

Housing Workshop I.

May 18, 2016

Materials

1. Agenda
2. Glossary of Terms
3. Presentation
4. Proposed Actions
5. Affordability Income Levels and Area Median Income
6. City Housing Program Proforma
7. BMR Resolution
8. BMR Ordinance
9. BMR Program Accomplishments to date
10. Regional Housing Needs Allocation Accomplishments
11. County of Santa Clara Breakdown of Affordable Ownership For-Sale Inventory Estimates
12. Keyser Marston Associates, Inc. (KMA) Analysis of the Impact of the Below Market Rate (BMR) requirements of the City's Residential Development Control System (RDSCS) on Development Economics, a report on the cost of providing on-site BMR units relative to the current in-lieu fee (TO BE DISCUSSED AT THE NEXT HOUSING WORKSHOP SCHEDULED JUNE 15, 2016)



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**MORGAN HILL HOUSING WORKSHOP I.
BELOW MARKET RATE PROGRAM**

HOUSING WORKSHOP I.

May 18, 2016

**WEST CONFERENCE ROOM
CITY COUNCIL CHAMBERS
CIVIC CENTER
17555 PEAK AVENUE
MORGAN HILL, CA**

HOUSING WORKSHOP MEETING - 6:00 P.M.

- 1. HOUSING WORKSHOP OBJECTIVES & MATERIALS**
- 2. INTRODUCTION TO HOUSING WORKSHOP**
- 3. VIDEO PRESENTATIONS**
- 4. Q & A**

**GLOSSARY OF FUNCTIONAL TERMS
FOR BELOW MARKET RATE (BMR) AFFORDABLE HOUSING PROGRAM**

Term	Abbreviation	Definition								
Affordable Housing Program Development Process	Program Development	The Operational Assessment and Refinement needed to ensure successful Pipeline and Portfolio Management. This process is informed by challenges, case studies and projects.								
Affordable Housing Program Pipeline	Pipeline	The new applicant, new financing, new services and new properties that become part of an affordable housing program and that are restricted to eligible households based on some pre-determined criteria								
Affordable Housing Program Portfolio	Portfolio	The resulting outcomes once program applicants, who have been determined to be eligible households, get converted to program participants with needs and requirements that must be managed on a daily, monthly and annual basis.								
Area Median Income	AMI	<p>The local income of the applicable County in which the program benefit exists. When taking into account all of the income levels in a particular county, incomes are either higher or lower than the median. Programs typically determine household eligibility based on the percentage above or below Area Median Income. The typical categories of income used by the state include:</p> <table border="1" data-bbox="808 1310 1403 1545"> <tbody> <tr> <td data-bbox="808 1310 1105 1367">Very Low</td> <td data-bbox="1105 1310 1403 1367">0 to 50% of AMI</td> </tr> <tr> <td data-bbox="808 1367 1105 1423">Low</td> <td data-bbox="1105 1367 1403 1423">51 to 80% of AMI</td> </tr> <tr> <td data-bbox="808 1423 1105 1480">Moderate</td> <td data-bbox="1105 1423 1403 1480">81 to 120% of AMI</td> </tr> <tr> <td data-bbox="808 1480 1105 1545">Above Moderate</td> <td data-bbox="1105 1480 1403 1545">Over 120% of AMI</td> </tr> </tbody> </table>	Very Low	0 to 50% of AMI	Low	51 to 80% of AMI	Moderate	81 to 120% of AMI	Above Moderate	Over 120% of AMI
Very Low	0 to 50% of AMI									
Low	51 to 80% of AMI									
Moderate	81 to 120% of AMI									
Above Moderate	Over 120% of AMI									
Building Equity and Growth in Neighborhoods	BEGIN	A program that reduces local regulatory barriers to affordable homeownership housing primarily through down-payment assistance loans to qualifying first-time, low and moderate income homebuyers.								
Below Market Rate Program	BMR Program	Term used to define Morgan Hill's Single-Family Affordable Homeownership Program. The BMR								

		Program is one of the many “approaches” that Morgan Hill uses to house an economically diverse population.
Below Market Rate Program Asset Manager	Asset Manager	Manages the BMR Property Portfolio, Resale Restriction Agreements, Development Projects and Affordable Housing Agreements. First Point of Contact for Developers, Owners and Loan Officers involved with Refinance Loans.
Below Market Rate Program Processor	Program Processor	Manages the BMR Applicant and Application Process, leads the policy development process for Household Qualification. First Point of Contact for Buyers and Loan Officers involved with Purchase Loans.
Below Market Rate Program Underwriter	Program Underwriter	Determines Household Eligibility for Programs. Manages the Program Qualification Guidelines.
Below Market Rate Property	BMR	A property sold at a restricted price that is below the Fair Market Value.
Below Market Rate Program Property Manager	Property Manager	Manages the issues concerning Below Market Rate Properties through the construction, design, and restriction term. First point of contact for construction, permit, remodel and repair issues.
California Tax Credit Allocation Committee	CTAC	Administers the federal and state Low-Income Housing Tax Credit Programs. Both programs were created to encourage private investment in affordable rental housing for households meeting certain income requirements.
Community Development Block Grant (funds)	CDBG	Funds local community development activities such as affordable housing, anti-poverty programs, and infrastructure development. CDBG, like other block grant programs, differ from categorical grants, made for specific purposes, in that they are subject to less federal oversight and are largely used at the discretion of the state and local governments and their sub-grantees.
Consumer Price Index	CPI Index	A program that produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and

		services. It is tracked by the US Department of Labor's Bureau of Labor Statistics.
Eligible Household	Household	Household determined to be program eligible based on the characteristics of its members (e.g. number of members, total income) and/or the location of the household address (e.g. census tract).
Excess Sale Proceeds	Excess Sales	The difference between the Fair Market Value of a property and its Maximum Restricted Sale Price. BMR owners are restricted from selling a BMR home for more than the Maximum Restricted Sale Price. BMR Owners are restricted from entering into loan agreements that use the BMR home as collateral for any amount above a certain percentage (e.g. 95%) of the Maximum Restricted Sale Price.
Fair Market Value	FMV	Price that would be paid for the property on the open market, provided buyers and sellers had equal access to all material information and no conflicts of interest existed.
Federal Grants-In-Aid System	Grants-in-aid system	The federal system of grant making to state and local governments that involves over 900 grants programs offered by the 26 federal grant-making agencies. This system funds a wide range of public policies, such as health care, transportation, community development and environmental protection. In FYE 2015, the federal government is expected to provide state and local governments with more than \$600 billion in federal grants.
Foreclosure Crisis (The) (in California)	Foreclosure Crisis	Data Quick reported that roughly 1.45 million California houses and condos were involved in a foreclosure proceeding between 2008 and 2012 – 835,000 went through the whole foreclosure crisis (HCD, State of Housing 2012)
Full Time Equivalent	FTE	Staff Count used to determine the Program Budget. Nyanda & Associates, LLC prices contracts based on an estimated FTE Count and charges between \$150,000 and \$180,000 per FTE, depending on jurisdictions personnel budget and staff-person skill level.
General Plan	General Plan	A General Plan is the local government's long-term blueprint for the community's vision of

		future growth. The California Governor’s Office of Planning & Research (OPR) is responsible for updating the General Plan Guidelines – the “how to” resource for drafting a general Plan. OPR also monitors general plan implementation with annual progress reports from cities and counties, and grants general plan extensions for qualified cities and counties. (CA Office of Planning & Research April 2016)
Housing Element Law	Housing Element	Housing Element law, enacted in 1969, mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The housing element is one of the seven mandated elements of the local general plan. (California Dept. of Housing & Community Development – HCD)
Inclusionary Zoning	Inclusionary Housing	Refers to municipal and county planning ordinances that require a given share of new construction to be affordable by people with low to moderate incomes. California communities tend to allow incomes up to 120% to purchase affordable housing due to multiple markets where less than 20% of all households in the state could afford housing.
Lender (Primary)	Lender	The party who approves the loan and sends the funds to escrow to complete the purchase or refinance transaction. This party can either originate the loan application directly (retail) or work with a local mortgage broker (wholesale).
Maximum Restricted Sale Price	Restricted Price	Sale price of a below market rate property that is calculated using a predetermined formula (e.g. increase in household median income or increase in cost of living). This price is not effected and has no effect on Fair Market Value
Model City Initiative	Model City	Initiative to experiment with, evaluate and demonstrate affordable housing program management best practices. Morgan Hill is a “model city” because it has committed to the process of developing best practices for managing its Below Market Rate Program.

Owner-Entitled Excess Proceeds	Owner Proceeds	The amount the BMR Owner or the BMR Owner's estate is entitled to if a BMR property is properly sold at the Maximum Restricted Sale Price. The remaining proceeds are an asset of the City's BMR Program.
Program Alignment	Alignment	The concept of "aligning" the City's Affordable Housing Efforts across General Plan, Housing Element, Budget, Administration Operation, Legal Documentation and Policies and Technological Resources.
Real Estate Attorney	RE Attorney	Serves as In-House Counsel for Nyanda & Associates, LLC and the Program Attorney for HouseKeys Administrator. Manages the Administrator's Power of Attorney, assists with Legal Document Creation, serves as Case Manager for defaults and violations, and reviews documentation before being routed for City Signatures.
Real Estate Broker	Broker	Serves as Broker of Record for HouseKeys Services Corporation, the brokerage arm of Nyanda & Associates, LLC dba HouseKeys. A real estate licensed is required by for real estate sale and lending activity.
Redevelopment Agency	RDA	A government body dedicated to urban renewal. Typically, it is a municipal level city department focused on a particular district or corridor that has become neglected or blighted. (Duran-Brown, Bernadette May 27, 2015)
Regional Housing Need Allocation	RHNA	HCD is required to allocate the region's share of the statewide housing need to Councils of Governments (COG) based on Department of Finance population projections and regional population forecasts used in preparing regional transportation plans. The COG develops a Regional Housing Need Allocation Plan (RHNA-Plan) allocating the region's share of the statewide need to cities and counties within the region.
Resale of Loans	Resale of loans	see "servicer" definition above. There are two "assets" that are created when a mortgage loan is closed: 1) the loan or mortgage asset and 2) the servicing rights. The loan asset is typically sold shortly after the loan is closed or held in

		<p>the funding parties portfolio. This is similar to the City's loan portfolio of BEGIN funds that have been loaned out. The servicing right is the contract that the loan servicer has with the mortgage investor or portfolio owner. There is a market for servicing rights because of the income stream it they can generate for the servicing entity and these rights are often sold multiple times over the course of a 30 year term. Because the servicer is who the borrower sends payment to, they are the most visible party because they end up mailing their payment to a different company. This is where the idea of a loan "being sold" comes from. Often times, it is really the servicing right to that borrower's mortgage that is being sold.</p>
Resale Restriction Agreement	Restrictive Agreement or Restrictive Covenants	<p>Agreement between the Jurisdiction, Property Owner and the Administrator (if applicable) that documents the requirements and restrictions that the Owner must adhere to for a given term (currently 45 years). During this time, the BMR Owner "owns" the property in partnership with the City.</p>
Servicer (Loan)	Servicer	<p>The party contracted or hired by the mortgage investor to collect monthly principal, interest and escrow payments, report loan performance, and maintain accounting records. This is the day-to-day administrator who the borrower deals with by phone, online or by mail. The contract is typically called a "servicing right" and those rights can be "sold" from one servicer to another servicing entity. This is also the initial party who begins the foreclosure process when the borrower fails to make payments. It's important to note that the authority of a servicer varies greatly; depending on if the loan is owned by a specific investor or if the loan is part of a loan pool or security.</p>
Tax Credits	TCs	<p>An amount of money that a taxpayer is able to subtract from the amount of <i>tax</i> that they owe to the government.</p>
Tax Equity and Fiscal Responsibility Act of 1982	TEFRA	<p>A United States federal law that rescinded some of the effects of the Kemp-Roth Act (an act that amended the Internal Revenue Code of</p>

			1954 which encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes) passed the year before.
	Technology Manager	Technology Manager	Develops Software and Manages the Program Website



City of Morgan Hill

Affordable Housing
& Below Market Rate Program (BMR)

HOUSING WORKSHOP I.

May 18, 2016

HOUSING WORKSHOP II. JUNE 15, 2016 (in-lieu fee)

HOUSING WORKSHOP I. OBJECTIVES

Objective	Purpose
Discuss Past, Present and Future Housing Goals	Informational (Two workshops, 5/18/2016 & 6/15/2016 BMR in-lieu fee discussion)
Adopt BMR Program Ordinance 6/1/2016	Formalize BMR Program, City Manager Authority, Program Purpose, Administrator Role, Power of Attorney in legal matters and Acquisition Authority (including “Cash-for-Keys” settlements) Program Administrator Duties, Enforcement of Occupancy and Sale Requirements, Rules Restricting Owner’s ability to sell and finance
Adopt BMR Resolution 5/18/2016	Formalize Fee Structure, City Manager Authority to sign off on Program Updates, Guidelines, Letters and Agreements, (E.g. Refinance Policy and Procedure) Approving Program Vendors (Lenders, Escrow)
Acknowledge & Recognize loss mitigation options via Resolution	Acknowledge & Recognize the loss mitigation options & process for at risk BMR Units in legal matters, and Acquisition Authority (including “Cash-for-Keys” settlements)
Excess Sale Proceeds (Equity)	Acknowledge & Recognize as a Program Asset that must be protected from abuses

Past Regional Housing Need Allocation (RHNA) Accomplishments (California Housing Element Law)

2007-2014 Housing Element Cycle

Income Level	RHNA unit Goal	Permits Issued	% of RHNA Met	Units + or -
Very Low (0-50% AMI) \$0 to \$53,150 *4 Person Household <small>includes 30% AMI for reporting purposes</small>	317	82	26%	-235 units
Low (50-80% AMI) \$54,213 to \$84,900, *4 person Household	249	139	56%	-110 units
Moderate (80-120% AMI) \$86,103 to \$127,550 *4 person Household	246	260	106%	+14 units
Above Moderate (120% +AMI) \$127,551+ *4 person Household	500	1,076	215%	+576 units
TOTAL RHNA	1,312	1,557	117%	+245

Today's RHNA Housing Goals

2015-2022 Housing Element Cycle

Income Level	RHNA unit Goal	Permits Issued To date	% of RHNA Met	# of units to go
Very Low (0-50% AMI) \$0 to \$53,150 *4 Person Household includes 30% AMI for reporting purposes	273	0	0%	273
Very Low (0-50% AMI) \$0 to \$53,150 *4 Person Household includes 30% AMI for reporting purposes	154	13	8%	141
Moderate (80-120% AMI) \$86,103 to \$127,550 *4 person Household	185	5	3%	180
Moderate (80-120% AMI) \$86,103 to \$127,550 *4 person Household	316	333	105%	+17
TOTAL RHNA	928	351	38%	577

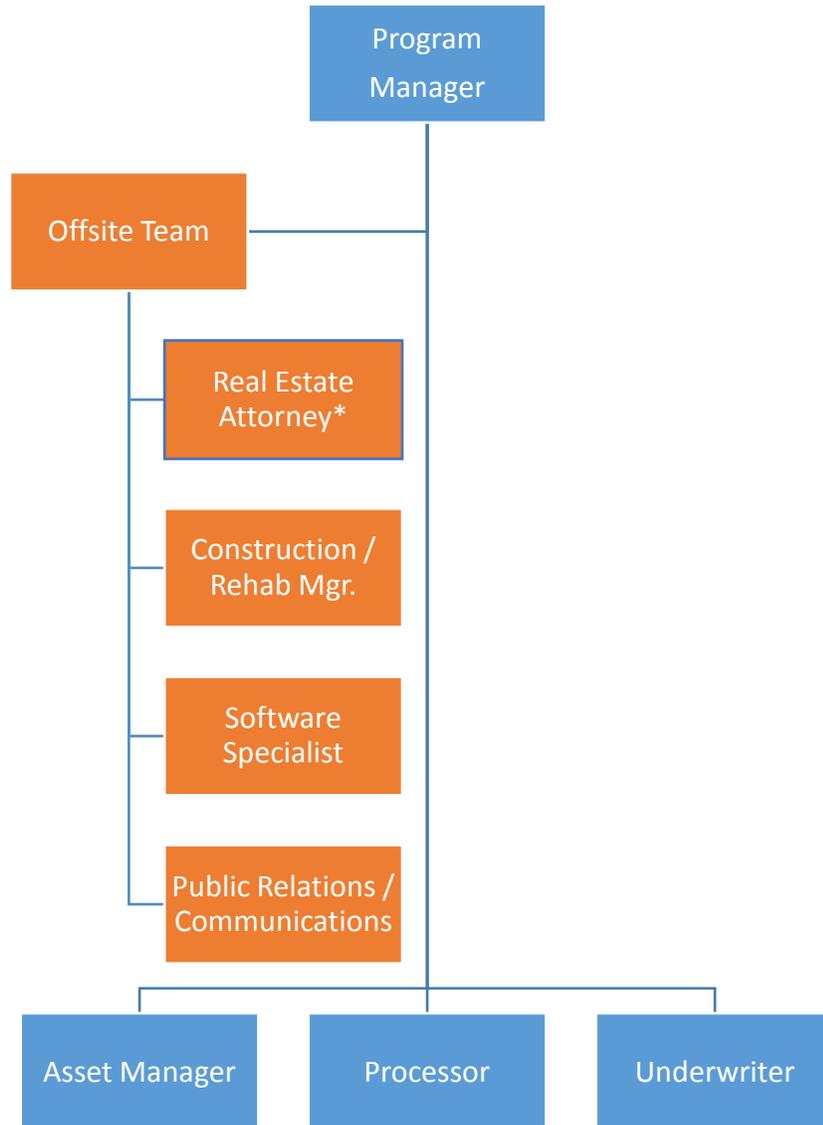
We have a great track record and a sizable BMR Program!

	Land Mass (Sq. Miles)	Population	Housing Units	Persons Per Household	Households	Affordable Ownership Units
Morgan Hill	13	41,779	13,868	3.11	13,421	500
Campbell	6	40,585	17,616	2.48	16,891	70
San Jose	180	1,016,479	327,652	3.17	320,960	1,385
Santa Clara	18.41	120,973	45,828	2.69	44,905	142
Gilroy	16.16	52,194	15,774	3.47	15,291	387
Mountain View	6.799	77,914	34,807	2.36	32,972	25
Sunnyvale	22.69	148,028	57,561	2.67	55,462	330
Cupertino	11.26	59,756	21,054	2.94	20,332	118
Palo Alto	25.79	66,932	28,674	2.47	27,153	240
Milpitas	13.64	72,606	21,039	3.42	21,236	274
Los Gatos	11.16	30,505	13,228	2.41	12,673	43
*Monte Sereno	1.615	3,451	1,299	2.82	1,223	21
Los Altos	6.4	30,036	11,350	2.74	10,970	64
*Los Altos Hills	8.802	8,341	3,088	2.85	2,931	N/A
Saratoga		30,799	11,186	2.83		N/A

Affirmatively Furthering Fair Housing (AFFH) Requirement

- **1968: Fair Housing Act becomes law** HUD (Analyze barriers, implement “meaningful” actions, i.e., policies and programs designed to overcome those barriers)
- **2009 - 2015:** Increased HUD enforcement of AFFH
- **2015:** HUD finalizes new AFFH regulations, the duty to AFFH has been clarified and strengthened in recent years, AFFH duty FOLLOWS THE MONEY! (HUD’s \$)
- **October 2019:** Santa Clara County jurisdictions must submit their first Assessments of Fair Housing to HUD (analyze barriers to fair housing and implement “meaningful” actions, i.e., policies and programs designed to overcome those barriers”
- **ONE WAY THE CITY IS AFFH IS BY PROTECTING AND PRESERVING BMR RESTRICTIONS**

BMR Team 2016



Morgan Hill BMR Program Budget	
Asset Manager	\$55,681.60
Processor	\$62,150.40
Underwriter	\$60,673.60
Program Manager (1/2 Time)	\$78,000.00
Real Estate Attorney	\$83,200.00
Add 'l Personnel Costs (benefits)	\$148,526.40
Offsite Team	\$181,768.00
Overhead	\$180,000.00
Total Program Cost	\$850,000.00
New Construction (15 Units)	\$150,000.00
BMR Resales (10 Units)	\$150,000.00
Acquisition/Rehab (3 Units)	\$50,000.00
Total Revenue Offsets	\$350,000.00
Net Budget, Proposed City Contract	\$500,000.00

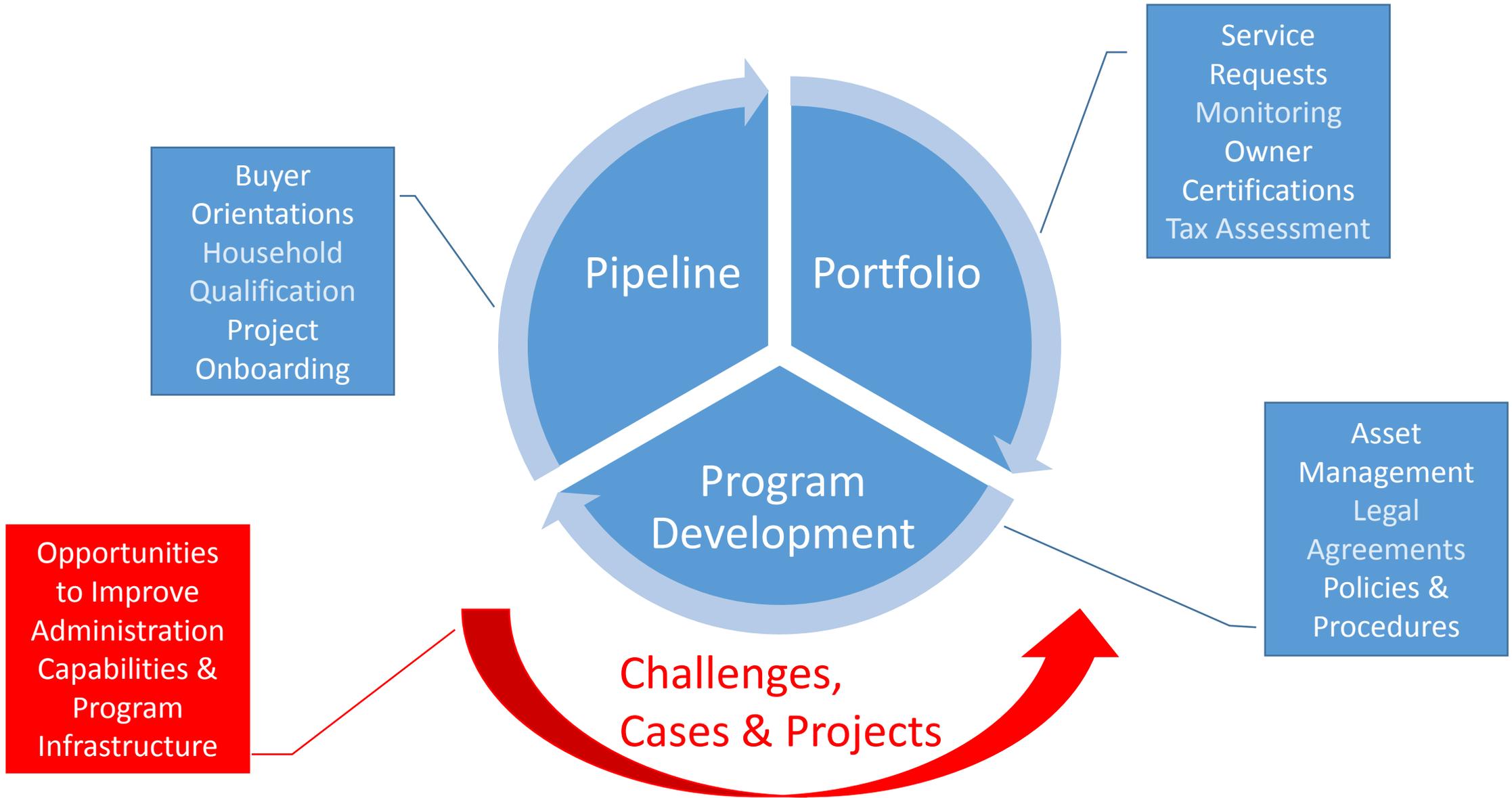
Successful 9 month transition:

- Requalified existing buyers
- Rebuilt New Buyer Pipeline (239 applications)
- Held 3 Lotteries for potential new homeowners
- New BMR Website - www.HouseKeys.org
- Assisted 5 Development Projects that needed onboarding to City process and sale of units (Stonebridge, Madrone Plaza, Loden Place, Paseo Seville, Tilton Park)
- Recorded Nine (9) BMR Properties with Notice Of Defaults (NOD)
- Held 18 BMR Educational Orientations at City Hall with 500 Registrants
- Assisted with 17 BMR Home Sale transactions
- Escrow/Closings: 19
- Conducted ongoing monitoring and compliance; worked alongside staff to cure defaults and foreclosures
- Identified and qualified New Lenders
- Responded to the County Tax Assessors request to ensure accurate property tax assessments
- Rehabbed and sold 2 defaulted units

Lessons Learned from a 40 year old Program

- Create and Formalize BMR Processes through Resolution and Ordinance
- Create Data Profiles, work closely with County Tax Assessor for property values
- Proactive Options VS Litigation
- Residential Development Control System (RDCCS) and Affordable Housing

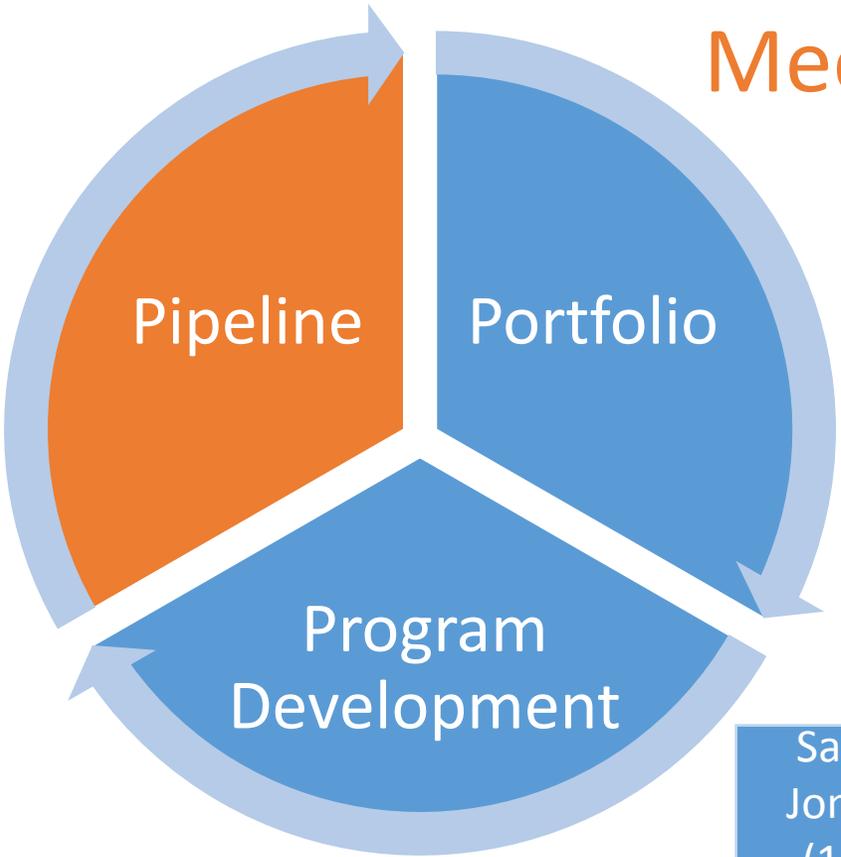
Day-to-Day Administration





HouseKeys
Affordability Matters

Meet the Jones' - The Household



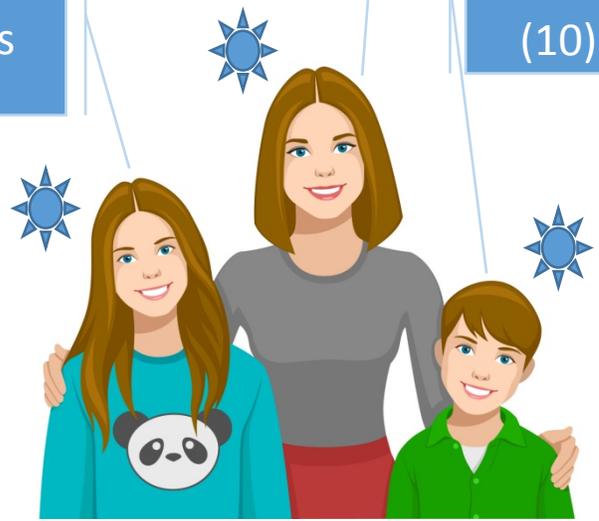
Household Size: 3
Household Income: \$71,000 (\$65,000 Income + \$6,000 Child Support)
Household AMI Level: 75% of Area Median Income (AMI)

“Low Income”: 51% to 80% AMI

Gloria Jones
\$65,000/yr. salary
\$500/mo. child support

Sally Jones
(15)

Mark Jones
(10)



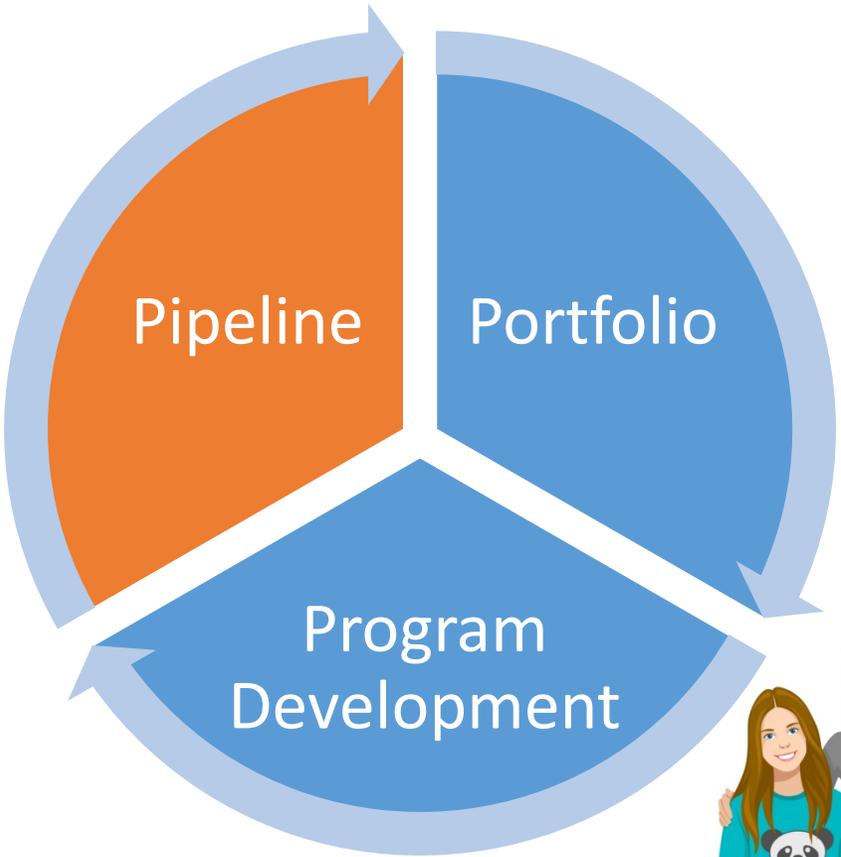
Household Size/ Income Level	1	2	3
120% AMI	89,300	102,050	114,800
110% AMI	81,840	93,555	105,215
100% AMI	74,400	85,050	95,650
90% AMI	66,960	76,545	86,085
80% AMI	59,400	67,900	76,400
76% AMI	56,544	64,638	72,694
75% AMI	55,800	63,788	71,738
73% AMI	54,312	62,087	69,825
70% AMI	52,080	59,535	66,955
65% AMI	48,360	55,283	62,173

Source: Rentometer.com	Two Bedroom	Three Bedroom
Morgan Hill Average Rental Rates (2015)	\$1,440 to \$2,431	\$1,827 to \$3,039 \$2,500/month

\$2,500/month \$30,000/year ÷ \$71,000/year = 42% of Income



HouseKeys
Affordability Matters



ABC Homes

10-Unit Project with 1 75% AMI BMR Unit



Jones Household with 75% AMI



The Property



Prime Rose Development

\$750,000 Fair Market Value

Estimated Monthly Housing Payment: \$5,093 per month



\$250,000 Below Market Rate Price

Estimated Monthly Housing Payment: \$1,931 per month



\$500,000

The \$500,000 "Discount" helps the Jones Household avoid \$3,162 per month in Housing Payments. The Discount is called "Excess Sale Proceeds" and secured by an Agreement and Deed of Trust.

Morgan Hill RDCS BMR Pricing Table 2015-16 FY	Three Bedroom
80% to 90% AMI Levels BMR Sales Price Range	\$2,232 - \$2,511/month \$282,400 - \$317,700
70% to 76% AMI Levels BMR Sales Price Range	\$1,953 - \$2,120/month <u>\$247,100 - \$268,280</u>
65% AMI Level BMR Sales Price	\$1,730/month \$229,450

\$250,000





Excess Proceeds due to City of Morgan Hill = \$429,500



Fair Market Value = \$900,000



Excess Proceeds due to City of Morgan Hill = \$500,000



Fair Market Value = \$750,000

Choice 1:
Resell BMR Property to 120% AMI Household

Choice 2:
Sell at Market; Use Cash to Build Lower AMI BMRs

New Construction Property 75% AMI for "Low Income"



75% AMI

\$250,000 BMR Price

1996 Consumer Price Index = 158.7

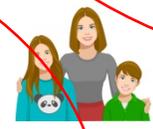
88.2%



120% AMI

\$470,500 BMR Price

2016 Consumer Price Index = 298.672



- ✓ No longer has to pay \$2,500/month in rent
- ✓ Total Housing Payment of \$1,931/month
- ✓ \$3,162/month in "Payment Avoidance"
- ✓ Accumulated \$220,500 in Housing Wealth

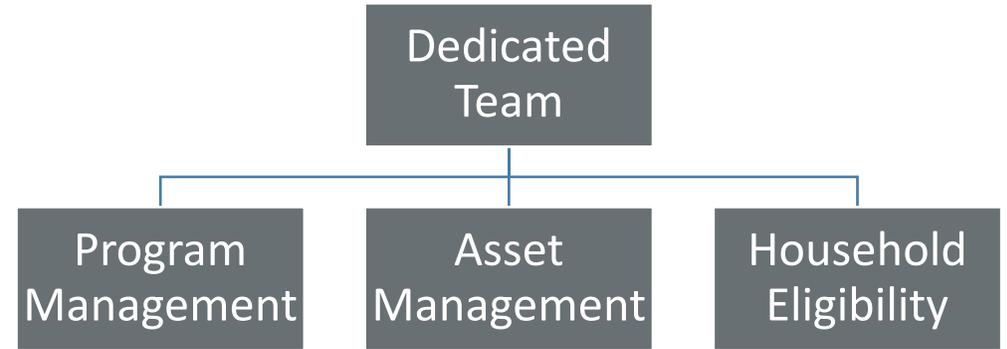
Resale to 120% AMI "Moderate Income"

Year 1

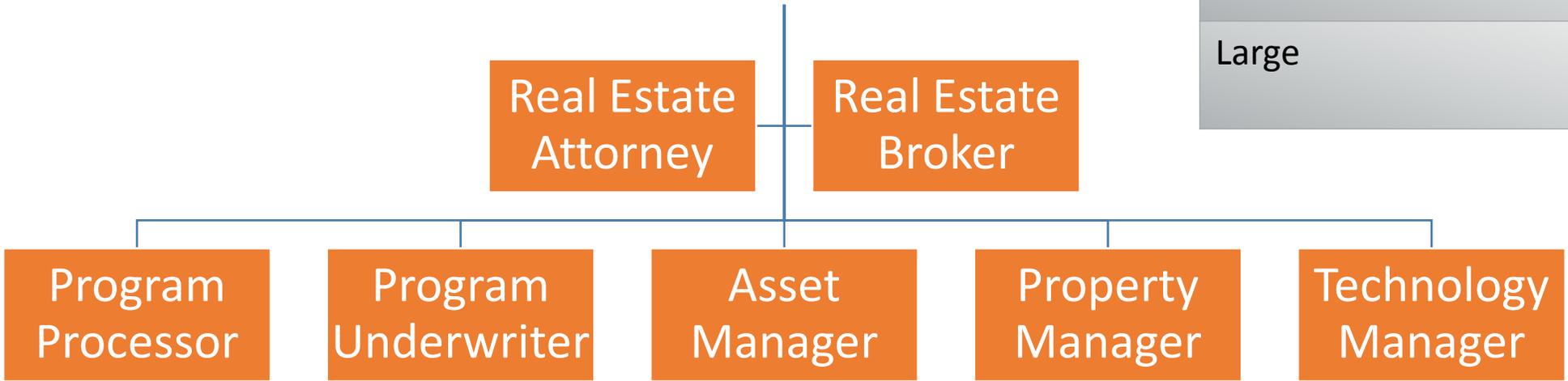
Year 20

Year 45

- ✓ Manage existing Affordable Housing Programming
- ✓ Deal with immediate Program Concerns and Challenges
- ✓ Scale to Achieve Housing Goals

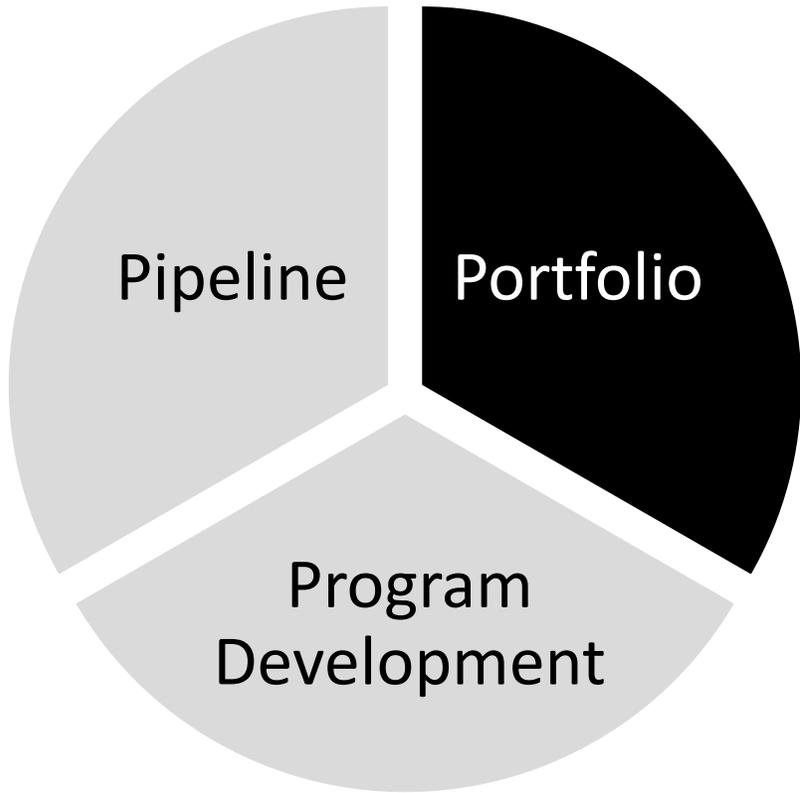


Program Size Based on Unit Count and Unit Mix	Team Size Full-Time Equivalents (FTEs)
Small	.25 to 1 Full-Time Equivalent
Medium	1.25 to 2 Full-Time Equivalents
Large	2.25 to 3 Full-Time Equivalents



Preservation Purchase vs. Litigation

Financial Impact	Preservation Purchase (Non Litigation Option)	Litigation
Budget Source	Excess Sale Proceeds	Housing Funds
Cost/Rate	Staff Rate (\$75 Per Hour)	Attorney Rate (\$150 to \$300 Per Hour)
Coordination (External Costs)	Administrator with Owner, Lender and Courts	Attorney with Deposition Appearances and Discovery Responses
Long Term Benefit	Build relationship with housing practitioners, lenders and servicers	Build an enforcement reputation



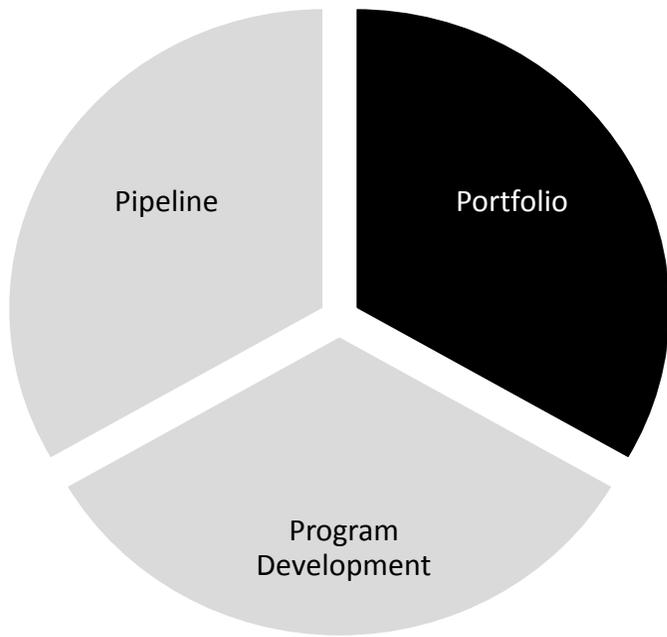
Monitoring Activities

Monitoring Subject

1. Below Market Rate Homeowner
2. Below Market Rate Property Scan 1
3. Below Market Rate Property Scan 2
4. Real Estate Multiple Listing Service

Monitoring Activity

- Public Record Scan for Personal Liens and Judgments (including Federal Tax, State Tax, Bankruptcy)
- Property Profile and Property Valuation
- Public Record Search for Notice of Default, Unauthorized Refinances, and other Encumbrances
- Multiple Listing Service Scan for Unauthorized Sales



Asset Management Workbook

Basic Program Information

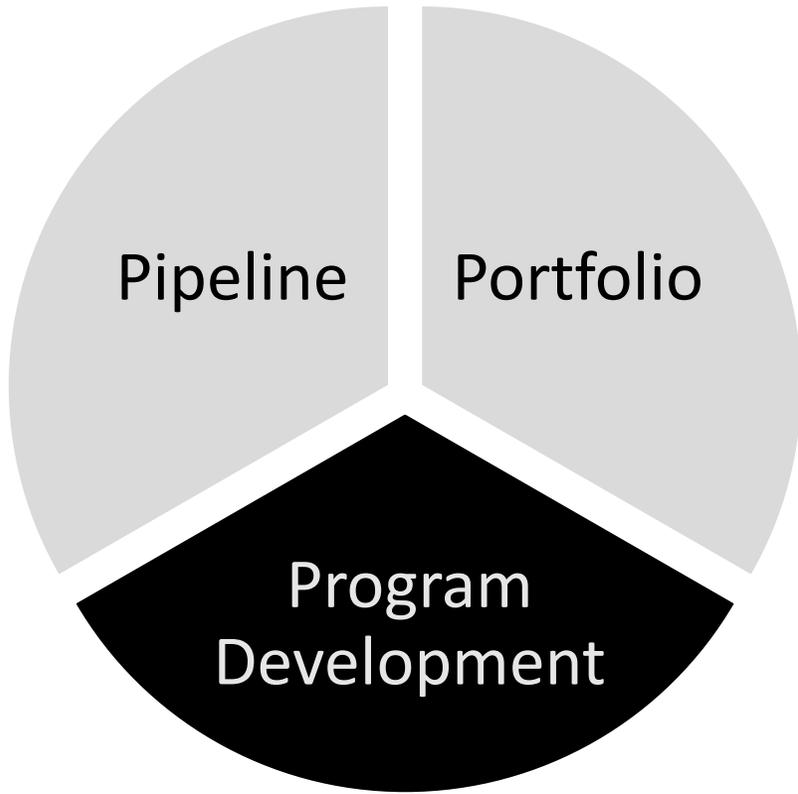
Assessor Parcel Number and Address	Census Tract
Subdivision and Developer	Date of Entry into and Exit from Program
Status of the Property	Owner Information
Agreement Information	Pricing Information

Property Information

Year Built	Property and Project Type
Bedroom and Bathroom Count	Square Footage and Lot Size

Restrictive Covenant Information

Restriction Type and Document Used	Income Level
Restriction Term and Time Remaining	Maximum Sale Price Calculation Method
Calculation Index and Index Value	Estimated Maximum Price (Quarterly)
Financial Information from Purchase	Total Liens Against Home (Quarterly)
Property Value (Quarterly)	Excess Sale Proceeds (Quarterly)



Lessons Learned

Lesson Learned	Action
1. We need a formalized set of rules and authority so that we can defend the program in Court	BMR Ordinance – BMR Program Policies and Program Letters
2. We need to respond quickly as need arises to update agreements and policies	BMR Ordinance – City Manager Authority
3. We need to have a full-time Administration team that manages the pipeline, portfolio and program development activity	BMR Resolution – Administrator Contract
4. We need to empower the Administration team to engage in monitoring activities, enforcement actions and limited authority to enter into settlements when appropriate	BMR Resolution – Power of Attorney and approval of Assumption, Assignment and Settlement Approach
5. We need a fee schedule to help capture Program Revenue and offset Administration Costs	BMR Resolution – Fee Schedule

Proposed BMR Action Items

1. ADOPT a BMR PROGRAM RESOLUTION MAY 18, 2016 that includes the following:

1. PROGRAM COST - amend HouseKeys Contract for 2 years with a budget of \$500,000 per year for BMR Administration
2. BMR PROGRAM REVENUE - Adopt a BMR Program resolution that includes
 - a. for the fee schedule (see the schedule below)

Income Type	Fee Amount or Percentage of Sales Price Amount	Revenue Cap Per Transaction	12 Month Revenue Projection	Fees Charged to (Who Pays Fee):
New Construction	3%	\$10,000	\$150,000	Developer
BMR Resale Transaction	6%	\$15,000	\$150,000	Excess Sale Proceeds
Acquisition Transaction	5%	\$17,500	\$50,000	Excess Sale Proceeds
Subordination Fee	\$1,086	\$886 (\$200 to City of Morgan Hill)	N/A	BMR Owner Occupant

3. SETTLEMENT OVER LITIGATION AS AN OPTION- Acknowledge the “Cash For Keys” as an option to consider as opposed to Litigation when appropriate.

4. City Manager Authority to sign off on Program Updates, Guidelines, Letters and Agreements, (E.g. Refinance Policy and Procedure) Approving Program Vendors (Lenders, Escrow).

2. ADOPT BMR PROGRAM ORDINANCE JUNE 1, 2016 - to codify and formalize the Program, Authority, Administration Activity, Approve process for approved vendors, lenders, escrow companies, Program Purpose, Administrator Role, Duties, Authority, Acquisition Authority (including “Cash-for-Keys” settlements), Enforcement of Occupancy, Sale Requirements, and Rules Restricting Owner’s ability to sell and finance.

Area Median Income (AMI) and Income Limits

AMI (Area Median Income) - the median income of a certain geographic region defined annually by the US Department of Housing and Urban Development (HUD); median income (average) is the amount that divides the income distribution into two equal groups, half having income above that amount, and half having income below that amount. Mean income (average) is the amount obtained by dividing the total aggregate income of a group by the number of units in that group. AMI is the local income of the applicable County in which the program benefit exists. When taking into account all of the income levels in a particular county, incomes are either higher or lower than the median. Programs typically determine household eligibility based on the percentage above or below Area Median Income. The typical categories of income used by the state include:

For example, a family of 4 at the following income levels would have the following income.		
Very Low	0 to 50% of AMI	\$0 to \$53,150
Low	51 to 80% of AMI	\$54,213 to \$84,900
Moderate	81 to 120% of AMI	\$86,103 to \$127,550
Above Moderate	Over 120% of AMI	\$127,551+

Number of Persons in Household (State Issued Income Limits as of April 15, 2015) Santa Clara County, California								
Income Level	Household Size							
	1	2	3	4	5	6	7	8
120% AMI	89,300	102,050	114,800	127,550	137,750	147,950	158,150	168,350
110% AMI	81,840	93,555	105,215	116,930	126,280	135,630	144,980	154,330
100% AMI	74,400	85,050	96,650	106,300	114,800	123,300	131,800	140,300
90% AMI	66,960	76,545	86,085	95,670	103,320	110,970	118,620	126,270
80% AMI	59,400	67,900	76,400	84,900	91,650	98,450	105,250	112,050
76% AMI	56,400	64,638	72,694	80,788	87,248	93,708	100,168	106,628
75% AMI	55,800	63,788	71,738	79,725	86,100	92,475	98,850	105,225
73% AMI	54,312	62,087	69,825	77,599	83,804	90,009	96,214	102,419
70% AMI	52,080	59,535	66,955	74,410	80,360	86,310	92,260	98,210
65% AMI	48,360	55,283	62,173	69,095	74,620	80,145	85,670	91,1

Projected Housing Funding 5 Year Proforma

The revenue needed to fund the City's housing programs is directly aligned with the health of two funds: The Housing In-lieu Fee Fund (Fund 236) and the Successor Agency Housing Fund (Fund 255). The Successor Agency Housing Fund will receive program income from the Agency's legacy projects and assets, as well as one-time ERAF and SERAF repayments; the calculated repayment amount for the Morgan Hill Successor Agency is \$6,000,000, of which \$1,177,918 was received in FY 2015-16, and \$703,250 in FY 2016-17. The remaining balance will be paid to the City over a five year period of time. It is anticipated that \$500,000 in housing in-lieu fee revenue for eligible BMR units will be received based on the \$150,000 current fee.

Projected Housing Funding 5 Year Proforma

	15-16 Year End Projection	16-17 Recommended	17-18 Recommended	18-19 Forecast	19-20 Forecast	20-21 Forecast
PROFORMA						
Beginning Balance	5,613,653	6,726,631	3,713,003	2,613,110	1,481,543	806,261
Revenues	3,842,270	2,852,758	2,127,817	1,649,260	2,144,849	1,658,334
Expenditures	(2,729,292)	(5,866,386)	(3,227,710)	(2,780,827)	(2,820,130)	(2,859,185)
Ending Balance	6,726,631	3,713,003	2,613,110	1,481,543	806,261	(394,590)

Note:

The 4.5 Million EAH loan commitment is included in expenses.

This assumes funding the next 4.5 Million Affordable Housing Project.

The Successor Agency Housing Fund will receive program income from the Agency's legacy projects and assets, as well as one-time ERAF and SERAF repayments, the calculated repayment amount for the Morgan Hill Successor Agency is \$6,000,000, of which \$1,177,918 was received in FY 2015-16, and \$703,250 in FY 2016-17, the remaining balance will be paid to the City over a five year period of time.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE BELOW MARKET RATE (BMR) PROGRAM FEE SCHEDULE, BMR DEVELOPMENT STANDARDS, AUTHORITY OF THE CITY MANAGER TO APPROVE AND EXECUTE PROGRAM GUIDELINES, DEVELOPMENT STANDARDS, AFFORDABLE HOUSING AGREEMENT PROVISIONS AND TO TAKE ANY ACTIONS NECESSARY TO ENSURE BMR PROGRAM IMPLEMENTATION, AND AUTHORIZE THE APPOINTMENT OF THE ADMINISTRATOR (NYANDA AND ASSOCIATES, LLC, D/B/A HOUSEKEYS) TO ACT ON BEHALF OF THE CITY IN CONNECTION WITH THE MANAGEMENT OF THE BMR PROPERTIES, AND AUTHORIZE THE CITY AND THE ADMINISTRATOR (NYANDA AND ASSOCIATES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY D/B/A HOUSEKEYS) TO EXECUTE THE ASSIGNMENT AND ASSUMPTION OF THE CITY'S OPTION TO PURCHASE THE BMR PROPERTY IN ORDER TO COMPLETE THE ACQUISITION AND RESALE TRANSACTION, AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE AND ADMINISTER THE PROFESSIONAL SERVICES AGREEMENT WITH THE ADMINISTRATOR (NYANDA AND ASSOCIATES, LLC, D/B/A HOUSEKEYS) FOR PROVISION OF BELOW MARKET RATE (BMR) HOUSING SERVICES.

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California ("City"), is authorized to enter into contracts and agreements for the benefit of the City; and

WHEREAS, The City of Morgan Hill Residential Development Control System ("RDCS"), awards competing developments points for provision of low-income and moderate-income housing and housing for the elderly; and

WHEREAS, Since 1977, the City has amassed one of the largest below market rate ("BMR") property portfolios in the State and established a BMR Program that provides homeownership opportunities and affordability to low-income and moderate-income households; and

WHEREAS, The Excess Sales Proceeds value or equity in each below market rate property represents a bona fide City asset that subsidizes the affordability for each BMR Property Owner and is a vehicle that can be used to renovate older units, build new units and help pay for program administration; and

WHEREAS, The City recognizes that the declaration of restrictions, which secures the Excess Sale Proceeds, is a covenant that runs with the land by and between the BMR Property Owner and the City of Morgan Hill that restricts the right of use or enjoyment and should be enforced judicially; and

WHEREAS, A Program and Program Guidelines are essential to maintain integrity of the BMR program and compliance therewith and these guidelines and policies will be updated from time to time to address challenges and changes in the market and economic environment; and

WHEREAS, In order to respond to Program needs, the City Manager or his or her designee should be empowered to approve BMR Program Guidelines and BMR agreements; and

WHEREAS, In order to ensure compliance with the City's program the program must be actively administrated. The administration of the program can be achieved by City staff and/or an outside administrator. The City is empowered to delegate the day-to-day management of the Program to a third-party administrator; and

WHEREAS, Either in-house or third party administration is vital to ensure program integrity and continued affordability of Below Market Rate properties; and

WHEREAS, In response to the dissolution of the City's Redevelopment Agency, schedules have been put in place to pay for the costs of services funded by former Redevelopment Agency funds.

WHEREAS, the reasons supporting the entrance of the City into ann agreement described in, and that is the subject of, this Resolution are set forth in detail in the City Council Staff Report entitled "Transition Plan Recommendations for Termination of Contract with Neighborhood Housing Services of Silicon Valley (NHSSV) For Administration of the City of Morgan Hill Below Market Rate (BMR) Housing Program" submitted for City Council consideration at its meeting of July 15, 2015, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the activities allowed under this Resolution do not constitute a project under the provisions of California Environmental Quality Act of 1970; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council Meeting Agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a duly noticed public meeting at which the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. That the following Below Market Rate Program Fee Schedule is incorporated herein by this reference and is attached hereto as Exhibit D BMR Fee Schedule is hereby approved; and
- b. That the Below Market Rate Program Development Standards, substantially in the form attached hereto as Exhibit E; and incorporated herein by this reference (BMR Development Standards) is hereby approved; and
- c. That the City Manager or the City Manager's designee, is hereby delegated authority to approve and directed to execute the following BMR Program Documents for applicability, and to update them from time to time, to address challenges and changes in the market and economic environment, enforcement and to address abuses of the BMR Program. 1.) BMR Program Ownership Housing Guidelines. The Administrator develops detailed procedures and guidelines to ensure the orderly and efficient administration of the requirements. The BMR Ownership Housing Guidelines shall be approved by the City Manager or the City Manager's designee, and approved by the City Council from time to time. Guidelines will be published online and made available to the public, including guidelines for refinances, and hardship review. 2.) Resale Restriction Agreement 3.) Affordable Housing Agreement 4.) BMR Agreements. 5) Declaration of Restrictions and Affordable Housing Agreements may be amended from time to time subject to the approval by the City Manager or the City Manager's designee.
- d. That the City Council Authorizes the Appointment of the Administrator (Nyanda and Associates, LLC, A California Limited Liability Company d/b/a HouseKeys), to act on the City's behalf in connection with the management of the Below Market Rate Program, to act as City's agent in connection with the management of BMR properties and matters reasonably related thereto for the purpose and intent of maintaining and preserving the Affordability and BMR Program. The City, or Administrator via Power of Attorney, if authorized, may institute injunction, mandamus, or any appropriate legal actions or proceedings necessary for enforcement.
- e. That the City Council Authorizes the Administrator (Nyanda and Associates, LLC, A California Limited Liability Company d/b/a HouseKeys) and the City to act as the City's agent in connection with preserving the affordability of the BMR portfolio, to execute the assignment and assumption of the City's option to purchase a BMR Property in order to complete the acquisition and resale transaction, and to execute settlement agreements with homeowners to "cure"

properties that are in jeopardy of losing the affordability, and to execute appropriate loss mitigation options to preserve the BMR property's affordability.

- f. That the Professional Services Agreement with Nyanda and Associates, LLC, A California Limited Liability Company d/b/a HouseKeys for the provision of Below Market Rate (BMR) Housing Services substantially in the form attached hereto as Exhibit C and incorporated herein by this reference (the "Agreement") is hereby approved; and
- g. That the City Manager is hereby delegated authority to and is authorized and directed to execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Agreement substantially in the form attached hereto as Exhibit C; provided, specifically, that the total amounts to be paid by City under the Agreement shall in no event exceed Five Hundred Thousand Dollars (\$500,000) for each of the next two years; and
- h. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 16-17 Annual Budget of City.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this ____ day of _____, 201__ by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:

DATE: _____

Steve Tate, MAYOR

∞ CERTIFICATION ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.XXXX , adopted by the City Council at the meeting held on , 201_.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

Irma Torrez, CITY CLERK

DRAFT

BELOW MARKET RATE ORDINANCE

ORDINANCE NO. _____ NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING A NEW CHAPTER 15.23 (BELOW MARKET RATE (BMR) PROGRAM ADMINISTRATION) TO TITLE 15 (HOUSING CODE) OF THE MORGAN HILL MUNICIPAL CODE, ADDING 15.23.10 PURPOSE, 15.23.20 DEFINITIONS, 15.23.30 APPLICABILITY, 15.23.40 DUTIES OF PROGRAM ADMINISTRATOR, 15.23.50 OCCUPANCY AND SALE RESTRICTIONS, 15.23.60 AFFORDABLE HOUSING AGREEMENT, 15.23.70 APPROVED PROGRAM PARTICIPANTS AND VENDORS, 15.23.80 DEFAULT, FORCLOSURE, LOSS OF UNIT, 15.23.90 ANNUAL REPORT, AND 15.23.95 ENFORCEMENT.

WHEREAS, this proposed Ordinance (ZA-16-05) was considered by the City Council of the City of Morgan Hill at its regular meeting of June 1, 2016; and

WHEREAS, testimony received at duly-noticed public hearings on the proposed Ordinance (ZA-16-05), along with exhibits and other materials submitted as a part of public hearing, have been considered in the review process; and

WHEREAS, The City of Morgan Hill Residential Development Control System (“RDCS”), awards competing developments points for provision of low-income and moderate-income housing and housing for the elderly; and

WHEREAS, Since 1977, the City has amassed one of the largest below market rate (“BMR”) property portfolios in the State and established a BMR Program that provides Ownership opportunities and affordability to low-income and moderate-income households.

WHEREAS, adoption of this proposed Ordinance (ZA-16-05) does not constitute a project under the provisions of the California Environmental Quality Act of 1970 and is exempt from environmental review under Section 15061(b)(3) of the State CEQA Guidelines, and the requirements for Below Market Rate units, as a result of the City's Below Market Rate Program, will undergo an independent analysis pursuant to the requirements of CEQA.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

BELOW MARKET RATE PROGRAM

- 15.23.10 Purpose.**
- 15.23.20 Definitions.**
- 15.23.30 Applicability.**
- 15.23.40 Duties of Program Administrator.**
- 15.23.50 Occupancy and Sale Restrictions.**

15.23.60	Affordable Housing Agreement
15.23.70	Approved Program Participants and Vendors
15.23.80	Default, Foreclosure, and Loss of Unit.
15.23.90	Annual Report.
15.23.95	Enforcement.

SECTION 1: 15.23.10, Purpose

Findings. The city council finds that:

1. The City of Morgan Hill Residential Development Control System (“RDCS”), awards competing developments points for provision of low-income and moderate-income housing and housing for the elderly.
2. Since 1977, the City has amassed one of the largest below market rate (“BMR”) property portfolios in the State and established a BMR Program that provides Ownership opportunities and affordability to low-income and moderate-income households.
3. The Excess Sales Proceeds value in each below market rate property represents a bona fide City asset that subsidizes the affordability for each BMR Property Owner (“Owner”) and is a vehicle that can be used to renovate older units, build new units and help pay for program administration.
4. The City recognizes that the declaration of restrictions, which secures the Excess Sale Proceeds, is a covenant that runs with the land by and between the BMR Property Owner and the City of Morgan Hill that restricts the right of use or enjoyment and should be enforced judicially.
5. A Program and Program Guidelines are essential to maintain integrity of the BMR program and compliance therewith and these guidelines and policies will be updated from time to time to address challenges and changes in the market and economic environment.
6. In order to respond to Program needs, the City Manager or his or her designee should be empowered to approve BMR Program Guidelines and BMR agreements.
7. In order to ensure compliance with the City’s program the program must be actively administrated. The administration of the program can be achieved by City staff and/or an outside administrator. The City is empowered to delegate the day-to-day management of the Program to a third-party administrator.
8. Either in-house or third party administration is vital to ensure program integrity and continued affordability of Below Market Rate properties.
9. In response to the dissolution of the City’s Redevelopment Agency, schedules have been put in place to pay for the costs of services funded by former Redevelopment Agency funds.

SECTION 2: 15.23.20, Definitions

When used in this chapter, these terms mean the following:

1. “Adjacent lots” means parcels with boundary lines that touch at any point. “Adjacent lots” includes parcels that are separated only by a private or public street, other than

highways and expressways, or that are separated only by other parcels owned or controlled by the same owner or applicant.

2. “Administrator” means Below Market Rate Program Administrator which may either be the City itself or a third party administrator acting as an agent for the City in connection with all aspects of the operation of the City’s Below Market Rate program pursuant to an Agreement entered into between the City and the Administrator, as such agreement may be amended or replaced from time to time.
3. Area median income (AMI)” means the median household income of households in Santa Clara County, adjusted for household size, as determined and published by the California Housing and Community Development Department (HCD).
4. “BMR Assisted housing” means any project that receives development funding from any local, state, or federal governmental or non-profit source, which meets the criteria for below market rate housing.
5. “Assumed household size” means, for the purpose of establishing affordable sales prices, a household with a total number of members equal to the number of bedrooms in the below market rate home, plus one, consistent with Section 50052.5(h) of the California Health and Safety Code and applicable federal rules (if any). For example, the assumed household size for a 3-bedroom home is a 4-person household.
6. “Below market rate (BMR) ownership housing” means dwelling units developed to be sold and affordable to lower to moderate income households and regulated by this chapter. “BMR unit” means one BMR ownership housing dwelling unit.
7. “CC&Rs” means, covenants, conditions and restrictions containing a covenant that runs with the land existing in favor of the City where a development project contains at least one BMR unit.
8. “Covenant that runs with the land” means the BMR property interest held by the City of Morgan Hill as a result of the recorded declaration of restrictions that restrict the right of use of enjoyment by the BMR Owner-Occupant.
9. “Decision-making body” means the Planning Commission or City Council, whichever is authorized to make a final decision on the project application for land use approvals.
10. “Excess Sale Proceeds” means the difference between the fair market value of a BMR Property and the maximum restricted resale price.
11. “Eligible buyer” means a household which meets the requirements of this chapter to buy, or in the case of acquisition of a BMR unit through devise or inheritance, to occupy, a BMR unit; or a public or non-profit housing agency able to acquire and manage dwelling units for rental to eligible persons.
12. “Fee Schedule” means the schedule of fees, adopted by City Council Resolution and published annually, that outlines charges to program participants, including, but not limited to applicants, owner-occupants, housing professionals and developers.
13. “Gross annual household income” means the gross, pre-tax income of all adult occupants of the applicant household, and as may be further defined in the BMR Ownership Housing Guidelines.
14. “Housing cost” means the monthly mortgage payment (principal and interest), property taxes, Owners’ association dues, and Owner’s insurance.

15. “Low income household” means a household with a gross annual household income between 51%-80% of AMI for Santa Clara County. This definition corresponds to the definition of lower income household used for state- and federally-assisted housing programs.
16. “Market rate unit” means a dwelling unit that is not subject to the occupancy or sale regulations in this chapter or any other affordability restrictions or covenants.
17. “Moderate income household” means a household with a gross annual household income between 80 to 120% of AMI for Santa Clara County. This definition corresponds to the definition of moderate income household for state-assisted housing programs.
18. “Project” means one or more applications filed for City approval of a residential development. “Project” includes a development across adjacent lots or a multi-phased development, on the same or adjacent lots. “Project” also includes developments on adjacent lots for which applications are filed by the same owner or applicant within a period of 10 years.
19. “Property” means properties contained with the Below Market Rate Program portfolio subject to occupancy and sale restrictions.
20. “Very low income household” means a household with a gross annual household income that does not exceed 50% of AMI for Santa Clara County. This definition corresponds to the definition of very low income household used for state- and federally-assisted housing programs. Very low income households are a subset of lower income households.

SECTION 3: 15.23.30, Applicability

1. **Residential Development Control System (“RDCS”).** All projects subject to RDCS that provide units to meet the city’s need for low and moderate income and elderly housing and the extent to which such units meet the goals of the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity.
2. **BMR Ownership Housing Guidelines.** The Administrator develops detailed procedures and guidelines to ensure the orderly and efficient administration of the requirements of this chapter. The BMR Ownership Housing Guidelines shall be approved by the City Manager or the City Manager’s designee, and approved by the City Council from time to time.
3. **BMR Program Letters.** BMR Program Letters may be issued by the Administrator to update procedures and guidelines not yet incorporated into the BMR Ownership Housing Guidelines. These Letters shall be approved by the City Manager or designee and serve as amendments to the Guidelines that will be published online and made available to the public including guidelines for refinances, purpose and hardship review.
4. **BMR Agreements.** Declaration of Restrictions and Affordable Housing Agreements may be amended from time to time subject to the approval by the City Manager or the City Manager’s designee.

SECTION 4: 15.23.40, Duties of Program Administrator

The City may either handle in-house or contract responsibility for administration of the BMR Ownership Housing Program and monitoring compliance with the requirements to a Program Administrator pursuant to an Agreement executed between the City and the Administrator.

The Administrator shall perform the following services, among others:

1. Maintain and update the BMR Ownership Housing Guidelines and BMR Program Letters;
2. Conduct ongoing homebuyer education training programs, including preparation of program materials;
3. Screen and select qualified buyers according to BMR Ownership Housing Guidelines and maintain qualified owner eligibility list;
4. Assist in seeking and arranging mortgage financing for purchase of the Below Market units;
5. Administer programs for monitoring compliance with terms and conditions of the occupancy and sale restrictions;
6. Administer BMR Ownership Housing Guidelines concerning sale and resale of the Below Market units at a restricted price, including exercise of the City's option to buy the Below Market units upon assignment of such option, and assist in resale of the unit to Eligible Purchasers or families; and
7. In cases of default, administer the process of taking possession of the BMR Property as appropriate, and completing the acquisition, rehabilitation and resale to an Eligible Buyer.

SECTION 5: 15.23.50, Occupancy and Sale Restriction

Recordation of Declaration of Restrictions. Before issuance of any building permit for a BMR unit, the property owner, Administrator, and the City shall execute and record a declaration containing the occupancy and sale restrictions in this chapter. The declaration establishes a valid and enforceable covenant that runs with the land in favor of the City and is binding to the heirs, assigns and successors in interest of the property owner.

1. **Timing of Sale.** At completion of each BMR unit, the Administrator will be contacted to coordinate the sale of the property to an Eligible Buyer. The seller shall accept the first valid offer from a buyer deemed eligible by the Administrator, and shall cooperate to close escrow within the timeframe outlined in the Affordable Housing Agreement.
2. **Term of Restrictions.** BMR units shall be reserved for lower and moderate income households subject to guidelines of the RDCS and shall be subject to the occupancy and sale restrictions for a specified period of time. This term begins upon sale to an eligible buyer. If the BMR unit is sold to another eligible buyer during the term, a new term shall begin upon resale and shall be secured by a new declaration of restrictions.

3. **Maximum Sales Price.** The Administrator shall establish and publish annually the maximum sale prices for each BMR unit size in the BMR Ownership Housing Guidelines as approved by the City Manager. The maximum BMR unit sale prices shall not exceed a price affordable to households at the applicable income level, based on a predetermined housing cost, specified with a maximum percentage of monthly gross household income for the unit's assumed household size. The percentage of AMI used shall be published annually by the Administrator.
4. **Sale Requirements.** The following requirements shall be met in any sale and resale of a BMR unit after the issuance of a building permit and during the term of restrictions:
 - a. The seller shall notify the Administrator of the intent to sell before offering the unit for sale, contacting a real estate agent or listing the property on any listing service
 - b. The Administrator shall respond to the seller with the sales procedure and maximum sale price
 - c. The Administrator shall follow the process outlined in the BMR Ownership Housing Guidelines to locate and deliver an eligible buyer to complete the home purchase
 - d. The eligible buyer shall execute and record a new declaration of restrictions which incorporates all current occupancy and sale restrictions in this chapter and in the BMR Ownership Housing Guidelines; and
 - e. Closing costs and title insurance fees shall be paid or according to the BMR Ownership Housing Guidelines.
5. **Eligible Buyers.** The Administrator shall determine the eligibility of prospective buyers of BMR units. It is prohibited for any person to willfully make a false or misleading representation or fail to disclose information for the purpose of qualifying as eligible to purchase a BMR unit. Prospective buyers must meet the following requirements:
6. **Income Limits.** The prospective buyer's combined household income and assets shall not exceed specific household income limits, as further defined in the BMR Ownership Housing Guidelines;
7. **Conflict of interest.** The following individuals, by virtue of their position or relationship, are ineligible to purchase a BMR unit:
 - a. Any Administrator, City official or employee who administers or has policy-making authority over City housing programs;
 - b. The developer of the unit; or
 - c. The immediate relative or employee of, and anyone gaining significant economic benefit from a direct business association with, Administrator employees, City employees, officials, developers, or owners who are not eligible to purchase a BMR unit; and
8. **Additional Criteria.** The Administrator may establish other reasonable eligibility criteria, ownership and occupancy requirements in the BMR Ownership Housing Guidelines to ensure the buyer's ability to close escrow, maintain ownership of the unit, and to ensure effective operation of the program and equitable access to the units among eligible buyers.

9. **Occupancy and Rental Restrictions.** BMR units shall be occupied as the primary residence of the eligible buyer for the duration of their ownership of the unit and shall not be rented to other occupants at any time, except that:
 - A. BMR units that are owned by a public or nonprofit housing agency may be rented to eligible households with prior written approval of the Administrator; and
 - B. The Administrator may allow the temporary rental of a BMR unit upon a finding of hardship beyond the control of the owner and after a full review of the hardship documentation.
10. **Refinancing.** BMR home owners shall not refinance a BMR unit without prior written approval of the Administrator. BMR units shall not be used as collateral to secure liens or debts with a combined loan to value ratio in excess of the BMR Ownership Housing Guidelines of the maximum BMR resale price applicable to the unit at the time of the proposed refinancing.
11. **Additional Refinancing Criteria.** The Administrator may establish other refinancing criteria in the course of seeking financing to change the rate and/or term of a mortgage, consolidate Purchase Money lines or cash out a portion of the Excess Sale Proceeds that would be due to the owner upon sale.

SECTION 6: 15.23.60, Affordable Housing Agreement

Required Before Final Map or Building Permit. Before final recordation of a subdivision map or issuance of any building permits for the project, whichever occurs first, the property owner shall execute and record an Affordable Housing Agreement (Agreement) with the Administrator and City outlining the details of the Below Market Rate unit commitment as outlined in the “SPECIFIC RESTRICTIONS AND REQUIREMENTS (INCLUDING RDCS REQUIREMENTS)” of the Development Agreement.

Agreement Provisions. The Agreement shall include, at a minimum, the following provisions:

1. **Binding of Persons.** A provision that binds the heirs, assigns, and successors in interest of the property owner to the Agreement;
2. **Binding of Project Site.** The obligation for the entire project site to fulfill the for the project under this chapter;
3. **Liens.** A lien on each unit identified to meet the BMR ownership housing requirement, or if the alternative to pay an in-lieu fee is approved, a lien on every unit;
4. **Transaction Processing Fee.** For each BMR unit, the Developer shall pay a BMR Transaction Processing Fee to the City according to the most current fee schedule approved by the City. The City may provide this fee to the Administrator as an offset to charges incurred. This fee is not a Real Estate Commission or Real Estate Broker Commission. This fee shall be listed as an “Additional Settlement Charge” fee paid by the Seller as reflected in section 1300 of the U.S. Department of Housing and Urban Development (HUD) Settlement Statement (HUD-1) or “Other Costs” paid by the Seller in the new Closing Disclosure as determined by the TILA-REPA Integrated Disclosure rule.

5. **Project Covenants, Conditions and Restrictions.** A provision that prohibits any amendments to the development's Covenants, Conditions and Restrictions that would increase the proportion of the Owners' association dues or assessments payable by any BMR unit. The provision must also acknowledge the covenant that runs with the land in favor of the City where the development project contains at least one BMR unit. This provision shall create a right of judicial enforcement by the City or the owner of any affected BMR unit.
6. **Enforcement.** A provision that shall require the property owner to pay the City rent for a BMR unit from the date of any unauthorized use of the unit, and for the City's recovery of reasonable attorney's fees and costs to pursue legal action in enforcing this agreement.
7. **Amendments.** Major amendments to the Agreement, including any proposal to change any approved alternatives shall be reviewed by the Decision-Making Body. Minor amendments to the Agreement may be reviewed by the Administrator. Upon approval, a new Agreement containing the amendments shall be executed and recorded.

SECTION 7: 15.23.70, Approved Program Participants and Vendors

The City and Administrator shall maintain a list of approved Program Participants and Vendors to protect the integrity of the BMR Program, BMR Properties contained within the portfolio, and Excess Sale Proceeds. The approval requirements and process will be included in the BMR Ownership Housing Guidelines. The program participant list will include, but will not be limited to:

1. **Mortgage Lenders.** Due to the integral role that mortgage loan officers and lenders play in purchase and refinance transactions, first mortgage and subordinate loan officers and lenders must be approved by the Administrator and a lender agreement will be put in place concerning BMR Program Compliance during loan origination, underwriting and servicing. In no event shall a deed of trust securing any loan to a BMR Owner be valid or enforceable as to any recorded interest, resale agreement or option of the City of Morgan Hill unless the following conditions are satisfied:
 - a. The City of Morgan Hill or its Administrator has first approved the loan;
 - b. The loan is in accordance with the BMR Ownership Housing Guidelines and any and all recorded deed restrictions;
 - c. The City of Morgan Hill or its Administrator has expressly subordinated its recorded restrictions to the specific deed of trust; and
 - d. Prior to making any loan to a BMR property owner for the purchase of a BMR unit intended to be secured by a deed of trust against the BMR unit, a lender shall disclose to the City of Morgan Hill or its Administrator the following information:
 - i. The borrower's loan application describing the loan terms; and
 - ii. Provide an acknowledgement in writing that that the total encumbrance does not exceed the maximum restricted resale value for the BMR unit as determined by the City of Morgan Hill or its Administrator according to the BMR Ownership Housing Guidelines.

2. **Real Estate Agents.** Real Estate Agents and Brokerages involved in the purchase or sale of BMR Properties must be approved by the Administrator and a vendor agreement will be put in place concerning BMR Program Compliance during the listing, purchase and escrow process.
3. **Escrow Companies.** An approved list of Escrow Officers and Escrow Companies will be maintained by the Administrator.
4. **Contractors.** For work on BMR Properties that exceed certain dollar amounts, as outlined in the BMR Ownership Housing Guidelines, an approved list of contractors will be maintained by the Administrator.

SECTION 8: 15.23.80, Default, Foreclosure, and a Loss of Unit

1. **Default.** Upon declaration of a default by the City of any agreement between the City and the Owner or if the Owner or Owner's proposed purchaser makes any misrepresentation in connection with receiving any benefits under the declaration of restrictions, the City or Administrator may apply to a court of competent jurisdiction for specific performance of this chapter, for an injunction prohibiting a proposed sale or transfer in violation of this chapter, for a declaration that a transfer in violation of this chapter is void or any such other relief at law or in equity as may be appropriate.
2. **Option to Purchase.** If a notice of default is recorded on a BMR unit by a third party secured creditor or a lien is filed against the BMR unit, or any breach of any provision of any agreement between the City and the Owner, and the Owner fails to correct it, an eligible buyer, or the Administrator on behalf of the City or the City itself, may purchase the unit. The unit shall be purchased at a sale price equal to the amount the owner would have received on the date of the foreclosure sale under the BMR Ownership Housing Guidelines. The eligible buyer may purchase the unit by paying any amounts due to lien holders and paying to the owner any balance of funds remaining after payment of the costs of sale and any repairs chargeable to the Owner. All other resale provisions of the Guidelines apply.
3. **Loss of Unit.** BMR units which have not been completed or sold to initial eligible buyers shall not be released from the restrictions of this chapter through a trustee's sale or judicial foreclosure.
4. **Distribution of Proceeds.** This subsection applies to any BMR unit lost by sale at a trustee's sale or foreclosure, destruction, condemnation, or by liquidation of the Owners' association. If a BMR unit is restored, the remaining term of occupancy and sale restrictions shall continue upon completion. Any proceeds remaining after payment of encumbrances on the unit shall be distributed as follows.
 - a. **Owner.** To the Owner, up to the net amount the Owner would have received under the sale price in the BMR Ownership Housing Guidelines if the City had purchased the unit on the date of the loss; and
 - b. **City.** To the City, any surplus remaining after payment to the Owner.

SECTION 9: 15.23.90, Annual Report

The Administrator shall provide an annual informational report to the city council on the status of BMR units developed under this chapter. The report shall include the number, size, type, tenure, and general location of each BMR unit completed during the year, as well as the number of BMR resales and BMR defaults and losses, if applicable.

SECTION 10: 8.79.95, Enforcement

The City, or Administrator if authorized, may institute injunction, mandamus, or any appropriate legal actions or proceedings necessary for the enforcement of this chapter, including actions to suspend or revoke any permit, including a development approval, building permit or certificate of occupancy; and for injunctive relief or damages.

Attachments:

With City Council Approval of the Proposed BMR Ordinance, Authority is hereby granted for the City Manager to be empowered to review and issue approval]

1. BMR Ownership Housing Guidelines
2. Updated Resale Restriction Agreement
3. Updated Affordable Housing Agreement
4. Updated RDCS Page for New Developers with a Development Flowchart

SECTION 11: The City Council hereby finds that the proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of Guidelines for CEQA. The proposed Below Market Rate Program Ordinance to the Morgan Hill Municipal Code are covered by the general rule that CEQA applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Adoption of this ordinance does not create changes in the physical environment and are therefore exempt pursuant to the exemption described above.

SECTION 12. The City Council hereby adds Chapter 15.23 (Below Market Rate (BMR) Program Administration) to Title 15 (Housing Code) of the Morgan Hill Municipal Code, adding the following sections.

- 15.23.10 Purpose.
- 15.23.20 Definitions.
- 15.23.30 Applicability.
- 15.23.40 Duties of Program Administrator.
- 15.23.50 Occupancy and Sale Restrictions.
- 15.23.60 Affordable Housing Agreement

- 15.23.70 Approved Program Participants and Vendors
- 15.23.80 Default, Foreclosure, and Loss of Unit.
- 15.23.90 Annual Report.
- 15.23.95 Enforcement.

SECTION 13. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 14. Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at a meeting of the City Council held on the 1st day of June, 2016 and was finally adopted at a meeting of the City Council held on the ___ day of ___, 2016 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

CERTIFICATION

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at its regular

meeting held on the day of , 2014.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:

IRMA TORREZ, City Clerk

FY 15-16
Below Market Rate (BMR) Program Accomplishments To Date

Upon the sudden dissolution of the City's previous BMR Administrator, Neighborhood Housing Services of Silicon Valley (NHSSV) the Council adopted a Transition Plan on July 15, 2015 to contract with Nyanda & Associates dba, HouseKeys, to provide the continued administration of the BMR Program for \$272,000. The BMR Program has undergone a significant transition period. The BMR expertise that HouseKeys has provided has created an invaluable partnership in continuing and fine tuning the implementation. The program continues to thrive and develop. The BMR portfolio has grown over the last 9 calendar months, with a total of 500 + owner occupied units, it warrants the need to focus on asset management, monitoring and compliance to maintain the integrity and sustainability of the Program . In the past nine months the Program has contracted for the sale of 17 home sale transactions, 19 Escrow/Closings, held 17 new homebuyer education workshops for 455 registrants, refined and restructured processes, and provided the County Assessor with accurate value information on all units based upon their individual appreciation formula. The first nine months focused on three major efforts:

1.) How to deal with the abrupt need to transition the Program in the wake of NHSSV's demise, and avoiding service interruption to the existing pipeline of new homebuyers and developers.

2) Assessing the true cost of sustaining a BMR Program Administration Operation of the City's size. The true cost of the program is nearly \$850,000 annually, with \$350,000 offsets by fees. As it was apparent that the original \$75,000 contract to NHSSV was not sufficient for the magnitude of the City's portfolio, the contract with HouseKeys will require an increase to \$500,000 for each of the next two years to continue to provide full services.

3) Nyanda & Associates, LLC formed HouseKeys in 2015 and teamed up with the City of Morgan Hill in a public-private partnership called the Model City Initiative to incubate ideas and craft a solution to preserving and reducing the cost of the BMR Program. As a "Charter" member, Morgan Hill partnered with HouseKeys to not only preserve the continuity of the BMR service, but also to use it as a test bed to evaluate and demonstrate sustainable program strategies and best practices for other BMR communities. The intent is to build a model of best practices around affordable homeownership that could be adopted in whole or in part by other cities. This initiative would allow cities to maintain their autonomy, while still collaborating to preserve and improve their respective programs. With a 40-year program that has over 500 BMR properties spread out in over 45 subdivisions, Morgan Hill has one of region's oldest, largest and most active affordable housing portfolios.

Below are the highlights of the successful 9 month transition of the program:

- Requalified existing buyers who were no longer able to benefit from NHSSV's first mortgage lending, including updating financial information
- Rebuilt New Buyer Pipeline (239 applications) to assist developers with closing on time
- Re-Drafted/Re-Recorded the NHSSV Affordable Housing Agreements that were no longer valid
- Held 3 Lotteries for potential new homeowners
- Created New Morgan Hill BMR Website - www.HouseKeys.org to disseminate information
- Assisted 5 Development Projects that needed onboarding to City process and sale of units (Stonebridge, Madrone Plaza, Loden Place, Paseo Seville, Tilton Park)
- Recorded Nine (9) BMR Properties with Notice Of Defaults (NOD)
- Held 17 BMR Educational Orientations at City Hall with 455 Registrants
- Assisted with 17 BMR Home Sale transactions
- Escrow/Closings: 19 (closed two on behalf of previous Administrator)
- Set Up Program hosted onsite Morgan Hill with 3 new Full Time Staff located next to Housing Division
- Updated BMR Rental Guidelines to assist with the Diamond Creek Project
- Conducted ongoing monitoring and compliance; worked alongside staff to cure defaults and foreclosures
- Identified and qualified New Lenders to facilitate Purchase Transactions and familiarize their legal teams with the Program's 45 year affordability restrictions
- Responded to the County Tax Assessors request for a detailed description of each BMR Home in the City to ensure accurate property tax assessments
- Rehabbed and sold 2 defaulted units

BMR Program Administration Costs and Anticipated Revenue

When HouseKeys was launched in July of 2015, staff anticipated a certain level of program cost based on start-up and staffing. These costs were offset by a contract fee that is paid by the City of Morgan Hill and program revenue earned from processing fees charged to new home developers for providing processing and underwriting of new BMR buyers, and to BMR owners who refinance and sell their homes. The positions needed to run a BMR Program include the Program Manager, Asset Manager, Program Processor and Program Underwriter. The level of need and cost is dependent on the market over time, with both transaction revenue and activity being determined by housing and interest rate cycles. There are three things that were considered to determine program staffing needs, pipeline Growth – New Construction Units needing New Buyers over a 12-month period, Asset Management – Transaction, Case and Loss Mitigation activity associated with existing Properties and Owners, and Program Development – Program Policy and, Infrastructure to sustain the program. In an effort to build on the extensive work that has been done and to continue service delivery, staff is recommending the Council approve adopting a resolution amending and extending the Nyanda and Associates HouseKeys Agreement for a term of two years, with an annual contract amount of \$500,000. While the total program cost is \$850,000, the revenue

generated by the sale and resale of homes offsets the cost by \$350,000, the City contract request is \$500,000 annually for each of the two years.

BMR Program Budget		
Asset Manager	FT	\$55,681.60
Processor	FT	\$62,150.40
Underwriter	FT	\$60,673.60
Program Manager	PT (1/2)	\$78,000.00
Real Estate Attorney	FT	\$83,200.00
Benefits and Payroll		\$148,526.40
Communications Consultant	¼ time with Benefits	\$39,000.00
Real Estate Project Manager	¼ time with Benefits	\$39,000.00
Software Developer	¼ time with Benefits	\$39,000.00
Non Personnel	Overhead, Space, Computers, Phones, etc.	\$244,768.00
Total BMR Program Cost		\$850,000.00
New Construction Income	15 Units	\$150,000.00
BMR Resale Income	10 Units	\$150,000.00
Acquisition Income	3 Units	\$50,000.00
Total Offsets		\$350,000.00
Net Budget (Contract Request of the City)		\$500,000.00

Overhead breakdown

	Monthly	Yearly
Insurance (e.g. GL, E&O, Employed Lawyers Liability) , License and Broker Association Dues	\$2,500	\$30,000
IT Services	\$2,500	\$30,000
Operations Vendors	\$6,000	\$72,000
General and Admin	\$2,500	\$30,000
Communications	\$1,500	\$18,000
"Overhead"		\$180,000

**Regional Housing Need Allocation (RHNA) Accomplishments,
California Housing Element Law**

City of Morgan Hill

PAST RHNA Housing Accomplishments, 2007-2014				
Income Level	RHNA unit Goal	Permits Issued	% of RHNA Met	Units + or -
Very Low (0-50% AMI) includes 30% AMI for reporting purposes	317	82	26%	-235 units
Low (50-80% AMI)	249	139	56%	-110 units
Moderate (80-120% AMI)	246	260	106%	+14 units
Above Moderate (120% +AMI)	500	1,076	215%	+576 units
TOTAL RHNA	1,312	1,557	117%	+245

CURRENT AND FUTURE RHNA Housing Goals, 2015-2022				
Income Level	RHNA unit Goal	Permits Issued To date	% of RHNA Met	# of units to go
Very Low (0-50% AMI) includes 30% AMI for reporting purposes	273	0	0%	273
Low (50-80% AMI)	154	13	8%	141
Moderate (80-120% AMI)	185	5	3%	180
Above Moderate (120% +AMI)	316	333	105%	17
TOTAL RHNA	928	351	38%	577

Santa Clara County Breakdown – Affordable Ownership For-Sale Inventory Estimates

	Land Mass (Sq. Miles)	Population	Housing Units	Persons Per Household	Households	Affordable Ownership Units	Affordable Housing Ownership Unit Count – Source of Information
Morgan Hill	13	41,779	13,868	3.11	13,421	500	Morgan Hill Housing Department
Campbell	6	40,585	17,616	2.48	16,891	70	Campbell Staff Report 4/5/16
San Jose	180	1,016,479	327,652	3.17	320,960	1,385	Public Records Request 2/4/15
Santa Clara	18.41	120,973	45,828	2.69	44,905	142	BMR Admin Report 7/10/14
Gilroy	16.16	52,194	15,774	3.47	15,291	387	BMR Admin Report 10/25/14
Mountain View	6.799	77,914	34,807	2.36	32,972	25	Housing Staff Phone Conversation 3/15/16
Sunnyvale	22.69	148,028	57,561	2.67	55,462	330	Housing Element Report 12/16/14 p. 62
Cupertino	11.26	59,756	21,054	2.94	20,332	118	Public Database: http://www.cupertino.org/index.aspx?page=301
Palo Alto	25.79	66,932	28,674	2.47	27,153	240	Housing Element Report 11/10/14 p. 80
Milpitas	13.64	72,606	21,039	3.42	21,236	274	Housing Element Report 4/25/15 p. 39
Los Gatos	11.16	30,505	13,228	2.41	12,673	43	BMR Admin Report 7/10/14
*Monte Sereno	1.615	3,451	1,299	2.82	1,223	21	Housing Element Report 4/1/15 p. 45
Los Altos	6.4	30,036	11,350	2.74	10,970	64	BMR Admin Report 4/10/15
*Los Altos Hills	8.802	8,341	3,088	2.85	2,931	N/A	
Saratoga		30,799	11,186	2.83		N/A	

- Monte Sereno and Los Altos Hills use secondary dwelling units to satisfy affordable housing needs.

Santa Clara County Breakdown – Affordable Ownership For-Sale Inventory Estimates

- This is a breakdown of Santa Clara County's current inventory of affordable ownership for-sale housing. Each City and Town in the County has different names for this kind of inventory. Sources for this data included the California Department of Finance and the individual Housing Element reports released by each of the jurisdictions below. It is estimated that there are approximately 3,357 Affordable Ownership For-Sale Units in Santa Clara County.



KEYSER MARSTON ASSOCIATES™
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
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KATE EARLE FUNK
DEBBIE M. KERN
REED T. KAWAHARA
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KEVIN E. ENGSTROM
JULIE L. ROMÉY

SAN DIEGO
PAUL C. MARRA

To: Ms. Rebecca Garcia
City of Morgan Hill

From: Debbie Kern

Date: March 28, 2016

Subject: Analysis of the Impact of the Below Market Rate (BMR) requirements of the City's Residential Development Control System (RDCCS) on Development Economics

In accordance with your request, Keyser Marston Associates, Inc. (KMA) has evaluated the impacts of the BMR provisions of the City's RDCCS on the development economics of new residential development. The purpose of this review is three-fold:

1. To estimate the cost of providing on-site BMR units relative to the current in-lieu fee;
2. To recommend changes to the in-lieu fee amount so that it more closely approximates the cost of providing on-site units; and
3. To recommend program changes that will provide long term support for administration of the City's BMR program.

For purposes of this analysis, we have selected eight (8) residential developments that are currently marketing units in Morgan Hill to serve as prototypes for this analysis. The eight projects represent a range of residential product types in terms of density, lot size, price point, and unit size. This memorandum summarizes the findings of our review.

A. Recommendations

- 1) ***Increase the BMR fee so that it is more closely aligned with the cost of providing BMR units on-site and with the fees of other jurisdictions.*** The program's current in-lieu fee of \$150,000 per owed BMR unit is significantly less than the cost of providing an on-site BMR unit and what is charged by surveyed jurisdictions in the Bay Area.

- 2) **Recommended fee structure and amounts.** We recommend that the City either:
- a) Replace the current fee of \$150,000 per required BMR unit with a schedule of fees that apply to each project's square footage. We suggest that the fee vary by product type and be within the following ranges:
 - \$8 to \$10 per square foot for condominiums;
 - \$10 to \$12 per square foot for townhomes;
 - \$14 to \$16 per square foot for single family detached homes with lots less than 9,000 sf;
 - \$16 to \$17 per square foot for single family detached homes with lots equal to or larger than 9,000 square feet
 - These fees could be increased annually by the builder's cost index.
 - b) Replace the current per BMR unit fee with a schedule of fees that apply to each project's sales revenues, as follows:
 - 3% to 4% of value for projects with homes priced less than \$875,000;
 - 4% to 5% of value for projects with homes priced at \$875,000 or higher.
- 3) **Options for Raising More Fee Revenue.** Fee revenue is used to administer the existing stock of BMR units, create a reserve to administer the program during years in which there is little construction, and provide financial assistance for the construction of new deeply affordable rental units. There are a variety of alternatives for in-lieu fee application:
- a) Require the payment of a fee for all fractional units, or
 - b) Increase the fraction threshold for triggering the development of an additional on-site unit from, say, .50 to .80, or
 - c) Reduce or eliminate the on-site requirements of the large lot, low density projects but increase the fee charged on these low density projects.

B. Residential Prototypes/Case Studies

The residential developments selected to serve as "prototypical" projects for this analysis are as follows:

Development	Type	Avg. Lot Size – SF	Avg. Price
<i>Madrone Plaza II</i>	<i>Townhome</i>	<i>NA</i>	<i>\$555,000</i>
<i>Brighton Oaks</i>	<i>Townhome</i>	<i>NA</i>	<i>\$592,000</i>
<i>Cypress/Tilton Park</i>	<i>Townhome</i>	<i>NA</i>	<i>\$653,000</i>
<i>Loden Place</i>	<i>Detached</i>	<i>3,600</i>	<i>\$766,000</i>
<i>Sonebridge</i>	<i>Detached</i>	<i>6,000</i>	<i>\$767,000</i>
<i>Terra Mia</i>	<i>Detached</i>	<i>7,500</i>	<i>\$881,000</i>
<i>Paseo Seville</i>	<i>Detached</i>	<i>7,000</i>	<i>\$925,000</i>
<i>Amadora</i>	<i>Detached</i>	<i>21,600</i>	<i>\$1,233,000</i>

The firm of Real Estate Economics tracks and publishes profiles of new residential communities that are being marketed, including the eight selected projects. We used the unit mix and pricing data in the profiles to understand the prices of market rate homes by unit size. We estimated the number of BMR units required of the current marketing phase by applying the current RDCS point structure to the project’s unit mix. The actual BMR requirements that apply to each of the prototype projects may vary from the requirements embodied in the current point schedule because this analysis is evaluating only a marketing phase of the project and the projects are, in many cases, neighborhoods of larger developments that obtained entitlements many years ago under different requirements. For consistency purposes, we have applied the current point system to each of the projects to understand the relative impacts of the BMR point system to the range of prototypes.

C. Cost of Meeting 8% BMR requirements of the City’s Residential Development Control System (RDCS)

The RDCS’ standards and criteria enable for-sale residential developments to receive 13 to 15 points if 8% of the project’s units are deed restricted affordable units for Low to Moderate-income households (73% -120% AMI). The requirements vary by product type. In summary the requirements are as follows:

	Condominiums	Townhouses	R-2 SFD & R-1 7000	R-1 9000 & above lot size
13 points	4% of units at 70% AMI and 4% at 90% AMI	4% at 73% AMI and 4% at 100% AMI	4% at 76% AMI and 4% at 110% AMI	4% at 80% AMI and 4% at 120% AMI
14 points	6% at 70% AMI and 2% at 90% AMI	6% at 73% AMI and 2% at 100% AMI	6% at 76% AMI and 2% at 110% of AMI	6% at 80% AMI and 2% at 120% AMI
15 points	8% at 65% AMI	8% at 70% AMI	8% at 75% AMI	8% at 80% AMI

The required level of affordability of the BMR units is inversely related to the density of the project, with condominiums¹ being required to provide BMR units in the 65% to 90% AMI range, while large-lot projects are required to provide BMR units in the 80% to 120% AMI range. Deeper levels of affordability (i.e. below 65% AMI) are addressed by the RDCS' provisions applicable to rental housing developments.

The current maximum prices for BMR units are as follows:

Maximum BMR Prices			
	2br	3br	4br
Low - 65%	\$201,500	\$229,450	\$250,250
Low - 70%	\$217,000	\$247,100	\$269,500
Low - 73%	\$226,300	\$257,690	\$281,050
Low - 75%	\$232,500	\$264,750	\$288,750
Low- 76%	\$235,600	\$268,280	\$292,600
Low - 80%	\$248,000	\$282,400	\$308,000
Median - 90%	\$279,000	\$317,700	\$346,500
Median - 100%	\$310,000	\$353,000	\$385,000
Median - 110%	\$341,000	\$388,300	\$423,500
Median - 120%	\$372,000	\$423,600	\$462,000

Source: City of Morgan Hill.

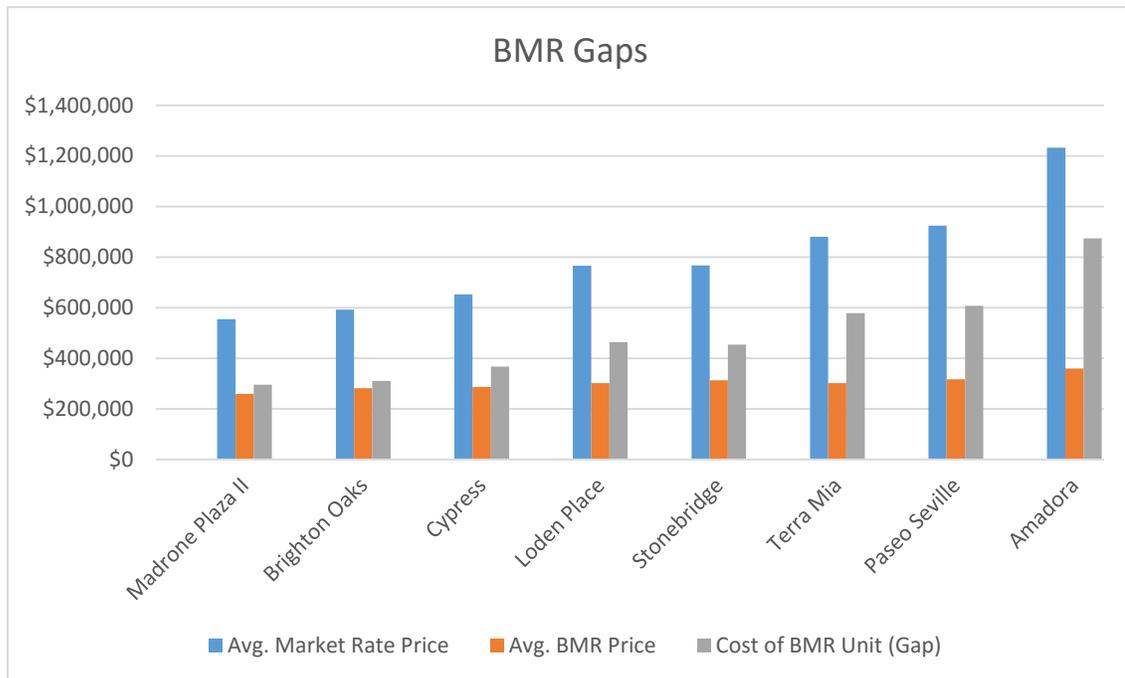
Under the RDCS' regulations, when the application of the 8% requirement yields a fraction of a unit, fractions of 50% or more trigger the requirement that a BMR unit be built on-site. Fractions of less than 50% trigger the requirement that the applicant pay an in-lieu fee equal to \$150,000 times the applicable fraction. For example, if a project has 23 units, the 8% BMR requirement results in the need for 1.84 units, and the project is required to provide two (2) on-site BMR units. If, however, the project has 53 units, then the 8% requirement yields the requirement to provide 4.24 BMR units. In this case, the project is required to build four (4) on-site units and pay a fee of \$36,000 (.24 X \$150,000).

For each of the prototypes, we have estimated the potential revenues if all units in the marketing phase were to be sold as market rate units, calculated the BMR requirements under each point structure, estimated the sales revenues of the phase assuming that the BMR requirements are met and estimated the net cost to the project associated with meeting the BMR requirements.

¹ While the RDCS specifies requirements for condominium projects, currently there are no projects that have self-identified as being condominiums.

The findings of the analysis are summarized in Table 1. The analysis for each project is provided in the Appendix Tables. The key findings are as follows:

- **Market rate prices are generally inversely correlated with density.**
The lower the density, the higher the price of the home. Townhomes are in the \$550,000 to \$650,000 range, the medium density detached homes range from \$765,000 to \$925,000 and the low density homes are priced above \$1.2 million.
- **The average BMR prices that apply to the prototypes range from \$278,000 for a townhome project to \$359,000 for the low density detached project.**
- **The gap between BMR prices and market rate prices ranges from approximately \$275,000 to \$875,000 per unit, with the gap inversely correlated to density and positively correlated to market rate prices.**
This is due to the consideration that BMR prices are tied to the number of bedrooms. Even though low density projects provide BMR units at a higher AMI than condominium projects, the AMI differences do not fully offset the large gap between permitted BMR prices and market rate prices.



- **With a gap of \$275,000 to \$875,000 per unit, the cost of providing an on-site BMR unit is obviously much greater than the cost of the current in-lieu fee of \$150,000 per unit.** Because of the difference in cost, there is definitely an incentive for developers to desire to pay in-lieu fees instead of providing on-site units.

- ***Satisfying the BMR requirement reduces sales revenues by approximately 4% to 7% relative to a 100% market rate project.***

The lower end of the range is associated with the impact to the higher density, less-expensive product types while the higher-end of the range is the impact to the lower density, more-expensive homes.

- ***The BMR cost (gap between market rate price and BMR price) increases with the target number of RDCS points.***

For example, the cost to the Cypress townhome project to achieve 13 points is approximately \$378,000 for each BMR unit required. The cost to achieve 15 points is \$441,000 per BMR unit. For a medium density detached project, such as Paseo Seville, the cost to achieve 13 points is \$632,000 per BMR unit or \$712,000 per BMR unit to achieve 15 points.

D. In-lieu Fees of other Jurisdictions

We have prepared a summary of the inclusionary/in-lieu fee programs of selected other Bay Area communities, as provided in Table 2. As shown, the on-site inclusionary requirements range from 10% to 15% of on-site units, which exceed the RDCS' requirement of 8%. All of the selected jurisdictions have in-lieu fee provisions, but they range from applying only to fractional units to being available at the developer's discretion to meet the entire on-site obligation. The in-lieu fee is expressed as a per square foot fee applied to the entire project, a percent of sales revenues of the entire project, or a fee per affordable unit owed. With the exception of Santa Clara's program (and perhaps San Francisco's), all of the surveyed jurisdictions charge an in-lieu fee that is likely to be less costly to a developer than building on-site units. The cities with a per square foot fee include Cupertino, San Jose, and Fremont, with the fee ranging from \$15 per sf to \$22.50 per sf. The cities with fees expressed as a percentage of sales revenues include: Mountain View, Sunnyvale, and Palo Alto, with the fee ranging from 3% of sales revenue to 7.5% of sales revenue. Santa Clara permits the payment of an in-lieu fee only for fractional units and the fraction is applied to the full on-site gap. San Francisco's in-lieu fee is expressed as a fee per BMR unit, with the amount per unit tied to the number of bedrooms in a unit. San Francisco's fees range from \$198,000 for a one bedroom BMR unit to \$417,799 for a 3 bedroom BMR unit.²

To compare Morgan Hill's in lieu fee of \$150,000 per BMR unit, using the eight prototypes as case studies, we have converted the per unit fee to an amount per square foot of building area and a percentage of sales value. As shown on Table 3, on a per

² While San Francisco has a 12% on-site requirement, if a project pays fees in-lieu of providing on-site BMR units, the fee is calculated assuming a 20% BMR requirement.

square foot basis, Morgan Hill's current in-lieu fee translates into a fee ranging from \$2.98 per square foot (Amadora project) to \$6.59 per square foot (Cypress/Tilton Park project). This per square foot fee is significantly less than the \$15 to \$22.50 per square foot charged by the other surveyed jurisdictions. Morgan Hill's fee approximates 1% to 2% of sales revenue, which is less than the range of 3% to 7.5% of sales revenue charged by the surveyed jurisdictions.

To formulate recommendations for the City's in-lieu fee, for each of the eight prototype projects, we have calculated the per unit in-lieu fee amount that would be generated by a range of a range of "percent of value" fees and a range of "per square foot" fees and then compared the derived per BMR unit fees to the cost of providing on-site units. The analysis is presented in Table 4. As shown, the "percent of value" structure yields amounts that correspond well with the on-site gap. A fee amount of 4% of sales revenues would be somewhat less than the cost of providing on-site units for projects with unit prices of less than \$875,000. For projects with unit prices in excess of \$850,000, a fee amount of 5% of sales revenues would approach but not exceed the cost of providing on-site units. These percentages are within the 3% to 7.5% range charged by other communities. While this structure is closely aligned with on-site gaps, it is more complicated to administer than a per square foot or per unit fee as the City will need information on actual unit prices in order to apply the fee. This would require delaying payment until a certain portion of the units have sold.

A per square foot fee structure is somewhat positively correlated with unit sizes but not as closely as is the nexus between percent of revenue and unit prices. As shown, for the townhome projects, a fee of up to \$12 per square foot would generally approach the cost of providing units on-site. For single family detached homes, a fee of \$16 per square foot would be less than the cost of providing on-site units for 5 of the six prototypes. However, a \$16 fee would exceed the cost of providing an on-site unit at the Stonebridge project but would fall far short of the on-site costs for Terra Mia and Paseo Seville, which would support a fee in the \$19 to \$20 per square foot range. While the per square foot structure does not correlate to on-site gaps as closely as prices, it has the benefit of being easier to administer as unit sizes are known at the time that building permits are issued.

Table 1
Summary of Cost of Providing BMR Units
City of Morgan Hill

Name of Project	Cypress / Tilton							
	Madrone Plaza II	Brighton Oaks	Park	Loden Place	Stonebridge	Terra Mia	Paseo Seville	Amadora
Type of Project	Townhouse	Townhouse	Townhouse	SF - R-1 7000	SF - R-1 7000	SF - R-1 7000	SF - R-1 7000	R-1 9000 & Above
Avg. Lot Size	NA	NA	NA	3,600	6,000	7,500	7,000	21,600
Avg. Unit Size	1,844	1,832	1,820	2,242	2,510	2,338	2,323	4,025
Developer	Taylor Morrison	Lyon Homes	KB Home	City Ventures	Meritage Homes	Dividend Homes	KB Home	Dividend Homes
Num. Units in Phase	56	100	23	41	82	68	23	23
8% BMR Requirement	4.48	8	1.84	3.28	6.56	5.44	1.84	1.84
Avg. Market Rate Price	\$555,000	\$592,000	\$653,000	\$766,000	\$767,000	\$881,000	\$925,000	\$1,233,000
Avg. BMR Price	\$278,000	\$278,000	\$286,000	\$302,000	\$313,000	\$302,000	\$317,000	\$359,000
Cost of BMR Unit (Gap)	\$277,000	\$314,000	\$367,000	\$464,000	\$454,000	\$579,000	\$608,000	\$874,000
Gap as a % of Mkt. Price	50%	53%	56%	61%	59%	66%	66%	71%
BMR Requirement	4 on-site; fee for .48 units	8 on-site	2 on-site	3 on-site; fee for .28 units	7 on-site	5 on-site units; fee for .44 units	2 on-site	2 on-site
Foregone Revenue Due to BMR Units as a % of Potential 100% Mkt. Rate Revenue	3.5% to 4.2%	3.8% to 4.4%	4.6% to 5.4%	4.4% to 4.8%	4.6% to 5.5%	4.5% to 5.0%	5.5% to 6.2%	6.0% to 6.5%
Foregone Revenue per BMR Unit								
13 Points	\$239,000	\$282,966	\$378,000	\$418,378	\$442,869	\$498,000	\$632,000	\$922,259
14 Points	\$261,000	\$306,187	\$378,000	\$418,378	\$481,119	\$522,000	\$637,000	\$922,259
15 Points	\$291,000	\$330,015	\$441,000	\$458,296	\$523,282	\$548,000	\$712,000	\$1,005,955

Table 2
Comparison of Below Market Rate Housing Programs
Morgan Hill BMR Study

WORKING DRAFT FOR REVIEW BY STAFF

	Cupertino	San Jose	Mountain View	Santa Clara	Sunnyvale	Fremont	Palo Alto	San Francisco
Year Adopted / Updated	Est. 1992; updated 2015	Est. 2010, suspended; update in process	Est. 1999; Rental Impact Fee in 2012; update in process	Est. 1995; updated 2006.	Updated 2015.	Est. nexus-based program in 2010; update in progress.	Est. 1974; nexus analysis in process.	Est. 1992; updated 2012.
Minimum Project Size								
For In-lieu Fee	1 unit	R: 3 units	FS: 3 units R: 5 units Mixed: 6 units	No fee	FS: 8 units R: 4 units	2 units	5 units	10 units
For Build Requirement	7 units	20 units (S)	10 units	10 units	20 units ¹	no build req.	5 units	n/a
For Sale Onsite Requirement								
Percent of Units	15%	15% (S)	10%	10%	12.5%	15%	Base: 15% 20% if site > 5 acres 25% if loss of rentals	12% onsite or 20% offsite
Income Level (% AMI)	1/2 @ 80-100% AMI 1/2 @ 100 - 120% AMI	FS- Moderate: 80-110% (S)	80% - 100% AMI	Moderate: 80-120%	Up to 120% AMI	Moderate: 80-110% (120% w/approval)	Base: 10% @ 80-100% 5% @ 100-120%	Onsite: 90% AMI Offsite: 70% AMI
Rental Onsite Option?	As alternative to fee.	No	As alternative to fee.	n/a	As alternative to fee.	No.	In Process	As alternative to fee.
Impact / In-Lieu Fee	FS: \$15 psf (detached), \$16.50 psf (townhome), \$20 psf (multifamily) Rental: \$20 psf (35 du/ac or less), \$25 psf (>35 du/ac)	R: \$17 psf Downtown highrises exempted for 5 years.	FS: 3% of sales price R: Current \$10.26 psf; City Council approved increase to \$17 psf	Fractional only: Fractional unit X difference between initial market value and affordable sales price	FS: 7% of sales price R: \$8.50 per nsf (4-7 units); \$17 per nsf (8+ units)	FS: \$19.50 per nsf (single family w/lots ≥6,000 SF are \$22.50 per nsf) R: \$19.50 per nsf	FS: 7.5% of sales price 10% of sales price if site > 5 acres 12.5% of sales price if loss of rental units ³	Per affordable unit owed based on 20% offsite rqrmt. Studio - \$198,008 1BR - \$268,960 2BR - \$366,369 3BR - \$417,799
Fractional Units	<.50 unit owed: pay fee .50+ unit owed: round	pay fee or provide unit (S)	pay fee or provide unit	pay fee or provide unit	pay fee or provide unit	pay fee or provide unit	pay fee or provide unit	pay fee or provide unit
Alternatives to Onsite Provision²								
Fee Option	6 or Fewer Units (Developer)	yes (Developer, S)	9 or Fewer Units (Developer)	yes (Developer, fractional only)	yes (City)	yes (Developer)	if infeasible onsite or offsite (City)	yes (Developer)
Land Dedication	yes	yes (City, S)	no	not specified	no	yes (City)	yes (City)	yes (City)
Offsite	yes	yes (S)	no	not specified	yes (City)	yes (City)	yes (City)	yes (Developer)
Other		Rehab units (City, S)			Purchase existing units and convert to affordable (City). Preserve & rehab expiring units (City).	Purchase existing units and convert to affordable (City). Preserve at-risk units (City).	Rehab units (City).	
Design of Inclusionary Units³								
Smaller Units	not specified	no (S)	no	not specified	yes	no	no	minimum sizes
Lesser Interior Finishes	yes	yes (S)	no	not specified	no	yes	yes (FS only)	no
Other Design Standards	not specified			not specified			May be attached units; may be single story.	
Other Concessions	Fee waivers - park dedication and construction tax.	Downtown highrises exempted for 5 years.					Rental units in ownership project (City).	

¹Not specified in Ordinance, but City documents indicate that projects with fewer than 20 units are eligible to pay fee.

²Parentheses indicate which entity has discretion.

³Staff has recommended fees of \$95 for SFD and \$50 psf for all other unit types (including rental). (2/16 staff report)

Note: This chart presents an overview and terms have been simplified. Consult code and City staff for more information.

Abbreviations: R = Rental FS = For Sale PSF = Per Square Foot

NSF = Net Square Feet

S= Suspended

Table 3
Existing In-lieu Fee Amount Expressed as a Percent of Sales Revenue and as a Cost Per Square Feet of Building Area
Morgan Hill BMR Study

	Project Prototypes							
	<u>Madrone Paza II</u>	<u>Brighton Oaks</u>	<u>Cypress / Titlon Park</u>	<u>Loden Place</u>	<u>Stonebridge</u>	<u>Terra Mia</u>	<u>Paseo Seville</u>	<u>Amadora</u>
Market rate Price	\$555,000	\$592,000	\$653,000	\$766,000	\$767,000	\$881,000	\$925,000	\$1,233,000
On-site Gap	\$277,000	\$314,000	\$367,000	\$464,000	\$454,000	\$579,000	\$608,000	\$874,000
In Lieu Fee per BMR U	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000
SF	1,844	1,832	1,820	2,242	2,510	2,338	2,323	4,025
In Lieu Fee per SF	\$6.51	\$6.55	\$6.59	\$5.35	\$4.78	\$5.13	\$5.17	\$2.98
In-lieu fee as a % of Revenue	2%	2%	2%	2%	2%	1%	1%	1%

Table 4
Evaluation of BMR In-Lieu Fee Amounts Yielded by a Range of Alternative Fee Structures
Morgan Hill BMR Study

Project Prototypes								
	Madrone Paza II	Brighton Oaks	Cypress / Titlon Park	Loden Place	Stonebridge	Terra Mia	Paseo Seville	Amadora
On-site Gap	\$277,000	\$314,000	\$367,000	\$464,000	\$454,000	\$579,000	\$608,000	\$874,000
Fee per BMR Unit								
Per SF Fee								
20	\$461,000	\$458,000	\$455,000	\$561,000	\$628,000	\$585,000	\$581,000	\$1,006,000
19	\$438,000	\$435,000	\$432,000	\$532,000	\$596,000	\$555,000	\$552,000	\$956,000
18	\$415,000	\$412,000	\$410,000	\$504,000	\$565,000	\$526,000	\$523,000	\$906,000
17	\$392,000	\$389,000	\$387,000	\$476,000	\$533,000	\$497,000	\$494,000	\$855,000
16	\$369,000	\$366,000	\$364,000	\$448,000	\$502,000	\$468,000	\$465,000	\$805,000
15	\$346,000	\$344,000	\$341,000	\$420,000	\$471,000	\$438,000	\$436,000	\$755,000
14	\$323,000	\$321,000	\$319,000	\$392,000	\$439,000	\$409,000	\$407,000	\$704,000
13	\$300,000	\$298,000	\$296,000	\$364,000	\$408,000	\$380,000	\$377,000	\$654,000
12	\$277,000	\$275,000	\$273,000	\$336,000	\$377,000	\$351,000	\$348,000	\$604,000
11	\$254,000	\$252,000	\$250,000	\$308,000	\$345,000	\$321,000	\$319,000	\$553,000
10	\$231,000	\$229,000	\$228,000	\$280,000	\$314,000	\$292,000	\$290,000	\$503,000
% of Value Fee								
0.03	\$208,000	\$222,000	\$245,000	\$287,000	\$288,000	\$330,000	\$347,000	\$462,000
0.04	\$278,000	\$296,000	\$327,000	\$383,000	\$384,000	\$441,000	\$463,000	\$617,000
0.05	\$347,000	\$370,000	\$408,000	\$479,000	\$479,000	\$551,000	\$578,000	\$771,000
0.06	\$416,000	\$444,000	\$490,000	\$575,000	\$575,000	\$661,000	\$694,000	\$925,000
0.07	\$486,000	\$518,000	\$571,000	\$670,000	\$671,000	\$771,000	\$809,000	\$1,079,000

☐ indicates fee amount that most closely approximates but does not exceed cost of providing BMR unit on-site.

Appendix: Supporting Tables

Appendix Table 1
Madrone Plaza 2 - Townhouse

	Plan	A	C	B	
Beds		3	3	3	
number of units		19	17	20	56
SF		1775	1821	1929	1,844
Market Rate Price		\$546,000	\$551,000	\$568,000	\$555,375
Potential Market Rate Revenue	\$10,374,000	\$9,367,000	\$11,360,000		\$31,101,000
Required Affordable Mix					
13 pts					
	Low - 73%				4.00%
	Median 100%				4.00%
14 pts					
	Low - 73%				6.00%
	Median 100%				2.00%
15 points					
	Low - 70%				8.00%
	Median 100%				0.00%
Required Number of Affordable Units					
					4.48
Required Fractional Unit Payment					
			0.48	\$150,000	\$72,000
Maximum Affordable Prices					
13 pts					
	Low - 73%	\$257,690	\$257,690	\$257,690	
	Median 100%	\$353,000	\$353,000	\$353,000	
14 pts					
	Low - 73%	\$257,690	\$257,690	\$257,690	
	Median 100%	\$353,000	\$353,000	\$353,000	
15 points					
	Low - 70%	\$247,100	\$247,100	\$247,100	
Number of Affordable Units					
13 pts					
	Low - 73%				2
	Median 100%				2
14 pts					
	Low - 73%				3
	Median 100%				1
15 points					
	Low - 70%				4
	Median 100%				0

Appendix Table 1
Madrone Plaza 2 - Townhouse

Unit Mix

13 points

Market Rate Units	52
Affordable Low	2
Affordable Median	2

14 points

Market Rate Units	52
Affordable Low	3
Affordable Median	1

15 points

Market Rate Units	52
Affordable Low	4
Affordable Median	0

Revenues

13 points

Market Rate Units	\$28,879,500
Affordable Low	\$515,380
Affordable Median	\$706,000
Less Fractional Unit Pmt	-\$72,000
Total Revenue	\$30,028,880

14 points

Market Rate Units	\$28,879,500
Affordable Low	\$773,070
Affordable Median	\$353,000
Less Fractional Unit Pmt	-\$72,000
Total Revenue	\$29,933,570

15 points

Market Rate Units	\$28,879,500
Affordable Low	\$988,400
Affordable Median	\$0
Less Fractional Unit Pmt	-\$72,000
Total Revenue	\$29,795,900

Foregone Revenue

13 points

Total	\$1,072,120
Per Affordable Unit	\$239,313

14 points

Total	\$1,167,430
Per Affordable Unit	\$260,587

15 points

Total	\$1,305,100
Per Unit	\$291,317

Appendix Table 2
Brighton Oaks - Townhome

	1	2	3	4	5	6	7	Total
Plan	1	2	3	4	5	6	7	
Beds	2	3	3	3	3	4	4	
Num. Units	11	16	15	16	14	15	13	100
% of unit mix	11%	16%	15%	16%	14%	15%	13%	100%
SF	1,175	1,512	1,668	1,794	1,952	2,222	2,440	1,832
Market Rate Price	\$551,000	\$561,000	\$571,000	\$591,000	\$601,000	\$641,000	\$621,000	\$591,600
Total Potential Rev.	\$6,061,000	\$8,976,000	\$8,565,000	\$9,456,000	\$8,414,000	\$9,615,000	\$8,073,000	\$59,160,000
					2br	3br	4br	Total Phase
Number of Units					11	61	28	100
Percent of Units					11%	61%	28%	100%
Market Rate Price					\$551,000	\$580,508	\$631,714	\$591,600
Required Affordable Mix								
13 pts								
Low - 73%					0.04	0.04	0.04	4.00%
Median - 100%					0.04	0.04	0.04	4.00%
14 pts								
Low - 73%					0.06	0.06	0.06	6.00%
Median - 100%					0.02	0.02	0.02	2.00%
15 points								
Low - 73%					0.08	0.08	0.08	8.00%
Median - 100%								
Required Number of Affordable Units								
Required Fractional Unit Payment		0	150000					8.00
Affordable Prices								
13 pts								
Low - 73%					\$226,300	\$257,690	\$281,050	
Median - 100%					\$310,000	\$353,000	\$385,000	
14 pts								
Low - 73%					\$226,300	\$257,690	\$281,050	
Median - 100%					\$310,000	\$353,000	\$385,000	
15 points								
Low - 70%					\$217,000	\$247,100	\$269,500	
Required Number of Affordable Units								
13 pts								
Low - 73%					1	2	1	4
Median - 100%					1	2	1	4
14 pts								
Low - 73%					1	3	2	6
Median - 100%					0	2		2
15 points								
Low - 70%					1	5	2	8
Unit Mix								
13 points								
Market Rate Units					9	57	26	92
Affordable Low					1	2	1	4
Affordable Median					1	2	1	4
14 points								
Market Rate Units					10	56	26	92
Affordable Low					1	3	2	6
Affordable Median					0	2	0	2
15 points								
Market Rate Units					10	56	26	92
Affordable Low					1	5	2	8
Affordable Median					0	0	0	0

Appendix Table 2
Brighton Oaks - Townhome

					Total
Revenues					
13 points					
Market Rate Units	\$4,959,000	\$33,088,967	\$16,424,571	\$54,472,539	
Affordable Low	\$226,300	\$515,380	\$281,050	\$1,022,730	
Affordable Median	\$310,000	\$706,000	\$385,000	\$1,401,000	
Less fractional unit in-lieu fee payment				\$0	
Total Revenue					\$56,896,269
14 points					
Market Rate Units	\$5,510,000	\$32,508,459	\$16,424,571	\$54,443,030	
Affordable Low	\$226,300	\$773,070	\$562,100	\$1,561,470	
Affordable Median	\$0	\$706,000	\$0	\$706,000	
Less fractional unit in-lieu fee payment				\$0	
Total Revenue					\$56,710,500
15 points					
Market Rate Units	\$5,510,000	\$32,508,459	\$16,424,571	\$54,443,030	
Affordable Low	\$217,000	\$1,235,500	\$539,000	\$1,991,500	
Affordable Median				\$0	
Less fractional unit in-lieu fee payment				\$0	
Total Revenue					\$56,434,530
Foregone Revenue with BMR Units					
13 points					
Total					\$2,263,731
Per Affordable Unit					\$282,966
14 points					
Total					\$2,449,500
Per Affordable Unit					\$306,187
15 points					
Total					\$2,725,470
Per Unit					\$340,684

Appendix Table 3
Cypress/Tilton Park - Townhouse

Plan	1	2	3	0	0	0	0	
Beds	3	3	3	0	0	0	0	
Num. Units	8	9	6	0	0	0	0	23
% of unit mix	35%	39%	26%	0%	0%	0%	0%	100%
SF	1,703	1,809	1,992	0	0	0	0	1,820
Market Rate Price	\$640,000	\$653,000	\$670,000	\$0	\$0	\$0	\$0	\$652,913
Total Potential Rev.	\$5,120,000	\$5,877,000	\$4,020,000	\$0	\$0	\$0	\$0	\$15,017,000

	Avg.			3br	4br	5br	Total Phase
Number of Units				23	0	0	23
Percent of Units				100%	0%	0%	100%
Market Rate Price				\$652,913	\$0	\$0	\$652,913

Required Affordable Mix

13 pts							
	Low - 73%			0.04	0.04		4.00%
	Median 100%			0.04	0.04		4.00%
14 pts							
	Low - 73%			0.06	0.06		6.00%
	Median 100%			0.02	0.02		2.00%
15 points							
	Low - 70%			0.08	0.08		8.00%

Affordable Prices

13 pts							
	Low - 73%			\$257,690	\$281,050		
	Median 100%			\$353,000	\$385,000		
14 pts							
	Low - 73%			\$257,690	\$281,050		
	Median 100%			\$353,000	\$385,000		
15 points							
	Low - 70%			\$247,100	\$269,500		

Required Number of Affordable Units

13 pts							1.84
	Low - 73%			1	0		1
	Median 100%			1	0		1
14 pts							
	Low - 73%			1	0		1
	Median 100%			1	0		1
15 points							
	Low - 70%			2	0		2

Unit Mix

13 points							
Market Rate Units				21	0	0	21
Affordable Low				1	0		1
Affordable Median				1	0		1
14 points							
Market Rate Units				21	0	0	21
Affordable Low				1	0	0	1
Affordable Median				1	0	0	1
15 points							
Market Rate Units				21	0	0	21
Affordable Low				2	0	0	2
Affordable Median				0	0	0	0

Appendix Table 3
Cypress/Tilton Park - Townhouse

Revenues

13 points

Market Rate Units	13,711,174	0	0	13,711,174
Affordable Low	\$257,690	\$0	\$0	\$257,690
Affordable Median	\$353,000	\$0	\$0	\$353,000
Total Revenue				\$14,321,864

14 points

Market Rate Units	13,711,174	0	0	\$13,711,174
Affordable Low	\$257,690	\$0	\$0	\$257,690
Affordable Median	\$353,000	\$0	\$0	\$353,000
Total Revenue				\$14,321,864

15 points

Market Rate Units	13,711,174	0	0	13,711,174
Affordable Low	\$494,200	\$0	\$0	\$494,200
Affordable Median				\$0
Total Revenue				\$14,205,374

Foregone Revenue

13 points

Total				\$695,136
Per Affordable Unit				\$377,791

14 points

Total				\$695,136
Per Affordable Unit				\$377,791

15 points

Total				\$811,626
Per Unit				\$441,101

Appendix Table 4

Loden Place, Detached; R-2 SFD & R-1 7000

									Total
Plan	6	5	1	2	3	4			
Beds	3	3	3	3	4	4	5		
Num. Units	7	4	7	7	8	8	0		41
% of unit mix	17%	10%	17%	17%	20%	20%	0%		100%
SF	1,520	1,788	1,834	2,118	2,810	2,996	0		2,242
Market Rate Price	\$703,000	\$710,000	\$719,000	\$749,000	\$828,000	\$845,000	\$0		\$766,366
Total Potential Rev.	\$4,921,000	\$2,840,000	\$5,033,000	\$5,243,000	\$6,624,000	\$6,760,000	\$0		\$31,421,000
					3br	4br	5br		Total Phase
Number of Units					25	16	0		41
Percent of Units					61%	39%	0%		100%
Market Rate Price					\$721,480	\$836,500	NA		\$766,366
Required Affordable Mix									
13 pts									
Low - 76%					0.04	0.04			4.00%
Median 110%					0.04	0.04			4.00%
14 pts									
Low - 76%					0.06	0.06			6.00%
Median 110%					0.02	0.02			2.00%
15 points									
Low - 75%					0.08	0.08			8.00%
Affordable Prices									
13 pts									
Low - 76%					\$268,280	\$292,600			
Median 110%					\$388,300	\$423,500			
14 pts									
Low - 76%					\$268,280	\$292,600			
Median 110%					\$388,300	\$423,500			
15 points									
Low - 75%					\$264,750	\$288,750			
Required Number of Affordable Units									
13 pts									
Low - 76%					1.00	1.00			2.00
Median 110%					1.00	0.00			1.00
14 pts									
Low - 76%					1.00	1.00			2.00
Median 110%					1.00	0.00			1.00
15 points									
Low - 75%					2.00	1.00			3.00
Unit Mix									
13 points									
Market Rate Units					23	15	0		38
Affordable Low					1	1			2
Affordable Median					1	0			1
14 points									
Market Rate Units					23	15	0		38
Affordable Low					1	1	0		2
Affordable Median					1	0	0		1
15 points									
Market Rate Units					23	15	0		38
Affordable Low					2	1	0		3

Appendix Table 4

Loden Place, Detached; R-2 SFD & R-1 7000

Revenues

13 points

Market Rate Units			\$16,594,040	\$12,547,500	\$0	\$29,141,540
Affordable Low			\$268,280	\$292,600	\$0	\$560,880
Affordable Median			\$388,300	\$0	\$0	\$388,300
Fractional in-lieu pmt	0.28	\$150,000				-\$42,000
Total Revenue						\$30,048,720

14 points

Market Rate Units			\$16,594,040	\$12,547,500	\$0	\$29,141,540
Affordable Low			\$268,280	\$292,600	\$0	\$560,880
Affordable Median			\$388,300	\$0	\$0	\$388,300
Fractional in-lieu pmt	0.28	\$150,000				-\$42,000
Total Revenue						\$30,048,720

15 points

Market Rate Units			\$16,594,040	\$12,547,500	\$0.00	\$29,141,540
Affordable Low			\$529,500	\$288,750	\$0	\$818,250
Affordable Median						\$0
Fractional in-lieu pmt	0.28	\$150,000				-\$42,000
Total Revenue						\$29,917,790

Foregone Revenue with BMR Units

13 points

Total						\$1,372,280
Per Affordable Unit						\$418,378

14 points

Total						\$1,372,280
Per Affordable Unit						\$418,378

15 points

Total						\$1,503,210
Per Unit						\$458,296

Appendix Table 5
Stonebridge - Detached; \$-2 SFD &R-1 7000

									Total
Plan	1	2	3	4	5	6	7		
Beds	3	3	3	3	4	4	5		
Num. Units	8	9	14	15	14	11	11		82
% of unit mix	10%	11%	17%	18%	17%	13%	13%		100%
SF	1,819	1,909	2,110	2,341	2,640	3,130	3,455		2,510
Market Rate Price	\$589,950	\$599,950	\$761,990	\$771,990	\$801,990	\$861,990	\$891,990		\$766,933
Total Potential Rev.	\$4,719,600	\$5,399,550	\$10,667,860	\$11,579,850	\$11,227,860	\$9,481,890	\$9,811,890		\$62,888,500
						3br	4br + 5br	Total Phase	
Number of Units						46	36		82
Percent of Units						56%	44%		100%
Market Rate Price						\$703,627	\$847,823		\$766,933
Required Affordable Mix									
13 pts									
Low - 76%						0.04	0.04		4.00%
Median - 110%						0.04	0.04		4.00%
14 pts									
Low - 76%						0.06	0.06		6.00%
Median - 110%						0.02	0.02		2.00%
15 points									
Low - 75%						0.08	0.08		8.00%
Required Number of Affordable Units									
Required Fractional Unit Payment		0	150000						6.56
Affordable Prices									
13 pts									
Low - 76%						\$268,280	\$292,600		
Median - 110%						\$388,300	\$423,500		
14 pts									
Low - 76%						\$268,280	\$292,600		
Median - 110%						\$388,300	\$423,500		
15 points									
Low - 75%						\$264,750	\$288,750		
Required Number of Affordable Units									
13 pts									
Low - 76%						2	1		3
Median - 110%						2	2		4
14 pts									
Low - 76%						3	2		5
Median - 110%						1	1		2
15 points									
Low - 75%						4	3		7
Unit Mix									
13 points									
Market Rate Units						42	33		75
Affordable Low						2	1		3
Affordable Median						2	2		4
14 points									
Market Rate Units						42	33		75
Affordable Low						3	2		5
Affordable Median						1	1		2
15 points									
Market Rate Units						42	33		75
Affordable Low						4	3		7
Affordable Median						0	0		0

Appendix Table 5
Stonebridge - Detached; \$-2 SFD &R-1 7000

	Total		
Revenues			
13 points			
Market Rate Units	\$29,552,350	\$27,978,170	\$57,530,520
Affordable Low	\$536,560	\$292,600	\$829,160
Affordable Median	\$776,600	\$847,000	\$1,623,600
Less fractional unit in-lieu fee payment			\$0
Total Revenue			\$59,983,280
14 points			
Market Rate Units	\$29,552,350	\$27,978,170	\$57,530,520
Affordable Low	\$804,840	\$585,200	\$1,390,040
Affordable Median	\$388,300	\$423,500	\$811,800
Less fractional unit in-lieu fee payment			\$0
Total Revenue			\$59,732,360
15 points			
Market Rate Units	\$29,552,350	\$27,978,170	\$57,530,520
Affordable Low	\$1,059,000	\$866,250	\$1,925,250
Affordable Median			\$0
Less fractional unit in-lieu fee payment			\$0
Total Revenue			\$59,455,770
Foregone Revenue with BMR Units			
13 points			
Total			\$2,905,220
Per Affordable Unit			\$442,869
14 points			
Total			\$3,156,140
Per Affordable Unit			\$481,119
15 points			
Total			\$3,432,730
Per Unit			\$523,282

Appendix Table 6

Terra Mia - Detached; R-2 SFD & R-1 7000

	1	2	3	4	5	6	7	Total
Plan	1	2	3	4	5	6	7	
Beds	3	4	3	3	4	4	5	
Num. Units	10	9	13	11	9	10	6	68
% of unit mix	15%	13%	19%	16%	13%	15%	9%	100%
SF	1,567	1,647	1,817	2,289	2,960	3,081	3,705	2,338
Market Rate Price	\$719,000	\$745,000	\$795,000	\$935,000	\$995,000	\$999,000	\$1,069,000	\$880,500
Total Potential Rev.	\$7,190,000	\$6,705,000	\$10,335,000	\$10,285,000	\$8,955,000	\$9,990,000	\$6,414,000	\$59,874,000
					3br	4br	5br	Total Phase
Number of Units					34	28	6	68
Percent of Units					50%	41%	9%	100%
Market Rate Price					\$817,941	\$916,071	\$1,069,000	\$880,500
Required Affordable Mix								
13 pts								
Low - 76%					0.04	0.04		4.00%
Median 110%					0.04	0.04		4.00%
14 pts								
Low - 76%					0.06	0.06		6.00%
Median 110%					0.02	0.02		2.00%
15 points								
Low - 75%					0.08	0.08		8.00%
Affordable Prices								
13 pts								
Low - 76%					\$268,280	\$292,600		
Median 110%					\$388,300	\$423,500		
14 pts								
Low - 76%					\$268,280	\$292,600		
Median 110%					\$388,300	\$423,500		
15 points								
Low - 75%					\$264,750	\$288,750		
Required Number of Affordable Units								
								5.44
Required Fractional Payment								
		0.44	\$150,000					\$66,000
13 pts								
Low - 76%					2	1		3
Median 110%					1	1		2
14 pts								
Low - 76%					2	2		4
Median 110%					1	0		1
15 points								
Low - 75%					3	2		5
Unit Mix								
13 points								
Market Rate Units					31	26	6	63
Affordable Low					2	1		3
Affordable Median					1	1		2
14 points								
Market Rate Units					31	26	6	63
Affordable Low					2	2	0	4
Affordable Median					1	0	0	1
15 points								
Market Rate Units					31	26	6	63
Affordable Low					3	2	0	5
Affordable Median					0	0	0	0

Appendix Table 6
Terra Mia - Detached; R-2 SFD & R-1 7000

				Total
Revenues				
13 points				
Market Rate Units	\$25,356,176	\$23,817,857	\$6,414,000	\$55,588,034
Affordable Low	\$536,560	\$292,600	\$0	\$829,160
Affordable Median	\$388,300	\$423,500	\$0	\$811,800
Less fractional unit in-lieu fee payment				-\$66,000
Total Revenue				\$57,162,994
14 points				
Market Rate Units	\$25,356,176	\$23,817,857	\$6,414,000	\$55,588,034
Affordable Low	\$536,560	\$585,200	\$0	\$1,121,760
Affordable Median	\$388,300	\$0	\$0	\$388,300
Less fractional unit in-lieu fee payment				-\$66,000
Total Revenue				\$57,032,094
15 points				
Market Rate Units	\$25,356,176	\$23,817,857	\$6,414,000	\$55,588,034
Affordable Low	\$794,250	\$577,500	\$0	\$1,371,750
Affordable Median				\$0
Less fractional unit in-lieu fee payment				-\$66,000
Total Revenue				\$56,893,784
Foregone Revenue with BMR Units				
13 points				
Total				\$2,711,006
Per Affordable Unit				\$498,347
14 points				
Total				\$2,841,906
Per Affordable Unit				\$522,409
15 points				
Total				\$2,980,216
Per Unit				\$547,834

Appendix Table 7

Paseo Seville - Detached; R-2 SFD & R-1 7000

Plan	1	2	3	4	5	6	7	
Beds	4	3	3	3	4	0	0	
Num. Units	3	3	7	5	5	0	0	23
% of unit mix	13%	13%	30%	22%	22%	0%	0%	100%
SF	1,878	2,151	2,299	2,337	2,714	0	0	2,323
Market Rate Price	\$880,000	\$780,000	\$925,000	\$965,000	\$1,000,000	\$0	\$0	\$925,217
Total Potential Rev.	\$2,640,000	\$2,340,000	\$6,475,000	\$4,825,000	\$5,000,000	\$0	\$0	\$21,280,000
					3br	4br	5br	Total Phase
Avg. Number of Units					15	8	0	23
Percent of Units					65%	35%	0%	100%
Market Rate Price					\$909,333	\$955,000	\$0	\$925,217
Required Affordable Mix								
13 pts								
Low - 76%					0.04	0.04		4.00%
Median 110%					0.04	0.04		4.00%
14 pts								
Low - 76%					0.06	0.06		6.00%
Median 110%					0.02	0.02		2.00%
15 points								
Low - 75%					0.08	0.08		8.00%
Affordable Prices								
13 pts								
Low - 76%					\$268,280	\$292,600		
Median 110%					\$388,300	\$423,500		
14 pts								
Low - 76%					\$268,280	\$292,600		
Median 110%					\$388,300	\$423,500		
15 points								
Low - 75%					\$264,750	\$288,750		
Required Number of Affordable Units								
13 pts								
Low - 76%					1	0		1
Median 110%					1	0		1
14 pts								
Low - 76%					1			1
Median 110%					0	1		1
15 points								
Low - 75%					1	1		2
Unit Mix								
13 points								
Market Rate Units					13	8	0	21
Affordable Low					1	0		1
Affordable Median					1	0		1
14 points								
Market Rate Units					14	7	0	21
Affordable Low					1	0	0	1
Affordable Median					0	1	0	1
15 points								
Market Rate Units					14	7	0	21
Affordable Low					1	1	0	2
Affordable Median					0	0	0	0

Appendix Table 7
Paseo Seville - Detached; R-2 SFD & R-1 7000

Revenues				
13 points				
Market Rate Units	\$11,821,333	\$7,640,000	\$0	\$19,461,333
Affordable Low	\$268,280	\$0	\$0	\$268,280
Affordable Median	\$388,300	\$0	\$0	\$388,300
Total Revenue				\$20,117,913
14 points				
Market Rate Units	\$12,730,667	\$6,685,000	\$0	\$19,415,667
Affordable Low	\$268,280	\$0	\$0	\$268,280
Affordable Median	\$0	\$423,500	\$0	\$423,500
Total Revenue				\$20,107,447
15 points				
Market Rate Units	\$12,730,667	\$6,685,000	\$0	\$19,415,667
Affordable Low	\$264,750	\$288,750	\$0	\$553,500
Affordable Median				\$0
Total Revenue				\$19,969,167
Foregone Revenue				
13 points				
Total				\$1,162,087
Per Affordable Unit				
14 points				
Total				\$1,172,553
Per Affordable Unit				
15 points				
Total				\$1,310,833
Per Unit				
				\$712,409

Appendix Table 8
Amadora - R-1 9,000 & above lot size

	Plan	A	C	B	
Beds		4	4	4	
number of units		10	7	6	23
SF		3,349	4,050	5,123	4,025
Market Rate Price		\$1,150,000	\$1,270,000	\$1,330,000	\$1,233,478
Potential Market Rate Revenue	\$11,500,000	\$8,890,000	\$7,980,000		\$28,370,000
Required Affordable Mix					
13 pts					
	Low - 80%				4.00%
	Mod. 120%				4.00%
14 pts					
	Low - 80%				6.00%
	Mod. 120%				2.00%
15 points					
	Low - 80%				8.00%
	Mod. 120%				0.00%
Required Number of Affordable Units					
					1.84
Required Fractional Unit Payment					
			0	\$150,000	\$0
13 pts					
	Low - 80%	1			1
	Mod. 120%	1			1
14 pts					
	Low - 80%	1			1
	Mod. 120%	1			1
15 points					
	Low - 80%	2			2
	Mod. 120%				0
Unit Mix					
13 points					
Market Rate Units					21
Affordable Low					1
Affordable Median					1
14 points					
Market Rate Units					21
Affordable Low					1
Affordable Mod					1
15 points					
Market Rate Units					21
Affordable Low					2
Affordable Mod					0
Affordable Prices					
	Low - 80%	\$308,000	\$308,000	\$308,000	\$308,000
	Mod. 120%	\$462,000	\$462,000	\$462,000	\$462,000

Appendix Table 8
Amadora - R-1 9,000 & above lot size

Revenues

13 points

Market Rate Units	\$25,903,043
Affordable Low	\$308,000
Affordable Median	\$462,000
Less Fractional Unit Pmt	\$0
Total Revenue	\$26,673,043

14 points

Market Rate Units	\$25,903,043
Affordable Low	\$308,000
Affordable Median	\$462,000
Less Fractional Unit Pmt	\$0
Total Revenue	\$26,673,043

15 points

Market Rate Units	\$25,903,043
Affordable Low	\$616,000
Affordable Median	\$0
Less Fractional Unit Pmt	\$0
Total Revenue	\$26,519,043

Foregone Revenue

13 points

Total	\$1,696,957
Per Affordable Unit	\$922,259

14 points

Total	\$1,696,957
Per Affordable Unit	\$922,259

15 points

Total	\$1,850,957
Per Unit	\$1,005,955