



Program Participation Guide Below Market Rate (BMR) Ownership



City of Morgan Hill Below Market Rate (BMR) OWNERSHIP

Program Participation Guide

Note: Guide is subject to change as updated from time to time.





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1. INTRODUCTION

Buying, owning, and selling an Affordable Below Market Rate (BMR) Ownership Unit differs in many ways from buying, owning, and selling a market rate. It is important that the buyers and sellers of BMR Ownership Units understand the rules and procedures of the Program fully.

HouseKeys is the City of Morgan Hill's Affordable Housing Program Administrator. This Program Guide includes the guidelines, policies, and procedures that comprise the affordable homeownership program for below market rate (BMR) homes.

The Program Guide and other relevant information (e.g., Ordinance procedures and income limits) will be amended and updated from time to time, so long as such rules, policies and procedures do not violate any affordable housing laws. All proposed changes are subject to approval by the City Council prior to implementation.

Updates to this Program Guide and other relevant information will be posted on the [HouseKeys Website](#)

HouseKeys makes every effort to successfully execute all Opportunity Drawing Lotteries and Applicant Selection Methods. Over our History, we've had a 99.08% success rate. That said, there is a chance that an error or omission can be made by our team or systems that negatively impacts an applicant. While HouseKeys will make every effort to correct mistakes, we cannot make any guarantees to any one applicant.

Please contact the City or HouseKeys regarding any conflicts between this Program Guide, the Developer's Affordable Housing Agreement, the owner's BMR Agreement, and/or the City's recorded documents.

Please contact HouseKeys with any questions or concerns regarding this document or any other question regarding the City's affordable housing program:

Online: <http://www.housekeys.org>

Email: programs@housekeys.org

Phone: 1-877-460-KEYS (5397)

Address: 17575 Peak Avenue, Morgan Hill, CA 95037

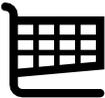


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2. HOUSEKEYS HOUSEHOLD PROGRAM DASHBOARD

		
<p>Information Profiles</p>	<p>Tools & Planning</p>	<p>Program Center</p>
<p>Information Profiles are used to gather important facts that determine your eligibility and qualification. These profiles will be used to complete your program applications and participate in program activities.</p>	<p>There are lots of calculations involved in an Affordable Homeownership Program. From calculating the income category of your household, to determining your maximum restricted resale price, it's important to understand the math behind these programs.</p>	<p>All Application, Opportunity, Opportunity Drawing, and Participation Activity is captured in your Program Center. As soon as you complete your initial registration, this is where you'll spend the most time participating in the programs.</p>
		
<p>Program File Cabinet</p>	<p>Program Marketplace</p>	<p>Community Center</p>
<p>As you start to apply for and participate in program activities, your file cabinet is where you'll track progress, exchange information, and communicate with program administrators.</p>	<p>The program marketplace is where you can shop for ownership, rental, and financing opportunities.</p>	<p>The online community center will have a classroom, a bulletin board, and chatroom so you can stay educated, informed and in touch with other program participants and stakeholders.</p>



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3. ESTABLISHING AN ACCOUNT IN THE HOUSEKEYS SYSTEM

The following four (4) actions are the initial steps needed to establish your household’s affordable housing account.

REGISTRATION PROCESS	ACTION OR MILESTONE
1. Initial Signup	 <p>Start out by completing our simple registration form. This step collects very basic information from you to establish a User Account, including your name, contact information, and your household size and income.</p>
2. Complete the Registration Wizard	 <p>The next step includes additional details about your address, household members, income profiles, and preference criteria. The preference criteria are described on Step 5 of the Registration Wizard. Completion of the Wizard will create a summary of your household and provide you with access to additional features of the Administrator Platform.</p>
3. Browse the Marketplace	 <p>The Participation I.D. allows the Program Provider (City of Morgan Hill) and the Administrator (HouseKeys) to confirm your identify and match you up with the Program File. It also will be used to track your Service Request Tickets.</p>
4. Open a Service Request Ticket	 <p>Whether you want to remodel your home, refinance your mortgage, or sell – it all starts with opening a Service Request Ticket so that the Administrator can gather the information needed to help you.</p>



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4. HOUSEHOLD INFORMATION PROFILES

When you establish an account in the MyHouseKeys system, **Household Information Profiles** are used to organize information about your household. This information is used to help you complete your annual certifications. While there are 10 total information profiles listed in the Program Application Guide, the list below includes the five (5) that involve your program participation and compliance.

#	Information Profile Name	Description	Purpose
1	Location Profile	Where you live and where you work	Most Restriction Agreements have an owner occupancy certification to confirm that you occupy the property the minimum 10 out of 12 months per year.
2	Member Profile	The people who live in your housing unit	The members of your household are asked to confirm that no renters are living in your household without city notice and approval
3	Expense Profile	Documenting monthly expense obligations	Every refinance request must be reviewed by the administrator to ensure that the payment-to-income ratio of any proposed financing is in line with the program guidelines.
4	Liability Profile	Your Debt	Keeping your mortgage paid on time is not only good for your credit report, but it is an important part of making sure that the home is not at risk of loss to the City's proposal. If a homeowner falls behind on their mortgage, the City reserves the option to step in and make a purchase to avoid foreclosure.
5	Public Record Profile	Collections, Liens, Bankruptcies and Foreclosures	Bankruptcies, foreclosures, and divorces are all part of the public record and notices are issued that include the property address. As the City and Administrator monitor these events, you may be contacted to ensure that the property is not at risk of being lost from the portfolio during the 45-year term.



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5. PROGRAM PARTICIPATION

The purpose of the Below Market Rate (BMR) program is to provide long-term affordable homeownership opportunities for low and moderate-income households in the City of Morgan Hill. Households that purchase a BMR home will be required to sign affordable housing documents to ensure the home **remains affordable**, and the homeowner occupies the home, for the entire restricted term (generally 45 years). Homeowners can sell their home at a market rate price at the end of the restricted term (46th year).

Between the time the BMR home is purchased and the 46th year is reached, there may be a series of requests and communications between the homeowner, the City and Administrator. These requests and communications can involve compliance certifications, requests to refinance a mortgage, remodeling the home, or initiating a property sale. The rules governing these, and other issues of concern, are outlined in the Resale Restriction Agreements that contain definitions and covenants that determine compliance. Over the past 40 years, the City of Morgan Hill has amassed a Program Portfolio of over 80 development projects containing over 550 BMR Units, each with its own unique agreement.

Generally, when a request is made to review any refinance or sale request, there are three stages of review:

1. Preliminary Review of the Agreement and Program File to determine whether the participant Household is following the program rules and the Agreement language allows what has been requested.
2. Evaluation of the proposed financing package or sale transaction to ensure that it fits program guidelines and complies with Agreement language.
3. Coordinating and tracking the transaction to make sure that approved vendors are used and/or that the home is sold to an eligible purchaser from the program applicant list. BMR Transactions take longer than conventional financing and sale transactions because of the number of payoffs needed, the city authorization required, and the legal documents involved.

Each review stage can take 30 to 90 days to complete, dependent upon the details involved with each request.

It is important that any current or prospective BMR homeowner review their Agreement in its entirety to make sure that they understand the conditions and restrictions that they will be expected to adhere to during the Agreement term. They should seek their own legal counsel if further clarification is needed.



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6. RESALE PRICE DETERMINATION, OWNER DUE PROCEEDS, AND COMPLIANCE STATUS

Each resale restriction agreement has a price determination method that outlines how the resale price is calculated if the City were to exercise its option to purchase the unit, assign its option to a designee or eligible buyer, or instruct the Administrator to facilitate a resale to an eligible purchaser. Each Owner must use the price determination method contained in their agreements unless otherwise instructed by the City. There are five primary ways that resale prices are determined

#	Price Determination Method	Description
1	Indexed Price Based on Consumer Price Index	Throughout the year, the U.S. Department of Labor’s Bureau of Labor Statistics publishes a Consumer Price Index for metropolitan areas throughout the United States. This determination method allows for a resale price that is based on the increase in the Housing Component of the Consumer Price Index based on the month and year of purchase.
2	Indexed Price Based on Area Median Income	Each year, the State of California Department of Housing and Community Development publishes the statewide income limits . This determination method allows for a resale price that is based on an increase in the applicable Median Income based on the year of purchase.
3	Equity Share Agreement	Some Agreements have an Equity Share Provision that is based on the initial subsidy provided by the City or Agency when the BMR Unit was purchased.
4	Forgivable Loan	Agreements that have a promissory note with a forgivable amount of principal and interest in the final years of the agreement term that reduces by a certain percentage each year until there is no balance remaining. This enables the Owner to sell for full price if they remain in the home for the entire term
5	Shared Appreciation	Agreements that require a percentage of the Fair Market Value to be paid to the City as a Share Appreciation Payment. The remaining amount is paid to the Owner.

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SALE PROCEEDS AND OWNER'S MINIMUM RETURN ON DOWN PAYMENT

Depending on the Price Determination Method used, the Fair Market Value of the home, and any liens and/or encumbrances recorded (including any interest or fees owed at time of sale), there will be a portion of the sale proceeds that are due to the Owner and a portion of the sale proceeds that are due to the City. The City's portion is considered Program Equity or Public Equity. Provided that the City determines that enough sale proceeds are available and due to the Program, the City can ensure that the Owner receives his or her initial down payment plus an annual return based on the number of years that they occupied the unit. The City can use any one of the price determination methods above or assign a fixed percentage to the minimum return calculation.

For example, if an Owner made a down payment contribution of \$20,000 to purchase a BMR home that they went to sell 7 years later, the City could use a 10% rate of return for every year that the Owner has occupied the unit. This would mean that the owner would receive a \$14,000 ($\$2,000 \times 7$ years) return on their initial down payment for a total of \$34,000. The City could also base the increase on any of the price determination methods above.

AGREEMENT COMPLIANCE STATUS AT THE POINT OF SALE OR REFINANCE

All BMR Homeowners must be in good standing with the program at the point that they would like to sell their home or refinance home. If there are outstanding compliance findings, the City reserves the right to reject a request to sell or refinance.



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7. OWNERSHIP AND ESTATE PLANNING

A “Transfer” means any sale, assignment or transfer, voluntary or involuntary, of any interest in the Home, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest (unless the lease is approved in advance by the City), or land contract. For the purposes of your Agreement, transfers by devise or inheritance to an existing spouse, Domestic Partner, child, surviving joint tenant, or a spouse as part of a dissolution proceeding in connection with marriage – are not considered Transfers. All Transfers must be approved by the City in advance and may be subject to the City’s Option to Purchase (See Section 5 to see description of “City’s Option to Purchase”).

In the event a Transfer occurs, or a person receives the Home by devise, inheritance, or operation of law due to death of the Owner, the person inheriting the Home (the “Inheriting Owner”) must have their income and eligibility reviewed and approved by the City or Administrator to determine if they are an Eligible Purchaser. If approved, new documents will need to be signed and a new 45-year term will be enforced.

New purchasers of BMR Units may not purchase the BMR Unit through a trust of any kind, including but not limited to living trusts. Existing BMR Owners may not transfer ownership of their BMR Units to trusts of any kind, including living trusts.

Owners of BMR Units should keep in mind that the Estate of the Owner is entitled to the Owner due proceeds upon any transfer that takes place during the Agreement term.

Note: An Exhibit has been added to the City’s Resale Restriction Agreement in response to the State of California’s 2016 update to the Probate Code that created the “Simple Revocable Transfer on Death (TOD) Deed ([California Probate Code Section 5642](#)).



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8. COMPLIANCE, ANNUAL CERTIFICATION, & ENFORCEMENT

All BMR homeowners will be re-certified once a year for compliance with their signed and recorded deed restrictions on the property, including but not limited to occupancy, current title, and liens. Homeowners are to provide the program Administrator all pertaining documents listed on the program checklist for a full re-certification review and certificate of compliance.

ANNUAL COMPLIANCE CERTIFICATION

1. The Owner will receive an annual notification via US mail for the annual certification process. This notification will include a questionnaire and request for supporting documents (most current utility bill, mortgage statement, and insurance declaration page). The owner will have 30 days to comply.
2. If an owner does not comply with the requirements or documentation within 30 days of the annual certification notice being sent, a 2nd notice will be sent providing a final deadline.

CERTIFICATION PROCESS

Once all documents are received, the City or Administrator will:

1. Ensure that there are no inconsistencies between the application file and compliance file that indicate that misinformation or fraud was committed during the application process
2. Determine if the property is owner occupied and confirm that it isn't being rented
3. Review all liens against the property to ensure the property is not over encumbered
4. Review all transfers of title on the property reports
5. Review default notices or statements of any loans, taxes, or Homeowner Association dues
6. Determine if the property is adequately insured and if secondary liens (i.e. down payment assistance loans, city loans or state loans) are referenced on the Insurance Declaration page.

If any of the above review steps require additional information from the Owner, a document request will be made and the Owner will be provided with a deadline to return the requested documents to the Administrator.



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CERTIFICATION OF COMPLIANCE

The BMR Owner will receive a certificate of compliance if the review is approved and in compliance with the requirements above

ENFORCEMENT ACTIONS AND TIMELINES

If the homeowner does not comply after the 2nd notice, the City or Administrator will file a Notice of Default with the County Recorder's Office and the homeowner will be notified. This Notice of Default becomes public record and may trigger additional action by any lenders who have an interest in the property.

If the homeowner is out of compliance on any of the above requirements, the homeowner will be provided with 60 days to comply and will be provided with action steps needed to cure any defaults (if there are possible actions to cure the default).

90 Days from the date that the Notice of Default is filed with the County Recorder's Office, the City or Administrator

If the owner fails to cure the violation, the City will exercise its Option to Purchase the BMR home from the homeowner at a restricted resale price.

The City reserves the option to apply to a court of competent jurisdiction if it deems legal action appropriate

The City/Administrator reserves the option to apply to a court of competent jurisdiction if it deems legal action appropriate



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9. REFINANCE & SUBORDINATIONS REQUESTS

The information below and on the following page outlines the process for refinancing existing City loans and Agreements, or subordination of any loan or deed of trust associated with a BMR property. Subordination of loans not issued by the City is necessary to protect the City's interest in maintaining the affordability of the property for the duration of the restriction term (typically 45 years). In most cases, the City's interest will be subordinate to any mortgage loans on the home, as outlined in the deed of trust and/or the signed resale restriction documents.

SUBORDINATION REQUIREMENTS

BMR homebuyers may be allowed to refinance up to 95% of the Maximum Restricted Sale Price described in the signed deed restriction, or the remaining balance of the loan amount, whichever is less. The total payoff amounts for all recorded liens and encumbrance amounts are used to determine the maximum refinance percentage mentioned above (95%). This percentage is sometimes called the Maximum Combined Loan to Value (Max CLTV). Please note the following requirements:

1. Accrued interest on any subordinate financing will be considered in the Max CLTV.
2. HouseKeys will calculate the maximum restricted sale price according to the deed restrictions.
3. The refinance amount cannot exceed the maximum restricted sale price.
4. If the remaining balance of the original first loan is more than 95% of the maximum restricted sale price, the original loan will need to be paid down.
5. Cash out is allowed up to 80% of the restricted resale price
6. Payoff of purchase money mortgages are not considered cash out.
7. Payoff of equity lines or junior financing that are not purchase money loans are considered cash out.
8. Homeowners cannot add or change names to title without approval of the City/Administrator. Any request to change names on title shall be submitted to the City with supporting documents.
9. If the requested change is due to marriage, the person being added will need to be on the first mortgage and addendums will need to be signed by that person.
10. If the requested change is due to divorce, addendums to the subordinate financing and deed restrictions will need to be signed by that person.
11. A Performance Deed of Trust is required to protect the deed restrictions and will be recorded against the property.

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MORTGAGE REQUIREMENTS

1. First mortgage loan terms of 30, 20, or 15-year fixed rate fully amortized
2. Equity lines, lines of credit (HELOCs), etc. or any junior loans are not allowed
3. Adjustable rate, interest only, negative amortization, or balloon payments loans are not allowed
4. Homeowner is required to use a loan officer on the program-approved lender list
5. Rate and term refinance up to \$1,500 maximum cash out
6. Recurring closing cost will not be allowed to be financed
7. Non-recurring closing cost will be allowed to be financed as long as the new loan amount does not exceed 95% of the restricted value
8. Escrow will be required to be opened with a Title company in Santa Clara County

Please Note: FHA/VA loans do not typically work with resale restricted properties due to federal requirements and/or lender requirements. Please check with your lender to ensure that they have reviewed the restrictions and whether the legal department has accepted the use of Government National Mortgage Association (“Ginnie Mae”) financing with your resale restricted property.

REQUEST TO REFINANCE PROCESS

1. Complete the **BMR Homeowners Inquiry Form** on www.housekeys.org
2. HouseKeys will calculate the maximum restricted sale price within 14 days of receiving a complete application. However, if more information is needed, the process will be delayed until HouseKeys receives the requested information. Once all of the information is received and a price has been issued, it is valid for 6 months.
3. Homeowners shall then complete the refinance request forms and provide all of the supporting documentation to HouseKeys
4. HouseKeys will review the fully-packaged refinance request file and issue a final approval or denial of the request within 14 days of receipt of all required documents.

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MINIMUM REQUIRED DOCUMENTS FROM THE HOMEOWNER

1. Signed BMR refinance application
2. Current mortgage statements with all balances
3. Current Federal Tax returns
4. 2 months consecutive paystubs
5. 2 months current bank statements
6. Copy of Driver's License and Social Security Card
7. Subordination fee

LENDER DOCUMENTS

1. Borrower's authorization
2. Credit report
3. 1008 (transmittal)
4. 1003 (application)
5. DU (desktop underwriting)
6. Preliminary Report
7. Appraisal
8. Approval letter

ESCROW COMPANY DOCUMENTS

1. Estimated Closing statement
2. Payoff demands

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REFINANCE REQUEST APPROVAL

Once all documents are received, HouseKeys will:

1. Determine if the refinance follows the deed restrictions and does not exceed the maximum restricted price
2. Determine if the borrower is in a better financial situation with the new refinance terms.
3. Determine whether all requirements have been met.
4. Review any additional liens on the property.
5. Determine whether all existing loans, HOA dues and taxes are current. If not current, the application will be rejected.
6. Once approved, subordination documents and escrow instructions will be drawn and routed to the City for signatures.

Please note that City signatures can take up to 14 business days to obtain. It is highly suggested that you do not lock any interest rates on your proposed financing until you obtain city signatures.



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10. CAPITAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

BMR Units may begin claiming capital improvements toward their Maximum Resale Price that are made no sooner than 1 year after the BMR Unit was first occupied. Exceptions are made for critical modifications made during the original purchase of a BMR Unit as approved by the City beforehand.

Once the BMR Unit becomes eligible for capital improvements credit, BMR Owners may begin submitting documentation of completed work. City or Administrator will review all capital improvement claims and categorize them into three distinct categories:

1. Eligible Capital Improvements	Major structural system upgrades, new additions to the BMR Unit and improvements related to increasing the health, safety and energy efficiency of the property. The Improvements must conform with applicable building code, be approved in writing in advance, initial cost must exceed one percent (1%) of the purchase price paid by the Owner. Improvements that meet these criteria will be given 100% credit.
2. Eligible Replacement and Repair	Eligible Replacement and Repair includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs.
3. Ineligible Costs	Cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

Procedure for Submitting Capital Improvements

BMR Owners must submit capital improvements to Administrator for review within 6-months of the completion of the project. In order to document the improvements, each BMR Owner must submit the following documentation: (1) A list of the capital improvements with a description on a form provided by Administrator; (2) The receipt and invoice for each eligible improvement; (3) Proof of payment, such as a cancelled check, bank account statement or credit card bill; (4) A copy of site or building permits, if required; and (5) Contractor’s license number for Projects exceeding \$500. Upon receipt of a complete capital improvements claim, Administrator staff may arrange a site visit to inspect the completed Project.

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Once the improvements have been verified, Administrator will send a written response to approve or deny the submitted capital improvements within 60 days of original receipt. This information will be placed in the property file at the City for use when the property is being sold.

Special Assessments Homeowner's Association initiated special assessments are considered capital improvements and will be added to the resale price of the home at the full amount of the special assessment paid by the BMR Owner. In order to receive credit for special assessments, homeowners must submit the following documentation within 6-months of payment: (1) An invoice for the special assessment; and (2) Proof of payment, such as a cancelled check, bank account statement or credit card bill.

Capital Improvements Cap

At the time of sale, City may cap all eligible capital improvements over 10% of the resale price. This is to preserve the affordability of the BMR unit.

Maintenance and Insurance Requirements

The Owner shall maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition and will not permit deterioration of the Home. Owner is required to maintain home free of hazards, code violations, nuisances, in compliance with the Agreement, Deed of Trust, Homeowners' Association covenants, if any, City Municipal Code, and other applicable health and safety codes and laws. Home may not be used for any non-residential use, or as a vacation home, vacation rental, or any use other than as Owner's primary residence.

The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Home (adjusted every five years by appraisal, if requested by City, naming the City as an additional insured. Additional insurance requirements are set forth in the City Deed of Trust.

Home Owner may operate a home-based business in the home to the extent permissible according to the Municipal Code and any applicable Homeowner's Association covenants, if licensed and permitted by the City, and if ancillary to the primary use of the home as Home Owner's primary residence.



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11. OWNERSHIP CHANGES, RE-SALES, AND APPROVED VENDORS

The table below, and on the following page, outlines the process for transferring or changing ownership of the BMR home.

OWNERSHIP CHANGES	<ul style="list-style-type: none"> • Homeowners must review their BMR deed restrictions in order to determine if title can be transferred. • Outside of divorce, marriage or name change, the new owner will need to be eligible and qualified for the BMR program. • Written approval from the City/Administrator is required. • Changes are not permitted if the homeowner has violated any of their Deed Restrictions. • Any request to remove, add, or otherwise change ownership of the BMR home shall be accompanied by the following documents: <ul style="list-style-type: none"> • Divorce: Copy of court order • Name change: Copy of legal documents • Marriage: Copy of Marriage Certificate • New ownership: All required documents per HouseKeys • Trusts are not allowed. • Inheritance is not permitted, unless otherwise allowed per the deed restrictions.
RE-SALES	<ul style="list-style-type: none"> • The homeowner shall complete a ticket (request) on the HouseKeys website to begin the process for potential resale. • Once all required documents have been received, HouseKeys will: <ul style="list-style-type: none"> • Review the deed restrictions along with any liens recorded on the property. • Assignment of Option is required if owners want to continue with sale • Complete an initial walk-through of the property, to determine the amount of work needed to sell the BMR home. • Schedule inspections of the property (contractors, appraiser, vendors, etc.) • Obtain a preliminary quote from vendors.



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	<ul style="list-style-type: none"> • Review quotes and schedule a walk-through of the property with the City. • Adjust contractor/vendor bids, if needed, and obtain a final quote for property improvements. • Obtain approval of the quote from the City. • Calculate the <u>Maximum Restricted Sale Price</u> per the deed restrictions, accounting for all required and approved improvements to the property. • Create the listing agreement or purchase agreement if needed. • Prepare the property for resale through the Lottery/Opportunity Drawing process. • All real estate/transaction fees are the responsibility of the seller. • The owner shall sign the Property Pricing form and Opportunity documents.
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APPROVED VENDORS

All vendors shall be approved by HouseKeys. The table below outlines the minimum requirements for any vendor associated with resale of the property:

CONTRACTORS	<ul style="list-style-type: none"> • Contractors shall have a valid California Contractor License.
LENDER/LOAN OFFICERS	<ul style="list-style-type: none"> • Loan Officers shall have previously attended HouseKeys loan officer orientation class. • The lender’s legal department shall approve all BMR documents prior to resale. • All Loan Applications must be taken and completed by the Loan Officer listed on the Loan Application (including NMLS License) and must match the name on the Program Approved List
TITLE COMPANY	<ul style="list-style-type: none"> • The Title Company shall be based in Northern California and preferably in the County of Santa Clara.
APPRAISER	<ul style="list-style-type: none"> • Appraisers shall have a valid California State Certification or California State License that has not expired.