusted annually based on the most recently published HCD income limits for Santa Clara County per household size and also in accordance with the California Health and Safety Code Section 50053. The City or its agent will notify the property owner of the new rental rates. If the owner chooses to raise rents, the tenant must be given 60 days' notice before any rent increase.

4.15. Owner/Manager Certification

Prior to the rental of the first BMR unit on a property, the apartment owner/property manager will sign a certification of receipt of these Administrative Procedures with a statement of intent to manage the BMR units according to these procedures. The sample copy of the Certification Form is provided as Exhibit 6 of these procedures. Subsequent apartment owners/ property manager may be asked to sign certifications of receipt of these procedures.

4.16. Terms of Affordability Covenants

The deed restrictions imposed on each BMR unit pursuant to the program shall remain in effect for a period of 99 years from the date of recordation of the Regulatory Agreement. Future owners of the property will abide by all of the administrative procedures and by the conditions in the recorded Regulatory Agreement for the entire 99 year period from date of recordation.

4.17. Terms of Tenancy

BMR tenants will be subject to the same conditions of tenancy as other tenants occupying the subject property, except for terms relating to occupancy, income eligibility, annual recertification, and limits on rents. The initial BMR lease term must be for one year.

4.18. Occupancy Requirements

The property owner/property manager shall notify the City or its agent if it suspects that there have been any changes to the occupancy of the BMR unit. If the tenant fails to receive approval from the City for any changes in occupancy, or subleases the property, or fails to provide the annual occupancy recertification, the tenant shall be in violation of its lease and will no longer qualify as a BMR tenant.

5.0 Appeal Process

Any person may appeal a decision made under this Manual. The appellant must file a written appeal with either the Community Development Director (if the program is being administered by the City) or the Executive Director of any agency administering the BMR program within 10 days of receipt of the decision. The Community Development Director or the Executive Director, as applicable, will hear the appeal and provide a written decision on the appeal within 10 days from receipt of the appeal.

The appellant may further appeal the decision of the Community Development Director or the Executive Director, as applicable, by filing a written appeal with the Community Development Director within 10 days of receipt of the decision. The appeal will be heard by the City Council within 30 days from the date of receipt of the written appeal. The City Council's decision on the appeal is final.

The sale of any BMR unit at issue in the appeal shall be postponed until a final decision is reached on the appeal, or until the applicable period for filing an appeal has lapsed.

6.1 Authority

The City Manager or designee is authorized to sign all documents on behalf of the City that implement the BMR Program and the policies in this Manual, including without limitation promissory notes, deeds of trust, resale restriction agreements, and requests for notice.

EXHIBITS

EXHIBIT 1

City of Cupertino & West Valley Community Services
Below Market Rate (BMR) Program

Eligibility Form Instructions

The City of Cupertino and their Agent, West Valley Community Services, is pleased to offer you the opportunity to apply to rent a Below Market-Rate (BMR) apartment or purchase a Below Market-Rate (BMR) home in Cupertino.

The City has contracted with West Valley Community Services (WVCS) to process eligibility forms, applications, verify information, determine eligibility, notify applicants of their eligibility, and maintain the rental and purchase waitlists.

ELIGIBILITY PROCESS:

- Please read these instructions completely, determine your eligibility and complete the enclosed BMR Eligibility Form. The completed form must be received at the WVCS office, 10104 Vista Drive, Cupertino, CA 95014, _____. (WVCS is located behind the Stevens Creek Fire Station on Stevens Creek Boulevard, one block east of De Anza Boulevard).
- WVCS will review your eligibility form and determine your priority ranking (4, 3, 2, 1, or 0) based on current Cupertino residency and current employment in the City of Cupertino. Please see page 2 for definitions of these terms.
- A drawing with the eligibility forms will determine the order of eligibility within each priority ranking (4, 3, 2, 1, or 0).
- All candidates will be mailed results by the end of the year; if they have been denied or approved, and if approved, the applicant number on the waitlist. The first candidate on the waitlist will be notified to view the next available unit for which they are qualified (rental or purchase) and begin the application process.

ELIGIBILITY FORM:

Please note that all information provided on the Eligibility Form will be verified when you are shown an available unit. Any information found to be false or inaccurate will immediately void your participation in the program. Candidates must keep WVCS updated throughout the year of any changes in information supplied. Incomplete and late Eligibility Forms will not be processed.

Rent or Purchase: Choose only one box.

Household Size: The total number of individuals who will be living in the unit.

Income Limits to Qualify for Purchasing a Home: See chart below. The amounts listed are gross (before taxes are taken out).

Housing and Community Development (HCD) Income Limits for 2016 (Income Limits will be Updated Each Year by HCD) BMR Purchase Program						
Household Size	1	2	3	4	5	6
Median Income	74,950	85,700	96,400	107,100	115,650	124,250
Moderate Income	89,950	102,800	115,650	128,500	138,800	149,050

Assets for Sale Program: Households with net assets over $100,000 will not be eligible. Excluded from net assets are all non-accessible funds or any assets that generate a penalty when withdrawn, i.e., 401K, CALPERS, STRS, and other pension plans.

First-time Homebuyer: All of the applicants who will be on the property title must be a first-time homebuyer. Applicant(s) shall be considered a first-time homebuyer if they have not owned any residential real estate for at least three years. This definition applies to property owned in foreign countries as well as in the United States.

EXHIBIT 1

Available Cash for Down Payment, Closing Costs to Purchase: Households are required to have readily available assets for a minimum of 5% down of the purchase price.

Housing and Community Development (HCD) Income Guidelines BMR Rental Program						
Household Size	1	2	3	4	5	6
Very- Low Income	39,100	44,650	50,250	55,800	60,300	64,750
Low Income	59,400	67,900	76,400	84,900	91,650	98,450

Income Limits to Qualify for a Rental Unit. See chart above. The amounts listed are gross (before taxes are taken out).

- The minimum income the household must make is at least 2.5 times the monthly rent.
  - For Example: $940.00 (in rent) x 2.5= $2350.00 (minimum household income, gross before taxes are taken out).

Assets for Rental Program: Households net assets, including and not limited to CD's, money market accounts and cash/funds, may not exceed the maximum gross income allowed for the appropriate household size.

Priority Points are based upon the following criteria:

- **One Point**: At least one member of the household, on the property title or lease, must currently maintain a primary residence at an address located within the City of Cupertino.

- **Two Points**: At least one member of the household, on the property title or lease, must:
  - Work for wages or salary within the boundaries of the City of Cupertino; or
  - Own or operate a business in the City of Cupertino; or
  - Perform contract or commission work where the actual work is conducted at a Cupertino location.

- **One Additional Point**: At least one member of the household, on the property title or lease, must:
  - Work for wages or salary for a public agency within the boundaries of the City of Cupertino.

If you have any questions, please contact, Program Manager, Housing Services at: housing@wvcommunityservices.org.

PLEASE SUBMIT ONE ELIGIBILITY FORM PER HOUSEHOLD. DUPLICATE FORMS WILL RESULT IN AN AUTOMATIC DISQUALIFICATION. COPIES/ FAXES/ SCANS WILL NOT BE ACCEPTED

Please return the completed form to the WVCS office, located at 10104 Vista Drive, Cupertino, CA. 95014.

This Program is not designed to aid emergency or immediate housing needs.

EXHIBIT 1

City of Cupertino-West Valley Community Services
Below Market Rate (BMR) Eligibility Form

(Please read the Eligibility Form Instructions before completing)

☐ RENT ☐ PURCHASE

Please print clearly.

Name:

First Last Middle Initial

Current Address:

City State Zip Code

Home Phone: Work Phone: E-Mail:

Employer: Position:

Total Number of Household Members: Total Household Gross (Annual) Income:

Estimated Value of Net Assets (Checking, savings, stocks, bonds, and/or CD accounts): _____

	Yes	No
1. Have any members of the household been listed on a primary residential property title, at any time, in the past three (3) years?		
2. Are any members of the household currently living in the City of Cupertino? If yes, please specify address:		
3. Are any members of the household currently employed in the City of Cupertino? If yes, please specify employer(s) and position(s):		
4. Are any members of the household currently employed at a public agency in the City of Cupertino? If yes, please specify employer(s) and position(s):		

By signing below, I certify that all the information on this form is true and complete to the best of my knowledge. When asked, I agree to give proof of this information and knowingly understand that supplying false, incomplete or inaccurate information is punishable under Federal or State criminal law.

Signature:

Date:

EXHIBIT 2

WEST VALLEY COMMUNITY SERVICES APPLICATION FOR BELOW-MARKET-RATE HOUSING

Please print clearly		
Name:		
Gender: ☐Male ☐Female	E- Mail:	
Mailing Address (**No P. O. Box**)		
City:	State:	Zip:
Social Security:	Driver's License* and State:	
Home Phone:	Work Phone:	

* If you do not have a driver's license write in "None"

Marital Status:					
☐	I am not married (I am single, widowed, or divorced)	☐	I am married	☐	I am separated from my spouse.

Household Composition (List all individuals who will be living in your home, listing head of household first)				
Full Legal Name	Social Security #	Date of Birth	Age	Relationship to head of household (Self, son, daughter, friend)

Ethnic Background (Per Department of Housing and Urban Development Guidelines)					
☐	African American	☐	Asian or Pacific Islander	☐	Hispanic
☐	White or Caucasian	☐	American Indian or Alaskan Native (Tribe):		
☐	Decline to answer				

EXHIBIT 2

INCOME, EARNINGS AND BENEFITS

All household members over the age of 18 must complete the information below

Full Legal Name	Employer Name and Address	Total Monthly Wages (gross amount before taxes are deducted	TANF* Amount	Child Support (Monthly)	Social Security Benefits	Other Income

*Temporary Assistance for Needy Families

EXHIBIT 2

BMR PRIORITY POINT QUESTIONAIRE

The purpose of this page is to determine if your household qualifies for Priority Points. Carefully read each description of priority living and employment circumstances; then check all that apply. You must provide the listed documentation as proof before receiving a unit to rent or purchase.

☐	I am a CURRENT CITY of CUPERTINO RESIDENT- 1 POINT
	• Households applying under priority description RESIDENT shall provide proof of residency in Cupertino. • A utility bill or a rental agreement shall be considered proof of residency.
☐	I am working in the CITY of CUPERTINO - 2 POINTS
	• A letter or verification from your employer shall serve as sufficient proof.
☐	I am working in the CITY of CUPERTINO AT A PUBLIC AGENCY - 1 POINT
	• A letter or verification from your employer shall serve as sufficient proof.

Other Priorities

☐	I have been displaced from rental housing in Cupertino by public or private redevelopment - HIGHEST PRIORITY
	• A letter verifying your displacement
☐	I have a disability and request an accessible unit when one becomes available

EXHIBIT 2

READ, SIGN, AND DATE BELOW

By signing below, you certify that all the information on this form is true and complete to the best of your knowledge. If asked, you agree to give proof of the information, which may include a copy of your U.S. or state income tax form. You certify that all the information provided on household composition and income is true and accurate. You understand you are required to cooperate in supplying all information needed to determine eligibility, level of benefits or verify your true circumstances. Your participation includes attending scheduled meetings and completing and signing necessary forms. Failure or refusal to do so may result in delay of application for BMR sales or denial of program services.

CRIMINAL AND ADMINISTRATIVE ACTIONS FOR FALSE INFORMATION

You understand that knowingly supplying false, incomplete, or inaccurate information may constitute a Felony, punishable under Federal or State criminal law. Knowingly supplying **false, incomplete or inaccurate information is grounds for termination of the housing process.** You understand that the Housing Representative may perform a background check and/or verification of employment records.

Make sure that you have completed, dated, and signed this application. Make a copy of this application for your records and submit the original application to the West Valley Community Services' office. **MAKE SURE THAT YOU HAVE COMPLETED, DATED, AND SIGNED THIS APPLICATION.** WVCS will not process incomplete applications.

All individuals, over the age of 18, applying for the BMR program must sign below.

Print Full Legal Name	Signature	Date

OFFICE USE ONLY			
Received on:		Signature of Housing Representative:	
Notes:			

EXHIBIT 2

REQUIRED DOCUMENTATION

Please review the following checklist to ensure your application is complete. If you are unable to provide copies of the documents listed below, you must submit a written and signed statement to WVCS explaining the reasons for the missing documents.

Household Documents:

- Copy of rental agreement
- Copies of social security cards for each person in the household

The following documents must be turned in for each person 18 years or older:

- Copies of valid Photo ID
- Copies of three (3) most recent consecutive payroll stubs
- Copies for other income such as SSI, SS, pension, child support, spousal support, etc.
- Copy of Federal Tax return papers for the last year (1040, 1040EZ, etc.) (***If the federal tax return for the most recent year has not yet been filed***, then provide a signed copy of the federal tax return for the previous year plus evidence of income in the most recent year (W2 forms, 1099 forms))
- Copies of all bank statements (all pages) for the last two months (checking, savings, stocks, bonds, CD's, etc.)
- Copies of all asset statements (all pages) for the last two months (401K, Pension Accounts, Retirement Accounts, etc.)
- For rental program: non-refundable $30.00 application fee in the form of check, money order, or cashiers' check payable to West Valley Community Services
- For sales program: non-refundable $50.00 application fee in the form of check, money order or cashiers' check payable to West Valley Community Services
- For sales program: non-refundable $300.00 administrative fee in the form of check, money order, or cashiers' check payable to West Valley Community Services (at the close of escrow)

WVCS will not return any submitted documents or make copies of submitted documents. Please provide copies.

EXHIBIT 2

Notice to All Applicants
Options for Applicants with Disabilities

WVCS has an obligation to provide a "reasonable accommodation" to applicants if they or any family members have a disability or handicap that requires a change in the usual application process.

A reasonable accommodation is some modification or change that we can make to the policies or procedures that will assist an otherwise eligible applicant with a disability to take advantage of the City's BMR program. Examples of a reasonable accommodation include:

- Making large type documents or a reader available to a vision impaired applicant during the application process;
- Permitting an outside agency to assist an applicant with a disability to meet the property's screening criteria; or
- Permitting a sign language interpreter to assist a hearing impaired applicant during the application process.

An applicant that has a family member with a disability must still be able to meet the essential obligations of the BMR program. Potential renters must be able to pay rent, care for their apartments, report required information to the owner, avoid disturbing neighbors, etc., but there is no requirement that they be able to do these things without assistance. Potential homeowners must have adequate income to support a mortgage and meet other eligibility criteria.

If you or a member of your household has a disability or handicap and think you might need or want a reasonable accommodation, you may request it at any time in the application process. If you would prefer not to discuss your situation with us, that is also your right.

EXHIBIT 3

24 CFR 5.609

§ 5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $ 5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments. (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in § 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8)

(i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $ 200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $ 480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $ 480 per adopted child;

(13)[Reserved]

(14) Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

EXHIBIT 3

(d) Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

EXHIBIT 3

Excerpts from Technical Guide for Determining Income and Allowances for the HOME Program

Anticipating Income

The HOME regulations at 24 CFR 92.203(d)(1) require that, for the purpose of determining eligibility for HOME assistance, a PJ must project a household's income in the future. To do so, a "snapshot" of the household's current circumstances is used to project future income. In general, a PJ should assume that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. For example, if a head of household is currently working for $7.00 per hour, 40 hours per week, the PJ should assume that this family member will continue to do so for the next year. Thus, estimated earnings will be $7.00 per hour multiplied by 2,080 hours, or $14,560 per year.

This method should be used even when it is not clear that the type of income received currently will continue in the coming year. For example, assume a family member has been receiving unemployment benefits of $100 per month for 16 weeks at the time of income certification. It is unlikely that the family member will continue on unemployment for another 52 weeks. However, because it is not known whether or when the family member will find employment, the PJ should use the current circumstances to anticipate annual (gross) income. Income would therefore be calculated as follows: $100 per week x 52 weeks, or $5,200.

The exception to this rule is when documentation is provided that current circumstances are about to change. For example, an employer might report that an employee currently makes $7.50 an hour, but a negotiated union contract will increase this amount to $8.25 an hour eight weeks from the date of assistance. In such cases, income can be calculated based on the information provided. In this example, the calculation would be as follows: • $7.50/hour x 40 hours/week x 8 weeks = $2,400 • $8.25/hour x 40 hours/week x 44 weeks = $14,520 • $2,400 + $14,520 = $16,920.

Sources of Earned Income

In addition to hourly earnings, PJs must account for all earned income. In addition to the base salary, this will include annual cost of living adjustments (COLAs), bonuses, raises, and overtime pay. In the case of overtime, it is important to clarify whether overtime is sporadic or a predictable component of an employee's income. If it is determined that an applicant has earned and will continue to earn overtime pay on a regular basis, PJs should calculate the average amount of overtime pay earned by the applicant over the pay period the PJ is using to calculate income eligibility (3 months or 12 months). This average amount is then to be added to the total amount of projected earned income over the following 12-month period. Exhibit 2.1 provides a step-by-step explanation of the standard methodology for projecting annual income.

(Continues onto Next Page)

EXHIBIT 3

Exhibit 2.1 – Step-by-Step Methodology for Projecting Annual Income

Steps	Instructions
Step 1: Collect appropriate income documentation.	Appropriate documentation includes pay stubs, third-party verification, bank statements (checking and/or savings), or certified copies of tax returns. (These can be acquired by submitting an IRS Form 4506, "Request for Copy of Tax Form.")
Step 2: Calculate the applicant household's projected income based upon documentation.	This calculation must include hourly wage figures, overtime figures, bonuses, anticipated raises, COLAs, or other anticipated changes in income. Other specific inclusions must also be reflected in the calculation, depending upon which definition of annual income the PJ has elected to use for its program. Specific instructions for each of the three definitions of income under HOME are provided later in this guide.
Step 3: Compare the amount of projected income against current HOME income limits.	Once the PJ has calculated the household's income, based on its selected definition, it must compare the household's final projected figure to annual HOME income limits, which are adjusted according to household size. These limits are posted online at: www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/index/cfm. This information is also available through the CPD office of your state or local HUD Field Office. Households whose projected annual income is less than the current HOME income limits are eligible for HOME assistance.

EXHIBIT 4

BUYER'S DISCLOSURE STATEMENT
CITY OF CUPERTINO INCLUSIONARY HOUSING PROGRAM

The City of Cupertino (the "City") has adopted an Inclusionary Housing Ordinance that makes it possible for median and moderate income households to buy a house at a price that is affordable. The price that you are paying for your house is below the market rate, as required by the Inclusionary Housing Ordinance.

In exchange for giving you the opportunity to buy your house at a below-market affordable price, the City will require you to sign a Promissory Note, Deed of Trust, and an Occupancy, Refinancing, and Resale Agreement with Option to Purchase (the "Resale Agreement"). **The Deed of Trust and Resale Agreement will be recorded against your property**. These documents are enforceable by the City. In general, the Promissory Note, Deed of Trust and the Resale Agreement set forth conditions that you must meet, including but not limited to the following:

- The Resale Agreement requires you to live in your home as your principal place of residence and prohibits you from renting out your home.

- The Resale Agreement places controls on the sale of your home. There is a limit to the price at which you can sell the home. If you sell the home above the restricted price, you must pay the City the difference between the restricted price and the sales price. In addition, you must follow certain steps and procedures when you decide to sell your
- home.

- The City has an option to purchase your home at a restricted price when you put the home up for sale or if you violate any agreements.

The purpose of the Promissory Note, Resale Agreement, and Deed of Trust is to make sure that the City's goal of providing affordable homeownership opportunities to moderate income buyers continues to be met by keeping your house affordable to other moderate income households should you choose to sell or move. The City has helped you to buy a home; it wants to help others as well.

This Disclosure Statement explains the major provisions of the Promissory Note, Deed of Trust, and Resale Agreement so that you will understand their requirements. **You should, of course, read the entire Promissory Note, the Resale Agreement, and the Deed of Trust and become familiar with them if you are considered for the purchase of a particular BMR home.**[1]

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[1] Numerical examples are included in this Disclosure Statement to help you better understand the provisions of the Buyer's Resale Agreement and Promissory Note. Please be aware that these are simply to show how things work and that they are not intended to represent your specific situation. If you follow along with a calculator, you may not get exactly the same answers. Any differences are probably due to how your calculator "rounds-off" numbers.

REQUIREMENTS WHILE LIVING IN A BMR UNIT

A. REQUIREMENTS IN EFFECT FOR 99-YEAR TERM

The requirements that are in the Resale Agreement apply until the earlier of (i) ninety- nine (99) years from the date of the recordation of the Resale Agreement, or (ii) the date you sell or transfer your home in accordance with the Resale Agreement and the Deed of Trust. If you own and live in your home for the whole 99-year term, all of the requirements of the Resale Agreement go away.

B. PRIMARY RESIDENCE AND ANNUAL CERTIFICATION

Your house must be your main place of residence. This means you must live in your home for at least 10 months out of each calendar year. At least once per year, City or its agent will verify that owners continue to occupy the BMR units. The verification process will include the following steps:

- The City or its agent will mail to all BMR units a Certification of Owner Occupancy.
- You must complete the form and return it to the City within 30 days, including proof of occupancy such as a copy of the most recent mortgage statement, property tax bill, or utility bill.
- The City or its agent will annually order property title lot books to verify homeownership and liens on the property.

Failure to Submit Annual Certification

If the City determines that you have willfully made false statements or misrepresented any facts on the annual certification, or if you fail to submit the Certification of Owner Occupancy, the City will treat this as a breach of the Resale Agreement and the Deed of Trust and will take all legal remedies available, including forced sale of the unit.

C. LEASE OR RENT OF HOME

You are not allowed to lease or rent the house to anyone, except that in the event of substantial hardship, you may rent-out the house for no more than 12 months, with prior written City approval. If the City permits you to rent out your home for up to 12 months, you may only rent the home to a lower income household, and the rent you may charge is restricted by the City to an affordable rent, as defined by state law (approximately 30% of the tenant's household income, less an allowance for utilities). If you violate these requirements, the City may sue to enforce them, and you will owe the City any Excess Rental Proceeds you have collected (i.e., the rent in excess of the restricted amount you are permitted to charge). You will also be in default under the Resale Agreement, and the City may require you to sell the home to the City in the manner described in the Resale Agreement.

D. MAINTAINING YOUR HOME/ PROPERTY INSURANCE

By signing the Resale Agreement and Deed of Trust, you agree to keep your home and landscaping in good repair and in neat, clean, and orderly condition and to prevent deterioration

of the home. You agree not use or dispose of any hazardous substances on the property, except those commonly used on residential properties. You also agree to keep a standard homeowner's insurance policy, with the City named as an additional insured. The insurance policy shall be in an amount equal to the replacement value of the home. Every five (5) years, the replacement value will be reviewed and adjusted as needed, if requested by the City. If you hire a contractor to work on your home, the contractor must be licensed and carry liability and workers compensation insurance.

E. CAPITAL IMPROVEMENTS

If you make improvements to your home, and you want the value of the capital improvements to be taken into account when the Maximum Restricted Resale Price (or option price) is calculated, you must obtain written approval of the improvements by the City before the improvements are made. The initial cost of such improvements must be at least $2,000 or more, and the improvements must conform with existing building codes and with Federal Housing Quality Standards. A copy of the receipts and invoices must be submitted to the City or its agent for proof of the capital improvements made to your home.

F. REFINANCE AND JUNIOR MORTGAGES

The Resale Agreement allows you to refinance your first mortgage loan or place a second mortgage or equity line of credit on your home, but places restrictions on the amount received by you from the refinancing. Following refinancing of your first mortgage or the addition of a junior mortgage, the principal amount of all debt secured by your house must not be greater than the larger of: (i) 90 percent of the Maximum Restricted Resale Price; or (ii) the original amount of all the loans you took out to finance the purchase of your home. If you are considering a refinance of your first mortgage or obtaining a junior mortgage, you should contact the City for a calculation of the Maximum Restricted Resale Price amount before you contact your financial institution. The City will not approve any mortgage that allows payment of interest only, negative amortization, adjustable rate, or reverse mortgage.

REQUIREMENTS FOR SELLING OR TRANSFERRING OWNERSHIP OF A BMR UNIT

A. CITY HAS OPTION TO PURCHASE

In exchange for the opportunity given to you to buy your home at an affordable, below-market price, the City has an option to buy your home at a restricted price if you sell your home or transfer ownership during the term of the Resale Agreement or if you violate any of the terms of the Resale Agreement. In other words, the City has the first opportunity to buy your house before anyone else. The City may also give its option to purchase your house to a public agency, a nonprofit organization, or a person or family meeting income and other requirements.

B. PERMISSIBLE TRANSFERS OF OWNERSHIP – NOT A SALE

Certain transfers of ownership are allowed although these transfers will require the new owner or owners to sign new BMR documents. The following transfers are permitted under the BMR program. The City must be informed of these transfers, but the City does not have the right to purchase your home if you transfer ownership to:

- An existing spouse or domestic partner;
- A spouse or domestic partner where the spouse or domestic partner becomes the co-owner of the home;
- One spouse as part of a marriage dissolution proceeding;
- An existing spouse or domestic partner of owner by devise or inheritance following the death of owner; or
- An inter vivos (living) trust in which the owner is the beneficiary and trustee, provided a new resale restriction is executed in the name of the living trust and the BMR owner provides the City with a copy of the trust document or certification of trust to verify the trustee information.

Inheritance

In the event that someone inherits your home, the administrator of your estate or the person inheriting your home must contact the City within 30 days of your death. If the person inheriting your home qualifies as an eligible purchaser, he or she may keep your home, but he or she will have to execute new homebuyer documents with the City. If the person inheriting your home does not qualify as an eligible purchaser, he or she will have to sell the home in accordance with the Resale Agreement, but may live in the home for up to 12 months, leave the home vacant for up to 12 months, or rent the home to a low income tenant at a restricted rent for up to a year. If the person inheriting your home does not qualify as an eligible purchaser, and does not comply with the terms of the Resale Agreement, he or she will be in default under the Resale Agreement, and the City may exercise its option to purchase the home at the Maximum Restricted Resale Price. These provisions do not apply to a spouse or domestic partner of the owner.

C. PROCESS FOR SELLING A BMR UNIT

The first action that you must take if you want to sell your home is to contact the City or its agent and submit an Owner's Notice of Intent to Transfer. You should do this before you contact a real estate broker and before you put the home on the market. The notice must include a pest report from a licensed pest inspector, other required information, and a description of any capital improvements that you have made and for which you received City approval. The Owner's Notice of Intent to Transfer must be sent by certified mail with a return receipt requested or by express delivery service with a delivery receipt. Notices are considered effective as of the date received or the date delivery was refused.

City's Response

The City will contact you within seven days of receiving the Intent to Transfer to arrange for a time to inspect your property to assess its condition. Within 30 days of the City's receipt of the Intent to Transfer, the pest control report, other required information, and the capital

improvement request, and the City's on-site inspection, the City will send you a City Response Notice. The Notice will explain whether the City intends to exercise its right to purchase or transfer its right to an income-eligible buyer. The City Response Notice will also provide the restricted sales price amount.

City Exercises Right to Purchase

If the City elects to exercise its right to purchase the property or transfer its right to an income eligible buyer, escrow will close within 90 days of the date that the City Response Notice is sent to you. The City or its agent will select the new buyer from the City's waitlist.

When your home is bought by the City or a City-selected buyer under the City's option to purchase, you will pay to the City a transaction fee equal to six percent of the sales price. This fee takes the place of the fee for a broker's services. The City will be performing those services when it purchases your home.

You should not contact a broker to sell your home until the City has informed you whether or not it will not exercise its option to purchase your home. If you contact a broker and the City exercises its option, you will owe the City a six percent transaction fee and you will be solely responsible for any additional broker fee.

City Elects to Not Exercise Right to Purchase

If the City chooses to not exercise its right to purchase the property or assign its right to an income eligible buyer, you may sell the home to an income eligible household for no more than the restricted sales price provided by the City. An eligible purchaser is a household (1) who will live in the home; (2) whose income is equal to or less than the income level designated in the City Response Notice; and (3) who will agree to sign resale restriction documents required by the City and to otherwise cooperate with the City.

Once you find a potential eligible purchaser, you must refer the proposed buyer to the City so that the City can determine if in fact the buyer is an eligible purchaser. The seller and the proposed buyer must give specific information and documents to the City as described in the Resale Agreement.

When the sale of the home to the eligible purchaser is completed, you must submit to the City the information and documents listed in Resale Agreement.

Non-Permissible Transfers

You may not transfer title to the BMR unit (except for the transfers listed in Section B above) without submitting the Owner's Notice of Intent to Transfer and receiving the City's approval. Title to the BMR unit may not be transferred to your friends or relatives whose income or assets exceeds the established limits, or who will not occupy the BMR unit on a permanent basis after the transfer, or who are otherwise not eligible to purchase a BMR unit.

D. SALES PRICE OF BMR UNIT IS RESTRICTED: MAXIMUM RESTRICTED RESALE PRICE

The City wants to make sure that the price of the BMR unit remains affordable to future median and moderate-income buyers. Therefore, the Resale Agreement limits the sales price of your home. The Maximum Restricted Resale Price that you can receive is the **lower** of the Indexed Price described in Section D.1 below and the Fair Market Value as described in Section D.2.

1. INDEXED PRICE

(a) Owner's Base Price (price at which you bought it)

(b) increased by the percentage increase of the Area Median Income for Santa Clara County for a household size of 4 persons from the date of your original purchase (the recording date of the grant deed for the property) to the date of receipt by the City of the Owner's Notice of Intent to Transfer

plus

(c) appraised value (not cost) of any eligible capital improvements and any special assessments imposed by the homeowners association and paid by you. Eligible capital improvements, among other requirements, must be approved in writing by the City before they are installed, as described previously

minus

(d) Cost of repairs to correct any violations of building or other codes, to put the house in a "sellable condition," such as cleaning, painting, appliance and other repairs, and other deferred maintenance repairs.

Example 1 shows how the Indexed Price formula works.

EXAMPLE 1 You sell your house at the end of eight years. The original price of your three-bedroom home was $341,000. The median income for a family of four in Santa Clara County when you bought your home was $105,500. Median income increases by 16% over the eight years. Five years after buying your home, you remodel your kitchen (with prior City written approval) and the remodeling work is valued by an appraiser as worth $3,000 at the time you sell. There is no deferred maintenance.

(a)	Original Price of Home	$341,000
(b)	Median Income Increases by 16% over eight years	
	multiply (a) by 16%, then add	54,560
	result ($54,560) to (a)	$395,560
(c)	Appraised Value (not cost) of Eligible Capital Improvements	+ 3,000
	INDEXED PRICE	**$398,560**

2. FAIR MARKET VALUE

Under the Resale Agreement, the fair market value can be determined in one of two ways. First, it can be established by a real estate appraiser approved in advance by the City. If

possible, the appraisal will be based on sales prices of homes similar to yours that are sold in your market area during the preceding three-month period. The appraisal will not take into account the fact that the resale price of your home is restricted by the Resale Agreement. The value of any (i) eligible capital improvements that you have made to your home, or (ii) damage or deferred maintenance that decrease its value shall be included in the appraisal. The cost of the appraisal used to determine fair market value will be paid by you, unless a new buyer has obtained an appraisal that you may utilize. The Resale Agreement also allows you and the City to set the fair market value of your home by mutual agreement instead of relying on an appraiser. Both you and the City would have to agree to this particular method (instead of hiring an appraiser) and to the final fair market value amount. If you and the City fail to agree on the Fair Market Value, either one can require use of the appraisal method.

Example 2 shows how the Indexed Price and the Fair Market Value of the home are compared to determine the Maximum Restricted Resale Price at which you can offer your house for sale.

EXAMPLE 2 The assumptions are the same as in Example 1. You sell your house at the end of eight years. The original sales price of your home was $341,000. The median income for a family of four in Santa Clara County when you bought the home was $105,500. Median income increases by 16% over the eight years. Five years after buying your home, you remodel your kitchen. The Fair Market Value of your home is determined by appraisal, the cost of which is paid by you. The appraisal determines the Fair Market Value at $450,000. This amount includes the value of the kitchen improvements, at $3,000.

INDEXED is less FAIR MARKET MAXIMUM RESTRICTED PRICE than VALUE then RESALE PRICE

$398,560 < $450,000 ⇒ $398,560

Since the Fair Market Value of the home is greater than the Indexed Price of the house, the Maximum Restricted Resale Price which you can receive from the sale of your home is $398,560.

E. TRANSFER IN VIOLATION OF RESALE RESTRICTION AGREEMENT; PAYMENT OF "EXCESS SALES PROCEEDS" TO CITY

If you sell or transfer your home in a way that violates the terms of the Resale Agreement, or if the City does not choose to purchase your home and you cannot find an eligible buyer, then you must pay to the City any "Excess Sales Proceeds" that result from the sale of your house. For example, if you do not sell your home to the City or to an eligible purchaser, but to someone else for market value, then you will owe the City any "Excess Sales Proceeds" that result from the sale.

The term "Excess Sales Proceeds" is defined in the Resale Agreement as the amount by which the gross sales proceeds you receive from the ineligible buyer exceed the Maximum Restricted Resale Price for the home. Another way to put it is the following:

Gross Amount of Money the New Buyer Paid for the House

MINUS

Maximum Restricted Resale Price (from City Response Notice) EQUALS

Payment to the City of Excess Sales Proceeds

The amount of Excess Sales Proceeds that you pay to the City is used by the City for other affordable housing programs to help other median and moderate income families purchase a home.

Example 3 shows how the Excess Sales Proceeds are calculated.

EXAMPLE 3 You sell your house at the end of eight years. You originally paid $341,000 for your home. The City Response Notice sets the Maximum Restricted Resale Price at $398,560. The City does not choose to purchase your own, and you are unable to find a buyer who qualifies as an eligible purchaser. You sell the house for $500,000. You must pay the City Excess Sales Proceeds as calculated below:

Total Amount Market Purchaser Paid For House	$ 500,000
MINUS	
Maximum Restricted Resale Price (from City Response Notice)	- 398,500
Amount of Excess Sales Proceeds You Pay to City	$101,500

In cases where transfer of your home to another person is by means other than sale (with the exception of a creditor taking title), the amount of Excess Sales Proceeds is the difference between the original purchase price and the fair market value of the home at the time of transfer

VIOLATIONS OF BMR REQUIREMENTS

If you violate any provisions of the City documents, you are considered to be in default under the Resale Agreement. Also, if you default under any loan on the home, such as a mortgage or home equity loan, you would also be considered to be in default under the Resale Agreement. If you do not correct the violation, the City could require you to repay Excess Sales Proceeds and/or exercise its option and buy your home for the Maximum Restricted Resale Price. The City could also go to court and get a court order to enforce the provisions of the City documents, which may result in a foreclosure on your home.

The City may learn of violations of the Resale Agreement and program restrictions through periodic audits and other resources available to the City. The City may take all actions necessary to verify occupancy of the unit by the persons on the title to the unit. Any homeowner who violates the terms of the Resale Agreement may be forced to sell the unit to the City, who

will normally then sell the unit to the next eligible purchaser on the waitlist. The City will require the owner to reimburse the City for any rent that was collected in excess of that allowed by the Resale Agreement.

Forced Sale due to Breach of Resale Agreement with Option to Purchase

Owners who breach the requirements of the Resale Agreement are violating the City Council's policy of providing homeownership opportunities to median and moderate income households. The number of people on the BMR waitlist often exceeds the number of BMR units available. Therefore, when the City confirms that an owner has breached the terms of the Resale Agreement, especially by not living in the BMR unit, the City may exercise its option and force the sale of the BMR unit.

Foreclosure

If a lender records a Notice of Default on a BMR unit, then a breach of the terms of the Resale Agreement has occurred. The City shall inform the owner of the action that needs to be taken to cure the default and by what date the default must be cured. If the owner is unable to cure the default, then the City again may exercise its option and force the sale of the BMR unit to preserve the unit as affordable housing.

Signature Page

Please sign this Buyer's Disclosure Statement in the space provided below, keep a signed copy for your records, and return the original to the City at the following address:

City of Cupertino
Community Development Department
10300 Torre Avenue
Cupertino, CA 95104

I have received, read and understand the above Buyer's Disclosure Statement. I also understand the following:

1. The restrictions last for 99 years.

2. The home may be sold only to a median or moderate income family for 99 years.

3. The resale restrictions will usually reduce the property's sale price compared to the sales price of other homes. The sales price that I receive may be less than half the price of an unrestricted home.

4. Refinancing of the property and home equity loans are restricted.

5. I must contact the City of Cupertino before any sale or refinancing of the property and before receiving a home equity loan. Any sale or refinancing or home equity loan must be approved by the City.

6. I must live in the home. I cannot lease or rent it unless approved by the City for hardship.

7. The City has the right to buy my home at a restricted price when I decide to sell it or if I violate any of the provisions of the agreements I have signed.

By: _____ Dated: _____
Signature of Buyer

_____
Print Name of Buyer

By: _____ Dated: _____
Signature of Buyer

_____
Print Name of Buyer

EXHIBIT 5

CITY OF CUPERTINO HOUSING MITIGATION PROGRAM BMR RENTER OCCUPANCY CERTIFICATION

Property Name: _____

Property Owner: _____

Address of BMR Unit: _____

Tenant Name: _____

Instructions to BMR Renter: Please complete this form and return to ____ _____(Property Owner) by_____,____, 20 .

If you fail to submit this signed form within thirty (30) days of the written request, then your lease shall be terminated and you must vacate the unit within thirty ***(30) days of written notice from the property owner/manager. If you fail to vacate the unit, the property owner will institute eviction proceedings.***

HOUSEHOLD MEMBERS-List below all persons who live in the unit.		
HOUSEHOLD MEMBER	AGE	RELATIONSHIP TO HEAD OF HOUSEHOLD

Criminal and Administrative Actions for False Information

You understand that knowingly supplying false, incomplete or inaccurate information may constitute a felony, punishable under Federal or State criminal law. Knowingly supplying **false, incomplete or inaccurate information is grounds for termination of your lease**.

By signature below, I_____ _**[insert name]** hereby certify to the City under penalty of perjury that I and all of the Household Members listed above occupy the rental unit located at **[insert address]** as my/our principal place of residence and that I/we have occupied the Premises for ( )

EXHIBIT 5

[insert number] months of the calendar year _____ **[insert previous calendar year]**. I further certify that there are no additional occupants residing in the unit.

Signature of Household Adults	**Date**
1. _____	_____/_____/_____
2. _____	_____/_____/_____
3. _____	_____/_____/_____
4. _____	_____/_____/_____

TO BE COMPLETED BY THE PROPERTY OWNER OR MANAGER

By signature below, I **[insert name]** hereby certify to the City that, to the best of my knowledge, the persons identified above do indeed live at the address referenced above, and no additional persons live there.

Signature of Property Owner/Manager Date

_____/_____/

_____
(Company Name)

EXHIBIT 6

CITY OF CUPERTINO HOUSING MITIGATION PROGRAM

RENTAL PROPERTY OWNER'S AND/OR MANAGING AGENT CERTIFICATION OF RECEIPT OF ADMINISTRATIVE PROCEDURES MANUAL

The undersigned received a copy of the Administrative Procedures Manual for the City of Cupertino's Below Market Rate (BMR) Housing Mitigation Program. Further, the undersigned understand that the BMR Administrative Policies and Procedures require compliance with the requirement described in the Procedures.

_____

Development Name and Site Address

_____

Signature of Property Owner Printed Name

_____

Date

_____

Signature of Co-Owner Printed Name

_____

Date

_____

Signature of Property Manager or Owner's Managing Agent Printed Name

_____