

Brisbane Housing Authority Agenda Report

TO: Brisbane Housing Authority

FROM: Clay Holstine, Executive Director and Michael Roush, General Counsel

SUBJECT: Amendments to the Brisbane First Time Homebuyer Program

DATE: November 8, 2018

Purpose:

To update the Brisbane First Time Homebuyer Program (“Program”) 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 as proposed via adoption of Resolution HA 2018-04.

Background:

History and Status of First Time Homebuyer Program

In 1997, the Brisbane Redevelopment Agency (“Agency”) established a First Time Home Buyer Program (“Program”) to assist moderate income households purchase new market-rate homes in the Northeast Ridge development with funds from the Agency’s low and moderate income housing fund. The 1997 Program provided up to \$40,000 for down payment assistance in the form of a 30 year, zero interest silent” second mortgage loan. A silent second loan does not require monthly or periodic payments by the borrower but there is a recorded deed of trust that secures the silent loan. The loan principle is then repaid, along with a share (based on loan to value ratio) of any appreciation (“shared appreciation”) in the value of the property when the property is sold. (The value is shared with the borrowers when the property sells.) As a condition of these loans, borrowers are subject to resale price restrictions to maintain the affordability of the property and ensure future buyers meet qualifying income restrictions.

In 2004, the Agency expanded the Program to include any property in Brisbane, to include low income households, and to significantly increase the silent second mortgage loan limits. The 2004 Program provided loans up to \$100,000 for moderate income households and up to \$200,000 to low income households. In addition, the Agency contracted with a mortgage broker to administer the Program and originate the loans.

In 2008, the Agency further modified the Program to increase the maximum loan for moderate income households from \$100,000 to \$200,000 to reflect the continued rise in property prices.

Program Status

Over the life of the Program, the Agency issued five loans to low and moderate income households to purchase market rate units in Brisbane. The last loan issued under the Program occurred in 2010. Of the five original loans, the first two issued in 1998 and 1999 have been paid off. The resale restriction term for those first two loans was 10 years; hence, those two properties are no longer subject to resale restrictions at the time of their sale and can be resold at market rate. (Refer to Attachment 3 for inventory of issued loans and resale restriction terms.)

The Redevelopment Agency was dissolved in 2011 along with all other Redevelopment Agencies in California by the State of California. The Successor Agency to the Redevelopment Agency subsequently assigned administration of the low and moderate housing fund to the Brisbane Housing Authority. Accordingly, repayment of the active Program loans are to be deposited in the low and moderate income housing fund that the Housing Authority oversees.

Resale Restrictions for Properties Purchased with Program Loans

Under the resale restriction agreement that purchasers must sign in order to obtain a Program loan, the Housing Authority has first option to purchase properties with resale restrictions or coordinate the sale of the property to eligible buyers who qualify under the Program's low or moderate income household requirements. Should the Housing Authority decline these options, the property owner may manage the sale of the property but still must ensure that the buyer meets all the eligibility criteria under the resale restriction agreement.

In spring 2018, the Housing Authority received a notice of intended property sale for a property subject to resale restrictions agreement under the Program (1 San Bruno Avenue, Unit D). The Housing Authority attempted to find eligible low and moderate income households to purchase the property and conducted outreach to the Brisbane community to seek applicants. While two households applied to purchase the property, unfortunately neither qualified to purchase the property due to various provisions of the 2008 Program's affordability requirements. The Housing Authority ultimately purchased the property in October 2018 as eligible purchasers were unable to be identified.

Discussion:

In order to broaden the pool of eligible purchasers for the Authority's resale of the subject property, as well as to broaden the pool of eligible purchasers should there be another affordable housing project in the City, and based on input received from the Housing Authority's consulting affordable housing realtor (Renee Daskalakis, DRE # 01111348), staff has drafted the following modifications to the Program:

- Update terminology throughout to reflect the dissolution of Redevelopment Agency and assumption of loan administration by the Housing Authority.

- Adjust the maximum purchase price of properties to reflect the median sales price of homes sold in Brisbane in the past 12 months, rather than in all of San Mateo County. If no data is immediately available on Brisbane home sales, the Program would default to the median sales price of homes sold in the County. With real estate sales data more readily available on demand via websites such as Zillow and Trulia, staff believes it will be much easier to access Brisbane-specific data that previously was not as easily attainable as Countywide statistics.
- Clarify the appropriate property size (number of bedrooms) based on number of people in the household. This information was previously not included in the Program Manual.
- Adjust the calculation of maximum affordable housing costs for households earning 70-120% of AMI from 30% of their gross income to 43% (inclusive of all other consumer debt).

After adoption of the Program amendments, staff will move forward to relist the property at 1 San Bruno Ave., Unit D for eligible purchasers under the revised Program eligibility criteria.

Fiscal Impact:

None.

Measure of Success:

Adoption of the Program 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. Draft Resolution HA 2018-04 adopting Program amendments
2. Draft Program amendments- clean version
3. Draft Program amendments- redline version
4. Status of properties purchased under Program



Michael Roush, General Counsel



Clay Holstine, Executive Director

RESOLUTION NO. HA 2018-04

**A RESOLUTION OF THE BRISBANE HOUSING AUTHORITY ADOPTING
AMENDMENTS TO THE FIRST TIME HOMEBUYER LOAN PROGRAM**

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 Program amendments contained in Exhibit A to this Resolution will 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.

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

1. The First Time Homebuyer Loan Program is hereby amended as shown in Exhibit A to this Resolution.

W. Clarke Conway, Chair
Brisbane Housing Authority

I hereby certify that the foregoing Resolution HA No. 2018-04 was duly and regularly adopted at a meeting of the Brisbane Housing Authority on November 8, 2018, 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

2018

Brisbane Housing Authority

Board Members (2018):

W. Clarke Conway, Chair
Karen Cunningham
Madison Davis
Cliff Lentz
Terri O’Connell

Executive Director:

Clayton Holstine

General Counsel:

Michael Roush

This First Time Homebuyer Program Manual was adopted by the Brisbane Housing Authority via Resolution HA 2018-04 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, 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.

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 \$5,000, 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

The household must demonstrate to the Authority that 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; or
- b) Established his/her primary source of employment (largest source of income) in the City of Brisbane.

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. 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.

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. 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.

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.

	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 = \$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 not exceed 43% of the household’s actual income.

	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%	43% x \$136,160 = \$4,879/ month	28% x \$136,160 = 3,177/month
Household 4	4	\$118,400	\$142,080	120%	43% x \$142,080 = \$5,091/ month	28% x \$142,080 = 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 = \$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 43% 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%	43% x \$88,800 = \$3,182/month
Household 4	4	\$118,400	\$112,480	95%	43% x \$112,480 = \$4,031/month

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

In order to participate in the Program, it is required that all members of the household who will be on title attend a Homebuyer workshop or class approved by the Authority. Evidence of completion of the a 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.

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 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.
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 \$20,000 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.

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

(Note: These documents will be updated administratively to reflect the modified program provisions following adoption and are not included here.)



Brisbane First Time Homebuyer Program Manual



Brisbane Housing Authority
50 Park Place
Brisbane, CA 94005

2018

Brisbane Housing Authority

Board Members (2018):

W. Clarke Conway, Chair
Karen Cunningham
Madison Davis
Cliff Lentz
Terri O’Connell

Executive Director:

Clayton Holstine

General Counsel:

Michael Roush

This First Time Homebuyer Program Manual was adopted by the Brisbane Housing Authority via Resolution HA 2018-04 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 ~~Redevelopment Agency~~ Housing Authority (the Authority) is pleased to offer the Brisbane First Time Homebuyer Program, hereinafter referred to as the BFTHBP Program. The ~~Agency~~ 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 BFTHBP Program provides financial assistance in the form of a "silent" second mortgage. The ~~BFTHBP Program~~ 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 ~~is intended to~~ may coordinate with ~~San Mateo County's~~ 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 BFTHBP Program and a buyer eligible for the BFTHBP Program may not qualify for a mortgage credit certificate. The ~~Agency's contractor's First Home Inc.~~ Authority will advise applicants regarding eligibility for the MCC program and how to apply for it.

B. Silent Second Mortgage Program

The BFTHBP 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 ~~plus and~~ the maximum first mortgage amount that is affordable to the household under ~~Redevelopment State~~ 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.

~~The BFTHBP will lend qualified, low-income, 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 plus the maximum first mortgage amount that is affordable under redevelopment 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 Redevelopment 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 ~~buyer~~ 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, 2) default on the terms of the Authority loan, ~~or~~ 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 ~~is~~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.

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. **Borrowers' Household's Eligibility Requirements**

~~Borrowers-~~ A household is eligible for the BFTHBP Program if ~~he/she~~ it meets the following criteria. The ~~Agency or its contractor, First Home Inc.,~~ Authority will determine and certify the ~~borrowers'~~ 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 fFirst-Htime Hhomebuyer requirement.

In addition, an individual who is divorced or legally separated from his or her spouse is also considered a Ffirst Ttime Hhomebuyer 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 family 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 ~~annual~~ 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 family household has net assets in excess of \$5,000, 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 family household assets means value of equity in real property other than the family's 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 family 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

The household must demonstrate to the Authority that for 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; or
- b) Established his/her primary source of employment (largest source of income) in the City of Brisbane.

4. Immediate Family Member is a Current Brisbane Resident

As an alternative to 3 above, a ~~buyer household~~ household may qualify for the ~~BFTHBP~~ Program if ~~he or she~~ 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 ~~buyer household~~ household may qualify for the ~~BFTHBP~~ Program if ~~he or she has~~ 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. Qualify for a First Mortgage

~~Borrower~~ The household must qualify for a first mortgage secured by a deed of trust on the property from a lender who 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.

~~The maximum purchase price for the property eligible for assistance under the Program shall be the median sale price for property comparable to the property in question for the previous month in San Mateo County as published by data-reporting services generally used in the real estate industry, such as DataQuick. The purchase price shall be defined as the total cost of acquiring a residential unit from a seller. Acquisition costs **include** all amounts paid, either in cash or in kind, by the purchaser (or a related party or for the benefit of the seller) as consideration for the property. **Not included in the purchase price** are the usual and reasonable closing costs related to the purchase of the property paid by the buyer. These closing costs may include expenses such as title insurance, transfer tax, recording fees, "points", legal fees, recurring and non-recurring closing costs.~~

~~Property being sold at a restricted resale price under the provisions of the Program is exempt from maximum sales price limitations described in this section.~~

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 ~~BORROWER~~ **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 ~~BUYER~~ **HOUSEHOLD** COULD BE REQUIRED TO SELL THE PROPERTY TO THE ~~AGENCY~~ **AUTHORITY** OR A NEW, QUALIFIED ~~BUYER~~ **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:

<u>Number of People in Household</u>	<u>Number of Bedrooms in Property</u>
<u>1-2 people</u>	<u>1 bedroom</u>
<u>2-3 people</u>	<u>2 bedrooms</u>
<u>3-4 people</u>	<u>3 bedrooms</u>



<u>5+ people</u>	<u>4 bedrooms</u>
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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 ~~unit~~ household being assisted to be eligible for ~~Agency~~ Authority funds, the ~~purchaser's~~ 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. 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.

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.
as follows:

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, ~~the household income may not exceed~~ earning up to 110% of the area median income ("AMI"), the maximum affordable housing cost is 35% of 110% of ~~the area median income~~ AMI, adjusted for ~~family~~ household size ~~appropriate for the property~~.

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

<u>2</u>						<u>= \$3,039/month</u>
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Appropriate family size is two persons for property with one bedroom, three persons for property with two bedrooms four persons for property with three bedrooms and five persons for property with four or more bedrooms.

- For moderate income households earning between 110% and 120% of the area median income AMI, the maximum affordable housing cost combined with all other consumer debt (e.g., credit cards, car payment, etc.) is may not exceed 37.543% of the household's actual income.

	<u>Household size</u>	<u>AMI for household size</u>	<u>Gross income</u>	<u>Gross income as % of AMI</u>	<u>Max. housing cost</u>	<u>Min. housing cost</u>
<u>Household 3</u>	<u>4</u>	<u>\$118,400</u>	<u>\$136,160</u>	<u>115%</u>	<u>43% x \$136,160 = \$4,879/ month</u>	<u>28% x \$136,160 = 3,177/month</u>
<u>Household 4</u>	<u>4</u>	<u>\$118,400</u>	<u>\$142,080</u>	<u>120%</u>	<u>43% x \$142,080 = \$5,091/ month</u>	<u>28% x \$142,080 = 3,315/month</u>

~~In addition, the total housing cost for a moderate income household may not be less than 28% of that household's actual income.~~

a)b) Low Income Households

- ~~For a low income households, earning the household's gross income must be between 50% and 70% of the area median income AMI, the maximum affordable housing cost is, the maximum affordable housing cost is 30% of 70% of AMI area median income, adjusted for family household size appropriate to the property. An example of this calculation is described in the table below using 2018 San Mateo County household income levels for two different hypothetical households.~~

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

- The maximum affordable housing cost for a low income household earning ~~For households~~ between 70% of the area median income AMI and the lower income limit for San Mateo County, as published annually by HCD, the maximum affordable housing cost is 43.37.5% 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.

	<u>Household size</u>	<u>AMI for household size</u>	<u>Gross income</u>	<u>Gross income as % of AMI</u>	<u>Max. housing cost</u>
<u>Household 3</u>	<u>4</u>	<u>\$118,400</u>	<u>\$88,800</u>	<u>75%</u>	<u>43% x \$88,800 = \$3,182/month</u>
<u>Household 4</u>	<u>4</u>	<u>\$118,400</u>	<u>\$112,480</u>	<u>95%</u>	<u>43% x \$112,480 = \$4,031/month</u>

~~Title 25, California Code of Regulations, §6920 defines “housing cost” as 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.~~

~~If the maximum Authority loan, combined with the maximum loan that can be accommodated in the affordable housing cost or the maximum loan for which the household can qualify, whichever is less, is 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.~~

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. ~~Borrower's Education- Attendance at Workshop~~

~~In order to participate in the Program,~~ it is required that all ~~borrowers- members of the household who will be on title~~ attend a Homebuyer workshop or class approved by the ~~Agency- Authority~~ in order to participate in the BFTHBP. Evidence of completion of the a 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. ~~However, qualified applications received at and within 47 days following the first Agency sponsored Homebuyer Workshop may be ranked in priority by lottery. ONLY~~ complete applications will be accepted. All applications will be submitted to the ~~Agency- Authority for loan approval by First Home, Inc.~~ 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.

3. ~~Fee~~

~~Applicants will submit a NON-REFUNDABLE CREDIT REPORT FEE OF \$40.00* with their loan application.~~

~~*subject to revision from time to time~~

4. ~~Co-Borrowers~~

~~All Co-Borrowers and/or Co-Owners must meet the income limit requirements. All Co-Borrowers and/or Co-Owners must meet the First-Time Homebuyer~~



~~requirement. At least one member of borrower's household must meet other borrower eligibility requirements in Section 1.C., above.~~

5.3. 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 Agency has hired a Contractor, First Home, Inc.,~~ The Authority may hire a consultant to administer the BFTHBP Program and assist ~~borrowers 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 BFTHBP Program will work with ~~First Home, Inc.~~ the Authority's consultant or directly with the Authority, as applicable, to apply for the Homeownership Program. ~~First Home, Inc.~~ The Authority's consultant may also work with applicants to assist with the first mortgage loan application procedures. The Homeownership Program eligibility application must be completed in addition to the application for a mortgage from the first mortgage lender. ~~First Home, Inc.~~ The Authority will document the applicant's eligibility for the BFTHBP Program and compliance with ~~all California Redevelopment Law~~ the Authority's housing policy requirements.

The Brisbane ~~Redevelopment Agency~~ Housing Authority is the sponsor for the BFTHBP Program and the funds for the Program come from the ~~Agency's~~ Authority's Low and Moderate Income Housing Fund. All loans made under this Program must comply with the requirements of ~~California Redevelopment~~ law. The ~~Agency~~ Authority ~~has delegated~~ may delegate the administrative functions of the BFTHBP Program to ~~First Home, Inc. through a Professional Services Agreement~~ its consultant.

B. Loan Origination and Homeownership Program Application

1. ~~The Borrower~~ A household ("the applicant") applies for the ~~Brisbane Homeownership 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, ~~First Home, Inc. and the Agency~~ the Authority and/or the Authority's consultant will need to examine the applicant's federal income tax returns for the last three years. ~~In the event tax returns are not available, a letter from the landlord, a lease/rent agreement, or copies of canceled rent checks may be substituted.~~
3. ~~First Home, Inc.~~ 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 ~~under the BFTHBP.~~
4. ~~First Home, Inc.~~ The Authority or the Authority's consultant will calculate the appropriate ~~Agency~~ 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. ~~First Home, Inc.~~ The Authority will maintain a list of approved first mortgage lenders that will accept the ~~Agency's~~ Authority's subordinate loan.
2. ~~Borrowers~~ 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 ~~Borrower~~ household must make a down payment of at least three percent (3%) of the purchase price 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 Borrower household may retain no more than \$20,000 in net financial assets, excluding tangible personal property.

D. Authority Loan Approval

1. Once ~~the First Mortgage has been approved~~ the lender has approved the first mortgage, the lender will submit to the ~~Agency~~ Authority a reservation request packet, which will include:
 - Reservation of Fund Request
 - Income Eligibility Calculation Sheet
 - Signed Disclosure and FAQ
2. The ~~Agency~~ 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. ~~Upon the household entering into contract, t First Home~~ The Authority ~~Agency~~ 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 Agency Authority will have its loan documents signed and delivered to escrow for the ~~borrower~~ household to sign.
3. Both the first mortgage and the Authority's second mortgage documents will be executed by the ~~Borrowers~~ household in escrow.
4. The escrow company will send the first mortgage lender and the Agency Authority complete sets of all documents signed in escrow. ~~In addition, a copy of the First Mortgage Lender's escrow instructions will be provided to the Agency.~~
5. Upon review and approval of the Funding Packet, the Agency Authority will deposit funds into the escrow. Lender and the applicant are advised to allow at least 10 days from receipt by the Agency Authority of the ~~Borrowers'~~ Authority acknowledgment and acceptance of the Agency's Authority's loan approval containing loan terms and conditions to close escrow.
6. A Lenders' CLTA Title Insurance for the Agency Authority loan will be required.
7. Hazard Insurance as required by the first mortgage lender will also be required by the Agency Authority.

F. Subordination

Subordination of the Agency Authority's ~~silent~~ second mortgage ~~loan~~ will be limited to ~~Borrowers~~ 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 Agency 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 Agency 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 California Redevelopment 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 Agency Authority.

*The household must provide assurance to the satisfaction of the Agency 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 junior loans (third mortgages and equity lines of credit) are prohibited without the express written consent of the Agency 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 California Redevelopment 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 Agency Authority.

*The household must provide assurance to the satisfaction of the Agency 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 Owner or his/her 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 ~~Agency~~ 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~~ outside organization that reports directly to the City of Brisbane Finance Dept.

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

(Note: These documents will be updated administratively to reflect the modified program provisions following adoption and are not included here.)

Brisbane First Time Homebuyer Program Manual

Attachment 1: Household Income Limits (2018)

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

San Mateo County 4-Person Area Median Income: \$118,400	Extremely Low	30800	35200	39600	44000	47550	51050	54600	58100
	Very Low Income	51350	58650	66000	73300	79200	85050	90900	96800
	Low Income	82200	93950	105700	117400	126800	136200	145600	155000
	Median Income	82900	94700	106550	118400	127850	137350	146800	156300
	Moderate Income	99450	113700	127900	142100	153450	164850	176200	187550

Santa Barbara County 4-Person Area Median Income: \$79,600	Extremely Low	21100	24100	27100	30100	32550	34950	38060	42380
	Very Low Income	35150	40150	45150	50150	54200	58200	62200	66200
	Low Income	56250	64250	72300	80300	86750	93150	99600	106000
	Median Income	55700	63700	71650	79600	85950	92350	98700	105050
	Moderate Income	66850	76400	85950	95500	103150	110800	118400	126050

Santa Clara County 4-Person Area Median Income: \$125,200	Extremely Low	27950	31950	35950	39900	43100	46300	49500	52700
	Very Low Income	46550	53200	59850	66500	71850	77150	82500	87800
	Low Income	66150	75600	85050	94450	102050	109600	117150	124700
	Median Income	87650	100150	112700	125200	135200	145250	155250	165250
	Moderate Income	105200	120200	135250	150250	162250	174300	186300	198350

Santa Cruz County 4-Person Area Median Income: \$87,000	Extremely Low	23450	26800	30150	33500	36200	38900	41550	44250
	Very Low Income	39100	44650	50250	55800	60300	64750	69200	73700
	Low Income	62650	71600	80550	89450	96650	103800	110950	118100
	Median Income	60900	69600	78300	87000	93950	100900	107900	114850
	Moderate Income	73100	83500	93950	104400	112750	121100	129450	137800

Shasta County 4-Person Area Median Income: \$61,800	Extremely Low	13000	16460	20780	25100	29420	33740	38060	40800
	Very Low Income	21650	24750	27850	30900	33400	35850	38350	40800
	Low Income	34650	39600	44550	49450	53450	57400	61350	65300
	Median Income	43250	49450	55600	61800	66750	71700	76650	81600
	Moderate Income	51900	59300	66750	74150	80100	86000	91950	97900

Sierra County 4-Person Area Median Income: \$71,800	Extremely Low	14800	16900	20780	25100	29420	33740	38060	42380
	Very Low Income	24650	28150	31650	35150	38000	40800	43600	46400
	Low Income	39400	45000	50650	56250	60750	65250	69750	74250
	Median Income	50250	57450	64600	71800	77550	83300	89050	94800
	Moderate Income	60300	68900	77550	86150	93050	99950	106850	113700

Siskiyou County 4-Person Area Median Income: \$59,900	Extremely Low	12600	16460	20780	25100	29420	33740	37140	39550
	Very Low Income	21000	24000	27000	29950	32350	34750	37150	39550
	Low Income	33550	38350	43150	47900	51750	55600	59400	63250
	Median Income	41950	47900	53900	59900	64700	69500	74300	79050
	Moderate Income	50350	57500	64700	71900	77650	83400	89150	94900

Solano County 4-Person Area Median Income: \$83,700	Extremely Low	17600	20100	22600	25100	29420	33740	38060	42380
	Very Low Income	29300	33500	37700	41850	45200	48550	51900	55250
	Low Income	46900	53600	60300	66950	72350	77700	83050	88400
	Median Income	58600	66950	75350	83700	90400	97100	103800	110500
	Moderate Income	70300	80350	90400	100450	108500	116500	124550	132600

Status of Properties Subject to Resale Restrictions Under the Program

Property Address	Year Loan Issued	Term of Resale Restrictions	Status of Loan
313 Crescent Court	1998	10 years (expired 2008)	Loan repaid
323 Crescent Court	1999	10 years (expired 2009)	Loan repaid
313 Swallowtail Court	2005	45 years (expires 2050)	Loan term/resale restrictions in effect through 2050
1 San Bruno Avenue #D	2009	45 years (will apply when property is resold)	Property purchased by Housing Authority October 2018; 45 year resale restriction will apply to future purchase
343 Mariposa Street	2010	45 years (expires 2055)	Loan term/resale restrictions in effect through 2055