



# City of Santa Clara

The Center of What's Possible

## Below Market Purchase (BMP) Program Homeownership Guidelines

## **INTRODUCTION**

The City of Santa Clara (City) has operated a Below-Market Price Purchase Program (BMP) since 1995 to help low- and moderate-income families achieve the goal of homeownership and to fulfill State mandates for the production of housing across all income levels.

The City’s Housing Element, certified by the State in February 2015, includes an affordable housing policy that requires “developers of residential developments with ten or more units to provide at least ten percent of their units at rents or prices affordable to low- and moderate-income households.” Specifically, for-sale housing developers are required to designate at least ten percent of the total units in an approved project as BMP units to be sold to qualified buyers. The BMP Program is administered by the City’s Community Development Department, with certain functions delegated under a service contract to a Program Administrator.

The City of Santa Clara Below Market Purchase Program (the “Program”) Policies and Procedures and these Guidelines set forth the eligibility criteria and application requirements for prospective Below Market Purchase (BMP) home buyers, as well as long-term BMP homeownership requirements and related Program requirements as listed below. These Guidelines are established by the City of Santa Clara Community Development Department and may be revised and/or updated periodically, as determined necessary by the Housing Manager, to accomplish the objectives of the Program and to guide Program administration. The City of Santa Clara Housing and Community Services Division, part of the Community Development Department, is the agency authorized to administer the Below Market Purchase program.

Please refer to the Program’s website at <http://www.housingtrustsv.org/programs/homebuyer-assistance/below-market-purchase-program/> for the most current version of these Guidelines and related Program information.

Program Administrator: Housing Trust Silicon Valley

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## Section A. Definitions

As used in the Below Market Purchase (BMP) Program Guidelines and Policies and Procedures, the following words and terms have the meaning set forth:

**Affordable Sales Price:** The City and developer will enter into an agreement and establish a Low to Moderate Income limit and the Maximum Sale Price for the BMP Units. The price shall be a purchase price which is affordable to a Low to Moderate Income Household, as adjusted by the assumed household size determined based on the number of bedrooms in the BMP Unit. For each BMP unit in a project, the City establishes an Affordable Sales Price for which the BMP unit will be sold. The Affordable Sale Price is known as the BMP Purchase Price.

**Applicant/Co-Applicant:** a Head of Household and any adult members of his/her household over the age of 18 years (“Co-Applicant(s)”) who is/are interested in purchasing and residing in a BMP home, as evidenced by their signature(s) on a BMP program application submitted to Program Administrator and the City of Santa Clara.

“Applicant” may be used to refer to the Applicant’s entire Household and/or all adults in the Household, as the context requires. Primary Applicant refers to the first-named party on the application form, who must be the **Head of Household**, as defined herein.

Co-Applicants are all other adult members of the Household over the age of 18 years.

**Area Median Income:** the median household/family income for Santa Clara County, adjusted for actual household size, as determined annually by the California Department of Housing and Community Development (HCD). The Area Median Income for BMP units and developments may vary. Households must not exceed the determined AMI income for the BMP unit.

**Asset:** a liquid or non-liquid item that can readily be converted to cash. The value of ordinary (i.e. non-investment) personal or household items, such as furniture and personal vehicles, are not considered assets for the purpose of BMP Program eligibility. Refer to **Section B**.

**Below Market Purchase (BMP) Home:** a home developed and provided for sale to moderate- or lower-income households pursuant to the Housing Policy, at a price affordable to low and moderate income households, as specified in the Housing Policy and each Developer Agreement.

**Borrower Contribution:** Applicants are required to contribute at least 3% of the purchase/sales price towards down payment and closing costs. A minimum of half of the required down payment must be the applicant’s own funds. The BMP program will allow up to 50% of the required contribution to be in the form of a gift. It will also allow 50% of the required down payment to be funds borrowed from a retirement plan.

**City:** the City of Santa Clara, a municipal corporation and political subdivision of the State of California.

**Down Payment:** The borrower is required to have a minimum of 3% of the purchase price for the down payment. Approved BMP lenders may require at least 5% or more of the purchase price for down payment from the borrowers to qualify for the first mortgage. The maximum down payment is 30% of the affordable sales price of the BMP unit.

Currently there is no down payment assistance available. The borrower must have sufficient funds for reserves, closing costs and prepaid items. Lenders may require additional reserves.

**Eligible Household:** a Household (*see definition below*) that is eligible to purchase a BMP home, as follows:

- A Household which is living together in the same dwelling unit at the time of, and has been living together in the same dwelling unit for at least six full months (180 days) prior to the date of Program application. Valid Third-party documents listed as required attachments in the Program applications forms must be provided, to verify that each member of the Household resides, and has been residing for six months, at the same dwelling unit and street address; and

- A verified Low or Moderate Income Household: Total gross (pre-tax) annual income and assets of all adult Household members over the age of 18 combined do not exceed the Program's income and asset limits provided in Exhibit I, adjusted for the size of the Household; and
- All adult Household members must provide satisfactory evidence of membership in the Household, which includes sharing financial resources and responsibility for basic housing expenses, including rent and utilities. Such evidence shall be provided with the Program Eligibility application , as described in application forms and/or instructions;
- All of the current members of Applicant's household must individually meet all Program eligibility requirements applicable to individuals, such as First Time Home Buyer status and Permanent Residency, as explained in **Section B** of these Guidelines.

**First Time Home Buyer:** an individual or individuals, or an individual and his or her spouse, who have not owned a home during the three-year period prior to the date of application to purchase a BMP Home, except that the following individual or individuals may not be excluded from consideration as a first-time home buyer under this definition:

- 1) A "displaced homemaker or spouse" who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;
- 2) A single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
- 3) An individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a BMP Home, a dwelling unit whose structure is:
  - Not permanently affixed to a permanent foundation in accordance with local or state regulations; or
  - Not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure. *From Title 25, California Code of Regulations §8201(l)*

**Gift Funds:** Funds received as a personal gift from an acceptable family donor. Gift funds may fund all or part of the down payment, closing costs, or financial reserves subject to the minimum borrower contribution requirements. The gift must be a bona fide gift with no repayment required. Gift letter signed by donor must be accompanied by a current bank statement where the funds will be drawn from. Funds must be seasoned in applicant's bank account for at least 15 to 30 days. Applicants must meet the BMP lender's guidelines for gift funds and required documentation must be delivered to the lender and BMP administrator when requested.

**Gross Household Income:** the gross (pre-tax) amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as further defined in Code of Federal Regulations Title 24, Part 5 (the "Part 5 method"). The Part 5 definition of gross household income is based on a list of "Gross Income as defined by Title 25, Section 6914 is used to determine gross annual income. This list is included as **Exhibit II** to these Guidelines. Program staff will follow the most current edition of the "Technical Guide for Determining Income and Allowances for the HOME Program" (currently the Third Edition, January 2005), published by HUD, to calculate and determine applicants' income eligibility for the City of Santa Clara Below Market Purchase Program. This publication is available for review at the office of the Program Administrator.

**Guidelines:** these City of Santa Clara Below Market Purchase Program Guidelines.

**Head of Household:** an adult who is the primary tenant (i.e., first listed lessee) on a current lease for a rental dwelling or mobile home park space that is the adult's primary residence, and is financially and/or legally responsible in full or part for all members of his/her household, if any.

In the case of households headed by a couple (married, domestic partners, common law spouses, etc.), the adult who files federal tax returns on behalf of most or all of the dependents in the household is generally considered the head of household. However, either member of the couple may apply as the household head, as long as he/she meets Program eligibility requirements and can obtain the financing and down-payment needed to purchase a BMP home. The Head of Household shall be listed as the Primary Applicant on the application to purchase a BMP home.

**Household:** all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements (*Code of Federal Regulations Title 24, Section 570.3*). Household, for the purposes of determining Household eligibility and establishing Gross Household Income and assets, includes any and all owner-occupants, temporary occupants, and other occupants, regardless of such household member's interest in purchasing or occupying a BMP home, as explained in **Section B**.

**HCD:** the California Department of Housing and Community Development.

**Homebuyer Education class:** The Homebuyer Education class must be an eight (8) hour in-person class given by a certified HUD counseling agency. The designated agency for the BMP program is Project Sentinel. Applicants and co-applicants, who are co-borrowers and/or placed on title, must attend the class. Non-borrowing spouses must also attend. A Certification of Completion is required for application submission. The certificate must be less than 2 years old at the date of application.

**HUD:** the United States Department of Housing and Urban Development.

**Initial Market Value:** For each BMP unit, the City sets an Initial Market Value (IMV) based upon an independent appraisal prior to the initial sale. The IMV reflects each unit's unrestricted initial market value. The IMV is used to establish the difference between the market value and the Affordable Sales Price for which the BMP unit will be sold.

**Living in Santa Clara:** occupying and renting, at time of application and for at least six full months (180 days) prior to application date, a bona fide rental dwelling unit (or owning and occupying a manufactured home and renting a mobile home space in a mobile home park) within the Santa Clara city limits, as evidenced by Valid Third-party Documentation (lease, a California driver's license or identification card showing street address (not post office box) of such residence, current California vehicle registration card, or gas/electric/water bills).

**Low to Moderate Income Household:** a Household with total income of all Household members combined, that does not exceed the Program's income limits, which is 120% of Area Median Income for Santa Clara County adjusted for actual Household size; and whose total combined assets do not exceed the Program's asset limits. The current Program Income and Asset Limits are provided in **Exhibit I** to these Guidelines and are updated annually. Please see additional explanation in **Section B**.

**Minimum Borrower Contribution:** Applicants are required to contribute at least 3% of the affordable sales price towards down payment and closing costs. A minimum of half of the required contribution must be the applicant's own funds.

**Occupancy Standards:** the minimum and maximum number of household members eligible to purchase and occupy a BMP home consisting of a certain number of bedrooms. The Occupancy Standards, when applied to each Applicant Household, take into account the characteristics of the household members listed in the application, such as age, gender, and familial relationship, if any, to determine the size of BMP home (number of bedrooms) an Eligible Household may purchase. These Standards are provided in **Exhibit III**.

**Open Application Period:** Upon notification of an available unit from the City of Santa Clara, Program staff will post an Open Application Period for the upcoming unit(s) on the Homeownership Calendar and send an email to the general interest list at least two weeks in advance and before the day of Open Application Period starts. This gives interested pre-screened applicants the opportunity to prepare the Eligibility Application, gather all required documents, and receive a prequalification or pre-approval from an approved BMP lender. The Open Application

Period will be ten (10) business days. Applicants must make an appointment with Program staff to submit the Eligibility Application and documents. Appointments must be made at least 24 hours prior to the requested appointment time. Appointment slots are limited. All Applicants and Co-applicants over the age of 18 must be present at the time of submission of the application.

**Orientation and Application Workshop-**This free workshop outlines the BMP program, guidelines and requirements. The workshop is required and attendance is mandatory for applicants and co-applicants, who are co-borrowers and/or placed on title. Non-borrowing spouses must also attend. Attendees must be on time and complete the two hour workshop.

**Pre-Screened:** Interested parties are pre-screened through review of the online intake form filled out by applicant. Program staff will conduct a mini- interview over the phone. Eligibility requirements are reviewed. Appropriate guidance and pre-purchase counseling for steps to homeownership are given over the phone and via email. **Once applicants have completed requirements for Pre-qualification, applicants will contact Program Administrator for BMP lender pre-approval referral.**

**Prequalification:** Submission of Eligibility Application and required documentation for the BMP program by interested applicants. A pre-approval letter and credit report are required from an approved BMP lender

**Pre-Eligible:** Interested Applicants who after submitting Eligibility application and required documentation for the BMP Program, are determined to be pre-eligible.

**Program Eligible-** Interested Applicants who are Pre-eligible for the program and have met the Loan Pre-approval and credit requirements. This applicant have successfully submitted an Eligibility application, required documentation and attended required HUD certified 8 Hour Homebuyer Education class and the City of Santa Clara BMP Program Orientation and Application Workshop.

#### **Program Websites:**

##### **City of Santa Clara webpage**

<http://santaclaraca.gov/government/departments/community-development/housing-community-services-division/homeowner-programs>

##### **Program Administrator webpage**

<http://www.housingtrustsv.org/programs/homebuyer-assistance/below-market-purchase-program/>

**Primary Applicant:** the Head of Household (see definition) of any Household which has submitted a Program Eligibility application of any kind. The Primary Applicant is the first listed Applicant on a Program Eligibility application, must be the primary borrower on the first mortgage loan, must take title to the BMP home, and will be the primary point of contact for Housing Trust staff when communicating with the Household during the application process and (if approved) escrow period.

**Priority Household:** an Eligible Household which is Living in the City of Santa Clara as defined herein, or an Eligible Household of which the Head of Household/Applicant, and/or a co-Applicant who will also take title to the Home and be a Borrower on the first mortgage used to purchase the home, is Working in the City of Santa Clara, as defined herein.

**Purchase-Ready:** able to qualify for adequate financing to purchase a BMP home; able to provide a minimum down-payment of at least 3% or greater amount if required by the first mortgage lender, plus closing costs; certified attendance of the BMP Orientation and Application Workshop; and completion of a HUD-certified eight (8) hour homebuyer education course. Adequate financing shall include a conventional first-mortgage loan provided by an established residential lender that meets the requirements described in **Section G** of those guidelines, and may also include public-sector or non-profit junior loans, such as down-payment assistance loans or grants secured by the Applicant and approved by the City and the first mortgage lender. Down-payment may

include gift funds if seasoned and documented as explained in these guidelines. Applicants with recent foreclosures, bankruptcies, credit scores below 640, or inadequate down-payment funds do not qualify as Purchase-Ready.

**Reasonable Accommodation:** accommodations in Program rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person, or a household with a disabled member, equal opportunity to apply for, use and enjoy a BMP home, including public and common use areas, as would be available to non-disabled persons or households in similar circumstances. The requested accommodation must be reasonably related to the particular disability of the household member, and must be necessary in order to provide the household with equal access to housing. For instance, if a disabled household member requires a separate bedroom due to their disability, when the Occupancy Standards would otherwise require them to share a bedroom with another household member; they may request a Reasonable Accommodation to the Program Occupancy Standards in order to purchase a BMP home with an adequate number of bedrooms.

**Restricted Resale Price:** For the first five years after the unit is purchased, if the unit is sold, it must be sold by the homeowner to a BMP qualified new homebuyer at a Restricted Resale Price. The homeowner is required to notify the City and the City will determine a newly established Restricted Resale Price (RSP). The RSP shall be the Affordable Sales Price adjusted by any percent change in the Area Median Income from the date of the original BMP home purchase. The City may increase the RSP to account for any City- approved individual capital improvements valued at greater than \$2,000. No amounts are owed by the homeowner to the City if the home is sold at the Restricted Resale Price. The BMP promissory Note is transferred to the new buyer.

**Unrestricted Resale Price:** After the five-year resale restriction period ends, the homeowner may sell the home at an unrestricted resale price (fair market value), subject to the conditions outlined in **Section H**.

**Valid Third-Party Documentation:** documents issued directly by a public agency, private utility company, taxing entity, creditor, financial institution, school, employer, business, or Certified Public Accountant on such entity's own letterhead, verifying one or more eligibility criteria of any Applicant, Co-Applicant, or their dependents. Such documentation may be verified by Program staff through direct contact with such agency/issuer by phone, email, or written inquiry to verify accuracy of document's contents. Written statements of parties with any direct or indirect interest in the BMP home purchase (i.e., persons related to Applicant by blood/family relationship, marriage, business ties (other than Certified Public Accountant, in the case of self-employment income) or other close personal relationship, do not qualify as Valid Third-party Documentation.

**Working in Santa Clara:** earning one's primary source of annual income (salary, wages, commissions) through employment by a Santa Clara employer licensed and permitted by the City, at a primary work-site in Santa Clara; or through operation of a Santa Clara-based business that is licensed and permitted by the City. Working in Santa Clara does NOT include volunteer or unpaid work, or self-employment consisting solely of operating a business entity established solely for the purposes of investment in a rental property. Income earned in Santa Clara must be verified by your paycheck stubs, tax returns, and/or other documentation described in the application forms.

## **Section B. Home Buyer Eligibility Requirements and Obligations**

In order to be eligible to purchase a BMP home, applicants must meet the following criteria either, individually as a Primary Applicant or Co-Applicant(s), or collectively as a Household, as specified herein:

1. First Time Homebuyer Status
2. Eligible Household
3. Low to Moderate Income Household
4. Purchase-Ready
5. Permanent Resident(s)

The five eligibility criteria terms are defined in **Section A**. Applicants must fully document that their Household meets each eligibility requirement by providing all forms of Valid Third-party Documentation requested in the Program application forms.

### **1. First Time Home Buyer Status**

All adults living in the same dwelling unit as the Primary Applicant (“Applicant’s Household”) at time of application must individually and collectively qualify as a First Time Home Buyer, pursuant to the definition provided in **Section A**, and adapted from Title 25 of the California Code of Regulations §8201- *First-time home buyer status is verified by each adult’s federal and state tax returns, and current lease/ rental agreement of the Applicant’s primary residence. All members of the Applicant’s Household must be on the lease/rental agreement.*

*If Applicant resides in an owner-occupied home, whether as guest, family member of owner, or as a boarder/renter of a portion of the home, Applicant must provide:*

- a. a formal rental agreement*
- b. documentation of last six to twelve months of paid rental payments (cash checks only) and share of utilities (copies of utilities bills required)*

If any member of Applicant’s current household owns any home (residential real property), Applicant and his/her household shall not be eligible for the Program unless such household member (the homeowner) meets one of the exceptions listed in the definition of first-time homebuyer (displaced homemaker, mobile home owner, etc.) provided in **Section A** under First Time Home Buyer.

The Program is intended to provide those prospective first time home buyer households who could not otherwise afford to buy any home in Santa Clara, and have demonstrated the ability to rent a *bona fide* rental dwelling unit and pay all household expenses independently for at least six months with an opportunity to purchase a home in Santa Clara for long-term occupancy.

Applicants who own a home meeting the description provided in Exception 3 of the First Time Home Buyer definition (**Section A**) must sell such home prior to or concurrent with closing escrow on the BMP home purchase. The home must have a ratified sales contract and proof of initial deposit (receipt from Title Company) within 5 days of Program Eligibility notification. Additional documentation may be required. If the Applicant is unable to ratify a sales contract for the home, the applicant will be ineligible. Selected applicants will not be allowed to execute the purchase agreement until the documentation has been reviewed and approved. If Applicant’s net proceeds of the sale would cause Applicant’s Household to exceed the Program’s asset limits as shown in **Exhibit I**, the household will not be eligible for the Program.

### **2. Eligible Household**

In order to be determined eligible for the BMP Program, the Applicant must demonstrate in its application that it is an Eligible Household as defined in **Section A**, and must verify the household composition and other eligibility requirements, as explained further below and in Program eligibility application instructions.

#### Verification of Household Composition

The Program eligibility application requires submittal of Valid Third-Party Documentation, as defined in **Section A**, to prove that each member of Applicant’s Household resides and has resided at the same residential address for at least six months. Documents which show only a post office box as an address are not acceptable for the purpose of verifying an applicant’s primary residence.

The documents required are listed in Program application forms. In the event an applicant is not able to provide a particular document, Program staff may agree to accept a legitimate alternative form of Valid Third-Party Documentation, or in the absence of a legitimate alternative, may determine that applicant has not provided sufficient documentation and therefore will not be considered part of the Household.

Program Staff is authorized to make the final determination of what constitutes “legitimate alternative” documentation to substantiate primary residential address or any other eligibility criteria, consistent with these Guidelines.

Only those household members who have adequately verified their membership and residency in the Household will be counted for the purpose of determining the size(s) of BMP home (number of bedrooms) the Applicant may purchase, although the income and assets of all household members listed by Applicant on application form (including any temporary or unverified occupants) must be counted toward the Household's gross income, as explained below in Low to Moderate Income Household in subsection 3.

To be considered part of Applicant's household, any children under the age of 18 (including foster children) must be under full or partial (at least 50%) custody or legal guardianship of Primary Applicant or another Co-Applicant taking title to the BMP home, and/or must be listed as a dependent child on that party's tax returns.

#### Determination of BMP Home Size

The Program's Occupancy Standards provided in **Exhibit III** sets forth the minimum and maximum number of bedrooms allowed by household size. These standards are applied to each Applicant with consideration of the age, gender, and familial relationships, if any, of the actual household members as listed in Applicant's Eligibility Application, in order to determine the size of BMP home that Applicant may purchase.

Generally, two household members of the same gender may share a bedroom (children, siblings, unrelated or related adults, etc.) but those of opposite gender will qualify for separate bedrooms. Couples of any kind (married, domestic partner, or unmarried couple) qualify for one bedroom. Children are not required to share a bedroom with a parent or other adult of any gender. Children of the same gender with an age difference of three or more years may qualify for their own bedroom, or may share, depending on the size of homes available and Applicant's preferences. Applicants with a live-in home health care aide or other special needs related to home size may request a reasonable accommodation to the Occupancy Standards if needed, as described in subsection 3 below. Depending on the particulars of Applicant's household composition, Applicant may qualify for a range of home sizes (i.e., a five-person household might qualify for homes of 2-4 bedrooms), or just one size (i.e., a single adult household of 1 will only qualify for a 1-bedroom). Larger homes are generally priced higher than smaller homes; therefore Applicant must also verify that they can afford the price of the BMP home they wish to purchase, in addition to meeting the Occupancy Standards.

### **3. Low to Moderate Income Household**

In order to qualify as an Eligible Household to purchase a BMP home, Households must qualify as Low to Moderate Income Households, which means that the total combined income and assets of all adult household members does not exceed the Program's income and asset limits, provided in **Exhibit I** to these Guidelines. Developments have an assigned maximum income limits as determined by the City of Santa Clara.

#### Household Income

The City uses the California Department of Housing and Community Development's "Low to Moderate Income Limits" as the household income limit for the BMP Program. Low Income is defined as a Gross Household Income that does not exceed eighty percent (80%) of the Area Median Income (AMI) for Santa Clara County, adjusted for household size. Moderate income is defined as a Gross Household Income is at least eighty-one percent (81%) of the AMI and does not exceed one hundred twenty percent (120%) of the Area Median Income (AMI) for Santa Clara County, adjusted for household size. Gross Household Income is computed using the Part 5 method described in **Section A**. Income earned (or imputed) from assets, such as dividends, interest, rental income, etc., is included in the household's annual income pursuant to the Part 5 Method.

These income limits are generally updated by the California Department of Housing and Community Development (HCD) on an annual basis. The Program income limits are updated annually on the City of Santa Clara program website and website of the Program Administrator webpage shortly after HCD publishes the latest Low to Moderate Income Limits. Applicants must meet the income limits in effect on the date of their application to purchase a BMP home.

## Household Assets

In addition to meeting the income limits, the household's assets may not exceed the Program's asset limits provided in **Exhibit I**. Assets held in IRS-recognized retirement accounts (401-k's, IRA's, etc.) are not included for the purpose of determining whether an Applicant meets the Program asset limits.

- Low Income households are limited to \$60,000 in total (Post-Closing) Assets.
- Moderate Income households are limited to \$100,000 in total (Post-Closing) Assets.

## Maintaining Eligibility

Applicant eligibility determinations are valid for 90 days from the date of the Program eligibility letter. If the Applicant is still in escrow to purchase a BMP home within 90 days of the date of the Program eligibility letter, Applicant must provide additional income and asset documentation for the intervening months since the Program eligibility letter was issued.

### **4. Purchase-Ready**

Applicant must be Purchase-Ready at the time they apply, as follows:

- a. **Mortgage Qualification:** Applicant must provide a current loan pre-qualification/pre-approval letter from a conventional residential lender for a thirty-year, fixed-rate mortgage in an amount equal to at least 70% of BMP home price, which also meets the financing requirements described in **Section G**, and be able to obtain final approval for such loan by close of escrow;
- b. **Down Payment:** Sufficient savings available for the down payment required by the BMP lender. Down payment must be at least three percent (3%) of the BMP purchase price plus closing costs of at least three percent (3%) of the home price (collectively "Down Payment"). Applicant may be required by the BMP lender to increase the amount of down payment to qualify;
- c. **Gift funds** may be used towards Applicant's Down Payment or Closing Costs. Any gift funds must be documented in Program application with a gift letter and all Down Payment funds must be "seasoned". Seasoned Gift funds is described as funds (domestic or foreign) that have been transferred to the applicant's account and have seasoned in the account for a set amount of days or monthly statement cycles. Domestic funds must be seasoned for at least 15 to 30 days. Foreign funds must be seasoned for 60 or more calendar days or at least 2 full monthly statement cycles. Program approval to purchase will be conditioned upon Applicant's deposit of Down Payment, in the amount stated in Eligibility Application, into escrow by the closing date noted in purchase contract. If lender requires a higher down payment, Applicant must meet requirement as stated in loan pre-approval letter;
- d. **Credit Score/History:** Credit score(s) of 640 or higher, and no bankruptcies and/or short sales within four years prior to application date. No foreclosures within seven years of application date. Lenders may require higher scores or higher standards regarding credit history. A credit report is required from the BMP lender for all non-borrowing spouses;
- e. **Homebuyer Education:** Primary applicant (including non-borrowing spouses and any co-borrowers) must have taken a HUD-certified eight (8) Hour Homebuyer Education Course and provide a Certificate of Completion with the Eligibility application. The in-person HUD-approved homebuyer education provider is listed in Program outreach materials and website. Course should be completed prior to submitting an eligibility application for the BMP program. Any applicant or co-applicant who has not completed the course and is submitting an eligibility Application during an open application period must submit a registration confirmation for a course that will be taken within 7 calendar days on the submission date. The application package will be considered incomplete at the time of submission and the applicant household will lose any priority status until the course is completed.

All Purchase-Ready requirements must be fully documented as described in Application form. If any co-Applicant(s), due to his/her poor credit history or low credit score, would adversely affect Primary Applicant's

ability to qualify for a mortgage, such co-Applicant may be exempted from the requirement to jointly apply for the first mortgage as a borrower. However, such co-Applicant will be executing the BMP loan documents and take joint title to the home with Applicant upon close of escrow.

Co-Applicants who are listed as financial dependents on the Applicant’s or a co-applicant’s tax returns need not be listed as borrowers on the loan application, nor take title to the home (unless desired by Applicant). The exception will be a non-borrowing spouse who is required to at least take title as community property or joint tenants.

**5. Permanent Resident(s).**

All members of Applicant’s household must provide acceptable documentation in Program application to verify that they are permanent legal residents of the U.S.:

- a. Either U.S.-born or naturalized citizens, permanent legal residents (holders of permanent “green cards”), or
- b. Spouses with pending permanent residency due to marriage to an Applicant who is a U.S. citizen or permanent legal resident. Acceptable documentation must be provided.
- c. Visas of any kind and/or temporary residency (temporary green cards) do not constitute permanent legal residency, except for temporary green cards of spouses as described above.
- d. Refugees and asylum-seekers may submit documentation from the federal immigration agency or a court order granting admission for permanent legal residency based on such status.

Household members without proof of permanent legal residency in the U.S. are not prohibited from occupying the BMP home as guest of Applicant. If such household members have been residing in Applicant’s household for more than 30 days at time of application, such household members must also be listed in Applicant’s application, and must provide all required income and asset documentation for inclusion in Applicant’s Gross Household Income and Assets.

However, due to the temporary nature and/or uncertainty about duration of their stay in the U.S., such household members (visa-holders, etc.) will not be counted toward Applicant’s Household size for the purpose of determining the size of BMP home (number of bedrooms) Applicant may purchase, in accordance with the Program Occupancy Standards provided in **Exhibit III**.

**Section C. Priority Criteria**

The City Council has established the following Priority Criteria for the purchase BMP homes to Applicants as follows:

1st Priority Level	At least one household member who both lives within the City Limits of the City of Santa Clara <i>and</i> operates a business or is employed by a business or a public or quasi-public agency in Santa Clara.
2nd Priority Level	At least one household member lives within the City Limits of the City of Santa Clara.
3rd Priority Level	At least one household member operates a business or is employed by a business or a public or quasi-public agency in Santa Clara.
4th Priority Level	Any other qualified applicant household without regard to residency or employment.
Note:	The qualifying household member must be the person or a dependent of a person whose name will appear on title and who will use the unit as their primary residence.

Program staff will verify residency and employment of each applicant and will apply the above-described Priority Criteria to rank BMP Program applicants. Those selected for the highest priority level will be screened first and selected either through a lottery selection, if necessary, or without a lottery if the number of candidates in the priority level is less than or equal to the number of units available.

The list of pre-qualified buyers in a higher priority category must be exhausted before a BMP unit will be offered to someone who in the next priority level. **Section D** provides additional information on the selection process.

Applicants who have been determined by Housing Trust BMP Program staff as Living in the City of Santa Clara and Working in City of Santa Clara, as defined in **Section A** of these Guidelines; receive First Priority to purchase available BMP homes. To qualify for Second Priority, applicants must meet the definition of Living in the City of Santa Clara. To qualify for Third Priority, applicants must meet the definition of Working in the City of Santa Clara. Applicant(s) must provide Valid Third-Party Documentation as described in application forms, in their Eligibility Applications to support their request for either Priority status.

#### **Section D. Selection of BMP Home and Lottery Policy**

As homes become available, Program eligible applicants ranked in the Highest Priority Level and by Household Size per the number of bedrooms in the home will be selected. *Builder upgrades to the home will not be permitted. The Builder will choose all exterior and interior design features and homes are sold on an as-is-basis.*

Eligible applicants selected from the highest priority level will have the first opportunity to purchase the assigned home. Selected applicants will be notified (through email or phone) by Program staff and a BMP Home Selection Letter will be sent (mail and email).

Selected applicant **must confirm within 72 hours** (email and phone) with Program staff that notification was received. If confirmation is not received by Program staff, the selected applicant will be sent a Notice of BMP Home Selection Suspended. The next highest ranking program eligible applicant will be notified and the confirmation process will apply. The Developer's sales staff and Eligible applicants' lender will also be notified by Program staff. Selected eligible applicants are responsible for setting a viewing and purchase contract appointment within **3-5 days of confirmation** with the Developer's sales staff. The Purchase contract must be signed by the applicants within 5 days of confirmation of receipt of BMP Program Eligibility letter. Selected eligible applicants must bring a copy of their preapproval letter from their lender and the BMP Program Eligibility letter from Program Administrator to the purchase contract appointment.

Upon exhaustion of the list of BMP eligible applicants, after the initial application deadline for the available homes in designated development, a second application period will be opened and priority levels will be applicable. If the second application period does not yield any eligible applicants then an application period will be opened on a first come first served basis with adherence to the applicant eligibility criteria and program guidelines. Only complete applications will be accepted. If any documentation is missing at submission, the application will be rejected. The applicant will be given a list of missing documentation. After the applicant has all the required documentation, the applicant can reschedule an appointment to submit the application and documentation within the application period. The application period will close after a designated buyer and two alternative buyers have been identified for the property.

#### **Lottery Policy**

A lottery is held when more than one Eligible Household with the same Priority Level ranking exists. Eligible applicants will be notified a lottery for their priority level exists and given the date the lottery will be held. Program staff will privately conduct the lottery to select a homebuyer.

- Several Program staff members and occasionally a representative from the City of Santa Clara is present at the drawing
- A drawing affidavit is signed by all witnesses to confirm homebuyer selection fairness and transparency.
- Selected Eligible applicants will be notified by email or phone by Program staff.

Selected Household will view the unit (if available) and sign the purchase sales agreement for the home **within 3-5 days of notification** (through email or phone) by Program staff.

## **Section E. Application Process**

The main steps of the BMP home buyer application process are described in this Section. Detailed application instructions are provided in Program application forms. The Program currently uses a three-step application procedure, each of which has a separate form and application fee, as explained further below:

- Intake Form:** helps pre-screen interested applicants and directs them to steps to eligibility.
- Eligibility Application:** To determine whether Applicant is eligible for the Program. Requires a pre-approval from an approved BMP lender.
- Purchase Application:** Submitted when eligible Applicant has ratified the purchase contract with the seller of a BMP home, to determine that proposed financing from the BMP Lender and other purchase transaction details meet Program requirements.

The main steps required to buy a BMP home are explained below, listed in the order in which they typically occur:

### **1. Receive program outreach materials**

Program Administrator provides various BMP Program outreach materials online, in print at City of Santa Clara Housing and Community Services division, or upon request. Applicants should review these materials and attend a presentation to determine if they are interested in the Program.

### **2. Prescreening-Complete and Send Online Intake Form**

An [online intake form](#) is available on the BMP program page on Housing Trust Silicon Valley website. The intake must be filled out and sent to [homebuyer@housingtrustsv.org](mailto:homebuyer@housingtrustsv.org).

The online intake form will be reviewed and the applicant household will be directed to their next steps. Please allow for a one to two week turnaround time for an email response. The online intake form provides the Applicant with pre-screening for eligibility determination. Program staff will conduct a mini- interview to determine if applicant is within the income limits for the development, understands the City of Santa Clara's Priority Level determination, has required down payment and closing costs funds, and has completed the required Homebuyer education class and Orientation and Application workshop before referring the applicant to a BMP lender for pre-approval. Completion of the online intake form does not put the household on a waiting list.

### **3. Attend a City of Santa Clara BMP Orientation and Application Workshop**

The Housing Trust holds informational workshops to introduce the Program to the public and provide prospective buyers with an overview of the Program, to help them determine if a BMP home is right for them and if they might qualify. The workshop covers the terms, conditions and restrictions of a BMP home, the process of purchasing a BMP home, and the Eligibility requirements and timeline from Application to Close. Applicants must attend an Orientation and Application workshop prior to submitting an Eligibility Application.

### **4. Attend HUD-Certified Homebuyer Education Class**

Applicants must complete a HUD-certified homebuyer education class through the designated agency prior to submitting an Eligibility Application. If an Applicant has not completed the class, Applicant must provide a registration confirmation of an upcoming class (within 7 calendar days) of the Eligibility Application submission date and the Certificate of Completion after attendance. The HUD-certified homebuyer education

class is for the benefit of the homebuyer to ensure that they fully understand the process of home buying, the various options available in selecting a home and a loan, and the potential consequences of each decision. A list of HUD-certified homebuyer classes is provided on the Program website. The class provides a certificate of completion to attendees. Applicants shall include this certificate with their Eligibility Application. Applicant and any co-applicants/co-borrowers (who will be either on the loan or on title, including non-borrowing spouses) are required to attend this class prior to eligibility determination.

**5. View available BMP homes**

While this step is not mandatory, Applicants are encouraged to view and visit the development prior to submitting an application, to make sure they are interested in the available BMP homes and the neighborhoods where they are located. If the development and home is still under construction and a site visit is not possible, Applicants are encouraged to review the builder website. Once Applicants have been determined Program Eligible, they may view available homes again prior to selecting and making an offer on a designated home.

- New homes: Applicants may view model homes, or plans and drawings provided by Housing Trust Silicon Valley, the Housing and Community Services division at the City of Santa Clara and/or Developer, or the actual BMP home if its construction has been completed.
- Resale homes: Selected eligible applicants may view the home's exterior and/or interior prior to submitting an offer to purchase. To view the interior, a viewing time will be established with the seller by the Program Administrator.

**6. Obtain a pre-approval for a first mortgage loan from an approved BMP lender**

Applicants that have completed an online intake form and have been pre-screened by Program staff will be referred to an approved BMP lender for preapproval. Applicant(s) must obtain a pre-approval letter for a thirty-year, fixed-rate first mortgage. The letter must state the maximum amount Applicant could borrow in a conventional first mortgage that meets the loan requirements explained in **Section G**, and the amount of down payment required by lender. Applicants and Co-applicants who are borrowers must be named on the pre-approval letter and must take joint title to the home, as described in **Section B**.

**7. Complete and Submit Eligibility Application for the BMP Program during an Open Application Period**

Applicants may obtain the Eligibility Application from Program staff, Housing and Community Services Division at the City of Santa Clara, or download an Eligibility Application from the BMP Program's website at [www.housingtrustsv.org](http://www.housingtrustsv.org). Application periods for particular developments or homes may be limited to specific dates, or may be open indefinitely until the home(s) are no longer available for sale.

Applicants must complete the application according to the instructions provided, pay the required application fee, and must make an appointment with Program staff to submit the application at its office. If the application is determined to be incomplete and vital documentation (not limited to tax returns, W2s, current and consecutive paystubs, asset statements, gift letter/donor bank statement, preapproval letter, certificate of completion of homebuyer class, notarized zero income certificate of existing adult household member, current lease/rental agreement, copies of paid rental checks, utility statements, and required identification) is missing, staff will return the entire package to the Applicant for completion.

Any documentation requested from Program staff must be sent within 7 calendar days, including any required letters of explanation. At the appointment to submit the Eligibility Application, documentation and a \$50 non-refundable application fee, the Applicant and Co-Applicants (including any co-borrowers and non-borrowing spouses) must be present. Program staff will provide a list of any additional required documentation. An Application that requires additional documentation is considered incomplete and priority status does not apply until all documents have been received, reviewed and approved.

Program staff will review applications received by identified Priority Levels. Program staff makes every effort to review all completed applications and issue a determination letter within 21 days or less of the date of submittal of a complete application. Often a letter can be issued in a much shorter time period, depending on volume of applications and related factors.

Households or individual applicants unable to produce any particular document required in the application form for legitimate reasons beyond their control (natural disaster, military service, refugee status, domestic violence, witness protection program, disability etc.) may request an exception for that particular document, pursuant to

the exception procedures explained in **Section F** of these Guidelines. Upon such request, Program staff may request a reasonably equivalent alternative document and/or any additional supporting documentation deemed necessary by Program staff to verify eligibility of the Applicant/Co-Applicant and/or their entire Household.

**8. Receive Program Letter of Eligibility/Ineligibility**

Upon completing review of an application, Program staff will provide all Applicants with a written letter stating whether their household is eligible, and if so, the size(s) of BMP home (minimum and maximum number of bedrooms) for which their household qualifies, and any relevant information or instructions regarding available BMP homes. Each eligibility determination letter (eligible or ineligible) is valid for 90 days, after which time it expires and is no longer valid for any purpose.

Applicants determined ineligible may reapply 90 days after receipt of the Program eligibility determination letter, if they believe their circumstances related to the reason for ineligibility have changed (i.e., significant changes in income, assets, household composition, credit score, down payment funds, etc.). In that case applicants must submit an entirely new complete application and pay the fee again. Each application must verify that Applicant meets all eligibility criteria at the time of submittal, independently of any verification provided in prior application(s).

Applicants wishing to appeal an eligibility determination may do so in accordance with the appeal procedure described in **Section F**. Applicants making fraudulent statements or intentionally misrepresenting the facts in any application shall be permanently ineligible for the Program.

**9. View BMP home and sign offer to purchase**

After receiving the Program Eligibility determination letter verifying that the Applicant is eligible, Applicant will make an appointment to view the home (if available) and submit an offer. If the home is under construction, the applicant may view floor plans, model homes and builder's renderings prior to ratifying a contract for the home. Seller shall request and Applicant shall provide Seller with a copy of applicant's Eligibility letter from Program staff prior to accepting an offer to purchase a BMP home. Applicant must ratify the contract with the seller within 5 days of confirmation of receipt of the BMP Program Eligibility letter. The applicant will submit an initial deposit of 3% of the purchase price at the time the contract is signed.

**10. Submit Purchase Application with required documentation to the Program Administrator**

Upon the ratification of the purchase contract by both the applicant and the seller, the lender and applicant will forward the Purchase Application and required documentation for conditional approval by Program Administrator. Documents include a copy of the purchase contract signed by buyer and seller, with contingencies for final Program approval, addendums or counter offers, loan approval, and inspections, and a \$500 non-refundable fee to the Program Administrator. If the Purchase Application is being submitted more than 90 days after the date of any income and asset documentation provided in Eligibility Application (but eligibility letter has not yet expired), current documents (such as pay stubs and bank statements) must also be included with the Purchase Application.

**11. Purchase Application is conditionally approved or denied by the Program Administrator**

The Lender and Applicant will provide copies of Applicant's first mortgage loan application forms, required lending and settlement disclosures from the lender, and conditional approval of first mortgage and any junior loans. If proposed financing does not meet the Program's financing requirements (**Section G**), application will be denied until/unless Applicant can secure adequate financing, or loan terms are adjusted by Lender, before the loan contingency must be released under the Purchase Contract. The Program Administrator will review the Purchase Application to verify that the terms of the purchase contract, proposed financing, and associated application contents meet all program requirements, and that Applicant's household remains eligible, prior to issuing BMP loan documents..

**12. Administration of the BMP Test and BMP Loan Document signing**

The Program Administrator will set an appointment with the applicant(s) for a one-on-one counseling session. At this one-on-one counseling session, the Program Administrator will review with the applicant(s) the program requirements and the BMP Loan documents. The Program Administrator will administer the required BMP test

and the applicant(s) will sign the BMP Loan documents. The signing of the BMP Loan documents does not constitute final approval. The City will provide a final review and approval.

### **13. Final Approval and City instructions to Escrow**

Final approval is provided after the Program Administrator has approved the file, applicant(s) has executed the BMP Loan Documents and the complete BMP file has been forwarded to the City for approval and signature. The City will require up to 10 business days to execute Final Approval and the BMP documents. Upon final approval, the City will forward the BMP Loan Documents and Escrow Instructions to the designated Title Company.

The City will provide its final closing conditions and instructions to escrow. The first lender (and any approved junior lenders) will provide final loan approval, buyer will deposit any outstanding down payment funds into escrow, and lender will fund the first mortgage loan. Escrow officer will record deed and other recordable documents and close escrow. Applicant is now a BMP home owner!

## **Section F. PROGRAM ADMINISTRATION**

The City of Santa Clara will authorize a contractor (Program Administrator) to administer the Program and to establish, maintain, and modify periodically as needed, a reasonable application process to solicit prospective buyers and determine the eligibility or ineligibility of applicants based on information provided in applications and/or obtained from third parties authorized to release such information, as provided in Program application and release forms. A summary of administrative procedures is provided below. Some of these procedures are described in more detail in administrative documents maintained by Program staff and made available upon request.

- 1. Public Outreach and Marketing**
- 2. Application Review and Determination of Eligibility**
- 3. Exceptions and Appeals**

### **1. Public Outreach and Marketing**

#### **Outreach and Marketing**

Program staff provides Program information online, via email and print brochures, and at various public presentations and seminars.

#### **General Interest List**

Program staff maintains a general interest list for prospective buyers and other interested parties to request current information about BMP homes available for sale and other Program news. The general interest list is the primary means of providing interested parties with current listings and Program news. Anyone wishing to receive such notices may sign up to be on the general interest list on the Program's website. Email is the primary form of communication with those on the list however persons unable to use email due to disabilities or other hardships may request another form of notification, subject to budget limitations. Program announcements are generally sent to those on the interest list weekly or less often, as needed. Persons on the general interest list are responsible for updating any changes in their email address.

The general interest list is not a waiting list, and it does not provide any priority, preferences, eligibility, or any other special status or rights to anyone on the list. Being on the interest list does not provide any party with any rights to or interests in a BMP home in particular or in general, or to any other BMP program benefits.

Program staff will notify those on the general interest list when new or resale BMP homes become available for sale, open application periods, upcoming workshops, any special eligibility requirements, and/or application processes. Upon receipt of such notices, prospective applicants may submit applications according to the instructions in the email notice, application forms, and these Guidelines. Applications are reviewed in the order in which they are received, priority level criteria and if the application is determined complete. Those applicants deemed eligible may proceed with the remainder of the application process as described in **Section E**.

#### **Waiting Lists**

Currently the Program staff does not maintain a waiting list for BMP homes. However, Program staff may establish

a waiting list(s) for a particular development, multiple developments, and/or particular home type or size (such as all three-bedroom homes, or all single family homes, etc.), if demand for particular home type or location, or BMP homes in general, warrants. If unusually high demand is anticipated for a particular development, home, or group of homes, staff may hold a lottery to establish a waiting list for such homes, in order to avoid confusion and/or disputes among sellers and buyers regarding home sales. In that event, Program Eligible applicants will be placed on the waiting list for which they have applied, in Priority Level order. A lottery will be drawn to determine the Designated Buyer and the Alternate Back-up Buyers.

## **2. Application Review and Determination of Eligibility**

The Program Administrator will accept and review applications for completeness upon receipt. Incomplete applications will be returned to the applicant with instructions for completion. Upon determination of completeness, staff will determine applicant's eligibility based on the contents of the application. Staff will provide an eligibility determination letter within twenty-one (21) days of receipt of a complete application. This letter will state whether the Applicant is eligible or ineligible, and if eligible, the size(s) of BMP home his/her Household may purchase. Staff will schedule an appointment with Applicant(s) to submit the Eligibility Application, answer any questions, discuss available BMP homes, and explain the next steps in the process of buying a BMP home. At the same time or at a subsequent appointment, staff will review all of the Program's disclosure forms and legal agreements with the Applicant(s).

## **3. Exceptions and Appeals**

### **Exception Requests**

Any applicant believing that his/her situation warrants an exception to any part of these guidelines due to circumstances outside of his/her Household's control, such as refugee status, special needs, or other hardships or special circumstances, may request an exception by submitting a written letter to the Housing Manager at the City of Santa Clara, Housing and Community Services Division at the time of submitting an eligibility application of any kind. The exception request must specify which particular guideline or requirement the Household cannot meet for reasons beyond their control or other valid reasons, and/or describe the Household's unique circumstances which warrant one or more specific exceptions to be identified in the letter, referencing the page(s) and section(s) of these Guidelines and/or application form related to the request. Exceptions to the Program's Low to Moderate Income Household requirement are not granted, in order to comply with the Housing Policy.

If the need for an exception arises while an application is being reviewed, a request may be submitted at such time. If the need for an exception arises only after receipt of a determination letter issued by Program staff, it shall be submitted as an appeal of such determination, according to the appeal process described below.

Exceptions related to disabilities (reasonable accommodations) may be requested according to this procedure, with a brief description of the exception(s) needed due to the Applicant's disability, and will be handled in accordance with the City's reasonable accommodations policy and these Guidelines.

The City's Housing Manager will consider the requested exception and will provide a letter response within 10 calendar days, stating if the requested exception can be granted in full or part and the reason for such decision. The Housing Manager may approve or deny such request. If denied, Applicants may submit an appeal of such denial to the Community Development Director, as explained below.

### **Appeals Procedure**

Applicants may appeal any determination letter, including denial of a requested exception, by providing a written explanation of the reasons for their appeal, and any supporting evidence the applicant wishes to provide. The appeal letter must be delivered to the Housing Manager by mail or personal delivery within ten calendar days of issuance of the determination letter being appealed. Program and City staff are not authorized to assist applicants in drafting appeal letters, nor in determining appropriate grounds for appeal or appropriate forms of supporting evidence, beyond advising them of the contents of these Guidelines, application forms, and other published Program materials. Applicants may refer to these Guidelines and application forms, and/or seek their own advisors/counsel for guidance in determining what types of documentation would be reasonable. The Community Development Director shall review the appeal letter and issue a final determination within thirty calendar days or less of receipt. Appeal to the

Community Development Director is the final administrative appeal.

Unless applicant(s) has ratified a purchase contract and opened escrow to purchase a BMP home prior to submittal of an appeal letter, no BMP home will be held or reserved for Applicant while an appeal is being considered, and offers from other prospective buyers may be accepted by Seller(s) of BMP home(s) during this time. If applicant(s) is in escrow to purchase a BMP home, City shall not issue any escrow instructions until the Director has made a final determination regarding the appeal, other than to inform the escrow officer that he/she may not close until further written notice from the City. Upon the Director’s determination of the appeal, Program staff shall proceed to either approve closing (if appeal was granted) or inform escrow that Applicant has been denied approval to purchase and buyer may not close on that home. The City and its Program Administrator shall not be responsible for any actions of seller, lender, or other parties regarding the escrow during the appeal period which may jeopardize buyer’s ability to purchase the BMP home.

**Section G. BMP Home Financing and Affordability Standards**

This section sets forth the Program’s underwriting standards related to affordability and risk mitigation, as well as financing requirements. Certain requirements apply to any loans or encumbrances against a BMP home during the entire term of restrictions, while some requirements apply at the point of initial purchase, and other prohibitions and/or requirements apply only to refinancing.

- 1. Affordability Standards**
- 2. Financing Requirements**
  - a. Initial Purchase Financing**
  - b. Refinancing**

**1. Affordability Standards**

Housing is considered affordable, according to most public-sector housing agencies, including the City of Santa Clara Housing and Community Services Division, HCD, and HUD, when total monthly housing costs do not exceed approximately 30-35% of a household’s gross monthly income. This ratio varies slightly depending on the household’s income level. These affordability standards apply at time of BMP home purchase and upon any proposed refinancing by a BMP homeowner.

The BMP Program affordability standards, used to review proposed home financing for affordability and risk avoidance, are shown on the table below:

Income Level	Maximum Percentage of Monthly Gross Income	
	Monthly Housing Cost (Front Ratio)	Total Monthly Debt (Back Ratio)
Very Low(30-50% of the AMI)	30	45
Low(51-80% of the AMI)	38	45
Moderate(81-120% of the AMI)	40	45

These standards show the maximum amounts of Debt to Income (DTI) home buyers can spend on monthly housing costs(“front end DTI ratio ”) and secured monthly debt (“back end DTI ratio) in order to qualify to buy a BMP home. The buyer’s actual income level determines which front end ratio applies, not the income level used to set the price for the BMP home, which may be slightly different than buyer’s actual income level. Program staff will determine buyer’s actual income level upon completing review of their application. Lenders may use a slightly different definition of “front end ratio” for their own underwriting purposes.

The Front-end ratio is calculated by dividing the total housing payment by the applicant’s calculated monthly income. The BMP Program includes the expenses listed below to determine a buyer’s monthly housing costs.

The amount of each housing expense is based on information provided in the buyer’s application to purchase, including information provided by lender, and/or estimates based on customary costs for the area.

- Principal and interest payments on the first mortgage;

- Principal and interest payments, if any, on subordinate financing non-deferred loans;
- Real estate taxes (Property Taxes)
- Homeowner's insurance (for condominiums: at a minimum fire/hazard insurance for contents/interiors, and personal liability; for single family: standard homeowner's policy) Flood insurance premium, if applicable
- Monthly Homeowners' Association dues (may include some or a portion of home owner's property insurance and/or utilities) for condominiums and for homes located in a planned unit development (PUD).

The Back-end ratio or the total debt-to-income ratio is calculated by adding together the total monthly payments of all existing long term debt (debt with a remaining term of 10 or more months) and the total monthly housing payment and dividing that sum by the applicant's calculated monthly income.

The total monthly debt, or "back end ratio", includes monthly housing cost plus any other secured monthly debt payments, such as car loans, student loans, child support/alimony, credit card or other personal loan debt, outstanding medical debts, etc. that appear on Applicant's credit report, loan application and/or Program application. Regular monthly expenses that have not yet been incurred (i.e., regular monthly child care/health care expenses, food, utilities etc. for current or future months) are not debt, and therefore are not included in the back ratio.

## 2. Financing Requirements

The following financing requirements apply both at time of home purchase, and to any subsequent refinancing:

- Total encumbrances (liens, mortgages, loans or debts of any kind secured by the home) may not amount to more than 97% of the home's maximum (restricted) BMP home price, or actual appraised value, if less than the BMP price, at the time the encumbrance is incurred (when the loan is made to home buyer/owner). Another way to say this is that the combined loan-to-value (CLTV) ratio on a BMP home may not exceed 97% of the then-current BMP home price determined by Program staff. Liens include tax liens, court judgments, and other non-voluntary liens imposed by any party.
- No mortgage or other residential loan secured by a BMP home (including home equity loans or lines of credit, etc.) may include any of the following terms or rates:
  - Prepayment penalty
  - Balloon payments
  - Negative amortization (such as interest-only payments, etc.)
  - Adjustable and/or non-prime interest rate
- Home equity lines of credit (HELOCs) are prohibited.
- Front and back ratios may not exceed the limits set forth above in the Affordability Standards subsection, using the ratios corresponding to the borrower's actual income level at time of loan application.
- All first mortgage loans must be provided by a conventional residential lender with standard underwriting and loan servicing capabilities.

### a. Initial Purchase Financing

All of the financing requirements listed above apply at time the BMP home is purchased, in addition to the following:

- i. Applicant must buy the home using a first mortgage loan equal to at least 70% and not more than 97% of the purchase price, provided by a conventional residential lender (including credit unions) with standard underwriting and loan servicing capabilities. Private-party, family member, or seller/agent loans, gifts, etc. may not be used in full or part as a substitute for a first mortgage equal to at least 70% of the home price.
- ii. Public sector and/or non-profit loans or grants may be used (FHA, Housing Trust Silicon Valley, WISH, Cal-HFA, VA, etc.) for any combination of the following: first mortgage, junior financing, or down-payment/closing cost assistance, as long as CLTV does not exceed 97%.
- iii. Any loans requiring repayment, and secured by a deed of trust against the BMP home, including non-profit or public sector "soft loans", whether deferred or forgivable in full or in part, are considered loans, not grants.

Such loans are included in the CLTV and subject to the 97% limit on CLTV noted above. Actual *bona fide* grants and/or gifts (no deed of trust and no repayment due) are not included in the 97% CLTV limit.

#### **b. Refinancing Requirements**

Refinancing requirements include all of the requirements listed under subsection 2, Financing Requirements, in addition to the following:

- i. Home owners must obtain the City's written approval to refinance prior to refinancing or encumbering their BMP home with any new debt at any time after their purchase of the home. In order to obtain written approval, home owners must complete and submit a refinance approval request form at least 30 business days before City approval is needed. Submittal of the request form does not guarantee approval of the home owner's proposed loan.
- ii. Refinancing includes refinancing any outstanding mortgages or loans on the home, taking out a new loan (junior loan, home equity line of credit, second or third mortgage, reverse mortgage, personal loan, etc.) to be secured by the home, and/or otherwise encumbering the home with any lien.
- iii. Refinancing may not cause the total combined loan-to-value (CLTV) ratio of all encumbrances on the home to exceed 95% of the initial BMP purchase price.
- iv. All proposed refinance loans must meet the all of the Financing Requirements listed in subsection 2, which prohibit terms such as negative amortization, adjustable interest rates, balloon payments, and lines of credit.
- v. Home owners are strongly encouraged to contact City staff for current Program refinancing requirements prior to paying any loan application fees, appraisal fees, credit check fees, or other non-refundable fees, to find out whether their desired refinancing is allowable on a BMP home. Current information on refinance approval procedures, loan requirements, Program forms, and fees, is available upon request from Program staff. Lenders may also contact the City staff for this information.

### **Section H. Short Term and Long-Term BMP Ownership and Occupancy Requirements**

Once a home buyer has purchased a BMP home, they must comply with the requirements of these Guidelines, the Housing Policy, the BMP Program's "Covenants, Restrictions and Option to Purchase" (the Restrictions) and BMP Deed of Trust recorded against their home, for a term of twenty years or until/unless they sell the home during the twenty-year term. If the home is sold prior to the end of the restricted resale period, the new buyer will be subject to a new twenty-year term. The Restrictions and a disclosure summarizing its requirements are provided to all buyers prior to purchase. This section provides a brief summary of the short and long-term Program requirements contained in the Restrictions. In case of any difference between these Guidelines and the buyer's recorded BMP Restrictions, the Restrictions recorded against buyer's home shall prevail.

#### **1. Terms of Restrictions.**

BMP homes are restricted for 20 years, as stated in the recorded Owner's Covenants, Restrictions and Option to Purchase.

- Year 1 through 5 of ownership: Known as the Restricted Resale Period. A BMP homeowner who decides to sell their home must sell at a restricted sales price to an eligible homebuyer as defined by the resale restrictions. The principal amount of the BMP Promissory Note is forgiven and another principal amount is established for the new owner. Equity share is capped.
- Year 6 through 20 of ownership: A BMP homeowner can resell their home to whomever they choose at the current, unrestricted fair-market price. The BMP homeowner will pay off the principal amount of the BMP Promissory Note at the sale of the home. The BMP homeowner shall pay a share of the increase in equity in the home to the City.
- After the 20th year of ownership: Resale restrictions expire. The homeowner is required to pay back the outstanding principal of the BMP Promissory Note. The homeowner is able to realize all of the market-driven appreciation in the home above its initial market value. No equity share to the City is

required.

**2. Primary Residence & Owner Occupancy**

Within 30 days of close of escrow, Applicant and his/her entire household (“Owner”) must move into and establish the BMP home as their primary residence. Owner and all co-owners listed on title must occupy the BMP home as their primary residence for the entire term or until home is sold. Children aged less than 18 years and any adult household members not on title are not subject to this requirement.

Primary residence consists of living in the home (and not residing in any other home) for at least ten months of each calendar year. Exceptions for individual home owners can be requested in case of hardship, such as illness/special needs requiring extended stays in health care facilities, or active duty military service, pursuant to the exception procedures in **Section F** of these Guidelines. Exceptions apply to the individual involved, not the entire household. If the entire household needs to move permanently from the home with no definite date of return, it must be sold pursuant to the Restrictions and these Guidelines.

Owner must maintain a homeowner’s property tax exemption on the BMP home, and may not claim a homeowner’s exemption on any other home, for the duration of their ownership of the BMP home. If Owner fails to maintain a homeowner’s property tax exemption for the BMP home, the home will no longer be considered his/her primary place of residence for Program compliance monitoring purposes.

Should Owner or any co-Owner cease to occupy the unit and/or be removed from title, any remaining owner, heir or occupant should notify the City of Santa Clara Housing and Community Services Division immediately in writing. City staff will inform the notifying party about their options for maintaining, transferring, or selling the home in compliance with Program requirements.

**3. Annual Certification of Owner Occupancy**

Owners must provide the Program staff with an annual written certification that they continue to occupy their home as their primary residence, with Valid Third Party Documentation (such as insurance statement and utility bill) of such occupancy. Program staff will provide Owners with an Occupancy Certification form annually for Owner to complete and submit. Program staff may request additional documentation from the owner(s) if needed to verify primary residency in the home.

**4. Rental of BMP Home Prohibited**

Owners may not rent out the home or any portion of it to any party, including family, friends, or other tenants, whether for actual paid rent or gifts, bartered services, assistance or any other form of compensation. Other occupants staying in the home as guest of owner (i.e., for no compensation whatsoever) may not substitute for Owner(s)’ required occupancy and primary residence in the home. Total occupancy of the BMP home may not exceed the maximum provided in the Occupancy Standards (**Exhibit III**) at any time.

**5. Unauthorized Sale or Transfer of Home Prohibited**

According to the terms of the Restrictions, the City has first right of refusal to purchase the home for the then-current BMP purchase price, if an Owner wishes to sell during the term. If Owner wishes to sell the home or transfer any ownership in the home to or from any party, or into a trust of any kind during the Term of restrictions, Owner must contact City staff prior to completing the proposed transfer, for written authorization, if the proposed transfer is allowable, or to verify that transfer is prohibited. Exceptions to this prohibition against sale or transfer may be made in very limited cases such as marriage, divorce, or death of an Owner (for certain types of heirs only), as set forth in more detail in Covenants, Restrictions and Option to Purchase and Promissory Note. Additional detail is provided in the Restrictions and in the BMP disclosures, copies of which are available from the Housing and Community Services Division upon request.

Owners are strongly encouraged to contact City staff in case of any desired or necessary transfer, for assistance in determining whether the proposed Transfer is allowable or prohibited, and for written approval if such transfer is allowable. Transfers include selling the home outright to another party, adding or removing any party from title to the home, including actual persons, trusts, and, in the case of refinancing, lenders or other institutions, and leasing of any portion of the home, or leasing the entire home.

**6. Resale Procedures- Year 1 through Year 5 (Transfer by Owner at a Restricted Resale Price)**

If Owner wishes to sell the BMP home during the Term, Owner shall complete and submit the “Notice of Intended Transfer” (NIT) form (see **Exhibit V**), available upon request, to the Housing and Community Services Division. The NIT must be delivered to the City at least ninety (90) days prior to the intended date for vacating the Residence or executing the Transfer.

Resale Year 1 through Year 5: A BMP homeowner who decides to sell their home within this time period must sell to an eligible BMP-qualified, new buyer (a first-time buyer with an income not exceeding the designated area median income of the BMP unit) at a re-established restricted resale price. The principal amount of the City Loan is forgiven and a new principal amount of the City Loan is established for the new homeowner.

Upon receipt of a completed NIT form (see **Exhibit V**), City staff will determine the Restricted Resale Price for the home. City will then notify Owner of the current maximum BMP purchase price limit for the BMP home, whether the City is interested in exercising its first right of refusal, whether or not there is currently a waiting list or interest list of interested buyers, and related resale procedures. If City decides to exercise its option, it may designate an Eligible Household and the Owner shall prepare the home for sale as follows:

- a. Within thirty (30) days of delivery of the Owner's Notice of Intended Transfer, the Owner shall: allow the City, or its designee, to inspect the Home to determine its physical condition including condition of floor coverings, of the paint, and wear and tear to the home, and observe any repairs to the home. If requested by the City following such inspections, the Owner shall obtain and deliver to the City a home inspection report prepared by a licensed home inspector and a termite inspection report by a licensed structural pest control operator.
- b. Within fifteen (15) days of receipt of the request from the City for home inspection and termite reports, the Owner shall obtain and deliver to the City a home inspection report prepared by a licensed home inspector and a termite inspection report of the home by a licensed structural pest control operator;
- c. Within the sooner of (a) Sixty (60) days from the date of receipt of the City's Intent to exercise the Purchase Option or (b) prior to close of escrow on the Transfer, the Owner shall repair the damages noted in the City's inspection reports, the Property Inspection Report and the Termite report including damage caused by water damage, infestation or infection by wood-destroying pests, all plumbing and electrical repairs and any repairs that are necessary to meet City Code requirements and Health and Safety requirements;
- d. Within Sixty (60) days from the date of receipt of the City's Intent to exercise the Purchase Option, the Owner will hold an open house for interested Eligible Households to view the home. Owner will refer any interested and Eligible Household to the City or its designee for eligibility determination
- e. If the Home is vacant, the Owner shall maintain the Home, including the exterior landscaping if not maintained by the Homeowners Association, in good condition and shall maintain utility connections until the close of escrow on the Transfer; and
- f. In the event of exercise of the Purchase Option by the City, the Owner shall permit a final walk-through of the Home by the City, or the City's designee, in the final three (3) days prior to close of escrow on the Transfer.
- g. Upon the City's notification of its intention to exercise the Purchase Option it will subsequently complete the purchase of the Residence within one hundred twenty (120) days from receipt of the Notice of Intended Transfer.

**7. Resale Procedures- Year 6 through Year 20 (Transfer by Owner at an Unrestricted Resale Price)**

If Owner wishes to sell the BMP home during the Term and after the expiration of the Resale Restriction Period, Owner shall complete and submit the “Notice of Intended Transfer” (NIT) form in **Exhibit V**, Also available upon request, to the Housing and Community Services Division. The NIT must be delivered to the City at least ninety (90) days prior to the intended date for vacating the Residence or executing the Transfer.

Resale Year 6 through Year 20: A BMP homeowner can resell their home to whomever they choose at the current, unrestricted fair-market price. The BMP homeowner will pay off the principal amount of the City Loan

at the sale of the home. The BMP homeowner must also pay a share of the increase in equity in the home to the City or the interest on the BMP Promissory Note, whichever is less.

Upon receipt of a completed NIT (**Exhibit V**) form, City staff will determine the share of the increase in equity of the home. City will then notify Owner of the current the share of the increase in equity of the home and whether the City is interested in exercising its first right of refusal, and related resale procedures. The Owner shall not contract with a real estate broker to sell the Residence until the Owner has received the City's Response letter pursuant to the Notice of Intended Transfer, as the services of a broker will not be required if the City exercises the Option to Purchase the Residence.

If City decides not opt to exercise its option, the City will notify the Owner in writing. Upon receipt of this notification, Owner can list the home with a realtor, prepare it for sale and identify a prospective buyer. Once Owner has identified a prospective buyer, the owner is required to send:

- a. A copy of the Multiple Listing Service Listing Sheet,
- b. A completed request for payoff form from the City with all requested document

#### **8. Maintenance of Home**

The Owner is required to maintain home in a decent, safe and sanitary condition, free of hazards, code violations, and nuisances, in compliance with the Covenants, Deed of Trust, Homeowners' Association covenants, if any, the City of Santa Clara Municipal Code, and other applicable health and safety codes and laws. Home may not be used for any non-residential use, or as a vacation home, vacation rental, or any use other than as Owner's primary residence. Owner may operate a home-based business in the home to the extent permissible according to the City of Santa Clara Municipal Code, if licensed and permitted by the City, and if ancillary to the primary use of the home as Owner's primary residence.

Owner must pay any and all assessments levied against the home when due, including homeowners' association dues and special assessments, property taxes, parcel taxes, special district assessments, etc., just as any other property owner must pay such taxes and assessments. The BMP program does not provide Owner any protection, exemption, waiver, or reduction of any such taxes, fees or assessments legally charged to Owner. Owner must adequately budget for such expenses like any other home owner.

#### **9. Default and/or Foreclosure**

In the event that Owner receives a notice of default from any entity other than the City, this will be considered a default under the City's BMP deed of trust as well, and City may pursue any available legal remedies to avoid loss of the home to the Program through foreclosure, including exercising its option to purchase, and/or assigning such option to an eligible buyer prior to foreclosure. City will cooperate with Owner and lender to the extent possible to resolve a default under any other deed of trust, in order to avoid foreclosure and maintain the home in the BMP program. City shall not be obligated to take any actions to preserve Owner's ownership interest in the home, nor to pay any sums owed by Owner or take any legal action in favor of either party related to a default or foreclosure. In the event City does not exercise its option and a foreclosure occurs, the Covenants will be released by the City and such home will no longer be bound by the Program restrictions. Terms of default under the Covenants and BMP deed of trust are defined in more detail in those documents recorded against each home.

#### **10. End of BMP Term**

Upon the end of the twenty year term of the BMP unit, the BMP homeowner is required to pay back the principal of the City Loan and is able to realize all of the market-driven appreciation in the home above its Initial Market Value (IMV). Resale restrictions expire and the BMP homeowner is no longer required to pay the City a share in the increase in equity in the home. , Upon receipt of payment for the BMP Promissory Note, the home shall be released from the Covenants and the City Deed of Trust and a Release of Covenants and reconveyance of the Deed of Trust shall be recorded by the City upon request of Owner. After recordation of such release, home shall be a market-rate home and Owner shall no longer be subject to the Program restrictions, including these Guidelines, the Housing Policy and the Agreement.

## **Section I. Program Compliance**

### **Burden of Proof of Eligibility**

Participation in the Program is a privilege, not a right, as there are not enough BMP homes for all Eligible Households. All applicants bear the burden of proof to demonstrate that their Household meets all of the Program Eligibility Requirements by submitting complete applications with all required Valid Third-Party Documentation. Failure to adequately demonstrate such eligibility, by providing incomplete applications or otherwise not complying with these Guidelines or associated application instructions, will result in a determination of Ineligibility and denial of Program benefits.

Program staff is not required to prove that Applicants are ineligible, only that they failed to adequately demonstrate their eligibility in their application, and/or failed to submit a complete application, failed to secure adequate financing, or failed to deposit required down-payment and closing cost funds into escrow.

The Program Administrator may contact any source provided by Applicant or included in his/her application to verify Applicant information, and/or request information from those sources named or described generally on the Program's Authorization to Release Information Form included in application forms.

### **False Statements or Misrepresentations**

Any false statement(s), intentional misrepresentation of the facts, or false representations submitted as part of any Program application, occupancy certification, or other Program submittal in order to obtain an eligibility determination or verify Program compliance constitutes an act of fraud and may be prosecuted accordingly. Submittal of intentionally false, misleading or incomplete information in a Program application will result in denial of eligibility to participate in the Program, and the applicant(s) will be permanently banned from the Program.

If the City should discover that a purchase was completed by an owner(s) who intentionally made false statements or misrepresented the facts in order to appear eligible to purchase the property, this will constitute fraud and/or default under the Covenants, and the City will use all available legal remedies to bring the home into compliance, and/or impose any criminal or civil penalties allowed by law.

If the City determines that BMP owner(s) have made intentionally false statements or misrepresentations in their annual occupancy certification in order to appear compliant with Program requirements, it will use any enforcement measures available under the Housing Policy, these Guidelines, the Deed of Trust, and/or Covenants to restore compliance.

### **Unauthorized Rental, Sale, or Transfer of BMP Home**

If any portion of the BMP home is rented out, sold or otherwise transferred in full or part without prior City approval, the City may use all available legal remedies to bring the home into compliance, and/or impose any criminal or civil penalties allowed by law, including possible sale of the property.

### **Severability**

If any one or more of the provisions contained in these Program Guidelines shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provisions shall be deemed severable from the remaining provisions contained in the Guidelines, and the Guidelines shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

### **Non-Liability for Negligence, Loss, or Damage**

Owner acknowledges, understands and agrees that the relationship between Owner and City or its designee is solely that of borrower and lender, and that City and its assigns neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on or inform the Borrower of the quality, adequacy or suitability of the Residence or any matter. City and its assigns owes no duty of care to protect the Borrower against negligent, faulty, inadequate or defective building or constructions or any condition of the Residence and Borrower agrees that neither Borrowers or Borrower's heirs, successors or assigns shall ever claim, have or assert any right or action against the City for any loss, damage or other matter arising out of or resulting from any condition of the Residence and will hold City and its assigns harmless from liability, loss or damage for these things.

## **EXHIBITS**

- I. Program Income and Asset Limits**
- II. Income and Assets Inclusions and Exclusions List (Title 25 Section 6914)**
- III. Occupancy Standards**
- IV. BMP Program Fee Schedule**
- V. Notice of Intended Transfer**

Exhibit I  
Program Income and Asset Limits

**A. Household Income Limits**

The Household Income Limits used for the BMP Program are the Low to Moderate Income Limits established annually by HCD. These are maximum, not minimum, income limits, and include the incomes of all adults in the Household, of various types (see Exhibit II for details). An Applicant’s gross (pre-tax) annual household income, at the time of application, may not exceed the then-current Low to Moderate Income Limits for Applicant’s actual household size and the designated Area Median Income for the BMP unit and the development, as provided below:

Table A: Low to Moderate Income limits (Maximum 120% AMI)

<b>2017</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>80%</b>	\$59,400	\$67,900	\$76,400	\$84,900	\$91,650	\$98,450
<b>100%</b>	\$79,300	\$90,650	\$101,950	\$113,300	\$122,350	\$131,450
<b>110%</b>	\$87,250	\$99,700	\$112,150	\$124,650	\$134,600	\$144,600
<b>120% AMI</b>	\$95,150	\$108,750	\$122,350	\$135,950	\$146,850	\$157,700

*Updated annually by HCD. The current limits are available on the Program Administrator webpage:  
<http://www.housingtrustsv.org/programs/homebuyer-assistance/below-market-purchase-program/>*

**B. Household Asset Limits**

Applicants’ total combined household assets (as defined in Exhibit II, Asset Inclusions and Exclusions) may not exceed the following amounts, based on the age of the Primary Applicant:

Table B: City of Santa Clara BMP Program Asset Limits

<b>Area Median Income</b>	<b>Maximum Gross Household Assets Allowed (Post-Closing)</b>
Low Income Households	\$60,000
Moderate Income Households	\$100,000

Assets in IRS-recognized retirement accounts (IRA’s, 401-k’s, 403-b’s, etc.), and future/potential pension benefits or insurance proceeds held in accounts not currently owned and controlled by the Applicant or Co-Applicant(s), are not counted toward the BMP Program Asset Limits (but must be listed on Application for determining gross household income, in accordance with Part 5, as explained in Exhibit II).

In determining whether Household’s assets are within the Asset Limits, Program staff will require three months of the most current statements for each monetary asset (bank, credit union, non-retirement investment account statements) to determine current value of each asset. Non-monetary assets, such as stock options, mobile homes, commercial real estate, etc., will be valued based on a current valuation (not less than 90 days old) to be provided by a qualified third-party appraiser or estimator, which must be included in Applicant’s eligibility application as required asset documentation. The Household’s current total combined household assets, both on the application date (most recent monthly statements/valuations in application) less the down payment and estimated closing costs must be within these asset limits.

Exhibit II  
Income and Assets Inclusions and Exclusions List  
(Title 25, Section 6914)

GROSS INCOME INCLUSIONS

“Gross income” shall mean the anticipated income of a person or family for the twelve-month period following the date of determination of income.

“Income” shall consist of the following:

(a) Except as provided in subdivision (b), “Exclusions”, all payments from all sources received by the family head (even if temporarily absent) and each additional member of the family household who is not a minor shall be included in the annual income a family. Income shall include, but not be limited to:

- (1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
- (2) The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
- (3) Interest and dividends;
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay
- (6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public 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 and utilities, plus
  - (B) The maximum amount which the public assistance agency could in fact allow for the family for shelter and utilities,
- (7) Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family or spouse

## GROSS INCOME EXCLUSIONS

- (b) The following items shall not be considered as income:
- (1) Casual, sporadic or irregular gifts;
  - (2) Amounts which are specifically for or in reimbursement of the cost of medical expenses;
  - (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;
  - (4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;
  - (5) The special pay to a serviceman head of a family away from home and exposed to hostile fire;
  - (6) Relocation payments made pursuant to federal, state, or local relocation law;
  - (7) Foster child care payments;
  - (8) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;
  - (9) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:
    - (A) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs.
    - (B) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

Exhibit III  
Occupancy Standards

To determine the size of BMP home (number of bedrooms) an Applicant may be eligible to purchase, the number of people in his/her household, and their age, gender and familial relationships (siblings, couples/spouses, parent, child, etc.) are considered.

The maximum occupancy allowed in a BMP home is two people per bedroom, plus one additional person. The minimum allowed is no less than one person per bedroom. However couples and/or household members (particularly young siblings) of similar age and same gender may be required to share a bedroom. Reasonable accommodations to these standards may be requested in the case of medical or disability needs, and will be considered on a case-by-case basis.

<b>Number of Bedrooms in BMP Home</b>	<b>Minimum Household Size</b>	<b>Maximum Household Size</b>
One	1	3
Two	2	5
Three	3	7
Four	4	9
Five	5	11

Some households may qualify for a range of bedroom sizes (e.g., a 3-person household may qualify for a 1-, 2- or 3-bedroom home), depending on specific household characteristics, and may choose to buy whichever sized home they prefer, among those for which they qualify, assuming they can afford the home's price. Program staff will review household composition details provided in Eligibility Applications and notify Applicants in their initial Eligibility Determination letter what home sizes they are eligible to buy.

If Applicant's household size and/or composition changes between date of Eligibility Application and date of Application to Purchase (according to information provided in Applications), Applicant may be determined to qualify for a different home size(s) than that stated in initial Eligibility Determination Letter.

Exhibit IV:  
BMP Program Fees

All Fees Are Non-Refundable and subject to Annual Adjustment

Fee Name	Purpose	Amount
<b>BMP Home Buyer Eligibility Determination Fee</b>	Review applicant's Eligibility Application to determine if they are eligible to buy a BMP home, and if so, the size(s) of BMP home for which the household qualifies.	\$50
<b>BMP Purchase Application</b>	Review and verify the applicant's BMP Application to Purchase, which includes the proposed Purchase and Sale Contract, proposed financing terms and amounts, proposed down-payment amount, and current eligibility documentation (if documentation in initial Eligibility Application is more than 90 days old). This review also determines if Applicant's household is eligible to purchase the size of home (number of bedrooms) indicated in the Purchase Contract. Preparation of City escrow instructions; final coordination with loan and escrow officers, buyer and seller, real estate agents; preparation of the BMP promissory note, deed of trust, and covenants, and other legal Forms. One on one appointment to administer BMP test and document signing and notarization.	\$500

**Note:** Program fees are subjected to change without notice.

Exhibit V

**Notice of Intended Transfer (BMP Owner)**

To: City of Santa Clara- Housing and Community Services Division ("City")

From: \_\_\_\_\_("Owner")

Home Address: \_\_\_\_\_("Home")

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

**Please be notified that the Owner intends to transfer the Home listed above.**

A. The following information is provided to the City pursuant to Section 5 of the Covenants, Restrictions and Option to Purchase Agreement:

- 1. Address of Home: \_\_\_\_\_
- 2. Date Owner purchased Home: \_\_\_\_\_
- 3. Resale Restriction Period Expires: \_\_\_\_\_
- 4. Purchase Price paid by Owner when Home was purchased: \_\_\_\_\_
- 5. Date Owner intends to vacate Home: \_\_\_\_\_
- 6. Date Home will be placed on market: \_\_\_\_\_
- 7. Name and phone number of person for City to contact to schedule inspection:

Name	Email	Phone
_____	_____	_____
_____	_____	_____

- 8. As the Owner of the above mentioned BMP home, I/we are:
  - Within the Resale Restriction Period (Year 1 through Year 5)
  - Within the Unrestricted Resale Period (Year 6 through Year 20)

B. As required by Section 5 of the Covenants, Restrictions, and Option to Purchase Agreement, the following documents are attached to this Notice:

1. Copy of HUD-1 Settlement Statement from Owner's purchase of the Home
  
2. If Owner has made Eligible Capital Improvements to the Home that Owner wishes to include in the City's calculation of New Restricted Sales Price, check box below

Yes, I have made Eligible Capital Improvements pursuant to Section 13 of the Resale Agreement.

They are \_\_\_\_\_ [**describe improvements**] and were

completed on \_\_\_\_\_ [**insert date**].

I am attaching the following documents to this letter:

- a. copy of City letter granting prior approval of these improvements;
- b. evidence of cost of these improvements;
- c. Appraisal showing value added to Home by the improvements.

C. I understand that if the home is **within** the Restricted Resale Period (Year 1 through Year 5). I agree to prepare the Home for sale by:

1. allowing the City or its designee to inspect the Home within thirty (30) days of this notice,
2. Not listing the Home for sale with a multiple listing service, or contacting a real estate broker until I/we have received notification of whether the City intends to exercise its option,
3. obtaining a pest control report within Fifteen (15) days of the date of City's request for the inspection,
4. if requested by the City following the City's inspection, I will obtain a home inspection report from a licensed home inspector within Fifteen(15) days of the date of City's request for the inspection,
5. repairing all damage noted in the home inspection and pest report within the sooner of: (i) sixty (60) days from the date of this notice, or (ii) two (2) weeks prior to close of escrow or the transfer of the Home,
6. maintaining utility connections until the Home is transferred,
7. permitting a walk through by the City prior to close of escrow or the transfer.

D. I understand that if the home is **within** the Unrestricted Resale Period (Year 6 through Year 20). I agree to prepare the Home for sale by:

1. Not listing the Home for sale with a multiple listing service, or contacting a real estate broker until I/we have received notification of whether the City intends to exercise its option,
2. If City decides not opt to exercise its option, the City will notify the Owner in writing. Upon receipt of this notification, Owner can list the home with a realtor, prepare it for sale and identify a prospective buyer. Once Owner has identified a prospective buyer, the owner is required to send:
  - a. Letter certifying the Owner and the proposed buyer, have not paid, have no agreement to pay and will not pay, to the other such party, or to any other person, any money or other consideration in addition to the consideration described in the terms of the sale and the transaction is an Arms-length transaction.
  - b. A copy of the Multiple Listing Service Listing Sheet must accompany this letter.
  - c. A copy of the ratified purchase agreement and all addendums and counter offers.
  - d. Copy of HUD-1 Estimated Settlement Statement from the Title Company

This Owner's Notice of Intended Transfer is certified by Owner to be true and correct and is signed on \_\_\_\_\_ **[insert date]** under penalty of perjury.

By: \_\_\_\_\_  
Owner

By: \_\_\_\_\_  
Owner