



HOUSING AUTHORITY AGENDA REPORT

Meeting Date: June 6, 2019

From: Clay Holstine, Executive Director and Michael Roush, Legal Counsel

Subject: Amendments to the Brisbane First Time Homebuyer Program Manual and to the Resale Restriction Agreement and Option to Purchase

Purpose

To revise the Brisbane First Time Homebuyer Program (“Program”) and the Resale Restriction Agreement and Option to Purchase (“Resale Agreement”) to ensure successful purchase and resale transactions of properties subject to the Program’s provisions based on current administration practices, mortgage lending standards, and applicable State affordable housing laws.

Recommendation

That the Housing Authority amend the Program and the Resale Agreement as proposed via adoption of Resolution HA 2019-01.

Background

From 1997 to 2010, the Brisbane Redevelopment Agency (“Agency”) provided five “silent” second mortgage loans under its First Time Home Buyer Program (“Program”) to assist low and moderate income households purchase new market-rate homes in Brisbane. These “silent” second mortgage loans are zero interest loans and do not require monthly or periodic payments by the borrower. Rather, the loan is repaid when the property is sold, along with a share (based on loan to value ratio) of any appreciation (“shared appreciation”) in the value of the property. As a condition of these loans, borrowers are required to enter into Resale Agreements that place price and occupancy restrictions on the resale of the property in order to maintain the affordability of the property and ensure future buyers meet qualifying income restrictions. Following the dissolution of the Redevelopment Agency in 2011, the Brisbane Housing Authority has taken over the Program.

In February 2018, the Housing Authority for the first time received a resale notice for property purchased with a Program loan. When no purchasers meeting the Program’s eligibility criteria were identified after a six month search, the Housing Authority exercised its option to purchase the property in order to sell it to an eligible purchaser, thereby allowing the then current owner to sell.

Subsequently, in November 2018 the Housing Authority amended the Program to increase the maximum affordable housing cost for higher earning households in each income category, to assist interested applicants to qualify for the Program. In January 2019, staff reopened the time window to accept applications for purchase of the property. Although several applications were submitted, only

one applicant qualified for a loan under the Program. Ultimately that applicant did not qualify for a first mortgage to purchase the property and therefore the sale could not proceed.

In light of the above, staff, as well as the Program's first mortgage lender (Boston Private) and the Program's consulting affordable housing coordinator (Renee Daskalakis), concluded that the Program and/or the Resale Agreement needed to be modified in order to enlarge the pool of applicants who could qualify as "Eligible Purchasers". The City Council affordable housing subcommittee (Mayor Davis and Councilmember Lentz) met with staff in April 2019 to discuss these potential modifications to ensure successful resale of the property. The modifications discussed below reflect the subcommittee's discussion and direction to staff.

Discussion

1. **Consistency with First Mortgage Lender Requirements.** Amend the Program to be consistent with the first mortgage lender's current eligibility requirements to ensure that applicants found eligible for a Program loan will also be eligible for a first mortgage.
2. **Source of Down Payment Funds.** Amend the Program to allow up to 1% of the down payment to come from grants, gifts, or forgivable loans, if acceptable to the first mortgage lender.
3. **Adjust Net Assets for Income Calculation and Reserve Fund Requirements.** Amend the Program to adjust the income criterion to only apply to assets in excess of \$60,000 and allow up to \$60,000 to be retained as liquid reserves where required by the first mortgage lender.
4. **Expand Eligibility Criteria.** Amend the Program and the Resale Agreement to include households living or working in the District 5 electoral district which includes Brisbane, Colma, Daly City, portions of San Bruno, portions of South San Francisco and some unincorporated areas. The Program and Resale Agreement are currently limited to first time homebuyers who 1) live in Brisbane, or 2) work in Brisbane, or 3) have an immediate family member who has lived in Brisbane, or 4) work for a school district serving Brisbane. These eligibility criteria have limited the pool of potential Eligible Purchasers for a resale property. The proposed amendments would retain the current residency/employment criteria as preferences but not exclusive factors for applicants.
5. **Allow the Authority to Reduce or Waive its Share of Shared Appreciation.** Amend the Program and Resale Agreement to provide the Authority with discretion to reduce or waive its share of "Shared Appreciation" if the selling household has resided on the property for ten years or less. Shared appreciation (described in Section B.2 of the Program Manual, attached) may be a disincentive for first time homebuyers purchasing a resale unit under the Program as, typically, such purchasers reside in first homes for only five to ten years. This amendment would address that disincentive.
6. **Flexibility in Sales Price.** As a condition of the Program loan, for purposes of sale, the property is allowed to appreciate only as much as the annual median income ("AMI") increases between the date of purchase and the date of resale. In San Mateo County, for example, the increase in AMI between 2009 and 2018 was about 20%.

Even though this percentage increase is substantially less than the median single family home price increases that have occurred in that same time frame (closer to 130%), this limitation presents a challenge for finding eligible purchasers who wish to purchase property utilizing a Program loan, as even a restricted resale sales price may exceed the reach of potential low or moderate income household purchasers.

To address this challenge, the amendments to the Program will allow the Authority the flexibility to adjust the sales price of a resale unit to reflect a price that is affordable to lower income households, only if and after the Housing Authority exercises its option to buy the property from the seller at the restricted resale price. This would ensure the seller is not penalized and realizes the expected return on investment as provided in the Resale Agreement and should result in a speedier resale process. By reducing the purchase price, however, the Authority's original silent second loan may never be fully repaid. Staff believes that this is a fair trade off for the Authority to provide opportunities for first time home buyers.

Next Steps

If the Authority approves these amendments, staff will relist and market the property at 1 San Bruno Ave., Unit D for eligible purchasers under the revised eligibility criteria.

Fiscal Impact

No direct fiscal impact. Should the Housing Authority subsequently authorize a reduction in the sales price of a resale property, the Housing Authority could potentially not recover fully a previously issued silent second loan.

Measure of Success

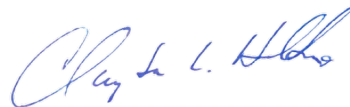
Adoption of the Program and Resale Agreement amendments will ensure broader eligibility of potential low and moderate income homebuyers for the purchase and resale transactions of properties subject to First Time Homebuyer Program.

Attachments

1. Resolution HA 2019-01 with Exhibits (including draft amended First Time Homebuyer Program Manual and a revised Section 2 of the Resale Agreement)



Michael Roush, Legal Counsel



Clay Holstine, Executive Director

RESOLUTION NO. HA 2019-01
A RESOLUTION OF THE BRISBANE HOUSING AUTHORITY ADOPTING
AMENDMENTS TO THE FIRST TIME HOMEBUYER LOAN PROGRAM MANUAL AND THE
RESALE RESTRICTION AGREEMENT AND OPTION TO PURCHASE

WHEREAS, in 1997, the former Redevelopment Agency (“Agency”) of the City of Brisbane first established the Brisbane First Time Homebuyer loan program (“Program”) to provide down payment assistance to eligible low and moderate income households to purchase properties in Brisbane funded by the Agency’s low and moderate income housing fund; and

WHEREAS, the Program was subsequently amended in 2004 and 2008 to modify the Program’s eligibility criteria to make the Program more accessible to low and moderate income households as market-rate housing prices increased significantly over time; and

WHEREAS, in 2011, following the dissolution of the Agency, the City Council adopted Resolution No. 2011-15 to establish the Brisbane Housing Authority (“Authority”) and transferred the low and moderate income housing fund from the Agency to the Authority; and

WHEREAS, changes in the real estate market and affordable housing lending best practices since the Program was last updated in 2008 have resulted in difficulty in implementing the Program’s purchase and resale restriction provisions when properties are purchased under the Program or are purchased under the Program and then listed for resale; and

WHEREAS, the Authority adopted amendments to the Program in November 2018 to ensure that property resales through the Program, and any future new loans issued under the Program either for purchases or resales, will reflect the current real estate market context and expand the pool of eligible purchasers, while maintaining consistency with applicable State affordable housing law; and

WHEREAS, additional modifications to the Program Manual and to the Resale Restriction Agreement and Option to Purchase are necessary to ensure the Program Manual and Resale Agreement are consistent with current lending practice and expand the eligibility of potential purchasers to ensure successful resale of properties purchased under the Program.

NOW, THEREFORE, the Brisbane Housing Authority resolves as follows:

1. The First Time Homebuyer Loan Program Manual is hereby amended as shown in Exhibit A to this Resolution.
2. Section 2 of the Resale Restriction Agreement and Option to Purchase is hereby amended as shown in Exhibit B to this Resolution.

Madison Davis, Chair
Brisbane Housing Authority

I hereby certify that the foregoing Resolution HA No. 2019-01 was duly and regularly adopted at a meeting of the Brisbane Housing Authority on June 6, 2019, by the following vote:

AYES:
NOES:
Absent:

Ingrid Padilla, Authority Secretary

Exhibit A:
Brisbane First Time Homebuyer Program Manual



Brisbane First Time Homebuyer Program Manual



Brisbane Housing Authority
50 Park Place
Brisbane, CA 94005

20198

Brisbane Housing Authority

Board Members (201~~9~~8):

~~Madison Davis~~ ~~W. Clarke Conway~~,

Chair

Karen Cunningham

~~Madison Davis~~

Cliff Lentz

Terry O'Connell

W. Clarke Conway

Executive Director:

Clayton Holstine

General Counsel:

Michael Roush

This First Time Homebuyer Program Manual was adopted by the Brisbane Housing Authority via Resolution HA 201~~8~~9-0~~4~~1 and may be amended from time to time.

The Program is administered by the City of Brisbane Community Development Department. Questions about the Program may be directed to the Community Development Department:

Phone: (415) 508-2120

Email: planning@brisbaneca.org

Address: Community Development Department
First Time Homebuyer Program
50 Park Place
Brisbane, CA 94005

Section 1. Program Description

A. Introduction

The Brisbane Housing Authority (the Authority) is pleased to offer the Brisbane First Time Homebuyer Program, hereinafter referred to as the **Program**. The Authority recognizes the serious financial obstacles that low and moderate income households face in attempting to achieve the "American Dream" of home ownership. Because of the high cost of purchasing a home, many low and moderate income households are forced to choose between permanently renting or relocating outside of the community in order to buy their first home. The Program provides financial assistance in the form of a "silent" second mortgage. The Program is available for low and moderate income households of single-family homes or condominiums located anywhere within the City of Brisbane. It will serve qualified, low and moderate income households if one or more of the applicants is a first time home buyer (as defined herein) and, if for at least within one year from the date the application to determine eligibility is filed, one or more of the applicants

1. Has been a resident of Brisbane; or
2. Has an immediate family member (parent, child or sibling) who has been a resident of Brisbane; or
3. Has his/her primary employment (largest source of income) located within the City of Brisbane; or
4. Has been primarily employed by the Brisbane School District, the Jefferson Union High School District or the San Mateo County Community College District.

A low income household is a household whose income does not exceed the maximum gross income, adjusted for household size, for a Lower Income Household in San Mateo County, as defined and published annually by the California Department of Housing and Community Development (HCD). A moderate income household is a household whose income, adjusted for household size, does not exceed 120% of the Median Income in San Mateo County, as defined and published annually by HCD.

This Program may coordinate with the California Housing Finance Agency's Mortgage Credit Certificate Program ("MCC") which offers a federal income tax credit to first time homebuyers. However, the MCC program has different income limits than the Program and a buyer eligible for the Program may not qualify for a mortgage credit certificate. The Authority will advise applicants regarding eligibility for the MCC program and how to apply for it.

B. Silent Second Mortgage Program

The **Program** will provide a loan to qualified, low-income or moderate income households, who are first time homebuyers, up to \$200,000 for the purchase of a home. The actual loan amount will be the difference*, up to \$200,000, between the purchase price and the sum of the down payment and the maximum first mortgage amount that is affordable to the household under State law (see Affordability Requirement, Sec. 1.D.5., below), or the maximum first mortgage for which the buyer can qualify on the basis of income, whichever is less.

*If this difference is greater than \$200,000 for a low or moderate-income household, the borrower must increase the down payment by an amount sufficient to complete the purchase of the home. The first mortgage amount may not be greater than an amount that results in an affordable housing cost under State law (see Affordability Requirement, Sec. 1.D.5., below) or the household will not be eligible for Authority assistance.

1. **Minimum Down Payment.** The household will be required to make a down payment of at least 3% of the purchase price and cover normal closing costs associated with the purchase of a home. The first mortgage lender may require a larger down payment. Fees payable to any Authority contractors, which may include real estate brokers or agents, will be paid by the Authority, not the household.
2. **Loan Term.** The loan term will be for 45 years; zero percent interest with contingent interest (Shared Appreciation) and principal due at the occurrence of a “triggering event”. A triggering event includes; 1) a sale, lease, or unauthorized transfer of the property within ten (10) years of initial purchase by the homebuyer, 2) default on the terms of the Authority loan, Resale Restriction Agreement, or First Lender Loan, and 3) maturity (end of the 45 year term of the Authority loan). Events that trigger repayment of the loan principal and contingent interest are fully spelled out in the Promissory Note, Deed of Trust and Resale Restriction Agreement documents which are in Section 3 of this Manual.

Contingent interest will be a portion of the appreciation of the property (“Shared Appreciation”) at the time of the triggering event. Appreciation is primarily the difference between the original purchase price and the sale price of the property as determined by the Resale Restriction Agreement. For a triggering event other than a sale of the property, the appreciated value of the property will be determined by an appraisal or mutual agreement between the household and the Authority. The share of appreciation due as contingent interest will be equal to the ratio of the Authority loan to the purchase price.

For example, if the property sold to the household for \$400,000 and the Authority loan was \$100,000, the Authority loan represents 25% of the purchase price of the property. The contingent interest would thus be 25% of any appreciation. If the property were sold for \$500,000, the appreciation would be \$100,000 and the contingent interest would be 25% of that amount or \$25,000. (Appreciation Amount and Shared Appreciation are more fully defined in the Promissory Note and Resale Restriction Agreement, which are in Section 3 of this Manual).

3. **Resale Restrictions.** As a condition of receiving the Authority loan, and to guarantee that the property remains affordable for at least the 45 year term of the loan, the household will be required to sign and record a Resale Restriction Agreement against the property, which will limit the future resale price of the property. The Agreement will require that if the household wishes to sell the property, the Authority will have the

option to purchase the property at the restricted price. The Authority may, instead of itself purchasing the property, assign its right to purchase the property to another public agency, a nonprofit corporation, or to an Eligible Purchaser. Should the Authority exercise its option to purchase the property at the restricted price, the Authority may adjust the subsequent sales price of the unit upon resale to an eligible purchaser.

If the Authority does not exercise its option to purchase the property, the property must be sold to a low income household if the current household is low income or to a low or moderate income household if the current household is a moderate income household and the new household, upon approval by the Authority, will be able to receive a new loan from the Authority for the amount of outstanding principal and the contingent interest amount due under the Authority loan. The maximum resale price of the property will be set according to an index based on the cumulative increase in the median income for San Mateo County as published by HCD. The resale restriction will remain in effect for 45 years from the close of escrow. The Authority's option to purchase and the restrictions on resale of the property are fully spelled out in the Resale Restriction Agreement which is included in Section 3 of this Manual. The restricted price may be adjusted to reflect the value of Eligible Capital Improvements. (See Section 1.C.6., below)

C. **Household's' Eligibility Requirements**

A household is eligible for the Program if it meets the following criteria. ~~The Authority will determine and certify the household's eligibility based on these criteria.~~

1. First Time Homebuyer

A "First time Homebuyer" is defined as an individual who has not had any ownership interest such as fee simple, joint tenancy, tenancy in common, life estate, shareholder in a cooperative, or interest held in trust for the individual that would constitute an ownership interest if held by the individual, in his/her primary residence, in the past three years as of the date of application. All persons in the household who will be on title must meet the first time homebuyer requirement.

In addition, an individual who is divorced or legally separated from his or her spouse is also considered a first time homebuyer if the individual, while married, owned property with his or her spouse but no longer has an ownership interest in the property as a result of a court approved dissolution proceeding or property settlement.

2. Household Income - See Attachment #1, *Income Limits*

A moderate income household's income must not exceed 120% of the median income for San Mateo County, adjusted for household size, as published annually by the California Department of Housing and Community Development (HCD). A low income household's income must not exceed the lower income

limit for San Mateo County, adjusted for household size, as published annually by HCD.

“Household ” shall be defined as a single person or two or more persons sharing residency whose income resources are available to meet the household's needs and who are related by blood, marriage or operation of law, or who have registered as domestic partners, or who give evidence of a stable relationship which has existed over a period of one year. In addition, all co-owners and/or co-borrowers shall be considered as part of the household for purposes of determining program eligibility.

Pursuant to Title 25 California Code of Regulations, §6914, "gross income" shall mean the anticipated income of a person or household for the twelve-month period following the date of determination of income. If the circumstances are such that it is not reasonably feasible to anticipate a level of income over a twelve-month period, a shorter period may be used subject to a re-determination at the end of such a period.

"Gross Income" shall consist of the following:

- a) Except as provided in subdivision (b), all payments from all sources received by each member of the household who is not a minor shall be included in the income of a household. Income shall include, but not be limited to:
 - 1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
 - 2) The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
 - 3) Interest and dividends;
 - 4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;
 - 5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see subdivision (b)(3)).
 - 6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:
 - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus;

- (B) The maximum amount which the public assistance agency could in fact allow for the family for shelter and utilities,
- 7) Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing on the property;
 - 8) All regular pay, special pay and allowances of a household member of the Armed Forces (whether or not living on the property) who is head of the family or spouse (but see subdivision (b)(5)).

Where a household has net assets in excess of \$~~500~~60,000, income shall include the actual amount of income, if any, derived from all of the net household assets or 10 percent of the value of all such assets, whichever is greater. For purposes of this section, net household assets means value of equity in real property other than the household's full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

- b) The following items shall not be considered as income:
- 1) Casual, sporadic or irregular gifts;
 - 2) Amounts which are specifically for or in reimbursement of the cost of medical expenses;
 - 3) Lump-sum additions to household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
 - 4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;
 - 5) The special pay to a member of the Armed Services who is the head of a family away from home and exposed to hostile fire;
 - 6) Relocation payments made pursuant to federal, state, or local relocation law;
 - 7) Foster child care payments;
 - 8) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;
 - 9) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:

(A) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs.

(B) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

Current income from all household members over the age of 18 who are not full time students, listed for purposes of qualifying under the household size criteria, must be included for purposes of qualifying under household size income criteria. (If an individual is counted as a member of the household in order to meet the household size income limit criteria, then that member's income must also be included in the determination of household income.) For additional information regarding Co-Borrowers' requirements, see Program Requirements, 1.E.4., below.

3. Live or Work in ~~the City of Brisbane~~San Mateo County (District 5)

The household must demonstrate to the Authority that ~~f~~or at least one year immediately prior to the date of application and currently, -one or more members of the household has either:

- a) Established his/her primary residence in ~~the City of Brisbane~~San Mateo County, District 5 electoral district; or
- b) Established his/her primary source of employment (largest source of income) in ~~the City of Brisbane~~San Mateo County, District 5 electoral district.

Additionally, where there are multiple applicants for a Program loan or resale opportunity, preference shall be given to applicants with one or more members of the household who have either:

- c) Established his/her primary residence in the City of Brisbane; or
- d) Established his/her primary source of employment (largest source of income) in the City of Brisbane; or
- e) Has an immediate family member (parent, child, or sibling) who has established his/her primary residence in the City of Brisbane for at least one year prior to the date of the household's application; or
- f) For a period of at least one year from the date of the household's application, had his/her primary source of employment with the Brisbane School District, the Jefferson Union High School District or the San Mateo County Community College District.

~~4. Immediate Family Member is a Current Brisbane Resident~~

~~As an alternative to 3 above, a household may qualify for the Program if one or more members of the household has a parent or a sibling who, for at least one year prior to the date of the household's application, has established his/her primary residence in the City of Brisbane.~~

~~5. Employee of a School District Serving Brisbane~~

~~As an alternative to 3 and/or 4, above, a household may qualify for the Program if one or more members of the household has, for a period of at least one year from the date of the household's application, had his/her primary source of employment with the Brisbane School District, the Jefferson Union High School District or the San Mateo County Community College District.~~

~~6.4. Qualify for a First Mortgage~~

~~The household must qualify for a first mortgage secured by a deed of trust on the property from a lender approved by the Authority, which lender will use Freddie Mac or Fannie Mae affordable lending qualifying criteria or other prudent and appropriate qualifying criteria commonly used in the lending industry.~~

~~The down payment requirement will be determined by the first mortgage lender; however, the combined loan to value (CLTV) of the first mortgage, the Authority's loan and any Authority approved loans junior to the Authority's loan shall not exceed 97%.~~

D. Property Requirements

1. Purchase Price

The purchase price shall be defined as the total cost of acquiring the property, including all amounts paid by the purchaser as consideration for the property but not including the usual and reasonable closing costs related to the purchase of the property by the purchaser, such closing costs to include expenses for title insurance, county transfer tax, recording fees, "points" and legal fees.

- a) Maximum purchase price for property that is not part of a "Below Market Rate" project nor subject to a pre-existing Resale Restriction Agreement.

The maximum purchase price for the property eligible for assistance under the Program shall be the median sales price for property comparable to the property in question for the previous twelve months in the City of Brisbane as published by data reporting services generally used in the real estate

industry to report such sales prices. If there is no such comparable property, then the maximum purchase price shall be the median sales price for property comparable to the property in question for the previous twelve months in San Mateo County.

- b) Maximum purchase price for property that is part of a “Below Market Rate” project or is subject to a pre-existing Resale Restriction Agreement.

The maximum purchase price for the property eligible for assistance under the Program shall be as set forth in the Below Market Rate project program documents or in the pre-existing Resale Restriction Agreement applicable to the property.

2. Location

The property must be located within the City limits of Brisbane.

3. Single Family Residence

The property must be a single family residence defined as an attached or detached residential unit or condominium which allows the Authority loan to be secured by the Program's standard deed of trust.

4. Primary Residence- Rental Prohibited

The purpose of this Program is to assist qualified households to purchase their primary residence in Brisbane. **THE PROPERTY MUST BE OCCUPIED BY THE MEMBERS OF THE HOUSEHOLD. USE OF THE PROPERTY FOR RENTAL PURPOSES IS NOT ALLOWED AND WILL CAUSE THE AUTHORITY LOAN TO IMMEDIATELY BECOME DUE AND PAYABLE, ALONG WITH PENALTIES AND THE HOUSEHOLD COULD BE REQUIRED TO SELL THE PROPERTY TO THE AUTHORITY OR A NEW, QUALIFIED HOUSEHOLD.**

5. Property Size

For the household being assisted to be eligible for Authority funds, the property must be the appropriate size for the household. Appropriate property sizes based on the number of household members is as follows:

Number of People in Household	Number of Bedrooms in Property
1-2 people	1 bedroom
2-3 people	2 bedrooms
3-4 people	3 bedrooms
5+ people	4 bedrooms



The minimum number of bedrooms appropriate for households of more than five people shall be subject to approval on a case by case basis consistent with all applicable State and City policies regarding occupancy and overcrowding.

5-6. Affordability Requirement

For the household being assisted to be eligible for Authority funds, the household’s housing cost must not exceed the affordable housing cost as defined by California Health & Safety Code §50052.5(b) and Title 25, California Code of Regulations, §6920, except where modified by this Program manual. Housing cost includes all of the following costs associated with a particular housing unit: (a) principal and interest on mortgage loans, and any loan fees associated therewith; (b) property taxes and assessments; (c) fire and casualty insurance; (d) property maintenance and repairs; (e) a reasonable allowance for utilities not including telephones; (f) homeowners association fees; and (g) space rent, if any.

Utility allowances shall be based on U.S. Department of Housing and Urban Development (HUD) forms as calculated annually by the San Mateo County Department of Housing. Current utility allowances are attached to this Manual, as appropriate to the specific housing unit under consideration for the loan.

If the maximum Authority loan and the maximum affordable first mortgage loan are not sufficient to complete the purchase of the property, the household must increase the down payment by an amount sufficient to cover the difference or the household will not be eligible for Authority assistance.

a) Moderate Income Households

The total housing cost for any moderate income household may not be less than 28% of that household’s actual income. Additionally, the maximum affordable housing costs for moderate income households shall be calculated as follows:

- For a moderate income household earning up to 110% of the area median income (“AMI”), the maximum affordable housing cost is 35% of 110% of AMI, adjusted for household size. An example of this calculation is described in the table below using 2018 San Mateo County household income levels for two different hypothetical households.

	Household size	AMI for household size	Gross income	Gross income as % of AMI	Max. housing cost	Min. housing cost
Household 1	4	\$118,400	\$118,400	100%	35% x \$130,240 / 12 mos = \$3,799/ month	28% x \$118,400 = \$2,763/month
Household 2	4	\$118,400	\$130,240	110%		28% x \$130,240 = \$3,039/month

- For moderate income households earning between 110% and 120% of AMI, the maximum affordable housing ~~cost combined with all other consumer debt (e.g., credit cards, car payment, etc.) may~~ shall not exceed ~~4338%~~ 4338% of the household's ~~actual~~ income. An example of this calculation is described in the table below using 2018 San Mateo County household income levels for two different hypothetical households.

	Household size	AMI for household size	Gross income	Gross income as % of AMI	Max. housing cost	Min. housing cost
Household 3	4	\$118,400	\$136,160	115%	4338% x \$136,160 / 12 mos = \$4, 311,879 /month	28% x \$136,160 / 12 mos = 3,177/month
Household 4	4	\$118,400	\$142,080	120%	4338% x \$142,080 / 12 mos = \$4, 499,091 /month	28% x \$142,080 / 12 mos = 3,315/month

b) Low Income Households

- For low income households earning between 50% and 70% AMI, the maximum affordable housing cost is 30% of 70% of AMI, adjusted for household size. An example of this calculation is described in the table below using 2018 San Mateo County household income levels for two different hypothetical households.

	Household size	AMI for household size	Gross income	Gross income as % of AMI	70% of AMI for household size	Max. housing cost
Household 1	4	\$118,400	\$76,960	65%	\$82,880	30% x \$82,880 / 12 mos = \$2,072/month
Household 2	4	\$118,400	\$82,880	70%		

- The maximum affordable housing cost for a low income household earning between 70% AMI and the lower income limit for San Mateo County, as published annually by HCD, is ~~4338~~% of the ~~actual~~ income of the household, ~~inclusive of all consumer debt (e.g. credit cards, car payments, etc.)~~. An example of this calculation is described in the table below using 2018 San Mateo County household income levels for two different hypothetical households.

	Household size	AMI for household size	Gross income	Gross income as % of AMI	Max. housing cost
Household 3	4	\$118,400	\$88,800	75%	4338 % x \$88,800 / 12 mos = \$2,812 / 3,182/month
Household 4	4	\$118,400	\$112,480	95%	4338 % x \$112,480 / 12 mos = \$3,561.4 / 031/month

6.7. Capital Improvements

If the household who purchased the property with a Program loan has made Eligible Capital Improvements, as defined in Section 2.H below, to the property that the household wishes to include in the calculation of the restricted sales price for the property (see Section 1.B above), a description of the improvements, the date the improvements were made, a copy of the letter granting prior Authority approval of the improvements, evidence of cost of the improvements, and an appraisal of the value added to the property by the Eligible Capital Improvements must be submitted to the Authority at the time the household notifies the Authority of the household’s intention to sell the property

The adjustment to the restricted sales price for such Eligible Capital Improvements shall be limited to increases in value to the property as a result of the improvements as determined by an appraisal, including any depreciation in value of the capital improvements since the time of installation, and not the cost of construction of the improvements to the property. The restricted sales price shall include a downward adjustment, where applicable, in an amount necessary to repair any violations of applicable building, plumbing, electric, fire or housing codes or any other provisions of the Brisbane Building Code, as well as any other repairs needed to put the property into a "sellable condition". Items necessary to put the property into sellable condition shall be determined by the Authority or its designee, and may include cleaning, painting and making needed structural, mechanical, electrical, plumbing and fixed appliance repairs and other deferred maintenance repairs.

The rules pertaining to improvements to the property are fully spelled out in the Resale Restriction Agreement which is included in Section 3 of this Manual.

E. Other Program Requirements

1. ~~Attendance at Workshop~~ Completion of Homebuyer Class, Course, Workshop, or Training

In order to participate in the Program, it is required that all members of the household who will be on title attend a first time Hhomebuyer workshop, training, or class approved by the Authority. Online courses may be substituted for in-person classes with previous authorization from the Authority. Evidence of completion of ~~the a first time -Hh~~homebuyer workshop or class will be required as part of the application package.

2. Application

Applications will be processed on a first come, first served basis. ONLY complete applications will be accepted. All applications will be submitted to the Authority for consideration. The Authority will conduct a lottery (based on household income and household size) if there is more than one household eligible for an Authority loan or resale opportunity.

3. Inheritance

In the event of death of a member of the household, there are limitations on the ability of the person's heirs to retain ownership of the property and to assume the Authority loan. An heir may retain ownership of the property and receive a new Authority loan if the heir is in the same or lower income category as the person who died. In other words, if the person who died received a loan of up to

\$100,000 as a moderate income household, if an heir would be considered a low or moderate income household, the heir may assume the loan. If, in this case, the heir would be considered a low income household, the heir may apply to the Authority for additional assistance but the Authority is under no obligation to grant additional assistance to the heir. If the person who died received a loan of up to \$200,000 as a low income household, the heir must also be considered a low income household in order for the loan to be assume. If the heir would not be considered a low or moderate income household, the heir must sell the property to the Authority or an Eligible Purchaser within one year from the time the heir takes title to the property. A non-qualifying heir is not required to occupy the property prior to the sale but if the property is rented, the tenant must be a low or moderate income household and the rent must be set at an affordable rent level as defined by the Authority. The rental agreement must be approved in advance by the Authority.

The rules pertaining to inheritance are fully spelled out in the Resale Restriction Agreement which is included in Section 3 of this Manual.

Section 2. -Administration and Procedure

A. Introduction

The Authority may hire a consultant to administer the Program and assist households in completing the necessary application forms and performing all the steps necessary to complete the home buying process. In general, those interested in participating in the Program will work with the Authority's consultant or directly with the Authority, as applicable, to apply for the Program. The Authority's consultant may also work with applicants to assist with the first mortgage loan application procedures. The Program eligibility application must be completed in addition to the application for a mortgage from the first mortgage lender. The Authority will document the applicant's eligibility for the Program and compliance with the Authority's housing policy requirements.

The Brisbane Housing Authority is the sponsor for the Program and the funds for the Program come from the Authority's Low and Moderate Income Housing Fund. All loans made under this Program must comply with the requirements of applicable State law. The Authority may delegate the administrative functions of the Program to its consultant.

B. Loan Origination and Homeownership Program Application

1. A household ("the applicant") applies for the Program by completing a Program eligibility application. The information on the application will be verified in the same manner as information on the first mortgage lender's application is verified.
2. To verify an applicant's first time homebuyer status, the Authority and/or the Authority's consultant will need to examine the applicant's federal income tax returns for the last three years.
3. The Authority or the Authority's consultant will certify that both the applicant and the property meet the Program criteria and are eligible for assistance.
4. The Authority or the Authority's consultant will calculate the appropriate Authority loan amount using the Eligibility Worksheet

An applicant applies for a first mortgage as instructed by the first mortgage lender. The first mortgage lender will process the application using its standard procedure.

C. Underwriting Requirements

1. Fannie Mae and/or Freddie Mac has established requirements for the underwriting of first mortgage loans. The Authority's intent is to approve loans that follow these guidelines. The Authority will maintain a list of approved first mortgage lenders that will accept the Authority's subordinate loan.

2. Households must demonstrate compliance with the Borrower's Eligibility Requirements (Section 1. C.), Property Requirements (Section 1. D.) and Other Program Requirements (Section 1. E.).
3. The first mortgage loan must have a fixed interest rate for at least the first five years of the loan term.
4. The household must make a down payment of at least three percent (3%) of the purchase price ~~from the household's own funds~~. Up to one percent (1%) may come from grants, gifts, or forgivable loans, if acceptable to the first mortgage lender. The remaining two percent (2%) must come from the household's own funds.
5. It is expected that a household will make as much of a down payment that is reasonable, taking into account the household's assets, net income and expenses. After making the down payment, the household may retain no more than \$~~260~~,000 in net financial assets, excluding tangible personal property.

D. Authority Loan Approval

1. Once the lender has approved the first mortgage, the lender will submit to the Authority a reservation request packet, which will include:
 - Reservation of Fund Request
 - Income Eligibility Calculation Sheet
 - Signed Disclosure and FAQ
2. The Authority will review the reservation request packet. Both the lender and the applicant will be informed within 72 hours of loan reservation approval or denial.
3. The Authority will prepare the following documents for processing:
 - Request for Disbursement Set-up
 - Wiring information
 - Loan Agreement
 - Pre-approval letter
 - Promissory Note
 - Deed of Trust
 - Truth in Lending
 - Escrow instructions

E. Loan Closing

1. The first mortgage lender will prepare its loan documents in its normal manner. In addition, a copy of the first mortgage lender's escrow instructions will be provided to the Authority.
2. The Authority will have its loan documents signed and delivered to escrow for the household to sign.

3. Both the first mortgage and the Authority's second mortgage documents will be executed by the household in escrow.
4. The escrow company will send the first mortgage lender and the Authority complete sets of all documents signed in escrow. .
5. Upon review and approval of the Funding Packet, the Authority will deposit funds into the escrow. Lender and the applicant are advised to allow at least 10 days from receipt by the Authority of the Authority acknowledgment and acceptance of the Authority's loan approval containing loan terms and conditions to close escrow.
6. A Lenders' CLTA Title Insurance for the Authority loan will be required.
7. Hazard Insurance as required by the first mortgage lender will also be required by the Authority.

F. Subordination

Subordination of the Authority's second mortgage will be limited to households that:

1. Are refinancing an existing first mortgage for the purposes of reducing their monthly housing expenses or financing capital improvements to the property which have been approved by the Authority *;

-and –
2. Are refinancing no more than the amount of the principal balance of the first mortgage plus the cost of refinancing and the cost of any Authority approved capital improvements*, if any;

-and –
3. Are not taking any cash out of the refinance other than permitted above*;

-and -
- a. 4 Have sufficient equity in the property so that the total loans to value is at least the same after the refinance as it was when the property was purchased.

-and -
4. The total new housing cost does not exceed Affordable Housing Cost as defined by State Law. (See Affordability Requirement, Sec. 1.D.5.)

Loans made by other public agencies for the purpose of increasing affordable home ownership opportunities may also be permitted with prior approval by the Authority.

*The household must provide assurance to the satisfaction of the Authority that the funds will be utilized for the construction of the approved capital improvements. Only Eligible Capital Improvements, as described in Section 2.H., below, will be approved by the Authority for this purpose.

G. Junior Loans

Loans junior to the Authority's second mortgage (third mortgages and equity lines of credit) are prohibited without the express written consent of the Authority. Junior loans shall be approved only under the following conditions:

1. The total new housing cost does not exceed Affordable Housing Cost as defined by State Law. (See Affordability Requirement, Sec. 1.D.5.)
2. There is sufficient equity in the property so that the total loans to value is at least the same after adding a junior loan as it was when the property was purchased.
3. The proceeds are to be used only for capital improvements to the property that have been approved by the Authority*.

Loans made by other public agencies for the purpose of increasing affordable home ownership opportunities are also permitted with prior approval by the Authority.

*The household must provide assurance to the satisfaction of the Authority that the funds will be utilized for the construction of the approved capital improvements. Only Eligible Capital Improvements, as described in Section 2.H., below, will be approved by the Authority for this purpose.

H. Eligible Capital Improvements

The Authority shall not approve financing for capital improvements except for those that meet the following criteria:

1. Those improvements made or installed by the household or the household's contractor which conform to applicable building codes at the time of installation.
2. Those improvements that are approved in writing in advance by the Authority or its designee.
3. The costs of the improvements exceed Two Thousand Dollars (\$2,000) or more.
4. The improvements will extend the useful life or improve the functionality of the property.
5. The improvements are installed with all required permits from the City of Brisbane.

I. Loan Servicing

Loan servicing will be provided by the City of Brisbane Finance Dept. Some of the loan servicing duties may be provided by an outside organization that reports directly to the City of Brisbane Finance Dept.

This page left intentionally blank.

Section 3. Promissory Note, Deed of Trust and Resale Restriction Agreement Templates

***[Not included. To be updated administratively subsequent to
Housing Authority action.]***

Exhibit B:
Resale Restriction Agreement
Section 2

EXHIBIT B

2. OWNER CERTIFICATION; OWNER OCCUPANCY REQUIREMENTS

The Owner certifies that (i) the financial and other information previously provided in order to qualify to purchase the Home is true and correct as of the date first written above, (ii) the Owner shall occupy the Home as the Owner's principal place of residence (iii) the Owner is a first time homebuyer as described in the Brisbane Homeownership-First Time Homebuyer Program Manual (the "Program Manual") ~~for the Program;~~ (iv) ~~the Owner or the Owner's parents, children or siblings have lived or worked in the City of Brisbane for at least one (1) year and otherwise meet the requirements pertaining to residency and employment as set forth in the Program Manual or the Owner's current primary employer is and has been for at least one (1) year, the Brisbane School District, the Jefferson Union High School District, or the San Mateo Community College District~~ the Owner meets all the criteria of an Eligible Purchaser as described in the Program Manual and; (v) the Owner will fully cooperate with the Authority in promptly providing all information requested by the Authority to assist the Authority in monitoring Owner's compliance with this Agreement.