

## RESOLUTION NO. 25-00X

### A RESOLUTION OF THE CUPERTINO CITY COUNCIL 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 (the "Manual") 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, an amendment to the Manual is required to implement a new policy to address deed-restricted inclusionary affordable rental housing units in market-rate developments, which will become unrestricted when the term of affordability expires, potentially leading to displacement of 114 low-income families by 2040; and

WHEREAS, the Housing Commission during their December 19, 2024 Special Meeting voted in favor (5-0-0-0) to recommend amendments to the Manual to include priority waitlist points and relocation assistance for displaced BMR tenants; and

WHEREAS, when the appropriate need is presented, the Manual 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.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby

1. Amend **Section 2.2 Priority Point Placement System** of the Manual to read as follows:

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. Under the priority point placement system, the highest preference is given to displaced tenants of below market rate rental units with expiring covenants (a household that is or was a tenant of a BMR unit within 12 months of deed restriction expiration). Second highest 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, school district employees, City employees, police, fire, post office, etc.). The priority point placement system point scale is listed below. Applicants must qualify for priority points at the time of application and again at the time of review for a BMR ownership or rental unit.

Applicants can receive up to a maximum of 7 points based on the following criteria below:

One Point	=	Cupertino resident
Three Points	=	Displaced Below Market Rate rental tenant
Two Points	=	Working in Cupertino
One Point	=	Public Employee Working in Cupertino

Applicants receiving seven points shall be considered the highest priority; applicants receiving six points shall be considered the second highest priority; applicants receiving five points shall be considered the third highest priority; and so forth until 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. Amend Section 2.5 BMR Applicant Waitlist of the Manual to read as follows:**

The waitlist application period for BMR ownership and rental units will open on the first business day of October annually. At that time, BMR ownership and rental waitlist application 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 waitlist application 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. Making it to the waitlist does not confer any rights or privileges beyond the qualification opportunities described in this Manual.

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 qualify.

All candidates will be emailed/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. The waitlist will become effective January 1st- December 31st of the following year.

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. BMR units that become available will be offered to households whose self-reported income and household size match the available unit and in the order of the waitlist in each priority group.

Current BMR tenants are not eligible to apply for the BMR Rental Waitlist, with the exception of Displaced BMR Rental Tenants. If current BMR tenants desire to change their BMR units, either within or between buildings, they must first vacate their current unit and then return to the BMR Rental Waitlist. Exceptions will be made for current tenants who request a reasonable accommodation and Displaced BMR Rental Tenants.

### **3. Amend Section 2.5.5 Eligibility Process to Reapply on BMR Waitlist to read as follows:**

An applicant must reapply each year to remain on the waitlist. All applicants must apply annually in October. The only exceptions are those desiring an additional priority as Displaced BMR Tenants. If displacement is caused by redevelopment, they must apply within (90) ninety days of receiving a displacement notice. Otherwise they may reapply anytime within (12) twelve months before of their unit's affordability expiration date or anytime afterwards.

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. If there are other applicants on the list in the lower priority group who were in that priority group on the previous year's waitlist, the applicant who lost the priority point(s) will be placed below the people who were already in the priority group during the prior 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.

4. Create new **Section 3.5 Definition of Displaced Below Market Rate Rental Tenant and Special Circumstance Households** of the Manual to read as follows:

A Displaced Below Market Rate Rental Tenant means: an income qualified household which is or was a tenant of a below market rate rental unit with an expiring affordability covenant in a market rate development, who may qualify for priority replacement as outlined in Section 2.2 (Priority Point Placement System) or relocation assistance as outlined in Section 6.7 (Terms of Affordability Covenants and Relocation Assistance) of the BMR Manual.

A Special Circumstance Household means: a Displaced Below Market Rate Rental tenant with any of the following characteristics:

- a. At least one (1) member is sixty-two (62) years of age or older
- b. At least one (1) member qualifies as disabled as defined by Title 42, Unit States Code, Section 423, or handicapped as defined by California Health and Safety Code Section 50072.
- c. A household with one (1) or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes).
- d. A household that has occupied their unit as their primary residence for five (5) or more consecutive years.

5. Amend **Section 6.7 Terms of Affordability Covenants and Relocation Assistance** of the Manual to read as follows:

The deed restrictions imposed on each BMR unit pursuant to the program shall remain in effect for a specified period 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 period from date of recordation.

Should a tenant of a BMR rental unit vacate their unit within 12 months of either before or after the affordability expiration date into a non-deed restricted unit, the property owner must provide payment to the tenant in the amount equivalent of (3) three months of fair market rent, as determined by the Department of Housing and Urban Development (HUD) for the San Jose-Sunnyvale-Santa Clara HUD Metro FMR Area in the Federal Register for that year, to be used for relocation costs. Special Circumstances Households will be paid one (1) additional month of fair market rent for a maximum of four (4) months rent. Reimbursement must be paid from the property owner to the former tenant within (30) thirty days of the move out date. To the extent the terms of this Manual and the Regulatory Agreement are inconsistent, the most restrictive and protective term will apply.

6. Create new **Section 6.8 Tenant Displacement Noticing Requirements** of the Manual to read as follows:

The property owner shall be responsible for sending notice of intent to re-establish the initial rental rate to tenants of expiring BMR rental units no later than (120) one hundred and twenty days prior to the expiration date of the unit. The notice shall be sent by regular and certified mail and posted on the door of each rental unit. The landlord must submit evidence of compliance with this section to the city in order for this requirement to be deemed complete.

For each such notice, the landlord shall use a notice of intent form prepared by the property owner and approved by the City (1) one week prior to noticing and shall contain the following information:

1. The name and address of the current property owner and the project developer.
2. The new monthly initial rental rate the owner intends to establish upon expiration of the affordability covenant, and the date in which it takes effect.
3. An explanation of the relocation assistance available to eligible households and special circumstances households and the procedure for receiving relocation assistance (that it will be sent directly to them within 30 days of vacating the unit if they choose to vacate the unit within 12 months before or after the expiration date).
4. Other information deemed necessary or desirable by the Director of Community Development.

7. Create new **Section 6.9 Enforcement and Failure to Comply** of the Manual to read as follows:

Should a landlord fail to comply with any requirement of Section 6.7 (Terms of Affordability Covenants and Relocation Assistance) the tenant may seek injunctive relief and money damages for failure to pay relocation assistance. The prevailing party in an action for failure to pay relocation assistance shall recover costs and reasonable attorneys' fees. Should a landlord fail to comply with the noticing requirements of Government Code 65863.10, which require that noticing be provided to tenants on HCD approved forms regarding their expiring units at (3) three years, (12) months, and (6) six months prior to the anticipated date of termination of a subsidy contract, the tenant will be granted injunctive relief through imposition of the prior restrictions until any required notice is provided and the required period has elapsed. Similarly, should a landlord fail to comply with any requirement of Section 6.8 (Tenant Displacement Noticing Requirements) the tenant will be granted injunctive relief through reimposition of the prior restrictions until any required notice is provided and the required period has elapsed.

No owner shall take action to terminate any tenancy or otherwise recover possession of a residential real property in retaliation for the tenant reporting violations of this Section, for reporting violations of health, safety, and habitability codes and laws, for exercising rights granted under this Section, or for forming or participating in a tenant organization.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a

significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action amending the Manual would have no or only a de minimis effect on the environment as an administrative activity that will not result in any direct or indirect physical changes. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 17 day of June, 2025, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<div>SIGNED:</div> <div>_____</div> <div>Liang Chao, Mayor City of Cupertino</div>	<div>_____</div> <div>Date</div>
<div>ATTEST:</div> <div>_____</div> <div>Kirsten Squarcia, City Clerk</div>	<div>_____</div> <div>Date</div>

Exhibit A

Policy and Procedures Manual for Administering Deed Restricted  
Affordable Housing Units  
(Attached)

Approved by the City Council  
June 17, 2025  
Resolution No. \_\_\_\_\_

City of Cupertino  
Housing Division  
Department of  
Community  
Development

10300 Torre Avenue  
Cupertino, CA 95014  
Voice: (408)777-3251  
Fax: (408)777-3330



## TABLE OF CONTENTS

### Contents

<b>1.0</b>	<b>Introduction.....</b>	<b>1</b>
<b>2.0</b>	<b>Application Selection Process.....</b>	<b>1</b>
2.1.	Conflict of Interest.....	1
2.2.	Priority Point Placement System.....	2
2.3.	Requests for Reasonable Accommodation.....	2
2.4.	Housing Constructed for People with Disabilities.....	3
2.5.	BMR Applicant Waitlist.....	3
2.5.1.	<i>Solicitation of Applicants.....</i>	<i>4</i>
2.5.2.	<i>Submitting a BMR Waitlist Application Form.....</i>	<i>4</i>
2.5.3.	<i>Submitting a BMR Program Application.....</i>	<i>4</i>
2.5.4.	<i>Application Fees.....</i>	<i>4</i>
2.5.5.	<i>Eligibility Process to Reapply on BMR Waitlist.....</i>	<i>4</i>
2.5.6.	<i>Applicant's Right to Refuse BMR Unit.....</i>	<i>5</i>
2.6.	False Statements.....	5
<b>3.0</b>	<b>Minimum Homebuyer/Tenant Eligibility Requirements.....</b>	<b>5</b>
3.1.	Household Minimum Size Requirements.....	6
3.2.	Household Composition.....	6
3.3.	Definition of Employment in Cupertino.....	6
3.4.	Definition of Residency in Cupertino.....	6
3.5.	Definition of Displaced Below Market Rate Rental Tenant and Special Circumstances Households.....	6
3.6.	Annual Gross Income.....	7
3.6.1.	<i>Documentation to Verify Sources of Income.....</i>	<i>7</i>
3.7.	Assets.....	8
3.7.1.	<i>Documentation to Support Assets.....</i>	<i>8</i>
<b>4.0</b>	<b>Ownership Units- Requirements for Buying a BMR Unit.....</b>	<b>9</b>
4.1.	Income Limits.....	9
4.1.1.	<i>Co-applicants.....</i>	<i>9</i>
4.1.2.	<i>Credit Score.....</i>	<i>9</i>
4.2.	Asset Limit.....	9
4.2.1.	<i>Minimum Cash Available.....</i>	<i>10</i>
4.2.2.	<i>Gift Funds.....</i>	<i>10</i>
4.3.	Definition of First-time Homebuyer.....	10
4.4.	Affordable Sale Price Determination.....	10
4.4.1.	<i>Initial Prices of Newly Constructed Units.....</i>	<i>10</i>
4.4.2.	<i>Prices of Existing BMR Units.....</i>	<i>10</i>
4.5.	Financing.....	10
4.5.1.	<i>Lenders.....</i>	<i>10</i>
4.5.2.	<i>Loan Requirements.....</i>	<i>11</i>
4.5.3.	<i>Insurance Requirements.....</i>	<i>11</i>
4.6.	Occupancy Conditions.....	11
4.7.	Required Pre-Purchase Education.....	11

4.8.	Documents for Completing Home Purchase .....	11
4.9.	Term of Affordability .....	12
4.10.	Annual Monitoring .....	12
	4.10.1. Failure to Submit Annual Certification.....	12
5.0	Rental Units- Requirements for Renting a BMR Unit .....	12
5.1.	Income Limits .....	12
	5.1.1. Minimum Income Requirements .....	13
	5.1.2. Co-Signers .....	13
5.2.	Asset Limit.....	13
	5.2.1. Documentation to Support Assets.....	13
5.3.	Qualification as Renter .....	14
5.4.	Rental Rate Determination .....	14
5.5.	Previewing of Unit .....	14
5.6.	Occupancy Conditions .....	14
5.7.	Annual Rent Adjustments .....	14
5.8.	Annual Re-Certification of Income.....	15
5.9.	Terms of Tenancy .....	15
6.0	Requirements of Apartment Owners and Property Managers .....	15
6.1.	Availability of New Units for Lease.....	15
6.2.	Eligible Prospective Tenants .....	15
6.3.	Prospective Tenant’s Previewing of Unit.....	16
6.4.	Executed Lease Agreement.....	16
6.5.	Annual Rent Adjustments .....	16
6.6.	Owner/Manager Certification .....	16
6.7.	Terms of Affordability Covenants and Relocation Assistance.....	16
6.8.	Tenant Displacement Noticing Requirements.....	17
6.9.	Enforcement and Failure to Comply.....	17
6.10.	Terms of Lease .....	18
6.11.	Occupancy Requirements.....	18
7.0	Appeal Process.....	18
8.0	Authority.....	19

## List of Exhibits

Exhibit 1	BMR Waitlist Application Form
Exhibit 2	BMR Program Application (Ownership)
Exhibit 3	BMR Program Application (Rental)
Exhibit 4	24 CFR 5.609 and Excerpts from the Technical Guide for Determining Income and Allowances for the HOME Program
Exhibit 5	Buyer’s Disclosure Statement
Exhibit 6	BMR Renter Occupancy Certification
Exhibit 7	Certificate of Receipt of Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units
Exhibit 8	BMR Lease Addendum
Exhibit 9	Capital Improvement Request Form

## **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 sales and rents prices, and monitoring compliance of homeowners and tenants with the recorded affordability covenants. The manual will provide guidance to City staff, the City's program administrator (agent), 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," establishes the procedures for implementing the City's Housing Mitigation Program. In accordance with the City's Housing Element, all new residential and/or non-residential developments are required to help mitigate project-related impacts on affordable housing needs.

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 Application Selection Process**

### **2.1. 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 waitlist for any BMR unit, all review of that employee's application must be performed by the City. The City will screen for applicants that fall under this conflict of interest policy when verifying income sources and employers at the time of application.

## **2.2. 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. Under the priority point placement system, the highest preference is given to displaced tenants of below market rate rental units with expiring covenants (a household that is or was a tenant of a BMR unit within 12 months of deed restriction expiration). Second highest 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, school district employees, City employees, police, fire, post office, etc.). The priority point placement system point scale is listed below. Applicants must qualify for priority points at the time of application and again at the time of review for a BMR ownership or rental unit.

Applicants can receive up to a maximum of 7 points based on the following criteria below:

- One Point = Cupertino resident
- Three Points = Displaced Below Market Rate rental tenant
- Two Points = Working in Cupertino
- One Point = Public Employee Working in Cupertino

Applicants receiving seven points shall be considered the highest priority; applicants receiving six points shall be considered the second highest priority; applicants receiving five points shall be considered the third highest priority; and so forth until 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. Requests for Reasonable Accommodation**

The City and its agent have an obligation to provide a "reasonable accommodation" to applicants if they or any family members have a disability or handicap, as defined by law, 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.

## **2.4. 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.

## **2.5. BMR Applicant Waitlist**

The waitlist application period for BMR ownership and rental units will open on the first business day of October annually. At that time, BMR ownership and rental waitlist application 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 waitlist application 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. Making it to the waitlist does not confer any rights or privileges beyond the qualification opportunities described in this Manual.

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 qualify.

All candidates will be emailed/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. The waitlist will become effective January 1<sup>st</sup>- December 31<sup>st</sup> of the following year.

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. BMR units that become available will be offered to households whose self-reported income and household size match the available unit and in the order of the waitlist in each priority group.

Current BMR tenants are not eligible to apply for the BMR Rental Waitlist, with the exception

of Displaced BMR Rental Tenants. If current BMR tenants desire to change their BMR units, either within or between buildings, they must first vacate their current unit and then return to the BMR Rental Waitlist. Exceptions will be made for current tenants who request a reasonable accommodation and Displaced BMR Rental Tenants.

#### ***2.5.1. Solicitation of Applicants***

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

##### BMR Ownership Units

- Median Income (up to 100% Area Median Income or AMI)
- Moderate Income (up to 120% AMI)

##### BMR Rental Units

- Very Low-Income (up to 50% AMI)
- Low Income (up to 80% AMI)

Outreach shall be conducted through the City's website, program brochures, community workshops, presentations and periodic print media advertising. The City 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.

#### ***2.5.2. Submitting a BMR Waitlist Application Form***

See Exhibit 1 for a sample copy of the BMR Waitlist Application Form for ownership and/or rental units.

#### ***2.5.3. Submitting a BMR Program Application***

See Exhibit 2 for a sample copy of the BMR Program Application (Ownership). See Exhibit 3 for a sample copy of the BMR Program Application (Rental).

#### ***2.5.4 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 ownership or rental units. There will be no annual fee to maintain an applicant's place on the waitlist.

#### ***2.5.5. 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. The only exceptions are those desiring an additional priority as Displaced BMR Tenants. They must apply within (90) ninety days of receiving a displacement notice if caused by redevelopment. Otherwise they must reapply anytime within (12) twelve months before their unit's affordability expiration date or anytime afterwards.

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. If there are other applicants on the list in the lower priority group who were in that priority group on the previous year's waitlist, the applicant who lost the priority point(s) will be placed below the people who were already in the priority group during the prior 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.

#### ***2.5.6. 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.

### **2.6. False Statements**

During the BMR application process or annual recertification, households that intentionally make false statements or misrepresent any facts on the application to purchase or rent a BMR unit, or on the annual recertification, will be removed from the BMR waitlist 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 or remain eligible, the City will treat this as a breach of the Occupancy, Refinancing, and Resale Restriction Agreement with Option to Purchase (Resale Agreement) or rental restrictions and may exercise any remedies allowed under the Resale Agreement and/or rental restrictions and any and all remedies allowable by law.

## **3.0 Minimum Homebuyer/Tenant Eligibility Requirements**

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

- Annual gross 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 and tenants must live in the BMR unit as a primary residence; and
- Potential owners 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).

### **3.1. Household Minimum Size Requirements**

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

- 1 bedroom unit = 1 person
- 2 bedroom unit = 2 persons
- 3 bedroom unit = 3 persons
- 4 bedroom unit = 4 persons

### **3.2. 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.

### **3.3. Definition of Employment in Cupertino**

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

### **3.4. Definition of Residency in Cupertino**

Residing in Cupertino means: Occupying and renting, at the time of application for at least one month prior to the application date, a bona fide rental dwelling unit (mobile home and SRO units, or) within the Cupertino limits, as evidenced by a valid third-party documentation (e.g. current lease, CA driver's license or vehicle registration card, and/or utility bills showing applicant's name and street address in Cupertino). For homeless applicants, evidence that the applicant's last permanent residence was located in Cupertino and/or documentation from a case manager or homeless service provider may be used to document applicant's current status in Cupertino, which may include places or structures other than a bona fide dwelling unit (i.e. tent, vehicle, etc.)

### **3.5. Definition of Displaced Below Market Rate Rental Tenant and Special Circumstance Households**

A Displaced Below Market Rate Rental Tenant means: an income qualified household which is or was a tenant of a below market rate rental unit with an expiring affordability covenant in a market rate development, who may qualify for priority replacement as outlined in Section 2.2 (Priority Point Placement System) or relocation assistance as outlined in Section 6.7



(Terms of Affordability Covenants and Relocation Assistance) of the BMR Manual.

A Special Circumstance Household means: a Displaced Below Market Rate Rental tenant with any of the following characteristics:

- a. At least one (1) member is sixty-two (62) years of age or older
- b. At least one (1) member qualifies as disabled as defined by Title 42, Unit States Code, Section 423, or handicapped as defined by California Health and Safety Code Section 50072.
- c. A household with one (1) or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes).
- d. A household that has occupied their unit as their primary residence for five (5) or more consecutive years.

### **3.6. 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, attached as Exhibit 4. See Section 4.1 for income limits for an ownership unit. See Section 5.1 for income limits for a rental unit.

The HOME Guide is available here: [http://portal.hud.gov/huddoc/19754\\_1780.pdf](http://portal.hud.gov/huddoc/19754_1780.pdf)

24 CFR 5.609 is available here: <https://www.gpo.gov/fdsys/pkg/CFR-2016-title24-vol1/xml/CFR-2016-title24-vol1-sec5-609.xml>

Exhibit 4 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.

#### ***3.6.1. 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:

- For rental applicants, 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. For ownership applicants, this same information is required for the three most recent years.
- Copies of payroll stubs or other verification of employment for the last two

- consecutive months.
- Bank statements for the last two consecutive months (used to verify that the applicant meets asset requirements as defined in Section 3.6 Assets6Assets).

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 and 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

### 3.7. Assets

There are limits to the amount of assets that are used for eligibility for ownership and rental units. See Section 4.2 for asset limits for an ownership unit. See Section 5.2 for asset limits for a rental unit.

#### 3.7.1. Documentation to Support Assets

The table below represents what is included and excluded as assets 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

## 4.0 Ownership Units- Requirements for Buying a BMR Unit

### 4.1. Income Limits

The BMR ownership program is designed to assist first-time median- and moderate-income homebuyers. The BMR ownership 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 ownership program income limits per household size are published annually.

- Median Income (up to 100% AMI)
- Moderate Income (up to 120% AMI)

Current median- and moderate-income ranges are available here: <http://www.cupertino.org/our-city/departments/community-development/housing/affordable-housing-program/bmr-purchase-program>

#### 4.1.1. 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.

#### 4.1.2. Credit Score

All applicants and co-applicants must have a minimum middle (3 credit bureau reporting) FICO credit score of 660. Credit score will be verified at the time of application and the applicant(s) will be responsible for all fees associated with the credit report.

### 4.2. Asset Limit

Households with assets over \$100,000 or 30% of the BMR purchase price, whichever is greater, held in the United States or foreign countries will not be eligible to purchase a BMR home. Excluded from assets are: all non-accessible funds, including any assets that generate a penalty when withdrawn i.e. 401K, CALPERS, STRS, and other pension plans. See Section 3.6 for a definition of assets and a list of documents that must be submitted to support the calculation of assets.

#### ***4.2.1. Minimum Cash Available***

Buyer must contribute a minimum of 3% of their own funds towards down payment. In other words, buyer's Combined Loan to Value Ratio (CLTV) may not exceed 97%. Buyer must contribute a minimum of 5.0% of the BMR purchase price for down payment plus closing costs (gift funds are allowed).

#### ***4.2.2. Gift Funds***

Gift funds for the purchase of a BMR unit will be counted towards the applicant's overall asset limit. Applicant(s) may receive up to 27% of the BMR purchase price in gift funds as evidenced by a gift letter signed by all parties involved.

### **4.3. Definition of First-time Homebuyer**

An applicant must be a first-time homebuyer to be considered for a BMR ownership 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 the United States as well as foreign countries. 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.

### **4.4. Affordable Sale Price Determination**

#### ***4.4.1. 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, Section 6920 of the California Code of Regulations, and most recent published HCD income limits. A 10% down payment and a mortgage interest rate that is the ten (10) year rolling average of 30-year interest rate data provided by Freddie Mac will be assumed when calculating initial pricing.

#### ***4.4.2. 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 Resale Agreement recorded on the title of the existing BMR unit when calculating the BMR resale price.

### **4.5. Financing**

#### ***4.5.1. Lenders***

Prospective purchasers of BMR units must seek and obtain 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.

#### ***4.5.2. 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.

#### ***4.5.3. 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.

### **4.6. Occupancy Conditions**

All owners of BMR units must occupy the premises as his or her principal place of residence for at least ten (10) months out of each calendar year. Each owner shall provide an annual written certification to the City that the owner is occupying the premises as his or her principal place of residence. Any absence from the premises by an owner for a period of sixty (60) or more consecutive days shall be deemed an abandonment of the premises as the principal residence of owner, and the City may declare a default under the Resale Agreement. The City or its agent has the right to review occupancy on a case-by-case basis.

### **4.7. Required Pre-Purchase Education**

After the applicant(s) are placed on the BMR Ownership Waitlist and before closing escrow on a BMR unit, the applicant(s) must attend a BMR pre-purchase education workshop from a qualified HUD approved agency. Certificates of completion must be provided as proof of participation at, or prior to, close of escrow for all adults who will be on title of the property.

### **4.8. 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 5)

- 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, Deed of Trust, and Resale Agreement is to make sure that BMR homes remain affordable to other BMR households upon resale.

The Buyer's Disclosure Statement (Exhibit 5) 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.

#### **4.9. Term of Affordability**

The resale 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.

#### **4.10. Annual Monitoring**

The City or its agent shall monitor compliance of all the requirements of the BMR program, including, but not limited to, occupancy. The owner shall cooperate with the City and provide required certifications and any reasonable requests for supporting documentation to confirm compliance within fifteen (15) days of receipt of a written request by the City. The City or its agent has the right to review occupancy on a case-by-case basis.

##### ***4.10.1. Failure to Submit Annual Certification***

If the City determines that an owner has intentionally made false statements or misrepresented any facts on the annual certification, or if an owner fails 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.

### **5.0 Rental Units- Requirements for Renting a BMR Unit**

#### **5.1. Income Limits**

The BMR rental program is designed to assist very low- and low-income households. In some instances, specific units are restricted to extremely low-income as evidenced in the

project's affordable housing agreement. The BMR rental program uses income limits published by HCD annually for Santa Clara County, per household size. HCD's income limits include the very low- and low-income categories and income limits are adjusted per household size. BMR rental program income limits per household size are published annually.

- Extremely Low-Income (up to 30% AMI)
- Very Low-Income (up to 50% AMI)
- Low Income (up to 80% AMI)

Current very low- and low-income ranges are available here: <http://www.cupertino.org/our-city/departments/community-development/housing/affordable-housing-program/bmr-rental-program>

#### ***5.1.1. Minimum Income Requirements***

A minimum income, determined by each BMR rental property owner and manager, is required of applicants. The minimum income requirement may not exceed a requirement of gross monthly income of over three (3) times the BMR rental rate.

#### ***5.1.2. Co-Signers***

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

### **5.2. Asset Limit**

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. Assets are calculated based on account balances at the time of application.

#### ***5.2.1. Documentation to Support Assets***

The following chart contains the types of assets to be verified and the type of documentation that will be requested. <b>Assets</b>	<b>Documentation</b>
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

### **5.3. Qualification as Renter**

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

### **5.4. 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 extremely low-income units cannot exceed 30% of 30% of the area median income adjusted for the size of the household appropriate for the unit. 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.

### **5.5. Previewing of Unit**

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

### **Living in a BMR Rental Unit**

### **5.6. 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. To qualify as a household member, the Head of Household and Co-Head of Household must occupy the unit as their primary residence for at least 10 months of the year. Any absence from the premises by a Head of Household or Co-Head of Household for a period of sixty (60) or more consecutive days shall be deemed an abandonment of the premises as the principal residence of tenant, and the City may declare a default under the rental restrictions. The City or its agent has the right to review on a case-by-case basis.

### **5.7. 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 materials. 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.

## **5.8. Annual Re-Certification of Income**

At least once a year, the City or its agent shall requalify BMR tenants to verify that they are eligible to remain in BMR rental units. The City or its agent will provide the “BMR Renter Occupancy Certification Form” (Exhibit 5) to apartment owners/property managers. If the BMR renter fails to submit a signed Occupancy Certification Form 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, re-certification shall be based upon the BMR tenant’s household income as determined by, copies of payroll stubs or other verification of employment for the last two consecutive months, prior year tax returns, bank statements for the last two consecutive months, 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 may remain in the unit until 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 (3) months to locate alternate housing and vacate the BMR rental unit. A three (3) month extension may be granted in cases of extreme hardship.

In the event that a tenant no longer meets the household minimum size requirements (see Section 3.1) for their unit, such tenant's household may be moved to a smaller unit when an appropriately sized unit becomes available in the same property, in accordance with the terms of the tenant's lease.

## **5.9. 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.

## **6.0 Requirements of Apartment Owners and Property Managers**

### **6.1. Availability of New Units for Lease**

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

### **6.2. Eligible Prospective Tenants**

All BMR units must be rented to BMR tenants approved by the City or its agent. The services

of this agency shall be funded out of the City's 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 or its agent shall have fourteen (14) days to provide owner with an income eligible candidate(s). In reviewing each candidate, the apartment owner/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 (Section 5.1) and minimum income (Section 5.1.1) requirements.

### **6.3. 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.

### **6.4. Executed Lease Agreement**

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

### **6.5. 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.

### **6.6. Owner/Manager Certification**

Prior to the rental of the first BMR unit on a property, the apartment owner/property manager will sign a Certificate of Receipt of Administrative Procedures Manual (Exhibit 7) with a statement of intent to manage the BMR units according to these procedures. Subsequent apartment owners/property managers may be asked to sign a Certificate of Receipt of Administrative Procedures Manual.

### **6.7. Terms of Affordability Covenants and Relocation Assistance**

The deed restrictions imposed on each BMR unit pursuant to the program shall remain in effect for a specified period 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 period from date of recordation.

Should a tenant of a BMR rental unit vacate their unit within 12 months of either before or after the affordability expiration date into a non-deed restricted unit, the property owner must provide payment to the tenant in the amount equivalent of (3) three months of fair market rent, as determined by the Department of Housing Urban Development (HUD) for the San Jose-Sunnyvale-Santa Clara HUD Metro FMR Area in the Federal Register for that year, to be used for relocation costs. Special Circumstances Households will be paid one (1) additional

month of fair market rent for a maximum of four (4) months rent. Reimbursement must be paid from the property owner to the former tenant within (30) thirty days of the move out date. To the extent the terms of this Manual and the Regulatory Agreement are inconsistent, the most restrictive term will apply.

## **6.8. Tenant Displacement Noticing Requirements**

The property owner shall be responsible for sending notice of intent to re-establish the initial rental rate to tenants of expiring BMR rental units no later than (120) one hundred and twenty days prior to the expiration date of the unit. The notice shall be sent by regular and certified mail and posted on the door of each rental unit. The landlord must submit evidence of compliance with this section to the city in order for this requirement to be deemed complete.

For each such notice, the landlord shall use a notice of intent form prepared by the property owner and approved by the City (1) one week prior to noticing and shall contain the following information:

1. The name and address of the current property owner and the project developer.
2. The new monthly initial rental rate the owner intends to establish upon expiration of the affordability covenant, and the date in which it takes effect.
3. An explanation of the relocation assistance available to eligible households and special circumstances households and the procedure for receiving relocation assistance (that it will be sent directly to them within 30 days of vacating the unit if they choose to vacate the unit within 12 months before or after the expiration date).
4. Other information deemed necessary or desirable by the Director of Community Development.

## **6.9. Enforcement and Failure to Comply**

Should a landlord fail to comply with any requirement of Section 6.7 (Terms of Affordability Covenants and Relocation Assistance) the tenant may seek injunctive relief and money damages for failure to pay relocation assistance. The prevailing party in an action for failure to pay relocation assistance shall recover costs and reasonable attorneys' fees. Should a landlord fail to comply with the noticing requirements of Government Code 65863.10, which require that noticing be provided to tenants on HCD approved forms regarding their expiring units at (3) three years, (12) months, and (6) six months prior to the anticipated date of termination of a subsidy contract, the tenant will be granted injunctive relief through imposition of the prior restrictions until any required notice is provided and the required period has elapsed. Similarly, should a landlord fail to comply with any requirement of Section 6.8 (Tenant Displacement Noticing Requirements) the tenant will be granted injunctive relief through reimposition of the prior restrictions until any required notice is provided and the required period has elapsed.

No owner shall take action to terminate any tenancy or otherwise recover possession of a residential real property in retaliation for the tenant reporting violations of this Section, for reporting violations of health, safety, and habitability codes and laws, for exercising rights

granted under this Section, or for forming or participating in a tenant organization.

## **6.10. Terms of Lease**

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. Each BMR unit shall be leased under a form of tenant lease approved by the City. The tenant lease shall, among other matters:

- Provide for termination of the lease for failure: (1) to provide any information required under the Regulatory Agreement or reasonably requested by the apartment owner/property manager to establish or recertify the tenant's qualification, or the qualification of the tenant's household, for occupancy of the BMR unit, or (2) to income qualify as a result of any material misrepresentation made by such tenant with respect to the income computation or certification;
- Be for an initial term of not less than one (1) year. After the initial year of tenancy, the lease may be month to month by mutual agreement of the apartment owner/property manager and the tenant, however the rent may not be raised more often than once every twelve (12) months after such initial year. The apartment owner/property manager will provide each tenant with at least sixty (60) days' written notice of any increase in rent applicable to such tenant;
- Prohibit subleasing of the BMR unit or any portion of the BMR unit, contain nondiscrimination provisions, and include the tenant's obligation to inform the property manager of any need for maintenance or repair;
- Allow termination of the tenancy only for an increase in tenant's household income above qualifying income or for good cause, including violation of the terms and conditions of the tenant lease, violations of house rules, non-payment of rent, violations of applicable federal, state, or local law, or other good cause;
- Include, at the apartment owner's option, the obligation for the tenant to provide a security deposit not exceeding two (2) months' rent; and
- Otherwise conform to this Manual.

## **6.11. Occupancy Requirements**

The apartment 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.

## **7.0 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 ten (10) days of the date 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 ten (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 ten (10) days of the date of the decision. The appeal will be heard by a qualified Third-Party Hearing Officer within thirty (30) days from the date of receipt of the written appeal. The Third-Party Hearing Officer's decision on the appeal is final.

The sale or rent 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.

## **8.0 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 Restrictions, Rental Restrictions, and requests for notice.

**Exhibit 1**  
**City of Cupertino & RISE Housing**  
**Below Market Rate (BMR) Program**  
**Waitlist Application**  
**Instructions**

The City of Cupertino and their Agent, Rise Housing, are 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.

**WAITLIST APPLICATION PROCESS:**

- Please read the instructions completely, determine your eligibility and complete the enclosed BMR Waitlist Application. Incomplete and late Waitlist Applications will not be processed.
- Applicants who were on the waitlist in previous years must re-apply to be eligible for the 2018 waitlist.
- Current City of Cupertino BMR tenants **are not eligible** for the 2025 BMR **Rental** Waitlist.
- Current City of Cupertino BMR tenants **are eligible** for the 2025 BMR **Ownership** Waitlist.
- Completed Waitlist Applications must be received by **Friday, October 31, 2025 by 5:00pm**. Applications may be mailed, faxed, emailed or completed online. Applications must be received by the deadline, postmarks will not be accepted.
- Rise Housing will review your Waitlist Application 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 lottery will be held to determine the ranking order within each priority ranking (4, 3, 2, 1, or 0).
- All candidates will be emailed or 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.

**WAITLIST APPLICATION:**

Please note that all information provided on the Waitlist Application 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 Hello Housing updated throughout the year of any changes in information supplied.

**Household Size:** The total number of individuals who will be living in the unit (including children). Children must reside in the household at least 50% of the time to be considered part of the household.

**Income Limits to Qualify for BMR Program:** See charts below. The amounts listed are gross (before taxes are taken out).

<b>BMR Purchase Program- 2024</b>						
<b>Housing &amp; Community Development (HCD) Maximum Income Limits*</b>						
Household Size	1	2	3	4	5	6
Median Income	\$129,000	\$147,450	\$165,850	\$184,300	\$199,050	\$213,800
Moderate Income	\$154,800	\$176,900	\$199,050	\$211,150	\$238,850	\$256,550

*\*Income Limits will be Updated Each Year by HCD*

**Assets for Purchase Program:** Households with 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. An exception will be made for people who were homeowners prior to a divorce or legal separation.

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. Pricing will vary based on income limits and bedroom counts but a minimum of \$12,500 would be needed to qualify.

<b>BMR Rental Program- 2024 Housing &amp; Community Development (HCD) Maximum Income Limits*</b>						
Household Size	1	2	3	4	5	6
Very-Low Income	\$64,550	\$73,750	\$82,950	\$92,150	\$99,550	\$106,900
Low Income	\$102,300	\$116,900	\$131,500	\$146,100	\$157,800	\$169,500

*\*Income Limits will be Updated Each Year by HCD*

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

Income Minimum: Individual properties may have minimum income limits to qualify which will be disclosed prior to viewing the home.

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 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 Cupertino; or
  - Own or operate a business in the 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 Cupertino. (e.g.: Cupertino Unified School District (Cupertino schools only), City of Cupertino)

**PLEASE SUBMIT ONE WAITLIST APPLICATION PER HOUSEHOLD.  
DUPLICATE APPLICATIONS WILL RESULT IN AN AUTOMATIC DISQUALIFICATION.**

**QUESTIONS? Contact Hello Housing at [brook@hellohousing.org](mailto:brook@hellohousing.org) or (415) 742-8610**

**Deadline to Submit Waitlist Applications: Friday, October 31, 2025 at 5:00pm.**

**Email: [cupertino@risehousing.com](mailto:cupertino@risehousing.com) Phone: (415) 301-5448**

**Mail to the RISE Housing office: Rise Housing – City of Cupertino 1990 N California Blvd, Walnut Creek, CA 94596 Applications must be received by deadline. Postmarks not accepted.**

**Online: <https://www.risehousing.com/>**

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



CUPERTINO

## 2025 WAITLIST APPLICATION

City of Cupertino – Rise Housing Below  
Market Rate (BMR) Program

*Please read the Waitlist Instructions before completing.*

Check only one box: ☐ Rent ☐ Purchase ☐ Both (Rent & Purchase)

APPLICANT		Please Print Clearly
First Name		Email
Last Name		Employer
Current Address		Are you a current Cupertino BMR Rental tenant? YES/NO
City	State	Were you on the 2017 BMR Waitlist? YES/NO
Zip	Phone	Total # of Household Members:
Total <u>Annual</u> Household Gross Income: (Before taxes are taken out) \$		Estimated Value of Net Assets: \$ (Checking, savings, stocks, bonds, and/or CD accounts)
Have any members of the household been listed on a primary residential property title, at any time, in the past three (3) years? <i>Exception made for divorced or legally separated homeowners. Please indicate if an exception is needed.</i>		<b>Circle One:</b> YES or NO
<b>PRIORITY POINTS- circle all that apply</b>		<b>Circle One:</b>
1. 1 Point- Are any members of the household currently living in Cupertino? <i>If yes, please specify address:</i>		YES or NO
2. 2 Points- Are any members of the household currently employed in the City of Cupertino? <i>If yes, please specify employer, address, &amp; position:</i>		YES or NO
3. 1 Point- Are any members of the household currently employed at a <u>public agency</u> in the City of Cupertino? <i>If yes, please specify employer, address, &amp; position:</i>		YES or NO
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.		
<b>X</b>		
Signature		Signature Required.
		Date
Deadline: October 31, 2025 5:00pm		October 2025



## Exhibit 2



### Below Market Price (BMR) - Ownership Application

*This certification includes required information as well as optional information. Unless a section is labeled "Optional" it is a required section and must be completed. We encourage households to complete all sections. Answers to optional questions are confidential and will NOT impact your eligibility. In aggregate, the collective answers from the pool of households will help Hello Housing better understand who benefits from affordable housing programs and to advocate to policy makers for effective programs.*

Current Address	_____	Date	_____
City	_____		
State	_____		
Zip Code	_____		

### Head of Household & Co-Head of Household

*Below, please provide details for the Head of Household and Co-Head of Household.*

#### Head of Household

*Please note that Head(s) of Household must be an adult (18 years or older).*

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Primary Language	_____

#### Co-Head of Household (If Applicable)

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Primary Language	_____

### Additional Household Members

*Below, please provide information on any other members of your household, such as children, grandparents, or other adults in the household who are full or part time residents (if applicable). This information helps calculate your household size.*

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____



## BMR Priority Point Questionnaire

Please provide accurate information. 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.

<input type="checkbox"/>	I am a CURRENT CITY of CUPERTINO RESIDENT - 1 POINT
	• Households applying under the priority description RESIDENT shall provide proof of residency in Cupertino.
<input type="checkbox"/>	I am currently working in the CITY of CUPERTINO - 2 POINTS
	• A current paystub with Cupertino address or letter of verification from your employer shall serve as sufficient proof.
<input type="checkbox"/>	I am working in the CITY of CUPERTINO AT PUBLIC AGENCY - 1 POINT
	• A current paystub with Cupertino address or letter of verification from your employer shall serve as sufficient proof.

### Other Priorities

<input type="checkbox"/>	I have been displaced from rental housing in Cupertino by public or private redevelopment - HIGHEST PRIORITY
	• A letter verifying your displacement.
<input type="checkbox"/>	I have a disability and request an accessible unit when ones becomes available



# Economic Profile

Please provide accurate information. Income eligibility will be determined based on the gross combined household income and will be verified based on the supporting documentation requested at the end of this certification.

## Head of Household \_\_\_\_\_

### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

## Co-Head of Household \_\_\_\_\_

### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

## Household Member \_\_\_\_\_

### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

## Household Member \_\_\_\_\_

### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

## Household Member \_\_\_\_\_

### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

## Household Member \_\_\_\_\_

### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____



# Household Assets

Please list the current value of all assets of all members of the household aged 18 and older. If zero, please write "0" in the blank. Please include an account description and last 4 digits of the account number (for example, Bank of America #4567).

## Combined Household Assets

	Value of Assets	Description & Last 4 Digits of Account Number (if applicable)
Checking Accounts	\$	
		(continued)
Savings Accounts	\$	
		(continued)
Retirement Accounts	\$	
		(continued)
Investments	\$	
Real Estate	\$	
CDs (Certificates of Deposit)	\$	
Gift Money	\$	
Other	\$	



## Demographics (Optional)

Demographic information is not a criteria in the certification process, but provides a clearer picture on who may benefit from affordable housing opportunities and can help advocates of affordable housing make the case to policymakers.

### Head of Household

Race	<input type="checkbox"/>	American Indian or Alaska Native
	<input type="checkbox"/>	Asian
	<input type="checkbox"/>	Black or African American
	<input type="checkbox"/>	Native Hawaiian or Pacific Islander
	<input type="checkbox"/>	White
	<input type="checkbox"/>	American Indian AND White
	<input type="checkbox"/>	Asian AND White
	<input type="checkbox"/>	Black or African American AND White
	<input type="checkbox"/>	American Indian AND Black
	<input type="checkbox"/>	Other multiple races
Ethnicity	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Non-Hispanic
Female Headed Household	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Marital Status	<input type="checkbox"/>	Single
	<input type="checkbox"/>	Married/Domestic Partnership
	<input type="checkbox"/>	Separated
	<input type="checkbox"/>	Divorced
	<input type="checkbox"/>	Widowed
Education	<input type="checkbox"/>	Less than high-school diploma
	<input type="checkbox"/>	High-school diploma or equivalent
	<input type="checkbox"/>	Some post-secondary education
	<input type="checkbox"/>	Certification from training program
	<input type="checkbox"/>	Associate's degree
	<input type="checkbox"/>	Bachelor's degree
	<input type="checkbox"/>	Master's or other graduate degree
Employment Status	<input type="checkbox"/>	Self-Employed
	<input type="checkbox"/>	Work Full-Time for Employer
	<input type="checkbox"/>	Work Part-Time for Employer
	<input type="checkbox"/>	Homemaker
	<input type="checkbox"/>	Full-Time Student
	<input type="checkbox"/>	Permanently unable to work
	<input type="checkbox"/>	Unemployed and seeking work
	<input type="checkbox"/>	Unemployed and not seeking work
	<input type="checkbox"/>	Retired
Veteran	<input type="checkbox"/> Yes	<input type="checkbox"/> No

### Co-Head of Household

Race	<input type="checkbox"/>	American Indian or Alaska Native
	<input type="checkbox"/>	Asian
	<input type="checkbox"/>	Black or African American
	<input type="checkbox"/>	Native Hawaiian or Pacific Islander
	<input type="checkbox"/>	White
	<input type="checkbox"/>	American Indian AND White
	<input type="checkbox"/>	Asian AND White
	<input type="checkbox"/>	Black or African American AND White
	<input type="checkbox"/>	American Indian AND Black
	<input type="checkbox"/>	Other multiple races
Ethnicity	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Non-Hispanic
Female Headed Household	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Marital Status	<input type="checkbox"/>	Single
	<input type="checkbox"/>	Married/Domestic Partnership
	<input type="checkbox"/>	Separated
	<input type="checkbox"/>	Divorced
	<input type="checkbox"/>	Widowed
Education	<input type="checkbox"/>	Less than high-school diploma
	<input type="checkbox"/>	High-school diploma or equivalent
	<input type="checkbox"/>	Some post-secondary education
	<input type="checkbox"/>	Certification from training program
	<input type="checkbox"/>	Associate's degree
	<input type="checkbox"/>	Bachelor's degree
	<input type="checkbox"/>	Master's or other graduate degree
Employment Status	<input type="checkbox"/>	Self-Employed
	<input type="checkbox"/>	Work Full-Time for Employer
	<input type="checkbox"/>	Work Part-Time for Employer
	<input type="checkbox"/>	Homemaker
	<input type="checkbox"/>	Full-Time Student
	<input type="checkbox"/>	Permanently unable to work
	<input type="checkbox"/>	Unemployed and seeking work
	<input type="checkbox"/>	Unemployed and not seeking work
	<input type="checkbox"/>	Retired
Veteran	<input type="checkbox"/> Yes	<input type="checkbox"/> No



## Supporting Documentation

Please provide supporting documentation for EVERY ADULT MEMBER OF THE HOUSEHOLD AGED 18 AND OVER. All documents must be legible to be considered. To help keep you organized, we recommend you print a copy of this checklist for each adult household member to use as a Table of Contents.

A. Proof of Identify: ☐ One form of legal identification for every adult *Required* Check below for which form of ID provided.  
☐ CA Drivers License ☐ CA Identification Card ☐ US Passport

B. Social Security Card ☐ Social Security Card *Required* Please contact Social Security at (800) 772-1213 if you cannot locate.

C. Documentation of Employment Income *Required* Please contact your Human Resources department if you cannot locate.

If employed, provide your most recent consecutive paystubs for the past two (2) months.

<input type="checkbox"/>	1. Dates covered by paycheck:	_____ to _____
<input type="checkbox"/>	2. Dates covered by paycheck:	_____ to _____
<input type="checkbox"/>	3. Dates covered by paycheck:	_____ to _____
<input type="checkbox"/>	4. Dates covered by paycheck:	_____ to _____

OR

If self-employed:

<input type="checkbox"/> A year-to-date Profit & Loss statement	<input type="checkbox"/> Not Applicable
---	---

D. Two (2) months of documentation for any other income *Required if applicable*

<input type="checkbox"/> Child Support	<input type="checkbox"/> Pension	<input type="checkbox"/> Foster Care
<input type="checkbox"/> Social Security	<input type="checkbox"/> Alimony	<input type="checkbox"/> Gift letter (if applicable)
<input type="checkbox"/> SSI	<input type="checkbox"/> Long Term Disability	<input type="checkbox"/> Other (please describe)

OR

☐ Zero Income Affidavit

E. Three (3) most recent Federal Tax Returns OR Verification of Non-Filing *Required*

Please contact the IRS at (800) 829-1040 if you cannot locate your returns.

If you did NOT file taxes, contact the IRS at (800) 829-1040 and request a "Verification of Non-Filing."

<input type="checkbox"/> Three (3) Most Recent 1040 Federal Tax Returns (include ALL pages)	or	<input type="checkbox"/> Verification of Non-Filing (if applicable)
---	----	---

F. Three (3) most recent W-2's *Required if issued W-2s*

Please contact your Human Resources department if you cannot locate. You may also call the IRS at (800) 829-1040.

<input type="checkbox"/> Most recent W-2s or 1099s	Should cover all reported income in same year's tax return
<input type="checkbox"/> Not Applicable	

G. Last two (2) consecutive statements from ALL Financial Accounts\* *Required*

Computer printouts are acceptable ONLY if they contain a complete account number, begin & end balances, and begin & end dates.

Please include statements for ALL OPEN accounts, even if they contain a \$0 balance. Check Not Applicable if you do not have such accounts.

<input type="checkbox"/>	Most recent two (2) consecutive Bank Statements
<input type="checkbox"/>	Most recent two (2) consecutive statements for Retirement Accounts (401k, IRA, etc.)
<input type="checkbox"/>	Most recent two (2) consecutive statements for Stocks, Mutual Funds, Profit Sharing accounts
<input type="checkbox"/>	Most recent two (2) statements for CDs, Money Market accounts, etc.
<input type="checkbox"/>	Not Applicable

H. Proof of Student Status *Required if applicable*

<input type="checkbox"/>	Copy of Current Registration <u>OR</u> an Unofficial Transcript
<input type="checkbox"/>	Not Applicable

I. PreQualification

<input type="checkbox"/>	PreQualification Letter from Lender
--------------------------	-------------------------------------

## Signature Page

Please have each adult, aged 18 and over, in the household print their name, sign, and date this page.

I certify that the foregoing application accurately reflects all income received from all sources for all members of the household.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. I further understand that providing false representations herein constitutes an act of fraud and that false, misleading, or incomplete information may result in the termination of real estate documents related to this application (28 U.S. Code 1746).

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



Rise Housing and the City of Cupertino do not discriminate against any persons on the grounds of race, color, religion, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, marital status, familial status, source of income,



## Exhibit 3



### Below Market Price (BMR) - Rental Application

This certification includes required information as well as optional information. Unless a section is labeled "Optional" it is a required section and must be completed. We encourage households to complete all sections. Answers to optional questions are confidential and will NOT impact your eligibility. In aggregate, the collective answers from the pool of households will help Hello Housing better understand who benefits from affordable housing programs and to advocate to policy makers for effective programs.

Current Address	_____	Date	_____
City	_____		
State	_____		
Zip Code	_____		

### Head of Household & Co-Head of Household

Below, please provide details for the Head of Household and Co-Head of Household.

#### Head of Household

Please note that Head(s) of Household must be an adult (18 years or older).

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Primary Language	_____

#### Co-Head of Household (If Applicable)

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Primary Language	_____

### Additional Household Members

Below, please provide information on any other members of your household, such as children, grandparents, or other adults in the household who are full or part time residents (if applicable). This information helps calculate your household size.

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____

#### Household Member

First Name	_____
Last Name	_____
Phone	_____
Alternate Phone	_____
Email	_____
Date of Birth	_____
Relationship to household	_____
Primary Language	_____





## BMR Priority Point Questionnaire

Please provide accurate information. 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.

<input type="checkbox"/>	I am a CURRENT CITY of CUPERTINO RESIDENT - 1 POINT
	• Households applying under the priority description RESIDENT shall provide proof of residency in Cupertino.
<input type="checkbox"/>	I am currently working in the CITY of CUPERTINO - 2 POINTS
	• A current paystub with Cupertino address or letter of verification from your employer shall serve as sufficient proof.
<input type="checkbox"/>	I am working in the CITY of CUPERTINO AT PUBLIC AGENCY - 1 POINT
	• A current paystub with Cupertino address or letter of verification from your employer shall serve as sufficient proof.

### Other Priorities

<input type="checkbox"/>	I have been displaced from rental housing in Cupertino by public or private redevelopment - HIGHEST PRIORITY
	• A letter verifying your displacement.
<input type="checkbox"/>	I have a disability and request an accessible unit when ones becomes available



## Economic Profile

Please provide accurate information. Income eligibility will be determined based on the gross combined household income and will be verified based on the supporting documentation requested at the end of this certification.

### Head of Household \_\_\_\_\_

#### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

### Co-Head of Household \_\_\_\_\_

#### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

### Household Member \_\_\_\_\_

#### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

### Household Member \_\_\_\_\_

#### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

### Household Member \_\_\_\_\_

#### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____

### Household Member \_\_\_\_\_

#### Annual Income (before taxes)

From Full-Time Employment	\$ _____
From Part-Time Employment	\$ _____
From Self-Employment	\$ _____
From Spousal Support	\$ _____
From Child Support	\$ _____
Investment Income	\$ _____
Social Security Income	\$ _____
SSDI	\$ _____
Income from Assets (e.g. rental income)	\$ _____
Other	\$ _____
<b>TOTAL</b>	\$ _____



CUPERTINO

## Household Assets

Please list the current value of all assets of all members of the household aged 18 and older. If zero, please write "0" in the blank. Please include an account description and last 4 digits of the account number (for example, Bank of America #4567).

### Combined Household Assets

	Value of Assets	Description & Last 4 Digits of Account Number (if applicable)
Checking Accounts	\$ _____	_____ (continued) _____
Savings Accounts	\$ _____	_____ (continued) _____
Retirement Accounts	\$ _____	_____ (continued) _____
Investments	\$ _____	_____
Real Estate	\$ _____	_____
CDs (Certificates of Deposit)	\$ _____	_____
Gift Money	\$ _____	_____
Other	\$ _____	_____



## Demographics (Optional)

Demographic information is not a criteria in the certification process, but provides a clearer picture on who may benefit from affordable housing opportunities and can help advocates of affordable housing make the case to policymakers.

### Head of Household

Race	<input type="checkbox"/>	American Indian or Alaska Native		
	<input type="checkbox"/>	Asian		
	<input type="checkbox"/>	Black or African American		
	<input type="checkbox"/>	Native Hawaiian or Pacific Islander		
	<input type="checkbox"/>	White		
	<input type="checkbox"/>	American Indian AND White		
	<input type="checkbox"/>	Asian AND White		
	<input type="checkbox"/>	Black or African American AND White		
	<input type="checkbox"/>	American Indian AND Black		
	<input type="checkbox"/>	Other multiple races		
Ethnicity	<input type="checkbox"/>	Hispanic	<input type="checkbox"/>	Non-Hispanic
Female Headed Household	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Marital Status	<input type="checkbox"/>	Single		
	<input type="checkbox"/>	Married/Domestic Partnership		
	<input type="checkbox"/>	Separated		
	<input type="checkbox"/>	Divorced		
	<input type="checkbox"/>	Widowed		
Education	<input type="checkbox"/>	Less than high-school diploma		
	<input type="checkbox"/>	High-school diploma or equivalent		
	<input type="checkbox"/>	Some post-secondary education		
	<input type="checkbox"/>	Certification from training program		
	<input type="checkbox"/>	Associate's degree		
	<input type="checkbox"/>	Bachelor's degree		
	<input type="checkbox"/>	Master's or other graduate degree		
Employment Status	<input type="checkbox"/>	Self-Employed		
	<input type="checkbox"/>	Work Full-Time for Employer		
	<input type="checkbox"/>	Work Part-Time for Employer		
	<input type="checkbox"/>	Homemaker		
	<input type="checkbox"/>	Full-Time Student		
	<input type="checkbox"/>	Permanently unable to work		
	<input type="checkbox"/>	Unemployed and seeking work		
	<input type="checkbox"/>	Unemployed and not seeking work		
	<input type="checkbox"/>	Retired		
Veteran	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

### Co-Head of Household

Race	<input type="checkbox"/>	American Indian or Alaska Native		
	<input type="checkbox"/>	Asian		
	<input type="checkbox"/>	Black or African American		
	<input type="checkbox"/>	Native Hawaiian or Pacific Islander		
	<input type="checkbox"/>	White		
	<input type="checkbox"/>	American Indian AND White		
	<input type="checkbox"/>	Asian AND White		
	<input type="checkbox"/>	Black or African American AND White		
	<input type="checkbox"/>	American Indian AND Black		
	<input type="checkbox"/>	Other multiple races		
Ethnicity	<input type="checkbox"/>	Hispanic	<input type="checkbox"/>	Non-Hispanic
Female Headed Household	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Marital Status	<input type="checkbox"/>	Single		
	<input type="checkbox"/>	Married/Domestic Partnership		
	<input type="checkbox"/>	Separated		
	<input type="checkbox"/>	Divorced		
	<input type="checkbox"/>	Widowed		
Education	<input type="checkbox"/>	Less than high-school diploma		
	<input type="checkbox"/>	High-school diploma or equivalent		
	<input type="checkbox"/>	Some post-secondary education		
	<input type="checkbox"/>	Certification from training program		
	<input type="checkbox"/>	Associate's degree		
	<input type="checkbox"/>	Bachelor's degree		
	<input type="checkbox"/>	Master's or other graduate degree		
Employment Status	<input type="checkbox"/>	Self-Employed		
	<input type="checkbox"/>	Work Full-Time for Employer		
	<input type="checkbox"/>	Work Part-Time for Employer		
	<input type="checkbox"/>	Homemaker		
	<input type="checkbox"/>	Full-Time Student		
	<input type="checkbox"/>	Permanently unable to work		
	<input type="checkbox"/>	Unemployed and seeking work		
	<input type="checkbox"/>	Unemployed and not seeking work		
	<input type="checkbox"/>	Retired		
Veteran	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No



## Supporting Documentation

Please provide supporting documentation for EVERY ADULT MEMBER OF THE HOUSEHOLD AGED 18 AND OVER. All documents must be legible to be considered. To help keep you organized, we recommend you print a copy of this checklist for each adult household member to use as a Table of Contents.

A. Proof of Identify: ☐ One form of legal identification for every adult Required Check below for which form of ID provided.

☐ CA Drivers License ☐ CA Identification Card ☐ US Passport

B. Social Security Card ☐ Social Security Card Required Please contact Social Security at (800) 772-1213 if you cannot locate.

C. Documentation of Employment Income Required Please contact your Human Resources department if you cannot locate.

If employed, provide your most recent consecutive paystubs for the past two (2) months.

- ☐ 1. Dates covered by paycheck: \_\_\_\_\_ to \_\_\_\_\_
- ☐ 2. Dates covered by paycheck: \_\_\_\_\_ to \_\_\_\_\_
- ☐ 3. Dates covered by paycheck: \_\_\_\_\_ to \_\_\_\_\_
- ☐ 4. Dates covered by paycheck: \_\_\_\_\_ to \_\_\_\_\_

OR

If self-employed:

☐ A year-to-date Profit & Loss statement ☐ Not Applicable

D. Two (2) months of documentation for any other income Required if applicable

- ☐ Child Support ☐ Pension ☐ Foster Care
- ☐ Social Security ☐ Alimony ☐ Gift letter (if applicable)
- ☐ SSI ☐ Long Term Disability ☐ Other (please describe) \_\_\_\_\_
- OR
- ☐ Zero Income Affidavit

E. Most recent of Federal Tax Returns OR Verification of Non-Filing Required

Please contact the IRS at (800) 829-1040 if you cannot locate your returns.

If you did NOT file taxes, contact the IRS at (800) 829-1040 and request a "Verification of Non-Filing."

☐ Most Recent 1040 Federal Tax Return (include ALL pages) or ☐ Verification of Non-Filing (if applicable)

F. Most recent W-2's Required if issued W-2s

Please contact your Human Resources department if you cannot locate. You may also call the IRS at (800) 829-1040.

☐ Most recent W-2s or 1099s Should cover all reported income in same year's tax return

☐ Not Applicable

G. Last two (2) consecutive statements from ALL Financial Accounts\* Required

Computer printouts are acceptable ONLY if they contain a complete account number, begin & end balances, and begin & end dates.

Please include statements for ALL OPEN accounts, even if they contain a \$0 balance. Check Not Applicable if you do not have such accounts.

- ☐ Most recent two (2) consecutive Bank Statements
- ☐ Most recent two (2) consecutive statements for Retirement Accounts (401k, IRA, etc.)
- ☐ Most recent two (2) consecutive statements for Stocks, Mutual Funds, Profit Sharing accounts
- ☐ Most recent two (2) statements for CDs, Money Market accounts, etc.
- ☐ Not Applicable

H. Proof of Student Status Required if applicable

☐ Copy of Current Registration OR an Unofficial Transcript

☐ Not Applicable

## Signature Page

Please have each adult, aged 18 and over, in the household print their name, sign, and date this page.

I certify that the foregoing application accurately reflects all income received from all sources for all members of the household.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. I further understand that providing false representations herein constitutes an act of fraud and that false, misleading, or incomplete information may result in the termination of real estate documents related to this application (28 U.S. Code 1746).

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



Rise Housing and the City of Cupertino do not discriminate against any persons on the grounds of race, color, religion, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, marital status, familial status, source of income, genetic information, medical condition, physical disability or mental disability, or any other category protected by law.



## **Exhibit 4**

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.

(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.

### **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.

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

<b>Steps</b>	<b>Instruction</b>
<b>Step 1:</b> 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.")
<b>Step 2:</b> 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.
<b>Step 3:</b> 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: <a href="http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/index/cfm">www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/index/cfm</a> . 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 5

### CITY OF CUPERTINO INCLUSIONARY HOUSING PROGRAM BUYER'S DISCLOSURE STATEMENT

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.<sup>1</sup>**

---

<sup>1</sup> 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 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	<u>54,560</u>
	result (\$54,560) to (a)	\$395,560
(c)	Appraised Value (not cost) of Eligible Capital Improvements	<u>+ 3,000</u>
	<b><u>INDEXED PRICE</u></b>	<b>\$398,560</b>

## 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.

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

\$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)	<u>- 398,500</u>
<b>Amount of Excess Sales Proceeds You Pay to City</b>	<b><u>\$101,500</u></b>

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: \_\_\_\_\_  
Signature of Buyer

\_\_\_\_\_  
Print Name of Buyer



CUPERTINO

Exhibit 6- City of Cupertino Housing Mitigation Program

**BMR RENTER OCCUPANCY CERTIFICATION**

Property Name: \_\_\_\_\_

Property Owner: \_\_\_\_\_

Address of BMR Unit: \_\_\_\_\_

Head of Household Name: \_\_\_\_\_

Co-Head of Household Name(if applicable): \_\_\_\_\_

**Instructions to BMR Renter and Property Manager:** Please complete this form and return, along with a copy of the updated lease agreement, to RISE Housing.

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 \_\_\_\_\_ (**print 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 \_\_\_\_\_ (**print address**) as my/our principal place of residence and that I/we have occupied the Premises for **at least 10 months of the previous year**. I further certify that there are no additional occupants residing in the unit.



City of Cupertino Housing Mitigation Program

**BMR RENTER OCCUPANCY CERTIFICATION**

**Signature of Household Adults:**

**Date:**

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_

**TO BE COMPLETED BY THE PROPERTY OWNER OR MANAGER**

By signature below, I \_\_\_\_\_ (Print 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 or Manager:**

**Date:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Company Name)

Return this completed form either by email, fax, or mail as follows:

Email: [cupertino@risehousing.com](mailto:cupertino@risehousing.com)

Phone: (415) 301-5448

Mail: Rise Housing – City of Cupertino 1990 N  
California Blvd, Walnut Creek, CA 94596



Exhibit 7- City of Cupertino Housing Mitigation Program

**Certification of Receipt of Policy and Procedures Manual for  
Administering Deed Restricted Affordable Housing Units- Rental  
Property Owner's and/or Managing Agent**

*The undersigned received a copy of the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units (BMR Manual) for the City of Cupertino's Below Market Rate (BMR) Housing Mitigation Program. Further, the undersigned understand that the BMR Manual requires compliance with the requirements described in the Procedures.*

Development Name: \_\_\_\_\_

Site Address: \_\_\_\_\_

Property Owner

Co-Owner

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Property Manager or Owner's Managing Agent

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date



**EXHIBIT 8-**  
**BELOW MARKET RATE (BMR) ADDENDUM TO LEASE CONTRACT**

Date of Lease Contract: \_\_\_\_\_

Unit Number: \_\_\_\_\_

Address: \_\_\_\_\_

Resident(s) name(s) \_\_\_\_\_

This Below Market Rate Addendum ("BMR Addendum") is made part of the Lease Contract ("Lease") dated as of the Lease Date referenced above between the Resident(s) named above (all individuals identified above are individually and collectively referred to herein as "Resident") and \_\_\_\_\_ ("Owner") for the real property located at the Address listed above in the Unit Number listed above (the "Premises"). This BMR Addendum is in addition to all terms and conditions contained in the Lease, and all attachments to the Lease, which shall remain the same and in full force and effect except as modified in this BMR Addendum. To the extent that the terms of this BMR Addendum conflict with those of the Lease, this Addendum shall control.

1. **BMR Program.** Resident understands and acknowledges that the Premises is operated in accordance with an Agreement Containing Covenants and Restrictions (Including Declaration of Resale Controls) ("Agreement") between the Owner and the City of Cupertino ("City"). The Premises and the Lease are subject to various laws, rules, and regulations governing the affordable housing component of the Below Market Rate Rental Program (hereinafter referred to as the "BMR Program"). Resident understands and agrees that this BMR Addendum and/or the Lease may be amended at any time upon thirty (30) days' notice as necessary to ensure compliance with all laws, rules, regulations, and agreements governing the BMR Program and/or the Premises.
2. **BMR Program Eligibility.** Resident understands and acknowledges that Resident's eligibility to qualify for a unit under the BMR Program and occupy the Premises is based on, among other criteria, information provided by Resident to the City or its Designee, including information regarding Resident's household income and assets and Resident's household size. Prior to approving Resident for a BMR Unit, and not less frequently than annually thereafter, the City or its Designee must obtain a certification from Resident demonstrating that the household is an Extremely Low Income, Very Low Income or Low Income household, as such limits are defined by the Agreement and/or BMR Program Policies and Procedures Manual, and meets the specific eligibility and occupancy requirements established for the Premises.
3. **Misstatements on Application or Certification Forms.** Resident has completed an application and income certification and household composition forms in connection with securing the Lease. Resident represents that all information provided to Owner and the City or its Designee is true, complete and correct to the best of Resident's knowledge. The City or its Designee has relied upon the statements set forth in those documents in deciding to rent the Premises to Resident and in determining Resident's eligibility for the BMR Program. It is agreed that, should Owner or the City or its Designee subsequently discover any misstatements or omissions of fact in the Resident's application or on any certification forms, any such misstatements or omissions shall be deemed a material and incurable breach of the Lease and shall entitle Owner to serve Resident with a notice terminating the tenancy.
4. **Annual Recertification.** Resident's eligibility for housing under the BMR Program must be certified each year. Resident agrees to fully cooperate in the recertification process including timely providing to City or its Designee all necessary information regarding household income and household composition, as well as signing all necessary verifications, authorizations, and other forms relating to the recertification process. Failure to provide accurate and timely information required for recertification will constitute a material breach of the Lease and may lead to the termination of the tenancy.
5. **Change in Occupants.** Resident understands and agrees that additional occupants will be allowed and/or disallowed in accordance with income guidelines per the BMR Program Policies and Procedures Manual, Owner's occupancy standards, and applicable laws. Before any change in occupancy occurs, Resident must receive written permission from the City or its Designee and Owner.
6. **Disclosure of Information Provided.** Resident understands information provided by Resident to Owner may be subject to inspection by the City, its Designee, or certain government agencies or their agents who may have oversight over the BMR Program and/or Owner. Resident hereby authorizes representatives of any of these entities to receive and review any information supplied by Resident to any of the others in connection with BMR Program eligibility, the Lease, or Resident's tenancy.
7. **Inspection of Premises and Conformity with BMR Program Manual.** Resident hereby affirms the City's authority to conduct, or have conducted by its Designee, reasonable inspections of the Premises and to take any actions otherwise necessary to conform to the BMR Program Policy and Procedures Manual.

8. **Termination.** The Lease may only be terminated for one or more of the following reasons: (a) failure of Resident to qualify as eligible under the BMR Program due to misstatements or omissions of fact in the Resident's application or any certification forms; (b) failure to provide any information required reasonably requested by the City or its Designee to establish or recertify Resident and Resident's household as eligible under the BMR Program; or (c) for good cause, including violation of the terms and conditions of the Lease, violations of applicable federal, state, or local law, or other good cause.
9. **Notice of Rent Increases.** Rent may not be raised more often than once every twelve (12) months. Owner will provide Resident with at least sixty (60) days' written notice of any increase in rent under the Lease.
10. **Subleasing Prohibited.** Resident understands and hereby agrees that subleasing of the Premises or any spaces reserved for the use of the Resident or Resident's household is prohibited.
11. **Maintenance or Repairs.** Resident hereby agrees to inform Owner within twenty-four (24) hours of any need for maintenance or repair of the Premises or any spaces reserved for the exclusive use of the Resident or Resident's household.
12. **Security Deposit and Initial Term.** Any security deposit required by the Lease shall not exceed an amount equal to two (2) months' rent, based on the amount of monthly rent set forth for the initial Lease term, which shall be one year.
13. **Nondiscrimination.** Owner does not discriminate against persons on the basis of race, color, religion, sex (including pregnancy, childbirth, medical conditions related to pregnancy or childbirth, and gender), sexual orientation, marital status, national origin, ancestry, familial status, source of income, medical condition, physical condition, mental or physical disability, physical appearance unrelated to the responsibilities of a tenant, or perception of any of the foregoing.
14. **No Third-Party Beneficiary.** Resident is not a party to the Agreement between the Owner and the City nor is Resident entitled to claim any right or benefit under the Agreement, including the status of a third-party beneficiary under the Agreement. Nothing in the Agreement, express or implied, is intended to confer any rights or remedies, on any persons other than the parties to it and their respective and permitted successors and assigns.
15. **Incorporation of Agreement.** The Agreement is hereby incorporated into this Addendum and the Lease and made part thereof. Resident agrees to abide by the Agreement in all respects. Any failure to comply with the Agreement shall be deemed a breach of the Lease.

[Signatures on following page]

The undersigned certifies that he/she/they has read and understood the above-provisions of this BMR Addendum and agrees to abide by its terms.

RESIDENT:

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Print Resident Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Resident Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Print Resident Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Resident Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Print Resident Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Resident Name

\_\_\_\_\_  
Date

OWNER OR OWNER'S REPRESENTATIVE *(signing on behalf of owner)*:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Position



Exhibit 9- City of Cupertino Below Market Rate Housing Program

**CAPITAL IMPROVEMENT REQUEST FORM**

From: \_\_\_\_\_ (“Owner”)

Premises Address: \_\_\_\_\_ (“Premises”)

Date: \_\_\_\_\_

I hereby request City approval of the following capital improvements I intend to make to my Premises:

Description of Improvements:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_ Original Purchase Price: \$ \_\_\_\_\_

☐

A copy of the building permit (if required) is attached

Proposed Improvements must cost at least Two Thousand Dollars (\$2,000) and must be approved by the City in writing prior to construction. Please see Exhibit A (attached) for a list of Eligible Capital Improvements.

Owner should retain copies of contracts, invoices, and receipts for all completed capital improvements. These documents will be necessary to establish the Maximum Restricted Resale Price of the Premises upon subsequent transfer.

You may submit this information either by email, fax, or mail as follows:

Email: [cupertino@risehousing.com](mailto:cupertino@risehousing.com)  
Phone: (415) 301-5448  
Mail: Rise Housing – City of Cupertino 1990 N  
California Blvd, Walnut Creek, CA 94596



## City of Cupertino Below Market Rate Housing Program

### Attachment A

#### **ELIGIBLE CAPITAL IMPROVEMENTS**

- Remodels and room additions (including decks and porches)
- New or upgraded landscaping, irrigation, sprinkler system
- Hardscape such as pavement, block or retaining wall, patio
- Fencing
- Storm windows, doors
- New roof
- Upgraded wiring, plumbing, duct work
- New furnace, water heater
- Built-in appliances
- New flooring or wall-to-wall carpeting
- Upgraded insulation
- Countertops
- Cabinets
- Solar Panels