



## Inclusionary BMR Closing Documents Updates

### MOHCD Homeownership Programs Announcement 2019-01

Date of Announcement: February 11, 2019

The Mayor's Office of Housing and Community Development (MOHCD) of the City and County of San Francisco (City) is announcing updates to its closing documents for the Below Market Rate (BMR) ownership units under the [Inclusionary Affordable Housing Program](#) (the "Inclusionary BMR Closing Documents"). The following table outlines the key documents and describes the major updates to these documents that enforce the program restrictions. This table may not be all-inclusive and shall be used as a reference only. Lenders and housing partners shall view the attached sample closing documents for complete information.

| Key Documents  | Major Updates   |
|--|---|
| <p><b>Declaration of Restrictions</b> for Inclusionary Housing Below Market Rate Units and Option to Purchase Agreement (the "<b>Declaration</b>")</p> | <p>The Declaration is a recorded document executed by BMR owner to comply with the use restrictions and grants the City an option to purchase the BMR unit in the event that the owner does not comply with the program terms.</p> <ul style="list-style-type: none"> <li>- The Declaration spells out the restriction terms and restrictions on occupancy, refinancing, title transfers, resale price, and encumbrances.</li> <li>- The Declaration defines events of defaults and grants to City an option to purchase upon the occurrence of an event of default. It's used in place of the City's Grant of Right of First Refusal.</li> <li>- The Declaration shall be recorded prior to the recordation of the first mortgage lien.</li> </ul> |
| <p><b>Promissory Note or BMR Note</b></p>  | <p>The BMR Note contains a principal amount plus the appreciation.</p> <ul style="list-style-type: none"> <li>- The principal amount is the difference between the BMR price and fair market value of the property at the time of purchase.</li> <li>- The appreciation is calculated as the amount equal to the difference between the fair market value of the property at the time of <u>purchase</u> and the fair market value of the property at the time of <u>resale</u>.</li> <li>- Upon sale of the Property to a program qualified buyer at a resale price established in the Declaration, the entire principal amount and the appreciation shall be forgiven, and the Note shall be cancelled.</li> </ul>                                |
| <p><b>Deed of Trust and Assignment of Rents</b></p>  | <p>The BMR Deed of Trust is subordinate to the first mortgage deed of trust, executed by BMR owner as trustor, for the benefit of the City to secure the BMR Note. The BMR Deed of Trust will not be subordinated to any other liens or restrictions affecting the Project or a BMR Unit. A short form Deed of Trust is now replaced by a long form Deed of Trust with more detailed clauses and conditions.</p>  |

## Effective Date

The new Inclusionary BMR Closing Documents are already in effect and will be used in connection with the purchase of an Inclusionary Affordable BMR ownership unit governed by the 2018 Inclusionary Affordable Housing Program Monitoring and Procedures Manual dated October 11, 2018 (the “Manual”, available at <https://sfmohcd.org/inclusionary-housing-program-manuals>).

Note: For changes related to the Manual, please refer to [BMR Manual and HO Programs Announcement 10.23.2018](#).

All of the above information has been posted to the MOHCD Announcement Webpage at: <https://sfmohcd.org/mohcd-homeownership-program-announcements>.

\*\*\*\*\* Please contact MOHCD Homeownership Programs at 415-701-5500 with any questions regarding this Announcement.

***We thank you for your continued support and partnership.***

**Enclosure:**

**Sample Inclusionary BMR Closing Documents (new)**

**Sample Inclusionary BMR Closing Documents (old)**