

CITY AND COUNTY OF SAN FRANCISCO

RESIDENTIAL INCLUSIONARY AFFORDABLE HOUSING PROGRAM
MONITORING AND PROCEDURES MANUAL

Adopted 6/28/2007

PREFACE

The Residential Inclusionary Affordable Housing Program ("Program") requires developers to sell or rent a certain percentage of units in new developments at a "below market rate" price that is affordable to low-income, median-income and moderate-income households. The Program is governed by San Francisco Planning Code Section 315 et seq., and is administered by the San Francisco Mayor's Office of Housing ("MOH"). Planning Code Section 315 requires that MOH and the San Francisco Planning Department publish a Procedures Manual containing procedures for monitoring and enforcement of the policies and procedures for implementation of the Program. This Monitoring and Procedures Manual ("Manual") contains information regarding the Program for potential buyers and renters of below market rate units, as well as for information for projects sponsors, owners and property managers of units developed under the Program. Updates to the Manual occur as needed.

This Manual should be read in conjunction with the applicable requirements of the Program, found in San Francisco Planning Code Section 315 et seq., including prior versions of that section. Previous versions of Planning Code section 315 et seq. can be found on the MOH website at www.sfgov.org/moh. While every effort has been made to harmonize the information in this Manual with the requirements of the Planning Code and previous versions of the Code, should there be any conflict with the Manual and the Planning Code or previous versions of Section 315 et seq (whichever is applicable to a particular development), the terms of the Planning Code or those previous versions shall prevail over this Manual. The provisions of a Notice of Special Restrictions recorded on a property or unit developed under the Program shall prevail over any general requirements in the Manual or the Planning Code.

Users of this Manual are encouraged to seek their own legal counsel to aid in understanding of the requirements of the Program. If there are general questions regarding the Manual, users may call the Mayor's Office of Housing at (415) 701-5500, or visit their website at www.sfgov.org/moh.

Any request for the interpretation and applicability of the provisions of the Planning Code may be sought by contacting the Zoning Administrator, pursuant to Planning Code Section 307(a).

Any BMR unit entering the marketing stage on or after the effective date of this Manual is subject to the Manual in its entirety.

The effective date of this Manual is June 28, 2007.

TABLE OF CONTENTS

- I. DEFINITION OF TERMS.....6-15
- II. BUYER QUALIFICATIONS AND RESTRICTIONS ON BMR OWNERSHIP UNITS
 - A. Buyer Qualifications for BMR Ownership Units.....16-19
 - 1. Qualifying Household for BMR Ownership Units
 - 2. Preferences for BMR Ownership Units
 - 3. First-time Homebuyer Requirement for BMR Ownership Units
 - 4. First-time Homebuyer Education Workshop Requirement for BMR Ownership Units
 - 5. Household Size Requirement for BMR Ownership Units
 - 6. Income Requirement for BMR Ownership Units
 - 7. Asset Test for BMR Ownership Units
 - B. Buyer Application Requirements.....19
 - C. Financing Requirements.....20
 - 1. Loan Review for BMR Ownership Units
 - 2. Allowable Loan Types for BMR Ownership Units
 - 3. Loan Types Not Allowed for BMR Ownership Units
 - 4. Documentation Requirements for BMR Ownership Units
 - D. Restrictions on BMR Ownership Units.....20-26
 - 1. Term of Restriction on BMR Ownership Units and Owners
 - 2. Documents that Govern the BMR Ownership Unit and Owner
 - 3. Occupancy Requirement for BMR Ownership Units
 - 4. Restrictions on Renting BMR Ownership Units
 - 5. Resale Restrictions and Procedures for BMR Ownership Units
 - 6. Restrictions on Title Transfers for BMR Ownership Units
 - 7. Owner Refinancing of BMR Ownership Units
 - E. Capital Improvements.....26-29
 - F. Monitoring of BMR Ownership Units.....29-30
- III. RENTER QUALIFICATIONS AND RESTRICTIONS ON BMR RENTAL UNITS
 - A. BMR Renter Qualifications.....30-32
 - 1. Qualifying Household for BMR Rental Units
 - 2. Preferences for BMR Rental Units
 - 3. Non-Homeowner Requirement for BMR Rental Units
 - 4. Household Size Requirement for BMR Rental Units
 - 5. Income Requirement for BMR Rental Units
 - 6. Asset Test for BMR Rental Units
 - B. BMR Renter Application Requirements.....33

- C. Restrictions on BMR Rental Units.....33-34
 - 1. Term of Restriction on BMR Ownership Units
 - 2. Documents that Govern the BMR Rental Unit
 - 3. Occupancy Requirement for BMR Rental Units
 - 4. Restrictions on Renting or Subleasing BMR Rental Units
 - 5. Restrictions on Lease Changes for BMR Rental
- D. Permissible Rent Increases.....34
- E. Monitoring of BMR Rental Units.....35

IV. PROCEDURES FOR PROJECT SPONSORS, OWNERS AND PROPERTY MANAGERS

- A. Monitoring and Reporting Procedures.....35-36
 - 1. Monitoring and Reporting Procedures for BMR Ownership Units
 - 2. Monitoring and Reporting Procedures for BMR Rental Units
 - 3. Statistical Information
 - 4. Annual Report for BMR Ownership Units
 - 5. Annual Report for BMR Rental Units
- B. Compliance Procedures.....37-47
 - 1. Compliance Through New Construction On-Site
 - 2. Compliance Through Conversion of Use On-Site
 - 3. Compliance Through New Construction Off-Site
 - 4. Compliance Through In-Lieu Fees
- C. Initial Sales Procedures for BMR Ownership Units.....47-52
 - 1. Request for Pricing for BMR Ownership Units
 - 2. Methodology for Pricing Initial Sale BMR Ownership Units
 - 3. Parking Space Policy for BMR Ownership Units
 - 4. Marketing Procedure for BMR Ownership Units
 - 5. Verification of Owner Qualification for BMR Ownership Units
 - 6. Buyer Approval for BMR Ownership Units
 - 7. Buyer Financing for BMR Ownership Units
 - 8. Restrictions on BMR Ownership Units
 - 9. Transaction Fees for BMR Ownership Units
 - 10. Inability to Find a Buyer for BMR Ownership Units
- D. Initial Rental Procedures for BMR Rental Units.....52-56
 - 1. Request for Pricing for Rental BMR units
 - 2. Methodology for Setting Initial Rent Levels for BMR Rental Units
 - 3. Parking Space Policy for BMR Rental Units
 - 4. Marketing Procedures for BMR Rental Units
 - 5. Verification of Renter Qualification for BMR Rental Units
 - 6. Renter Approval for BMR Rental Units
 - 7. Permissible Rent Increases for BMR Rental Units
 - 8. Rental Rate Upon Subsequent Occupancy by Qualifying households for BMR Rental Units
 - 9. Documentation of Annual Rent Levels for BMR Rental Units

E. Marketing Procedures for Initial Sale and Rental of BMR Units.....	56-59
1. General Requirements for Marketing of all Initial Sales and Rentals of BMR units	
2. Contents of Marketing Plan	
3. Conduct of Marketing Plan	
F. Marketing Procedures for Resale of BMR Ownership Units.....	60
G. Marketing Procedures for Subsequent Rentals of BMR Rental Units.....	60
H. Selection of BMR Purchasers or Tenants at Initial Sale or Rental.....	60
I. Conversion of BMR Rental Units to Ownership Units.....	61-62
J. Documentation and Enforcement of Sales Restrictions for BMR Ownership Units.....	62-66
K. Conflict of Interest.....	66

I. DEFINITIONS OF TERMS (Bold Face words are further defined in this subsection).

AFFORDABLE HOUSING PROJECT	A housing project or mixed use project, whether new construction or conversion of use, which contains units satisfying affordable housing requirements imposed by the Inclusionary Housing Ordinance, planning approvals or other use restrictions.
APPRAISED FAIR MARKET VALUE	The value of a BMR unit determined without regard to sales or rental restrictions on that unit pursuant to (1) an independent appraisal conducted by an appraiser acceptable to MOH and paid for by the prospective purchaser of such unit, or (2) mutual agreement as to value between MOH and the prospective purchaser. This appraisal may be required by MOH prior to any sale of a BMR unit.
BMR OWNERSHIP UNIT	Below Market Rate ("BMR") Ownership Unit. A BMR unit owned and occupied by a qualifying household.
BMR RENTAL UNIT	Below Market Rate ("BMR") Rental Unit. A BMR unit rented and occupied by a qualifying household.
BMR UNIT	Below Market Rate ("BMR") Unit. An affordable dwelling unit or other approved residential unit which is sold or rented at a price specified in the planning approvals or other use restrictions which may be lower than the appraised fair market value of comparable units. BMR units may be either ownership for first time homebuyer households or rental. The sales or rental price limits on the BMR unit are as described in the planning approvals or other use restrictions as required by the City and County of San Francisco.
CAPITAL IMPROVEMENTS CAP	As referenced in section II (E) (5), the difference between the resale price and the final resale price of a BMR unit after the addition of approved eligible capital improvements and eligible replacement and repair. In order to maintain the affordability of the BMR unit for subsequent buyers, MOH will review and approve eligible capital improvements and eligible replacement and repair when submitted. However, at the time of sale, MOH will cap these improvements at 7% of the resale price. For example: Formula Calculated Resale Price + Eligible Capital Improvements and/or Eligible Replacement

and Repair (Cost of Approved CI's or 7% of Sale Price, whichever is less)

+ Special assessments (dollar-for-dollar)

+ 5% of Original resale price if using MLS

= Final resale price

CERTIFICATE OF
FINAL
COMPLETION AND
OCCUPANCY

A certificate issued to a Project Sponsor by the Bureau of Building Inspection (DBI) that certifies that all Building Code provisions and building specifications for the development project have been satisfied.

CITY

The City and County of San Francisco

CLOSE OF
ESCROW

The closing of the sale of a BMR Ownership Unit to a qualifying household.

COMPARABLE
UNIT

A unit that is of good quality and that is consistent with the current standards for new housing.

CONDITIONS OF
APPROVAL

A set of written conditions imposed by the City Planning Commission or another permit-issuing City agency or appellate body when it receives a Conditional Use Permit for the construction of a principal project or other housing project subject to this program.

CONVERSION

Change in use of a property.

DEPARTMENT OF
BUILDING
INSPECTIONS, or
"DBI"

San Francisco Department of Building Inspections

DOMESTIC
PARTNER

A legal or personal relationship between individuals who live together and share a common domestic life but are not joined in a traditional marriage or a civil union as formalized through a local or state registry.

DWELLING UNIT

A room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen.

EQUAL OPPORTUNITY HOUSING SYMBOL	The federal fair housing symbol used to identify the adherence to fair housing rules.
ESCROW CLOSING DOCUMENTS	Documents signed by a buyer to complete the sale of a BMR unit.
FAIR HOUSING	State or federal laws that govern the fair and unbiased treatment of buyers and renters when selling or renting a housing unit.
FIRST CERTIFICATE OF OCCUPANCY	Either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109, whichever is issued first.
FIRST SITE OR BUILDING PERMIT	The first Department of Building Inspection (DBI) issued permit for the construction of land.
FIRST-TIME HOMEBUYER EDUCATION WORKSHOP	A course designed to provide basic education to first time homebuyers offered by a counseling agency certified by MOH.
GROSS INCOME	All income from whatever source derived as provided in the Internal Revenue Code (26 USC Section 61), whether or not exempt from federal income tax. Such income includes, but is not limited to, the following: Compensation for services, including fees, commissions, and similar items; Income from assets; Gross income derived from business; Gains derived from dealings in property; Interest; Rents; Royalties; Dividends; Alimony and separate maintenance payments;

	<p>Annuities;</p> <p>Income from life insurance and endowment contracts;</p> <p>Pensions;</p> <p>Income from discharge of indebtedness;</p> <p>Distribution share of partnership gross income;</p> <p>Income in respect of a decedent;</p> <p>Income from an interest in an estate or trust; and</p> <p>Public benefits including but not limited to CalWorks, SSI, Disability income.</p>
HUD AREA MEDIAN INCOME	Unadjusted income levels derived from the Department of Housing and Urban Development ("HUD") on an annual basis and used to calculate the income levels of qualifying BMR households and to price BMR units.
HOME OWNERS ASSOCIATION, or "HOA"	A nonprofit association that manages the common areas of a condominium or planned unit development (PUD). Unit owners pay to the association a fee to maintain areas owned jointly.
HOME OWNERS ASSOCIATION DUES or "HOA" DUES	Monthly payments due to a homeowners association for the upkeep, maintenance and improvement of common areas in a residential building.
HOUSING PROJECT	A development that has residential units as defined in the Planning Code, including but not limited to dwellings, group housing, independent living units, and other forms of development which are intended to provide long-term housing to individuals and households. Housing project shall not include that portion of a development that qualifies as an Institutional Use under the planning code. Housing project for the purpose of the program shall also include the development of live/work units as defined by Planning Code Section 102.13. Housing project for the purpose of this Program shall mean all phases or elements of a multi-phase or multiple lot development.
HOUSING UNIT	"Housing Unit" or "unit" shall mean a dwelling unit as defined in San Francisco Housing Code Section 401.
IMPUTED INCOME	Gross income plus a percentage of the value of allowable

assets. Ten percent (10%) of allowable assets between thirty thousand (\$30,000) and one hundred thirty thousand (\$130,000) dollars will be added to a household's gross income. Allowable assets over one hundred and thirty thousand (\$130,000) dollars will be added to a household's gross income at a rate of thirty-five percent (35%).

INCLUSIONARY
GUIDELINES

The Guidelines adopted by the Planning Commission on September 10, 1992, by Resolution 13405, setting forth inclusionary policies in effect as of that date.

INCLUSIONARY
ORDINANCE

Sections 315-315.9 inclusive of the San Francisco Planning Code, as amended from time to time.

INCLUSIONARY
PROGRAM

The Residential Inclusionary Affordable Housing Program.

INCOME TABLE

Income information that is based on a specific federal source and geographic area. Income tables in this Manual include the HUD Area Median Income table and the San Francisco Median Income table.

The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Income levels for buyers in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for buyers in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size.

LIFE OF THE
PROJECT

The time period during which a principal project or off-site project exists as a residential development regardless of change in principal project or off-site project ownership.

The affordable housing requirement of a principal project or off-site project shall be in effect shall be for the life of the project for units marketed after the formal adoption of this Procedures Manual.

LOW-INCOME
HOUSEHOLD

A household whose combined annual gross income for all members does not exceed sixty (60) percent of median

	income.
MANUAL	The City and County of San Francisco Residential Affordable Housing Program Procedures and Monitoring Manual.
MARKETING CONSULTANT	A person representing a development of BMR units who markets and sells the BMR units in accordance with the procedures set forth in this Manual and by MOH.
MARKETING PLAN	A compliance procedure, described in Section IV (C), (D) and (E) of this manual, which requires the Project Sponsor of a principal project that has an affordable housing requirements to undertake certain measures that are directed to advertise and sell available affordable housing units to qualifying households.
MAYOR'S OFFICE OF HOUSING, or "MOH"	Mayor's Office of Housing ("MOH") or its successor.
MAXIMUM MONTHLY RENT	<p>The monthly monetary consideration paid by a qualifying household for use of the designated BMR rental unit as the household's principal residence; it shall be determined at the time of first occupancy by a qualifying household based on either the income limit established for the percentage of median income specified in the planning approvals or other use restrictions for the BMR unit. Maximum monthly rent, together with a utility allowance in an amount determined by the San Francisco Housing Authority, shall not exceed thirty (30) percent of the percentage of the income limit required by the planning approvals or other use restrictions.</p> <p>The rent at first occupancy of a BMR unit shall not exceed the maximum monthly rent. Subsequent rents may be increased on each anniversary of a tenant's occupancy of a BMR Rental Unit according to the formula set forth in Section IV (D) (7) of this manual.</p>
MAXIMUM SALES PRICE	The maximum initial or resale price of a Below Market Rate ownership unit as established by the Mayor's Office of Housing.
MEDIAN INCOME	The income that reflects the halfway point between all incomes for a certain-sized household based on a sample representation of the population. The income table used to

determine the median income is determined by the date on which a housing development received its first site or building permit.

MEDIAN-INCOME HOUSEHOLD

A household whose combined annual gross income for all members does not exceed one hundred (100) percent of median income.

MODERATE-INCOME HOUSEHOLD

A household whose combined annual gross income for all members does not exceed one hundred twenty (120) percent of median income.

MINORITY COMMUNITIES

Minority communities or minority households shall include, as a guideline, members of the following racial, ethnic, gender or otherwise specially disadvantaged groups:

African-American - defined as persons of African origin.

Latino - defined as persons of Mexican, Caribbean, Central American or South American origin.

Asian - defined as persons of Chinese, Japanese, Korean, Pacific Islander, Samoan, Filipino, Southeast Asian or Asian Indian origin.

Native American - defined as persons whose origins are of indigenous peoples of North America.

Women - defined as persons of female gender.

Gay and Lesbian - defined as a male and female homosexual.

Families with dependents - defined as a household with two or more persons in which the head of household is an adult and at least one other household member is an elderly or handicapped person who is financially dependent on the head of household or a person under the age of 18 years who is related to the head of the household by blood, marriage or adoption or related to the domestic partner by blood or adoption.

Person with a disability - defined as a person who satisfied the definition of "handicapped" under Federal Fair Housing Law on the basis of presence of a long-term physical or mental impairment which substantially limits one or more of such person's major life activities including mobility, visual or hearing impairment, terminal illness or AIDS diagnosis.

Elderly - defined as persons over the age of 65 years.

NEW

The construction of new habitable living and accessory

CONSTRUCTION	space, including additions to existing structures. It does not include conversion of use of existing building space or rehabilitation of existing building space.
NOTICE OF SPECIAL RESTRICTIONS (NSR)	A document recorded with the City and County of San Francisco Recorder's Office for any unit subject to this Program detailing the sales and resale or rental restrictions and any restrictions on purchaser or tenant income levels included as a Conditional of Approval of the principal project relating to the unit.
OFF-SITE BMR UNIT	Shall mean unit affordable to a qualifying household constructed pursuant to the Inclusionary Ordinance, Section 315.4, on a site other than the principal project.
OFF-SITE PROJECT	A development constructed pursuant to the Inclusionary Ordinance, Section 315.4, on a site other than the principal project.
ON-SITE BMR UNIT	Shall mean a unit affordable to a qualifying household constructed pursuant to the Inclusionary Ordinance, Section 315.4, on the site of the Principal project.
ON-SITE PROJECT	Shall mean project constructed pursuant to the Inclusionary Ordinance, Section 315.4, with on-site BMR units.
PLANNING APPROVAL	A general term for the Planning Motion, Conditions of Approval, Planning Permits, Zoning Administrator determinations or other planning approvals issued for a specific housing development.
PLANNING CODE	The City and County of San Francisco Planning Code.
PLANNING MOTION	A planning approval issued by the San Francisco Planning Commission.
PLANNING PERMIT	A planning approval issued by the San Francisco Planning Departments.
PRINCIPAL PROJECT	A development on which a requirement to provide affordable housing units is imposed as a condition of planning approval, pursuant to other applicable use restrictions or any project that includes a certain number of residential units.

PROCEDURES
MANUAL

The City and County of San Francisco Affordable Housing
Monitoring Procedures Manual.

PROJECT
SPONSOR

The applicant for a site or building permit and any other
permit to allow construction of a principal project which, as a
condition of approval or as a matter of the project being a
certain number of units or greater, must provide affordable
BMR unit(s). "Project Sponsor" includes any successors in
interest to ownership of all or part of the principal project or
any BMR unit. The term "Project Sponsor" shall be the
developer or owner for the purposes of this Procedures
Manual.

QUALIFYING
HOUSEHOLD

A household that satisfies the following criteria:

Annual income at the time of initial occupancy of a BMR unit,
adjusted for household size, does not exceed the percentage
of median income limits specified in the planning approvals
or other applicable use restrictions of the project;

The household must occupy the unit as a principal residence;

The size of the unit must be compatible with the household
size, at a minimum of one person per bedroom;

In the case of a BMR Ownership Unit, a qualifying household
must be a first-time homebuyer household;

In the case of ownership BMR units, a percentage of the
value of allowable assets will be added to a household's
gross income. This new income shall be referred to as a
household's imputed income;

One titleholder lives or works in the City and County of San
Francisco.

In the case of ownership BMR units, all titleholders must be
the holder of a standard mortgage from a primary lending
institution.

In the case of ownership BMR units, all titleholders must
have attended an approved first-time homebuyer education
workshop before applying for the unit.

Each household member must either be on the loan and title
for the BMR unit or be claimed as a dependent as reflected in
the most recent tax years.

RESALE PRICE

The purchase price to be paid by a buyer of a BMR unit
previously purchased by a qualified first-time homebuyer

household, as calculated according to Section II (D) (5) of this Manual.

**SAN FRANCISCO
MEDIAN INCOME**

Median income adjusted for household size derived from the statistical relationship between the American Community Survey (ACS) income profile and the regional U.S. Department of Housing and Urban Development (HUD) AMI calculation used to calculate the income levels of qualifying BMR households and to price BMR units. The index shall be updated every year or upon availability of an updated ACS.

**SPECIAL
ASSESSMENT**

A proportional fee charged to the owner by the Homeowner's Association (HOA) to cover the cost of physical improvement to the entire building.

**UNBUNDLED
PARKING**

A parking space that is not an amenity included in the price of a residential unit.

USE RESTRICTION

A restriction which is recorded in the official records of San Francisco County on the principal project and any linked off-site affordable housing project; (ii) restrictions contained in applicable provisions of San Francisco Codes, or (iii) restrictions contained in the Ordinance, any of which restricts the use of real property, either totally or partially as affordable housing.

**UTILITY
ALLOWANCE**

A dollar amount established periodically by the San Francisco Housing Authority based on U.S. Department of Housing and Urban Development (HUD) standards for cost of basic utilities for households.

**ZONING
ADMINISTRATOR**

The Zoning Administrator for the City and County of San Francisco

**II. BUYER QUALIFICATIONS AND RESTRICTIONS ON BMR OWNERSHIP
UNITS (Boldface words are defined in Section I)**

A. Buyer Qualifications

1. Qualifying Household for BMR Ownership Units

A qualifying household meets the following standards:

- a. The household is income qualified;
- b. The household is a first-time homebuyer household;
- c. The household must live in the unit as their primary residence within 60 days of the close of escrow on the unit;
- d. The household includes one member who has lived or worked in San Francisco by the application deadline for the BMR unit;
- e. The household includes all spouses or domestic partners of titleholders as joint titleholders;
- f. The household must be of a size that is equal to or greater than the number of bedrooms in the BMR unit;
- g. The household includes titleholders who have taken an approved first-time homebuyer education workshop;
- h. The household is defined in terms of financial relationships and can include any owner partnerships as long as the combined household meets the eligibility requirements;
- i. All titleholding household members must appear on the loan for the BMR unit.

2. Preferences for BMR Ownership Units

a. At least one applicant in each BMR household must live or work in San Francisco in order to apply for a BMR unit per Section 315.4 of the Planning Code. This household member must have lived or worked in San Francisco by the application deadline for a BMR unit.

b. Verification of Preference Qualification

i. MOH shall verify a person's residency by examining one document from the list below:

- (a) One utility bill with a San Francisco address dated within the 45 days preceding the application deadline for the BMR unit. Utility bills can include gas, electric, garbage or water;
- (b) Current paystubs with a San Francisco address; or
- (c) A current, formal lease with a San Francisco address.

ii. MOH shall verify that a person works in San Francisco by reviewing an applicant's paystubs. If an applicant's employer is not based in San Francisco, or if a person's paystubs do not reflect a San Francisco work address, the applicant must supply a notarized letter from the employer stating that the person works primarily in San Francisco and demonstrate that at least 75% of their working hours are in San Francisco.

3. First-time Homebuyer Requirement for BMR Ownership Units

a. No member of the qualifying household must have owned any interest in a dwelling unit, any commercial real estate, or any land for a three-year period prior to applying to qualify for purchase of a BMR unit. The period shall be counted backwards from the application deadline for the BMR unit.

b. This definition is a legal requirement and includes, among other properties, those in which an applicant's name appears on title regardless of whether or not that interest results in a financial gain, is in another state or country, or if they have ever used the property as a primary residence. If any purchaser has had their name on title of a property but it was sold more than three years ago, the program considers them a first-time buyer.

c. MOH may verify first-time homebuyer status by (1) reviewing mortgage deductions on the three most recent years of federal tax returns for each person on title; (2) a signed statement on the application stating homeownership status; and (3) a title search.

4. First-time Homebuyer Education Workshop Requirement for BMR Ownership Units

Each BMR applicant who will hold title in a BMR unit must attend a qualified first-time homebuyer education workshop before applying for a BMR Ownership Unit. The workshop provider must be approved by MOH. Applicants must provide a certificate of completion from the workshop with the BMR application package. For one year following the effective date of this Manual, MOH may allow applicants to provide certification of completion of a qualified workshop after the applicant's name is selected through a lottery.

5. Household Size Requirement for BMR Ownership Units

The size of a household must be compatible with the size of the unit being purchased. A minimum of one person per bedroom is

required. There is no restriction on purchasing a unit that has fewer bedrooms than the household size.

6. Income Requirement for BMR Ownership Units

a. Unless stated otherwise in planning approvals or other use restrictions, BMR Ownership Units in one development will, on average, be available to households with a combined income of no more than 100% of median income. Income maximums are based on "gross" income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61). The amounts are adjusted on an annual basis and are posted on the MOH website.

b. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Income levels for buyers in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for buyers in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size. All off-site projects will be held to the date on which the principal project received its first site or building permit.

c. MOH calculates income based on the gross income on each applicant's past three pay stubs. The income is derived by dividing the year-to-date gross income by the current pay period count and then by annualizing an estimated pay period amount by the total pay period count over one year.

d. In the case of a self-employed person, MOH reviews the person's last 2 years of tax returns; past, present and projected Profit and Loss Statements; and other relevant documents on a case-by-case basis.

e. MOH must review qualifying requirements for all household members 18 years and older, regardless of dependency status.

7. Asset Test for BMR Ownership Units

MOH will apply an asset test to all applicants 18 years or older, including all custodial accounts held for minors. Assets include all liquid asset accounts, including but not limited to savings accounts, checking accounts, Certificates of Deposit, stocks, and gifts. Assets also include any money that will be used toward a

down payment on a BMR unit. MOH will not count qualified retirement income toward an applicant's asset. 10% of all assets between \$30,001 and 130,000 will be added to the total household income; and 35% of assets above \$130,000 will be added to the total household income.

B. Buyer Application Requirements for BMR Ownership Units

1. Households applying for BMR ownership units must supply the following documentation in order to apply for a BMR unit:

- a. An application from the proposed purchaser on a form specified by MOH;
- b. Supporting documentation from all members 18 years or older of the purchaser household, including:
 - i. Past three (3) years IRS returns;
 - ii. Past three (3) years W-2 forms;
 - iii. Three (3) current and consecutive pay stubs or equivalent;
 - iv. Three (3) current and consecutive statements from every liquid asset account or personal cash holdings, including all custodial accounts held for minors;
 - v. Verification of San Francisco residency or employment;
 - vi. Verification of completion of an approved First-time Home Buyer Education workshop.

2. To proceed with a BMR unit purchase post-lottery, the BMR buyer's lender or sales agent must supply the following documentation:

- a. A completed sales agreement;
- b. An appraisal showing the Appraised Fair Market Value of the BMR unit;
- c. A mortgage loan application to an institutional lender;
- d. A Preliminary Title Report for the BMR unit.

C. Financing Requirements

1. Loan Review for BMR Ownership Units

MOH will review loans for reasonable interest rates and other factors important to sound lending.

2. Allowable Loan Types for BMR Ownership Units

All BMR buyers must be able to secure a loan through a lending institution for a BMR unit. BMR buyers must use fully amortizing 30- or 40-year fixed-rate loans.

3. Loan Types Not Allowed for BMR Ownership Units

Except for specifically approved loans programs, BMR buyers cannot use stated-income loans, negative amortizing loans, adjustable rate mortgages, "balloon payment" loans, or interest-only loans. MOH reserves the right to identify additionally prohibited loan characteristics.

4. Documentation Requirements for BMR Ownership Units

Loan agreement documents must name all BMR titleholders and no other persons.

D. Restrictions on BMR Ownership Units

1. Term of Restriction on BMR Ownership Units

Per Section 315.7 of the Planning Code, all BMR ownership units that entered the marketing process on or after the effective date of this Manual are restricted in their resale price and other applicable restrictions for the life of the project unless otherwise noted in the planning approvals or other use restrictions for the project. All BMR ownership units that entered the marketing process before the effective date of this Manual are restricted in their resale price and other applicable restrictions for 50 years unless otherwise stated in the planning approvals or other use restrictions for the project. The 50-year restriction period shall restart with each resale of a BMR unit.

2. Documents that Govern the BMR Ownership Unit and Owner

All titleholders to BMR Ownership Units will sign documents provided by MOH that maintain restrictions on a BMR unit. These documents include but are not limited to the following:

a. Deed of Trust – A deed that is subordinate only to the primary deed, executed by the buyer as trustor, for the benefit of the City to secure the Promissory Note described as follows:

b. Promissory Note – A lien that is based upon the difference between Appraised Fair Market Value and the BMR maximum sales price, insuring compliance with the resale restrictions outlined in the planning approvals or other use restrictions. The lien will be reconveyed to the new BMR unit owner upon resale. BMR owners in units marketed before the effective date of this Manual may only repay the lien when the unit leaves its restricted period, generally no sooner than 50 years from date of purchase for one BMR owner household. BMR owners living in units that entered the marketing period on or

after the effective date of this Manual may not repay the lien at any time.

c. Grant of Right of First Refusal – A document that requires the seller to notify MOH upon resale, giving the City the option to exercise their right to substitute a qualified buyer.

d. Acknowledgement of Special Restrictions – Verification that the buyer has been advised of the terms of the affordability restrictions contained in the planning approvals and other use restrictions for the BMR unit.

3. Occupancy Requirement for BMR Ownership Units

BMR units are to be owner-occupied and never used as investment or rental property.

4. Restrictions on Renting BMR Ownership Units

a. An owner of a BMR unit may not rent or sublease any part or the entire unit without prior written consent of MOH.

b. BMR Ownership Units are to be owner-occupied and not used as rental property. However, MOH may grant consent to a BMR owner to rent in circumstances where the household is temporarily forced to temporarily relocate due to employment requirements, or for other reason deemed acceptable by MOH in its sole discretion, provided that:

i. The total period for which the unit may be leased does not exceed six (6) months;

ii. The tenant satisfies the income, household size and other qualifying household requirements placed on the BMR unit by planning approvals or other use restrictions; and

iii. Initial rent does not exceed the maximum monthly rent, calculated according to the income percentages under subsection IV (D) (2) above.

5. Resale Restrictions and Procedures for BMR Ownership Units

A BMR Ownership Unit owner shall follow the ensuing policies and guidelines of MOH when reselling a BMR ownership unit.

a. The owner of a BMR Ownership Unit shall, at least thirty (30) days prior to marketing the BMR unit, advise MOH of his/her intent to sell the unit and shall request a determination of resale price from MOH. MOH shall price the unit only upon

receipt of a signed intent to resell the unit and request for pricing; a statement of all approved capital improvements made to the unit; and a signed listing agreement with a certified realtor.

b. Within the 30-day period, MOH shall inform the owner of the permissible sales price of that unit and any other conditions of sale.

c. Pricing Methodology for BMR Units Upon Resale

i. A BMR unit will be repriced so that it remains affordable to a household sized one person larger than the bedroom count of the unit at a designated percentage of median income.

ii. Units in developments that were not sold under this Manual will be re-priced using the methodology dictated by planning approval for the specific development.

iii. Units in developments that are initially sold under this Manual will be re-priced using the percentage change in the designated percentage of median income from the date of the current owner's purchase to the date of the resale pricing.

iv. Owners of BMR units purchased before the effective date of this Manual may opt to have their units repriced according to the change in median income by signing a contract agreeing to abide by the current the current Manual in all aspects except for the income table requirements set forth for projects receiving their first site or building permit on or after September 9, 2006.

v. The income table used to calculate the resale price of a BMR unit shall be determined by the date on which the principal project received its first site or building permit. Units in developments with corresponding principal projects that received their first site or building permit before September 9, 2006 will be repriced using the historical and current percentage of HUD Area Median Income for a household sized one person larger than the number of bedrooms in the unit. Per Section 315.1 of the Planning Code, units in developments with corresponding principal projects that received their first site or building permit on or after September 9, 2006 will be repriced using the historical and current percentage of San Francisco Median

Income for a household sized one person larger than the number of bedrooms in the unit.

vi. The resale price shall be equal to the sum of (a) plus (b) plus (c) below. If the resale price as calculated above is lower than the original purchase price for the unit, MOH will give the seller the option between the resale price as calculated, or the original purchase price (b) plus (c) below. A purchase price is recalculated at the time of sale pursuant to the following formula:

(a) The formula outlined in sections i through v above; plus

(b) The cost of approved capital improvements and special assessments as defined in Section II (E) of this Manual; plus

(c) The fee to the owner and buyer's realtor for representation and for listing the unit on the Multiple Listing Service, equal to five (5) percent of the sum of the dollar amount calculated pursuant to subsections (a) and (b) above.

d. Appreciation gained from the sale of a BMR Ownership Unit belongs to the owner unless the owner has an additional loan from the City or other entity that requires an appreciation share. However, the price of a BMR unit at resale is not guaranteed to exceed the initial purchase price of the unit.

e. The owner must market the unit. Marketing must include listing of the unit on the Multiple Listing Service (MLS) by a certified realtor and listing of the unit on MOH's website for at least 14 calendar days. All MLS listings must include information on the qualifications and restrictions of the BMR unit as supplied by MOH.

f. All potential buyers who are on the general BMR interest list shall be notified by MOH of units available for resale and invited to participate in the lottery, as will the general public.

g. A public lottery for the resale unit must be held by MOH for all BMR unit resales. MOH will record the results and the realtor will make the results available to all interested applicants or members of the public.

h. To enter a lottery for resale, a potential buyer must submit a BMR application and all supporting materials pursuant to

section II (B) above as well as a loan pre-approval and a completed San Francisco purchase agreement. All applications and materials will be submitted directly to the buyer's realtor.

i. At least sixty (60) days prior to the anticipated date of the close of escrow, the buyer shall submit to MOH for approval the following documentation:

i. An application from the proposed purchaser on a form specified by MOH;

ii. Supporting documentation from all members 18 years and older of the purchaser household, including:

- (a) Past three (3) years IRS returns;
- (b) Past three (3) years W-2 forms;
- (c) Three (3) current and consecutive pay stubs or equivalent;
- (d) Three (3) current and consecutive statements from every liquid asset account and personal cash holdings, including all custodial accounts held for minors;
- (e) Verification of San Francisco residency or employment;
- (f) Verification of completion of an approved First-time Homebuyer Education Workshop;
- (g) A loan pre-approval;
- (h) A completed San Francisco Purchase Agreement.

j. To proceed with a BMR unit purchase post-lottery, the BMR buyer's lender must supply the following loan and sales agreement documentation at least thirty (30) days prior to the anticipated date of the close of escrow:

- i. An appraisal showing the Appraised Fair Market Value of the BMR unit;
- ii. A mortgage loan application to an institutional lender;
- iii. A Preliminary Title Report for the BMR unit.

k. Timing of Buyer Approval by MOH

i. Upon receipt of a complete BMR homeownership application and all supporting materials, MOH shall verify the household qualification within 15 working days.

ii. Upon receipt of loan and sales agreement documentation, MOH shall draft escrow closing documents within five (5) working days.

I. No sale may proceed without the written approval of MOH.

m. Broker fees paid by the seller must be shared in a commission agreement with the buyer's representing agent.

n. Sales agreements with terms requiring the payment of seller's brokerage fees by the buyer will not be approved. No separate terms can be required within a sales agreement that requires the buyer to purchase appliances, furnishings, or other disallowed capital improvements.

o. BMR owners and realtors shall comply with the documentation and enforcement procedures set forth in Section IV (J) of this manual.

p. In cases where, despite the owner's good faith efforts, no qualifying household has contracted to purchase a BMR Ownership Unit within six (6) months after the lottery for the unit, the owner shall inform MOH, which may then increase the permissible income levels for prospective purchasers of that unit up to a maximum twenty (20) percent over the income percentage limit specified in the planning approvals or other use restrictions, but shall not increase any current or future permissible sale price of that unit as indicated in planning approvals or other use restrictions.

6. Restrictions on Title Transfer of BMR Ownership Units

a. Title transfers on BMR units are not allowed except as determined by MOH on a case-by-case basis. BMR owners must seek approval from MOH before adding or removing any person from title.

b. MOH may require that a spouse or registered domestic partner become a co-owner by assuming title and by executing an addendum to the Deed of Trust, Promissory Note, Acknowledgement of Special Restrictions, and Right of First Refusal.

7. Owner Refinancing of BMR Ownership Units

a. MOH must approve all refinancing agreements for BMR ownership units.

b. Owners may be permitted to refinance up to the original value of their first mortgage in order to obtain lower interest

rates or lower monthly payments. The new loan must be approved under the guidelines set out in section II (C) of this Manual.

c. Owners may also refinance their units to withdraw cash only in an amount equal to the amount paid on the unit.

E. Capital Improvements for BMR Ownership Units

1. BMR units may begin claiming capital improvements made 10 years after the unit was originally occupied. Once the building becomes eligible for capital improvements credit, homeowners may begin submitting documentation of completed work.
2. MOH will review all capital improvements claims and categorize them into three distinct categories: Eligible Capital Improvements, Eligible Replacement and Repair and Ineligible Costs. Each category is defined below.
 - a. Eligible Capital Improvements include major structural system upgrades, special assessments, new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit.
 - b. Eligible Replacement and Repair includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition.. Costs that meet these criteria will be given 50% credit.
 - c. Ineligible costs include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.
3. Procedure for Submitting Capital Improvements
 - a. Homeowners must submit capital improvements to MOH for review within 6-months of the completion of the project. In order to document the improvements, each homeowner must submit:
 - i. List of Capital Improvements with Description
 - ii. Receipt/Invoice for Each Eligible Improvement
 - iii. Proof of Payment, such as a cancelled check, bank account statement or credit card bill
 - iv. A Copy of Site or Building Permits, if required

v. Contractor's License Number for Projects Exceeding \$500

b. Upon receipt of a complete capital improvements claim, MOH staff will arrange a site visit to inspect the completed project. Once the improvements have been verified, MOH will send a written response to approve or deny the submitted capital improvements within 60 days of original receipt. This information will be placed in the property file at MOH for use when the property is being sold.

4. Special Assessments

Homeowner's Association initiated special assessments are considered capital improvements and will be added to the resale price of the home. In order to receive credit for special assessments, homeowners must submit the following documentation within 6-months of payment:

- a. Invoice for Special assessment
- b. Proof of Payment, such as a cancelled check, bank account statement or credit card bill

5. Capital Improvements Cap

In order to maintain the affordability of the BMR unit for subsequent buyers, MOH will approve all eligible capital improvements, eligible replacement and repair, and special assessments when submitted. At the time of sale, MOH will cap all eligible capital improvements and eligible replacement and repair at 7% of the resale price.

6. List of Approved Capital Improvements

- a. Eligible Capital Improvements include major structural system upgrades, new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit.
 - i. Major Electrical Wiring System Upgrade
 - ii. Major Plumbing System Upgrade
 - iii. Room Additions
 - iv. Installation of Additional Closets and Walls
 - v. Alarm System
 - vi. Smoke Detectors
 - vii. Removal of Toxic Substances, such as:
 - (a) Asbestos
 - (b) Lead

- (c) Mold/Mildew
 - (d) Insulation
 - (e) Upgrade to Double Paned Windows
 - (f) Fireplace Glass Screen
- viii. Upgrade to Energy Star Built-In Appliances, as follows:
- (a) Furnace
 - (b) Water Heater
 - (c) Stove/Range
 - (d) Dishwasher
 - (e) Microwave Hood

b. Eligible Replacement and Repair includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs.

- i. Electrical Maintenance and Repair, such as:
 - (a) Switches
 - (b) Outlets
- ii. Plumbing Maintenance and Repair, such as:
 - (a) Faucets
 - (b) Supply Line
 - (c) Sinks
- iii. Flooring
- iv. Countertops
- v. Cabinets
- vi. Bathroom Tile
- vii. Bathroom Vanity
- viii. Replacement of Built-In Appliances, as follows:
 - (a) Furnace
 - (b) Water Heater
 - (c) Stove/Range
 - (d) Dishwasher
 - (e) Microwave Hood
 - (f) Garbage Disposal
- ix. Window Sash
- x. Fireplace Maintenance or In-kind Replacement (Gas)
- xi. Heating System
- xii. Lighting System (Recessed)

c. Ineligible costs include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

- i. Cosmetic Enhancements, such as:

- (a) Fireplace Tile and Mantel
- (b) Decorative Wall Coverings or Hangings
- (c) Window Treatments (Blinds, Shutters, Curtains, etc.)
- (d) Installed Mirrors
- (e) Shelving
- (f) Refinishing of Existing Surfaces

ii. Non-Permanent Fixtures, such as:

- (a) Track Lighting
- (b) Door Knobs, Handles and Locks
- (c) Portable Appliances (Refrigerator, Microwave, Stove/Oven, etc.)

iii. Installations with Limited Useful Life Spans, such as:

- (a) Carpet
- (b) Painting of Existing Surfaces
- (c) Window Glass
- (d) Light Bulbs

F. Monitoring of BMR Ownership Units

MOH shall monitor and require occupancy certification for BMR ownership units on an annual basis. Owner(s) of a BMR unit will be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding occupancy status, changes in title, and any other information MOH may reasonably require to monitor compliance with the BMR units specific planning approvals or other use restrictions.

III. RENTER QUALIFICATIONS AND RESTRICTIONS ON BMR RENTAL UNITS

A. BMR Renter Qualifications

1. Qualifying Household for BMR Rental Units

A qualifying household meets the following standards:

- a. The household is income qualified;
- b. The household is a non-homeowner household;
- c. The household must live in the unit as their primary residence within 60 days of the signing of the lease for the unit;

- d. The household includes one member who has lived or worked in San Francisco by the application deadline for the BMR unit;
- e. The household must be of a size that is equal to or greater than the number of bedrooms in the BMR unit;
- f. The household is defined in terms of financial relationships and can include any rental partnerships as long as the combined household meets the eligibility requirements;
- g. All non-dependents must appear on the lease for the unit.

2. Preferences for BMR Rental Units

a. A least one applicant in each BMR household must live or work in San Francisco in order to apply for a BMR unit per Section 315.4 of the Planning Code. This household member must have lived or worked in San Francisco by the application deadline for a BMR unit.

b. Verification of Preference Qualification

i. MOH shall verify a person's residency by examining one document from the list below. Each document must be in the applicant's name:

- (a) One utility bill with a San Francisco address dated within the 45 days preceding the application deadline for the BMR unit. Utility bills can include gas, electric, garbage or water;
- (b) Current paystubs with a San Francisco address; or
- (c) A current, formal lease with San Francisco address.

ii. MOH shall verify that a person works in San Francisco by reviewing an applicant's paystubs. If an applicant's employer is not based in San Francisco, or if an applicant's paystubs do not reflect a San Francisco work address, the applicant must supply a formal letter from the employer stating that the applicant works primarily in San Francisco and demonstrate that at least 75% of the applicant's working hours are in San Francisco.

3. Non-homeowner Requirement for BMR Rental Units

a. No member of the qualifying household must own any interest in a dwelling unit, any commercial real estate, or any land upon applying to qualify for the rental of a BMR unit.

b. This definition is a legal requirement and includes, among other properties, those in which an applicant's name appears on title regardless of whether or not that interest results in a financial gain, is in another state or country, or if they have ever used the property as a primary residence.

c. MOH may verify non-homeowner status by (1) a signed a statement on their application stating their homeownership status; and (2) a title search.

4. Household Size Requirement for BMR Rental Units

The size of a household must be compatible with the size of the unit being purchased. A minimum of one person per bedroom is required. There is no restriction on purchasing a unit that has fewer bedrooms than the household size.

5. Income Requirement for BMR Rental Units

a. Unless stated otherwise in the planning approvals or other use restrictions, BMR Rental Units in one development will be available to households with a combined income of no more than 60% of median income. Income maximums are based on "gross" income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61). The amounts are adjusted on an annual basis.

b. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Per Section 315.1 of the Planning Code, income levels for renters in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for renters in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size. All off-site projects will be held to the date on which the principal project received its first site or building permit.

c. MOH calculates income based on the gross income on each applicant's past three pay stubs. The income is derived by dividing the year-to-date gross income by the current pay

period count and then by annualizing an estimated pay period amount by the total pay period count over one year.

d. In the case of a self-employed person, MOH reviews the person's last 2 years of tax returns; past, present and projected Profit and Loss Statements; and other relevant documents on a case-by-case basis.

e. MOH must review qualifying requirements for all household members 18 years and older, regardless of dependency status.

6. Asset Test for BMR Rental Units

MOH will apply an asset test to all applicants, including all custodial accounts held for minors. Assets include all liquid asset accounts, including but not limited to savings, checking accounts, Certificates of Deposit, stocks, and gifts. Assets also include any money that will be used toward a down payment on a BMR unit. MOH will not count qualified retirement income toward an applicant's asset. 10% of all assets between \$30,001 and 130,000 will be added to the total household income; and 35% of assets above \$130,000 will be added to the total household income.

B. BMR Renter Application Requirements

a. Households applying for BMR rental units must supply the following documentation in order to enter the lottery for a BMR unit:

i. An application from the proposed purchaser on a form specified by MOH;

ii. Supporting documentation from all members 18 years or older of the purchaser household, including:

- (a) Past one (1) year IRS returns;
- (b) Past one (1) year W-2 forms;
- (c) Three (3) current and consecutive pay stubs or equivalent;
- (d) Three (3) recent and consecutive statements from every liquid asset account and personal cash savings, including all custodial accounts held for minors;
- (e) Verification of San Francisco residency or employment.

b. To proceed with a BMR unit rental post-lottery, the rental representative must supply a draft lease agreement to MOH before MOH will approve the rental household.

C. Restrictions on BMR Rental Units

1. Term of Restriction on BMR Rental Units

Per Section 315.7 of the Planning Code all BMR Rental Units that entered the marketing process on or after the effective date of this Manual are restricted in their rent levels and other applicable restrictions for the life of the project unless otherwise stated in the planning approvals or other use restrictions for the project. All BMR Rental Units that entered the marketing process before the effective date of this Manual are restricted in their rent levels and other applicable restrictions for 50 years unless otherwise stated the planning approvals or other use restrictions for the project.

2. Documents that Govern the BMR Rental Unit and Renter

MOH may require all leaseholders of BMR Rental Units to sign documents stating leaseholders' acknowledgement of the restrictions on the BMR rental unit and any monitoring procedures.

3. Occupancy Requirement for BMR Rental Units

BMR units are intended to be renter-occupied and never used as investment or rental property.

4. Restrictions on Renting or Subleasing BMR Rental Units

i. A renter of a BMR unit may not rent or sublease any part or the entire unit without prior written consent of MOH.

ii. BMR Rental Units are to be occupied by the qualifying household and not used as rental property. However, MOH may grant consent to a BMR renter to rent in circumstances where the household is temporarily forced to temporarily relocate due to employment requirements, or for other reasons deemed acceptable by MOH in its sole discretion, provided that:

(a) The total period for which the unit may be leased does not exceed six (6) months;

(b) The sub-tenant satisfies the income, household size and other qualifying household requirements placed on the BMR unit by planning approvals or other use restrictions;

(c) The sublease complies with any requirements in the lease between the Project Sponsor and the tenant; and

(d) Initial sublease rent does not exceed the rent then payable by the current tenant.

5. Restrictions on Lease Changes for BMR Rental Units

BMR renters may not add or subtract any person from the lease for a BMR Rental Unit without consent from MOH. Should MOH consent to the addition or subtraction of a qualified household member in BMR Rental Unit, the new household must submit a new application for the unit and meet the current qualification standards for a BMR Rental Unit.

D. Permissible Rent Increases

The Project Sponsor may increase the maximum monthly rent for a qualifying household on each anniversary of a tenant's occupancy in an amount that does not exceed the amount determined by MOH based on the percent of median income established in planning approvals or other use restrictions and the then-existing median income amounts.

E. Monitoring of BMR Rental Units

BMR Rental Units shall be monitored by MOH on an annual basis to determine the continued eligibility of the BMR renter household. BMR rental households, owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their planning approvals or other use restrictions may be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information MOH may reasonably require to monitor compliance with the BMR unit's specific planning approvals or other use restrictions.

IV. PROCEDURES FOR PROJECT SPONSORS, OWNERS AND PROPERTY MANAGERS

A. Monitoring and Reporting Procedure

1. Monitoring and Reporting Procedures for BMR Ownership Units

MOH shall monitor and require occupancy certification for BMR ownership units on an annual basis. Owner(s) of a BMR unit will

be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding occupancy status, changes in title, and any other information MOH may reasonably require to monitor compliance with the BMR units specific planning approvals or other use restrictions.

2. Monitoring and Reporting Procedures for BMR Rental Units

Project Sponsors of BMR Rental Units shall retain initial rental application forms and household income documentation for the greater of (i) five (5) years from the date of a tenant's occupancy of a BMR Rental Unit, or (ii) the duration of the tenure of the tenant occupying the BMR unit. This data may be requested by MOH, along with an administrative fee if any is authorized at the time of the request.

BMR Rental Units shall be monitored by MOH on an annual basis to determine the continued eligibility of the BMR renter household. BMR rental households, owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their planning approvals or other use restrictions may be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information MOH may reasonably require to monitor compliance with the BMR unit's specific planning approvals or other use restrictions.

3. Statistical Information for BMR Units

MOH may at any time require the Project Sponsor to collect information from the owners or tenants of all BMR units in the project regarding their ethnicity, gender, age, and such other information as may be requested to allow MOH to verify that there have been no discriminatory practices in the selection of such tenants or owners. The collection of such information shall be conducted in a manner and using a form acceptable to MOH, ensuring that the information is being collected after the tenant or owner selection process is complete, and is used solely for statistical reasons and not as the basis for making any decision regarding the qualification of a tenant or owner for occupancy of a BMR unit.

B. Compliance Procedures

1. Compliance Through New Construction On-Site

- a. When required by planning approvals or other applicable use restrictions to adhere to the Inclusionary Ordinance, the Project Sponsor may provide the number and type of BMR units satisfying the planning approvals or other applicable use restrictions through the construction of said units on the site of the principal project.
- b. Project Sponsors who submitted a first application to the Planning Department prior to July 18, 2006 for the construction of a project containing ten (10) or more units are required to provide ten (10%) or twelve (12%) percent, (depending on the distinction between an As-of-Right or Conditional Use authorization) of all units as BMR units. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.
- c. Project Sponsors who submitted a first application to the Planning Department on or after July 18, 2006 must provide fifteen (15%) of all units as BMR units for any project containing five (5) or more units or any project requiring rezoning, with exception to projects 120 feet in height or higher. Projects 120 feet in height or higher which do not require a zoning map amendment or planning code text amendment that result in a net increase in the number of permissible residential units or in a material increase in the net permissible residential square footage are required to provide twelve percent (12%) of all units as BMR units. Unless amended by the Board of Supervisors, the exception of projects 120 feet in height or higher shall expire January 1, 2012.
- d. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.
- e. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006, must make a Declaration of Intent stating the on-site, off-site and/or in-lieu fee option before receiving first planning approval. Project Sponsors may only amend the Declaration of Intent if they choose to change from the in-lieu fee or off-site option to the on-site option.
- f. BMR units must be constructed, completed, and ready for occupancy no later than the principal project's market rate units. Additionally, BMR units must be a comparable unit to the market rate units.

g. The Project Sponsor shall construct and, when applicable, manage the BMR units. BMR units shall not remain vacant for more than sixty (60) days from the date of first certificate of occupancy.

h. Affordable housing units shall not have received development subsidies from any federal, state or local program established for the purpose of providing affordable housing. Any such units receiving such subsidies shall not be counted to satisfy any affordable housing project requirements for the on-site development, except as provided in Section IV (B) (1) (i).

i. A Project Sponsor may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations per Section 325.4 and 315.5 of the Planning Code as long as it provides 20% of the units as affordable at 50% of median income for on-site housing or 25% of the units as affordable at 50% of median income for off-site housing. Except as provided in this subsection, all units provided under this section must meet all of the requirements of the inclusionary Ordinance and the Manual for either on- or off-site projects. The income tables to be used for the CDLAC units are those used by MOH for Inclusionary Housing units and not those used by the Tax Credit Allocation Committee (TCAC) or CDLAC. Sponsors shall contact MOH for the applicable income table.

j. On-site units satisfying a Project Sponsor's On-site Inclusionary Ordinance obligation must be offered as BMR Rental Units affordable to households earning up to sixty percent (60%) of median income on average or as BMR for-sale units affordable to households earning one hundred percent (100%) of median income, unless stated otherwise in planning approvals or other use restrictions. In the case of BMR Ownership Units, the BMR units in one development may range in price from 80% to 120% median income when the average median income for the building is 100%. MOH will work with Project Sponsors on a case-by-case basis to determine the allowable range of income levels.

k. Projects must record a Notice of Special Restrictions (NSR) and provide a copy of the NSR to MOH prior to the issuance of the first site or building permit. The NSR must identify the restricted BMR units by unit name or number, the income level of the units, the final approved floor plans that identify the BMR units, and the portions of the planning approvals or other use restrictions that reference the Inclusionary Program requirements.

I. All BMR units that entered the marketing process on or after the effective date of this Manual are restricted in their resale price or rental price and other applicable restrictions for the life of the project. All BMR units that entered the marketing process before the final adoption date of this Manual are restricted in their resale price or rental price and other applicable restrictions for 50 years unless otherwise stated in the planning approvals or other use restrictions for the project.

2. Compliance Through Conversion of Use On-Site

The Conditions of Approval may provide that the Project Sponsor may partially or completely comply with its BMR obligation through the conversion of non-residential space to residential units, provided that the following provision is satisfied:

- a. The unit shall satisfy all City Codes and standards; or
- b. If rear yard, parking, exposure or other residential zoning standards are not met and requirements for exceptions or variances are met pursuant to the Code, additional BMR units or lower income limits on qualifying households shall be imposed.

3. Compliance Through New Construction Off-Site

- a. When required by planning approvals or other applicable use restrictions to adhere to the Inclusionary Ordinance, the Project Sponsor may provide the number and type of BMR units satisfying the planning approvals or other applicable use restrictions through the construction of said units off-site from the principal project.
- b. Project Sponsors who submitted a first application to the Planning Department prior to July 18, 2006 for the construction of a project containing ten (10) or more units must provide fifteen (15%) or seventeen (17%) percent, (depending on the distinction between an As-of-Right or Conditional Use authorization), of all units as BMR units. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.
- c. Project Sponsors who submitted a first application to the Planning Department on or after July 18, 2006 must provide twenty percent (20%) of all units as BMR units for any project containing five (5) or more units or any project requiring rezoning. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the

nearest whole number for any portion of .5 or above, with exception to projects 120 feet in height or higher. Projects 120 feet in height or higher which do not require a zoning map amendment or planning code text amendment that result in a net increase in the number of permissible residential units or in a material increase in the net permissible residential square footage are required to provide seventeen percent (17%) of all units as BMR units.

d. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006, must make Declaration of Intent stating the on-site, off-site and/or in-lieu fee option. Project Sponsors may only amend the Declaration of Intent if they choose to change from the in-lieu fee or off-site option to the on-site option. Additionally, off-site BMR units must be located within a one (1) mile radius of the principal project. Off-site units satisfying a Project Sponsor's Inclusionary obligation must be offered as BMR Rental Units for the life of the project or as BMR for-sale units affordable to households earning up to eighty percent (80%) of median income.

e. BMR units must be constructed, completed, and ready for occupancy no later than the principal project's market rate units.

f. The Project Sponsor shall construct and, when applicable, manage the BMR units. BMR units shall not remain vacant for more than sixty (60) days from the date of the certificate of final completion and occupancy.

g. Affordable housing units shall not have received development subsidies from any federal, state or local program established for the purpose of providing affordable housing. Any such units receiving such subsidies shall not be counted to satisfy any affordable housing requirements for the on-site development except as provided in Section IV (3) (h) below.

h. A Project Sponsor may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations per Section 325.4 and 315.5 of the Planning Code as long as it provides 20% of the units as affordable at 50% of median income for on-site housing or 25% of the units as affordable at 50% of median income for off-site housing. Except as provided in this subsection, all units provided under this section must meet all of the requirements of the inclusionary Ordinance and the Manual for either on- or off-site projects. The income tables to be used for the CDLAC units are those used by MOH for Inclusionary Housing units and not

those used by the Tax Credit Allocation Committee (TCAC) or CDLAC. Sponsors shall contact MOH for the applicable income table.

i. On-site units satisfying a Project Sponsor's Off-site Inclusionary Ordinance obligation must be offered as BMR Rental Units affordable to households earning up to sixty percent (60%) of median income or as BMR ownership units affordable to households earning eighty percent (80%) of median income on average, unless stated otherwise in planning approvals or other use restrictions.

j. Projects must record a Notice of Special Restrictions (NSR) and provide a copy of the NSR to MOH prior to the issuance of the first site or building permit. The NSR must identify the restricted BMR units by unit name or number, the income level of the units, the final approved floor plans that identify the BMR units, and the portions of the planning approvals or other use restrictions that reference the Inclusionary Program requirements.

k. All BMR units that entered the marketing process on or after the effective date of this Manual are restricted in their resale price or rental price and other applicable restrictions for the life of the project. All BMR units that entered the marketing process before the final adoption date of this Manual are restricted in their resale price or rental price and other applicable restrictions for 50 years unless otherwise stated in the planning approvals or other use restrictions for the project.

I. Quality Standards for Off-Site BMR Units

All BMR units constructed off-site under the provisions of Section 315.5 shall be of good quality and generally equivalent to current market rate housing standards commonplace in San Francisco as determined by the Zoning Administrator in accordance with official Planning Department policy. Off-site affordable units shall be comparable in number of bedrooms, number of bathrooms, exterior appearance and overall quality of construction to market rate units in the principal project, and shall meet at a minimum, or exceed, the following standards:

i. Individual Unit Sizes

Average individual unit square footages shall be no less than 70% of the average principal project unit square footage for corresponding unit types classified by number of bedrooms, and in no case

shall individual unit square footages be less than the following for each unit type:

- Studios: 250 square feet
- 1-Bedrooms: 500 square feet
- 2-Bedrooms: 800 square feet
- 3-Bedrooms: 1,000 square feet
- 4-Bedrooms: 1,250 square feet

Exceptions to these square footage minimums may be made at the Zoning Administrator's discretion where the principal projects average unit size by corresponding unit type classification is less than these minimums. When using such discretion, the Zoning Administrator shall take into account any anticipated occupant needs of the BMR units for a particular development.

The average off-site BMR unit size for a given unit type may be permitted to be less than 70% of the average size of the corresponding unit type of the principal project at the discretion of the Zoning Administrator on a case-by-case basis, provided there is a corresponding increase in unit numbers and all other provisions of this section are met. No reduction in the required total minimum BMR unit square footage per Section 315.5(d) of the Planning Code shall be permitted.

ii. Design of Off-site BMR units

(a) Room sizes

(i) No required bedroom shall be smaller than 120 square feet, and at least one bedroom in every unit, except for studios shall be a minimum of 144 square feet. The minimum horizontal dimension for any bedroom, excluding alcoves not included in the minimum square foot calculation, shall be 10 feet.

(ii) Primary rooms in studios shall be no less than 165 square feet excluding any contiguous kitchen area. The minimum horizontal dimension for any such primary room, excluding alcoves not included in the minimum square foot calculation, shall be 11 feet.

(iii) No living room shall be smaller than 144 square feet, with a minimum dimension excluding alcoves not included in the minimum square foot calculation, of 11 feet.

(iv) At least one bathroom shall meet ADA size requirements, and all other full bathrooms required by this section must be at least 40 square feet in size.

(v) Smaller room size minimums may be permitted at the discretion of the Zoning Administrator on a case-by-case basis, if such smaller room sizes are typical of the principal market rate project and are consistent with current City building and housing codes.

(b) Interior Heights

Prevailing floor-to-ceiling heights in each unit shall be no less than 8'-6". Lower ceiling heights in bathrooms, hallways, or small portions of other rooms may be permitted to allow for central heat and air ductwork where necessary, but in no case shall any ceiling height in such areas be less than 8'-0".

(c) Kitchen and Bathroom Amenities

(vi) At a minimum, all kitchens shall have a full size four-burner cook top and full size oven, with built-in exhaust hood/microwave oven unit (or an equivalent thereof), full size kitchen sink with in-drain electric disposal, full size dishwasher, full size refrigerator/freezer, good quality upper and lower level cabinets with doors, quality counter top surfaces, and a suitable good quality floor surface. While appliances and finishes need not match or be equivalent to those in the principal project, they should be new and of good quality in terms of performance, durability and appearance. At the discretion of the Zoning Administrator, appliance sizes may be scaled down for studio units if

such downsizing is typical of the principal market rate project. For the purpose of preserving interior materials or character of older buildings or providing aesthetic compatibility therein, fully restored vintage appliances and finishes may be used as long as they are of good quality, durability, and in good working condition.

(vii) Bathrooms shall consist of a shower stall, toilet and lavatory. At least one bathroom in each unit shall have both a shower stall and standard size tub or a combination tub-shower unit.

(d) Closets

Each dwelling unit shall have a coat closet and a linen closet, plus a closet for each bedroom. Minimum dimensions for coat closet shall be 4'X 2'. Minimum closet dimensions for required linen closet shall be 36"X 18". Minimum closet size for the first/master bedroom shall be 16 square feet with a minimum depth of two feet. Minimum closet size for each additional bedroom shall be 12 square feet with a minimum depth of two feet.

(e) Laundry facilities

Off-site BMR projects shall provide laundry facilities comparable to the principal project. Each unit shall contain laundry facilities if such facilities are provided in the principal project. Each floor shall contain a laundry facility if such facilities are in the principal project, with one full-size washer and one full size dryer for every four units per floor. There shall be a common laundry room for the entire building if such a facility is provided in the principal project with one washer and one dryer unit for every eight units. Individual laundry facilities within units shall consist of both a washer and dryer unit. Studios, one- and two-bedroom units may utilize stacker units; three bedroom units and larger shall have full size laundry machine units. Laundry machines

shall be new and of good quality and durability.

(f) Finish qualities

(viii) Finish qualities throughout dwelling units and common areas including: doors; windows; wall and floor materials and finishes; bathroom finishes and fixtures; trim; hardware; lighting and other electric features, need not match or be equivalent to that of the principal project, but should be new and of good quality in terms of performance, functionality, durability and appearance and should reflect current residential interior styles, except in cases where vintage styles are appropriate to the interior finish design of the building, or where it is desired to preserve historic features or finishes.

iii. Smaller room size minimums may be permitted at the discretion of the Zoning Administrator on a case-by-case basis, if such smaller room sizes are typical of the principal market rate project and are consistent with current City building and housing codes.

iv. The standards in this section may be reduced at the discretion of the Zoning Administrator on a case-by-case basis provided the intent of this section – that all affordable units shall be of good quality and generally equivalent to current market rate housing standards commonplace in San Francisco - is generally being met as determined by the Zoning Administrator. Absent timely amendments to this section, requirements may be added or eliminated at the discretion of the Zoning Administrator to allow for changes in market standards or in technology. In adding or eliminating such requirements, the Zoning Administrator shall take into account the likely occupancy of the Off-site BMR units in consultation with MOH.

4. Compliance Through In-Lieu Fee Payment

a. When permitted by planning approvals or other applicable use restrictions, the Project Sponsor may pay an in-lieu fee to

satisfy the Inclusionary Ordinance requirements. The per-unit size fee shall be updated annually on July 1.

b. The fee is established as the amount of the affordability gap identified in the 2006 Planning Department Nexus Study for the Inclusionary Housing Program. Section 315.6 of the Planning Code calls for fees to be adjusted annually using the annual percentage change in the Construction Cost Index as published by Engineering News Report (ENR).

c. MOH shall conduct a comprehensive study of the in lieu fee structure every five years.

d. In lieu fees for developments that received their first site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size.

e. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006 must make a Declaration of Intent stating the on-site, off-site and/or in-lieu fee option prior to project approval. Project Sponsors may only amend the Declaration of Intent if they choose to change from the in-lieu fee or off-site option to the on-site option. Projects must provide a complete in-lieu fee payment before the issuance of the first site or building permit.

f. The in lieu fee unit requirement shall be calculated by using the direct fractional result of the total number of units multiplied by the percentage of off-site housing required, rather than rounding up the resulting figure.

g. The Project Sponsor shall request an in-lieu fee determination from MOH in the form of a letter. MOH shall provide a fee determination letter within fifteen (15) business days of the receipt of the request and the letter shall expire in thirty (30) business days. In cases where the determination has expired, the Project Sponsor will be required to request an updated determination in order to make the payment to the Treasurer's Office. The in-lieu fee request letter shall contain the following:

- i. Project Sponsor contact information
- ii. The name and address of the project
- iii. Copies of all applicable planning approvals
- iv. The number of total units by unit size

h. MOH may require the completion of a standard form in order to request an in lieu fee determination.

- i. Prior to issuance by DBI of the first site or building permit for the project applicant, the Project Sponsor must have paid in full the sum required to the San Francisco Treasurer's Office.

C. Initial Sales Procedures for BMR Ownership Units

1. Request for Pricing for BMR Ownership Units

- a. Prior to marketing a BMR ownership unit for initial sale, the Project Sponsor shall transmit a copy of the Notice of Special Restrictions ("NSR"), final planning approval, approved floor plans indicating the location of the BMR units in the building, and final HOA dues for each BMR unit to MOH, together with a request for determination of initial sales price. The request for prices shall be submitted no sooner than 60 days prior to the beginning of the marketing period for the BMR units and at no time sooner than 6 months before the issuance of the First Certificate of Occupancy for the development. The pricing shall be valid for thirty (30) days and shall serve as the final pricing for the BMR units only upon approval of the Marketing Plan for the BMR units.
- b. MOH may require the completion of a standard form in order to request an in BMR unit pricing.

2. Methodology for Pricing Initial Sale BMR Ownership Units

- a. MOH shall calculate the initial sales price of the BMR unit according to the following assumptions: (i) the income limits specified in planning approvals or other use restriction documents; (ii) total payments of no more than thirty-three (33) percent of the gross monthly income, based on the income limits required by planning approvals or other use restrictions and including an allowance for taxes, insurance, homeowner or association's fees and related costs; (iii) a mortgage interest rate as identified by MOH that is the higher of the ten-year rolling average of interest rate data, based on 30-year interest rate data provided by Fannie Mae, Freddie Mac or an equivalent, nationally recognized mortgage lending institution; and (iv) a ten (10) percent down payment assumption. MOH shall transmit this information to the Project Sponsor within ten (10) working days after receipt of the request for determination.
- b. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Income levels for buyers in principal projects that received their first site or site or building

permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for buyers in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size. All off-site projects will be held to the date on which the principal project received its first site or building permit.

3. Parking Space Policy for BMR Ownership Units

a. In developments in which parking is sold or leased as a part of the sales price for market rate units, parking spaces shall be granted to BMR buyers (1) at the same ratio of parking spaces to residential units, as identified in the planning approvals or other use restrictions for the building overall and (2) within the maximum purchase price set by MOH. All parking spaces granted to BMR buyer households shall be resold or re-leased with the BMR unit upon resale.

b. In developments in which parking is “unbundled,” or sold or leased separately from every residential unit in a development, parking spaces shall be made available to BMR buyers at the same ratio of parking spaces to residential units as identified in planning approvals or other use restrictions for the building overall. The sales price of each BMR unit, as determined by MOH, shall be reduced by the cost of constructing a parking space (as determined by MOH) multiplied by the ratio of parking spaces to units in the building overall. The sponsor may then charge the BMR buyer the lowest market rate price available for a parking space to any buyer in the building.

The details of this policy are as follows:

i. Sponsors must offer BMR buyers the opportunity to purchase or lease parking spaces according to the overall ratio of parking spaces to units in the building.

ii. In developments where 1:1 parking is available in the building, the price of each BMR unit will be lowered by a standardized amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space, exact amount to be established by MOH through cost analysis and adjusted annually.

iii. In developments with less than 1:1 parking availability, MOH will lower the price of each BMR unit by an amount equivalent to the cost of constructing either a structured, above-ground parking space or a

below-grade parking space multiplied by the ratio of parking spaces to units in the building overall.

iv. The price of each BMR unit will be reduced regardless of the BMR buyer household's choice to purchase or lease a parking space.

v. BMR buyers must be offered the opportunity to purchase or lease parking at the lowest market rate price offered to any buyer in the housing development.

vi. This policy applies only to developments in which the parking is 100% unbundled, or sold or leased separately, from the all units in the development.

vii. Project Sponsors cannot charge special fees for parking to BMR buyers that are not charged to all buyers.

viii. A first parking space that is purchased either (1) at the same time that the BMR unit is initially purchased or (2) purchased by BMR owner household anytime after the initial purchase of the BMR unit shall be re-sold with the BMR unit upon resale of the unit. The price of the parking space will be governed by the same limits as the overall resale price as outlined in Section II (D) (5).

ix. The price of a parking space must never exceed the maximum established during the initial marketing of the units, but it may fall below this price.

x. In buildings with less than 1:1 parking, the opportunity to purchase or lease a space will be allocated by lottery rank.

xi. BMR households may purchase or lease a second parking space at any time without any restrictions placed on the Project Sponsor or the BMR buyer household.

4. Marketing Procedures for BMR Ownership Units

The Project Sponsor shall commence marketing of the BMR unit according to the procedures set forth in Section IV (E) of this manual.

5. Verification of Owner Qualification for BMR Ownership Units

a. At least sixty (60) days prior to the anticipated close of escrow, the Project Sponsor shall submit to MOH for approval the following documentation:

- i. An application from the proposed purchaser on a form specified by MOH;
- ii. Supporting documentation from all members 18 years and older of the purchaser household, including:
 - (a) Past three (3) years IRS returns;
 - (b) Past three (3) years W-2 forms;
 - (c) Three (3) current and consecutive pay stubs or equivalent;
 - (d) Three (3) current and consecutive statements from every liquid asset account or personal cash holdings, including all custodial accounts held for minors;
 - (e) Verification of San Francisco residency or employment;
 - (f) Verification of completion of an approved First-time Home Buyer Education workshop.

b. To proceed with a BMR unit purchase post-lottery, the BMR buyer's lender or sales agent must supply the following documentation:

- i. A completed sales agreement;
- ii. An appraisal showing the Appraised Fair Market Value of the BMR unit;
- iii. A mortgage loan application to an institutional lender;
- iv. A Preliminary Title Report for the BMR unit.

6. Buyer Approval for BMR Ownership Units

a. Upon receipt of a complete BMR homeownership application, MOH shall verify the household qualification within fifteen (15) working days.

b. Upon receipt of lender and sales contract documentation, MOH shall draft escrow closing documents within five (5) working days.

c. Buyer Time to Qualify

The Project Sponsor shall allow the proposed purchaser no less than thirty (30) days from the time of the signing of the sales contract to qualify for mortgage financing and no more than sixty (60) days.

7. Financing for BMR Ownership Units

The Project Sponsor shall not allow mortgage financing that includes unreasonable or predatory fees associated with the loan. Specifically approved and disapproved loan types are outlined in Section II (C) of this Manual.

8. Restrictions on BMR Ownership Units

The Project Sponsor must comply with the documentation and enforcement procedures contained in Section J of this manual. MOH shall prepare documentation to be placed into escrow, including (1) a Promissory Note, as applicable, for the difference in the appraised value and the BMR unit sales price as described in Section J; (2) a Deed of Trust securing the City's interest in the BMR unit, (3) a Grant of Right of First Refusal giving the City the right to find an eligible buyer should the BMR unit be sold; and (4) certification that the purchaser is aware of the special restrictions on the BMR unit.

9. Transaction Fees for BMR Ownership Units

The Project Sponsor shall pay all usual, customary and reasonable transaction costs normally borne by the seller in a residential real estate transaction, including but not limited to broker fees and real estate transfer taxes.

10. Inability to Find a Buyer for a BMR Ownership Unit

In cases where, despite the owners good faith efforts, no first-time homebuyer household purchaser of the required income level has contracted to purchase a BMR Ownership Unit within six (6) months after the lottery for the BMR units, the owner shall inform MOH, which may then increase the permissible income levels for prospective purchasers of that unit up to a maximum twenty (20) percent over the income percentage limit specified in planning approvals or other use restrictions, but shall not increase any current or future permissible sales price of that unit as indicated in planning approvals or other use restrictions.

D. Initial Rental Procedures of BMR Rental Units

1. Request for Initial Rental Rates for BMR Rental Units

a. Prior to marketing a BMR Ownership Unit for initial rental, the Project Sponsor shall transmit (1) a copy of the Notice of Special Restrictions ("NSR"); (2) the final Planning Motion or planning approval for the development; and (3) approved floor plans indicating the location of the BMR units in the building,

together with a request for determination of initial rent levels. The request for rent levels shall be submitted no sooner than 6 months before the issuance of the First Certificate of Occupancy for the development.

b. Within ten (10) working days after receipt of a complete request for determination, MOH shall calculate the maximum monthly rent for each BMR unit, adjusted for unit size, based on the percent of median income established in the Conditions of Approval or other use restrictions and the then-existing median income amounts and shall transmit this information to the Project Sponsor.

2. Methodology for Setting Initial Rent Levels for BMR Rental Units

a. MOH shall calculate initial rent levels of the BMR Rental Unit according to the following assumptions: (i) the income limits specified in the Conditions of Approval or other use restriction documents; (ii) total payments of no more than thirty (30) percent of the gross monthly income, based on the income limits required by the Conditions of Approval or other use restrictions.

b. The income table used to calculate the income level of a BMR household and the subsequent BMR unit rent shall be determined by the date on which the project received its first site or building permit. Initial rent levels for BMR Rental Units in developments that received their first site or building permit before September 9, 2006 will be calculated using the HUD Area Median Income as adjusted for household size. Initial rent levels for BMR Rental Units in developments that received their first site or building permit on or after September 9, 2006 will be calculated using the San Francisco Median Income as adjusted for household size.

3. Parking Space Policy for BMR Rental Units

a. In developments in which parking spaces are provided to renters within the rent for market rate units, parking spaces shall be granted to BMR renters (1) at the same ratio of parking spaces to residential units as identified in planning approvals or other use restrictions for the building overall and (2) BMR renters shall be granted the parking space within the maximum monthly rent set by MOH.

b. In developments in which parking is "unbundled," or rented separately from every residential unit in a development, parking spaces shall be made available to BMR renters at the same ratio of parking spaces to residential units as identified in planning approvals or other use restrictions for the building

overall. The rental price of each BMR unit, as determined by MOH, shall be reduced by the cost of constructing the parking space, as determined by MOH, multiplied by the ratio of parking spaces to units in the building. This amount will be amortized over a 30-year period. The sponsor may then charge the BMR renter the lowest market rate rent available to any renter in the building.

The details of this policy are as follows:

- i. Sponsors must offer BMR renter the opportunity to rent parking spaces according to the ratio of parking spaces to overall units in the building.
- ii. In developments where 1:1 parking is available in the building, the rent of each BMR unit will be lowered by a standardized amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space, exact amount to be established by MOH through cost analysis and adjusted annually.
- iii. In developments with less than 1:1 parking availability, MOH will lower the price of each BMR unit by an amount equivalent to the cost constructing either a structured, above-ground parking space or a below-grade parking space and multiplied by the ratio of parking spaces to units.
- iv. In developments where 1:1 parking is available in the building, MOH will lower the maximum rent of each BMR unit by a standardized amount equivalent to the cost of constructing either a structured parking space or a below-grade parking space amortized over a 30-year period, exact amount to be established by MOH.
- v. This amount will be deducted from the monthly rent of each BMR unit regardless of the renter's decision to lease a parking space.
- vi. In developments with less than 1:1 parking availability, MOH will lower the maximum rent of each BMR unit by an amount equivalent to the monthly cost of parking in either a structured parking space or a below-grade parking space amortized over a 30-year period and multiplied by the ratio of parking spaces to units.

vii. BMR buyers must be offered the opportunity to rent parking at the lowest market rate rent offered to any market rate renter in the development.

viii. This policy applies only to developments in which the parking is 100% unbundled, or rented separately, from the all units in the development.

ix. Project Sponsors cannot charge special fees for parking to BMR renters that are not charged to all renters.

x. Parking spaces rented with rental BMR units must be offered to subsequent renters upon re-rental of the unit.

xi. In buildings with less than 1:1 parking, the opportunity to rent a space will be allocated by lottery rank.

4. Marketing Procedures for BMR Rental Units

The Project Sponsor shall commence marketing the BMR unit(s) according to the procedures set forth in Section IV (E) of this manual.

5. Verification of Renter Qualification for BMR Rental Units

At least thirty (30) days prior to the anticipated date of lease, the Project Sponsor shall submit to MOH for approval the following documentation:

- a. A complete MOH BMR rental application from the proposed renter household;
- b. Supporting documentation from all members of the BMR renter household, including:
 - i. Past one (1) year IRS returns;
 - ii. Past one (1) year W-2 forms;
 - iii. Three (3) current and consecutive pay stubs or equivalent;
 - iv. Three (3) recent and consecutive statements from every liquid asset account and personal cash holdings, including custodial account for all minors;
 - v. Verification of San Francisco residency or employment.
- c. A sample lease agreement that clearly states the rent to be charged to the new tenant.

6. Renter Approval for BMR Rental Units

Upon receipt of a complete BMR rental application, supporting documentation, and a sample lease, MOH shall verify the household qualification within fifteen (15) working days.

7. Permissible Rent Increases for BMR Rental Units

The Project Sponsor may increase the maximum monthly rent for a qualifying household on each anniversary of a qualifying household's occupancy in an amount which does not exceed the amount determined by MOH based on the percent of median income established in the planning approvals or other use restrictions and the then-existing income amounts.

8. Rental Rate Upon Subsequent Occupancy by Qualifying Households for BMR Rental Units

- a. The Project Sponsor shall notify MOH of a vacancy of a BMR unit prior to offering the unit for rent and prior to marketing the unit according to the marketing procedures set forth in Sections IV (E) of this manual.
- b. Rental rates for qualifying households shall not exceed the applicable amounts published in accordance with the provisions of section IV (D) (2) and (3) above.

9. Documentation of Annual Rent Levels for BMR Rental Units

The qualifying household income limits and maximum monthly rent for BMR units shall be updated annually and will be available on the MOH website. Owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their planning approvals or other use restrictions may be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information MOH may reasonably require to monitor compliance with the BMR units specific planning approvals or other use restrictions.

E. Marketing Procedures for Initial Sale and Rental of BMR Units

1. General Requirements for Marketing of All Initial Sales and Rentals of BMR Units

a. The Project Sponsor shall use good faith and affirmative efforts to attract potential qualifying households from all minority and low income, median income and moderate income communities through the marketing and advertising of the BMR units. Toward that goal, the Project Sponsor shall prepare and provide to MOH a copy of the Marketing Plan for the sale or rental of the BMR units prior to accepting applications or statements of interest for the purchase or lease of the units. No marketing or advertising material shall be distributed or published without the prior written approval of the Marketing Plan by MOH and all such materials shall be consistent with the approved Marketing Plan. Approval or disapproval of the Marketing Plan shall be made within ten (10) days of receipt of a complete marketing plan. In instances where the Marketing Plan has been disapproved; MOH will provide recommendations to remedy any deficiencies.

b. To insure access and outreach to minority and low income, median income and moderate-income communities, the Project Sponsor must hire as part of the marketing and outreach strategy a Marketing Consultant certified by MOH as having demonstrated capacity in reaching identified targeted populations. The targeted populations will be identified by MOH based on an analysis of the demographic characteristics of minority and low income, median income and moderate-income populations of San Francisco, and applicants to the BMR program. A list of certified Marketing Consultants will be maintained by MOH and updated on at least an annual basis on June 15th.

c. The Project Sponsor shall submit the Marketing Plan to MOH at least thirty (30) days prior to the anticipated commencement of the project's marketing and outreach and at least one-hundred and twenty days prior to the anticipated close of escrow for BMR ownership units and lease origination dates for BMR rental units.

2. Contents of Marketing Plan

a. MOH shall prescribe the form of the Marketing Plan and shall provide the format to the Project Sponsor for completion and submittal. Unless determined by MOH to be inapplicable to a particular project, the Marketing Plan shall include:

b. The name, address, email address, and phone number of the project sponsor;

c. The name, address, email address, and phone number of the sales or rental agent(s);

- d. The planning approval for the project;
- e. The Notice of Special Restrictions for the project;
- f. The name of the City Planner assigned to the housing project;
- g. A description of the total number of units in the principal project or applicable off-site project;
- h. A description of the total number of market rate or non-BMR units in the building;
- i. A description of the total number of BMR units in the building;
- j. The Home Association Dues (HOA Dues) for each BMR unit;
- k. All amenities included in the sale of the BMR unit;
- l. Parking available to all residential tenants in the building;
- m. Buyer or renter qualifications;
- n. Workshop and open house dates;
- o. A media plan;
- p. A strategy for marketing to residents of the immediate neighborhood;
- q. A comprehensive strategy for reaching out to low-income, median-income, moderate-income and minority communities in San Francisco;
- r. Dates and strategy for the application process;
- s. Dates and strategy for the lottery selection process;
- t. Dates and strategy for the process of working with lottery winners;
- u. Marketing materials which clearly define rental or first time homebuyer household eligibility and which specify documentation and monitoring procedures;
- v. Notices that buyers of BMR units are subject to special use restrictions, including an acknowledgement of these

restrictions and a sample packet of the City's escrow closing documents that each buyer will be expected to execute upon the purchase of a BMR unit;

w. On resale, listing of BMR Ownership Units with the San Francisco Multiple Listing Service (MLS);

x. A list of community housing organizations which are to receive written notification regarding the availability of the BMR units prior to commencement of advertising or marketing of such units;

y. A list of community housing organizations that the Project Sponsor or the Project Sponsor's marketing representative must work with in order to meet language or cultural needs of minority communities;

z. An attached copy of all planning approvals, the NSR and approved floor plans associated with the principal project and any applicable off-site project.

3. Conduct of Marketing Plan

a. No marketing of the BMR unit(s) shall begin until the Project Sponsor has received written approval of the Marketing Plan and confirmation from MOH of the number, type, location, and price or rent of the BMR units and permissible income limits of purchasers or tenants, pursuant to Sections II (A), III (A), IV (C), IV (D) of this manual.

b. The Project Sponsor or the Project Sponsor's marketing and sales representative shall give adequate time, in no case less than twenty eight (28) days after first public notification or advertisement, for application submissions.

c. The Project Sponsor shall alert sales or rental staff to the BMR units and provide such staff with a copy of this Manual and the special use restrictions applicable to the BMR units.

d. The sales or rental programs and procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual preferences, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

e. The Equal Housing Opportunity symbol shall be displayed in a visible location at any sales or rental office, and shall be incorporated in all advertisements and printed materials.

f. Units must be advertised in at least five (5) local newspapers that reach minority and low-income, median income and moderate-income communities in San Francisco for a period of at least 3 weeks and at least one local newspaper of general San Francisco circulation for at least two Sundays prior to the established application deadlines for the BMR units.

g. All available BMR units must be listed on the MOH website of available BMR units for at least twenty-eight (28) days prior to the application deadline for the BMR unit(s).

F. Marketing Procedures for Resale of BMR Ownership Units

Marketing of resale of individual BMR Ownership Units shall be in compliance with all applicable federal, state and local laws related to fair housing. Owners and their agents may be asked to certify that the units have not been marketed in such a manner as to be discriminatory. The procedures for resales are more fully described in Section I of this Manual.

G. Marketing Procedures for Subsequent Rentals of BMR Rental Units

1. Marketing of re-rental of individual BMR Rental Units shall be in compliance with all applicable federal, state and local laws related to fair housing rules. Owners and their agents may be asked to certify that the units have not been marketed in such a manner as to be discriminatory.

The sales or rental programs and procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual preferences, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

2. Upon re-rental, BMR Rental Unit managers must follow the process established by MOH for re-renting units. This process includes the following:

a. The Project Sponsor shall inform MOH at least thirty (30) days prior to the intended lease origination date of a new BMR renter of the availability of any such unit before beginning any general marketing;

b. Units must be listed on the MOH website list of available BMR units for at least a seven (7) working day period before an established application review date. Applications must not be reviewed until the seven (7) working day application period has ended;

- c. Applicants must complete a MOH BMR rental application and return the application and all supporting materials by the application deadline;
- d. Project Sponsors must follow all fair housing rules when choosing a new renter for a BMR unit;
- e. Marketing of BMR Rental Units following the vacancy of any such unit must include advertisement of that unit in at least one print media for at least one Sunday prior to entering into any rental agreement for that unit.

H. Selection of BMR Buyers or Renters at Initial Sale or Rental of BMR Units

The Project Sponsor shall utilize a public lottery to select BMR buyers or renters. The following guidelines shall be applicable to the lottery process:

1. Lotteries for BMR units shall be held in a public, accessible location.
2. A non-prioritized list of interested buyers will be kept by MOH ("general BMR list"). At least twenty-one (21) days prior to a lottery, all those signed up on the list will be notified of the availability of units and invited to participate in the lottery by MOH. The general public will be invited to participate in the lottery, as well.
3. All applicants who have submitted a complete application by the application deadline shall be entered into the lottery.
4. Households submitting significantly incomplete applications may be deemed ineligible to enter the lottery for the purchase or rental of a BMR unit or to proceed with a purchase or rental of a BMR unit following the lottery.
5. Applicants shall be invited to attend lotteries, but attendance is not mandatory.
6. A representative of MOH shall conduct the lottery and record the order of lottery numbers drawn.
7. Within 5 business days, the Project Sponsor shall notify all applicants of their position in the lottery and inform MOH of the lottery winners' intent to purchase or rent the BMR unit.
8. The Project Sponsor shall deliver complete applications and supporting materials of interested lottery winners to MOH within 21 days of the lottery date.

9. The Project Sponsor shall adhere to the rank order of the lottery list when offering BMR units to lottery winners.

10. Only those household members listed on the BMR application may move in to the BMR unit unless MOH allows the addition of an additional person.

I. Conversion of BMR Rental Units to Ownership Units

When authorized by planning approvals or other use restrictions placed on a principal project, a BMR Rental Unit may be permitted to be converted for owner occupancy only upon satisfaction of all of the following additional conditions:

1. If the rental BMR unit is subject to planning approvals or other use restrictions specifying that the BMR unit be a rental unit, conversion shall be subject to the approval of the Planning Commission;
2. The conversion from rental to condominium ownership of the BMR unit shall be subject to any applicable City procedures, standards, fees and regulations in effect at the time of application;
3. The BMR unit must have been maintained in good physical condition as an affordable rental unit at all times since its initial construction;
4. If the planning approvals or other use restrictions for the principal project specified a minimum period during which the BMR unit must be rented, that period shall have elapsed;
5. The Project Sponsor shall prepare and submit a Marketing Plan and conduct sales of the BMR units in conformity with the Requirements of this Manual in force at the time of marketing and sale;
6. The BMR ownership unit shall be priced at the level of affordability dictated for the current BMR rental unit as stated in the planning approvals or other use restrictions.
7. The prospective purchaser must be a first-time homebuyer household whose combined gross annual household income does not exceed the percentage of median income specified in the planning approvals or other use restrictions for permissible occupancy of the BMR unit as a rental unit;
8. Existing tenants who meet the requirements to purchase the BMR unit shall be offered a right of first refusal to purchase the unit, which right of first refusal shall afford the tenant at least six (6) months to exercise the right to purchase;

9. Once converted, units shall be subject to all restrictions applicable to the marketing, sale and resale of BMR Ownership Units as set forth in this Manual.

J. Documentation and Enforcement of Sales Restrictions for BMR Ownership Units

1. At the request of MOH, and at the time of the initial or any subsequent sale of a BMR unit, the purchaser shall enter into such agreements or other documents as MOH may require to ensure that the unit will be subject to the affordability restrictions described in the planning approvals or other use restrictions.

2. These documents include the following:

a. Promissory Note

i. To secure the obligations contained in the Conditions of Approval, a purchaser of a BMR unit shall execute and deliver to the City a promissory note in a form prepared by MOH (a "BMR Note") in an original principal amount equal to the difference between (i) the appraised fair market value of the BMR unit at the time of such sale, determined without regard to the sales and rental restrictions on such unit, and (ii) the affordable purchase price owed by the purchaser of that unit at the time of the initial sale of such unit pursuant to the planning approvals or other use restrictions. All such BMR Notes shall contain the above restrictions on resale and rental of a BMR unit. The BMR Note shall provide for a stated rate of deferred interest and/or a stated share of any appreciation in the value of the applicable BMR unit.

ii. No BMR Note shall be required if MOH determines that the affordable purchase price of the applicable BMR unit is approximately equal to the appraised fair market value of that unit at the time of its initial sale, determined without regard to sales or rental restrictions on that unit. In the event that no BMR Note is required for a BMR unit, MOH may require the recordation of an Acknowledgment of Special Restrictions by the owner of such unit that the unit is subject to the affordability restrictions contained in the planning approvals or other use restrictions.

iii. Subject to the provision of subparagraph IV (J) (5) below, the BMR Note shall be due and payable, in full, upon (i) the sale of the BMR unit to which it pertains, or (ii) in the event of a default of any of the conditions,

obligations or covenants contained in the BMR Note (including without limitation the covenant to sell the applicable BMR unit in compliance with the planning approvals or other use restrictions). All funds received by the City from the repayment of BMR Notes shall be used to subsidize low-income to moderate-income housing in the City.

b. Deed of Trust

Repayment of the BMR Note shall be secured by a deed of trust encumbering the applicable BMR unit in a form prepared by MOH.

c. Grant of Right of First Refusal

BMR buyers shall execute and deliver to the City a Grant of Right of First Refusal, a document that requires the seller to notify MOH upon resale, giving the City the option to exercise their right to substitute a qualified buyer.

d. Buyer Acknowledgment of Special Restrictions

BMR buyers shall execute and deliver to the City an Acknowledgement that they have thoroughly reviewed this Manual and the recorded NSR on the BMR unit.

3. Function of Documents

a. Reconveyance of Note and Deed Upon Resale

Upon any resale of a BMR unit, assuming (i) that there has been no event of default that is continuing under the existing BMR Note, and (ii) that the resale of the BMR unit complies with this Manual and the planning approvals or other use restrictions, MOH shall accept a replacement BMR Note made to the order of the City by the new purchaser of the unit, in form and substance acceptable to MOH, as full satisfaction of the existing BMR Note by the City, the deed of trust securing the existing BMR Note shall be reconveyed by the City, and the new purchaser of the BMR unit shall deliver to the City new BMR Note and a new deed of trust securing the new BMR Note and encumbering the applicable BMR unit. The principal amount of the new BMR Note shall equal the difference between the appraised fair market value of the BMR unit and the affordable purchase price owed by the purchaser of such unit at the time of the resale.

b. Term of Note and Deed

i. For BMR units marketed before the effective date of this Manual, the following process applies:

(a) BMR Ownership Units

Upon the expiration of the 50-year term of the affordability restrictions contained in planning approvals or other use restrictions for any ownership BMR unit, any deed of trust securing a BMR Note shall remain a valid, enforceable lien on the applicable BMR unit until the next resale of such unit, at which time the maker of such BMR Note shall pay to the City the full amount due under the BMR Note. At such time a BMR Note is repaid pursuant to this subparagraph, the lien of the deed of trust securing such BMR Note shall be released and the unit shall no longer be subject to the affordability restrictions.

(b) BMR Rental Units

Upon the expiration of the 50-year term of the affordability restrictions contained in the Conditions of Approval or by ordinance for any rental BMR unit that has remained a rental unit for the duration of the restriction, the unit shall be released from all restrictions and the current building owner may rent the unit at market rate.

ii. For all BMR units marketed on or after the effective date of this Manual, the following process applies:

The BMR unit will remain restricted for the life of the project. For ownership BMR units, the BMR note may not be repaid at any time. For rental BMR units, the rental unit will remain restricted for the life of the project.

4. Order of Liens

a. Any liens shall not be subordinated to any other liens or restrictions affecting the project or a BMR unit to which the planning approvals or other use restrictions apply except for the buyer's primary mortgage loan to which the BMR lien may take second place. The BMR lien can only be subordinated to the primary mortgage.

b. The restrictions imposed by planning approvals or other use restrictions, and any liens recorded pursuant thereto, shall not be subordinated to any other liens or restrictions affecting the project or a BMR unit to which the planning approvals or other use restrictions apply; provided, however, that MOH may approve a refinancing of a first-priority mortgage of the BMR unit to secure a lower interest rate, in an amount not to exceed the value of the original mortgage plus customary transaction costs.

5. Recordation of Restrictions

Before the issuance of the first site or building permit, a Notice of Special Restrictions and other appropriate documentation (including deeds of trust securing the obligations of the purchasers of BMR units) against the land record shall be filed with the Office of the Recorder of the City and County of San Francisco for the BMR units in order to implement the planning approvals or other use restrictions. Such deed restrictions and other recorded documents shall include language restricting the sale of the BMR units in accordance with planning approvals or other use restrictions.

K. Conflict of Interest

The Project Sponsor may not make an initial sale or rental of a BMR unit to the project architect, attorney, prime contractor, or to anyone of its or their employees, directors, officers or agents, or to any of their family members, as determined by MOH.