RESOLUTION ACCEPTING THE RESIGNATION OF SUE RICHARDSON FROM THE CITY OF MODESTO CULTURE COMMISSION

WHEREAS, Sue Richardson was appointed to serve as a member of the Culture Commission on December 15, 2015, and

WHEREAS, Sue Richardson has tendered her resignations from the Culture Commission, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto accepts, with regret, the resignation of Sue Richardson from the City of Modesto Culture Commission.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

SEAL

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPOINTING KARLHA DAVIES, ROSIE ARCE, AND VICKIE HIGGINBOTHAM TO THE CULTURE COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Culture Commission has vacancies for members who reside within Modesto and are registered voters of Stanislaus County, and

WHEREAS, the Appointments Committee met on October 13, 2016, and recommended the appointment of Karlha Davies, Rosie Arce, and Vickie Higginbotham to represent Modesto City residents on the Culture Commission, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1: Karlha Davies is hereby appointed to the Culture Commission to fulfill the remainder of Bob Barzan’s term commencing immediately and expiring December 31, 2017.

SECTION 2: Rosie Arce is hereby appointed to the Culture Commission to fulfill the remainder of David Burkett’s term commencing immediately and expiring on December 31, 2017.

SECTION 3: Vickie Higginbotham is hereby appointed to the Culture Commission to fulfill the remainder of Sue Richardson’s term commencing immediately and expiring on December 31, 2019.
SECTION 4: The City Clerk is hereby directed to transmit a copy of this Resolution to the appointed member of the Culture Commission, and the Secretary, thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

BY: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE 2017 CITY CALENDAR OF REGULARLY SCHEDULED CITY COUNCIL AND COUNCIL STANDING COMMITTEE MEETINGS

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2017 City Council Meeting Calendar, attached hereto as Exhibit “A,” and the 2017 Council Standing Committee Meeting Calendar Exhibit “B,” are hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
### January 2017
- 3<sup>rd</sup> CANCELLED*
- 10<sup>th</sup> Council Meeting (regular)
- 17<sup>th</sup> NO MEETING
- 24<sup>th</sup> Council Meeting (regular)
- 31<sup>st</sup> NO MEETING – 5<sup>th</sup> Tuesday

### February 2017
- 7<sup>th</sup> Council Meeting (regular)
- 14<sup>th</sup> Council Meeting (regular)
- 21<sup>st</sup> NO MEETING
- 28<sup>th</sup> Council Meeting (regular)

### March 2017
- 7<sup>th</sup> Council Meeting (regular)
- 14<sup>th</sup> Council Meeting (regular)
- 21<sup>st</sup> NO MEETING
- 28<sup>th</sup> Council Meeting (regular)

### April 2017
- 4<sup>th</sup> Council Meeting (regular)
- 11<sup>th</sup> Council Meeting (regular)
- 18<sup>th</sup> NO MEETING
- 25<sup>th</sup> Council Meeting (regular)

### May 2017
- 2<sup>nd</sup> Council Meeting (regular)
- 9<sup>th</sup> Council Meeting (regular)
- 16<sup>th</sup> NO MEETING
- 23<sup>rd</sup> Council Meeting (regular)
- 30<sup>th</sup> NO MEETING – 5<sup>th</sup> Tuesday

### June 2017
- 6<sup>th</sup> Council Meeting (regular)
- 13<sup>th</sup> Council Meeting (regular)
- 20<sup>th</sup> NO MEETING
- 27<sup>th</sup> Council Meeting (regular)

### July 2017
- 4<sup>th</sup> CANCELLED (Holiday)
- 11<sup>th</sup> Council Meeting (regular)
- 18<sup>th</sup> NO MEETING
- 25<sup>th</sup> NO MEETING

### August 2017
- 2<sup>nd</sup> Council Meeting (special)**
- 8<sup>th</sup> Council Meeting (regular)
- 15<sup>th</sup> NO MEETING
- 22<sup>nd</sup> NO MEETING
- 29<sup>th</sup> NO MEETING - 5<sup>th</sup> Tuesday

### September 2017
- 5<sup>th</sup> Council Meeting (regular)
- 12<sup>th</sup> Council Meeting (regular)
- 19<sup>th</sup> NO MEETING
- 26<sup>th</sup> Council Meeting (regular)

### October 2017
- 3<sup>rd</sup> Council Meeting (regular)
- 10<sup>th</sup> Council Meeting (regular)
- 17<sup>th</sup> NO MEETING
- 24<sup>th</sup> Council Meeting (regular)
- 31<sup>st</sup> NO MEETING – 5<sup>th</sup> Tuesday

### November 2017
- 8<sup>th</sup> Council Meeting (special***)
- 14<sup>th</sup> Council Meeting (regular)
- 21<sup>st</sup> NO MEETING
- 28<sup>th</sup> Council Meeting (regular)

### December 2017
- 5<sup>th</sup> Council Meeting (regular)
- 12<sup>th</sup> Council Meeting (regular)
- 19<sup>th</sup> CANCELLED per MMC 2-1.01
- 26<sup>th</sup> CANCELLED per MMC 2-1.01

*January 3<sup>rd</sup> due to Winter Break
**August 2<sup>nd</sup> Wednesday Meeting due to National Night Out on August 1<sup>st</sup>
*** November 8<sup>th</sup> Wednesday Meeting due to Election Day on November 7th

Draft CC Mtg Calendar for 2017 – 9/14/16

ATTACHMENT A
# City of Modesto Council and Standing Committees Calendar

## 2017 DRAFT

### Council and Standing Committees

<table>
<thead>
<tr>
<th>Committees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Great Safe Neighborhoods Committee</td>
</tr>
<tr>
<td>Healthy Economy Committee</td>
</tr>
<tr>
<td>Effective Government Committee</td>
</tr>
</tbody>
</table>

### Appointments & Audit Committees - As needed

**Meeting dates are subject to change at the request of Council**

*Calendar maintained by the City Clerk's Office 09/14/2016*  

**ATTACHMENT B**
RESOLUTION OF INTENTION TO ANNEX TERRITORY TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN THE TERRITORY PROPOSED TO BE ANNEXED (ANNEXATION #15)

WHEREAS, pursuant to Chapter 2.5 Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), proceedings for the annexation of territory to an existing community facilities district may, pursuant to Article 3.5 of the Act, be instituted by the adoption by the legislative body of a resolution of intention to annex such territory, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-199, adopted on April 6, 2004 (the “Resolution of Formation”), establish the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”), and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683, adopted on December 14, 2004 (“Resolution of Creation of Tax Zone #2), create Tax Zone #2 within the District, and

WHEREAS, the One-Time Facilities Special Tax component of the special taxes is higher in Tax Zone #2 than in Tax Zone #1, and
WHEREAS, pursuant to California Streets and Highways Code Section 3113.5, this Council did, by its Resolution No. 2005-566, adopted on November 9, 2005, direct that all prior modifications, amendments and annexations to the District be consolidated into a single map of the District, specifically all prior boundary maps and amendments thereto related to formation of the District and Annexation Nos. 1 through 10 to the District, and

WHEREAS, on November 23, 2005, said boundary maps were consolidated into a single map entitled “Consolidation of Boundary Maps of Community Facilities District No. 2004-1 (Village One #2)” and recorded with the County Recorder of the County of Stanislaus at Book 4 of Maps of Assessments and Communities Facilities Districts, at Page 33 (the “Consolidated Boundary Map”), and

WHEREAS, subsequent to the recordation of the Consolidated Boundary Map, additional territory was annexed to the District through Annexations Nos. 11, 12, 13, and 14, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of additional certain territory to the District, and

WHEREAS, the territory to be annexed is within the City limits, and

WHEREAS, it is intended that the territory be annexed to Tax Zone #2,

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto, California, that:

SECTION 1. The above recitals are true and correct.

SECTION 2. The current boundaries of the District are shown on the Consolidated Boundary Map as supplemented by the map entitled “Annexation Map No.
11 of Community Facilities District No. 2004-1 (Village One #2)" on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 36, the map entitled “Annexation Map No. 12 of Community Facilities District No. 2004-1 (Village One #2) on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 42, the map entitled “Annexation Map No. 13 of Community Facilities District No. 2004-1 (Village One #2) on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts at Page 57 and the map entitled “Annexation Map No. 14 of Community Facilities District No. 2004-1 (Village One #2) on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts at Page 98.

SECTION 3. The territory proposed to be annexed to the District (the “Territory”) is described in Exhibit A.

SECTION 4. The boundaries of the Territory are also shown on the map thereof, entitled “Proposed Boundaries of Annexation No. 15 to the City of Modesto Community Facilities District No. 2004-1 (Village One #2), City of Modesto, County of Stanislaus, State of California,” on file in the office of the City Clerk, which map is hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than fifteen (15) days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110 and 3110.5 of the California Streets and Highways Code.
Highways Code; including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are set forth in the Resolution of Formation. It is intended that the same special taxes be levied in the Territory, except that the increase of the One-Time Facilities Special Tax component of the special taxes, as authorized by the Resolution of Creation of Tax Zone #2, shall be levied in the Territory.

SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, December 6, 2016, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 8. At the hearing, any interested persons for or against the annexation of the Territory to the District, and the levy of the special taxes therein, may appear and will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.
SECTION 9. The City Clerk is directed to publish, not later than seven days prior thereto, a notice of the hearing, in the form required by the Act, in a newspaper of general circulation published in the area of the District, being the Modesto Bee, and otherwise in accordance with Section 6061 of the California Government Code, stating (a) the text or a summary of this Resolution, (b) the time and place of the hearing, and (c) that all interested persons for or against the proposed annexation or the levying of the special tax therein will be heard.

SECTION 10. If a majority (but at least six) of the registered voters residing within the District or a majority (but at least six) of the registered voters residing within the Territory, or the owners of one-half or more of the area of the land in the District and not exempt from the special tax, or the owners of one-half or more of the Territory, file written protests against the proposed annexation, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to annex the Territory to the District, or to levy in the Territory the special taxes to be levied in the District, shall be taken for a period of one year from the date of the decision of the Council on the issues discussed at the hearing.

SECTION 11. At the conclusion of the hearing, if the Council determines to annex the Territory to the District, it will submit the levy of the special taxes to the qualified electors of the Territory in a special election.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)

UPDATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES
ADDING TAX ZONE #2

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2004-1 (Village One #2) [herein “CFD No. 2004-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2004-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2004-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2004-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.
"Annual Facilities Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

"Annual Facilities Special Tax Requirement" means the amount necessary in any Fiscal Year (i) to pay principal and interest, including scheduled sinking fund payments, on Bonds, (ii) pay administrative expenses of CFD No. 2004-1 that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, (iii) to create or replenish reserve funds, (iv) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2004-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) to construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (iii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2004-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay administrative expenses of CFD No. 2004-1 that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

"Authorized Facilities" means those facilities that are authorized to be funded by CFD No. 2004-1.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2004-1.

"Bonds" means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2004-1 related to Authorized Facilities.

"Capitalized Interest" means funds in any capitalized interest account available to pay debt service on Bonds.
“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2004-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2004-1.

“Commercial Property” means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of a commercial building based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:

- for Low Density Residential Property and Village Residential Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2002,

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and

- for Commercial Property and Industrial Property, all Parcels for which a building permit for construction, reconstruction or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Commercial Property or Industrial Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:

- for Low Density Residential Property and Village Residential Property, all Parcels for which a building permit for construction, or reconstruction of a unit was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2002,

- for Multi-Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
for Commercial Property and Industrial Property, all Parcels for which a building permit for construction, reconstruction or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Commercial Property or Industrial Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

"Expected Land Uses" means the Net Taxable Acreage of each Land Use Class expected on an Original Parcel in CFD No. 2004-1 based on reference to the Expected Land Use Map. The Expected Land Uses for each Original Parcel in the CFD at the time of CFD Formation, and the corresponding Maximum Special Tax for each Parcel, are reflected in Attachment 2, which will be updated with each annexation of property into CFD No. 2004-1.

"Expected Land Use Map" means the map entitled "Village One Zoning of Unvested Properties" and dated February 21, 2003, which is on file with the CFD Administrator at the City and the City Clerk and which identifies the Expected Land Uses on all Parcels within the Village One Specific Plan that either (i) are in CFD No. 2004-1 at CFD Formation, or (ii) may be annexed into the CFD in future Fiscal Years. The Expected Land Use Map may be updated in future years to add property within the Village One Specific Plan that was vested to develop when the map was prepared and, therefore, was not included in the map but subsequently has its vesting expire or for any other reason becomes subject to a condition of development that requires formation of, or annexation into, a CFD.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Improvement Area" means a geographic area that, upon annexation into CFD No. 2004-1, is identified as an improvement area as defined in the Act instead of a Tax Zone, as defined below. Special Taxes collected within an Improvement Area will be the sole security for Bonds issued for that Improvement Area.

"Industrial Property" means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of an industrial building based on reference to the Village One Specific Plan and/or the Parcel's zoning designation.

"Land Use Class" means one of the five mutually-exclusive land use classes identified in Table 1 in Section C below and defined in this Section A. The City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation.

City of Modesto CFD No. 2004-1 4 December 10, 2004
“Low Density Residential Property” means all Parcels in CFD No. 2004-1 for which a building permit has been or may be issued for construction of a residential unit on a Parcel with a maximum density of two or less dwelling units per gross acre based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

“Maximum Annual Facilities Special Tax” means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

“Multi-Family Property” means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units. If a building permit has not yet been issued on the Parcel, the Administrator shall reference the Village One Specific Plan and/or the Parcel’s zoning designation to determine whether the Parcel is Multi-Family Property.

“Net Taxable Acreage” or “Net Taxable Acre” means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

“One-Time Facilities Special Tax” means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

“Original Parcel” means an Assessor’s Parcel in CFD No. 2004-1 at the time of CFD Formation or added to the CFD upon annexation, as identified in Attachment 2 (which shall be updated after each annexation). A Successor Parcel that is being further subdivided shall also be considered an
Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Per-Acre Special Taxes" means the per-acre Special Taxes identified in Table 1 in Section C below.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2004-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Special Tax Category" means, individually, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2004-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2004-1 that, (i) based on the Village One Specific Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Tax Zone" means a mutually exclusive geographic area within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Taxes. Attachment 1 identifies the boundaries of Tax Zone #1 and Tax Zone #2 as of the date of adoption of this updated
Rate and Method of Apportionment of Special Tax; additional Tax Zones may be created when property is annexed into the CFD. Alternatively, additional Original Parcels may be added to a Tax Zone with assigned Maximum Special Taxes based on the Expected Land Uses on each Original Parcel.

"Tax Zone #1" means the geographic area that is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1. Tax Zone #1 may be expanded to include additional Original Parcels that annex to CFD No. 2004-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

"Tax Zone #2" means the geographic area that is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #2. Tax Zone #2 may be expanded to include additional Original Parcels that annex to CFD No. 2004-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2004-1 that are not Developed Property.

"Village One Specific Plan" means the specific plan for development within the Village One project in the City of Modesto adopted by the City Council on April 1, 2003, as amended from time to time.

"Village Residential Property" means, in any Fiscal Year, all Parcels in CFD No. 2004-1 for which a building permit has been or may be issued for construction of a residential unit on a Parcel with a maximum density greater than two dwelling units per gross acre based on reference to the Village One Specific Plan and/or the Parcel's zoning designation.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property in CFD No. 2004-1. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) which Parcels are Commercial Property, Industrial Property, Multi-Family Property, Low Density Residential Property, and Village Residential Property (the City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation), (iv) the Net Taxable Acreage of each Parcel, and (v) the Annual Facilities Special Tax Requirement and the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in CFD No. 2004-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels meets the definition of...
Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the parcel map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2004-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax. A separate method of calculating the Maximum Special Taxes may be identified for Tax Zones or Improvement Areas added to CFD No. 2004-1 as a result of future annexations. The Per-Acre Special Taxes set forth in Table 1 below shall be used for purposes of Sections C.1 and C.2 below:

<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Per-Acre Special Tax: One-Time Facilities Special Tax</th>
<th>Per-Acre Special Tax: One-Time Facilities Special Tax</th>
<th>Per-Acre Special Tax: Annual Facilities Special Tax</th>
<th>Per-Acre Special Tax: Annual Maintenance Special Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Density Residential Property</td>
<td>$13,342 per Net Taxable Acre</td>
<td>$19,576 per Net Taxable Acre</td>
<td>$3,517 per Net Taxable Acre</td>
<td>$525 per Net Taxable Acre</td>
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<tr>
<td>Village Residential Property</td>
<td>$30,281 per Net Taxable Acre</td>
<td>$44,429 per Net Taxable Acre</td>
<td>$6,405 per Net Taxable Acre</td>
<td>$1,233 per Net Taxable Acre</td>
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<tr>
<td>Multi-Family Property</td>
<td>$101,437 per Net Taxable Acre</td>
<td>$148,832 per Net Taxable Acre</td>
<td>$7,222 per Net Taxable Acre</td>
<td>$4,020 per Net Taxable Acre</td>
</tr>
<tr>
<td>Commercial Property</td>
<td>$52,102 per Net Taxable Acre</td>
<td>$76,446 per Net Taxable Acre</td>
<td>$3,570 per Net Taxable Acre</td>
<td>$920 per Net Taxable Acre</td>
</tr>
<tr>
<td>Industrial Property</td>
<td>$13,103 per Net Taxable Acre</td>
<td>$19,225 per Net Taxable Acre</td>
<td>$2,550 per Net Taxable Acre</td>
<td>$920 per Net Taxable Acre</td>
</tr>
</tbody>
</table>

*All Per-Acre Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

1. Original Parcels

The Maximum Special Taxes for each Land Use Class in the Original Parcels in CFD No. 2004-1 as of the date of approval of this updated Rate and Method of Apportionment of Special Tax are identified in Attachment 2. Attachment 2 will be updated by the
Administrator as needed to reflect Original Parcels added to the CFD due to additional annexations. Until an Original Parcel is subdivided, the Maximum Special Taxes shown in Attachment 2 (escalated as set forth herein) shall be the Maximum Special Taxes for the Parcel unless the zoning on the Original Parcel changes to a Land Use Class that has higher Per-Acre Special Taxes, as shown in Table 1 above. Upon approval of such change in zoning by the City Council, the Administrator shall multiply the applicable Per-Acre Special Taxes by the Net Taxable Acreage of each Land Use Class that is expected on the Parcel based on the rezone. The Administrator shall then update Attachment 2 to reflect the higher Maximum Special Taxes for the Parcel. If a rezone results in a Land Use Class that has a lower Per-Acre Special Tax than the previous Expected Land Uses, there shall be no corresponding reduction in the Maximum Special Taxes for the Parcel. The potential reduction in Maximum Special Tax revenues must be considered separately for each Special Tax Category. If the rezone would cause a reduction in the Maximum Special Tax revenues in any Special Tax Category, the Maximum Special Tax identified for that Special Tax Category shall remain the same as originally assigned to the Original Parcel.

2. Successor Parcels

a. All Successor Parcels are Single Family Detached Lots

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes for the Original Parcel to each of the Successor Parcels created by the subdivision:

Step 1: Determine the greater of (i) the Maximum Special Taxes assigned to each Expected Land Use for the Original Parcel, or (ii) the Net Taxable Acreage of Low Density Residential Property and/or Village Residential Property within the Subdivision Map multiplied by the Per-Acre Special Taxes for such Land Use Classes from Table 1 above. If the Subdivision Map includes both Low Density Residential Property and Village Residential Property, separately calculate the amount that applies to each Land Use Class.

Step 2: Separately for any Low Density Residential Property and Village Residential Property created by the Subdivision Map, divide the Maximum Special Taxes from Step 1 by the number of Successor Parcels to determine the Maximum Special Taxes for each Single Family Detached Lot.

b. No Successor Parcels are Single Family Detached Lots

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to
allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

Step 1: Identify the Expected Land Uses for the Original Parcel.

Step 2: Determine the Net Taxable Acreage within each Land Use Class created by the Subdivision Map.

Step 3: If the Net Taxable Acreage of each Land Use Class from Step 2 is the same as the Expected Land Uses, the Maximum Special Taxes assigned to each of the Expected Land Uses on the Original Parcel shall be allocated to the Successor Parcels based on the Acreage of each Land Use Class that occurs on each Successor Parcel.

Step 4: If the Net Taxable Acreage within each Land Use Class from Step 2 is different than the Expected Land Uses for the Original Parcel, the Administrator shall apply the following steps separately for each Special Tax Category:

Step 4a. Multiply the applicable Per-Acre Special Tax by the Net Taxable Acreage of each Land Use Class created by the Subdivision Map.

Step 4b. If the amount calculated in Step 4a is greater than the Maximum Special Tax assigned to the Original Parcel, multiply the Net Taxable Acreage of each Land Use Class on each Successor Parcel by the applicable Per-Acre Special Tax from Table 1 above to determine the Maximum Special Tax for each Successor Parcel.

Step 4c. If the amount calculated in Step 4a is less than the Maximum Special Tax assigned to the Original Parcel: (i) identify the Maximum Special Tax that was assigned to each of the Expected Land Uses on the Parcel, (ii) divide the Maximum Special Tax for each Land Use Class by the Net Taxable Acreage of each Land Use Class actually created by the Subdivision Map, and (iii) multiply the per-acre Maximum Special Tax calculated in (ii) by the Net Taxable Acreage of each Land Use Class on each Successor Parcel to determine the Maximum Special Tax for each Parcel.

If the Land Use Classes on a Successor Parcel or Parcels are different than the Expected Land Uses for that Parcel(s) and such difference would result in a reduction in the Maximum Special Tax assigned to the Original Parcel for any Special...
Tax Category, the Maximum Special Tax assigned to the
Original Parcel shall either be distributed equally on a per­
acre basis to the Successor Parcels or, if multiple Land Use
Classes are created by the Subdivision Map, the Maximum
Special Tax from the Original Parcel shall be distributed to
each Land Use Class so that the per-acre tax for each Land
Use Class has the same proportional relationship as the Per­
Acre Special Taxes in Table 1 above.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the
Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum
Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

c. Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which
some are Single Family Detached Lots and some are not, the Administrator shall (i)
break out the Net Taxable Acreage of Low Density Residential Property and/or
Village Residential Property separately from the Net Taxable Acreage of other Land
Use Classes, (ii) for the Low Density Residential Property and/or Village Residential
Property created by the Subdivision Map, apply the steps in Section C.2a to
determine the Maximum Special Taxes for each Single Family Detached Lot, and
(iii) apply the steps in Section C.2b above to determine the Maximum Special Taxes
for Land Use Classes other than Low Density Residential Property and Village
Residential Property.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the
Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum
Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of
Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall
never be less, but may be more, than the Maximum Special Taxes assigned to the Original
Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2005 and each January thereafter, the Maximum One-Time
Facilities Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in
Table 1 above shall be adjusted annually by the greater of (i) the percentage increase, if
any, in the construction cost index for the San Francisco region for the prior twelve (12)
month period as published in the Engineering News Record or other comparable source
if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Facilities Special Tax

Beginning in Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. Annual Maintenance Special Tax

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2004-1 and shall be collected as set forth in Section F below.

2. Annual Facilities Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for the Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2004-1 as follows:

Step 1: The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;
Step 2: If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2004-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2004-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or
collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring Authorized Facilities from Annual Facilities Special Tax proceeds have been paid, and all Administrative Expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-61. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

"Outstanding Bonds" means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor's Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

"Previously Issued Bonds" means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

"Public Facilities Requirements" means either $14,100,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such other number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above shall be adjusted or a separate Public Facilities
Requirements identified each time property annexes into CFD No. 2004-1; at no time shall the added Public Facilities Requirement for the annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax generated within that annexation area.

"Remaining Facilities Costs" means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

\[
\begin{align*}
\text{Bond Redemption Amount} & \quad \text{Remaining Facilities Amount} \\
+ & \quad \text{Redemption Premium} \\
+ & \quad \text{Defeasance Requirement} \\
+ & \quad \text{Administrative Fees and Expenses} \\
- & \quad \text{Reserve Fund Credit} \\
= & \quad \text{Prepayment Amount}
\end{align*}
\]

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

**Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.

**Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.

**Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

**Step 4.** Compute the current Remaining Facilities Costs (if any).
Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "Remaining Facilities Amount").

Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

Step 8. Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.

Step 9. Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "Defeasance Requirement").

Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit").

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "Prepayment Amount").

If an owner that has prepaid the Annual Facilities Special Tax obligation assigned to a Parcel subsequently rezones the Parcel to a Land Use Class that has a higher Per-Acre Annual Facilities Special Tax, the City may in its sole discretion and as a condition of approval of the rezoning, collect the additional Annual Facilities Special Tax prepayment that would have applied had the Parcel been rezoned at the time of the original prepayment for the Parcel.
I. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.
ATTACHMENT 1
City of Modesto
Community Facilities District No. 2004-1
(Village One #2)
IDENTIFICATION OF TAX ZONES

Tax Zone #1

- CFD Formation
  077-033-007
  077-033-009
  085-034-080

- Annexation #1
  085-002-034
  085-002-035

- Annexation #2
  077-008-031
  077-008-034
  077-008-035
  077-009-014
  077-009-056
  077-009-057

- Annexation #3
  085-013-067
  085-013-069

- Annexation #4
  077-033-002
  085-007-018

- Annexation #5
  077-009-055

Updated by VMQ 11/2004
### ATTACHMENT 2

City of Modesto  
Community Facilities District No. 2004-1  
(Village One #2)

**Maximum Special Taxes Assigned to Expected Land Uses Within Each Original Parcel in Each Tax Zone**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
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<th></th>
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<tr>
<td>F</td>
<td>1</td>
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<td>$491,461</td>
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<td>Commercial</td>
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<td>Village Residential</td>
<td>5.79</td>
<td>$175,327</td>
<td>$37,085</td>
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</tbody>
</table>

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.

3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.
RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION FOR AN UPDATE TO THE NON-MOTORIZED TRANSPORTATION PLAN TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, IN THE AMOUNT OF $500,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the City’s Non-Motorized Transportation Plan (NMTP) was last updated and adopted in 2006, and

WHEREAS, any NMTP more than ten years old is considered out of date and therefore severely limits potential funding opportunities for improvements based on such an NMTP, and

WHEREAS, the City of Modesto is eligible to receive Federal and/or State funding for certain transportation planning related plans, through the California Department of Transportation (Caltrans), and

WHEREAS, grant funding is needed in order to prepare and update the NMTP, and

WHEREAS, an agreement is needed to be executed with Caltrans before such funds can be claimed through the Transportation Planning Grant Programs, and

WHEREAS, grants for Caltrans local assistance funds would impose certain obligations on the City of Modesto, such as invoicing, quarterly reporting, timely completion, and a local match of 11.47% of the grant award, and

WHEREAS, a public meeting was held on October 25, 2016, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, at which submittal of the grant application(s) was considered by the Council of the City of Modesto,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of an application on behalf of the City of Modesto to Caltrans for Sustainable Transportation Planning Grant funds for the NMTP Update in the amount of $500,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute agreements, amendments and all necessary grant documents with Caltrans as required on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE BYLAWS FOR THE HOUSING REHABILITATION LOAN COMMITTEE AND RESCINDING CITY COUNCIL RESOLUTION NO. 2015-457

WHEREAS the City Council has established the Housing Rehabilitation Loan Committee to review and approve housing rehabilitation loans, homebuyers' assistance loans and to review policies and procedures for those programs, and

WHEREAS, on December 15, 2015, Resolution No. 2015-457, the City Council amended the Bylaws for the Housing Rehabilitation Loan Committee, and

WHEREAS, on October 6, 2016, the Housing Rehabilitation Loan Committee recommended the Bylaws be amended to remove one of the seats designed for a Service Provider and add one seat for a General Contractor (active or retired),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amended Bylaws for the Housing Rehabilitation Loan Committee, a copy of which is attached as Exhibit A,

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2015-457 is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal,
who moved its adoption, which motion being duly seconded by Councilmember
Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(APPROVED AS TO FORM:
By: [Signature]

ADAM U. LINDGREN, City Attorney)
Housing Rehabilitation Loan Committee

BYLAWS

Article I. Definitions

Section 1.01 There is a Committee created to be known and designated as the Housing Rehabilitation Loan Committee.

Section 1.02 As used in these Bylaws, unless a different meaning clearly appears from the context:

(a) "Member" shall mean a member of the Housing Rehabilitation Loan Committee.

(b) "Housing Rehabilitation Loan Committee" and "Committee" shall mean the Housing Rehabilitation Loan Committee.

Article II. Objectives

Section 2.01 The Committee shall be responsible for reviewing and approving the City of Modesto’s (City) housing rehabilitation loans, homebuyers' assistance loans, and for reviewing policy and procedures for both programs.

Article III. Membership

Section 3.01 The Housing Rehabilitation Loan Committee shall consist of seven (7) qualified persons and one (1) alternate comprised of the following:

<table>
<thead>
<tr>
<th>Seat Designation</th>
<th>Term</th>
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<tbody>
<tr>
<td>Councilmember <em>(appointed by the Mayor)</em></td>
<td>4 years</td>
</tr>
<tr>
<td>Financial Institution - Representative</td>
<td>4 years</td>
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<td>Service Provider - Representative</td>
<td>4 years</td>
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<tr>
<td>General Contractor (active or retired)</td>
<td>4 years</td>
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<tr>
<td>Housing Authority of Stanislaus County – Representative</td>
<td>4 years</td>
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<tr>
<td>Citizen-at-Large</td>
<td>4 years</td>
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<tr>
<td>Citizen-at-Large <em>(Alternate)</em></td>
<td>4 years</td>
</tr>
<tr>
<td>Citizens' Housing and Community Development Committee – Representative <em>(Alternate)</em></td>
<td>4 years</td>
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</table>

HRLC Bylaws Page 1 of 5 Amended: 10-25-2016 Resolution No. 2016-xxx
Section 3.02 The Members of the Committee shall reside within the City limits of the City at the time of appointment and must maintain residence within the City at all times during their service on the Committee with the exception of the appointed representative of the Housing Authority of Stanislaus County.

Section 3.03 No Member of the Committee shall be an employee of the City, nor any bargaining unit for employees of the City, nor a person who receives compensation from the City.

Section 3.04 All appointments shall be approved by the City's Appointments Committee.

Section 3.05 No Member of the Committee shall be a relative by blood or marriage within the third degree of the Mayor, Councilmember, Charter Officer, or any department director or deputy department director.

Section 3.06 All Members must complete Statement of Economic Interest (Form 700) by April 1st of each year and when assuming or leaving Committee membership.

Article IV. Terms of Office

Section 4.01 Members may serve no more than two (2) terms. Full terms are four (4) years in duration.

Section 4.02 A partial term of two (2) or more years shall be considered a full term for purposes of Section 4.01.

Section 4.03 Full term appointments begin on January 1 and expire on December 31 four(4) years subsequent.

Section 4.04 Members may be reappointed after their initial term. Members serving two (2) consecutive terms may be reappointed after a break in service of 12 months.

Section 4.05 Members not eligible for reappointment may continue to serve until their successors are appointed. No member shall serve more than eight (8) consecutive years, with the exception of those who are serving until their successors are appointed.

Section 4.06 The Members of the Committee shall receive no compensation for the performance of their official duties.
Section 4.07 Appointments to fill vacancies on the Committee shall be handled in the same manner as original appointments. When a vacancy occurs during a term, the appointment to fill such vacancy shall be for the unexpired portion of the term.

Section 4.08 Members of the Committee may be removed by a majority vote of the City Council after a recommendation by the Committee Chairperson for the following reasons:

(a) Misconduct, inefficiency, or willful neglect in the performance of their duties providing the member is first provided in writing the reasons for such removal and gives the member the opportunity to be heard before the Council in their own defense.

(b) Refusal to resign from the Committee when no longer a resident of the City or when a conflict of interest exists.

Article V. Attendance at Meetings

Section 5.01 It shall be the responsibility of each Member to know the dates and times of all Committee meetings. If a Member knows he or she will not be able to attend a regularly scheduled meeting, it shall be his or her responsibility to notify the Committee Secretary at least forty-eight (48) hours before the meeting, in order for the absence to be recorded as an excused absence.

Section 5.02 The minutes of each meeting will list those Members in attendance, those who are excused and those who are unexcused.

Section 5.03 Attendance at meetings is expected and necessary to carry out the mission of the Committee. Three or more consecutive unexcused absences are grounds for removal from the Committee by the City Council.

Article VI. Officers and Their Duties

Section 6.01 Officers shall consist of Chair and Vice-chair elected by a majority vote of the members of the Committee. Officers shall serve a four-year term.

Section 6.02 All officers shall exercise all privileges of membership, including the making of motions, seconding and debate.

Section 6.03 The Chair shall preside at all meetings, shall appoint all ad-hoc committees, and shall ensure that the bylaws, rules and regulations as adopted by the Committee are properly enforced.
Section 6.04 The Vice-chair shall assist the Chair in his/her duties and in the absence of the Chair shall perform all duties usually performed by the Chair.

Section 6.05 The Committee Secretary shall be a City staff member, appointed by the Community & Economic and Development Department, to serve as secretary. The Committee Secretary shall keep a record of the minutes of all Committee meetings and such other duties as are usually performed by a secretary.

Article VII. Meetings

Section 7.01 Special meetings shall be called by the Chairperson as necessary.

Section 7.02 Notices of all meetings, including agendas, shall be given to all Members of the Committee, to the City Clerk, to the City Manager, and to all others as provided by law. All such notices shall be furnished to the Committee in writing at least seventy-two hours prior to the time of such meeting.

Section 7.03 All meeting agendas will be posted at Tenth Street Place.

Section 7.04 All meetings shall comply with the requirements of the Ralph M. Brown Act.

Section 7.05 A quorum is necessary for the Committee to transact any business. A quorum shall be defined as a simple majority of active Committee members which is one-half of the active members plus one.

Section 7.06 All meetings of the Committee shall be open to the public and shall be held at a public facility, which is accessible in accordance with the regulations of the Americans with Disabilities Act.

Article VIII. Order of Proceedings

Section 8.01 Sturgis' Standard Code of Parliamentary Procedure shall be the guide for parliamentary procedures in the conduct of Committee meetings.

Section 8.02 The order of proceedings of all meetings shall be as follows, subject to majority vote of the members present:

(a) Roll Call

(b) Declaration of Conflict of Interest
(c) Public Comment Period

(d) Consent Items

(e) Old Business

(f) New Business

(g) Committee Comments & Reports

(h) Matters Too Late for the Agenda

(i) Adjournment

Section 8.03 Members of the public shall not speak unless recognized by the Chairperson and shall state their names before making any statement, which shall become a part of the public record. The Chairperson may remove any person who refuses to follow these rules or the decision of the Chairperson.

Article IX. Amendments

Section 9.01 The Bylaws and any future amendments shall be subject to the final approval of the City Council and shall not and are not intended to go beyond any of the powers and duties given to the Committee by the City Council.
RESOLUTION APPROVING A HOUSING AND URBAN DEVELOPMENT POLICIES & PROCEDURES MANUAL

WHEREAS, staff has been evaluating existing policies and procedures governing the City’s Housing and Urban Development (HUD) funding and related programs and has found that while there are various policies and procedures in place related to the HUD-funded activities, there is not one comprehensive manual containing all policies and procedures governing these activities, and

WHEREAS, consolidation of all HUD Policies & Procedures into one location (HUD Policies & Procedures Manual) will allow for easier access to and update of the policies and procedures in the future, and

WHEREAS, except for the Homeowner Rehabilitation Section, the proposed HUD Policies & Procedures Manual contains copies of the policies & procedures that have been adopted and utilized to date, and

WHEREAS, the updated Homeowner Rehabilitation Section is intended to focus on three areas: Emergency (health and safety repairs), Spot Rehabilitation (reasonable repair requests to help ensure improved quality of life and help residents remain living in place for the longest feasible time frame possible) and, in extremely rare situations, Whole-House Rehabilitation (if the cost of rehabilitation will exceed 75 percent of the current estimated value of the property), and

WHEREAS, on October 6, 2016, the City’s Housing Rehabilitation Loan Committee reviewed, approved and forwarded the proposed Homeowner Rehabilitation Program Policies & Procedures to the City Council for review and approval,
NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby adopts the Housing and Urban Development Policies & Procedures Manual as set forth in Exhibit A.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

BY: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Housing and Urban Development Policy and Procedures Manual

(Updated *****************)
(Council Approval *********)
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<tr>
<th>Section</th>
<th>Title</th>
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<td>Fair Housing</td>
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<td>Community Development Block Grant (CDBG)</td>
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<td>Home Investment Partnerships Program (HOME)</td>
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<td>Emergency Solutions Grant (ESG)</td>
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<td>Housing Rehabilitation Program</td>
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<td>7.</td>
<td>Homebuyers Assistance Program</td>
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<td>Neighborhood Stabilization Program 1 (NSP 1)</td>
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<td>Neighborhood Stabilization Program 2 (NSP 2)</td>
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<td>NSP2 Homebuyer's Program</td>
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<td>Neighborhood Stabilization Program 3 (NSP 3)</td>
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<td>20.</td>
<td>Integrated Disbursement and Information System (IDIS)</td>
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<td>Future</td>
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<td>22.</td>
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Section 1 - Citizen's Participation Plan
**Introduction**

The City of Modesto invites the community to provide input on the way grant funds from the Department of Housing & Urban Development (HUD) are spent. This Citizen’s Participation Plan outlines the way the City communicates with residents regarding the use and expenditure of HUD funds.

**Contacting City Housing Division Staff**

There are a number of ways to contact City of Modesto Housing Division staff.

Telephone: (209) 577-5247  
Email: housing@modestogov.com  
In person: 1010 Tenth Street, Suite 4400  
Modesto, California

Mail: City of Modesto  
Parks, Recreation, & Neighborhoods Department – Housing Division  
P.O. Box 642  
Modesto, California 95353

**Community Meetings**

Community and neighborhood meetings are organized by City staff to seek community input and identify community needs. These meetings serve several purposes:

- Obtains community input about funds should be spent;
- Solicits information about neighborhood needs;
- Builds a sense of community among neighborhood residents;
- Encourages community empowerment and greater community voice;
- Provides neighborhoods with information about city services.

The City holds a minimum of two neighborhood meetings each year in low-income census tract areas to encourage participation of low- and moderate-income persons in conjunction with development of the Annual Action Plan and/or Consolidated Plan. These are held are different times and locations in an effort to accommodate different households.

The City also conducts a minimum of one community meeting annually with service providers as the primary audience. The service provider meeting is held during the day to accommodate service providers. Additionally, the City will, as needs are identified, make presentations at meetings hosted by civic groups, faith-based groups and other community organizations.

Spanish-speaking translators are available at all meetings. If a request for other language translators is made at least five working days prior to a public
meeting, translators will be provided. All community input meetings will be held at public buildings with disabled access.

The meetings organized by the City and held prior to the Annual Action Plan and/or Consolidated Plan will be publicly noticed in the local paper of general circulation, as well as the local Hispanic paper of general circulation. The public notice will occur at least one week prior to the meetings. A press release will also be submitted to the local newspaper, radio and television stations and announcements sent to neighborhood organizations, the local public housing authority, and agencies providing services to the residents of the community and neighborhoods. Announcements may also be mailed directly to residents and property owners of selected neighborhoods.

**Public Hearings and Legal Public Notices**

Certain activities require a public hearing before the governing board of the City, which is the City Council. Generally, these occur in conjunction with the development of the Consolidated Plan, the Annual Action Plan, any substantial amendments to the Plans, and the CAPER.

Legal public notices for the public hearings and the public comment period will be published in the local newspaper of general circulation, as well as the Hispanic paper of general circulation at least 30 days prior to the hearing unless HUD has specified a different time period.

Press releases will also be distributed to local newspaper and other media at least two weeks prior to the hearing. Announcements may also be mailed directly to residents and property owners of selected neighborhoods.

Public hearings are held during regularly scheduled City Council meetings in the City Council Chambers. Any resident choosing to speak will be provided an opportunity to do so in accordance with established Council protocol. Any comments received, whether orally or in writing, will be considered in the preparation of the report and will be submitted to HUD with the applicable written report.

The legal public notice for public hearings conducted by the City Council must include the following:

- Summary of proposed plan;
- Estimated amount of funding by funding source;
- Date, time and place of the public hearing;
- How the written report can be obtained;
- Contact information for city staff.
Public Access to Information
As required by law, the City of Modesto will provide the public with reasonable and timely access to information and records relating to the development of the Annual Action Plan, the Consolidated Plan, any substantial amendments of those Plans, and the CAPER.

The written reports submitted to HUD each year will be available to the public free of charge at the following location:

City of Modesto
Parks, Recreation and Neighborhoods Department
Tenth Street Place
1010 Tenth Street Suite 4400
Modesto, California

Additionally, most documents are also available on-line at www.modestogov.com.

Technical Assistance
Each year, the City accepts funding proposals for public service and emergency solutions grants. All potential applicants for funding are encouraged to contact City staff for technical assistance before completing a proposal. In addition, City staff will hold two technical assistance workshops each year. These workshops will be held prior to the funding cycle for public service grants available during the following fiscal year.

The technical workshops will include the following:
• Activities eligible for funding;
• Required leveraging for award of funds;
• Rating criteria for proposals;
• Documentation required to be submitted with the proposal.

Service providers who have received funding in the prior two fiscal years will be notified of these workshops at least 10 days in advance of the workshop along with any others who have requested to be on the mailing list. In addition, City staff will make every effort to identify potential new service providers and others who may be interested in participation.

Notice will at a minimum be by correspondence sent directly to the known list of service providers. In addition, notice may also include press releases, email, and other forms of notification as appropriate.
**Complaints**
Citizens with complaints concerning the Consolidated Plan, the Annual Action Plan, any substantial amendments to those Plans, or the CAPER, should contact the City at 1010 Tenth Street, Suite 4300, Modesto, California in writing at:

City of Modesto  
Parks, Recreation and Neighborhoods Department  
P O Box 642  
Modesto, CA 95353  
Telephone (209) 577-5247

Complaints will be responded to in writing within 15 days. A record will be maintained of all complaints received including the nature of the complaint, referrals made, and the final disposition.

**Citizens’ Housing & Community Development Committee**
The Citizens’ Housing & Community Development Committee (CH&CDC) provides overall review of the City’s HUD funds. The committee makes funding recommendations to the Modesto City Council regarding the HUD Community Development Block Grant, Emergency Solutions Grant (formerly Emergency Shelter Grant), and HOME Investment Partnership Grant programs as well as other one-time HUD funded programs such as the Neighborhood Stabilization Programs.

There are 13 members of the committee:
- Five (5) citizens at-large representing a cross-section of the community;
- Two (2) representatives from the Citizens Redevelopment Advisory Commission;
- One (1) representative from each of the following: Housing Rehabilitation Loan Committee, Human Relations Commission, Modesto Planning Commission, and the Stanislaus County Board of Supervisors;
- Two (2) members of the Modesto City Council.

To avoid a perceived conflict of interest, no person who is a member of the board of directors of, or is employed by, an agency that applies for or receives CDBG, ESG, HOME, or other HUD funding will be eligible to vote on funding decisions involving the said agency regarding that funding source.

The Committee meets approximately once a month. These are public meetings, and the public is welcome and comments are encouraged. There is at least one meeting scheduled during the public comment period for the Annual Action Plan, the Consolidated Plan, any substantial amendments to the Plans, and the
CAPER. These meetings are publicly noticed and are generally held at Tenth Street Place.

**Residential Anti-Displacement and Relocation Policy**
The City of Modesto will comply with all federal regulations governing residential anti-displacement and relocation assistance as they pertain to the CDBG and HOME programs.

To assure compliance, the City of Modesto:

1. Identifies reasonable steps to minimize the displacement of persons from their homes as a result of an assisted project;

2. Replaces all occupied and vacant occupiable "low/moderate-income dwellings" that are converted to a use other than "low/moderate-income dwellings" or are demolished for a project;

3. Provides relocation assistance to low/moderate-income households (including families and individuals) displaced as a direct result of the conversion of a low/moderate-income dwelling or the demolition of any housing for a project;

4. Provides reimbursement for actual reasonable out-of-pocket costs incurred in connection with temporary relocation, including moving expenses and increased housing costs, if the person must relocate temporarily because continued occupancy of the unit constitutes a substantial danger to the health or safety of the person or public.

**Amendments to the Citizens’ Participation Plan**
The Citizens’ Participation Plan can be changed only after the public has been notified of the intent to modify it, and only after the public has had a reasonable opportunity (30 days) to review and comments on the proposed substantial changes to it. At a minimum, the Citizens Participation Plan is to be reviewed with each update of the City’s Consolidated Plan.

**Definitions**

**Annual Action Plan:** This document updates the Consolidated Plan on an annual basis and allocates one year’s funding (entitlement and program income) to specific projects and activities for the HUD funded programs.

**Consolidated Annual Performance Evaluation Report (CAPER):** This document reports on the progress made in carrying out the Consolidated Plan and Annual Action Plan. The City of Modesto prepares the report annually in accordance with 24 CFR Part 91.
Consolidated Plan: This document is submitted to HUD and serves as the planning document of the jurisdiction and an application for funding for the HUD funded programs. The document is developed in accordance with 24 CFR Part 91 and establishes the priorities and strategies of the various programs over a five-year period. Legal Public Notice: Legal public posting by the City Clerk’s Office in the local paper of general circulation with the purpose of announcing a legal action or intent.

Public Notice: Announcement which may take the form of advertising, press releases, or other communication tools and utilized to get information out regarding programs or upcoming events.

Substantial Amendment: An amendment to the Consolidated Plan or Annual Action Plan which involves implementing an activity not previously described, a change in the purpose, scope, location or beneficiary of an activity, or an increased appropriation to an existing activity in excess of $50,000 is considered a substantial amendment. An increase or decrease in the amount of HOME funds appropriated to an approved HOME activity shall not be considered a substantial amendment if it does not change the scope, location or objectives of the approved activities or beneficiaries. These changes may however require reporting to the City’s governing body based on established City procedures.
Section 2 - Fair Housing
City of Modesto

- Sponsoring workshops, seminars, and symposiums on an annual basis to help educate targeted audiences;
- Hosting and operating a website providing fair housing information, a list of services, and resources for those with access to the internet who are seeking out information on their housing rights. Project Sentinel's site is located at www.housing.org;
- Placing transit posters in trains and on bus shelters informing people to call if the person feels he or she has experienced housing discrimination.

Maintaining contact and relationships with other social services agencies that serve residents in their jurisdictions is an important factor for Project Sentinel in reaching those who need fair housing services. The agency receives a large number of complaints as referrals from these other agencies.

Landlord Tenant Mediation Services

In July 2004, Project Sentinel began providing and landlord/tenant mediation services for residents and landlords that need additional assistance beyond information and referral. Project Sentinel maintains a position of neutrality such that “delivery of services [are] open and available to all whom make a reasonable request for assistance.” Project Sentinel provides mediation services for several types of landlord-tenant conflicts, including the following:

- The nature of leases and month-to-month rental agreements.
- The duty of landlord to repair the premises and the duty of the tenant to maintain the premises
- The landlords’ right to enter the rental unit and the tenants’ right to privacy
- Rental increases and other changes in terms
- Termination of the rental relationship
- Handling security deposits, including requirements for inspections at the time the tenant vacates and the process for refunding the deposit

Between 2010 and 2014 Project Sentinel provided 515 households with landlord/tenant mediation services of counseling and dispute resolution. Project Sentinel believes that many low income tenants and landlords do not have sufficient information to make good decisions. Many of these callers are of protected status and as such are at a disadvantage when negotiating a landlord tenant relationship. If assistance is not rendered to these households it could be a form of discrimination. The lack of sufficient knowledge of tenant landlord rules places these individuals and households at a disadvantage. The provision of these services helps to level the playing field. Project Sentinel maintains a position of neutrality such that “delivery of services [are] open and available to all whom make a reasonable request for assistance.” Project Sentinel provides mediation services for several types of landlord-tenant conflicts, including the following:

- The nature of leases and month-to-month rental agreements.
- The duty of landlord to repair the premises and the duty of the tenant to maintain the premises
City of Modesto

- The landlords' right to enter the rental unit and the tenants' right to privacy
- Rental increases and other changes in terms
- Termination of the rental relationship
- Handling security deposits, including requirements for inspections at the time the tenant vacates and the process for refunding the deposit

In the last fiscal year, Project Sentinel has managed 49 Modesto landlord/tenant cases pertaining to a range of issues. The most common problems reported are landlord/tenant, neighbor-to-neighbor, and breach of contract. The cases were resolved through conciliation, mediation, or counseling.

**CF-10 Fair Housing Discrimination Complaints**

**Intake**

When a potential complainant has been referred to Project Sentinel and contact is made, an experienced counselor discusses the caller's situation, and determines if the problem is within the geographic service boundaries and scope of fair housing law. If the complaint isn't related to the agency's services, the housing counselor will refer the caller to the appropriate agency. As this information and referral is being made, the housing counselor will explain what Project Sentinel's role is and why the caller is being referred. In some situations the housing counselor will offer to be a bridge for the caller and contact the other organization on behalf of the caller.

Once a complaint of housing discrimination has been determined, and is verified to be within the agency's geographic service boundaries, the counselor does a complaint intake and proceeds with investigation. Complaint in-take is usually performed by phone, without cumbersome requirements of appointments or paperwork. Intake is performed quickly but with sensitivity to the complainant's possible emotional state of mind. The counselor will collect information on the complainant's demographic makeup, financial information, housing situation, and desired course of action, as well as taking down a narrative of the incident which prompted the complainant's initial call. Based on this information,

**Investigation**

There are various methods for investigating complaints of housing discrimination: testing, surveys, interviewing, and document review. Each complaint is evaluated to determine the best method or methods of investigation.

As testing is such a crucial part of fair housing investigation, a fair housing agency's tester pool is one of its most important assets. Each agency conducts regular tester-training workshops to develop and maintain a diverse pool of testers. At these trainings, potential testers are trained in basic fair housing
City of Modesto

law and put through practice testing exercises to give them a feel for what is being looked for when a fair housing agency conducts an investigation.

Surveying is also one of the major means of collecting evidence. Agencies will compose a survey of questions based on the complainant’s situation, and send a representative to the site to conduct interviews of in-place tenants. Surveying will often be used to find others of the same protected class as the complainant to provide corroborating evidence of the alleged discrimination.

Interviews of witnesses to the discriminatory actions, or of other victims of the alleged discrimination, are also used to collect corroborating evidence. Sometimes witnesses statements are the only way to gather evidence, especially in cases where testing and surveying are impossible. Potential interviewees can include friends or family of the complainant or current and former site tenants of the complainant’s protected class.

Referral

Once the investigation is completed and if evidence is found, the fair housing agency will contact the complainant to counsel them on the next available options. At this time the complainant can choose from the following options:

Conciliation

If possible, the complainant may want to come to a mediated agreement on the problem with his or her landlord. This might involve the granting of a reasonable accommodation to site rules in the case of a person with a disability, or the renting of a unit previously denied to a complainant on the basis of familial status.

Education

The complainant may want to require that the landlord be educated as to the violation in fair housing law. Project Sentinel will send a letter of education to the landlord explaining fair housing law; further education, such as attending a fair housing training may also be required to conciliate the case.

Referral to Private Attorney, HUD or DFEH

If the complaint is egregious, the complainant may want to pursue this case in court or through a government agency such as the U.S. Department of Housing and Urban Development (HUD) or the California Department of Fair Employment and Housing (DFEH). Cases referred to a government agency or to a private attorney often settle out of court, with monetary damages being awarded to the complainant.
City of Modesto

Decline to Pursue

If the complainant does not wish to pursue the case, he or she can choose to decline pursuing it. In cases where insufficient or no corroborating evidence is found, or where the site is impossible to investigate, Project Sentinel will counsel the complainant on the lack of evidence or difficulty of finding evidence. If the complainant feels that his or her experience was egregious enough, he or she may choose to file a complaint with HUD or DFEH alone. Otherwise, the complaint will be closed as counseled.

Pending

Cases are cases that are still being investigated, or required a second investigative effort at the time of this report.

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Testing and Auditing

Project Sentinel may conduct testing in order to verify a case of fair housing discrimination. Fair housing testing is a controlled method to determine differential treatment in the services given to home seekers by real estate agents, property managers, and owners. A test is a simulation of a housing transaction used to compare the treatment of one home seeker to another, to determine where there has been a violation of fair housing laws. The technique entails the pairing of individuals, similar in relevant respects except for the particular variable being tested (e.g. race, familial status, disability). The experience of the two of more testers is compared to determine the validity of an alleged discrimination.

California State Department of Fair Employment and Housing (DFEH)

Project Sentinel works in partnership with HUD and DFEH. Once a person calls in a complaint to Project Sentinel, an interview takes place and the complaint is documented. Project Sentinel first offers mediation/conciliation as a viable alternative to regulatory enforcement or litigation. If the mediation/conciliation is unsuccessful, Project Sentinel refers the case to DFEH or HUD. During the investigation of the case, testing may be performed, if deemed necessary. After the completed investigation, Project Sentinel advises the complainant of the alternatives available in proceeding with the complaint, which includes mediation/conciliation, administrative filing with HUD or DFEH, referral for consideration to the Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section, or referral to a private attorney for possible litigation.

Hate Crimes

To a certain degree, hate crimes are an indicator of the environmental context for discrimination. Hate crimes are crimes that are committed because of a bias against race, religion, disability, ethnicity, or sexual orientation. These crimes should be reported to the police or sheriff’s department. On the other hand, a hate incident is an action or behavior that is motivated by hate, but is protected by the First Amendment right to freedom of expression. Examples of hate incidents can include name-calling, epithets, distribution of hate material in public places. The freedom guaranteed by the U.S. Constitution,
such as freedom of speech, allows hateful rhetoric as long as it does not interfere with the civil rights of others. Only when these incidents escalate can they be considered actual crime.

In an attempt to determine the scope and nature of hate crimes, the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting program collects statistics on these incidents. According to the FBI, hate crimes take place in Modesto, although at a low level.
Section 3 - Community Development Block Grant (CDBG)

MODESTO
CALIFORNIA

EQUAL HOUSING OPPORTUNITY
City of Modesto
Community Development Block Grant (CDBG) Public Services
Emergency Solutions Grants (ESG)
Policies and Procedures

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PURPOSE OF THIS MANUAL

This manual applies to all CDBG Public Services and ESG subrecipients and provides guidance on many aspects of program management. It is intended as a general guide and does not replace or amend any of the provisions of the subrecipient agreement.

CHAPTER 1.0: THE CDBG PROGRAM

The intent of the Community Development Block Grant (CDBG) program is to develop viable urban communities through the provision of decent housing, suitable living environments, and economic opportunities for persons of low and moderate income.

1.1 CDBG Eligibility

To be eligible for CDBG funding, an activity must:

- Meet one of three national CDBG program objectives (National Objectives);
- Be an eligible CDBG program activity as prescribed by HUD;
- Be consistent with the City of Modesto’s Consolidated Plan; and
- Receive National Environmental Protection Act (NEPA) clearance.

1.2 National Objectives

The authorizing statute of the CDBG program requires that each activity funded must meet one of three National Objectives. The three National Objectives are:

- Benefit to low- and moderate-income (LMI) persons;
- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency.

City of Modesto must comply with federal regulations that mandate a minimum of 70 percent of the CDBG funds received must, over a three-year period, be used to fund activities that primarily benefit low- and moderate-income persons. Very few projects qualify under the last two categories, as the eligibility requirements are more extensive and difficult to meet.

1.3 CDBG Eligible Activities

In addition to meeting one of the National Objectives, activity must also be eligible under the CDBG program. General types of activities that are eligible fall into four broad categories:
• Code Enforcement and Housing Development and Rehabilitation Activities;
• Construction or Improvement of Public Facilities;
• Economic Development Activities (Job Creation and Retention); and
• 
Public Services: Federal regulations restrict public service funding to 15 percent of the total grant. In addition, record-keeping requirements generally include, at a minimum, extensive documentation on beneficiaries' family income, race, ethnicity, and female head of household status.

Federal regulations for direct services funded under CDBG and ESG programs limit funding to either:

• A new service; or
• A quantifiable increase in the level of an existing service which has been provided by the City of Modesto or another entity on its behalf through state or local government funds in the 12 months preceding the submission of the City of Modesto Consolidated Plan/Annual Action Plan.

Funds must supplement, not supplant, local funds.

This requirement does not prevent continued funding of a CDBG- or ESG-funded activity at the same or lower levels in successive years.

1.4 LMI Categories

City of Modesto’s CDBG Public Services Request for Proposals (RFP) solicits projects that primarily benefit LMI persons. The following four categories are used to meet this National Objective, but the City’s CDBG Public Services RFP solicits only two:

• Area benefit activities;
• Limited clientele activities;
• Housing activities; or
• Job creation or retention activities

Area Benefit Activity is one that benefits all residents in a particular area where at least 51 percent of the residents are LMI persons.

Limited Clientele Activity requires that at least 51 percent of beneficiaries be LMI persons. In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity. Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons.
without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a particular area.

In determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must meet one of the following criteria:

- **Benefit a clientele that is generally presumed to be principally LMI.** This presumption covers: abused children, battered spouses, elderly persons, severely disabled* adults, persons experiencing homelessness, illiterate adults, persons living with HIV/AIDS, and migrant farm workers; or

- **Require documentation on family size and income** in order to demonstrate that at least 51 percent of the clientele are LMI; or

- **Be of such a nature and in such a location that it can be concluded that clients are primarily LMI.** An example is a daycare center that is designed to serve residents of a public housing complex.

* Persons are considered severely disabled if they:
  - Used a wheelchair or had used another special aid for 6 months or longer;
  - Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs, and walking);
  - Need assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating, and toileting) or instrumental activities or daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework, and using the telephone);
  - Are prevented from working at a job or doing housework;
  - Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility, or dementia, or mental retardation; or
  - Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI)

### 1.5 CDBG Ineligible Activities (Not Exhaustive)

The provision of income payments is ineligible, if these payments are provided as a grant. Income payments are payments to an individual or family, which are used to provide basic services such as food, shelter (including payment for rent, mortgage, and/or utilities), or clothing. However, such expenditures are eligible under the following conditions:

- Income payments do not exceed 3 consecutive months; and
- Payments are made directly to the provider of such services on behalf of an individual or family

The following are also ineligible activities:
• Political/lobbying activities;
• Expenses incurred before the period for which funding is awarded;
• Food/meals for staff;
• Fundraising;
• Entertainment;
• Alcoholic beverages;
• Deposits on equipment;
• Incentives to beneficiaries (gift cards, raffle prizes, holiday gifts, prizes for social activities, etc.)
• Late fees, fines, penalties;
• Contributions or donations; and
• Marketing activities of organization

CHAPTER 2.0: THE ESG PROGRAM

The Emergency Solutions Grants (ESG) program is designed to identify sheltered and unsheltered persons experiencing homelessness, as well as those at risk of experiencing homelessness, and provide the assistance necessary to help those persons quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) substantially revised the Emergency Shelter Grants program (now Emergency Solutions Grants program) to reflect the change in focus from addressing the needs of persons experiencing homelessness in emergency and transitional shelters to assisting persons experiencing homelessness and those at risk of experiencing homelessness to quickly regain stability.

2.1 ESG Eligible Activities

While flexible in terms of serving all homeless subpopulations and preventing persons from experiencing homelessness, the authorizing statute and implementing regulations do limit the types of activities and amounts of funds that may be used for different activities. The following are 5 major categories of eligible activities and applicable limitations of existing ESG program:

• Street Outreach
  o Essential Services
• Emergency Shelter
  o Shelter Operations
    ▪ Shelter operations no longer have a limit on staff costs, as it did under the Emergency Shelter Grants program, and may now include cost of supplies and, under certain conditions,
costs of hotel or motel stays where no appropriate emergency shelter is available
  o Essential Services
  o Renovation
• Homelessness Prevention
  o Tenant-Based Rental Assistance
  o Housing Relocation and Stabilization Services
• Rapid Re-Housing
  o Tenant-Based Rental Assistance
  o Project-Based Rental Assistance
  o Housing Relocation and Stabilization Services
• Homeless Management Information Systems (HMIS)

No more than 60 percent of the annual ESG allocation from HUD may be used for Street Outreach and Emergency Shelter and no more than 7.5 percent of the annual ESG allocation from HUD may be used for Administration.

2.2 ESG Matching Funds Requirement

Subrecipient must match ESG funds dollar for dollar with its own locally generated funds and/or in-kind contributions. These funds and/or contributions may come from City of Modesto; other federal, state, and local grants; and from in-kind contributions, such as the value of a donated building, supplies and equipment, new staff services, and volunteer time.

Cost principles for valuation of in-kind and other contributions must:

• Be verifiable records;
• Not be included as a contribution for any other federally-assisted program;
• Ensure value of services be consistent with those paid for similar work;
• Ensure value of property be at fair market value;
• Document volunteer services (names, addresses, dates, and hours of work);
• Include basis for determining the value of personal services, material, equipment, land, and other fixed assets

Documentation of matching funds must be furnished to the City within 10 days from the end of each program year.

2.3 ESG Funding Priorities

In addition to funding emergency shelter and transitional housing to the maximum extent possible, the City of Modesto, in consultation with the local Continuum of Care (also known locally as the Stanislaus Housing and Support Services Collaborative – a collaborative group of government, public agencies, advocates, and community- and faith-based
organizations focused on addressing homelessness, creating affordable housing, and providing assistance that promotes self-sufficiency), developed the following priorities, strategies, and outcomes:

- Focusing more on homelessness prevention than rapid re-housing;
- Limiting assistance* to:
  - Families with dependent children;
  - Persons experiencing homelessness who are within six months of obtaining mainstream benefits; and
  - U.S. Department of Housing and Urban Development – U.S. Department of Veterans Affairs Supportive Housing (HUD-VASH) program participants (security deposit assistance only)
- Providing 3-6 months of assistance to program participants and additional assistance only when merited and program participants adhere to individualized stability plan;
- Including as a special risk factor for homelessness severely deteriorated housing; and
- Basing program performance on the elimination of barriers to housing stability

*Assistance Includes:
- Tenant- or project-based, short- and medium-term rental assistance
- Housing relocation and stabilization services, which include:
  - Financial assistance costs:
    - Rental application fees
    - Security deposits
    - Last month’s rent
    - Utility deposits
    - Utility payments
    - Moving costs
  - Services costs:
    - Housing search and placement
    - Housing stability case management
    - Mediation
    - Legal services
    - Credit repairs
2.4 Definition of Homeless and At Risk of Homelessness

Homeless

a. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
   i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
   ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
   iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

b. An individual or family who will imminently lose their primary nighttime residence, provided that:
   i. The primary nighttime resident will be lost within 14 days of the date of application for homeless assistance;
   ii. No subsequent residence has been identified; and
   iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

c. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
   i. Are defined as homeless under the Runaway and Homeless Youth, Head Start, Violence Against Women, Public Health Services, Food and Nutrition, or Child Nutrition Acts;
   ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
   iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
   iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addition, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

d. Any individual or family who:
i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual or family's primary nighttime residence or has made the individual or family afraid to return to their nighttime residence;

ii. Has no other residence; and

iii. Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

At Risk of Homelessness

a. An individual or family who:

i. Has an annual income below 30 percent of area median family income;

ii. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in the homeless definition; and

iii. Meets one of the following conditions:

1. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

2. Is living in the home of another because of economic hardship;

3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

4. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, state, or local government programs for low-income individuals;

5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

6. Is exiting a publicly funded institution, or system of care, e.g., health-care facility, mental health facility, foster care, or other youth facility, or correction program or institution; or

7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the City of Modesto's approved consolidated plan;

b. A child or youth who does not qualify as homeless under the HEARTH Act but qualifies as homeless under the Runaway and Homeless Youth, Head Start, Violence Against Women, Public Health Services, Food and Nutrition, or Child Nutrition Acts; or

- A child or youth who does qualify as homeless under the HEARTH Act but qualifies as homeless under the McKinney-Vento Homeless Assistance Act, and the parent(s) or guardian(s) of that child or youth if living with her or him.
ESG activities must maintain adequate documentation to substantiate homelessness or at risk of homelessness status of its beneficiaries.

CHAPTER 3.0: DETERMINING INCOME ELIGIBILITY

3.1 Definition of Income

See Chapter 6.0: Maintenance of Beneficiary Files for more detailed information.

To calculate annual gross income, the CDBG program allows the three definitions of income listed below:

- Section 8 annual gross income: The CDBG program has always used the Section 8 definition of annual income.
- IRS adjusted gross income: The final rule allows CDBG grantees/subrecipients to determine annual income by using the calculation for “adjusted gross income” outlined in the federal income tax IRS Form 1040.
- Census long form annual income: The final rule also allows CDBG grantees/subrecipients to determine annual income as defined for the Census long form for the most recent decennial Census.

In general, City of Modesto will require all subrecipients use the Section 8 definition.

Subrecipients are to estimate the annual income of a family or household by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable).

3.2 HUD Income Limits - 2012

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$62,000

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<td>$38,450</td>
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<td>$57,550</td>
<td>$61,550</td>
<td>$65,500</td>
<td></td>
</tr>
</tbody>
</table>

CHAPTER 4.0: NEPA CLEARANCE

All activities proposed for CDBG/ESG funding must receive National Environmental Policy Act (NEPA) clearance. NEPA is federal environmental protection legislation that is similar, yet often more restrictive that the California Environmental Quality Act (CEQA). CDBG/ESG funds may not be used to fund activities that have not received NEPA clearance.

All funded activities must comply with the National Environmental Policy Act of 1969 (NEPA; 42 USC 4321); NEPA-related statutes, regulations, and policies; and the implementing regulations (24 CFR Part 58) prior to the obligation of CDBG/ESG funds.

NEPA regulations may be found at:
http://hud.gov/offices/cpdl%affordablehousing/training/web/crosscutting/environmental/reviewstage1.cfm

CHAPTER 5.0: PLANNING AND ALLOCATION PROCESS

5.1 Citizen Participation Plan and Consolidated Plan and Annual Action Plans

The Consolidated Plan outlines a five-year strategic plan with goals to meet the unmet needs for affordable and supportive housing, community development activities, public services, and economic development opportunities for low- and moderate-income residents. Each fiscal year, specific activities are identified in an action plan (Annual Action Plan) to address the needs during the coming year. At the end of each fiscal year, a Consolidated Annual Performance and Evaluation Report (CAPER) is prepared that summarizes the accomplishments toward the five-year goals.

City of Modesto, as a CDBG and ESG grantee, is provided flexibility in allocating program funds according to local priorities consistent with the Consolidated Plan. Pursuant to HUD regulations regarding the Citizen Participation Plan, City of Modesto carries out an annual community planning process and public hearing to determine community needs to inform the allocations contained in the Consolidated Plan and subsequent Annual Action Plans.

5.2 CDBG Public Services and ESG RFP
City of Modesto releases a consolidated Request for Proposals (RFP) for CDBG Public Services and ESG every two years. While CDBG and ESG are separate and distinct HUD programs, the City releases a consolidated RFP soliciting proposals for CDBG Public Services/ESG funds. City of Modesto staff allocates program funds to corresponding program activities to ensure statutory and regulatory compliance. This two-year funding cycle is intended to enhance activity stability and design, and direct resources toward activity delivery instead of grant-writing and application review. Level of funding for the second year will depend on the availability of funds, as well as on project performance during the first year of the award. City of Modesto retains sole discretion to determine any change in the amount of the second-year award or terminate the funding agreement based on the provisions contained therein.

To be eligible for funding, proposed activities must be consistent with the needs and goals identified in the Consolidated Plan. If an activity is proposed to meet a new need not previously identified in the Consolidated Plan, the Consolidated Plan must be amended according to the City of Modesto’s Citizen Participation Plan prior to funding consideration.

Applicants may submit only one application; however, proposers may submit more than one application only if additional applications are joint, highly collaborative applications, (i.e., sharing space or substantial resources with at least one other organization). Letters of Understanding (LOUs) will be required at time of submission of proposal.

City of Modesto staff will review all proposals for eligibility (i.e., technical review) and provide notification of any eligibility issues to proposing organization.

Any organization that maintains its proposal has been wrongly determined to be ineligible by not meeting the RFP criteria may submit written feedback to the Deputy Director of Parks, Recreation, and Neighborhoods Department who oversees the HUD Division within three (3) days of notification. The written feedback should include specific details and/or additional documentation that address the ineligibility determination issued. This appeal process does not provide an opportunity to revise proposals, nor does it guarantee that determinations will be overturned.

The evaluation of the proposals will consider the merits of every eligible proposal. A subcommittee of the Modesto City Council-appointed Citizens Housing and Community Development Committee (CH&CDC), with the technical support of City of Modesto staff, will carry out the evaluations and funding recommendations. City staff will present these CH&CDC recommendations to Modesto City Council, which will ultimately determine funding awards.

5.3 ESG Rollover
ESG awards must be expended within 2 years of subrecipient agreement execution and unlike CDBG, may be rolled over from first to second year.

5.4 Eligible Subrecipients

- Nonprofit Organizations
- Governmental Entities
- Religious/Faith-Based Organizations*
- Institutions of Higher Education

* Religious/faith-based organizations may retain its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG/ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytizing. These organizations may use space in its facilities to provide CDBG-funded services without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-/ESG-funded religious/faith-based organization retains its authority over its internal governance, and it may retain religious terms in its organization’s name, select its board members on a religious basis, and include religious references in its organization’s mission statements and other governing documents. A subrecipient may not, in CDBG-/ESG-funded service delivery, discriminate against beneficiaries or potential beneficiaries on the basis of religion or religious belief.

5.5 Substantial Amendment Process

There are times when the City of Modesto must amend its Consolidated Plan/Annual Action Plan. This substantial amendment process is carried out in accordance with the City’s Citizens Participation Plan that requires a 30-day public comment period and Modesto City Council approval. The City must amend its Plan:

- To make a change in its allocation priorities or a change in its method of distributing funds;
- To carry out a new activity; or
- To change the purpose, scope, location, or beneficiary of an activity

CHAPTER 6.0: MAINTENANCE OF BENEFICIARY FILES

Beneficiary files must contain documentation to substantiate program eligibility.

HUD definitions at 24 CFR 570.3 are particularly helpful:
**Income.** For the purpose of determining whether a family or household is low- and moderate-income, subrecipients may select any of the three definitions listed under Chapter 3.0: Determining Income Eligibility.

**Family** means all the persons living in the same household who are related by birth, marriage, or adoption.

**Household** means all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

**Low- and Moderate-Income Person/Family** means a member of a family (not household) or a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

**Low- and Moderate-Income Household** means a household (as defined above) having an income equal to or less than the Section 8 low-income limit established by HUD for an equivalent sized family.

**Low-Income** means income equal to or less than the Section 8 very low-income limit established by HUD.

**Moderate-Income** means having an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit established by HUD.

Files must contain documentation to substantiate the following:

- **Modesto Residency**
  Example documents: utility bill, bank statement, etc.

- **Family Size (Note: non-housing low- and moderate-income (LMI) activities are to meet the LMI National Objective based on family, not household size)**

  Household size is only used to determine eligibility when HUD assistance is provided for housing, since the two underlying assumptions are that 1) all individuals who reside in a housing unit that has been provided or improved with HUD assistance will benefit from that housing unit; and 2) resources of all occupants could be brought to bear with respect to paying for the rental, improvement, or purchase of that unit. Otherwise, all other activities, (e.g., CDBG Public Services) require income eligibility based on Family, not Household Size.

Examples:
- Married couple = family of 2
- Friend and friend = two separate families of 1
- Friend and Friend with child = two separate families of 1 and 2
Married couple with child of both = family of 3 (child and parent related by blood or adoption)

Unmarried couple with child of only one = two separate families of 1 and 2

Tax returns, school records, etc., are useful documents that establish child custody and residence.

**Income Documentation**

To be eligible for CDBG Public Services assistance, activity must primarily benefit (at least 51 percent) low- and moderate-income (LMI) persons. Documentation of the benefit to LMI persons is required of every funded activity (24 CFR 570.208).


Income verification and documentation requirements vary according to applicable category as described in subrecipient agreement. Area benefit and presumed benefit category activities are still required to report on family size, income level, and other demographic information. Unlike other categories, however, income documentation is not necessary for these categories. See Chapter 1.4: LMI Categories.

Subrecipients are to estimate the annual income of a family by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable).

If subrecipient is unable to document income level of beneficiary, subrecipient may document beneficiary as non-low- and moderate-income (non-LMI; above 80 percent of the area median income). Keep in mind that the percentage of non-LMI beneficiaries may not exceed 50 percent and should be kept to a minimum, as the CDBG program is intended to primarily benefit LMI persons.

24 CFR 570.506 describes the records to be maintained. Where information on annual income by family size is required, subrecipient may substitute evidence establishing:

- That the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the definitions of low- and moderate-income person, family, or household (as applicable);
That the person is experiencing homelessness (as defined by HUD; see Chapter 2.4: Definition of Homeless and At Risk of Homelessness);

Verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit; or

Notice that the assisted person has been referred from a state, county, or local employment agency or other entity that agrees to refer individuals it determines to be low- and moderate-income persons based on HUD's criteria and agrees to maintain documentation supporting these determinations.

CHAPTER 7.0: SUBRECIPIENT AGREEMENTS

Once funding has been allocated in the Annual Action Plan approved by the Modesto City Council and HUD, a formal agreement is required in order to authorize disbursement of funds. City of Modesto may initiate written modification and/or termination of an agreement in order to comply with guidelines contained in any future federal/state/local statutes/regulations/policies/ordinances.

Once fully executed, the agreement represents a mutually agreed to, legally binding document between the City and subrecipient. The agreement must be followed in its entirety in order to receive CDBG/ESG funds. The agreement describes, at a minimum, the scope of work and establishes completion and other important dates and award amount.

An award of CDBG/ESG funds does not authorize the implementation of activity or expenditure accrual. Only an executed subrecipient agreement authorizes these activities. Any expenditure incurred prior to or after the period of the grant award will be ineligible for reimbursement.

CHAPTER 8.0 ADMINISTRATIVE REQUIREMENTS

Subrecipients must be familiar with the following requirements in order to manage its CDBG/ESG funds. The basic program regulations governing management and financial systems are promulgated by the federal government in 24 CFR Part 570, Subparts J and K and apply to grantees and subrecipients.

- Subpart J (24 CFR 570.500 – 570.513) covers the general responsibilities for grant administration, including uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, record keeping and reporting, and closeout procedures.
- Subpart K (24 CFR 570.600 – 570.614) covers other requirements, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and
contracting opportunities; lead-base paint; use of debarred, suspended, or ineligible subrecipients/contractors; uniform administrative requirements and cost principles; conflicts of interest; and the Americans with Disabilities Act (ADA).

In addition to the basic regulations contained in 24 CFR Parts 570 and 576, there are three other categories of requirements that affect the administrative systems and procedures that must be in place in order to receive funding:

- Federal regulations governing administrative and audit requirements for programs for which HUD has oversight responsibilities;
- Administrative circulars from the Office of Management and Budget (OMB) and Department of Treasury governing cost principles, administrative systems, fiscal procedures and audit requirements for public and private grantees and subrecipients;
- Executive Orders from the Office of the President implementing various policies.

CHAPTER 9.0 INSURANCE REQUIREMENTS

Subrecipients must provide at its own expense and maintain at all times the following insurance with insurance companies licensed in California and must provide evidence of such insurance to the City of Modesto. The policies and certificates thereof must provide that 30 days prior to cancellation or material change in policy, City of Modesto Risk Management will be notified. **Subrecipient agreements cannot be executed and therefore incurred costs cannot be reimbursed until insurance is in place.**

* **Worker’s Compensation** in compliance with the statutes of the State of California, plus employer’s liability with a minimum limit of liability of $1,000,000.  
  * Worker’s Compensation insurer must agree to **waive all rights of subrogation** against the City of Modesto, its agents, officers, employees, and volunteers for losses arising from work performed by subrecipient for the City.

* **General Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. Insurance must indicate on the certificate of insurance the following coverage and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent contractors and subcontractors; products and completed operations, as applicable.
  * Subrecipient must provide the City with **separate endorsement** evidencing proof of the City’s additional insured status as to General Liability insurance policy.
**Automobile Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. This insurance must cover any automobile for bodily injury and property damage.

* Subrecipient must provide the City with separate endorsement evidencing proof of the City's additional insured status as to Automobile Liability insurance policy.

## CHAPTER 10.0 FINANCIAL MANAGEMENT

Subrecipient is responsible for the internal control and monitoring of fiscal and programmatic/operational goals and procedures. Subrecipient must establish such fiscal controls and fund accounting procedures as required by federal guidelines, or as may be deemed necessary by the City of Modesto and/or HUD to assure the proper utilization of CDBG/ESG funds.

Subrecipient must maintain internal controls on financial records, cash disbursements, cash receipts, payroll, and inventory of assets. At a minimum, subrecipients are required to maintain a General Ledger, a system for maintaining information on unpaid bills (Accounts Payable), a Cash Disbursement Journal, and authorized signatures or level of access. When requested, subrecipients are required to provide current information on all accounting transactions in a standardized acceptable format. Transactions must be properly recorded and accounted for.

### 10.1 Accounting Principles and Auditing Practices

Subrecipient must maintain accounting records that are in accordance with generally accepted accounting principles and auditing practices.

- OMB Circular A-102 “Uniform Requirements for Assistance to State and Local Governments”
- OMB Circular A-122 “Cost Principles for Non-Profit Organizations”
- OMB Circular A-21 “Cost Principles for Educational Institutions”

### 10.2 Record Retention

Subrecipient must maintain all records required by federal guidelines. Generally, all records (programmatic, financial, etc.) are to be retained for a period of five years from the end of the subrecipient agreement. Records will be open and available for review by staff assigned by the City and/or HUD.

Subrecipient must maintain beneficiary data substantiating beneficiary eligibility for services provided. Such data must include, but is not limited to, beneficiary
10.3 Single Audit (OMB Circular A-133 and Other Financial Audits)

Subrecipients that expend $500,000 or more in federal funds from all sources (including grants, loans, program income, etc.) in its previous fiscal year must submit a copy of an independent audit completed within nine months following the end of the subrecipient’s fiscal year.

Subrecipients that have an overall organizational budget of less than $250,000 may be exempted from the audit requirement. City of Modesto reserves the right to conduct a fiscal site visit or require alternate documents demonstrating sound financial controls in the absence of an audit.

10.4 Program Income

Program income (PI) is defined as gross income received by either City of Modesto or its subrecipients directly generated from the use of CDBG funds. In rare cases when CDBG Public Services activities generate PI, PI is retained by the City of Modesto and subrecipients are required to account for this gross income by recording it as part of the financial transactions of the CDBG award and must be treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds. PI regulations may be found in 24 CFR 570.504.

CHAPTER 11.0: REIMBURSEMENT

City of Modesto authorizes payment on an expenditure reimbursement basis, except when funded activities require advanced payment (e.g., rental assistance activities that require timely payment to landlords and other third parties), as approved by City of Modesto. Costs must be necessary, reasonable, allocable, and documented. Subrecipient must maintain separate accounts within established bookkeeping systems for the deposit of CDBG/ESG funds as specified in the applicable OMB Circular.

Reimbursement requests may be submitted no less often than once every 3 months for projects incurring expenses. See Quarterly Invoicing/Reporting Schedule.
Subrecipient agreement only permits reimbursement for the expenditures specifically covered by the budget exhibits during the term of the agreement. Otherwise the cost may not be eligible for reimbursement.

City of Modesto reserves the right to hold or return reimbursement requests and disallow incurred expenses based on compliance with agreement. All financial transactions must be supported by complete and verifiable source documents. These records must provide a clear audit trail and must be maintained as specified by federal guidelines.

11.1 Budget Amendments

For budget amendments that do not change the purpose, scope, location, or beneficiaries of the activity, (i.e., budget line item adjustments), subrecipients must submit to the City of Modesto a formal written request to make such changes to the activity budget.

11.2 Reimbursement Request Documentation

- Must be clearly marked to indicate to which program the expenditure relates, as well as the applicable dollar amount as indicated in the supporting documentation. The total reimbursement amount requested should be clearly identified. Expense items must correspond to budget line items.

- Must be summarized if there are extensive receipts and documents.

- Must be detailed.

- Payroll:
  - Timesheets for each pay period and for each employee charging time to the award must be included.
  - The employee and the manager must sign timesheets.
  - Timesheets should reflect the total time worked each day (8 hours, etc.) with the amount of CDBG/ESG time being charged clearly identified.
  - If there are more than 6 timesheets, timesheets must be summarized indicating calculation of time to the reimbursement amount requested.
  - Proof of payment, such as a payroll register or copies of paychecks must also be included.

- Other incurred expenses: An invoice for the charge and documentation that the invoice was paid.

11.3 Reimbursement Request Submission
While the Housing Division of the City's Parks, Recreation, and Neighborhoods Department authorizes payment, the Accounting Division (Accounts Payable Unit) of the City’s Finance Department processes payment.

Do not staple submission – City of Modesto staff must load submission in a scanner.

- Invoice must include:
  - Subrecipient name;
  - Address;
  - Contact information (direct telephone number and email address);
  - Unique invoice number (maximum of 12 alphabetic and/or numeric);
  - Specify funding source (i.e., CDBG or ESG) if subrecipient receives funds from both programs, invoices must request reimbursement from only one (and activities must correspond to the program).

- Invoices should be submitted to Accounts Payable and addressed:
  - City of Modesto PR&N
    ATTN: Accounts Payable
    P.O. Box 642
    Modesto, CA 95353-0642
  - Accounts Payable does not accept faxed invoices, but it does accept emailed ones from authorized requestors. If submitting electronically, send according to first letter of subrecipient name:
    - A-L – Tammy Wallace at twallace@modestogov.com
    - M-Z – Jessica Kroontje at jckroontje@modestogov.com

- To inquire on the status of payments, contact Accounts Payable before contacting the Housing Division.

CDBG/ESG funds are released on a reimbursement basis only. All items requested for reimbursement must have an invoice or some document that substantiates the expenditure was incurred and evidence of payment. Payment by the City is not to be construed as final in the event HUD or City disallows any reimbursement of expenses.

11.4 Timekeeping and Reimbursement for Salary Costs

Salary and benefits costs in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, etc. are allowable, provided such costs are allocated to the award in proportion to the relative amount of time actually devoted to carrying out activity.

Timesheets for each pay period, for each employee charging time to CDBG/ESG must be included. The employee and the manager must sign timesheets. Timesheets must reflect the total time worked each day (8 hours, etc.) with the
amount of CDBG time being charged clearly identified. If there are more than 6
timesheets, the timesheets should be summarized showing the calculation of
time to the amount requested on the invoice. Proof of payment, such as a payroll
register or copies of paychecks must also be included.

11.5 Procurement of Goods and Services

Subrecipients may pay a vendor for supplies purchase or non-employee for
services involved in completing the terms of the subrecipient agreement.
Subcontracts and purchases of $1,000 or more require prior written approval
from the City of Modesto. Subrecipient must maintain internal controls on the
procurement of goods and services.

CHAPTER 12.0: REPORTING REQUIREMENTS

Subrecipient must provide the City, within a specific period of time after
conclusion of reporting period or specific request, progress reports and/or other
documentation as may be required by the City to audit performance of activity
and/or to enable the City to analyze and evaluate use of CDBG/ESG funds.
Subrecipient must submit to the City and require each of its own
contractors/subcontractors to furnish all information and reports necessary to
prepare the Consolidated Annual Performance and Evaluation Report (CAPER),
Consolidated Plan, Annual Action Plan, and City of Modesto/HUD monitoring
tools.

The quarterly status report is used to report the status of funded activities and
report beneficiary data. This report and reimbursement requests are utilized both
for program management purposes and to complete required HUD reports. It
must be completed each quarter regardless of whether CDBG/ESG funds are
expended in the quarter.

This report is cumulative in that each quarter, the number or new or additional
beneficiaries will be added to the previous quarter's data. At year-end, the
beneficiary data will reflect the total of beneficiaries served during the program
year.

Reports must be current in order for the City to disburse funds.

12.1 Invoicing/Reporting Schedule

In a collaborative effort to provide consistency for local subrecipients across
CDBG/ESG grantees (i.e., City of Modesto, City of Turlock, and Stanislaus
County), invoicing and status reporting will be made on a quarterly basis. Timely
final quarter invoicing and quarterly status reporting (including projected
beneficiary numbers) will be particularly critical as the City prepares its CAPER for submission to HUD before the statutory deadline.

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Invoicing/Reporting Period</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Quarter</td>
<td>(July – September)</td>
<td>after September 30</td>
</tr>
<tr>
<td>2nd Quarter</td>
<td>(October – December)</td>
<td>after December 31</td>
</tr>
<tr>
<td>3rd Quarter</td>
<td>(January – March)</td>
<td>after March 31</td>
</tr>
<tr>
<td>Year End</td>
<td>(July – June)</td>
<td>no later than July 10</td>
</tr>
</tbody>
</table>

CHAPTER 13.0: MONITORING

The City monitors the performance of funded activities. City/HUD staff utilize several methods to monitor activity performance and agreement compliance. These include on-site review, evaluation of reimbursement requests, accounting documents, insurance review, etc.

13.1 Not a “One-Time Event”

Monitoring is not a one-time event. The City of Modesto has established a monitoring process that emphasizes positive feedback to subrecipients, in addition to identifying and addressing areas for improvement. This process has integrated opportunities for dialogue with subrecipients to develop a better appreciation of their perspectives and to identify and resolve points of miscommunication or misunderstanding. Subrecipients are encouraged to specify, within reason, the kinds of technical support needed from the City in order to make the improvements required. Recognizing the finite resources available, the City’s monitoring plan matches available resources with the needs and capacity of the subrecipients. The City’s monitoring plan is informed by risk assessments of subrecipients to identify which subrecipients require more extensive, comprehensive monitoring. High-risk subrecipients include:

- New subrecipients;
- Subrecipients that have experienced high turnover in key staff positions or a change in goals or direction;
- Subrecipients with previous compliance or performance problems, including failure to meet schedules, submit timely reports, or clear monitoring or audit findings;
- Subrecipients carrying out high-risk activities, such as economic development activities; and
- Subrecipients carrying out multiple funded activities for the first time.

Subrecipients receive either extensive or narrowly focused comprehensive monitoring in order to build accountability into the management of the programs.

13.2 Monitoring Practices
**Desk Audits** are useful in identifying potential problem areas to examine during the on-site visit. Desk audits review the following:

- Application/proposal;
- Subrecipient agreement;
- Progress reports;
- Beneficiary data reports;
- Invoices;
- Documentation of previous monitoring; and
- Copies of audits whether by an Independent Public Accountant (IPA) or another entity such as the HUD Office of the Inspector General (OIG) or the General Accounting Office (GAO).

**On-site pre-monitoring visits** may point out apparent weaknesses in subrecipient operations and suggest how these deficiencies may be corrected before the formal on-site monitoring visit.

**Formal On-Site Visit:**

- Notification Letter
- Entrance Conference
- Documentation, Data Acquisition, and Analysis
- Exit Conference
- Follow-Up Monitoring Letter

13.3 **Findings and Concerns**

Monitoring Letter identifies fully every finding and concern. A finding is issued for noncompliance with the rules and regulations of the program. Findings are correctly identified; based on applicable statute, regulation, or program policy; and supported by verifiable facts. For each finding, corrective actions must be specified.

Concerns are presented in the monitoring letter as instances where the deficiency is not a finding, or where noncompliance may occur in the future due to weaknesses in subrecipient operations. For each concern, specific recommendations for improvement are included.

**CHAPTER 14.0: ADDITIONAL REQUIREMENTS**

14.1 **DUNS Number**

CDBG-/ESG-funded organizations will be required to obtain a **Data Universal Numbering System (DUNS) number**, a unique numeric identifier, as it is
required of any entity receiving federal funding: http://fedgov.dnb.com/webform/index.jsp or 1-866-705-5711. (Make sure to write down name affiliated with your DUNS number).

14.2 HMIS Participation and Data Sharing

CDBG-/ESG-funded projects designed to assist persons experiencing homelessness or designed to prevent homelessness are required to participate in the Homeless Management Information System (HMIS) of the Stanislaus County Continuum of Care (CoC; Stanislaus Housing and Support Services Collaborative) and regularly attend CoC meetings (third Thursday of the month from 2:30 pm to 4 pm at the Housing Authority of the County of Stanislaus [1701 Robertson Road]).

Furthermore, subrecipients are required to execute a HMIS Data Sharing Agreement to share HMIS Universal Data Elements so as to more effectively utilize and enhance data quality of HMIS.

14.3 Equal Opportunity

All CDBG-/ESG-funded organizations will be required to post equal opportunity materials and brochures at project locations.

14.4 Published Materials

In informational/promotional materials regarding funded activity, such materials will contain wording to the effect that the activity or a portion thereof, is funded though a CDBG/ESG grant awarded by the City of Modesto.

CHAPTER 15.0: CONFLICT OF INTEREST

In an effort to ensure compliance with federal program guidelines, the City of Modesto has instituted clear policy and procedures relating to conflict of interest. As part of these policy and procedures, subrecipients are required to disclose any real, perceived, or potential conflicts of interest as described below.

CDBG and ESG subrecipients are subject to meeting the general standard as it relates to conflict of interest. This general standard, as it applies to CDBG, is that no employee, agent, or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG funds and activities is allowed to obtain a financial interest in or benefit from CDBG activities, or

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1 24 CFR 570.611
have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities.

- This standard applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the City of Modesto; a designated public agency; or a subrecipient, and to their immediate family members and business partners.
- This standard also applies for such persons during their tenure and for a period of one year after leaving the City of Modesto or subrecipient organization.

For **ESG**: No person who is an employee, agent, consultant, officer, or elected or appointed official of the City of Modesto, State of California recipient, or nonprofit recipient (or of any designated public agency) that receives ESG funds and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either from him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

If a real, perceived, or potential conflict of interest exists or is suspected, subrecipients must contact City of Modesto Parks, Recreation, and Neighborhoods Department immediately. Potential conflicts include but are not limited to ones where decision-makers within your organization are immediate family members of other employees or of service beneficiaries. See the applicable general standard above.

Please be advised that the existence of a conflict of interest is a violation of CDBG and ESG regulations and constitutes an event of default under all subrecipient agreements with the City of Modesto.

Upon written request, an exception to a conflict of interest may be granted by the U.S. Department of Housing and Urban Development (HUD) on a case-by-case basis through a standard operating procedure in place at the City of Modesto, after consideration of the cumulative effective of various factors.

Subrecipients must abide by the provisions set forth in the City of Modesto’s Conflict of Interest Provisions: Summary of Rules for Modesto HUD-Sponsored Programs, which includes other applicable local and state conflict of interest general standards (see Exhibit 18.12).

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2 24 CFR 576.57 (d)
3 24 CFR 570.611 (d)
CHAPTER 16.0: USEFUL RESOURCES

City of Modesto Five-Year Consolidated Plan, 2010-2015
http://modestogov.com/prnd/housing/citizenplan.asp

Code of Federal Regulations (CFR):
www.gpoaccess.gov/cfr/index.html
• CDBG regulations: 24 CFR 570
• ESG regulations: 24 CFR 576

Office of Management and Budget (OMB) Circulars:
http://www.whitehouse.gov/omb/circulars/
Accounting Regulations
• A-122 Cost Principles for Non-Profit Organizations
• A-21 Cost Principles for Educational Institutions
• A-87 Cost Principles for State, Local, and Indian Tribal Governments


Community Development Block Grant Program: Guide to National Objectives and Eligible Activities for Entitlement Communities (U.S. Department of Housing and Urban Development)

Basically CDBG (U.S. Department of Housing and Urban Development, November 2007)

Emergency Solutions Grants Program Interim Regulations

‘Homeless’ Definition Final Rule

CHAPTER 17.0: CONTACT INFORMATION

Hugo H. Ramírez
Parks, Recreation, and Neighborhoods Department
hramirez@modestogov.com
(209) 577-5368

CHAPTER 18.0: EXHIBITS

30
Section 4 - HOME Investment Partnership Program (HOME)

MODESTO
CALIFORNIA

EQUAL HOUSING OPPORTUNITY
City Of Modesto
HOME Investment Partnership Program (HOME)
Policies and Procedures

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CHAPTER 1.0: INTRODUCTION

1.1 Introduction

The City of Modesto receives and administers funds provided by the HOME Investment Partnerships Act (the HOME Act) Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, to assist low-income and under-served citizens in the financing, development and preservation of affordable housing. The HOME Program was created to provide funds to expand the supply of affordable housing for very low-income and low-income persons.

The City of Modesto embraces its responsibility to administer the HOME Program and will administer the HOME Program creatively, effectively and efficiently under the housing conditions that exist in the City of Modesto (the “City”) and with all practical safeguards against waste or fraud. The City will practice and advocate innovation, flexibility and expansion in program design to address unmet housing needs throughout the city. To that end, this Policy and Procedures Manual is presented to provide an overview of City policies and procedures as they pertain to the HOME Program. This manual is not meant to be a substitute for HOME Program regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of HOME Program funds. While careful consideration and due care has been used in developing the manual, HOME Program participants are encouraged to consult with HOME Program staff persons to ensure correct interpretation of policies and regulations. ADFA reserves the right to implement additional policies as needed.

The City of Modesto in order to continue participation in these programs contractually agrees to implement HOME's program regulations at 24 CFR parts 92, established by Title II of the Cranston-Gonzales National Affordable Housing Act. All HOME allocations are subject to the regulations detailed in OMB Circulars A-110 & A-122 and A-87. Information regarding this program can be located on HUD's website, www.hud.gov.

The City of Modesto will administer the NSP effectively and efficiently under the housing conditions that exist in the city, by working innovatively, and designing the NSP activities to address foreclosed and abandoned properties throughout the city. To that end, this policy and procedures manual is presented to provide an overview of the City’s policies and procedures as they pertain to NSP and step-by-step guidance on the implementation of NSP projects. This manual is not meant to be a substitute for NSP regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of NSP funds. While careful consideration and due care has been used in developing the manual, NSP participants are encouraged to consult with NSP staff to ensure correct interpretation of policies and regulations. The City of Modesto reserves the right to implement additional policies as needed.

1.2. Purpose of the Neighborhood Stabilization Program

| 5 |
The Neighborhood Stabilization Program (NSP) is authorized by the Housing and Economic
Recovery Act ("HERA") (Public Law 110-289) and requirements contained in the HUD Federal
Register Notice published October 6, 2008 (Docket No. FR-5255-N-01) and as revised in a
"Bridge Notice" published June 15, 2009 (Docket No. FR-5255-N-02). (The Bridge Notice
includes changes from the American Recovery and Reinvestment Act of 2009 (ARRA).) The
primary purpose of NSP is to provide emergency assistance for the city to acquire and rehabilitate
foreclosed properties that might otherwise become sources of abandonment and blight within our
community. The City of Modesto' NSP program provides loans to purchase foreclosed or
abandoned homes and to rehabilitate, resell, or rent homes in order to stabilize neighborhoods and
stem the decline of house values in neighboring homes. The City of Modesto has designed its
programs into three main categories—the Incentive Transfer Program, Acquisition and
Rehabilitation – Scattered and Target Areas and the NSP Homebuyers Assistance Program

1.3 General Requirements of NSP

1.3.1 Allocation of Funds

NSP funds committed to City of Modesto will be allocated as promulgated in the City’s 2009
Substantial Amendment to the Annual Action Plan. In addition, the city may spend up to ten
percent (10%) of its NSP allocation and 10% of any program income for administrative and
planning expenses.

NSP requires that not less than twenty-five percent (25%) of the total NSP funds allocated
to the City shall be utilized to provide permanent housing for households with incomes at or
below fifty percent (50%) of the AMI. The City of Modesto will allocate these funds to the
Housing Authority of the County of Stanislaus.

In addition, the city is required to ensure that all NSP funding is obligated within 18 months
following the execution of the NSP grant agreement with HUD, which occurred in September
2009. Therefore, CITY OF MODESTO reserves the right to award funds to projects that are
"ready to go" and to further adjust contracted amounts based upon actual performance and
progress to obligate the funds within the initial 18 months of the grant agreement date or by
September 19, 2010.

1.3.2 Eligible Applicants

NSP funding is available citywide to non-profit organizations, for-profit organizations,
developers, and city designated Community Housing Development Organizations ("CHDOs").

The eligible applicants are the entities responsible for the NSP application, project development,
project implementation, and accountability for uses of all NSP funds. The eligible applicants must
adhere to required compliance and monitoring of all NSP activities for the full applicable
affordability period. The City of Modesto will allocate NSP funds to the approved eligible
applicants as outlined in the NSP Program Agreement.
1.3.3 Eligible Activities

For purposes of implementing the NSP, an abandoned property is defined as such when all the following apply: 1) Mortgage or tax foreclosure proceedings have been initiated for that property, and 2) No mortgage or tax payment have been made for the property owner for at least ninety (90) days, and 3) The property has been vacant for at least ninety (90) days.

For purposes of implementing the NSP, a foreclosed property is defined as a property that, under state or local law, has a completed mortgage or tax foreclosure process and is currently owned by the lender or mortgagee. A foreclosure is not considered to be complete until after the property title has been transferred from the former owner under a foreclosure proceeding or transfer in lieu of foreclosure.

The following are the eligible activities under the City of Modesto NSP:

<table>
<thead>
<tr>
<th>NSP-Eligible Uses</th>
<th>Correlated Eligible Activities From the CDBG Entitlement Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Establish financing mechanisms for purchase and redevelopment of foreclosed</td>
<td>As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. Also, the eligible activities listed</td>
</tr>
<tr>
<td>upon homes and residential properties, including such mechanisms as soft-seconds,</td>
<td>below to the extent financing mechanisms are used to carry them out.</td>
</tr>
<tr>
<td>loan loss reserves, and shared equity loans for low- and moderate-income home</td>
<td></td>
</tr>
<tr>
<td>buyers</td>
<td></td>
</tr>
<tr>
<td>(B) Purchase and rehabilitate homes and residential properties that have been</td>
<td>• 24 CFR 570.201</td>
</tr>
<tr>
<td>abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and</td>
<td>(a) Acquisition; (b) Disposition; (i) Relocation, and (n) Direct homeownership assistance (as modified below);</td>
</tr>
<tr>
<td>properties</td>
<td>• 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that</td>
</tr>
<tr>
<td></td>
<td>rehabilitation may include counseling for those seeking to take part in the activity</td>
</tr>
</tbody>
</table>
The activities undertaken by the City of Modesto under its NSP meet the NSP National Objective of providing assistance to “low-, moderate-, and middle-income households” (abbreviated as LMMH). For the purposes of NSP/CDBG only, an activity may meet the HERA low- and moderate income national objective if the assisted activity:

- provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);
- serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA);
- creates or retains jobs for persons whose household incomes are at or below 120 percent of median income (LMMJ); or
- serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

1.4 City of Modesto Responsibilities

The City of Modesto as the HUD grantee, has oversight and implementation responsibility of all NSP activities and, is responsible for:

- Providing financial mechanisms to developers to housing developer partners purchase foreclosed properties from REO lenders and servicers;
- Providing funds to housing developer partners to rehabilitating acquired properties;
- Providing financial assistance to qualified homebuyers to acquire and rehabilitate foreclosed properties.

The City's activities are responsible for meeting the NSP requirement that not less than 25% of the city's NSP funds, approximately $2+ million, be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

To be successful the City of Modesto must be committed to effective management practices. These include: (1) supporting cooperative, problem-solving relationships; (2) working toward continuous improvement in regulatory compliance and timely program performance; (3) maintaining open and frequent communications among all participants; and (4) focusing on preventing problems first, rather than curing them later.

1.5 Summary of Principal Regulations Governing NSP/CDBG Administrative Systems

Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA)

(Public Law 110-289, approved July 30, 2008) appropriates $3.92 billion for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as the Neighborhood Stabilization Program (NSP). The key regulations that form the basic administrative requirements of the NSP/CDBG Entitlement
programs are summarized here to acquaint the City with the sources of the various standards described in the Operations Manual.

Regulations are developed in response to, or in fulfillment of, Federal statutes that govern the CDBG Entitlement program, both those specific to the NSP and CDBG programs and those addressing other "cross-cutting" Federal laws or policies that apply to these programs (e.g., National Environmental Policy Act, Americans with Disabilities Act, Davis-Bacon Act).

The basic program regulations governing management and financial systems for the CDBG program are contained in 24 CFR Part 570, Subparts J and K. They are applicable both to grantees and subrecipients in the public and private sectors:

a) Subpart J (24 CFR 570.500–570.513) addresses general responsibilities for grant administration, including the applicability of uniform administrative requirements, provisions of Subrecipient Agreements, program income, use of real property, record keeping and reporting, and closeout procedures.

b) Subpart K (24 CFR 570.600–570.613) deals with other program requirements of the CDBG program, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors; uniform administrative requirements and cost principles; and conflicts of interest.

In addition to the basic regulations of the CDBG program contained in 24 CFR Part 570, there are three other categories of requirements that affect the administrative systems and procedures subrecipients must have in place to receive support:

- Federal regulations governing administrative and audit requirements for grants and cooperative agreements (governmental subrecipients) for which HUD has oversight responsibilities.

- Administrative circulars from the Office of Management and Budget (OMB) and Department of the Treasury governing cost principles, administrative systems, fiscal procedures, and audit requirements for grantees and subrecipients.

- Executive Orders from the Office of the President implementing various equal employment opportunity and environmental policies.

The applicability of these administrative requirements depends upon the public or private status of the organization receiving funds. For subrecipients that are private, non-profit organizations, the key regulations defining administrative requirements are:

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1 Not all the requirements of 24 CFR Parts 84 and 85 are applicable to CDBG subrecipients; 24 CFR 570.502(a) and (b) specify the sections and paragraphs of the Common Rule that apply to CDBG recipients and subrecipients.
24 CFR Part 84 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations” 2: These regulations implement OMB Circular A-110 and specify standards relative to cash depositories, bonding and insurance, retention and custodial requirements for records, financial management systems, monitoring and reporting on performance, property management, and procurement.

OMB Circular A-122 “Cost Principles for Non-profit Organizations”: A publication of OMB, this document establishes principles for determining costs that are allowed to be charged to Federal grants, contracts, and other agreements with non-profit organizations (except educational institutions). The principles are designed to ensure that the Federal Government will bear its fair share of costs except where restricted or prohibited by law.

OMB Circular A-133 “Audits of States, Local Governments and Non-profit Organizations”: This circular defines audit requirements for both governments and non-profits receiving Federal funds. The document addresses mandated frequency and scope of audits, allowability of audit costs, and the process of auditor selection. The above referenced sections of Title 24 regulations and OMB circulars may be accessed at the HUD Web site at http://www.hudclips.org/cgi/index.cgi.

### 1. 6 Acquisition of Properties Using NSP Funds

**1.6.1. Acquisition, Sales Contracts, and Obligations**

The City of Modesto must have executed sales contracts for specific properties for funds to be considered obligated. Options or other non-binding instruments are not acceptable.

**1.6.2. Appraisals and Discount Requirements**

Properties acquired using NSP funds shall be appraised in conformity with the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 by a licensed appraiser within sixty (60) days prior to an offer to purchase the property. Further guidance may be found at:


The market appraised value of properties may be established based on a review of available data and shall be made by a person knowledgeable of and with experience in property valuation that the City determines is qualified to make the valuation.

NSP requires that properties acquired using program funding be purchased at a discount of at least 1% from the current market appraised value of the home or property. The City of Modesto will require documentation to ensure the discount requirement is met including the address, appraised value, purchase offer amount and discount amount for each property. The discount value calculation may take into account the likely carrying costs of the mortgagee if it were to NOT sell the property to the applicant. Carrying costs may include: taxes, insurance, maintenance, marketing, overhead and interest.

**1.6.3 Voluntary Transactions and Tenants**

ALL NSP-assisted property acquisitions must be voluntary acquisitions. Taking of property through eminent domain proceedings is NOT allowed. The Uniform Relocation Act requires that
notices are provided to property owners even those considered to be voluntary transactions. The notices can be found at: http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm. URA and Section 104(d) and 5305(a)(11) of Title I of the Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.496(a) (the Barney Frank Amendment) govern the permanent displacement as well as temporary relocation of tenants in properties funded by NSP. For more information, refer to http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm. In addition, ARRA includes additional provisions protecting the rights of property owners and “bona fide” tenants.

1.6.4 Tenant Rights and Protections

The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a bona fide tenant at the time of foreclosure. The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any bona fide tenant, as of the date of such notice of foreclosure: (i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

In the case of any qualified foreclosed housing in which a recipient of assistance under Section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) (the “Section 8 Program”) resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(1) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (2) for the family’s reasonable moving costs, including security deposit costs.

A lease or tenancy shall be considered bona fide only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm’s length transaction; and (iii) the
lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

The City of Modesto will maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under section K.2.a. and K.2.b. If the City of Modesto determines that the initial successor in interest in such property failed to comply with such requirements, it may not use NSP funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in section K.2.a. and K.2.b. If CITY OF MODESTO elects to assume such obligations, it must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of an activity assisted with NSP funds and maintain records in sufficient detail to demonstrate compliance with the provisions of that section.

The recipient of any grant or loan made from NSP funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.

This section shall not preempt any Federal, State or local law that provides more protections for tenants.

1.6.5 Energy Efficiency

To the extent feasible, the City of Modesto will strongly encourage grantees to incorporate modern, green building, and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.

CHAPTER 2.0: CITY OF MODESTO NSP ACTIVITIES

2.1 INCENTIVE TRANSFER PROGRAM - $2,027,319

2.1.1. Summary
This is an acquisition and rehabilitation activity that will specifically serve households at or below 50% of the median area income. This activity can be carried out in any of the greatest need areas and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202. The City of Modesto will enter into an Exclusive Agreement with the Housing Authority of the County of Stanislaus. All units will be owned and operated by the Housing Authority.

2.1.2. Activity Purpose
Acquisition and rehabilitation of foreclosed or abandoned properties located in areas of "greatest needs" as defined by HUD:

Definitions:
Foreclosed: A property "has been foreclosed upon" under HUD regulations "at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.
Abandoned: Under HUD regulations "a home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days and the property has been vacant for at least 90 days."

2.1.3. Eligible Properties
Existing single-family, duplex or condominiums.
Properties built prior to 1978, may be subject to Lead Base Paint requirements.
Units must be acquired at 1% below market-appraised value.
All units must be appraised in accordance to URA appraisal standards at 24.103.

2.1.4. Use of Funds
Funds can buy scattered sites anywhere within the community to the requirement that 25% of the funding is utilized to serve those at and below 50% median area income.
Funding will work on a draw system, as the Housing Authority has purchase agreements on properties, the city will provide funding.

2.1.5 Income Limits
50% of Median Area Household Income, adjusted for family size.

2.1.6 Affordability Covenants
The Incentive Transfer Program will have an affordability covenant of no less than 40 years.
HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f).

2.1.7 Property Requirements
Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).

2.1.8 Timelines:
- Must complete a minimum of ten (10) units.
- Allocate funding within 18 months, completely expended in four years.
- To meet ten (10) unit goal – five (5) units will need to be done within the first year, two the second, two the third and one unit in the fourth year.

2.1.9 Monitoring
- Project must meet National Objective
- Determining and documenting income
- Must monitor projects, partners

2.2 ACQUISITION AND REHABILITATION - SCATTERED AND TARGET AREAS
Airport/Weed and Seed - $2,390,000 and Scattered Site - $2,390,000

2.2.1. Summary
This is an acquisition and rehabilitation activity that will benefit individuals and families whose incomes do not exceed 120 percent of Median Area Household Income, adjusted for family size.

This activity can be carried out in any of the greatest need areas and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202.

2.2.2. Purpose
Acquisition and rehabilitation of foreclosed or abandoned properties located in Airport/Weed and Seed and Scattered sites.

2.2.3. Eligible Properties
- Existing single-family, duplex or condominiums.
- Properties built prior to 1978, may be subject to Lead Base Paint requirements.
- Units must be acquired at 1% below market-appraised value.
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.2.4 Income Limits
120% of Median Area Household Income, adjusted for family size.
FY 2008 Income Limits for 120% of HUD Area Median Income

<table>
<thead>
<tr>
<th>Person</th>
<th>Household Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$50,050</td>
</tr>
<tr>
<td>2</td>
<td>$57,200</td>
</tr>
<tr>
<td>3</td>
<td>$64,350</td>
</tr>
<tr>
<td>4</td>
<td>$71,500</td>
</tr>
<tr>
<td>5</td>
<td>$77,250</td>
</tr>
<tr>
<td>6</td>
<td>$82,950</td>
</tr>
<tr>
<td>7</td>
<td>$88,700</td>
</tr>
<tr>
<td>8</td>
<td>$94,400</td>
</tr>
</tbody>
</table>

2.2.5. Affordability Covenants
HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f).

2.2.6. Property Requirements
- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Regulations established to rehab the homes meet Public Housing Standards or local codes whichever is greater, cap set at $100,000 for rehabilitation.
- If the units become rental units, management plan has to be in place to ensure maintenance and adhere to regulations.

2.2.7. Procurement
- Issue RFQ in May 2009 to establish list of qualified developers that are either for-profit or non-profit and experienced in housing. Must meet RFQ requirements including City of Modesto Insurance requirements
• Issue RFQ in May 2009 to establish list of qualified appraisers. Must meet the following requirements:
  • Fee appraiser must be state licensed or FIRREA certified
  • Use procurement to select contracted appraisers
  • Appraisals to include description of property, approaches to value, comparables, statement of value, date and signature
  • Conduct appraisal within 60 days prior to final offer

2.2.8. Project Review Process
A sub-committee of the Citizens Housing and Community Development Committee has been assigned as the NSP Project Review Committee. This committee will review each project and make a recommendation for funding based on the program's selection criteria which translates the following items into a points scale: location, total project cost, proximity to other approved properties, unit size, project timeline, and an approved purchase agreement.

2.2.9. Monitoring
  • Project must meet National Objective
  • Determining and documenting income
  • Must monitor projects, partners

2.2.10. Loan Terms for For-Profit Organizations
  • The City of Modesto adopted the recapture option based on HOME regulations so that the remaining funding is repaid when the property is sold.
  • If the equity gain is in excess of $50,000, utilize an equity share clause to have 10% due back to the City minus the initial amount that the developer contributed.
  • Defer first five years of the loan. Year six 3% simple annual interest begins only on the acquisition proportion of the loan, which will be amortized for 35 years of a 40-year loan.
  • Defer the rehabilitation proportion of the loan for 15 years. Year 16, 3% simple annual interest begins only on the rehabilitation proportion of the loan which will be amortized for 24 years to conclude at the same time the acquisition proportion of the loan is due.
  • Reasonable closing cost will be included in the loan.
  • For Profit organizations are required to leverage 10% of the total loan amount.

2.2.11. Loan Terms for Non-Profit Organizations
  • Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% for the first 5 years and 3% simple interest for years 6 on.
  • Affordability period based on amount borrowed based on HOME regulations
  • No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
  • Reasonable closing cost will be included in the loan.
  • Loans may be converted to grants at the sole discretion of the City.

2.2.12. Loan Documentation Requirements
• Developer Purchase Agreement
• Rehabilitation Budget and Timeline
• Preliminary Title report
• Home Inspection Report
• Pest Inspection Report
• Lead Base Paint Report (when applicable)
• Property Appraisal
• Payable Commissions Report
• Natural Hazard Reports (when applicable)

2.2.13. Rehabilitation Requirements
Rehabilitation funds will be held back by the City according to the terms in the Loan Agreement. Funds to be disbursed to borrower, contractor/supplier for work completed as documented by progress inspections. City Rehabilitation staff will conduct inspections prior to release of funds.

All of the programs utilizing rehabilitation funding will have to adhere to current Housing Rehabilitation Policies.

2.3 HOMEBUYERS ASSISTANCE PROGRAM (HAP) - $491,031

2.3.1. Summary
This activity will provide gap financing to income-eligible households to purchase foreclosed properties, including funds for rehabilitation of the property. The homebuyer must qualify for a first mortgage and the City assistance will be a second mortgage. This activity will follow the existing down-payment assistance program that the City of Modesto administers and will comply with CDBG regulations 570.201 (n).

2.3.2 Activity Purpose
The HAP provides assistance for acquisition and rehabilitation of foreclosed or abandoned properties located in areas of “greatest needs” as defined by HUD. Homebuyers must reside in the home as their principal residence.

2.3.3. Eligible Properties
• Existing foreclosed or abandoned single-family units in residentially zoned greatest needs areas within the City of Modesto limits.
• The purchase price of the home or after rehabilitation value must not exceed 95% of median sales price for Modesto, as determined by HUD.
• Units must be acquired at 1% below market appraised value.
• All units must be appraised in accordance to URA appraisal standards at 49 CFR 24.103 and the appraisal must be within 60 days of the final offer.
• The property must be vacant at the time of listing.

2.3.4. Income Limits
120% of Median Area Household Income, adjusted for family size.

2.3.5. Affordability Covenants
HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The Affordability Period for the Homebuyer’s Assistance Program is 15 years for all loans.

2.3.6. Property Requirements
• Property must meet applicable local codes, standards, and ordinances and must meet Housing Quality Standards upon purchase and/or rehabilitation of the property.
• Properties built prior to 1978, may be subject to Lead Based Paint requirements.

2.3.7 Maximum Loan Amount
This program provides gap financing up to $125,000 including reasonable rehabilitation funds for repairs to the property.

2.3.8. Loan Terms
• The interest is deferred for the first five years. In year six, the loan will begin to accrue interest at the rate of 2%. Payments will begin in year six and will be amortized over 25 years.
• If the home is sold, refinanced, transferred or no longer used as the primary residence during the affordability period, the loan is recaptured, with 2% simple interest calculated from year six.
• At the completion of the Affordability Period, the balance of the assistance for down payment and closing costs could be forgiven. Homebuyers must be in good terms with first mortgage lender and the City loan.
• 1% contribution of sale price of the home by buyer.

2.3.9. Loan Documentation Requirements
• Purchase Agreement
• First Mortgage Loan Application, Good Faith Estimate and City Application
• First Mortgage Loan Approval
• Certificate of Completion for 8 hours of HUD Approved Homebuyer Counseling
• Credit Report
• Pay stubs, tax returns, verification of income, as applicable
• Bank Statements
• Appraisal which meets NSP guidelines, Pest Inspection, Property Inspection, and Lead Based Paint Assessment Report (for homes built prior to 1978)
• Preliminary Title Report
• Loan Documents including Promissory Note, Deed of Trust, Loan Agreement, and Covenants, Conditions and Restrictions, and Real Property Improvement Agreement for properties requiring City assistance for repairs.
• The first mortgage loan must be approved for the maximum possible amount and must be a fixed rate and cannot exceed 30 years.

2.3.10. Rehabilitation Requirements
Rehabilitation funds will be held back by the City according to the terms in the Loan Agreement. Funds to be disbursed to borrower, contractor/supplier for work completed as documented by progress inspections. City Rehabilitation staff will conduct inspections prior to release of funds.

All of the programs utilizing rehabilitation funding will have to adhere to current Housing Rehabilitation Policies.

In addition to this Policies and Procedures please see Exhibit “A” NSP Down Payment Assistance Program Guidelines.

CHAPTER 3.0: PROCUREMENT AND CONTRACTING

3.1 Introduction
The Department of Housing and Urban Development (HUD) has established that procurement requirements for the National Stabilization Program (NSP) will follow Community Development Block Grant (CDBG) requirements. CDBG procurement requirements are outlined in 24 CFR 84.40-48.

Local governments and subrecipient entities are required to adhere to all applicable procurement requirements in the selection and award of contracts for goods and services. Therefore, all solicitation of bids for goods and services to be paid with NSP funds must be conducted openly and competitively.

3.2 General Procurement Provisions
The standards and procedures for procurement are intended to ensure that supplies, equipment, construction and other services acquired in whole or in part with Federal funds are:

a) Obtained as efficiently and economically as possible.

b) Procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations must clearly explain all requirements that the bidder must fulfill in order for his or her bid to be evaluated. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

• Placing unreasonable qualifying requirements on firms.
• Requiring unnecessary experience and excessive bonding.
• Specifying only “brand name” products instead of allowing “an equal” product.
• Noncompetitive pricing practices between firms or affiliated companies.
• Noncompetitive awards to consultants on retainer contracts.

PLEASE NOTE: There is one exception to this. HUD is strongly encouraging grantees to use a Green Communities Standard for housing rehabilitation. Due to the newness of the field and the lack of knowledge among contractors and others about Green systems and components, rehabilitation specifications will identify specific products that have been tested and certified as Green.

3.3 Use of Local Businesses; Contracting with Small, Minority, and/or Women-Owned Businesses

Federal regulations, both CDBG and non-CDBG, make it very clear that subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically,

- A subrecipient must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its CDBG-financed activities (24 CFR 85.36(e) or 84.44(b)). The efforts which a subrecipient should make include:
  - Incorporating such businesses in solicitation lists whenever they are potential sources.
  - Ensuring that such businesses are solicited when identified as potential sources.
  - Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
  - Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.

- In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, subrecipients must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing (see 24 CFR 570.607(b)).

Subrecipients should note, however, that the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.

3.4. Funding Disbursement
The following processes will apply:

1. Disbursement of NSP funds will occur only when all of the following conditions have been met:
   a. Required environmental review process must be satisfactorily completed.
   b. Project closing documents shall reflect a project completion date acceptable to the City of Modesto and the recipient of the NSP funds. The NSP Agreement will outline the payment of the NSP funds, (e.g., how the funds will be disbursed, i.e., prorate share, etc.) The NSP Agreement must contain provisions for the timing of NSP fund disbursements.
   c. City staff must complete all Disaster Recovery Grant Reporting (DRGR) system set up procedures.
   d. For rental activities the rehabilitation of the properties must be conducted by the development team and a City Rehabilitation Specialist will inspect the unit at different stages of the rehabilitation process until completion of the project.
   e. All progress payments will be issued for work complete-to-date. No requests or payment(s) will be approved for work not completed. No requests will be approved for payment for any work completed that was not a part of the original contract or an approved by the City of Modesto Change Order. Change orders should be requested only for unforeseen problems and/or emergencies, not for upgrades.

2. Retainage will be released within thirty (30) days after the final inspection is approved and upon City's receipt of all completion documentation.

For rental activities, the following completion documentation will be required prior to City's release of funds:

- Certification of release of liens
- Hazard insurance
- Certificate of Occupancy issued by local jurisdiction, if applicable
- Certification of final inspection.

For homebuyer activities, the following completion documentation will be required prior to City's release of funds:

- Certification in release of liens
- Hazard Insurance
- Certification of Occupancy issued by local jurisdiction, if applicable, and
- Certification of final inspection.

If any NSP-funded project has an available balance after acquisition and rehabilitation completion, The City of Modesto will deobligate those funds and reallocate such balance of NSP
funds to other eligible activities according to City's adopted NSP allocation process. The City of Modesto must ensure that all NSP funds are obligated within 18 months after the execution of the grant agreement (date of our agreement with HUD or by September 20, 2010.

3.5. Contractor Requirements

All general contractors working on all NSP-funded developments must have an active license issued by the California Contractor's Licensing Board (CSLB) as applicable and meet all requirements of contractors in the state of California. Contractors may not "share" a license. That is, the City of Modesto will not allow one contractor to work from another contractor's license. All City of Modesto NSP-funded projects must have a general contractor that is properly licensed by the California State Contractor's Licensing Board. Any questions regarding licensing issues and a list of licensed contractors may be directed to the State Licensing Board at the following address:

Contractors State License Board  
9821 Business Park Drive  
Sacramento, CA 95827  
Phone (800) 321-CSLB

Any contractor or subcontractor who has been debarred by any entity or had a contractor license suspended by any entity within the previous twelve (12) months will be prohibited from participating in the NSP. All general contractors working on all NSP-funded developments must obtain one of the following: (1) a payment and performance bond; or (2) an Irrevocable Letter of Credit in the amount of the construction contract.

Note: Construction contracts for rehabilitation projects $100,000 or under will not be required to obtain a payment and performance bond or an irrevocable letter of credit.

CHAPTER 4:0: OTHER FEDERAL REQUIREMENTS

NSP awardees and funded projects must adhere to all applicable other Federal requirements as outlined in 24 CFR part 570, HERA, ARRA, and NSP guidance from HUD. Key requirements are summarized below.

4.1 Equal Opportunity and Fair Housing
The state shall not exclude any organization or individual from participation under any program funded in whole or in part by NSP funds on the grounds of age, disability, race, creed, color, national origin, familial status, religion, or sex. The following federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and Equal Opportunity, are applicable to NSP projects:

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In addition to the above requirements, all NSP participants must ensure that their Equal Opportunity and Fair Housing policies related to activities funded by NSP are consistent with the current Consolidated Plan adopted by their jurisdiction or the State Consolidated Plan.

4.2 Affirmative Marketing

Any entity applying for NSP funds must adopt affirmative marketing procedures and requirements for all NSP-assisted housing and submit the affirmative marketing plan with the NSP application. The affirmative marketing plan and requirements for NSP-assisted housing must be approved by the City of Modesto prior to any NSP funds being committed to a development.

Affirmative marketing requirements and procedures must include ALL of the following:

- Methods for informing the public, owners, and potential tenants about fair housing laws and the policies of the local program;
- A description of what owners and/or the program administrator will do to affirmatively
market housing assisted with NSP funds. A description of what owners and/or the program administrator will do to inform persons not likely to apply for housing without special outreach;

1 Section 3 requires that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing.

2 Executive Orders 11625, 12432, and 12138 require that participating jurisdictions and local programs must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the greatest extent possible, of minorities and women entities owned by minorities and women in all contracts. Local programs must also develop acceptable policies and procedures if their application is approved by the City of Modesto.

- Maintenance of records to document actions taken to affirmatively market NSP-assisted units and to assess marketing effectiveness
- A description of how efforts will be assessed and what corrective actions will be taken when requirements are not met.

4.3 Environmental Review

In implementing NSP, the environmental effects of each activity must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 and HUD's regulations at 24 CFR Part 58.

The City of Modesto, as the NSP grantee, will be responsible for carrying out environmental reviews for approved projects/programs. The City must request the release of funds (RROF) from HUD for any developments carried out by other types of entities. The City reserves the right to require a Phase I Environmental Study as part of the environmental review process. Applicants awardees of NSP funds may NOT execute contracts for purchase of properties that may be funded with NSP until receiving written authorization from the City of Modesto to do so.

4.4 Flood Plains/Wetlands

NSP funds may generally not be invested in housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. The City of Modesto discourages developments located in special flood hazard areas but, in some instances and with written permission from the City, houses located in a flood plain may be assisted. It is the responsibility of the applicant to evaluate any remedies to remove any properties from the flood plain and ensure the feasibility of the proposed plan. The City of Modesto is willing to consider the proposed remedy and must approve the proposal in writing prior to approval of any NSP allocation. The community must be currently participating in the National Flood Insurance Program, and flood insurance must be obtained and maintained on the NSP-assisted property for the full period of affordability.

4.5 Lead-Based Paint Requirements
The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all developments constructed before 1978 and receiving NSP assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation, by appropriate lead-certified personnel. The application must also include detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with reduction of lead hazards in accordance with the regulation and guidelines. All NSP fund allocations will be contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. In a development where NSP funds will be used on only a portion of the units, the lead-based paint requirements apply to ALL units and common areas in the development.

4.6 Labor Standards

Davis-Bacon wage compliance and other federal laws and regulations pertaining to labor standards apply to all construction and rehabilitation contracts that are financed in whole or in part with NSP funds for residential property consisting of eight (8) or more NSP-assisted units. Davis-Bacon and related laws include the following:

Davis-Bacon and Related Acts (40 USC 276a-276a-7)
Contract Work Hours and Safety Standards Act (40 USC 327-333)
Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 276c)
Fair Labor Standards Act of 1938, as amended (29 USC 201, et seq.)

The construction bids and contract for any NSP-assisted activity must contain the applicable wage provisions and labor standards. Davis-Bacon does not apply to projects using solely volunteer labor or to sweat equity projects. The City of Modesto will monitor all developments subject to Davis-Bacon requirements to ensure compliance with all applicable regulations.

4.7 Debarment and Suspension

The City of Modesto will require participants in lower-tier transactions covered by 24 CFR 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction. Any participant that remains on a debarred or suspended condition shall be prohibited from participation in the City of Modesto NSP as long as they are classified in this manner.

4.8 Relocation

NSP funds are intended ONLY for use in purchasing/improving properties that have been abandoned and foreclosed. As such, most properties are expected to be vacant at the time of appraisal and offer to acquire. Should there be residents in any foreclosed property considered for NSP assistance, potential awardees must follow the residential anti-displacement and relocation plans in effect and outlined in the State’s approved Consolidated Plan and all applicable Uniform Relocation Assistance and Real Property Acquisition Act (URA) of 1970 provisions. Applicable regulations can be found at 49 CFR Part 24.

4.9 Audit
The City of Modesto requires that non-profit recipients expending more than $500,000 in Federal awards in a given fiscal year have an audit conducted in accordance with Generally Accepted Accounting Principles (GAAP) and the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.”

4.10 Reporting Requirements

The City of Modesto is required to submit quarterly performance reports to HUD no later than thirty (30) days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award (i.e., August 1, 2009) and continuing until all funds are expended and the program is closed out. Accordingly, all NSP awardees will be required to submit during the projects process documentation to demonstrate their performance information to the City of Modesto by established deadlines conducive for the City to meet its reporting requirements. The required information will include, but not be limited to, the following:

- Project name
- Project activity
- Project location
- NSP Eligible use
- CDBG national objective
- Budgeted funds
- Expended funds
- Funding source
- Total amount of any non-NSP funds
- Numbers of properties and housing units assisted
- Beginning and ending dates of activities
- Numbers of low, moderate, and middle-income persons or households benefiting
- Demographic data for households benefiting

To collect the data elements and to meet its reporting requirements, the City of Modesto will use the online DRGR system to report on its NSP funds to HUD. When it submits the report to HUD, the City of Modesto will post a copy of the NSP DRGR report on the City’s website for the public to review.

4.11 Program Income

Program Income (24 CFR 570.503(a), (b)(3) and (7), and 570.504)

- The term “program income” means any gross income received by the subrecipient that was directly generated from the use of NSP or CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:
  - Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds.
  - Proceeds from the disposition of equipment purchased with CDBG funds.
  - Gross income from the use or rental of property acquired by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
Gross income from the use or rental of property owned by the grantee or subrecipient that was constructed or improved with CDBG funds, less any costs incidental to the generation of such income.

Payments of principal and interest on loans made using CDBG funds.

Proceeds from the sale of loans made with CDBG funds.

Proceeds from the sale of obligations secured by loans made with CDBG funds.

Interest earned on program income, pending the disposition of such program income.

Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where such assessments are used to recover part or all of the CDBG portion of a public improvement.

Program income does not include (except for funds in lump-sum drawdown accounts), the interest earned on cash advances from the grantee or funds held in a revolving loan fund account. Such interest must be returned to the grantee for remittance to HUD.

When income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used to determine the portion that is program income.

The written agreement between the subrecipient and the grantee will specify whether any program income received by the subrecipient is to be returned to the grantee or retained by the subrecipient for use in carrying out CDBG activities.

If the program income is to be retained by the subrecipient, the written agreement will also specify what CDBG-eligible activities the subrecipient may undertake with the program income.

The receipt and expenditure of program income must be recorded by the subrecipient as part of its records of financial transactions.

When a subrecipient retains program income, such income must be used for any authorized activity before drawing down additional grant funds from the grantee, except in the case of a revolving fund. In the case of program income in a revolving fund, the subrecipient must use the program income for the activity for which the revolving fund was established, before drawing down additional grant funds for that activity.

At the expiration of the Subrecipient Agreement, any program income on hand or subsequently received by the subrecipient must be returned to the grantee.

4.12 Monitoring
During the period of affordability, the City of Modesto will perform on-site compliance and monitoring inspections of all single-family and multi-family developments utilizing NSP funds to determine compliance with the applicable regulations and requirements outlined in this manual and NSP regulations.
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PURPOSE OF THIS MANUAL

This manual applies to all CDBG Public Services and ESG subrecipients and provides guidance on many aspects of program management. It is intended as a general guide and does not replace or amend any of the provisions of the subrecipient agreement.

CHAPTER 1.0: THE CDBG PROGRAM

The intent of the Community Development Block Grant (CDBG) program is to develop viable urban communities through the provision of decent housing, suitable living environments, and economic opportunities for persons of low and moderate income.

1.1 CDBG Eligibility

To be eligible for CDBG funding, an activity must:

- Meet one of three national CDBG program objectives (National Objectives);
- Be an eligible CDBG program activity as prescribed by HUD;
- Be consistent with the City of Modesto's Consolidated Plan; and
- Receive National Environmental Protection Act (NEPA) clearance.

1.2 National Objectives

The authorizing statute of the CDBG program requires that each activity funded must meet one of three National Objectives. The three National Objectives are:

- Benefit to low- and moderate-income (LMI) persons;
- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency.

City of Modesto must comply with federal regulations that mandate a minimum of 70 percent of the CDBG funds received must, over a three-year period, be used to fund activities that primarily benefit low- and moderate-income persons. Very few projects qualify under the last two categories, as the eligibility requirements are more extensive and difficult to meet.

1.3 CDBG Eligible Activities

In addition to meeting one of the National Objectives, activity must also be eligible under the CDBG program. General types of activities that are eligible fall into four broad categories:
- Code Enforcement and Housing Development and Rehabilitation Activities;
- Construction or Improvement of Public Facilities;
- Economic Development Activities (Job Creation and Retention); and
- Public Services: Federal regulations restrict public service funding to 15 percent of the total grant. In addition, record-keeping requirements generally include, at a minimum, extensive documentation on beneficiaries’ family income, race, ethnicity, and female head of household status.

Federal regulations for direct services funded under CDBG and ESG programs limit funding to either:

- A new service; or
- A quantifiable increase in the level of an existing service which has been provided by the City of Modesto or another entity on its behalf through state or local government funds in the 12 months preceding the submission of the City of Modesto Consolidated Plan/Annual Action Plan.

Funds must supplement, not supplant, local funds.

This requirement does not prevent continued funding of a CDBG- or ESG-funded activity at the same or lower levels in successive years.

1.4 LMI Categories

City of Modesto’s CDBG Public Services Request for Proposals (RFP) solicits projects that primarily benefit LMI persons. The following four categories are used to meet this National Objective, but the City’s CDBG Public Services RFP solicits only two:

- Area benefit activities;
- Limited clientele activities;
- Housing activities; or
- Job creation or retention activities

**Area Benefit Activity** is one that benefits all residents in a particular area where at least 51 percent of the residents are LMI persons.

**Limited Clientele Activity** requires that at least 51 percent of beneficiaries be LMI persons. In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity. Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons.
without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a particular area.

In determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must meet one of the following criteria:

• **Benefit a clientele that is generally presumed to be principally LMI.** This presumption covers: abused children, battered spouses, elderly persons, severely disabled* adults, persons experiencing homelessness, illiterate adults, persons living with HIV/AIDS, and migrant farm workers; or

• **Require documentation on family size and income** in order to demonstrate that at least 51 percent of the clientele are LMI; or

• **Be of such a nature and in such a location that it can be concluded that clients are primarily LMI.** An example is a daycare center that is designed to serve residents of a public housing complex

* Persons are considered severely disabled if they:
  • Used a wheelchair or had used another special aid for 6 months or longer;
  • Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs, and walking);
  • Need assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating, and toileting) or instrumental activities of daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework, and using the telephone);
  • Are prevented from working at a job or doing housework;
  • Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility, or dementia, or mental retardation; or
  • Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI)

1.5 **CDBG Ineligible Activities (Not Exhaustive)**

The provision of income payments is ineligible, if these payments are provided as a grant. Income payments are payments to an individual or family, which are used to provide basic services such as food, shelter (including payment for rent, mortgage, and/or utilities), or clothing. However, such expenditures are eligible under the following conditions:

• Income payments do not exceed 3 consecutive months; and
• Payments are made directly to the provider of such services on behalf of an individual or family

The following are also ineligible activities:
• Political/lobbying activities;
• Expenses incurred before the period for which funding is awarded;
• Food/meals for staff;
• Fundraising;
• Entertainment;
• Alcoholic beverages;
• Deposits on equipment;
• Incentives to beneficiaries (gift cards, raffle prizes, holiday gifts, prizes for social activities, etc.)
• Late fees, fines, penalties;
• Contributions or donations; and
• Marketing activities of organization

CHAPTER 2.0: THE ESG PROGRAM

The Emergency Solutions Grants (ESG) program is designed to identify sheltered and unsheltered persons experiencing homelessness, as well as those at risk of experiencing homelessness, and provide the assistance necessary to help those persons quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) substantially revised the Emergency Shelter Grants program (now Emergency Solutions Grants program) to reflect the change in focus from addressing the needs of persons experiencing homelessness in emergency and transitional shelters to assisting persons experiencing homelessness and those at risk of experiencing homelessness to quickly regain stability.

2.1 ESG Eligible Activities

While flexible in terms of serving all homeless subpopulations and preventing persons from experiencing homelessness, the authorizing statute and implementing regulations do limit the types of activities and amounts of funds that may be used for different activities. The following are 5 major categories of eligible activities and applicable limitations of existing ESG program:

• Street Outreach
  o Essential Services
• Emergency Shelter
  o Shelter Operations
    ▪ Shelter operations no longer have a limit on staff costs, as it did under the Emergency Shelter Grants program, and may now include cost of supplies and, under certain conditions,
costs of hotel or motel stays where no appropriate emergency shelter is available
  o Essential Services
  o Renovation

• **Homelessness Prevention**
  o Tenant-Based Rental Assistance
  o Housing Relocation and Stabilization Services

• **Rapid Re-Housing**
  o Tenant-Based Rental Assistance
  o Project-Based Rental Assistance
  o Housing Relocation and Stabilization Services

• **Homeless Management Information Systems (HMIS)**

No more than 60 percent of the annual ESG allocation from HUD may be used for Street Outreach and Emergency Shelter and no more than 7.5 percent of the annual ESG allocation from HUD may be used for Administration.

**2.2 ESG Matching Funds Requirement**

Subrecipient must match ESG funds dollar for dollar with its own locally generated funds and/or in-kind contributions. These funds and/or contributions may come from City of Modesto; other federal, state, and local grants; and from in-kind contributions, such as the value of a donated building, supplies and equipment, new staff services, and volunteer time.

Cost principles for valuation of in-kind and other contributions must:

• Be verifiable records;
• Not be included as a contribution for any other federally-assisted program;
• Ensure value of services be consistent with those paid for similar work;
• Ensure value of property be at fair market value;
• Document volunteer services (names, addresses, dates, and hours of work);
• Include basis for determining the value of personal services, material, equipment, land, and other fixed assets

Documentation of matching funds must be furnished to the City within 10 days from the end of each program year.

**2.3 ESG Funding Priorities**

In addition to funding emergency shelter and transitional housing to the maximum extent possible, the City of Modesto, in consultation with the local Continuum of Care (also known locally as the Stanislaus Housing and Support Services Collaborative – a collaborative group of government, public agencies, advocates, and community- and faith-based
organizations focused on addressing homelessness, creating affordable housing, and providing assistance that promotes self-sufficiency), developed the following priorities, strategies, and outcomes:

- Focusing more on homelessness prevention than rapid re-housing;
- Limiting assistance* to:
  - Families with dependent children;
  - Persons experiencing homelessness who are within six months of obtaining mainstream benefits; and
  - U.S. Department of Housing and Urban Development – U.S. Department of Veterans Affairs Supportive Housing (HUD-VASH) program participants (security deposit assistance only)
- Providing 3-6 months of assistance to program participants and additional assistance only when merited and program participants adhere to individualized stability plan;
- Including as a special risk factor for homelessness severely deteriorated housing; and
- Basing program performance on the elimination of barriers to housing stability

*Assistance includes:
- Tenant- or project-based, short- and medium-term rental assistance
- Housing relocation and stabilization services, which include:
  - Financial assistance costs:
    - Rental application fees
    - Security deposits
    - Last month’s rent
    - Utility deposits
    - Utility payments
    - Moving costs
  - Services costs:
    - Housing search and placement
    - Housing stability case management
    - Mediation
    - Legal services
    - Credit repairs
2.4 Definition of Homeless and At Risk of Homelessness

**Homeless**

a. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
   i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
   ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
   iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

b. An individual or family who will imminently lose their primary nighttime residence, provided that:
   i. The primary nighttime resident will be lost within 14 days of the date of application for homeless assistance;
   ii. No subsequent residence has been identified; and
   iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

c. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
   i. Are defined as homeless under the Runaway and Homeless Youth, Head Start, Violence Against Women, Public Health Services, Food and Nutrition, or Child Nutrition Acts;
   ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
   iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
   iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addition, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

d. Any individual or family who:
i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual or family’s primary nighttime residence or has made the individual or family afraid to return to their nighttime residence;

ii. Has no other residence; and

iii. Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

At Risk of Homelessness
a. An individual or family who:

i. Has an annual income below 30 percent of area median family income;

ii. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in the homeless definition; and

iii. Meets one of the following conditions:

1. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

2. Is living in the home of another because of economic hardship;

3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

4. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, state, or local government programs for low-income individuals;

5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

6. Is exiting a publicly funded institution, or system of care, e.g., health-care facility, mental health facility, foster care, or other youth facility, or correction program or institution; or

7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the City of Modesto’s approved consolidated plan;

b. A child or youth who does not qualify as homeless under the HEARTH Act but qualifies as homeless under the Runaway and Homeless Youth, Head Start, Violence Against Women, Public Health Services, Food and Nutrition, or Child Nutrition Acts; or

• A child or youth who does qualify as homeless under the HEARTH Act but qualifies as homeless under the McKinney-Vento Homeless Assistance Act, and the parent(s) or guardian(s) of that child or youth if living with her or him.
ESG activities must maintain adequate documentation to substantiate homelessness or at risk of homelessness status of its beneficiaries.

CHAPTER 3.0: DETERMINING INCOME ELIGIBILITY

3.1 Definition of Income

See Chapter 6.0: Maintenance of Beneficiary Files for more detailed information.

To calculate annual gross income, the CDBG program allows the three definitions of income listed below:

- Section 8 annual gross income: The CDBG program has always used the Section 8 definition of annual income.
- IRS adjusted gross income: The final rule allows CDBG grantees/subrecipients to determine annual income by using the calculation for "adjusted gross income" outlined in the federal income tax IRS Form 1040.
- Census long form annual income: The final rule also allows CDBG grantees/subrecipients to determine annual income as defined for the Census long form for the most recent decennial Census.

In general, City of Modesto will require all subrecipients use the Section 8 definition.

Subrecipients are to estimate the annual income of a family or household by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable).

3.2 HUD Income Limits - 2012

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<th>Area Median Income (AMI)</th>
<th>Income Limits (% of AMI)</th>
<th>1-Person Family</th>
<th>2-Person Family</th>
<th>3-Person Family</th>
<th>4-Person Family</th>
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<th>5-Person Family</th>
<th>6-Person Family</th>
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CHAPTER 4.0: NEPA CLEARANCE

All activities proposed for CDBG/ESG funding must receive National Environmental Policy Act (NEPA) clearance. NEPA is federal environmental protection legislation that is similar, yet often more restrictive that the California Environmental Quality Act (CEQA). CDBG/ESG funds may not be used to fund activities that have not received NEPA clearance.

All funded activities must comply with the National Environmental Policy Act of 1969 (NEPA; 42 USC 4321); NEPA-related statutes, regulations, and policies; and the implementing regulations (24 CFR Part 58) prior to the obligation of CDBG/ESG funds.

NEPA regulations may be found at: http://hud.gov/offices/cpd/affordablehousing/training/web/crosscutting/environmental/reviewstage1.cfm

CHAPTER 5.0: PLANNING AND ALLOCATION PROCESS

5.1 Citizen Participation Plan and Consolidated Plan and Annual Action Plans

The Consolidated Plan outlines a five-year strategic plan with goals to meet the unmet needs for affordable and supportive housing, community development activities, public services, and economic development opportunities for low- and moderate-income residents. Each fiscal year, specific activities are identified in an action plan (Annual Action Plan) to address the needs during the coming year. At the end of each fiscal year, a Consolidated Annual Performance and Evaluation Report (CAPER) is prepared that summarizes the accomplishments toward the five-year goals.

City of Modesto, as a CDBG and ESG grantee, is provided flexibility in allocating program funds according to local priorities consistent with the Consolidated Plan. Pursuant to HUD regulations regarding the Citizen Participation Plan, City of Modesto carries out an annual community planning process and public hearing to determine community needs to inform the allocations contained in the Consolidated Plan and subsequent Annual Action Plans.

5.2 CDBG Public Services and ESG RFP
City of Modesto releases a consolidated Request for Proposals (RFP) for CDBG Public Services and ESG every two years. While CDBG and ESG are separate and distinct HUD programs, the City releases a consolidated RFP soliciting proposals for CDBG Public Services/ESG funds. City of Modesto staff allocates program funds to corresponding program activities to ensure statutory and regulatory compliance. This two-year funding cycle is intended to enhance activity stability and design, and direct resources toward activity delivery instead of grant-writing and application review. Level of funding for the second year will depend on the availability of funds, as well as on project performance during the first year of the award. City of Modesto retains sole discretion to determine any change in the amount of the second-year award or terminate the funding agreement based on the provisions contained therein.

To be eligible for funding, proposed activities must be consistent with the needs and goals identified in the Consolidated Plan. If an activity is proposed to meet a new need not previously identified in the Consolidated Plan, the Consolidated Plan must be amended according to the City of Modesto's Citizen Participation Plan prior to funding consideration.

Applicants may submit only one application; however, proposers may submit more than one application only if additional applications are joint, highly collaborative applications, (i.e., sharing space or substantial resources with at least one other organization). Letters of Understanding (LOUs) will be required at time of submission of proposal.

City of Modesto staff will review all proposals for eligibility (i.e., technical review) and provide notification of any eligibility issues to proposing organization.

Any organization that maintains its proposal has been wrongly determined to be ineligible by not meeting the RFP criteria may submit written feedback to the Deputy Director of Parks, Recreation, and Neighborhoods Department who oversees the HUD Division within three (3) days of notification. The written feedback should include specific details and/or additional documentation that address the ineligibility determination issued. This appeal process does not provide an opportunity to revise proposals, nor does it guarantee that determinations will be overturned.

The evaluation of the proposals will consider the merits of every eligible proposal. A subcommittee of the Modesto City Council-appointed Citizens Housing and Community Development Committee (CH&CDC), with the technical support of City of Modesto staff, will carry out the evaluations and funding recommendations. City staff will present these CH&CDC recommendations to Modesto City Council, which will ultimately determine funding awards.

5.3 ESG Rollover
ESG awards must be expended within 2 years of subrecipient agreement execution and unlike CDBG, may be rolled over from first to second year.

5.4 Eligible Subrecipients

- Nonprofit Organizations
- Governmental Entities
- Religious/Faith-Based Organizations*
- Institutions of Higher Education

* Religious/faith-based organizations may retain its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG/ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytizing. These organizations may use space in its facilities to provide CDBG-funded services without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-/ESG-funded religious/faith-based organization retains its authority over its internal governance, and it may retain religious terms in its organization’s name, select its board members on a religious basis, and include religious references in its organization’s mission statements and other governing documents. A subrecipient may not, in CDBG-/ESG-funded service delivery, discriminate against beneficiaries or potential beneficiaries on the basis of religion or religious belief.

5.5 Substantial Amendment Process

There are times when the City of Modesto must amend its Consolidated Plan/Annual Action Plan. This substantial amendment process is carried out in accordance with the City’s Citizens Participation Plan that requires a 30-day public comment period and Modesto City Council approval. The City must amend its Plan:

- To make a change in its allocation priorities or a change in its method of distributing funds;
- To carry out a new activity; or
- To change the purpose, scope, location, or beneficiary of an activity

CHAPTER 6.0: MAINTENANCE OF BENEFICIARY FILES

Beneficiary files must contain documentation to substantiate program eligibility.

HUD definitions at 24 CFR 570.3 are particularly helpful:
**Income.** For the purpose of determining whether a family or household is low- and moderate-income, subrecipients may select any of the three definitions listed under Chapter 3.0: Determining Income Eligibility.

**Family** means all the persons living in the same household who are related by birth, marriage, or adoption.

**Household** means all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

**Low- and Moderate-Income Person/Family** means a member of a family (not household) or a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

**Low- and Moderate-Income Household** means a household (as defined above) having an income equal to or less than the Section 8 low-income limit established by HUD.

**Low-Income** means income equal to or less than the Section 8 very low-income limit established by HUD.

**Moderate-Income** means having an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit established by HUD.

Files must contain documentation to substantiate the following:

- **Modesto Residency**
  Example documents: utility bill, bank statement, etc.

- **Family Size (Note: non-housing low- and moderate-income (LMI) activities are to meet the LMI National Objective based on family, not household size)**

  Household size is only used to determine eligibility when HUD assistance is provided for housing, since the two underlying assumptions are that 1) all individuals who reside in a housing unit that has been provided or improved with HUD assistance will benefit from that housing unit; and 2) resources of all occupants could be brought to bear with respect to paying for the rental, improvement, or purchase of that unit. Otherwise, all other activities, (e.g., CDBG Public Services) require income eligibility based on Family, not Household Size.

Examples:
  - Married couple = family of 2
  - Friend and friend = two separate families of 1
  - Friend and Friend with child = two separate families of 1 and 2
o Married couple with child of both = family of 3 (child and parent related by blood or adoption)
o Unmarried couple with child of only one = two separate families of 1 and 2

Tax returns, school records, etc., are useful documents that establish child custody and residence.

• Income Documentation

To be eligible for CDBG Public Services assistance, activity must primarily benefit (at least 51 percent) low- and moderate-income (LMI) persons. Documentation of the benefit to LMI persons is required of every funded activity (24 CFR 570.208).


Income verification and documentation requirements vary according to applicable category as described in subrecipient agreement. Area benefit and presumed benefit category activities are still required to report on family size, income level, and other demographic information. Unlike other categories, however, income documentation is not necessary for these categories. See Chapter 1.4: LMI Categories.

Subrecipients are to estimate the annual income of a family by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable).

If subrecipient is unable to document income level of beneficiary, subrecipient may document beneficiary as non-low- and moderate-income (non-LMI; above 80 percent of the area median income). Keep in mind that the percentage of non-LMI beneficiaries may not exceed 50 percent and should be kept to a minimum, as the CDBG program is intended to primarily benefit LMI persons.

24 CFR 570.506 describes the records to be maintained. Where information on annual income by family size is required, subrecipient may substitute evidence establishing:
o That the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the definitions of low- and moderate-income person, family, or household (as applicable);
That the person is experiencing homelessness (as defined by HUD; see Chapter 2.4: Definition of Homeless and At Risk of Homelessness);

- Verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit; or

- Notice that the assisted person has been referred from a state, county, or local employment agency or other entity that agrees to refer individuals it determines to be low- and moderate-income persons based on HUD’s criteria and agrees to maintain documentation supporting these determinations.

CHAPTER 7.0: SUBRECIPIENT AGREEMENTS

Once funding has been allocated in the Annual Action Plan approved by the Modesto City Council and HUD, a formal agreement is required in order to authorize disbursement of funds. City of Modesto may initiate written modification and/or termination of an agreement in order to comply with guidelines contained in any future federal/state/local statutes/regulations/policies/ordinances.

Once fully executed, the agreement represents a mutually agreed to, legally binding document between the City and subrecipient. The agreement must be followed in its entirety in order to receive CDBG/ESG funds. The agreement describes, at a minimum, the scope of work and establishes completion and other important dates and award amount.

An award of CDBG/ESG funds does not authorize the implementation of activity or expenditure accrual. Only an executed subrecipient agreement authorizes these activities. Any expenditure incurred prior to or after the period of the grant award will be ineligible for reimbursement.

CHAPTER 8.0 ADMINISTRATIVE REQUIREMENTS

Subrecipients must be familiar with the following requirements in order to manage its CDBG/ESG funds. The basic program regulations governing management and financial systems are promulgated by the federal government in 24 CFR Part 570, Subparts J and K and apply to grantees and subrecipients.

- Subpart J (24 CFR 570.500 – 570.513) covers the general responsibilities for grant administration, including uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, record keeping and reporting, and closeout procedures.
- Subpart K (24 CFR 570.600 – 570.614) covers other requirements, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and
contracting opportunities; lead-base paint; use of debarred, suspended, or ineligible subrecipients/contractors; uniform administrative requirements and cost principles; conflicts of interest; and the Americans with Disabilities Act (ADA).

In addition to the basic regulations contained in 24 CFR Parts 570 and 576, there are three other categories of requirements that affect the administrative systems and procedures that must be in place in order to receive funding:

- Federal regulations governing administrative and audit requirements for programs for which HUD has oversight responsibilities;
- Administrative circulars from the Office of Management and Budget (OMB) and Department of Treasury governing cost principles, administrative systems, fiscal procedures and audit requirements for public and private grantees and subrecipients;
- Executive Orders from the Office of the President implementing various policies.

CHAPTER 9.0 INSURANCE REQUIREMENTS

Subrecipients must provide at its own expense and maintain at all times the following insurance with insurance companies licensed in California and must provide evidence of such insurance to the City of Modesto. The policies and certificates thereof must provide that 30 days prior to cancellation or material change in policy, City of Modesto Risk Management will be notified. Subrecipient agreements cannot be executed and therefore incurred costs cannot be reimbursed until insurance is in place.

Worker’s Compensation in compliance with the statutes of the State of California, plus employer’s liability with a minimum limit of liability of $1,000,000.

* Worker’s Compensation insurer must agree to waive all rights of subrogation against the City of Modesto, its agents, officers, employees, and volunteers for losses arising from work performed by subrecipient for the City.

General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. Insurance must indicate on the certificate of insurance the following coverage and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent contractors and subcontractors; products and completed operations, as applicable.

* Subrecipient must provide the City with separate endorsement evidencing proof of the City’s additional insured status as to General Liability insurance policy.
Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. This insurance must cover any automobile for bodily injury and property damage.

* Subrecipient must provide the City with separate endorsement evidencing proof of the City’s additional insured status as to Automobile Liability insurance policy.

CHAPTER 10.0 FINANCIAL MANAGEMENT

Subrecipient is responsible for the internal control and monitoring of fiscal and programmatic/operational goals and procedures. Subrecipient must establish such fiscal controls and fund accounting procedures as required by federal guidelines, or as may be deemed necessary by the City of Modesto and/or HUD to assure the proper utilization of CDBG/ESG funds.

Subrecipient must maintain internal controls on financial records, cash disbursements, cash recipes, payroll, and inventory of assets. At a minimum, subrecipients are required to maintain a General Ledger, a system for maintaining information on unpaid bills (Accounts Payable), a Cash Disbursement Journal, and authorized signatures or level of access. When requested, subrecipients are required to provide current information on all accounting transactions in a standardized acceptable format. Transactions must be properly recorded and accounted for.

10.1 Accounting Principles and Auditing Practices

Subrecipient must maintain accounting records that are in accordance with generally accepted accounting principles and auditing practices.

- OMB Circular A-102 "Uniform Requirements for Assistance to State and Local Governments"
- OMB Circular A-122 "Cost Principles for Non-Profit Organizations"
- OMB Circular A-21 "Cost Principles for Educational Institutions"
- American Institute of Certified Public Accountant (AICPA) "Accounting and Financial Reporting for Voluntary Health and Welfare Organizations"

10.2 Record Retention

Subrecipient must maintain all records required by federal guidelines. Generally, all records (programmatic, financial, etc.) are to be retained for a period of five years from the end of the subrecipient agreement. Records will be open and available for review by staff assigned by the City and/or HUD.

Subrecipient must maintain beneficiary data substantiating beneficiary eligibility for services provided. Such data must include, but is not limited to, beneficiary
(head of household) name, address, income level, etc.; and description of service provided. Such information must be made available to City/HUD staff or its designees for review upon request. Beneficiary files must be maintained in a manner that is organized, comprehensive ("self-contained"), confidential when necessary, and up-to-date.

### 10.3 Single Audit (OMB Circular A-133 and Other Financial Audits)

Subrecipients that expend $500,000 or more in federal funds from all sources (including grants, loans, program income, etc.) in its previous fiscal year must submit a copy of an independent audit completed within nine months following the end of the subrecipient's fiscal year.

Subrecipients that have an overall organizational budget of less than $250,000 may be exempted from the audit requirement. City of Modesto reserves the right to conduct a fiscal site visit or require alternate documents demonstrating sound financial controls in the absence of an audit.

### 10.4 Program Income

Program income (PI) is defined as gross income received by either City of Modesto or its subrecipients directly generated from the use of CDBG funds. In rare cases when CDBG Public Services activities generate PI, PI is retained by the City of Modesto and subrecipients are required to account for this gross income by recording it as part of the financial transactions of the CDBG award and must be treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds. PI regulations may be found in 24 CFR 570.504.

### CHAPTER 11.0: REIMBURSEMENT

City of Modesto authorizes payment on an expenditure reimbursement basis, except when funded activities require advanced payment (e.g., rental assistance activities that require timely payment to landlords and other third parties), as approved by City of Modesto. Costs must be necessary, reasonable, allocable, and documented. Subrecipient must maintain separate accounts within established bookkeeping systems for the deposit of CDBG/ESG funds as specified in the applicable OMB Circular.

Reimbursement requests may be submitted no less often than once every 3 months for projects incurring expenses. See Quarterly Invoicing/Reporting Schedule.
Subrecipient agreement only permits reimbursement for the expenditures specifically covered by the budget exhibits during the term of the agreement. Otherwise the cost may not be eligible for reimbursement.

City of Modesto reserves the right to hold or return reimbursement requests and disallow incurred expenses based on compliance with agreement. All financial transactions must be supported by complete and verifiable source documents. These records must provide a clear audit trail and must be maintained as specified by federal guidelines.

11.1 Budget Amendments

For budget amendments that do not change the purpose, scope, location, or beneficiaries of the activity, (i.e., budget line item adjustments), subrecipients must submit to the City of Modesto a formal written request to make such changes to the activity budget.

11.2 Reimbursement Request Documentation

- Must be clearly marked to indicate to which program the expenditure relates, as well as the applicable dollar amount as indicated in the supporting documentation. The total reimbursement amount requested should be clearly identified. Expense items must correspond to budget line items.

- Must be summarized if there are extensive receipts and documents.

- Must be detailed.

- Payroll:
  - Timesheets for each pay period and for each employee charging time to the award must be included.
  - The employee and the manager must sign timesheets.
  - Timesheets should reflect the total time worked each day (8 hours, etc.) with the amount of CDBG/ESG time being charged clearly identified.
  - If there are more than 6 timesheets, timesheets must be summarized indicating calculation of time to the reimbursement amount requested.
  - Proof of payment, such as a payroll register or copies of paychecks must also be included.

- Other incurred expenses: An invoice for the charge and documentation that the invoice was paid.

11.3 Reimbursement Request Submission
While the Housing Division of the City’s Parks, Recreation, and Neighborhoods Department authorizes payment, the Accounting Division (Accounts Payable Unit) of the City’s Finance Department processes payment.

Do not staple submission – City of Modesto staff must load submission in a scanner.

- Invoice must include:
  o Subrecipient name;
  o Address;
  o Contact information (direct telephone number and email address);
  o Unique invoice number (maximum of 12 alphabetic and/or numeric);
  o Specify funding source (i.e., CDBG or ESG) if subrecipient receives funds from both programs, invoices must request reimbursement from only one (and activities must correspond to the program).

- Invoices should be submitted to Accounts Payable and addressed:
  o City of Modesto PR&N
    ATTN: Accounts Payable
    P.O. Box 642
    Modesto, CA 95353-0642
  o Accounts Payable does not accept faxed invoices, but it does accept emailed ones from authorized requestors. If submitting electronically, send according to first letter of subrecipient name:
    ➢ A-L – Tammy Wallace at twallace@modestogov.com
    ➢ M-Z – Jessica Kroontje at jckroontje@modestogov.com

- To inquire on the status of payments, contact Accounts Payable before contacting the Housing Division.

CDBG/ESG funds are released on a reimbursement basis only. All items requested for reimbursement must have an invoice or some document that substantiates the expenditure was incurred and evidence of payment. Payment by the City is not to be construed as final in the event HUD or City disallows any reimbursement of expenses.

11.4 Timekeeping and Reimbursement for Salary Costs

Salary and benefits costs in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, etc. are allowable, provided such costs are allocated to the award in proportion to the relative amount of time actually devoted to carrying out activity.

Timesheets for each pay period, for each employee charging time to CDBG/ESG must be included. The employee and the manager must sign timesheets. Timesheets must reflect the total time worked each day (8 hours, etc.) with the
amount of CDBG time being charged clearly identified. If there are more than 6
timesheets, the timesheets should be summarized showing the calculation of
time to the amount requested on the invoice. Proof of payment, such as a payroll
register or copies of paychecks must also be included.

11.5 Procurement of Goods and Services

Subrecipients may pay a vendor for supplies purchase or non-employee for
services involved in completing the terms of the subrecipient agreement.
Subcontracts and purchases of $1,000 or more require prior written approval
from the City of Modesto. Subrecipient must maintain internal controls on the
procurement of goods and services.

CHAPTER 12.0: REPORTING REQUIREMENTS

Subrecipient must provide the City, within a specific period of time after
conclusion of reporting period or specific request, progress reports and/or other
documentation as may be required by the City to audit performance of activity
and/or to enable the City to analyze and evaluate use of CDBG/ESG funds.
Subrecipient must submit to the City and require each of its own
contractors/subcontractors to furnish all information and reports necessary to
prepare the Consolidated Annual Performance and Evaluation Report (CAPER),
Consolidated Plan, Annual Action Plan, and City of Modesto/HUD monitoring
tools.

The quarterly status report is used to report the status of funded activities and
report beneficiary data. This report and reimbursement requests are utilized both
for program management purposes and to complete required HUD reports. It
must be completed each quarter regardless of whether CDBG/ESG funds are
expended in the quarter.

This report is cumulative in that each quarter, the number or new or additional
beneficiaries will be added to the previous quarter's data. At year-end, the
beneficiary data will reflect the total of beneficiaries served during the program
year.

Reports must be current in order for the City to disburse funds.

12.1 Invoicing/Reporting Schedule

In a collaborative effort to provide consistency for local subrecipients across
CDBG/ESG grantees (i.e., City of Modesto, City of Turlock, and Stanislaus
County), invoicing and status reporting will be made on a quarterly basis. Timely
final quarter invoicing and quarterly status reporting (including projected
beneficiary numbers) will be particularly critical as the City prepares its CAPER for submission to HUD before the statutory deadline.

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Invoicing/Reporting Period</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Quarter</td>
<td>(July – September)</td>
<td>after September 30</td>
</tr>
<tr>
<td>2nd Quarter</td>
<td>(October – December)</td>
<td>after December 31</td>
</tr>
<tr>
<td>3rd Quarter</td>
<td>(January – March)</td>
<td>after March 31</td>
</tr>
<tr>
<td>Year End</td>
<td>(July – June)</td>
<td>no later than July 10</td>
</tr>
</tbody>
</table>

CHAPTER 13.0: MONITORING

The City monitors the performance of funded activities. City/HUD staff utilize several methods to monitor activity performance and agreement compliance. These include on-site review, evaluation of reimbursement requests, accounting documents, insurance review, etc.

13.1 Not a “One-Time Event”

Monitoring is not a one-time event. The City of Modesto has established a monitoring process that emphasizes positive feedback to subrecipients, in addition to identifying and addressing areas for improvement. This process has integrated opportunities for dialogue with subrecipients to develop a better appreciation of their perspectives and to identify and resolve points of miscommunication or misunderstanding. Subrecipients are encouraged to specify, within reason, the kinds of technical support needed from the City in order to make the improvements required. Recognizing the finite resources available, the City’s monitoring plan matches available resources with the needs and capacity of the subrecipients. The City’s monitoring plan is informed by risk assessments of subrecipients to identify which subrecipients require more extensive, comprehensive monitoring. High-risk subrecipients include:

- New subrecipients;
- Subrecipients that have experienced high turnover in key staff positions or a change in goals or direction;
- Subrecipients with previous compliance or performance problems, including failure to meet schedules, submit timely reports, or clear monitoring or audit findings;
- Subrecipients carrying out high-risk activities, such as economic development activities; and
- Subrecipients carrying out multiple funded activities for the first time.

Subrecipients receive either extensive or narrowly focused comprehensive monitoring in order to build accountability into the management of the programs.

13.2 Monitoring Practices
**Desk Audits** are useful in identifying potential problem areas to examine during the on-site visit. Desk audits review the following:

- Application/proposal;
- Subrecipient agreement;
- Progress reports;
- Beneficiary data reports;
- Invoices;
- Documentation of previous monitoring; and
- Copies of audits whether by an Independent Public Accountant (IPA) or another entity such as the HUD Office of the Inspector General (OIG) or the General Accounting Office (GAO).

On-site pre-monitoring visits may point out apparent weaknesses in subrecipient operations and suggest how these deficiencies may be corrected before the formal on-site monitoring visit.

**Formal On-Site Visit:**

- Notification Letter
- Entrance Conference
- Documentation, Data Acquisition, and Analysis
- Exit Conference
- Follow-Up Monitoring Letter

**13.3 Findings and Concerns**

Monitoring Letter identifies fully every finding and concern. A finding is issued for noncompliance with the rules and regulations of the program. Findings are correctly identified; based on applicable statute, regulation, or program policy; and supported by verifiable facts. For each finding, corrective actions must be specified.

Concerns are presented in the monitoring letter as instances where the deficiency is not a finding, or where noncompliance may occur in the future due to weaknesses in subrecipient operations. For each concern, specific recommendations for improvement are included.

**CHAPTER 14.0: ADDITIONAL REQUIREMENTS**

**14.1 DUNS Number**

CDBG-/ESG-funded organizations will be required to obtain a Data Universal Numbering System (DUNS) number, a unique numeric identifier, as it is
required of any entity receiving federal funding: http://fedgov.dnb.com/webform/index.jsp or 1-866-705-5711. (Make sure to write down name affiliated with your DUNS number).

14.2 HMIS Participation and Data Sharing

CDBG-/ESG-funded projects designed to assist persons experiencing homelessness or designed to prevent homelessness are required to participate in the Homeless Management Information System (HMIS) of the Stanislaus County Continuum of Care (CoC; Stanislaus Housing and Support Services Collaborative) and regularly attend CoC meetings (third Thursday of the month from 2:30 pm to 4 pm at the Housing Authority of the County of Stanislaus [1701 Robertson Road]).

Furthermore, subrecipients are required to execute a HMIS Data Sharing Agreement to share HMIS Universal Data Elements so as to more effectively utilize and enhance data quality of HMIS.

14.3 Equal Opportunity

All CDBG-/ESG-funded organizations will be required to post equal opportunity materials and brochures at project locations.

14.4. Published Materials

In informational/promotional materials regarding funded activity, such materials will contain wording to the effect that the activity or a portion thereof, is funded though a CDBG/ESG grant awarded by the City of Modesto.

CHAPTER 15.0: CONFLICT OF INTEREST

In an effort to ensure compliance with federal program guidelines, the City of Modesto has instituted clear policy and procedures relating to conflict of interest. As part of these policy and procedures, subrecipients are required to disclose any real, perceived, or potential conflicts of interest as described below.

CDBG and ESG subrecipients are subject to meeting the general standard as it relates to conflict of interest. This general standard, as it applies to CDBG, is that no employee, agent, or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG funds and activities is allowed to obtain a financial interest in or benefit from CDBG activities, or

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1 24 CFR 570.611
have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities.

- This standard applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the City of Modesto; a designated public agency; or a subrecipient, and to their immediate family members and business partners.
- This standard also applies for such persons during their tenure and for a period of one year after leaving the City of Modesto or subrecipient organization.

For ESG\(^2\): No person who is an employee, agent, consultant, officer, or elected or appointed official of the City of Modesto, State of California recipient, or nonprofit recipient (or of any designated public agency) that receives ESG funds and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either from him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

If a real, perceived, or potential conflict of interest exists or is suspected, subrecipients must contact City of Modesto Parks, Recreation, and Neighborhoods Department immediately. Potential conflicts include but are not limited to ones where decision-makers within your organization are immediate family members of other employees or of service beneficiaries. See the applicable general standard above.

Please be advised that the existence of a conflict of interest is a violation of CDBG and ESG regulations and constitutes an event of default under all subrecipient agreements with the City of Modesto.

Upon written request, an exception to a conflict of interest may be granted by the U.S. Department of Housing and Urban Development (HUD) on a case-by-case basis through a standard operating procedure in place at the City of Modesto, after consideration of the cumulative effective of various factors.

Subrecipients must abide by the provisions set forth in the City of Modesto's Conflict of Interest Provisions: Summary of Rules for Modesto HUD-Sponsored Programs, which includes other applicable local and state conflict of interest general standards (see Exhibit 18.12).

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\(^2\) 24 CFR 576.57 (d)

\(^3\) 24 CFR 570.611 (d)
CHAPTER 16.0: USEFUL RESOURCES

City of Modesto Five-Year Consolidated Plan, 2010-2015
http://modestogov.com/prnd/housing/citizenplan.asp

Code of Federal Regulations (CFR):
www.gpoaccess.gov/cfr/index.html
• CDBG regulations: 24 CFR 570
• ESG regulations: 24 CFR 576

Office of Management and Budget (OMB) Circulars:
http://www.whitehouse.gov/omb/circulars/
Accounting Regulations
• A-122 Cost Principles for Non-Profit Organizations
• A-21 Cost Principles for Educational Institutions
• A-87 Cost Principles for State, Local, and Indian Tribal Governments


Community Development Block Grant Program: Guide to National Objectives and Eligible Activities for Entitlement Communities (U.S. Department of Housing and Urban Development)

Basically CDBG (U.S. Department of Housing and Urban Development, November 2007)

Emergency Solutions Grants Program Interim Regulations
http://www.hudhre.info/index.cfm?do=viewResource&ResourceId=4517

‘Homeless’ Definition Final Rule
http://www.hudhre.info/index.cfm?do=viewResource&ResourceId=4519

CHAPTER 17.0: CONTACT INFORMATION

Hugo H. Ramírez
Parks, Recreation, and Neighborhoods Department
hramirez@modestogov.com
(209) 577-5368

CHAPTER 18.0: EXHIBITS
Section 6 - Homeowner's Rehabilitation Program Policy and Procedure
Homeowner Rehabilitation Program Policies & Procedures

1.0 APPLICABLE LAWS AND REGULATIONS

1.1 All Housing Rehabilitation Program activities shall be conducted in accordance with all applicable federal, state, and local program funding standards, building codes, and zoning ordinance requirements.

1.2 All work conducted in accordance with an approved Housing Rehabilitation Program activity shall be consistent with program funding requirements and any locally approved repair and replacement standards including, but not limited to: site improvements, windows and doors, roofing, ventilation, electrical, plumbing systems, HVAC, accessibility, and abatement of hazardous materials (i.e. mold, lead based paint, etc).

1.3 All terms used within these policies shall be as defined by applicable funding source(s) or other locally approved Housing Rehabilitation Program policies and/or standards.

1.4 All program applications will be processed in accordance to the date of receipt of a complete application and are subject to available funding.

2.0 ELIGIBLE REPAIRS (in order of priority)

2.1 Health and Safety repairs as determined by utilization of the City of Modesto HUD Housing Quality Standards (HQS) inspection analysis.

2.2 Spot Rehabilitation Eligible non-health and safety related repairs (e.g. - required by State or local Building Code).

Accessibility Repairs to make the home accessible for disabled household members.

2.3 Energy Efficiency Improvements may be conducted along with any of the eligible repairs listed above. Energy efficiency improvements may include, but are not limited to:

2.3.1 Replacing single pane windows with double pane windows;
2.3.2 Replacing antiquated water heater;
2.3.3 Replacing antiquated HVAC system;
2.3.4 Weatherization improvements.

2.4 Applicant Must Exhaust All Other Available Funding Sources in order to comply with program funding requirements, the applicant must exhaust all other viable program alternatives/resources that may provide assistance to address any of the above eligible repairs. The Housing Finance Specialist in coordination with the Housing Rehabilitation Specialist shall conduct a resource coordination analysis to ensure the applicant has taken advantage of any other resources that may be available prior to receiving assistance via the City of Modesto’s Housing Rehabilitation Program.

3.0 PROPERTY ELIGIBILITY:

3.1 The assisted property shall be located within the city limits of the City of Modesto.

3.2 The assisted property shall contain a legal residential structure intended for continued residential occupancy and meet applicable rehabilitation standards and ordinances at the time of project completion.
3.3 A manufactured home (mobile home) in a mobile home park or on leased land that is not on a permanent foundation may only qualify for a grant as allowed under Section 9.0 of these policies.

3.4 The assisted property shall be owner-occupied and shall be the principal place of residency of owner-occupants (hereafter “Borrowers”) and hold legal title to the property.

4.0 HOMEOWNER ELIGIBILITY:

4.1 All Borrower households shall have incomes at or below 80 percent (80%) of the Stanislaus County Area Median Income (AMI), adjusted for household size, as published annually by the California State Department of Housing and Community Development (HCD) or United Stated Department of Housing and Urban Development (HUD). The applicable AMI shall be as required by available funding source(s).

4.2 Borrowers without a mortgage shall demonstrate a debt-to-income ratio sufficient to allow for the on-going annual payments of property tax and any insurance required as a result of the Housing Rehabilitation Program assistance.

4.3 Borrowers with a mortgage shall show that all mortgage, property tax, and insurance payments are current, with no late payments having been received within the past twelve months, and meet both of the following debt-to-income ratios:

4.3.1 Front end (housing) debt-to-income ratio shall not exceed 35 percent (35%) and is the percentage of a Borrower’s gross monthly income (before deductions) that would cover the cost of the loan principal and interest payment, property taxes, property insurance, mortgage insurance, and HOA dues, if any.

4.3.2 Back-end (total debt obligation) debt-to-income ratio shall not exceed 45 percent (45%), and is the percentage of the borrower’s gross monthly income that includes the cost of housing as described in Section 4.0 C i. above, plus any other monthly debt payments such as car loans, personal loans, credit card debt, or child support and alimony payments.

4.4 Borrowers shall meet the following credit worthiness criteria:

4.4.1 No outstanding judgments or liens at the time of loan approval or loan execution. As part of application for assistance, Borrower shall disclose any personal liens that may attach to the property. Failure to disclose any pertinent information that may affect eligibility may be grounds for denial of assistance and application withdrawal. To identify any personal liens, a Judgment and Tax Lien Guarantee search of Borrowers and Preliminary Title Report search on the property shall be conducted after Housing Rehabilitation Loan Committee (HRLC) approval.

4.4.2 Outstanding collections must be paid prior to HRLC approval, unless the HRLC determines, on a case by case basis, that the circumstances that led to collection were outside of the applicant’s control, and the payment of the outstanding collection(s) will not impact the applicant’s ability to financially retain ownership.

4.4.3 Late payments due to extenuating circumstances will be considered as part of the approval process. Factors leading to late payments will be reviewed and considered on a case by case basis.

4.4.4 Borrower shall not have filed bankruptcy, or received a bankruptcy discharge, in the last three (3) years prior to date of application.
4.4.5 The HRLC may consider other factors impacting Borrower's creditworthiness.

4.5 If at any time the Borrowers filed bankruptcy that resulted in a discharge of any debt owed to City of Modesto, or the former City of Modesto Redevelopment Agency, for housing rehabilitation or down payment assistance, the HRLC shall evaluate the circumstances of the bankruptcy in order to determine if further assistance may be provided without further risk to funding investment.

4.6 Borrowers shall not be a person, or the immediate family of any person, who is in a decision-making position relative to the Housing Rehabilitation Program.

4.7 Process:

4.7.1 Housing Finance Specialist determines general program eligibility, including income limits and lending loan-to-value ratios along with a process to determine all other funding opportunities have been explored/exhausted (technical assistance);

4.7.2 Housing Rehabilitation Specialist determines properties needs via Housing Quality Standards (HQS) inspection (pre-1978 visual Lead Based Paint Inspection conducted);

4.7.3 Housing Rehabilitation Specialist scope of work via Rehab Pro Direct to supervisor;

4.7.4 HRLC reviews for consideration and approval of the overall project proposal;

4.7.5 Housing Rehabilitation Specialist processes approved projects through the bid process;

4.7.6 Application inquiry through program completion within 90-days, unless there are extenuating circumstances beyond staff control (e.g. - rain delays);

4.7.7 Quarterly program updates provided to HRLC.

5.0 MAXIMUM AMOUNT OF PROGRAM ASSISTANCE (24 CFR 570.208 (a)(3);(b), and 24 CFR 570.202):

5.1 An eligible Borrower may qualify for the full cost of rehabilitation/reconstruction work needed to address any Eligible Repairs outlined in Section 2.0, and/or comply with state and local codes and ordinances; however, the maximum assistance shall not exceed any maximum subsidy established by the funding source(s) utilized to fund the project.

5.1.1 Reconstruction shall only be authorized when the cost of rehabilitation will exceed 75 percent of the current estimated value of the property, as determined by the Housing Financial Specialist;

5.1.2 Loan amount is determined by the repairs/modifications that are required or eligible, as requested and approved by the owner, Community Development Manager or his/her designee.

5.1.3 Maximum amounts are as follows:

5.1.3.1 Grants up to $10,000 require HRLC acknowledgement in order for staff to proceed;

5.1.3.2 Loans up to $60,000 require HRLC approval in order for staff to proceed;

5.1.3.3 Loans in excess of $60,000 require City Council approval in order for staff to proceed.

5.1.4 Additional loans may be granted within applicants overall loan-to-value ratios;

5.1.5 Emergency repairs of up to $10,000 may be authorized by the Community Development Manager if it poses an "extreme health and safety related emergency (e.g. -- plumbing or electrical hazards).

6.0 MAXIMUM AFTER REHABILITATION VALUE

The after rehabilitation value of a home assisted under this program shall not exceed 100% of the current median sales price of a single family home listed for the City of Modesto. This information may be obtained...
by collecting comparable sales data from sources including but not limited to Zillow, Trulia, Data Quick, Realty Trac, Real Quest, Epraisal.com, or FHA 203(b) loan limits. If necessary, the after rehabilitation value may be determined by ordering a professional appraisal. An After Rehabilitation Value Limit Worksheet must be completed and certified by the housing rehabilitation specialist and placed in the project file.

7.0 MAXIMUM COMBINED LOAN TO VALUE RATIO:

7.1 For CDBG funded loans, the total indebtedness against the assisted property shall not exceed 100% of the estimated after-rehabilitation value of the property as determined by “Estimates of Value” conducted by program staff using a Comparable Sales Approach, or an appraisal by a licensed appraiser if required by funding source.

7.2 For CalHome funded loans, the total indebtedness against the assisted property shall not exceed 100% of the estimated after-rehabilitation value of the property as determined by “Estimates of Value” conducted by program staff using a Comparable Sales Approach, or an appraisal by a licensed appraiser if required by funding source. An additional 5% maximum may be allowed, if allowed by funding source, to cover any eligible closing costs.

7.3 As part of application for assistance, Borrower shall disclose any personal liens that may attach to the property (failure to disclose any pertinent information that may affect eligibility may be grounds for denial of assistance and application withdrawal). To determine the total indebtedness assigned against the property, a title search of the property and Borrowers (for the purpose of verifying any personal liens that may attach to the property) shall be conducted after HRLC project approval.

7.4 An “Estimates of Value” using a Comparable Sales Approach shall be based on the sale prices of at least three (3) comparable properties, sold within the last twelve months and located within a one mile radius of the subject property. Any alternative methodology for determining estimated value must be approved by the HRLC.

7.5 In the case of a reconstruction, as allowed under Section 5.0.A.i., the HRLC may consider approval of projects that exceed the CLTV limit of Section 7.0.A. or 7.0.B. provided all other criteria for assistance is met and the City of Modesto will be in first lien position.

8.0 RATES AND TERMS OF PROGRAM ASSISTANCE:

8.1 Eligible homeowners may receive a deferred payment loan evidenced by a Promissory Note and secured by a Deed of Trust, with no payback required for 20 years unless the borrower sells or transfers title or discontinues residence in the dwelling.

8.2 The following rates (simple interest) shall apply on City of Modesto housing rehabilitation loans, based on the household’s Area Median Income (AMI) level:

<table>
<thead>
<tr>
<th>AMI</th>
<th>Interest Rate (simple interest)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-50%</td>
<td>0%</td>
</tr>
<tr>
<td>51-80%</td>
<td>3%</td>
</tr>
</tbody>
</table>

8.3 City of Modesto may accept voluntary payments on deferred loans. Loan payments will be credited to the principal first and then to interest. The borrower may repay the loan balance at any time with no pre-payment penalty. If it is determined by the City of Modesto that repayment of the loan at the maturity date causes a hardship to the homeowner, the City of Modesto may opt, with HRLC approval, the following:
8.3.1 Amend the Promissory Note and Deed of Trust to defer repayment of the amount due at maturity, that is the balance of the original principal plus the accrued interest, for up to an additional 20 years (at 0 percent additional interest). This may be offered one time; or,

8.3.2 Convert the debt to loan maturity; that is the balance of the original principal plus any accrued interest, to an amortized loan, repayable in 20 years at 0 percent additional interest.

8.4 Assistance to households with AMI levels between 81% and 120% may only be available if funding source allowing said limits is available. The following terms shall apply to loans made to households with AMI levels between 81% and 120%:

8.4.1 20 year Loan with monthly payments
8.4.2 3% simple interest
8.4.3 Must meet Debt to Income Ratio limits specified in Section 4.C.

8.5 In the event that a homeowner sells, transfers title, or discontinues residence in the rehabilitated property for any reason, the loan shall become due and payable.

8.6 Any other transfer of interest, due to homeowner death or other circumstances shall be subject to the requirements of the funding source(s) and shall be defined within the Promissory Note and/or Deed of Trust.

8.7 The HRLC may approve a request to subordinate a loan, in order for the owner to refinance the property. Refer to City of Modesto Subordination Policy for subordination approval criteria.

9.0 MANUFACTURED HOMES:
9.1 Assistance to manufactured homes on a non-permanent foundation will be provided as follows:

9.1.1 The total assistance provided to a manufactured home shall not exceed $20,000 (combined total of all grants, if multiples).
9.1.2 Assistance to manufactured homes will be a one-time grant, subject to available funding allowing for grants.
9.1.3 Replacement shall only be considered when the cost of rehabilitation will exceed 75 percent of the current estimated value of the property, as determined by the Housing Financial Specialist.

10.0 BID SOLICITATION:
10.1 A scope of work and project cost estimate developed by the Housing Rehabilitation Specialist based on eligible repairs as listed in Section 2.0, shall be prepared and entered into Rehab Pro Direct prior to consideration for HRLC and bid submittal. The Scope of Work shall be approved by the Housing and Urban Development Supervisor and Borrower.

10.2 A minimum of three bids by California Licensed Contractors shall be obtained prior to bid approval consideration.

10.3 Bids in excess of 15% of the HRLC approved amount must be brought back to HRLC for approval consideration.

10.4 If determined appropriate by Housing Rehabilitation Specialist, bids solicitations may be requested from multiple contractors with different disciplines (i.e. general, electrical, roofing, and
plumbing, etc.). This approach may be considered as a cost savings measure, if approved by the Housing and Urban Development Supervisor.

11.0 **COST REASONABLENESS:**

11.1 Cost reasonableness shall be determined by comparing the bids received with the cost estimate prepared by the Housing Rehabilitation Specialist.

11.2 Bids received must be within 15% of the Housing Rehabilitation Specialist's cost estimate.

11.3 An explanation must be provided to the HRLC for any bid selected that exceeds 15% of the estimate.

11.4 Comparable estimates may also be considered, when optimal, for utilization of subcontractors instead of general contractors for work to be performed.

11.5 Housing Rehabilitation Specialist will work to manage rehabilitation cost through the most efficient and economically feasible project contracting model.

12.0 **ENVIRONMENTAL REVIEW:**

12.1 All assisted properties shall be subject to environmental review as required by the funding source(s). No funds shall be committed and/or released until all environmental reviews have been conducted to the satisfaction of City of Modesto.

13.0 **HOUSING REHABILITATION LOAN COMMITTEE (HRLC) APPROVAL:**

13.1 All Housing Rehabilitation Program activities shall be subject to majority vote approval by the City of Modesto Housing Rehabilitation Loan Committee (HRLC). The HRLC shall be comprised of the following voting members (all terms are four (4) years in length):

13.1.1 One Councilmember (appointed by the Mayor)
13.1.2 One financial institution representative.
13.1.3 One service provider representative.
13.1.4 One general contractor (active or retired).
13.1.5 One Housing Authority of the County of Stanislaus (HACS) representative.
13.1.6 One Citizen-at-Large.
13.1.7 One Citizen's Housing and Community Development Committee Representative.

13.2 The City of Modesto Community Development Manager may appoint a substitute voting member using alternative criteria if existing circumstances do not allow for a Committee make-up as specified above and time constraints warrant a substitution.

13.3 All actions of the HRLC shall be reflected in meeting minutes to be prepared by staff of the City of Modesto Community Development Division.

14.0 **APPROVAL CONTINGENCIES:**

14.1 All rehabilitation loans shall be evidenced by the following documents and provisions:

14.1.1 Loan Agreement;
14.1.2 Promissory Notes (s) payable to City of Modesto in the principal amount of the loan and stating the terms and rate of interest;
14.1.3 Deed of Trust(s) securing the Note (deed shall be recorded and shall secure City of Modesto's financial interest in the property);
14.1.4 Declaration of Conditions, Covenants, and Restrictions (if applicable);
14.1.5 Other appropriate security instrument naming City of Modesto as beneficiary;
14.1.6 Request for copy of "Request for Notice of Default" on first mortgage; and
14.1.7 Any other documents determined necessary by the Community Development Manager.

14.2 All rehabilitation activities approved by the HRLC shall be contingent on meeting the following requirements:
14.2.1 Execution of a construction contract and Notice to Proceed;
14.2.2 On-site monitoring and inspection by the Housing Rehabilitation Specialist to verify scope of work, materials, and construction schedule conform to contract requirements;
14.2.3 Written final inspection and approval documentation by the Housing Rehabilitation Specialist;
14.2.4 Recorded Notice of Completion, signed by the homeowner, following final inspection and approval by the Housing Rehabilitation Specialist;
14.2.5 Release of retention payment within 30-days after recording Notice of Completion.

14.3 Written change orders, subject to the criteria listed below, shall be required for any changes in the work write-up, such as eliminating an item completely, eliminating one item and substituting another, or adding items:
14.3.1 Contractor must notify Housing Rehabilitation Specialist and homeowner if Contractor deems a change order for work is necessary; Contractor's Change Order request shall be submitted in writing and list the change order items with dollar value for each change;
14.3.2 Housing Rehabilitation Specialist shall review and determine if Change Order requests and costs are reasonable and work with Contractor to modify Change Order items if necessary;
14.3.3 Upon reviewing and approving Change Order requests, Housing Rehabilitation Specialist must prepare a City of Modesto Change Order Request Approval form and submit to Housing and Urban Development Supervisor for final approval signature;
14.3.4 Upon final approval by the Housing and Urban Development Supervisor, Change Order shall be signed by Homeowner and Contractor;
14.3.5 The combined total of all approved Change Orders shall not exceed the approved financing and contingences;
14.3.6 Homeowners cannot request (non-health and safety) change orders in excess of the approved financing (not including contingency), unless HRLC approves the use of additional funds (Attachment a).

14.4 The homeowner shall maintain fire insurance on the property for the duration of the program loan(s). This insurance must be adequate to cover all encumbrances on the property. The insurer must identify City of Modesto as Additional Insured for the amount of the program loans. A copy of the homeowner’s insurance policy shall be provided to City of Modesto annually.

14.5 Homes located within a 100-year flood zone will be considered on a case-by-case basis. If approved for assistance, the Borrower is required to maintain flood insurance during the term of
the assistance and in an amount adequate to secure the program loan and all other encumbrances. The insurer must identify City of Modesto as Loss Payee for the amount of the program loans. A copy of the homeowner’s flood insurance policy shall be provided to City of Modesto annually.

15.0 **Contractors**

15.1 The Housing Financial Specialist shall maintain a Contractors’ List. The list contains the names, addresses, license numbers, expiration dates, insurance information, and business license numbers, expiration dates, insurance information, and business license information for contractors who have been formally approved for participation in the housing rehabilitation programs.

15.1.1 At minimum information on the Contractors’ current list will be updated on an annual basis, or more frequently, if deemed necessary.

15.1.2 Contractors’ List is available to the public upon request. If the public requests a copy of the Contractors’ List, a disclaimer must appear on the top of the list as referenced in the desk manual.

15.2 Any person, partnership, or corporation with a current California General Contractor’s License is eligible to have bids considered on a housing rehabilitation project.

15.2.1 In accordance with 24 CFR 85.36(c)(4) the City shall encourage qualified contractor participation to ensure that enough bids are received for a successful and adequate solicitation. Staff shall engage in continuous contractor outreach and engagement in order to provide for the maximum open and free competition that will not preclude other potential bidders from qualifying during the bid solicitation period.

15.3 Contractor Payments will only be processed if provided to the Housing Finance Specialist, signed by Contractor, Homeowner, Housing Rehabilitation Specialist, and Supervisor. Invoices must be detailed enough to determine payment eligibility, along with accompanying documentation. All efforts will be made to reimburse qualified invoices within a 30-day time frame.

15.4 If the property owner is not satisfied with the completion of the work, or the contractor has not completed the work in accordance with the Agreement, Community Development Division staff will meet with the property owner and contractor and attempt to resolve the dispute.

15.4.1 If such informal resolution is unsuccessful, the property owner and the contractor must follow the arbitration steps and tribunal procedures as outlined in the agreement.

16.0 **NON-PROFIT SPONSORED HOUSING ACQUISITION AND/OR REHABILITATION ACTIVITIES**

16.1 City of Modesto Housing Program funds, as allowed by the individual funding source(s), may be provided directly to a non-profit entity for the purpose of acquiring and/or rehabilitating housing units that will ultimately benefit an owner-occupant provided that the activity complies with all criteria as set forth in the Sections above and with the following criteria:

16.1.1 Funds provided to a non-profit Developer shall not be used for the administration of the activity.

16.1.2 “Developer’s fees” shall not be allowed as part of funds provided to a non-profit. However, Non-profit Developers may be compensated at a rate of up to twelve percent (12%) of the total rehabilitation/construction cost for each project.
16.1.3 Non-profits seeking funding shall submit for Community Development Division review and HRLC approval consideration on a project plan detailing:

16.1.3.1 How the criteria of the Housing Rehabilitation Program will be met;
16.1.3.2 Scope of work including total estimated project cost;
16.1.3.3 Timeline for project completion;
16.1.3.4 Project proforma including all secured funding sources, amounts, and detailed uses to be utilized in fulfillment of the project. "Pledged" or pending sources will not be considered as leverage funding.
16.1.3.5 Financing summary of all loans being transferred to homebuyer.

16.1.4 Following HRLC approval and prior to release of funds, the non-profit must submit to City of Modesto items including, but not limited to a resolution by the non-profit’s Board accepting the terms of the request and commitment of repayment, insurance and endorsements, and other items outlined within the Community Development Division contract completion checklist.

16.1.5 The Maximum Sales Price of a City/non-profit sponsored project to be sold to eligible buyers must not exceed 100% of the appraised value, with a 50/50 share of net proceeds between the Developer and the City of Modesto from the sales price of a single family home listed for City of Modesto.

16.1.6 City/Non-profit sponsored projects must comply with Maximum after Rehabilitation Value and Maximum Loan to Value requirements as outlined in sections 6.0 and 7.0 respectively.

16.1.6.1 Additional information may be required by the HRLC in consideration of the request.

16.1.7 All HRLC approved funding shall be provided as a reimbursement subject to review and approval of a Reimbursement Request submitted from Developer to the City of Modesto Community Development Division. All RFF’s shall be in a form determined satisfactory to the Department.

17.0 Monitoring
17.1 The Housing Financial Specialist audits funded recipients to ensure that assisted units are occupied only by households that are eligible as low-income families and must meet certain AMI limits.

17.2 The requirements include HOME-assisted non-owner-occupied units in single-family (1-4 unit) housing units.

17.3 The Housing Rehabilitation Specialists perform annual perform inspections to ensure units meet program compliance requirements.

17.4 The Housing and Urban Development Supervisor will annual audit 10% of these activities to ensure eligibility compliance requirements for the units are still being met.
In providing performance requirements and acceptability criteria of HQS inspection items, rating and prioritizing of items need to be identified. When an item meets HQS by definition, then it is a “Pass”. When an item does not meet HQS, then it is identified as “Fail” or “Inconclusive”. When an item is marked “Inconclusive”, the following will be considered: the item needs further investigation to determine the condition, is an item requested by the owner, or is not a health and safety requirement. If an item is identified as “Fail” or “Inconclusive”, then each item will be rated with either of the following: E- Emergency/State Mandated; S- Spot/Owner Requested/Not Health and Safety; SR- Substantial Rehabilitation/Full Rehabilitation.

<table>
<thead>
<tr>
<th>Description</th>
<th>E</th>
<th>S</th>
<th>SR</th>
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</thead>
<tbody>
<tr>
<td>Electricity (i.e. GFCI not present)</td>
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<tr>
<td>Electrical Hazards (i.e. wiring exposed, etc.)</td>
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<tr>
<td>Electrical Hazards (i.e. overloading capacity of electric panel)</td>
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<tr>
<td>Security (i.e. locks not present or broken for windows/doors, etc.)</td>
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<tr>
<td>Security (i.e. additional door blocked for inspection.)</td>
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<tr>
<td>Window Condition (i.e. locks not present or broken for windows/doors, etc.)</td>
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<td>Window Condition (i.e. additional windows blocked for inspection.)</td>
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<tr>
<td>Ceiling Condition (i.e. failing finishes/substrate/framing, etc.)</td>
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<td>Wall Condition (i.e. failing finishes/substrate/framing, etc.)</td>
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<tr>
<td>Floor Condition (i.e. buckled/worn carpet, deteriorated/chipped floor finish/framing, etc.)</td>
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<tr>
<td>Lead-Based Paint (i.e. Built prior to December 31, 1977, and is deteriorated)</td>
<td>X</td>
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<tr>
<td>Lead-Based Paint (i.e. Built prior to December 31, 1977, and no child under 6 years of age resides, and is below the de minimis levels: 20 sq. ft. on exterior surfaces, 2 sq. ft. on an interior surface in a single room or interior space, or 10 percent of individual small components (i.e. window sill) on the interior or exterior)</td>
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<td>Lead-Based Paint (i.e. Built prior to December 31, 1977, and is intact, but will be disturbed by rehabilitation activities; no testing performed)</td>
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<tr>
<td>Stove or Range with Oven (i.e. not in proper working condition)</td>
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<tr>
<td>Stove or Range with Oven (i.e. range hood not in proper working condition where there is a gas stove or range in place)</td>
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<tr>
<td>Stove or Range with Oven (i.e. working, but has a longevity of less than 0-5 years)</td>
<td>X</td>
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<tr>
<td>Refrigerator (i.e. not in proper working condition)</td>
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<tr>
<td>Refrigerator (i.e. working, but not sufficient for the size of the family/but has a longevity of less than 0-5 years)</td>
<td>X</td>
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<tr>
<td>Sink (i.e. hot/cold water pipes and/or sink leaks; no trap)</td>
<td>X</td>
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<td></td>
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<tr>
<td>Space for Storage, Preparation, and Serving of Food (i.e. unsanitary/broken/deteriorated components)</td>
<td>X</td>
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<tr>
<td>Description</td>
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<tr>
<td>Toilet (i.e. leaks/deterioration; not in proper working condition)</td>
<td>X</td>
<td></td>
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<tr>
<td>Wash Basin (Lavatory) (i.e. leaks/deterioration; not in proper working condition)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wash Basin (Lavatory) (i.e. working, but owner needs to convert to accessible unit, prescription)</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Tub or Shower (i.e. leaks/deterioration; not in proper working condition)</td>
<td>X</td>
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<tr>
<td>Tub or Shower (i.e. intact, but owner wants to convert tub to shower combo)</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Tub or Shower (i.e. intact, but owner needs to convert to accessible unit, prescription)</td>
<td>X</td>
<td></td>
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<tr>
<td>Ventilation (i.e. mold present; worn or not in proper working condition)</td>
<td>X</td>
<td></td>
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<tr>
<td>Smoke Detector/Carbon Monoxide (i.e. not present/not in proper working condition)</td>
<td>X</td>
<td></td>
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<tr>
<td>Heating Equipment (i.e. not in proper working condition)</td>
<td>X</td>
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<tr>
<td>Heating Equipment (i.e. working, but has a longevity of less than 0-5 years)</td>
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<tr>
<td>Cooling Equipment (i.e. not in proper working condition)</td>
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<tr>
<td>Cooling Equipment (i.e. working, but has a longevity of less than 0-5 years)</td>
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<td></td>
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<tr>
<td>Water Heater (i.e. PTR pipe/valve/straps not present; not in proper working condition)</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Water Heater (i.e. working, but has a longevity of less than 0-5 years)</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Water Supply/Sewer Connection/Plumbing (i.e. leaks/not present/not in proper working condition)</td>
<td>X</td>
<td></td>
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<tr>
<td>Access (i.e. fire access is impaired)</td>
<td>X</td>
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<tr>
<td>Infestation (i.e. evidence of infestation)</td>
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<td></td>
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<tr>
<td>Garbage/Debris (i.e. unorganized storage of materials so as to create a health or physical hazard)</td>
<td>X</td>
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<tr>
<td>Refuse Disposal (i.e. unsanitary conditions from garbage)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interior Stairs and Common Halls (i.e. accessibility needs/deteriorated/unsafe materials exposed)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Interior Hazards (i.e. not included anywhere else)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elevators (i.e. not in working condition)</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Interior Air Quality (i.e. dangerous air pollution levels)</td>
<td>X</td>
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<tr>
<td>Interior Air Quality (i.e. inadequate air circulation)</td>
<td>X</td>
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<td></td>
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<tr>
<td>Interior Air Quality (i.e. owner wants ceiling fans to circulate air and save on energy)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interior Air Quality (i.e. lack of roof/wall insulation in order to maintain adequate interior temperature year round)</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Site and Neighborhood Conditions (i.e. disturbing noises or other dangers)</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Exterior Foundation/Slab (i.e. cracks/deterioration/movement)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Exterior Stairs/Rails/Porches (i.e. accessibility needs/deteriorated/unsafe materials exposed)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Roof/Gutters (i.e. evidence of leaks/dry rot/deterioration of materials)</td>
<td>X</td>
<td></td>
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<tr>
<td>Roof/Gutters (i.e. intact, but has a longevity of less than 0-5 years)</td>
<td>X</td>
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<tr>
<td>Chimney (i.e. spark arrester not present/deteriorated/broken materials)</td>
<td>X</td>
<td></td>
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<tr>
<td>Manufactured Home Tie Downs (i.e. no evidence showing structure is secured from movement)</td>
<td>X</td>
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</tbody>
</table>
Section 7 - Homebuyers Assistance Program
Policy and Procedure
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INTRODUCTION

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Homebuyer Assistance Program (HAP) to assist low-income families purchase a home. Through funding from the Community Development Block Grant (CDBG) Program and partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The HAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. Eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

For more information please contact:

City of Modesto, Community Development Department
1010 10th Street, Suite # 4300
Modesto, CA 95354
Phone Number (209) 577-5211,
Fax Number (209) 544-3982.
housing@modestogov.com

TERMS AND CONDITIONS

Purchase Price

The purchase price of the home shall not exceed 115% of the Median Sales Price for Stanislaus County as determined by HUD. This amount is adjusted annually.

The current sales price limit under the program is $177,100.

Terms

1. The maximum loan amount is $10,000.
2. The loan shall accrue interest at the rate of 3% simple interest.
3. No monthly payments are required during the 30-year term.
4. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership; refinancing of the property (subordinations are not allowed), upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).
5. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.
The HAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Homebuyer's Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.

**PARTICIPANT ELIGIBILITY REQUIREMENTS**

### Household Income Limits

<table>
<thead>
<tr>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Person</td>
<td>$33,000</td>
<td>5 Person</td>
<td>$50,900</td>
</tr>
<tr>
<td>2 Person</td>
<td>$37,700</td>
<td>6 Person</td>
<td>$54,650</td>
</tr>
<tr>
<td>3 Person</td>
<td>$42,400</td>
<td>7 Person</td>
<td>$58,450</td>
</tr>
<tr>
<td>4 Person</td>
<td>$47,100</td>
<td>8 Person</td>
<td>$62,200</td>
</tr>
</tbody>
</table>

(Effective March 28, 2016 and updated annually)

1. Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the Median Area Income (MAI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later. CDBG funds can only be used to assist households at or below 80% of MAI.

Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income re-certification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

2. Participant must have:
   - Resided in the City of Modesto, including unincorporated areas, with a Modesto address, for the past six (6) consecutive months, or
   - been employed in The City of Modesto for the past six (6) consecutive months.

3. The applicant must obtain the maximum loan amount from the first mortgage loan. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.

4. Participant(s) must complete an eight hour homebuyer-counseling workshop from a HUD certified agency, prior to participating in the program.

5. Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with CDBG assistance. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)

6. Eligible participant(s) must contribute 1.75% of the sales price to the transaction.

7. Applicant's middle credit score must be 610 or higher, based on the following credit agencies: Equifax, Experian, and TransUnion.

8. There are some credits issues that applicants must allow for certain time to pass before they can qualify for a HAP loan. These exceptions are as follows:
City of Modesto – Homebuyer’s Assistance Program

- Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)

- Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).

9. Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

**Note:** Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original HAP application will be considered. Applicants will not be allowed to make any material changes in the HAP application in an attempt to reverse a City loan denial.

**PROPERTY ELIGIBILITY REQUIREMENT**

1. The property must be located in a residentially zoned area within Modesto City limits.

2. The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.

3. Properties with built-in pools are not eligible for the program.

4. Bank owned homes and bank approved short sales are eligible for the program.

5. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.

6. If the property was a rental (non-owner occupied), the following rules apply:
   - Owner sales, including short sales-the current tenant may be the purchaser or the rental unit must have been vacant for six months. Acquisition of a house must not result in the displacement of any tenants residing in the unit. The seller must provide proof the unit has been vacant for six months.
   - Foreclosed properties-the financial institution that foreclosed on and owns the property will be required to sign a certification that the financial institution has complied with the Protecting Tenants at Foreclosure Act of 2009. (Public Law 111-22)

7. The following inspection reports are required. These reports will be at the buyer’s risk and expense, unless negotiated with the seller.
   - Termite inspection.
   - Home inspection by a qualified property inspector.
City of Modesto – Homebuyer’s Assistance Program

- If the home was built prior to 1978, a Lead Based Paint inspection by a state certified Risk Assessor/Inspector is required. Properties with chipping or peeling paint in the interior or exterior will not pass.

- These three reports are reviewed by City staff. The City will identify any items that are potential health and safety risks to the buyers and, if the loan is approved, the City will require those repairs prior to the buyer being allowed to sign City loan documents.

- If the participant pays for any required inspection reports or appraisal outside of escrow, the cost may be considered as part of the 1.75% required contribution. Proof of payment must be provided to the City.

The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

COMBINING THE HAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES

The HAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, Stanislaus County Public Facilities Fees (PFF) waivers/deferrals, City of Modesto Capital Facilities Fee waivers/deferrals, and California Housing Financing Agency (CalHFA) down payment loans. The City of Modesto loan may be in third position.

ASSET LIMITS

A household’s assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than $15,000 in liquid assets to be eligible for the program. Should the household’s assets be greater than $15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

1. Savings account and the average 6-month balance of checking account(s).

2. Stocks, bonds, certificates of deposit, money market funds, and other investment funds.

3. Mortgages or deeds of trust held by the applicant.

4. Inheritance, lump-sum insurance payments, capital gains already received.

5. Settlements for personal or property damage already received.

6. Cash value of trusts that are available to the household.

7. Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.

8. Individual Retirement Account, 401(K), and Keough accounts that can be withdrawn without retiring or terminating employment.

9. Assets that, although owned by more than one person, allow unrestricted access by the applicant.
10. Personal property held as investment such as gems, jewelry, coin collections, etc.

11. Cash value of life insurance policies.

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**CLOSING COST AND FIRST MORTGAGE LOAN TYPE LIMITATIONS**

HAP loans may be used to cover all reasonable closing costs the buyer is responsible for paying. Examples (list not inclusive) include:

1. Loan origination fee
2. Loan discount fee
3. Appraisal fee
4. Title report/insurance, escrow
5. Credit report
6. Pre-paids (upfront reserves for taxes, insurance, and homeowners association dues)
7. Other normal settlement charges.

**Reimbursement for loan origination fee should not exceed 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost. Overages can be allowed but at the discretion of the Housing Rehabilitation Loan Committee.** HAP loans cannot be used to pay off previous debts incurred by the buyer.

**HAP loans cannot be used with variable rate loans** (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the HAP program are (1) one-year to (3) three-year interest rate buy-downs under the CalHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down.

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**CO-SIGNER RESTRICTIONS**

The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant's loan approval. When co-signers are required, such co-signers cannot hold title to the property being purchased with HAP assistance. Co-signers must sign the City's Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such, co-signers' income and other criteria (e.g., real estate ownership) are not considered in determining the household's eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

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**HOMEBUYER COUNSELING WORKSHOP**

Program participants will be required to complete an eight hour homebuyer-counseling workshop from a HUD certified agency.
The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a mortgage loan, finding a realtor, shopping for a home, home maintenance, budgeting, and on-going financial costs.

Upon the participant's completion of the class, the workshop provider will issue a certificate of completion. Participant must submit the certificate to the first mortgage lender for inclusion in the City's HAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

PROFESSIONAL HOME INSPECTION

To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection.

Real estate purchase agreements must contain a right of rescission to review the results of the home inspection.

Professional home inspections generally cover the inspection of items such as the home's foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front.

APPLICATION PROCESS

1. Participant may contact the City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5311 to see if they meet basic program qualifications.

2. Participant completes homebuyer-counseling and receives a certificate of completion from the workshop provider.

3. Participant may wish to pre-qualify for a first mortgage loan. Any reputable lender can participate in the program. For the benefit of the participant, the lender should be located in Stanislaus County.

4. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract. The purchase offer must allow for a review of the home inspection report.

5. Participant works with first mortgage lender for completion of the City HAP loan application package. The City provides the lender with a checklist of the documents that must be submitted to the City. Those documents include the credit package, the first mortgage loan approval, and the accepted sales contract for the property. Other documents, such as inspections, can be submitted later, but must be submitted prior to the loan being prepared for submission to the Housing Rehabilitation Loan Committee.

6. Staff will review initial loan application package for eligibility and notify the lender of additional documents that are required.
7. Upon receipt of appraisal and inspections reports, City staff will review the reports and submit a written list of any repairs that will be required.

8. A report is submitted to the Housing Rehabilitation Loan Committee for loan approval.

9. After the loan is approved, any City required repairs will be inspected by City staff.

10. Staff will prepare the necessary loan documents for the HAP loan and will schedule an appointment and will meet with buyer(s) to sign loan documents.

11. The funds will be provided to escrow or Title Company for the home purchase.

12. Escrow agent shall record the City’s Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.

13. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.

14. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

CONDITIONS FOR DISBURSING FUNDS

Before disbursing any funds the homebuyer must:

1. Meet all the Homebuyer Assistance Program eligibility requirements.

2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.

3. Meet all the conditions outlined in the City conditional loan approval letter

4. Submit all the documents required by the City of Modesto.

5. Secure permanent financing (first mortgage).

RECERTIFICATION

Periodically or annually, the City will request proof from the borrower that they continue to occupy the property as their principal residence.

VIOLATIONS AND PENALTIES

The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest due on the loan.
DEBT RATIO GUIDELINES

Following are the two types of debt ratios the City of Modesto will use:

1. Front-End Ratio (housing expense): The standard guideline is 31%. The front-end ratio is the new principal, interest, taxes and insurance (PITI), mortgage insurance, and Homeowners Association dues divided by the gross income.

   The typical debts used to determine the qualifying front-end ratio is the future housing expense.

2. Back-end Ratio: The standard guideline is 43%. This is the new housing expense and the minimum monthly payments from the applicant's liabilities divided by the gross income.

   The typical debts used to determine the qualifying back-end ratio are the minimum required monthly payments on all of the following:
   - Auto loans
   - Student loans
   - Personal loans
   - Charge cards
   - Child Support
   - Alimony
   - Federal Tax Lien Repayment Schedules

   Ratios in excess of 43% will be considered on an exception basis depending upon the overall strength of the application.

DETERMINING ANNUAL INCOME

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the "gross" amount of income of all adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income:

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.

2. **Income of all adult household members.** The definition of Annual Income contains income "inclusions"—types of income to be counted—and income "exclusions"—types of income that are not considered (e.g., income of minors); and

3. **Anticipated to be received.** Annual income is used to determine eligibility and a household's expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.
Annual gross income shall be determined in accordance with the Code of Federal Regulations (CFR), Title 24, Part 5, Section 5.609(b).

The following items shall be included in determining Annual Income:

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);
2. Net income from the operation of a business or profession;
3. Interest, dividends, and other net income of any kind from personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.
4. Lottery winnings paid in periodic payments.
5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).
6. Payments in lieu of earnings such as unemployment, worker’s compensation and severance pay;
7. Welfare assistance;
8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
9. All regular pay, special pay, and allowances of a member of the Armed Forces.

The following items shall be excluded in determining Annual Income:

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payment received for the care of foster children.
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.
4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
5. Income of a live-in aide.
6. 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, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.
7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.
8. Amounts received under training programs funded by HUD.
9. Temporary, nonrecurring, or sporadic income (including gifts).
10. Lump sum payment of SSI and Social Security benefits.

11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.

**EQUAL CREDIT OPPORTUNITY ACT**

This Homebuyer Assistance Program will be implemented in ways consistent with the City of Modesto’s commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.

**CONFLICT OF INTEREST**

In accordance to title 24, Section 570.611 of the Code of the Federal Regulations, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program.
Section 8 - Neighborhood Stabilization Program 1
Policy and Procedure
(NSP 1)
City Of Modesto
Neighborhood Stabilization Program (NSP1)
Policies and Procedures

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CHAPTER 1.0: INTRODUCTION

1.1 Introduction

The Neighborhood Stabilization Program (NSP), for the City of Modesto, is authorized by the Housing and Economic Recovery Act (HERA) Public Law 110-289, which was signed into law on July 30, 2008. Originally introduced as HR 3221, HERA Division B, Title III establishes the NSP grant under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes heading. NSP was revised in February 2009 with the passage of the American Recovery and Reinvestment Act of 2009 (ARRA). The NSP is administered by the U.S. Department of Housing and Urban Development ("HUD") and is considered a special Community Development Block Grant ("CDBG") allocation. CDBG allocations for The City of Modesto are administered by the City of Modesto Parks, Recreation and Neighborhoods Department, Housing and Neighborhoods Division. The City of Modesto received an allocation of $8,100,000 in NSP funds by HUD.

The City of Modesto will administer the NSP effectively and efficiently under the housing conditions that exist in the city, by working innovatively, and designing the NSP activities to address foreclosed and abandoned properties throughout the city. To that end, this policy and procedures manual is presented to provide an overview of the City’s policies and procedures as they pertain to NSP and step-by-step guidance on the implementation of NSP projects.

This manual is not meant to be a substitute for NSP regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of NSP funds. While careful consideration and due care has been used in developing the manual, NSP participants are encouraged to consult with NSP staff to ensure correct interpretation of policies and regulations. The City of Modesto reserves the right to implement additional policies as needed.

1.2 Purpose of the Neighborhood Stabilization Program

The Neighborhood Stabilization Program (NSP) is authorized by the Housing and Economic Recovery Act ("HERA") (Public Law 110-289) and requirements contained in the HUD Federal Register Notice published October 6, 2008 (Docket No. FR-5255-N-01) and as revised in a “Bridge Notice” published June 15, 2009 (Docket No. FR-5255-N-02). (The Bridge Notice includes changes from the American Recovery and Reinvestment Act of 2009 (ARRA).) The primary purpose of NSP is to provide emergency assistance for the city to acquire and rehabilitate foreclosed properties that might otherwise become sources of abandonment and blight within our community. The City of Modesto’ NSP program provides loans to purchase foreclosed or abandoned homes and to rehabilitate, resell, or rent homes in order to stabilize neighborhoods and stem the decline of house values in neighboring homes. The City of Modesto has designed its programs into three main categories—the Incentive Transfer Program, Acquisition and Rehabilitation – Scattered and Target Areas and the NSP Homebuyers Assistance Program.
1.3 General Requirements of NSP1

1.3.1 Allocation of Funds

NSP funds committed to City of Modesto will be allocated as promulgated in the City's 2009 Substantial Amendment to the Annual Action Plan. In addition, the city may spend up to ten percent (10%) of its NSP allocation and 10% of any program income for administrative and planning expenses.

NSP requires that not less than twenty-five percent (25%) of the total NSP funds allocated to the City shall be utilized to provide permanent housing for households with incomes at or below fifty percent (50%) of the AMI. The City of Modesto will allocate these funds to the Housing Authority of the County of Stanislaus.

In addition, the city is required to ensure that all NSP funding is obligated within 18 months following the execution of the NSP grant agreement with HUD, which occurred in September 2009. Therefore, CITY OF MODESTO reserves the right to award funds to projects that are "ready to go" and to further adjust contracted amounts based upon actual performance and progress to obligate the funds within the initial 18 months of the grant agreement date or by September 19, 2010.

1.3.2 Eligible Applicants

NSP funding is available citywide to non-profit organizations, for-profit organizations, developers, and city designated Community Housing Development Organizations ("CHDOs").

The eligible applicants are the entities responsible for the NSP application, project development, project implementation, and accountability for uses of all NSP funds. The eligible applicants must adhere to required compliance and monitoring of all NSP activities for the full applicable affordability period. The City of Modesto will allocate NSP funds to the approved eligible applicants as outlined in the NSP Program Agreement.

1.3.3 Eligible Activities

For purposes of implementing the NSP, an abandoned property is defined as such when all the following apply: 1) Mortgage or tax foreclosure proceedings have been initiated for that property, and 2) No mortgage or tax payment have been made for the property owner for at least ninety (90) days, and 3) The property has been vacant for at least ninety (90) days.

For purposes of implementing the NSP, a foreclosed property is defined as a property that, under state or local law, has a completed mortgage or tax foreclosure process and is currently owned by the lender or mortgagee. A foreclosure is not considered to be complete until after the property title has been transferred from the former owner under a foreclosure proceeding or transfer in lieu of foreclosure.
The following are the eligible activities under the City of Modesto NSP:

<table>
<thead>
<tr>
<th>NSP-Eligible Uses</th>
<th>Correlated Eligible Activities From the CDBG Entitlement Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared equity loans for low- and moderate-income home buyers</td>
<td>As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.</td>
</tr>
</tbody>
</table>
| (B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties | • 24 CFR 570.201 (a) Acquisition; (b) Disposition; (i) Relocation, and (n) Direct homeownership assistance (as modified below);                        
|                                                                                                       | • 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity                        |

The activities undertaken by the City of Modesto under its NSP meet the NSP National Objective of providing assistance to “low-, moderate-, and middle-income households” (abbreviated as LMMH). For the purposes of NSP/CDBG only, an activity may meet the HERA low- and moderate income national objective if the assisted activity:

- provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);
- serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA);
- creates or retains jobs for persons whose household incomes are at or below 120 percent of median income (LMMJ); or
- serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

1.4 City of Modesto Responsibilities

The City of Modesto as the HUD grantee, has oversight and implementation responsibility of all NSP activities and, is responsible for:
• Providing financial mechanisms to developers to housing developer partners purchase foreclosed properties from REO lenders and servicers;
• Providing funds to housing developer partners to rehabilitating acquired properties;
• Providing financial assistance to qualified homebuyers to acquire and rehabilitate foreclosed properties.

The City's activities are responsible for meeting the NSP requirement that not less than 25% of the city's NSP funds, approximately $2+ million, be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

To be successful the City of Modesto must be committed to effective management practices. These include: (1) supporting cooperative, problem-solving relationships; (2) working toward continuous improvement in regulatory compliance and timely program performance; (3) maintaining open and frequent communications among all participants; and (4) focusing on preventing problems first, rather than curing them later.

1.5 Summary of Principal Regulations Governing NSP/CDBG Administrative Systems

Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA)

(Public Law 110-289, approved July 30, 2008) appropriates $3.92 billion for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as the Neighborhood Stabilization Program (NSP). The key regulations that form the basic administrative requirements of the NSP/CDBG Entitlement programs are summarized here to acquaint the City with the sources of the various standards described in the Operations Manual.

Regulations are developed in response to, or in fulfillment of, Federal statutes that govern the CDBG Entitlement program, both those specific to the NSP and CDBG programs and those addressing other "cross-cutting" Federal laws or policies that apply to these programs (e.g., National Environmental Policy Act, Americans with Disabilities Act, Davis-Bacon Act).

The basic program regulations governing management and financial systems for the CDBG program are contained in 24 CFR Part 570, Subparts J and K. They are applicable both to grantees and subrecipients in the public and private sectors:

• Subpart J (24 CFR 570.500–570.513) addresses general responsibilities for grant administration, including the applicability of uniform administrative requirements, provisions of Subrecipient Agreements, program income, use of real property, record keeping and reporting, and closeout procedures.
• Subpart K (24 CFR 570.600–570.613) deals with other program requirements of the CDBG program, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors; uniform administrative requirements and cost principles; and conflicts of interest.
In addition to the basic regulations of the CDBG program contained in 24 CFR Part 570, there are three other categories of requirements that affect the administrative systems and procedures subrecipients must have in place to receive support:

- Federal regulations governing administrative and audit requirements for grants and cooperative agreements (governmental subrecipients) for which HUD has oversight responsibilities.

- Administrative circulars from the Office of Management and Budget (OMB) and Department of the Treasury governing cost principles, administrative systems, fiscal procedures, and audit requirements for grantees and subrecipients.

- Executive Orders from the Office of the President implementing various equal employment opportunity and environmental policies.

The applicability of these administrative requirements depends upon the public or private status of the organization receiving funds. For subrecipients that are private, non-profit organizations, the key regulations defining administrative requirements are:

- 24 CFR Part 84 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations” 2: These regulations implement OMB Circular A-110 and specify standards relative to cash depositories, bonding and insurance, retention and custodial requirements for records, financial management systems, monitoring and reporting on performance, property management, and procurement.

- OMB Circular A-122 “Cost Principles for Non-profit Organizations”: A publication of OMB, this document establishes principles for determining costs that are allowed to be charged to Federal grants, contracts, and other agreements with non-profit organizations (except educational institutions). The principles are designed to ensure that the Federal Government will bear its fair share of costs except where restricted or prohibited by law.

- OMB Circular A-133 “Audits of States, Local Governments and Non-profit Organizations”: This circular defines audit requirements for both governments and non-profits receiving Federal funds. The document addresses mandated frequency and scope of audits, allowability of audit costs, and the process of auditor selection. The above referenced sections of Title 24 regulations and OMB circulars may be accessed at the HUD Web site at http://www.hudclips.org/cgi/index.cgi.

1.6 Acquisition of Properties Using NSP1 Funds

1.6.1 Acquisition, Sales Contracts, and Obligations

The City of Modesto must have executed sales contracts for specific properties for funds to be considered obligated. Options or other non-binding instruments are not acceptable.

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1 Not all the requirements of 24 CFR Parts 84 and 85 are applicable to CDBG subrecipients; 24 CFR 570.502(a) and (b) specify the sections and paragraphs of the Common Rule that apply to CDBG recipients and subrecipients.
1.6.2 Appraisals and Discount Requirements

Properties acquired using NSP funds shall be appraised in conformity with the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 by a licensed appraiser within sixty (60) days prior to an offer to purchase the property. Further guidance may be found at:

The market appraised value of properties may be established based on a review of available data and shall be made by a person knowledgeable of and with experience in property valuation that the City determines is qualified to make the valuation.

NSP requires that properties acquired using program funding be purchased at a discount of at least 1% from the current market appraised value of the home or property. The City of Modesto will require documentation to ensure the discount requirement is met including the address, appraised value, purchase offer amount, and discount amount for each property. The discount value calculation may take into account the likely carrying costs of the mortgagee if it were to NOT sell the property to the applicant. Carrying costs may include: taxes, insurance, maintenance, marketing, overhead and interest.

1.6.3 Voluntary Transactions and Tenants

ALL NSP-assisted property acquisitions must be voluntary acquisitions. Taking of property through eminent domain proceedings is NOT allowed. The Uniform Relocation Act requires that notices are provided to property owners even those considered to be voluntary transactions. The notices can be found at: http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm.

URA and Section 104(d) and 5305(a)(11) of Title I of the Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.496(a) (the Barney Frank Amendment) govern the permanent displacement as well as temporary relocation of tenants in properties funded by NSP. For more information, refer to http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm. In addition, ARRA includes additional provisions protecting the rights of property owners and “bona fide” tenants.

1.6.4 Tenant Rights and Protections

The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a bona fide tenant at the time of foreclosure. The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any bona fide tenant, as of the date of such notice of foreclosure: (i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.
In the case of any qualified foreclosed housing in which a recipient of assistance under Section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) (the "Section 8 Program") resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(1) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (2) for the family’s reasonable moving costs, including security deposit costs.

A lease or tenancy shall be considered bona fide only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm’s length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

The City of Modesto will maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under section K.2.a. and K.2.b. If the City of Modesto determines that the initial successor in interest in such property failed to comply with such requirements, it may not use NSP funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in section K.2.a. and K.2.b. If CITY OF MODESTO elects to assume such obligations, it must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of an activity assisted with NSP funds and maintain records in sufficient detail to demonstrate compliance with the provisions of that section.

The recipient of any grant or loan made from NSP funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.

This section shall not preempt any Federal, State or local law that provides more protections for tenants.

1.6.5 Energy Efficiency

To the extent feasible, the City of Modesto will strongly encourage grantees to incorporate modern, green building, and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.
CHAPTER 2.0: CITY OF MODESTO NSP1 ACTIVITIES

2.1 Incentive Transfer Program - $2,027,319

2.1.1 Summary
This is an acquisition and rehabilitation activity that will specifically serve households at or below 50% of the median area income. This activity can be carried out in any of the greatest need areas and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202. The City of Modesto will enter into an Exclusive Agreement with the Housing Authority of the County of Stanislaus. All units will be owned and operated by the Housing Authority.

2.1.2 Activity Purpose
Acquisition and rehabilitation of foreclosed or abandoned properties located in areas of “greatest needs” as defined by HUD:

Definitions:
Foreclosed: A property “has been foreclosed upon” under HUD regulations “at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Abandoned: Under HUD regulations “a home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days and the property has been vacant for at least 90 days.”

2.1.3 Eligible Properties
Existing single-family, duplex or condominiums. Properties built prior to 1978, may be subject to Lead Base Paint requirements. Units must be acquired at 1% below market-appraised value. All units must be appraised in accordance to URA appraisal standards at 24.103.

2.1.4 Use of Funds
Funds can buy scattered sites anywhere within the community to the requirement that 25% of the funding is utilized to serve those at and below 50% median area income. Funding will work on a draw system, as the Housing Authority has purchase agreements on properties, the city will provide funding.

2.1.5 Income Limits
50% of Median Area Household Income, adjusted for family size.

2.1.6 Affordability Covenants
The Incentive Transfer Program will have an affordability covenant of no less than 40 years. HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f).

2.1.7 Property Requirements
Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
2.1.8 **Timelines:**
- Must complete a minimum of ten (10) units.
- Allocate funding within 18 months, completely expended in four years.
- To meet ten (10) unit goal – five (5) units will need to be done within the first year, two the second, two the third and one unit in the fourth year.

2.1.9 **Monitoring**
- Project must meet National Objective
- Determining and documenting income
- Must monitor projects, partners

2.2 **Acquisition and Rehabilitation - Scattered and Target Areas**

*Airport/Weed and Seed* - $2,390,000 and *Scattered Site* - $2,390,000

2.2.1 **Summary**
This is an acquisition and rehabilitation activity that will benefit individuals and families whose incomes do not exceed 120 percent of Median Area Household Income, adjusted for family size.

This activity can be carried out in any of the greatest need areas and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202.

2.2.2 **Purpose**
Acquisition and rehabilitation of foreclosed or abandoned properties located in Airport/Weed and Seed and Scattered sites.

2.2.3 **Eligible Properties**
- Existing single-family, duplex or condominiums.
- Properties built prior to 1978, may be subject to Lead Base Paint requirements.
- Units must be acquired at 1% below market-appraised value.
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.2.4 **Income Limits**
120% of Median Area Household Income, adjusted for family size.

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<thead>
<tr>
<th>1 person household</th>
<th>2 person household</th>
<th>3 person household</th>
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</tbody>
</table>

2.2.5 **Affordability Covenants**
HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (c)(f).
2.2.6 Property Requirements
- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Regulations established to rehab the homes meet Public Housing Standards or local codes whichever is greater, cap set at $100,000 for rehabilitation.
- If the units become rental units, management plan has to be in place to ensure maintenance and adhere to regulations.

2.2.7 Procurement
- Issue RFQ in May 2009 to establish list of qualified developers that are either for-profit or non-profit and experienced in housing. Must meet RFQ requirements including City of Modesto Insurance requirements.
- Issue RFQ in May 2009 to establish list of qualified appraisers. Must meet the following requirements:
  - Fee appraiser must be state licensed or FIRREA certified
  - Use procurement to select contracted appraisers
  - Appraisals to include description of property, approaches to value, comparables, statement of value, date and signature
  - Conduct appraisal within 60 days prior to final offer

2.2.8 Project Review Process
A sub-committee of the Citizens Housing and Community Development Committee has been assigned as the NSP Project Review Committee. This committee will review each project and make a recommendation for funding based on the program's selection criteria which translates the following items into a points scale: location, total project cost, proximity to other approved properties, unit size, project timeline, and an approved purchase agreement.

2.2.9 Monitoring
- Project must meet National Objective
- Determining and documenting income
- Must monitor projects, partners

2.2.10 Loan Terms for For-Profit Organizations
- The City of Modesto adopted the recapture option based on HOME regulations so that the remaining funding is repaid when the property is sold.
- If the equity gain is in excess of $50,000, utilize an equity share clause to have 10% due back to the City minus the initial amount that the developer contributed.
- Defer first five years of the loan. Year six 3% simple annual interest begins only on the acquisition proportion of the loan, which will be amortized for 35 years of a 40-year loan.
- Defer the rehabilitation proportion of the loan for 15 years. Year 16, 3% simple annual interest begins only on the rehabilitation proportion of the loan which will be amortized for 24 years to conclude at the same time the acquisition proportion of the loan is due.
- Reasonable closing cost will be included in the loan.
- For Profit organizations are required to leverage 10% of the total loan amount.
2.2.11 Loan Terms for Non-Profit Organizations

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% for the first 5 years and 3% simple interest for years 6 on.
- Affordability period based on amount borrowed based on HOME regulations.
- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
- Reasonable closing cost will be included in the loan.
- Loans may be converted to grants at the sole discretion of the City.

2.2.12 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline
- Preliminary Title report
- Home Inspection Report
- Pest Inspection Report
- Lead Base Paint Report (when applicable)
- Property Appraisal
- Payable Commissions Report
- Natural Hazard Reports (when applicable)

2.2.13 Rehabilitation Requirements

Rehabilitation funds will be held back by the City according to the terms in the Loan Agreement. Funds to be disbursed to borrower, contractor/supplier for work completed as documented by progress inspections. City Rehabilitation staff will conduct inspections prior to release of funds.

All of the programs utilizing rehabilitation funding will have to adhere to current Housing Rehabilitation Policies.

2.3 Homebuyers Assistance Program (HAP) - $491,031

2.3.1 Summary

This activity will provide gap financing to income-eligible households to purchase foreclosed properties, including funds for rehabilitation of the property. The homebuyer must qualify for a first mortgage and the City assistance will be a second mortgage. This activity will follow the existing down-payment assistance program that the City of Modesto administers and will comply with CDBG regulations 570.201 (n).

2.3.2 Activity Purpose

The HAP provides assistance for acquisition and rehabilitation of foreclosed or abandoned properties located in areas of “greatest needs” as defined by HUD. Homebuyers must reside in the home as their principal residence.

2.3.3 Eligible Properties

- Existing foreclosed or abandoned single-family units in residentially zoned greatest needs areas within the City of Modesto limits.
- The purchase price of the home or after rehabilitation value must not exceed 95% of median sales price for Modesto, as determined by HUD.
- Units must be acquired at 1% below market appraised value.
- All units must be appraised in accordance to URA appraisal standards at 49 CFR 24.103 and the appraisal must be within 60 days of the final offer.
- The property must be vacant at the time of listing.

2.3.4 Income Limits
120% of Median Area Household Income, adjusted for family size.

2.3.5 Affordability Covenants
HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f)The Affordability Period for the Homebuyer’s Assistance Program is 15 years for all loans.

2.3.6 Property Requirements
- Property must meet applicable local codes, standards, and ordinances and must meet Housing Quality Standards upon purchase and/or rehabilitation of the property.
- Properties built prior to 1978, may be subject to Lead Based Paint requirements.

2.3.7 Maximum Loan Amount
This program provides gap financing up to $125,000 including reasonable rehabilitation funds for repairs to the property

2.3.8 Loan Terms
- The interest is deferred for the first five years. In year six, the loan will begin to accrue interest at the rate of 2%. Payments will begin in year six and will be amortized over 25 years.
- If the home is sold, refinanced, transferred or no longer used as the primary residence during the affordability period, the loan is recaptured, with 2% simple interest calculated from year six
- At the completion of the Affordability Period, the balance of the assistance for down payment and closing costs could be forgiven. Homebuyers must be in good terms with first mortgage lender and the City loan.
- 1% contribution of sale price of the home by buyer.

2.3.9 Loan Documentation Requirements
- Purchase Agreement
- First Mortgage Loan Application, Good Faith Estimate and City Application
- First Mortgage Loan Approval
- Certificate of Completion for 8 hours of HUD Approved Homebuyer Counseling
- Credit Report
- Pay stubs, tax returns, verification of income, as applicable
- Bank Statements
- Appraisal which meets NSP guidelines, Pest Inspection, Property Inspection, and Lead Based Paint Assessment Report (for homes built prior to 1978)
- Preliminary Title Report
• Loan Documents including Promissory Note, Deed of Trust, Loan Agreement, and Covenants, Conditions and Restrictions, and Real Property Improvement Agreement for properties requiring City assistance for repairs.
• The first mortgage loan must be approved for the maximum possible amount and must be a fixed rate and cannot exceed 30 years.

2.3.10 Rehabilitation Requirements
Rehabilitation funds will be held back by the City according to the terms in the Loan Agreement. Funds to be disbursed to borrower, contractor/supplier for work completed as documented by progress inspections. City Rehabilitation staff will conduct inspections prior to release of funds.

All of the programs utilizing rehabilitation funding will have to adhere to current Housing Rehabilitation Policies.

In addition to this Policies and Procedures please see Exhibit “A” NSP Down Payment Assistance Program Guidelines.

CHAPTER 3.0: PROCUREMENT AND CONTRACTING

3.1 Introduction
The Department of Housing and Urban Development (HUD) has established that procurement requirements for the National Stabilization Program (NSP) will follow Community Development Block Grant (CDBG) requirements. CDBG procurement requirements are outlined in 24 CFR 84.40-48.

Local governments and subrecipient entities are required to adhere to all applicable procurement requirements in the selection and award of contracts for goods and services. Therefore, all solicitation of bids for goods and services to be paid with NSP funds must be conducted openly and competitively.

3.2 General Procurement Provisions
The standards and procedures for procurement are intended to ensure that supplies, equipment, construction and other services acquired in whole or in part with Federal funds are:

• Obtained as efficiently and economically as possible.
• Procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations must clearly explain all requirements that the bidder must fulfill in order for his or her bid to be evaluated. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

• Placing unreasonable qualifying requirements on firms.
• Requiring unnecessary experience and excessive bonding.
• Specifying only “brand name” products instead of allowing “an equal” product.
• Noncompetitive pricing practices between firms or affiliated companies.
• Noncompetitive awards to consultants on retainer contracts.

PLEASE NOTE: There is one exception to this. HUD is strongly encouraging grantees to use a Green Communities Standard for housing rehabilitation. Due to the newness of the field and the lack of knowledge among contractors and others about Green systems and components, rehabilitation specifications will identify specific products that have been tested and certified as Green.

3.3 Use of Local Businesses; Contracting with Small, Minority, and/or Women-Owned Businesses

Federal regulations, both CDBG and non-CDBG, make it very clear that subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically,

• A subrecipient must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its CDBG-financed activities (24 CFR 85.36(e) or 84.44(b)). The efforts which a subrecipient should make include:
  ○ Incorporating such businesses in solicitation lists whenever they are potential sources.
  ○ Ensuring that such businesses are solicited when identified as potential sources.
  ○ Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
  ○ Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.

• In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, subrecipients must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing (see 24 CFR 570.607(b)).

Subrecipients should note, however, that the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.

3.4 Funding Disbursement

The following processes will apply:

• Disbursement of NSP funds will occur only when all of the following conditions have been met:
  ○ Required environmental review process must be satisfactorily completed.
  ○ Project closing documents shall reflect a project completion date acceptable to the City of Modesto and the recipient of the NSP funds. The NSP Agreement will
outline the payment of the NSP funds, (e.g., how the funds will be disbursed, i.e., prorate share, etc.). The NSP Agreement must contain provisions for the timing of NSP fund disbursements.

- City staff must complete all Disaster Recovery Grant Reporting (DRGR) system setup procedures.
- For rental activities the rehabilitation of the properties must be conducted by the development team and a City Rehabilitation Specialist will inspect the unit at different stages of the rehabilitation process until completion of the project.
- All progress payments will be issued for work complete-to-date. No requests or payment(s) will be approved for work not completed. No requests will be approved for payment for any work completed that was not a part of the original contract or an approved by the City of Modesto Change Order. Change orders should be requested only for unforeseen problems and/or emergencies, not for upgrades.

- Retain age will be released within thirty (30) days after the final inspection is approved and upon City’s receipt of all completion documentation.

- For rental activities, the following completion documentation will be required prior to City’s release of funds:
  - Certification of release of liens
  - Hazard insurance
  - Certificate of Occupancy issued by local jurisdiction, if applicable
  - Certification of final inspection.

- For homebuyer activities, the following completion documentation will be required prior to City’s release of funds:
  - Certification in release of liens
  - Hazard Insurance
  - Certificate of Occupancy issued by local jurisdiction, if applicable, and
  - Certification of final inspection.

- If any NSP-funded project has an available balance after acquisition and rehabilitation completion, The City of Modesto will deobligate those funds and reallocate such balance of NSP funds to other eligible activities according to City’s adopted NSP allocation process. The City of Modesto must ensure that all NSP funds are obligated within 18 months after the execution of the grant agreement (date of our agreement with HUD or by September 20, 2010).

### 3.5 Contractor Requirements

All general contractors working on all NSP-funded developments must have an active license issued by the California Contractor’s Licensing Board (CSLB) as applicable and meet all requirements of contractors in the state of California. Contractors may not “share” a license. That is, the City of Modesto will not allow one contractor to work from another contractor’s license. All City of Modesto NSP-funded projects must have a general contractor that is properly licensed by the California State Contractor’s Licensing Board. Any questions regarding licensing issues
and a list of licensed contractors may be directed to the State Licensing Board at the following address:

Contractors State License Board  
9821 Business Park Drive  
Sacramento, CA 95827  
Phone (800) 321-CSLB

Any contractor or subcontractor who has been debarred by any entity or had a contractor license suspended by any entity within the previous twelve (12) months will be prohibited from participating in the NSP. All general contractors working on all NSP-funded developments must obtain one of the following: (1) a payment and performance bond; or (2) an Irrevocable Letter of Credit in the amount of the construction contract.

**Note:** Construction contracts for rehabilitation projects $25,000 or under will not be required to obtain a payment and performance bond or an irrevocable letter of credit.

### CHAPTER 4.0: OTHER FEDERAL REQUIREMENTS

NSP awardees and funded projects must adhere to all applicable other Federal requirements as outlined in 24 CFR part 570, HERA, ARRA, and NSP guidance from HUD. Key requirements are summarized below.

#### 4.1 Equal Opportunity and Fair Housing

The state shall not exclude any organization or individual from participation under any program funded in whole or in part by NSP funds on the grounds of age, disability, race, creed, color, national origin, familial status, religion, or sex.

The following federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and Equal Opportunity, are applicable to NSP projects:

<table>
<thead>
<tr>
<th>Federal Requirements</th>
<th>Reference</th>
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<tr>
<td>Fair Housing Act</td>
<td>24 CFR 100</td>
</tr>
<tr>
<td>Executive Order 11246, as amended (Equal Employment Opportunity Programs)</td>
<td>41 CFR 60</td>
</tr>
<tr>
<td>Executive Order 11063, as amended (Equal Opportunity in Housing)</td>
<td>24 CFR 107</td>
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<tr>
<td>Section 3 of the Housing and Urban Development Act of 1968;</td>
<td>24 CFR 135</td>
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<tr>
<td>Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federal Programs)</td>
<td>24 CFR 1</td>
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<tr>
<td>Executive Order 11625, as amended (Minority Business Enterprises)</td>
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<tr>
<td>Age Discrimination Act of 1975</td>
<td>24 CFR 146</td>
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<tr>
<td>Executive Order 12432, as amended (Minority Business Enterprises)</td>
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<tr>
<td>Section 504 of the Rehabilitation Act of 1973</td>
<td>24 CFR 8</td>
</tr>
<tr>
<td>Executive Order 12138, as amended (Women’s Business Enterprise):</td>
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</table>
In addition to the above requirements, all NSP participants must ensure that their Equal Opportunity and Fair Housing policies related to activities funded by NSP are consistent with the current Consolidated Plan adopted by their jurisdiction or the State Consolidated Plan.

4.2 Affirmative Marketing

Any entity applying for NSP funds must adopt affirmative marketing procedures and requirements for all NSP-assisted housing and submit the affirmative marketing plan with the NSP application. The affirmative marketing plan and requirements for NSP-assisted housing must be approved by the City of Modesto prior to any NSP funds being committed to a development.

Affirmative marketing requirements and procedures must include ALL of the following:

- Methods for informing the public, owners, and potential tenants about fair housing laws and the policies of the local program;
- A description of what owners and/or the program administrator will do to affirmatively market housing assisted with NSP funds A description of what owners and/or the program administrator will do to inform persons not likely to apply for housing without special outreach;
- Maintenance of records to document actions taken to affirmatively market NSP-assisted units and to assess marketing effectiveness
- A description of how efforts will be assessed and what corrective actions will be taken when requirements are not met.

1 Section 3 requires that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing.

2 Executive Orders 11625, 12432, and 12138 require that participating jurisdictions and local programs must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the greatest extent possible, of minorities and women entities owned by minorities and women in all contracts. Local programs must also develop acceptable policies and procedures if their application is approved by the City of Modesto.

4.3 Environmental Review

In implementing NSP, the environmental effects of each activity must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 and HUD's regulations at 24 CFR Part 58.

The City of Modesto, as the NSP grantee, will be responsible for carrying out environmental reviews for approved projects/programs. The City must request the release of funds (RROF) from HUD for any developments carried out by other types of entities. The City reserves the right to require a Phase I Environmental Study as part of the environmental review process. Applicants/awardees of NSP funds may NOT execute contracts for purchase of properties that may be funded with NSP until receiving written authorization from the City of Modesto to do so.
4.4 Flood Plains/Wetlands

NSP funds may generally not be invested in housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. The City of Modesto discourages developments located in special flood hazard areas but, in some instances and with written permission from the City, houses located in a flood plain may be assisted. It is the responsibility of the applicant to evaluate any remedies to remove any properties from the flood plain and ensure the feasibility of the proposed plan. The City of Modesto is willing to consider the proposed remedy and must approve the proposal in writing prior to approval of any NSP allocation. The community must be currently participating in the National Flood Insurance Program, and flood insurance must be obtained and maintained on the NSP-assisted property for the full period of affordability.

4.5 Lead-Based Paint Requirements

The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all developments constructed before 1978 and receiving NSP assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation, by appropriate lead-certified personnel. The application must also include detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with reduction of lead hazards in accordance with the regulation and guidelines. All NSP fund allocations will be contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. In a development where NSP funds will be used on only a portion of the units, the lead-based paint requirements apply to ALL units and common areas in the development.

4.6 Labor Standards

Davis-Bacon wage compliance and other federal laws and regulations pertaining to labor standards apply to all construction and rehabilitation contracts that are financed in whole or in part with NSP funds for residential property consisting of eight (8) or more NSP-assisted units. Davis-Bacon and related laws include the following:

- Davis-Bacon and Related Acts (40 USC 276a-276a-7)
- Contract Work Hours and Safety Standards Act (40 USC 327-333)
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 276c)
- Fair Labor Standards Act of 1938, as amended (29 USC 201, et seq.)

The construction bids and contract for any NSP-assisted activity must contain the applicable wage provisions and labor standards. Davis-Bacon does not apply to projects using solely volunteer labor or to sweat equity projects. The City of Modesto will monitor all developments subject to Davis-Bacon requirements to ensure compliance with all applicable regulations.

4.7 Debarment and Suspension

The City of Modesto will require participants in lower-tier transactions covered by 24 CFR 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction.
Any participant that remains on a debarred or suspended condition shall be prohibited from participation in the City of Modesto NSP as long as they are classified in this manner.

4.8 Relocation

NSP funds are intended ONLY for use in purchasing/improving properties that have been abandoned and foreclosed. As such, most properties are expected to be vacant at the time of appraisal and offer to acquire. Should there be residents in any foreclosed property considered for NSP assistance, potential awardees must follow the residential anti-displacement and relocation plans in effect and outlined in the State’s approved Consolidated Plan and all applicable Uniform Relocation Assistance and Real Property Acquisition Act (URA) of 1970 provisions. Applicable regulations can be found at 49 CFR Part 24.

4.9 Audit

The City of Modesto requires that non-profit recipients expending more than $500,000 in Federal awards in a given fiscal year have an audit conducted in accordance with Generally Accepted Accounting Principles (GAAP) and the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.”

4.10 Reporting Requirements

The City of Modesto is required to submit quarterly performance reports to HUD no later than thirty (30) days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award (i.e., August 1, 2009) and continuing until all funds are expended and the program is closed out. Accordingly, all NSP awardees will be required to submit during the projects process documentation to demonstrate their performance information to the City of Modesto by established deadlines conducive for the City to meet its reporting requirements. The required information will include, but not be limited to, the following:

- Project name
- Project activity
- Project location
- NSP Eligible use
- CDBG national objective
- Budgeted funds
- Expended funds
- Funding source
- Total amount of any non-NSP funds
- Numbers of properties and housing units assisted
- Beginning and ending dates of activities
- Numbers of low, moderate, and middle-income persons or households benefiting
- Demographic data for households benefiting

To collect the data elements and to meet its reporting requirements, the City of Modesto will use the online DRGR system to report on its NSP funds to HUD. When it submits the report to HUD, the City of Modesto will post a copy of the NSP DRGR report on the City’s website for the public to review.
4.11 Program Income

Program Income (24 CFR 570.503(a), (b)(3) and (7), and 570.504)

The term “program income” means any gross income received by the subrecipient that was directly generated from the use of NSP or CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:

- Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds.
- Proceeds from the disposition of equipment purchased with CDBG funds.
- Gross income from the use or rental of property acquired by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
- Gross income from the use or rental of property owned by the grantee or subrecipient that was constructed or improved with CDBG funds, less any costs incidental to the generation of such income.
- Payments of principal and interest on loans made using CDBG funds.
- Proceeds from the sale of loans made with CDBG funds.
- Proceeds from the sale of obligations secured by loans made with CDBG funds.
- Interest earned on program income, pending the disposition of such program income.
- Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where such assessments are used to recover part or all of the CDBG portion of a public improvement.

Program income does not include (except for funds in lump-sum drawdown accounts), the interest earned on cash advances from the grantee or funds held in a revolving loan fund account. Such interest must be returned to the grantee for remittance to HUD.

When income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used to determine the portion that is program income.

The written agreement between the subrecipient and the grantee will specify whether any program income received by the subrecipient is to be returned to the grantee or retained by the subrecipient for use in carrying out CDBG activities.

If the program income is to be retained by the subrecipient, the written agreement will also specify what CDBG-eligible activities the subrecipient may undertake with the program income.

The receipt and expenditure of program income must be recorded by the subrecipient as part of its records of financial transactions.

When a subrecipient retains program income, such income must be used for any authorized activity before drawing down additional grant funds from the grantee, except in the case of a revolving fund. In the case of program income in a revolving fund, the subrecipient must use the program income for the activity for which the revolving fund was established, before drawing down additional grant funds for that activity.
At the expiration of the Subrecipient Agreement, any program income on hand or subsequently received by the subrecipient must be returned to the grantee.

4.12 Monitoring

During the period of affordability, the City of Modesto will perform on-site compliance and monitoring inspections of all single-family and multi-family developments utilizing NSP funds to determine compliance with the applicable regulations and requirements outlined in this manual and NSP regulations.
Section 9 - Neighborhood Stabilization Program 2
Policy and Procedure
(NSP 2)

MODESTO
CALIFORNIA

EQUAL HOUSING OPPORTUNITY
City Of Modesto
Neighborhood Stabilization Program (NSP2)
Policies and Procedures

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CHAPTER 1.0: INTRODUCTION

1.1 Introduction

In early February 2010, the City of Modesto received a $25 million grant award under the American Recovery and Investment Act of 2009 (ARRA). This grant award recognized the significant impact of the housing crisis on both the nation and local communities such as Modesto. The grant will be utilized to reduce the number of foreclosed and/or abandoned properties within the City. There are four primary activities associated with the grant award.

- The first activity utilizes $10.5 million to purchase and rehabilitate 100 foreclosed/abandoned properties from targeted census tracts within the community. Properties purchased through this program will be resold or rented to individuals and families at or below 120% of the area median income.

- The second major activity has $6 million dedicated to the purchase/rehab of 40 foreclosed and/or abandoned residential properties to house emancipated foster and homeless youth between the ages of 18-28. As proposed, the Housing Authority will purchase and rehabilitate foreclosed and/or abandoned properties which will be managed by the Housing Authority, which will partner with other agencies to provide permanent supportive housing and supportive services to individuals and families. Of the $6 million total, $4.75 million will serve those populations at or 50% of the area median income with 25% serving those populations at or below 80% of the area median income.

- Under the third activity, the City of Modesto has collaborated with the Stanislaus Community Assistance Project (SCAP) to provide $6 million in funding for the development, acquisition and rehabilitation of 35 foreclosed and/or abandoned homes to house individuals with special needs such as mental health issues, chronic disabilities, HIV/AIDS, prison re-entry candidates, and income-eligible seniors. Of the $6 million total, $1.5 million will be used to provide housing for individuals and families at or below 50% of the area median income.

- The fourth activity is the 25% set-aside funds to be used by the Housing Authority of Stanislaus County, SCAP and other non-profits for the purchase and rehabilitation of properties for individuals and families at or below 50% of the area median income. In general, the City will use the NSP2 grant to buy and repair foreclosed and/or abandoned residential properties.

This Policy and Procedures Manual provides an overview of the City’s policies and procedures as they pertain to NSP2 and step-by-step guidance on the implementation of NSP2 projects.

This Manual is not intended to be a substitute for NSP2 regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of NSP2 funds. While careful consideration and due care has been used in developing the Manual, it is not a replacement for consultation with HUD NSP2 specialists to ensure correct interpretation of policies and regulations.

The City of Modesto reserves the right to implement additional policies as needed.
1.2 **Purpose of the Neighborhood Stabilization Program**

The primary purpose of NSP2 is to provide funding which can be utilized to acquire and rehabilitate foreclosed properties that might otherwise become sources of abandonment and blight within our community.

Through an approved pool of non-profit and for-profit developers, the City of Modesto’s NSP2 program provides loans to purchase foreclosed or abandoned homes and to rehabilitate, resell, or rent homes to income-eligible participants in order to stabilize neighborhoods and stem the decline of house values in neighboring homes. The City of Modesto has designed its programs into four main areas: Acquisition and Rehabilitation; Housing Assistance to Emancipated Foster and Homeless Youth; Special Needs Housing; and the 25% Set-Aside.

1.3 **General Requirements of NSP2**

1.3.1 **Allocation of Funds**

**Administration:** NSP2 funds committed to City of Modesto will be allocated in accordance with the City’s Grant Application and Award. In addition, the City may spend up to ten percent (10%) of its NSP2 allocation and 10% of any program income for administrative and planning expenses.

**25% Set-Aside:** NSP2 requires that not less than twenty-five percent (25%) of the total NSP2 funds allocated to the City be utilized to provide permanent housing for households with incomes at or below fifty percent (50%) of the AMI. The City of Modesto will allocate these funds to the Housing Authority of the County of Stanislaus and SCAP for the purchase and rehabilitation of properties for individuals and families.

**Timeliness:** The City is required to ensure that 50% of all NSP2 funding is spent within 18 months and that all remaining funds be spent within 36 months following the execution of the NSP2 grant agreement with HUD, which occurred in February 2010. Therefore, the City of Modesto reserves the right to award funds to projects that are “ready to go” and to further adjust contracted amounts based upon actual performance and progress to spend the funds within the initial 18 months of the grant agreement.

1.3.2 **Eligible Applicants**

NSP2 funding will be made available city-wide to non-profit organizations, for-profit organizations, developers, and City-designated Community Housing Development Organizations (“CHDOs”).

Eligible applicants are entities responsible for the NSP2 application, project development, project implementation, and accountability for use of all NSP2 funds. The eligible applicants must adhere to required compliance and monitoring of all NSP2 activities for the full applicable affordability period. The City of Modesto will allocate NSP2 funds to the approved eligible applicants as outlined in the NSP2 Program Agreement.

1.3.3 **Eligible Activities**

For purposes of implementing the NSP2, an abandoned property is defined as one in which all of the following conditions apply:
Mortgage or tax foreclosure proceedings have been initiated for that property,

No mortgage or tax payment have been made for the property owner for at least ninety (90) days, and

The property has been vacant for at least ninety (90) days.

For purposes of implementing NSP2, a foreclosed property is defined as a property that, under state or local law, has completed the mortgage or tax foreclosure process and is currently owned by the lender or mortgagee. A foreclosure is not considered complete until after the property title has been transferred from the former owner under a foreclosure proceeding or transfer in lieu of foreclosure.

The following are the eligible activities under the City of Modesto NSP2:

<table>
<thead>
<tr>
<th>NSP2-Eligible Uses</th>
<th>Correlated Eligible Activities From the CDBG Entitlement Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared equity loans for low- and moderate-income home buyers</td>
<td>As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.</td>
</tr>
<tr>
<td>(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties</td>
<td>• 24 CFR 570.201 (a) Acquisition; (b) Disposition; (i) Relocation, and (n) Direct homeownership assistance (as modified below); • 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity)</td>
</tr>
</tbody>
</table>

The activities undertaken by the City of Modesto under the NSP2 program meet the NSP2 National Objective of providing assistance to “low-, moderate-, and middle-income households” (abbreviated as LMMH). For the purposes of NSP2/CDBG only, an activity may meet the Housing and Economic Recovery Act (HERA) low- and moderate income national objective if the assisted activity:

- Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);

- Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA);

- Creates or retains jobs for persons whose household incomes are at or below 120 percent of median income (LMMJ); or
- Serves a limited clientele whose incomes are at or below 120 percent of area median income (LMCC).

1. 4 City of Modesto Responsibilities

The City of Modesto, as a HUD grantee, has oversight and implementation responsibility for all NSP2 activities:

- Providing financial mechanisms to housing developer partners to purchase foreclosed properties from REO lenders and servicers;
- Providing funds to housing developer partners to rehabilitate acquired properties;
- Providing financial assistance to qualified homebuyers to acquire and rehabilitate foreclosed properties.

The City is also responsible for meeting the NSP2 requirement that not less than 25% of the City’s NSP2 funds, approximately $6+ million, be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

To assure success, the City of Modesto is committed to effective management practices. These include: 1) supporting cooperative, problem-solving relationships; 2) working toward continuous improvement in regulatory compliance and timely program performance; 3) maintaining open and frequent communications among all participants; and, 4) focusing on preventing problems, rather than fixing them later.

1.5 Summary of Principal Regulations Governing NSP2/CDBG Administrative Systems


The program established pursuant to Section 2301-2304 of HERA is known as the “Neighborhood Stabilization Program” or “NSP”. The term “NSP2” refers to the second appropriation of NSP funds provided under the Recovery Act. Unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title XII is commonly referred to as the Neighborhood Stabilization Program (NSP2). The key regulations that form the basic administrative requirements of the NSP2/CDBG entitlement programs are summarized here to acquaint the City with the sources of the various standards described in the Operations Manual.

Regulations are developed in response to, or in fulfillment of, Federal statutes that govern the CDBG Entitlement program, both those specific to the NSP2 and CDBG programs and those addressing other “cross-cutting” Federal laws or policies that apply to these programs (e.g., National Environmental Policy Act, Americans with Disabilities Act, Davis-Bacon Act).

The basic program regulations governing management and financial systems for the CDBG programs are contained in 24 CFR Part 570, Subparts J and K. They are applicable both to grantees and subrecipients in the public and private sectors:

- Subpart J (24 CFR 570.500–570.513) addresses general responsibilities for grant administration, including the applicability of uniform administrative requirements,
provisions of Subrecipient Agreements, program income, use of real property, record keeping and reporting, and closeout procedures.

- Subpart K (24 CFR 570.600–570.613) deals with other program requirements of the CDBG program, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors; uniform administrative requirements and cost principles; and conflicts of interest.

In addition to the basic regulations of the CDBG program contained in 24 CFR Part 570, there are three other categories of requirements that affect the administrative systems and procedures subrecipients must have in place to receive support:

- Federal regulations governing administrative and audit requirements for grants and cooperative agreements (governmental subrecipients) for which HUD has oversight responsibilities.

- Administrative circulars from the Office of Management and Budget (OMB) and Department of the Treasury governing cost principles, administrative systems, fiscal procedures, and audit requirements for grantees and subrecipients.

- Executive Orders from the Office of the President implementing various equal employment opportunity and environmental policies.

The applicability of these administrative requirements depends upon the public or private status of the organization receiving funds. For subrecipients that are private, non-profit organizations, the key regulations defining administrative requirements are:

- 24 CFR Part 84 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations” 2: These regulations implement OMB Circular A-110 and specify standards relative to cash depositories, bonding and insurance, retention and custodial requirements for records, financial management systems, monitoring and reporting on performance, property management, and procurement.

- OMB Circular A-122 “Cost Principles for Non-profit Organizations”: A publication of OMB, this document establishes principles for determining costs that are allowed to be charged to Federal grants, contracts, and other agreements with non-profit organizations (except educational institutions). The principles are designed to ensure that the Federal Government will bear its fair share of costs except where restricted or prohibited by law.

- OMB Circular A-133 “Audits of States, Local Governments and Non-profit Organizations”: This circular defines audit requirements for both governments and non-profits receiving Federal funds. The document addresses mandated frequency and scope of audits; allow ability of audit costs, and the process of auditor selection. The above referenced sections of Title 24 regulations and OMB circulars may be accessed at the HUD Web site at http://www.hudclips.org/cgi/index.cgi.
1. 6 Acquisition of Properties Using NSP2 Funds

1.6.1 Acquisition, Sales Contracts, and Obligations

The City of Modesto must have executed sales contract for specific properties for funds to be considered obligated. Options or other non-binding instruments are not acceptable.

1.6.2 Appraisals and Discount Requirements

Properties acquired using NSP2 funds shall be appraised in conformity with the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 by a licensed appraiser within sixty (60) days prior to an offer to purchase the property. Further guidance may be found at:


The market appraised value of properties is established based on a review of available data and shall be made by a person knowledgeable of and with experience in property valuation that the City determines is qualified to make the valuation.

NSP2 requires that properties acquired using NSP2 program funding be purchased at a discount of at least 1% below the current market appraised value of the home or property. The City of Modesto will require documentation to ensure the discount requirement is met including the address, appraised value, purchase offer amount, and discount amount for each property.

The discount value calculation may take into account the likely carrying costs of the mortgagee if it were to NOT sell the property to the applicant. Carrying costs may include: taxes, insurance, maintenance, marketing, overhead and interest.

1.6.3 Voluntary Transactions and Tenants

ALL NSP2-assisted property acquisitions must be voluntary acquisitions. Taking of property through eminent domain proceedings is NOT permitted. The Uniform Relocation Act requires that notices are provided to property owners even those considered to be voluntary transactions. The notices can be found at: http://www.hud.gov/offices/cpd/library/relocation/NSP2/index.cfm. URA and Section 104(d) and 5305(a)(11) of Title I of the Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.496(a) (the Barney Frank Amendment) govern the permanent displacement as well the temporary relocation of tenants in properties funded by NSP2.

For more information, refer to http://www.hud.gov/offices/cpd/library/relocation/NSP2/index.cfm. In addition, ARRA includes additional provisions protecting the rights of property owners and “bona fide” tenants.

1.6.4 Tenant Rights and Protections

The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a bona fide tenant at the time of foreclosure.
The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any bona fide tenant, as of the date of such notice of foreclosure:

(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or

(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

In the case of any qualified foreclosed housing in which a recipient of assistance under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the “Section 8 Program”) resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family to 1) pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or 2) for the family’s reasonable moving costs, including security deposit costs.

A lease or tenancy shall be considered bona fide only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm’s length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

The City of Modesto will maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under Sections K.2.a and K.2.b.

If the City of Modesto determines that the initial successor in interest in such property failed to comply with such requirements, the City may not use NSP2 funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in Section K.2.a and K.2.b. If the City of Modesto elects to assume such obligations, it must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of
an activity assisted with NSP2 funds and maintain records in sufficient detail to demonstrate compliance with the provisions of that section.

The recipient of any grant or loan made from NSP2 funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.

This section shall not preempt any Federal, State or local law that provides more protections for tenants.

1.6.5 Energy Efficiency

To the extent feasible, the City of Modesto will strongly encourage grantees to incorporate modern, green building, and energy-efficiency improvements in all NSP2 activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.

CHAPTER 2.0: CITY OF MODESTO NSP2 ACTIVITIES

2.1 Acquisition and Rehabilitation - $10,500,000

2.1.1 Summary

The acquisition and rehabilitation activity will benefit individuals and families whose incomes do not exceed 120 percent of Median Area Household Income (MAI), adjusted for family size. The City of Modesto will partner with developers through a Request for Qualifications (RFQ) to acquire and rehabilitate an estimated 100 foreclosed and/or vacant residential properties in order to resell or rent properties to persons that are at or below 120% of the area median income (AMI). This program will allow for additional affordable rental/homeownership housing in the target area census tracts within the City.

This activity can be carried out within the approved greatest need area and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202.

2.1.2 Activity Purpose

Acquisition and rehabilitation of foreclosed or abandoned properties located in areas of “greatest needs” as defined by HUD:

**Foreclosed:** A property “has been foreclosed upon” under HUD regulations “at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

**Abandoned:** Under HUD regulations “a home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days and the property has been vacant for at least 90 days.”
2.1.3 Eligible Properties

- Existing single-family, duplex or condominiums;
- Properties built prior to 1978 may be subject to lead based paint requirements;
- Units must be acquired at 1% below market-appraised value;
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.1.4 Income Limits

The income limit is 120% of the Median Area Household Income, adjusted for family size. These limits are adjusted annually. In FY 2010, the income limits for 120% of HUD Area Median Income are:

<table>
<thead>
<tr>
<th>Family Size</th>
<th>Income Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 person household</td>
<td>$50,000</td>
</tr>
<tr>
<td>2 person household</td>
<td>$57,100</td>
</tr>
<tr>
<td>3 person household</td>
<td>$64,250</td>
</tr>
<tr>
<td>4 person household</td>
<td>$71,400</td>
</tr>
<tr>
<td>5 person household</td>
<td>$77,100</td>
</tr>
<tr>
<td>6 person household</td>
<td>$82,000</td>
</tr>
<tr>
<td>7 person household</td>
<td>$88,550</td>
</tr>
<tr>
<td>8 person household</td>
<td>$94,250</td>
</tr>
</tbody>
</table>

2.1.5 Affordability Covenants

HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The affordability period for this activity is 25 years.

2.1.6 Property Requirements

- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Properties are purchased by for-profit and non-profit developers who have been qualified by a review sub-committee of the Citizens' Housing & Community Development Committee (CH&CDC).
- Properties purchased under the program must meet NSP2 definitions for foreclosed or abandoned residential properties.
- Property acquisition price may not exceed 150% of the area median sales price per DataQuick and preference will be given to those properties at or below 100% of the area median sales price.
- Regulations established to rehab the homes must meet Public Housing Standards or local codes whichever is greater, cap set at $100,000 for rehabilitation.

**Note:** Exceptions to the $100,000 rehab cap are reviewed on a case-by-case basis and are approved based on the recommendation of the review sub-committee of the CH&CDC and the City of Modesto NSP Development Team.

- If the units become rental units, a management plan has to be in place to ensure appropriate maintenance and adherence to regulations.
2.1.7 Procurement

- Issue Request for Qualifications on March 15, 2010, to establish list of qualified developers that are either for-profit or non-profit and experienced in housing. Must meet RFQ requirements including City of Modesto insurance requirements.

- Issue Request for Qualifications on March 15, 2010, to establish list of qualified appraisers. Must meet the following requirements:
  o Fee appraiser must be state licensed or FIRREA certified
  o Use procurement to select contracted appraisers

2.1.8 Timelines:

- Must complete a minimum of one hundred (100) units;
- Spend 50% of the $25,000,000 in funding by February 11, 2012;
- Spend 100% of all funds by February 11, 2013;
- To meet the 50% requirement, $10,500,000 will need to be spent by February 11, 2012.

2.1.9 Monitoring

- Please Refer to Section 4.14 for complete monitoring policies and procedures

2.1.10 Loan Terms for For-Profit Organizations (Rental Properties Only)

- The City of Modesto adopted the recapture option based on HOME regulations so that the remaining funding is repaid when the property is sold.

- If the equity gain is in excess of $50,000, utilize an equity share clause to have 10% due back to the City minus the initial amount that the developer contributed.

- Defer first five years of the loan. In year six, 3% interest begins only on the acquisition proportion of the loan, which will be amortized for 35 years of a 40-year loan.

- Defer the rehabilitation proportion of the loan for 15 years. In year 16, 3% interest begins only on the rehabilitation proportion of the loan which will be amortized for 24 years to conclude at the same time the acquisition proportion of the loan is due.

- Reasonable closing cost will be included in the loan.

- For-Profit organizations are required to leverage 20% of the total loan amount.

- At the sole discretion of the City, in the event the affordability covenant is fulfilled at the end of the twenty five-year term, the rehabilitation portion of the loan will be forgiven if the property is sold to a qualifying low-income household.
2.1.11 Loan Terms for Non-Profit Organizations (Rental Properties Only)

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% interest for the first 5 years and 3% interest for years 6 on.

- Affordability period based on amount borrowed based on HOME regulations.

- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.

- Reasonable closing cost will be included in the loan.

2.1.12 Homeownership (Resale Properties Only)

- New appraisal is required after rehabilitation work by developer is complete.

- Upon second escrow closing, developer is eligible for developer fee.

- For all properties except properties located in census tracts within the Airport Revitalization Strategy Area, the developer fee is:
  - $10,000 per property, or
  - $15,000 per property if property is determined to meet the “blight” definition per Federal regulation and as determined through an acceptable third-party home inspection summary report.

- For Airport Neighborhood properties, the developer fee is:
  - $15,000 per property, or
  - $20,000 per property if property is determined to meet the HUD “blight” definition and as determined through an acceptable third-party home inspection summary report.

- Developer Fee procedure:
  - Step 1 – Determine location of Property (Airport vs. Scattered).
  - Step 2 – Once the second appraisal is received by City staff to signify completion of rehabilitation and to set the sales price, the total rehabilitation amount is measured as a percentage of the initial appraised value to determine if the property is “potentially blighted”. If the percentage of rehab value vs. initial appraisal is greater than the average at the time of sale then the property is deemed “potentially blighted”.
  - Step 3 – The rehabilitation staff assigned to a specified property states their opinion of the property at the time of purchase in regards to the property being deemed “potentially blighted”.
Step 4 – If the actual rehabilitation amount (final) for the property is greater than the average of actual rehabilitation for all completed properties at that time the property is deemed “potentially blighted”.

Step 5 – If the property meets any two of the three criteria outlined in steps 2-4 the developer will receive the higher Developer Fee allocation for their property location upon the sale of the property to a qualified home buyer.

- The obligations of the developer towards the acquisition and the rehabilitation loans are released when transferred (either fully or partially) to the new buyer at the close of escrow.
- Closing costs, new appraisal costs, and developer fees are considered program costs and are not included in either of the developer loans.

**BLIGHTED STRUCTURE: A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.**

### 2.1.13 Qualifying Households (Resale Properties Only)

- Homebuyers will meet criteria similar to that established for the City’s Homebuyer’s Assistance Program, which includes these homebuyer requirements:
  - Must be at or below 120% of the area median income
  - Must reside in or work within the City limits of Modesto

- Home being purchased must have been purchased and rehabilitated using the City’s NSP2 funds.

- Must have a minimum FICO credit score of 620.

- Must complete 8 hours of homebuyer counseling through a HUD-approved counseling agency.

- Must commit 1% of the purchase price.

- Homebuyers will have a new loan based on the value established in the second appraisal but not to exceed the total investment in the property (acquisition plus rehabilitation).

- Maximum 30-year loan period (available in 5-year increments).

- Monthly payment may not exceed 30% of qualifying income and total debt to income ratio cannot exceed 43% per FHA standards.

- Homebuyers are “qualified” for homes up to a certain value as established by their qualifying income.

### 2.1.14 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline
• Preliminary Title report
• Home Inspection Report
• Pest Inspection Report including Pest Report Clearance
• Lead Base Paint Report (when applicable)
• Property Appraisal
• Payable Commissions Report
• Natural Hazard Reports (when applicable)

2.1.15 City of Modesto Prepared Loan Documents

• Deed of Trust
• Promissory Note (Purchase)
• Promissory Note (REHAB)
• Regulatory Agreement
• Loan Agreement

2.1.16 Rehabilitation Requirements and Procedures

The City of Modesto provides all approved NSP2 Developers with the “Developer's Toolbox” (a CD containing copies of all pertinent NSP2 information needed to effectively participate in the program which include copies of all rehabilitation codes, compliance manuals, and additional technical assistance resources/materials).

All of the programs utilizing rehabilitation funding will have to adhere to current Housing Rehabilitation Policies.

• Contractor Requirements:

All general contractors working on all NSP2-funded developments must have an active license issued by the California Contractor's Licensing Board (CSLB) as applicable and meet all requirements of contractors in the state of California. Contractors may not "share" a license. That is, the City of Modesto will not allow one contractor to work from another contractor's license. All City of Modesto NSP2-funded projects must have a general contractor that is properly licensed by the California State Contractor's Licensing Board. Any questions regarding licensing issues and a list of licensed contractors may be directed to the State Licensing Board at the following address:

Contractors State License Board
9821 Business Park Drive
Sacramento, CA 95827
Phone (800) 321-CSLB

Any contractor or subcontractor who has been debarred by any entity or had a contractor license suspended by any entity within the previous twelve (12) months will be prohibited from participating in the NSP2. All general contractors working on all NSP2-funded developments must obtain one of the following: (1) a payment and performance bond; or (2) an Irrevocable Letter of Credit in the amount of the construction contract.

Note: The City of Modesto has complete discretion to permit and approve any and all processes in connection with the construction/improvement of the property. (Section 54 of the Loan Agreement)
Note: Per guidance from HUD, construction contracts for individual rehabilitation projects for $100,000 or less are not required to obtain a payment and performance bond or an irrevocable letter of credit.

- Construction Requirements:


    Note: These standards are effective as of January 1, 2011


  o CA SB 183 Compliance: Effective July 1 2011, the Carbon Monoxide Prevention Act of 2010 (SB 183) Mandates that all single family dwellings with fossil-fuel burning appliances, fireplace, or attached garage that are designated for human occupancy must have installed a Carbon Monoxide Detector.

  o Initial Renovator Certification Compliance: All parties involved in the Rehabilitation Portion of NSP2 (developer, general contractor/project supervisor, and city staff) must attend and complete the EPA/HUD Model Renovator Training Course (also referred to as Initial Renovator Training Course) and Provide the City of Modesto with a copy of the Certificate of Completion with a valid EPA Accreditation # to be placed in the developer's Master File.

    * For Additional Lead-Based Paint information refer to Section 4.5 or http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=f07a90b05d8e4481e1f462a217a2b789&rgn=div5&view=text&node=40:30.0.1.1.13&idno=40#40:30.0.1.1.13.3

- Rehabilitation Procedures:

  o Prior to starting the rehabilitation process on a NSP2 property, the Developer and General Contractor (GC) or Project Supervisor (PS) must meet with designated City rehabilitation staff at the designated property to go over the following items:

    a. Proposed Scope of Work
    b. 3rd Party Home Inspection
    c. Preliminary Rehabilitation Budget
d. All necessary permits have been pulled/identified

e. Complete Property Walk-through

- Once these items have been deemed satisfactory, the Preliminary Inspection Authorization Form is signed by both City rehabilitation staff and the approved Developer representative signifying that the walk-through is complete and the property is ready to begin rehabilitation.

- Hiring of Subcontractors and General Laborers: NSP2 Developers are encouraged to hire locally within the City of Modesto. A preference is placed on using labor from the City of Modesto first, Stanislaus County second.

* For additional information refer to Section 4.6: Labor Standards and Section 4.3: Section 3 Compliance.

- During the rehabilitation of the property, City of Modesto rehabilitation staff will perform random walk-through of the properties to ensure that they are being completed in a timely manner.

- Developers are encouraged to provide the City of Modesto with reimbursement invoices on a regular basis. Once an invoice is received it results in a mandatory inspection by City of Modesto rehabilitation staff of the property for which the items are being billed. This inspection is meant to ensure that the items being called out for reimbursement have in fact been utilized and installed.

* For more information on Fund Reimbursement refer to Section 3.4 Funding Disbursement.

- Once rehabilitation is complete the Developer is required to arrange for two separate inspections and must submit a final invoice to the City of Modesto for reimbursement of all outstanding funds associated with that property.

- First, Building Inspection must evaluate the property and ensure that all items were properly permitted and are complete.

- Second, City rehabilitation staff meets with the designated Developer representative and performs a final walk-through of the property. When City staff has completed the walk-through and is satisfied with the finished product, the "Final Inspection Property Release Form" is signed by both City staff and the Developer representative signifying that both parties agree that rehabilitation is complete and the property is released to the Developer for occupancy.

- Note: If City staff does not find the final walk-through to be sufficient they may recommend that additional improvements to be made in order to meet all safety requirements or ensure that the property is fully up to code. If this occurs they will require an additional walk-through before signing the final release.

- Once the Final Invoice is submitted and reimbursement is required rehabilitation funds will be held back by the City according to the terms in the Loan Agreement with funds to be disbursed to borrower, contractor/supplier for work completed as documented by progress inspections.
* For complete reimbursement procedures refer to section 3.4 Funding Disbursement

2.1 Emancipated Foster and Homeless Youth - $6,000,000

2.2.1 Summary

This activity is dedicated to the purchase/rehab of 40 foreclosed and/or abandoned residential properties to provide housing and supportive services for emancipated foster and homeless youth between the ages of 18-28. The Housing Authority of Stanislaus County will purchase and rehabilitate the foreclosed and/or abandoned properties which will be managed by the Housing Authority, which will partner with other agencies to provide permanent supportive housing and supportive services to individuals and families. Of the $6 million, $4.75 million will serve those populations at or 50% of the area median income with 25% serving those populations at or below 80% of the area median income.

This activity can be carried out in those areas of greatest need and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202.

2.2.2 Purpose

Acquisition and rehabilitation of foreclosed or abandoned properties in the target area census tracts within the City.

2.2.3 Eligible Properties

- Existing single-family, duplex or condominiums.
- Properties built prior to 1978, may be subject to Lead Base Paint requirements.
- Units must be acquired at 1% below market-appraised value.
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.2.4 Income Limits

The income limit is 50% of the area median income with 25% serving those populations at or below 80% of the area median income.

2.2.5 Affordability Covenants

HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The affordability period for this activity is 25 years.

2.2.6 Property Requirements

- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Management plan has to be in place to ensure maintenance and adhere to all regulations.
2.2.7 Monitoring

- Please Refer to Section 4.14 for complete monitoring policies and procedures

2.2.8 Loan Terms

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% interest for the first 5 years and 3% interest for years 6 on.
- Affordability period based on amount borrowed based on HOME regulations.
- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
- Reasonable closing cost will be included in the loan.

2.2.9 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline
- Preliminary Title report
- Home Inspection Report
- Pest Inspection Report
- Lead Base Paint Report (when applicable)
- Property Appraisal
- Payable Commissions Report
- Natural Hazard Reports (when applicable)

2.2.10 City of Modesto Prepared Loan Documents

- Deed of Trust
- Promissory Note (Purchase)
- Promissory Note (REHAB)
- Regulatory Agreement
- Loan Agreement

2.2.11 Rehabilitation Requirements

* Please refer to Section 2.1.16.

2.3 Special Needs Program - $6,000,000

2.3.1 Summary

The City of Modesto has partnered with the Stanislaus Community Assistance Project (SCAP) to provide $6 million in funding for the development, acquisition and rehabilitation of 35 foreclosed and/or abandoned homes to house individuals with special needs such as mental health issues, chronic disabilities, HIV/AIDS, prison re-entry candidate, and income-eligible seniors. Of the $6 million, $1.5 million will be used to provide housing for individuals and families at or below 50% of the area median income.

2.3.2 Activity Purpose
Acquisition and rehabilitation of foreclosed or abandoned properties in the target area census tracts within the City.

2.3.3 Eligible Properties

- Existing single-family, duplexes or condominiums.
- Properties built prior to 1978, may be subject to lead-based paint requirements.
- Units must be acquired at 1% below market-appraised value.
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.3.4 Income Limits

The income limit is 120% of Median Area Household Income, adjusted for family size; $1.5 million will need to be used to provide housing for individuals and families at or below 50% of the area median income.

2.3.5 Affordability Covenants

HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The Affordability Period for this activity is 25 years.

2.3.6 Property Requirements

- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Management plan has to be in place to ensure maintenance and adhere to all regulations.

2.3.7 Monitoring

- Please Refer to Section 4.14 for complete monitoring policies and procedures

2.3.8 Loan Terms

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% for the first 5 years and 3% interest for years 6 on.
- Affordability period based on amount borrowed based on HOME regulations.
- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
- Reasonable closing cost will be included in the loan.
2.3.9 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline
- Preliminary Title report
- Home Inspection Report
- Pest Inspection Report
- Lead Base Paint Report (when applicable)
- Property Appraisal
- Payable Commissions Report
- Natural Hazard Reports (when applicable)

2.3.10 City of Modesto Prepared Loan Documents

- Deed of Trust
- Promissory Note (Purchase)
- Promissory Note (REHAB)
- Regulatory Agreement
- Loan Agreement

2.3.11 Rehabilitation Requirements

* Please refer to Section 2.1.16.

CHAPTER 3.0: PROCUREMENT AND CONTRACTING

3.1 Introduction

The Department of Housing and Urban Development (HUD) has established that procurement requirements for the National Stabilization Program (NSP2) will follow Community Development Block Grant (CDBG) requirements. CDBG procurement requirements are outlined in 24 CFR 84.40-48.

Local governments and subrecipient entities are required to adhere to all applicable procurement requirements in the selection and award of contracts for goods and services. Therefore, all solicitation of bids for goods and services to be paid with NSP2 funds must be conducted openly and competitively.

3.2 General Procurement Provisions

The standards and procedures for procurement are intended to ensure that supplies, equipment, construction and other services acquired in whole or in part with Federal funds are:

- Obtained as efficiently and economically as possible.
- Procured in a manner that provides, to the maximum extent practical, open and free competition.
Solicitations must clearly explain all requirements that the bidder must fulfill in order for his or her bid to be evaluated. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms.
- Requiring unnecessary experience and excessive bonding.
- Specifying only “brand name” products instead of allowing “an equal” product.
- Noncompetitive pricing practices between firms or affiliated companies.
- Noncompetitive awards to consultants on retainer contracts.

PLEASE NOTE: There is one exception to this. HUD is strongly encouraging grantees to use a Green Communities Standard for housing rehabilitation. Due to the newness of the field and the lack of knowledge among contractors and others about “green” systems and components, rehabilitation specifications will identify specific products that have been tested and certified as “green”.

### 3.3 Use of Local Businesses; Contracting with Small, Minority, and/or Women-Owned Businesses

Federal regulations, both CDBG and non-CDBG, make it very clear that subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically,

- A subrecipient must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its CDBG-financed activities (24 CFR 85.36(e) or 84.44(b)). The efforts which a subrecipient should make include:
  - Incorporating such businesses in solicitation lists whenever they are potential sources.
  - Ensuring that such businesses are solicited when identified as potential sources.
  - Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
  - Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.
- In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, subrecipients must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing (see 24 CFR 570.607(b)).

Subrecipients should note, however, that the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.
3.4 Funding Disbursement

The following processes will apply:

- Prior to the disbursement of NSP2 funds for the payment of developer submitted invoices the following conditions must be met:
  - Required environmental review process must be satisfactorily completed.
  - Project closing documents consisting of a Loan Agreements, Deed of Trust Regulatory Agreements, and Promissory Notes must be fully executed and reflect a project completion date acceptable to the City of Modesto and the recipient of the NSP2 funds (Approved Developer). The NSP2 Loan Agreements will outline the payment of the NSP2 funds, (e.g., how the funds will be disbursed, i.e., prorate share, etc.). The NSP2 Agreements must contain provisions for the timing of NSP2 fund disbursement.
  - City staff must complete all Disaster Recovery Grant Reporting (DRGR) system set up procedures for this specific project/property.
  - Developer must have all insurance current and active.
  - Developer must have a completed and valid W-9 IRS form provided to the City of Modesto Accounts Payable Division to establish an active Vendor Code allowing for the issuance of checks payable to the Developing Agency.

Invoice Submittal & Reimbursement:

- Invoices are submitted to City of Modesto NSP Development Team for processing, with staff from the Accounts Payable Division copied for timeline purposes.

- Once the NSP Development Team receives the invoices and begins the verification process. All invoiced items pertaining to the rehabilitation of an NSP property must be reviewed by an administrative staff of City of Modesto NSP Development Team and a rehabilitation staff. This process consists of two steps:
  - Administrative staff: All invoice items will be cross-checked against provided back-up information for accuracy of dollar amounts and consistency with initial developer established property budget.
  - Rehabilitation staff: All invoice items are cross-checked against provided back-up information and the property is inspected to ensure that invoiced items have been properly installed and are accounted for on the property.

- Note: All progress payments will be issued for work complete-to-date. No requests or payment(s) will be approved for work not completed. No requests will be approved for payment for any work completed that was not a part of the original contract or an approved by the City of Modesto Change Order. Change orders should be requested only for unforeseen problems and/or emergencies, not for upgrades.

- Note: City staff has set an internal budget adjustment of 10% for all properties undergoing rehabilitation to accommodate any unforeseen items not covered by the
recommended 15% developer contingency. Once a project exceeds the 10% threshold a Project Change Order Explanation form is filled out by City staff. This form contains a detailed budget breakdown of all individual categorized budget items that exceed 50% of their initial allocation. This document includes a detailed description of all rehabilitation staff requests that may have caused an increase in cost. Each overage/invoice is evaluated on a case-by-case basis.

- Once both signatures are acquired, City staff prepares a check request which is verified by the Deputy Director or a designated signee and processes the request with Accounts Payable. A copy of the original request along with a copy of the invoice and back-up information is kept in the working file for the specified property.

- Once the check is released, the City of Modesto requires a designated representative of the Developer to be present and sign the NSP Check-Log as verification that they have received the check in person.

- Final Invoice Procedures: Once the property has completed rehabilitation retained funds will be released within thirty (30) days after the final inspection is approved and upon City’s receipt of all completion documentation (utilizing the process outlined above).

For all activities, the following project completion documentation will be required prior to City’s final release of funds:

- Certification of release of liens (If deemed necessary by the City of Modesto based on either developer or contractor performance).
- Hazard insurance
- Certificate of Occupancy issued by local jurisdiction, if applicable
- Fully Executed Final Inspection Property Release Form.

For homebuyer activities, the following completion documentation will be required prior to City’s final release of funds:

- Certification in release of liens
- Hazard Insurance
- Certification of Occupancy issued by local jurisdiction, if applicable, and
- Fully Executed Final Inspection Property Release Form

If any NSP2-funded project has an available balance after acquisition and rehabilitation is completed, the City of Modesto will de-obligate those funds and reallocate such balance of NSP2 funds to other eligible activities according to City’s adopted NSP2 allocation process. The City of Modesto must ensure that all NSP2 funds are obligated within 18 months after the execution of the grant agreement (date of City’s agreement with HUD or by September 20, 2010).

CHAPTER 4.0: OTHER FEDERAL REQUIREMENTS

NSP2 awardees and funded projects must adhere to all applicable other Federal requirements as outlined in 24 CFR part 570, HERA, ARRA, and NSP2 guidance from HUD. Key requirements are summarized below.
4.1 Equal Opportunity and Fair Housing

The state shall not exclude any organization or individual from participation under any program funded in whole or in part by NSP2 funds on the grounds of age, disability, race, creed, color, national origin, familial status, religion, or sex.

The following federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and Equal Opportunity, are applicable to NSP2 projects:

<table>
<thead>
<tr>
<th>Federal Requirements</th>
<th>24 CFR 100</th>
<th>24 CFR 107</th>
<th>Executive Order 11246, as amended (Equal Employment Opportunity Programs)</th>
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<tbody>
<tr>
<td>Fair Housing Act</td>
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<tr>
<td>Executive Order 11063, as amended (Equal Opportunity in Housing)</td>
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<tr>
<td>Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federal Programs)</td>
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<tr>
<td>Age Discrimination Act of 1975</td>
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<td>Section 504 of the Rehabilitation Act of 1973</td>
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In addition to the above requirements, all NSP2 participants must ensure that their Equal Opportunity and Fair Housing policies related to activities funded by NSP2 are consistent with the current Consolidated Plan adopted by their jurisdiction or the State Consolidated Plan.

4.2 Affirmative Marketing

Any entity applying for NSP2 funds must adopt affirmative marketing procedures and requirements for all NSP2-assisted housing and submit the affirmative marketing plan with the NSP2 application. The affirmative marketing plan and requirements for NSP2-assisted housing must be approved by the City of Modesto prior to any NSP2 funds being committed to a development.

Affirmative marketing requirements and procedures must include ALL of the following:

- Methods for informing the public, owners, and potential tenants about fair housing laws and the policies of the local program;
- A description of what owners and/or the program administrator will do to affirmatively market housing assisted with NSP2 funds. A description of what owners and/or the program administrator will do to inform persons not likely to apply for housing without special outreach;
• Maintenance of records to document actions taken to affirmatively market NSP2-assisted units and to assess marketing effectiveness;

• A description of how efforts will be assessed and what corrective actions will be taken when requirements are not met.

4.3 Section 3

Section 3 requires that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing, in addition to business concerns owned/operated by low-income persons.

* For a complete overview of Section 3 policies and procedures please refer to the City of Modesto Section 3 Compliance Guide, or visit the HUD Section 3 website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3

4.4 Minority and Women-Owned Businesses

Executive Orders 11625, 12432, and 12138 require that participating jurisdictions and local programs must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the greatest extent possible, of minorities and women entities owned by minorities and women in all contracts. Local programs must also develop acceptable policies and procedures if their application is approved by the City of Modesto.

* For more information refer to Section 3.3

4.5 Environmental Review

In implementing NSP2, the environmental effects of each activity must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 and HUD's regulations at 24 CFR Part 58.

The City of Modesto, as the NSP2 grantee, will be responsible for carrying out environmental reviews for approved projects/programs. The City must request the release of funds (RROF) from HUD for any developments carried out by other types of entities. The City reserves the right to require a Phase I Environmental Study as part of the environmental review process.

Applicants/awardees of NSP2 funds may NOT execute contracts for purchase of properties that may be funded with NSP2 until receiving written authorization from the City of Modesto to do so.

4.6 Flood Plains/Wetlands

NSP2 funds may generally not be invested in housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. The City of Modesto discourages developments located in special flood hazard areas but, in some instances and with written permission from the City, houses located in a flood plain may be assisted. It is the responsibility of the applicant to evaluate any remedies to remove any properties from the flood hazard areas.
plain and ensure the feasibility of the proposed plan. The City of Modesto is willing to consider the proposed remedy and must approve the proposal in writing prior to approval of any NSP2 allocation. The community must be currently participating in the National Flood Insurance Program, and flood insurance must be obtained and maintained on the NSP2-assisted property for the full period of affordability.

4.7 Lead-Based Paint Requirements

The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all developments constructed before 1978 and receiving NSP2 assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation, by appropriate lead-certified personnel. The application must also include detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with reduction of lead hazards in accordance with the regulation and guidelines. All NSP2 fund allocations will be contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. In a development where NSP2 funds will be used on only a portion of the units, the lead-based paint requirements apply to ALL units and common areas in the development.

4.8 Labor Standards

Davis-Bacon wage compliance and other federal laws and regulations pertaining to labor standards apply to all construction and rehabilitation contracts that are financed in whole or in part with NSP2 funds for residential property consisting of eight (8) or more NSP2-assisted units. Davis-Bacon and related laws include the following:

- Davis-Bacon and Related Acts (40 USC 276a-276a-7)
- Contract Work Hours and Safety Standards Act (40 USC 327-333)
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 276c)
- Fair Labor Standards Act of 1938, as amended (29 USC 201, et seq.)

The construction bids and contract for any NSP2-assisted activity must contain the applicable wage provisions and labor standards. Davis-Bacon does not apply to projects using solely volunteer labor or to sweat equity projects. The City of Modesto will monitor all developments subject to Davis-Bacon requirements to ensure compliance with all applicable regulations.

4.9 Debarment and Suspension

The City of Modesto will require participants in lower-tier transactions covered by 24 CFR 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction. Any participant that remains on a debarred or suspended condition shall be prohibited from participation in the City of Modesto NSP2 as long as they are classified in this manner.

4.10 Relocation

NSP2 funds are intended ONLY for use in purchasing/improving properties that have been abandoned and foreclosed. As such, most properties are expected to be vacant at the time of appraisal and offer to acquire. Should there be residents in any foreclosed property considered for NSP2 assistance, potential awardees must follow the residential anti-displacement and relocation
plans in effect and outlined in the State’s approved Consolidated Plan and all applicable Uniform Relocation Assistance and Real Property Acquisition Act (URA) of 1970 provisions. Applicable regulations can be found at 49 CFR Part 24.

4.11 Audit

The City of Modesto requires that non-profit recipients expending more than $500,000 in Federal awards in a given fiscal year have an audit conducted in accordance with Generally Accepted Accounting Principles (GAAP) and the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.”

4.12 Reporting Requirements

The City of Modesto is required to submit quarterly performance reports to HUD no later than thirty (30) days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award (i.e., August 1, 2009) and continuing until all funds are expended and the program is closed out. Accordingly, all NSP2 awardees will be required to submit during the projects process documentation to demonstrate their performance information to the City of Modesto by established deadlines conducive for the City to meet its reporting requirements. The required information will include, but not be limited to, the following:

- Project name
- Project activity
- Project location
- NSP2 Eligible use
- CDBG national objective
- Budgeted funds
- Expended funds
- Funding source
- Total amount of any non-NSP2 funds
- Numbers of properties and housing units assisted
- Beginning and ending dates of activities
- Numbers of low, moderate, and middle-income persons or households benefiting
- Demographic data for households benefiting

To collect the data elements and to meet its reporting requirements, the City of Modesto will use the online DRGR system to report on its NSP2 funds to HUD. When it submits the report to HUD, the City of Modesto will post a copy of the NSP2 DRGR report on the City’s website for the public to review.

4.13 Program Income (24 CFR 570.503(a), (b)(3) and (7), and 570.504)

- The term “program income” means any gross income received by the subrecipient that was directly generated from the use of NSP2 or CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:
  - Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds.
  - Proceeds from the disposition of equipment purchased with CDBG funds.
- Gross income from the use or rental of property acquired by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
- Gross income from the use or rental of property owned by the grantee or subrecipient that was constructed or improved with CDBG funds, less any costs incidental to the generation of such income.
- Payments of principal and interest on loans made using CDBG funds.
- Proceeds from the sale of loans made with CDBG funds.
- Proceeds from the sale of obligations secured by loans made with CDBG funds.
- Interest earned on program income, pending the disposition of such program income.
- Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where such assessments are used to recover part or the entire CDBG portion of a public improvement.

- Program income does not include (except for funds in lump-sum drawdown accounts), the interest earned on cash advances from the grantee or funds held in a revolving loan fund account. Such interest must be returned to the grantee for remittance to HUD.

- When income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used to determine the portion that is program income.

- The written agreement between the subrecipient and the grantee will specify whether any program income received by the subrecipient is to be returned to the grantee or retained by the subrecipient for use in carrying out CDBG activities.

- If the program income is to be retained by the subrecipient, the written agreement will also specify what CDBG-eligible activities the subrecipient may undertake with the program income.

- The receipt and expenditure of program income must be recorded by the subrecipient as part of its records of financial transactions.

- When a subrecipient retains program income, such income must be used for any authorized activity before drawing down additional grant funds from the grantee, except in the case of a revolving fund. In the case of program income in a revolving fund, the subrecipient must use the program income for the activity for which the revolving fund was established, before drawing down additional grant funds for that activity.

- At the expiration of the Subrecipient Agreement, any program income on hand or subsequently received by the subrecipient must be returned to the grantee.

### 4.14 Monitoring

During the period of affordability, the City of Modesto will perform annual on-site compliance and monitoring inspections of all single-family and multi-family developments utilizing NSP2 funds to determine compliance with the applicable regulations and requirements outlined in this manual and NSP2 regulations.

- This monitoring will consist of the following:
  - All participating NSP Developers
  - All NSP Rental Properties
  - All NSP Re-Sale Properties
• Developers will be notified of their monitoring date and time through a formal letter no less than 2 weeks prior to the date of monitoring. The letter contains information notifying the developer as to which program is being monitored, which properties are being reviewed, and the type of monitoring being conducted.
  o Type of monitoring is dependent on which program component is being monitored by City of Modesto Staff. Types of monitoring are as follows:
    * "Windshield" Inspection - Upon sale of the property to a qualified buyer, notification of annual inspection and guarantee of general property upkeep is agreed to by the buyer for the life of the affordability covenant.
      • A "Windshield" inspection is done annually to ensure that the exterior of the home is adequately maintained and that the property does not become blight to the neighborhood. This 10 point visual inspection is done by a City of Modesto housing inspector.
      • Upon completion, any egregious concerns are turned over to the Neighborhood Preservation Unit and the property will be served with a Notice of Violation.
    * Physical Monitoring - Every property shall be physically inspected by city staff on an annual basis for property damage, code violations, and maintenance issues and concerns (primarily Rental Properties).
      • The Developer/Property management firm informs the current tenant of the time and date of the city inspection.
      • A City of Modesto housing inspector does a full 145 point walkthrough of the facility and grounds. For multi-unit properties HOME guidelines are followed and 20% of the units are reviewed (rounded up).
      • The property is given a Pass/Fail/Concern check on all 145 points of the inspection. Once completed, the inspector determines if any of the deficiencies are severe enough for a FAIL result on the property as a whole or if the item is a "Concern" to reinsert at the next monitoring.
      • A carbon copy of the inspectors report is given to the accompanying staff member or developer representative. If the items that are discovered are easily remedied, and the developer says that they will fix the items immediately, a 2 week period of time will be allowed before an unresolved finding is recorded.
    • Developer File Monitoring:
      • Developers are expected to annually provide to City Staff a completed "Rental Housing Project Compliance Report" (City of Modesto Monitoring Form 2-A) prior to staff conducting a monitoring session. Form 2-A is a program summary containing all pertinent data for the monitoring and serves as a starting point for data verification.
      • Developer monitoring will be conducted at the developer's place of business or at the City of Modesto (optional).
      • Monitoring Form 1-A: Developer Compliance (File Monitoring), is a checklist utilized by the City of Modesto to verify developer specific information and documentation dealing with:
        o Program Compliance
        o Rental Compliance
• Monitoring Form I-C: Acquisition & Rehab (File Monitoring), is a checklist utilized by the City of Modesto to verify property specific information and documentation dealing with
  o Property Acquisition
  o Construction/Rehabilitation
  o Property Financials

• NSP Rental Property Monitoring:
  • Developers are expected to annually provide to City Staff a completed “Recertification Packet” for every tenant at the time of lease renewal. This information will be used in conjunction with Monitoring Form 2-A to provided a basis for monitoring of the developer’s tenant files. The “Recertification Packet” consists of:
    o Part V Income Certification (Section 8 method)
    o Household Characteristics form
  • Monitoring Form I-B: Tenant Compliance & Verification (File Monitoring), is a checklist utilized by City of Modesto Monitoring Staff to verify that the developer is complying with program guidelines for rent and occupancy.

• Monitoring Follow-Up
  o When both the Physical and File Monitoring have been completed, staff will draft one of 2 letters and send them to the developer stating the results of the findings: Finding Letter or Clearance Letter. As clarification, a “finding” is an element which does not comply with a federal or state statute or regulation; whereas a “concern” represents a potential finding or a program deficiency that should be improved before it leads to a finding.
    • Finding Letter
      • This letter notifies the developer that one or more serious issues were uncovered during the course of monitoring. It will identify whether the finding was discovered during the Physical Monitoring or the File Monitoring, the nature of the finding and the remedy available.
      • The developer has 30 days to respond to the City of Modesto with their corrective actions at which point an additional inspection will be done within a reasonable timeline.
    • Clearance Letter
      • This letter informs the developer that there were no findings discovered during the monitoring and their property has been cleared for 1 year.
      • If there are any concerns that were discovered during the monitoring, the letter will disseminate the details. Any concerns will be inspected at the next monitoring, and staff will determine if the concern had graduated to a finding.
Section 10 - Neighborhood Stabilization Program 2
Homebuyers Program
Policy and Procedure
(NSP 2)

City of Modesto City Council Approved by Resolution 2012-119

*These policies supersede any previously adopted policies and are subject to review and revision by the City of Modesto Housing Rehabilitation Loan Committee.
City of Modesto
Procedures for the Neighborhood Stabilization Program 2 (NSP2)
Homebuyer’s Program

Program Description

The Neighborhood Stabilization Program 2 (NSP2) is funded by the U.S. Department of Housing and Urban Development (HUD) to assist program eligible low/moderate/middle income (LMMI) homebuyers to purchase selected homes within the city limits of Modesto. The homes available for purchase are previously foreclosed and vacant homes, purchased and rehabilitated by City approved developers to create “move-in ready” homes.

The sales price of the homes will be determined by an appraisal required after the property repairs have been completed. Homebuyers will assume the existing loan made to the developer by the City of Modesto. The loan will be a 30-year fixed rate mortgage at the rate of 3%. Homebuyers may select terms of less than 30 years. The monthly payment will include money for the payment of taxes and insurance, referred to as impounds.

HUD requires the Neighborhood Stabilization Program funding to be expended where continued affordability of the home is ensured. The City loan requires that the homebuyer occupy the home as their primary residence for a minimum of 25 years, referred to as the Affordability Period. The homebuyer will not be allowed to rent the home during the Affordability Period.

If the homebuyer sells, transfers title, rents, or fails to occupy the home during the Affordability Period, the homebuyer must pay the City a portion of the net equity in the home, referred to as “recapture.” This is in addition to the principal and interest owed on the City loan. If the homebuyer sells, transfers, rents, or fails to occupy the home during the first 12 months of the Affordability Period, the homebuyer must payoff the City loan and the City is entitled to 50% of the net equity. The City’s share will decrease 2% per year, until year 25. After the end of the 25-year Affordability Period, the City will no longer be entitled to any portion of the equity of the home, only any remaining principal and interest owed on the City loan.

Even if the homebuyer is able to payoff the City loan prior to the end of the Affordability Period, the City’s recapture of net equity will remain in effect until the end of the 25-year Affordability Period.
Applicant Program Eligibility Requirements

Applicant(s) must meet the following eligibility requirements:

- The household's annual income must be between 50% and 120% of the Area Median Income (AMI). This is adjusted for family size for Modesto (See income limits).
- Applicant(s) must live within the City of Modesto limits for the past six (6) consecutive months, or been employed in the City of Modesto limits for the past (6) months.
- Head of household's and co-head(s) of household's credit score must be 620 or higher.
- Applicant(s) must contribute a minimum initial investment of 1% of the sales price of the home to the transaction and must be the applicant's own funds.
- No household member may have title to any other property.
- Applicant(s) must complete an eight (8) hour homebuyer counseling class from a HUD-approved housing counseling agency.
- Applicant(s) must occupy the property as their principal residence.
- Applicant(s) must have a satisfactory history of employment, no foreclosure, short sale of a property, or open bankruptcy during the last three years.
- Applicant(s) must meet U.S. residency requirements.

Determining Program Eligibility

- The interested homebuyer will contact the City of Modesto Parks, Recreation and Neighborhoods Department at 577-5451.
- Staff will explain program guidelines and requirements and ask the potential homebuyer a series of questions that relate to program eligibility. Based on preliminary information, staff will estimate the loan amount the applicant(s) (potential homebuyer) could be eligible for.
- If the applicant wishes to proceed and appears to meet program eligibility requirements, staff will mail the applicant an intake package for completion. The package will include an intake application form and a checklist of required documents that must be returned with the intake application.

If City receives an incomplete intake package, the applicant is notified of the missing documentation. The intake package will not be processed until all required documents are received by the City.

After the City receives the completed intake form and required documents, staff will determine the applicant(s) program eligibility as follows:

- Does the applicant meet the residency requirements?
- Is the current household income between 50% and 120% of Median Area Income based on household size?
- Does the applicant(s) appear to have a satisfactory employment history?
• Does applicant have proof of the required 1% participant contribution on deposit?
• Is any member of the household currently on title to any other property?

Staff will contact one of the two City approved Loan Agents to obtain a credit report on the applicant(s) to ensure the applicant(s) meet the required credit score of 620 or higher. The credit report will contain credit scores for Equifax, Experian, and TransUnion. The middle credit score must be 620 or higher to be eligible for the program. If the credit report indicates an existing mortgage loan, or if the credit report indicates a foreclosure, short sale, or bankruptcy within the last three years, the applicant(s) will be considered ineligible. A letter of explanation will be mailed to the applicant. If staff determines the applicant(s) will benefit from credit counseling, staff will refer the applicant(s) to a HUD approved credit counseling agency.

After the applicant has passed the pre-screening process for eligibility, staff will contact the designated City approved Loan Agent to begin the loan pre-qualification process.

**Loan Agent Loan Pre-qualification Process**

The City will forward the designated Loan Agent a copy of the intake package. The Loan Agent will assign the intake package to a loan representative. The loan representative will contact the applicant and request copies of any documents not submitted in the City intake package. The loan representative will schedule a time to meet with the applicant to complete the loan application and answer any questions either may have.

The application package will include:
- Loan Application (Fannie Mae form 1003)
- Borrower's Certification and Authorization
- Servicing Disclosure Statement
- Federal ECOA
- Customer Identification Verification and AKA
- IRS 4506
- Fair Lending Notice
- Consumer Caution and Home Ownership Counseling Notice
- California Credit Score Notice
- Credit Score Disclosure
- Disclosure of Credit Score Information
- Patriot Act Information Disclosure
- Addendum to Loan Application (domestic partnership disclosure)
- Mortgage Loan Disclosure Statement
- Truth in Lending (TIL)
- Good Faith Estimate (GFE)
- Receipts for TIL and GFE, both federal and state forms
After the property is selected:

- Lead Based Paint Disclosure, if property built prior to 1978 (cannot be completed until the property has been identified)

Within the allowable time, the Loan Representative will send the applicant the Truth in Lending, Good Faith Estimate, GFE, other disclosures requiring signatures, and the City approved cover letter.

The disclosure of fees is the responsibility of the Loan Agent and not limited to the following information:

- No mortgage insurance
- No flood cert or insurance required on any NSP properties
- No appraisal (appraisal will have been completed by developer to establish the sales price)
- Escrow and title fees applicable to escrow company
- The only recording charge will be for the Grant Deed—the City is exempt from a recording fee for the Deed of Trust and Covenants, Conditions, and Restrictions document.
- Property taxes (loans closing after November 1 must have December 10 installment paid; loans closing after March 1 must be the April 10 installment paid)
- Hazard Insurance
- Impounds
- The buyer will contribute 1% of the sales price of the home which will go toward the closing costs. The remaining fees will be paid by the seller, including a one-year home warranty.

The Loan Agent will process the loan application, using standard Federal Housing Administration (FHA) requirements and best practices. The credit package will be submitted to the Loan Agent’s FHA certified underwriter for approval, without a property address. The underwriter will determine the applicant’s home purchasing power. Under the NSP2 program guidelines, the monthly housing ratio, including principal, interest, taxes, insurance, homeowner’s dues, should not exceed 30% of the household’s qualifying income. The total debt to income ratio should not exceed 43% of the household’s qualifying income. If there are compensating factors available to the FHA underwriter under FHA guidelines, exceptions can be made. The FHA underwriter may consult with the City regarding any underwriting flexibility allowed under FHA guidelines.

Note: The household’s qualifying income may be less than the household’s total income that is used to determine eligibility. For example, the co-head of household may have a sporadic employment history. Although the co-head of household may have current income that must be included for eligibility purposes, this income may be disqualified by the underwriter for loan pre-qualification or approval purposes.
If the FHA underwriter denies the credit approval, the Loan Agent will notify the City. A letter will be sent to the applicant with the reason for denial. A copy of the denial letter must be forwarded to the City.

If approved by the FHA underwriter, the Loan Agent will issue the standard pre-qualification letter to the applicant(s) and send a copy to the City. The letter must state the loan conditions and loan terms, including the 25-year Affordability Period.

**Homebuyer’s Class**

If the applicant has not already attended a homebuyer’s class, the applicant(s) must attend an 8-hour homebuyer counseling class from a HUD certified agency. The applicant is responsible for the class fee, if any is charged by the agency. The agency will issue the applicant a Certificate of Completion for the class and the applicant must submit a copy of the Certificate of Completion to the Lender and the City.

**Selecting a Home**

The price of the home will be the lesser of the after rehabilitation appraised value or the project cost. The project cost is the acquisition cost of the property and the rehabilitation costs.

After the applicant has received the Loan Agent’s pre-qualification letter and received a Certificate of Completion for the 8-hour homebuyer’s class, the applicant may contact City staff to be given a list of homes available for purchase within their pre-qualified price range. The home listing(s) will indicate the sales price or estimated sales price, description of home and amenities, etc.

When the applicant wishes to view a home(s), the applicant will contact City staff to schedule a viewing of the property (ies). Homes will be available on a first come, first serve basis for any applicant who has been pre-screened by the City, pre-qualified by the City approved loan agents AND completed the 8-hour homebuyer counseling class. After viewing a property, the applicant will be given 24-48 working hours to decide if they wish to purchase the home.

If the repairs to the home are not complete and the buyer wishes the City to “hold” the property for them, the buyers must sign a Statement of Interest form and return it to the City, along with a $500 check payable to the City of Modesto. Only one property at the time can be reserved by a homebuyer. The Statement of Interest form and check must be received by the City prior to the established deadline. If the deadline has passed and the applicant does not wish to purchase the home, the home will become available to the next applicant pre-qualified for the home.

If all repairs to the home are complete when the buyer views and decides to purchase the property, the City will facilitate a purchase contract to be signed by the buyer and
seller. At the time of contract signing, the buyer must submit a check for 1% of the purchase price of the home, less any deposit already paid to the City of Modesto. The City will forward any City held deposit to the escrow/title company.

Terms of the contract are non-negotiable and are as follows:

- The sales price will be pre-determined.
- The buyer’s contribution will be 1% of the sales price. The buyer’s good faith deposit of $500 will be credited towards the 1% contribution and the remaining deposit must be paid into escrow. All funds will be held by the escrow company and applied to costs at closing.
- The seller will provide a termite clearance, not more than 90 days old.
- If the home was built prior to 1978, the seller will provide a copy of the lead based paint clearance.
- The buyer will receive a one year warranty paid by the seller. The seller paid cost will be paid through City financing of the property.
- Closing costs in excess of 1% of the sales price of the home will be paid by the seller. The seller paid cost will be paid through City financing of the property.
- The City will utilize the same escrow/title company that was used on the first purchase of the property, resulting in cost savings.
- The transaction closing date will be no more than 45 days after the acceptance of the contract.

The buyer will receive one-year Comprehensive Plus Plan home warranty from Fidelity National Home Warranty at the close of escrow. It is the responsibility of the buyer to know what coverage the home warranty will include. Additional warranty coverage for items not included in the Comprehensive Plus Plan may be eligible for purchase, at the buyer’s expense. The buyer should consult Fidelity National Home Warranty at 1-800-862-6837 for additional information. Buyers will be responsible for any home repairs not covered by the warranty, or after expiration of the warranty.

The City encourages all homebuyers to have a home inspection completed by a qualified home inspector prior to purchasing the property. Home inspection companies can be found in the phone book under “Home Inspection Services.” The buyer must pay out-of-pocket for the home inspection, but the cost can be refunded to the buyer at the close of escrow, not to exceed $400.

**Final Loan Approval**

The accepted sales contract, appraisal, property inspections, etc, will be sent to the Loan Agent. The Loan Agent will obtain the preliminary title report from the pre-determined escrow/title company.

The Loan Agent will contact the buyer if updated documents are needed, such as updated pay stubs, and update the loan file with any necessary information. The file, along with appraisal, preliminary title report, and other applicable property information, will be re-submitted to the FHA underwriter for final approval. The underwriter will
determine any conditions that must be met prior to the documents being signed, or prior to loan closing.

The Loan Agent will prepare and send the standard loan approval letter to the buyer. The letter must state the loan conditions and loan terms, including the 25-year Affordability Period.

If the underwriter does not approve the loan, but recommends an exception not allowable under FHA best practices, the underwriter can recommend that the loan be approved.

All loans must be submitted to the Housing Rehabilitation Loan Committee for approval. The Loan Agent must submit information must be to the City and City staff will prepare the committee agenda report.

If the loan is denied by the underwriter or the loan committee, a denial letter will be sent to the buyer and a copy will be submitted to the City. The City will notify the Seller, and the home will come available to other pre-qualified applicants.

Closing

The Loan Agent will prepare the loan documents on behalf of the City of Modesto and under the City's name. The Promissory Note, Deed of Trust Loan Agreement, Declaration of Conditions, Covenants and Restrictions will be prepared by the City and sent to the Loan Agent. The Loan Agent shall provide final Lenders Instructions and all other loan documents as determined by the Loan Agent.

The Loan Agent shall prepare and send the Lender Instructions to the local escrow/title company.

All prior to document conditions must be cleared before the buyer executes the loan documents.

Loan Agent shall have the buyer sign the loan documents at their office to ensure that the buyer understands the owner occupancy requirement and the terms of the 25-year Affordability Period.

It may take five to six working days from the time the documents are signed by the buyer until the loan is ready to close. The City documents must be returned to the City of Modesto for review and signatures in the following order: Parks, Recreation and Neighborhoods Department, Risk Manager, City Attorney, City Manager, and City Clerk. After the documents are signed by City staff, an electronic file of the loan documents will be sent to the Loan Agent for funding. The original Deed of Trust and Declaration of Conditions, Covenants and Restrictions will be sent directly to the local escrow/title company. The original Promissory Note and Loan Agreement will be retained by the City of Modesto.
After the Loan Agent has verified all of the required documents have been completed and verified all funding conditions, the Loan Agent's assigned funder will notify City staff that the loan is ready to fund. The City will also verify that escrow/title is ready for funds. The City shall fund by check or wire.

**Post-Closing**

After the escrow/title company receives the funds, the documents will be recorded with the Stanislaus County Recorder on the following day. The escrow agent shall:

- Notify Loan Agent, developer and City staff that documents were recorded.
- Send Final HUD 1 and certification of recorded documents to the City.
- Return any excess funds to the City of Modesto via delivery to 1010 Tenth Street, Suite 4300, Modesto.
- Prepare checks for fees for Loan Agent, vendors, such as insurance companies, service providers, etc.
- Prepare check for impounds payable to Community Reinvestment Fund (CRF), 801 Nicollet Mall, Suite 1700 West, Minneapolis MN 55402 c/o of City of Modesto.

The City will prepare and transmit the Loan Servicing Set-Up Sheet to CRF and send the impound check to CRF for processing. A copy of the following documents must be submitted to CRF:

- Copy of Promissory Note
- Final HUD or record of impound amounts
- Impound analysis
- Copy of property insurance

The City will send the buyer a letter indicating the loan has been sent to CRF for servicing.

After post-closing reconcilement the Loan Agent will send the buyer's loan file to the City. The Loan Agent will keep copies of any information necessary for the follow-up of the Lender Loan Title Policy.

City staff will prepare the financial file containing the original loan documents and deliver to City Finance Department. Finance will prepare the accounting entries for the loan and the financial file will be held with other financial files, currently in the Parks, Recreation and Neighborhoods Department. The original recorded documents and the Lender Title Policy will be added to the financial file upon receipt. The working file will be held by the Parks, Recreation and Neighborhoods Department.

The Loan Agent will be responsible for receipt and review of the Loan Title Policy (LTP) within 45 days of closing. If the City receives the LTP directly from the escrow/title company, the City will forward the LTP to the Loan Agent for review. The Loan Agent will verify the accuracy of the LTP and submit it to the City with a cover sheet.
Section 11 - Neighborhood Stabilization Program 3
Policy and Procedure
(NSP 3)

City of Modesto City Council Approved by Resolution 2011-41 on February 8, 2011

*These policies supersede any previously adopted policies and are subject to review and revision by the City of Modesto Housing Rehabilitation Loan Committee.
1. NSP3 Grantee Information

<table>
<thead>
<tr>
<th>NSP3 Program Administrator Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name (Last, First)</td>
</tr>
<tr>
<td>Email Address</td>
</tr>
<tr>
<td>Phone Number</td>
</tr>
<tr>
<td>Mailing Address</td>
</tr>
</tbody>
</table>

2. Areas of Greatest Need

Map Submission
The map generated using the HUD NSP3 Mapping Tool for Preparing Action Plan website is included as an attachment. (Neighborhood ID: 3250649)

Data Sources Used to Determine Areas of Greatest Need
Describe the data sources used to determine the areas of greatest need.

Modesto

Metropolitan area data for the first half of 2010 indicate that Modesto is the third hardest hit (i.e., third highest foreclosure rate) in the U.S. and the hardest hit in California (RealtyTrac). Also according to this source, 2 of every 3 homes sold in the Modesto metropolitan area in 2010 have been either foreclosed upon or are “short sale” properties. Since the fall of 2006, 21,000 Modesto metropolitan area properties have been lost to foreclosure; approximately 1 in every 8 homes (ForeclosureRadar).

Other realities of the economic recession in Modesto include a 16.4% unemployment rate as of August 2010 — a 1.1 percentage point rise from August 2009 and much higher than the national average of 9.6% as of August 2010 (Bureau of Labor Statistics’ Current Employment Statistics [CES] Survey).

Modesto also has an astounding high rate of poverty. An analysis of the country’s 100 largest metropolitan areas, based on recently released data from the 2009 American Community Survey (ACS) indicates that the economic recession is exacerbating the climbing poverty trend in Modesto where the poverty rate is among the highest in the U.S. at 19% — a 3.6 percentage point rise from 2007 to 2009 (Brookings Institution analysis of 2007, 2008, and 2009 American Community Survey data).

Areas of Greatest Need

Neighborhood Stabilization Program 3 (NSP3) Need Score is calculated using the following data:
1) Unemployment change from March 2005 to March 2010;
2) Rate of A) low cost, high leverage loans; B) high cost, high leverage loans; and C) high cost, low leverage loans from 2004-2007; and
3) Fall in home value since peak.


The Airport Neighborhood located in (and composing most of) census tract 21.00, one of the City of
Modesto's 14 low-income census tracts (i.e., census tracts with median household incomes that do not exceed 50% of broader Area Median Income (AMI)), scored the highest possible NSP3 Need Score of 20. While 13 of the City of Modesto's 14 low-income census tracts scored 20, the Airport Neighborhood demonstrated to have the highest in the following risk indicators:

A) Percentage of residential addresses vacant 90 or more days (13.7%);
B) Combined percentage of residential addresses vacant 90 or more days and residential addresses classified as no-stat (16.7%); and
C) Estimated percentage of delinquent mortgages (25.7%).

These data are presented in attached tables.

Determination of Areas of Greatest Need and Applicable Tiers

Describe how the areas of greatest need were established and whether a tiered approach is being utilized to determine the distribution of funding.

Satisfying the "Deep" or "Strict" Targeting Requirement of NSP3

The determination of the area of greatest need is informed by the rich data available, as well as the recognition that NSP3 funding is insufficient to make the desired impact in a larger geographic area. Land banking, acquisition and rehabilitation, redevelopment, and demolition activities will be integrated into a comprehensive revitalization strategy to reverse key indicators of persistent and extremely high: 1) unemployment and underemployment; 2) vacancy and abandonment; and 3) blight.

Modesto is a geographically expansive city and while high rates of foreclosure and vacancy are, unfortunately, not unique to the Airport Neighborhood, the substantial leveraging of resources – public and private, as well as social (resident leadership and broader community commitment to the neighborhood) – is quite extraordinary. Planned and potential leveraging opportunities include: collaboration with Stanislaus County Department of Planning and Community Development (NSP3) and Redevelopment Agency (Housing Set-Aside) activities in the neighborhood; both City of Modesto and Stanislaus County will collaborate with the Housing Authority of the County of Stanislaus, which will serve as subrecipient (developer and land bank operator); partnerships with financial institutions for Community Reinvestment Act (CRA) activities; and positioning this highly coordinated NSP3 project to be more competitive for YouthBuild, Choice Neighborhood, and other federal grant opportunities.

The economic reality of the Airport Neighborhood is quite distinct from the economic realities in other neighborhoods in Modesto. In addition to the high rate of foreclosure, the degree of blight and abandonment in the Airport Neighborhood is extremely high, as is evident in the data presented in the attached tables and analyses.

Unlike NSP1 and NSP2, NSP3:

1) Has been designed to address the unique needs of the Airport Neighborhood through NSP activities that go beyond acquisition and rehabilitation;
2) Will leverage substantial resources through unprecedented collaboration with Stanislaus County and its NSP3 and Redevelopment Agency activities;
3) Will expand the production capacities of the three major development partners: City of Modesto, Stanislaus County, and the Housing Authority of the County of Stanislaus; and
4) Will create extraordinary opportunity for public-private partnership for the benefit of the residents of the Airport Neighborhood, including vicinity hiring to the maximum extent feasible.

Recognizing the importance of an engaged community in an effective land banking project, NSP3 will create a dedicated position that will carry out several critical functions consistent with the delivery of NSP3 activities, including: liaising with residents and other stakeholders; facilitating vicinity hiring to the maximum extent feasible; and pursuing leveraging opportunities, both public and private. This position will help maintain the momentum of commitment in the neighborhood.

3. Definitions and Descriptions

Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blighted Structure</td>
<td>A structure is blighted when it exhibits objectively determinable signs of deterioration or abandonment to constitute a threat to human health, safety, and/or public welfare; and/or its appearance is inconsistent with the surrounding landscape.</td>
</tr>
<tr>
<td>Affordable Rents</td>
<td>Consistent with the U.S. Department of Housing and Urban Development (HUD) definition of affordable housing, the City defines affordable rents (including utilities) as costing no more than 30% of a household's gross monthly income.</td>
</tr>
</tbody>
</table>

Descriptions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-Term Affordability</td>
<td>Continued affordability will be ensured through a restrictive affordability period and will be in effect for a period based on the level of assistance consistent with the HOME Investment Partnerships Program regulations of up to 20 years (24 CFR 92.252(a), (c), (e) and (f), and 92.254) and will require covenants to be recorded on the properties with housing end uses. If other sources of funds are used for housing development, covenants longer in duration may be recorded on these properties. Properties for sale will at all times be occupied as the principal residence of the owner and will not be rented, leased, or sold. The covenants and restrictions will run with the land and will be binding on future owners of the property. The City will monitor the properties for owner occupancy, income qualification, and other requirements as applicable on an annual basis. Note: This affordability relates to individuals or families whose incomes do not exceed 120% of Area Median Income (AMI) or, for units originally assisted with funds under the requirements of section 2301(f)(3)(A)(ii) of the original statute of NSP (Housing and Economic Recovery Act of 2008), to remain affordable to individuals and families whose incomes do not exceed 50% of AMI.</td>
</tr>
<tr>
<td>Housing Rehabilitation Standards</td>
<td>The City will apply HUD's Housing Quality Standards (HQS) to all rehabilitation activities. HQS consists of the following 13 performance requirements: 1) sanitary facilities; 2) food preparation and refuse disposal; 3) space and security; 4) thermal environment; 5) illumination and electricity; 6) structure and materials; 7) interior air quality; 8) water supply; 9) lead-based paint; 10) access; 11) site and neighborhood; 12) sanitary conditions; and 13) smoke detectors. Additionally, the City will rely on its highly experienced building inspection unit to ensure compliance with rigorous state and local building codes. Note: California Building Code (California Code of Regulations, Title 24, Part 2), effective January 1, 2011, exceeds federal green standards.</td>
</tr>
<tr>
<td>Affordable Rental Housing Preference</td>
<td>City of Modesto will establish procedures to create preferences for the development of affordable rental housing with NSP3 funds. This will be achieved through partnership with the Housing Authority of the County of Stanislaus (subrecipient).</td>
</tr>
<tr>
<td>Vicinity Hiring</td>
<td>City of Modesto will update its Section 3 certification process to require contractors make good faith efforts to provide to the maximum extent feasible, opportunities to local residents and business concerns and, specifically, promote NSP3 vicinity hiring in the Airport Neighborhood.</td>
</tr>
</tbody>
</table>

Additional Definitions and Descriptions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreclosed Upon</td>
<td>1. The property is at least 60 days delinquent on its mortgage and the owner has been notified; or 2. The property owner is 90 days or more delinquent on tax payments; or 3. Under state or local law, foreclosure proceedings have been initiated or completed; or 4. Foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, subrecipient, developer, or end user.</td>
</tr>
<tr>
<td>Abandoned</td>
<td>1. No mortgage or tax payments have been made by the property owner for at least 90 days; or 2. A code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies. Note: Section 301 of the Uniform Relocation Act (URA), regarding just compensation, does not apply to voluntary acquisitions.</td>
</tr>
<tr>
<td>Homes and Residential Properties</td>
<td>Any type of permanent residential dwelling unit, including detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes where treated under state law as real estate (not as personal property).</td>
</tr>
<tr>
<td>End Use or Re-Use</td>
<td>Disposition or ultimate purposing of property in land banking and redevelopment. For example, two adjacent properties are acquired; one property is vacant land, the other has a blighted structure; land bank demolishes blighted structure – end use may be development of affordable housing on these properties or re-use from housing to mixed-use development project with community facility (NSP3 funds are only for residential development activities but may be combined [on a proportional basis] with other funds that allow for non-residential development activities).</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Mixed-Use Development</td>
<td>A type of development that combines residential, commercial, and/or office into one development or building. For example, a mixed-use building could have several floors, with the bottom floor dedicated to retail or office and the remaining floors above for apartments or condominiums (NSP3 funds are only for residential development activities but may be combined [on a proportional basis] with other funds that allow for non-residential development activities).</td>
</tr>
<tr>
<td>Acquisition and Rehabilitation (NSP Eligible Use B)</td>
<td>Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.</td>
</tr>
<tr>
<td>Land Bank (NSP Eligible Use C)</td>
<td>Establish and operate land banks for homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties. Operations of a land bank include maintenance expenses, such as project delivery costs eligible under disposition and interim uses that comply with an eligible activity. Land banked property and demolished property are just interim uses for which end uses must be planned (e.g., housing [redeveloped on the property], sale [or donation] of the property as side lots to low-, moderate-, and middle-income [LMMI] neighbors, etc.) Note: Any type of structure (commercial, industrial, and other types in addition to homes and residential structures) that is blighted may be demolished with NSP funds. In general, demolition must have an end use that benefits low-, moderate-, and middle-income (LMMI) persons. Also, if the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.</td>
</tr>
<tr>
<td>Redevelopment (NSP Eligible Use E)</td>
<td>Redevelop demolished or vacant properties. This activity allows communities to address the broadest range of property types, as it allows for the acquisition and development of any property type (i.e., properties that were once developed or are surrounded by existing development – undeveloped</td>
</tr>
</tbody>
</table>
or "greenfield" sites are not permitted). This includes commercial or industrial property in addition to all types of residential properties (need not be abandoned or foreclosed upon). However, it must be vacant. New housing construction is only permitted under this activity. Housing rehabilitation is also permitted.

**Additional NSP Eligible Use Considerations**

Properties that are eligible to be land banked with unknown end uses, or for which the end use is not imminent, should be considered for land banking activity (assuming that these properties have been foreclosed upon). Unlike land banking activity, properties acquired and improved under redevelopment activity must proceed expeditiously to construction. Note: The City is not required to meet the requirements of 42 U.S.C. 5304(d) as implemented at 24 CFR 42.375, which mandates one-for-one replacement of low- and moderate-income dwellings units that are demolished or converted for activities assisted with NSP funds.

### 4. Low-Income Targeting

**Low-Income Set-Aside Amount**

Enter the low-income set-aside percentage in the first field. The field for total funds set aside will populate based on the percentage entered in the first field and the total NSP3 grant.

| Total low-income set-aside percentage (must be no less than 25%): | 25.00% |
| Total funds set aside for low-income households = | $725,000.00 |

**Meeting Low-Income Target**

Provide a summary that describes the manner in which the low-income targeting goals will be met.

At least $725,000 will be used for housing individuals and families whose incomes do not exceed 50% of Area Median Income (AMI). Low-income targeting goals will be met primarily through housing development primarily for the creation of affordable rental opportunities (due to persistently and extremely high unemployment and underemployment), as well as affordable homeownership opportunities to the maximum extent feasible.

While the creation of affordable rental opportunities will be highest priority, the City of Modesto also plans to design an innovative and comprehensive homeownership program similar to a lease-to-own program that will provide low-income households with asset-building tools necessary to sustain homeownership.

Given the economy of scale of its production capacity and its extensive experience in affordable housing development and program management, the Housing Authority of the County of Stanislaus will develop,
own, operate, and maintain NSP3 properties. As subrecipient, the Housing Authority of the County of Stanislaus engages contractors and, in consultation with the City of Modesto, may engage developers, particularly City of Modesto-designated Community Housing Development Organizations (CHDOs).

5. Acquisition and Relocation

Demolition or Conversion of LMI Units

Does the grantee intend to demolish or convert any low- and moderate-income dwelling units (i.e., ≤ 80% of Area Median Income)? (Select One)

If yes, fill in the table below.

<table>
<thead>
<tr>
<th>Question</th>
<th>Number of Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>The number of low- and moderate-income dwelling units—i.e., ≤ 80% of Area Median Income—reasonably expected to be demolished or converted as a direct result of NSP-assisted activities.</td>
<td>10</td>
</tr>
<tr>
<td>The number of NSP affordable housing units made available to low-, moderate-, and middle-income households—i.e., ≤ 120% of Area Median Income—reasonably expected to be produced by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion).</td>
<td>8</td>
</tr>
<tr>
<td>The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50% of Area Median Income.</td>
<td>7</td>
</tr>
</tbody>
</table>

6. Public Comment

Citizen Participation Plan

Briefly describe how the grantee followed its citizen participation plan regarding this proposed substantial amendment or abbreviated plan.

City of Modesto ensures that all citizens have equal access to information regarding and sufficient notice of the opportunity to comment on this document. In addition to posting this document on the City's website as the materials are developed, published, and submitted to HUD; and publication of notices soliciting public comment in the largest English- and Spanish-language local newspapers — City staff created opportunities to engage English- and Spanish-speaking residents of the area of greatest need (for the purposes of NSP3) in neighborhood meetings in the Airport Neighborhood to solicit input during the development of this document. Consistent with the U.S. Department of Housing and Urban Development (HUD) Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants (Docket No. FR-5447-N-01 [NSP3 Notice]), the City has published this document for no less than 15 calendar days of public comment.

Summary of Public Comments Received.
The summary of public comments received is included as an attachment.
7. NSP Information by Activity

Enter each activity name and fill in the corresponding information. If you have fewer than seven activities, please delete any extra activity fields. (For example, if you have three activities, you should delete the tables labeled “Activity Number 4,” “Activity Number 5,” “Activity Number 6,” and “Activity Number 7.” If you are unsure how to delete a table, see the instructions above.

The field labeled “Total Budget for Activity” will populate based on the figures entered in the fields above it.

Consult the NSP3 Program Design Guidebook for guidance on completing the “Performance Measures” component of the activity tables below.

<table>
<thead>
<tr>
<th>Activity Number 1</th>
<th>Neighborhood Revitalization Strategy Area (NRSA) NSP3 Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Uses</strong></td>
<td>Select all that apply:</td>
</tr>
<tr>
<td></td>
<td>Eligible Use A: Financing Mechanisms</td>
</tr>
<tr>
<td></td>
<td>Eligible Use B: Acquisition and Rehabilitation</td>
</tr>
<tr>
<td></td>
<td>Eligible Use C: Land Banking</td>
</tr>
<tr>
<td></td>
<td>Eligible Use D: Demolition</td>
</tr>
<tr>
<td></td>
<td>Eligible Use E: Redevelopment</td>
</tr>
<tr>
<td><strong>CDBG Activity or Activities</strong></td>
<td>24 CFR 570.201</td>
</tr>
<tr>
<td></td>
<td>(a) Acquisition</td>
</tr>
<tr>
<td></td>
<td>(b) Disposition</td>
</tr>
<tr>
<td></td>
<td>(c) Public facilities and improvements</td>
</tr>
<tr>
<td></td>
<td>(e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of NSP3 properties</td>
</tr>
<tr>
<td></td>
<td>(j) Relocation</td>
</tr>
<tr>
<td></td>
<td>(n) Direct homeownership assistance to persons whose incomes do not exceed [120]% of median income.</td>
</tr>
<tr>
<td></td>
<td>24 CFR 570.202 Eligible rehabilitation and preservation activities</td>
</tr>
<tr>
<td></td>
<td>24 CFR 570.201 (d) Clearance, for blighted structures only</td>
</tr>
<tr>
<td></td>
<td>24 CFR 570.205 General administration and planning</td>
</tr>
<tr>
<td></td>
<td>24 CFR 570.206 Activity delivery costs (including required homebuyer counseling) may be charged to the particular activity performed above and will not count as general administration and planning costs</td>
</tr>
<tr>
<td></td>
<td>24 CFR 570.209(h) Incurrence of pre-award costs</td>
</tr>
<tr>
<td>National Objective</td>
<td>(Select One) Low-, Moderate-, and Middle-Income Area Benefit (LMMA), as activities will be carried out in a Neighborhood Revitalization Strategy Area (NRSA); and Low-Income Housing (LIH25) for at least 25% of NSP 3 funds that will be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of Area Median Income (AMI).</td>
</tr>
</tbody>
</table>
| Activity Description | Land banking, acquisition and rehabilitation, redevelopment, and demolition activities will be integrated into a comprehensive revitalization strategy to reverse key indicators of persistent and extremely high: 1) unemployment and underemployment; 2) vacancy and abandonment; and 3) blight. City of Modesto (City) will partner with the Housing Authority of the County of Stanislaus (Housing Authority) in the Neighborhood Revitalization Strategy Area (NRSA) NSP3 Project (Project). Stanislaus County (County) will also partner with the Housing Authority to carry out its NSP3 project in the NRSA. This City-County collaboration will bring the NRSA comprehensive plan to scale and will position the NRSA to more effectively secure other federal, state, and private foundation funds for a more robust public-private partnership. All properties will be purchased at a minimum discount of 1% from the current market-appraised value of the property. The current market-appraised value means the value of a property that is established through an appraisal made in conformity with the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property. Activities:  
- Acquisition of eligible properties under land banking, acquisition and rehabilitation, and redevelopment activities;  
- Rehabilitation of eligible properties under land banking, acquisition and rehabilitation, and redevelopment activities;  
- Land banking operations will include: maintenance of land-banked properties, property management of rental units (note: City is required by statute to establish procedures to create preferences for the development of affordable rental housing with NSP3 funds); maintenance of its geographic and market information systems; and carrying out ongoing community engagement activities (e.g., outreach, education, consultation, etc.);  
- Demolition of eligible properties under land banking, acquisition and rehabilitation, demolition, and redevelopment activities;  
- Development of eligible properties under land banking, acquisition and rehabilitation, and redevelopment activities for eligible end uses  
  o Create affordable rental opportunities  
  o Create affordable homeownership opportunities. |
- Stimulate community and economic development opportunities consistent with larger NRSA Plan through potential mixed-use development (NSP3 funds are only for residential development activities but may be combined with other funds that allow for non-residential development activities)

- Reverse the physical decline of properties

The City's efforts in the Airport Neighborhood have helped foster a critical mass of leadership and commitment around community and economic development in the neighborhood. The City has been working diligently since the HUD approved its proposal to designate the Airport Neighborhood a Neighborhood Revitalization Strategy Area (NRSA) on January 27, 2009.

The Airport Neighborhood is uniquely located near the vibrant downtown; to the west, neighbors the world's largest family-owned winery and largest exporter of California wine, E & J Gallo Winery and Gallo Glass Company headquarters and large-scale facilities, respectively; to the north, neighbors one of Modesto's oldest and most affluent neighborhoods, La Loma Neighborhood; to the east neighbors the local airport; and to the south, neighbors the Tuolumne River and the Tuolumne River Regional Park system.

The NRSA created an opportunity for these neighbors to partner with the residents of the Airport Neighborhood for the revitalization of their neighborhood.

An engaged community is critical to the success of a land banking and redevelopment project. The City's approach involves building relationships with and among residents to build a sense of community and cultivate effective and sustainable leadership. A community is only as strong as its members' capacities to care for one another. Community capacity-building is place-based and empowers residents to build a sense of community, identify issues that matter most to them, and develop and implement strategies for addressing these issues.

As part of the larger NRSA plan, the Project will further foster a sense of ownership of the neighborhood among its residents. Community input will inform the development of project policies, goals, outreach procedures, evaluation, etc. The Project will promote openness, transparency, and dialogue among residents and between residents and their government. Project will also solicit input from other key stakeholders (e.g., people who work in the area, businesses that operate in the area, faith- or community-based organizations that serve the area, property owners that do not live in the area, etc.) in evaluating properties for land banking and redevelopment activities.

Furthermore, the Project will to the maximum extent feasible create term employment opportunities for residents of the neighborhood through vicinity hiring.
In order to optimally leverage City of Modesto and Stanislaus County NSP3 funds and Redevelopment Housing Set-Aside funds (20% of tax increments must be used by redevelopment agencies to increase and improve affordable housing for low- and moderate-income individuals and families), NSP3 activities will be targeted in the Neighborhood Revitalization Strategy Area (see map).

Northern boundary: Yosemite Boulevard

Eastern boundary: Empire Avenue / Tioga Drive

Southern boundary: Hillside Drive / Tuolumne River

Western boundary: South Santa Rosa Avenue / South Santa Cruz Avenue

Note: The boundaries of the project (i.e., census tract 21.00) extend slightly beyond the above-indicated boundaries. However, most activities will be concentrated within the boundaries indicated above.

While County unincorporated area of the Airport Neighborhood is located within the County's Redevelopment Area, City area of the Airport Neighborhood is not located within the City's Redevelopment Area. City is preliminarily planning an expansion of its Redevelopment Area into the City area of the Airport Neighborhood, in order to maximize use of its Redevelopment Housing Set-Aside funds.

<table>
<thead>
<tr>
<th>Source of Funding</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition and Rehabilitation (NSP Eligible Use B)</td>
<td>$690,662</td>
</tr>
<tr>
<td>Land Bank (NSP Eligible Use C)</td>
<td>$1,195,379</td>
</tr>
<tr>
<td>Demolition (NSP Eligible Use D)</td>
<td>$79,891</td>
</tr>
<tr>
<td>Redevelopment (NSP Eligible Use E)</td>
<td>$690,662</td>
</tr>
</tbody>
</table>

Total Budget for Activity $2,656,394.00

Performance Measures
- Housing Units (50% AMI or below): 7
- Housing Units (50-120% AMI): 8
- Instances of Demolition: 10
- Estimated number of properties needed to make an impact in identified target area (20% of RED in past year): 15

Projected Start Date May 2011 (Note: start and end dates will be determined by date HUD signs grant agreement.)

Projected End Date May 2014

Housing Authority of the County of Stanislaus

1702 Robertson Road

Modesto, CA 95351

Borgwardt, Don
<table>
<thead>
<tr>
<th>Housing Development and Construction Supervisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>(209) 557-2008</td>
</tr>
<tr>
<td>Fagan, Bill</td>
</tr>
<tr>
<td>(209) 557-2015</td>
</tr>
</tbody>
</table>
Section 22 - Conflict of Interest
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<tr>
<td></td>
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<td></td>
<td>EXHIBIT B: Section 3 Contract Clause</td>
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<tr>
<td></td>
<td>EXHIBIT C: Bidder/Contractor’s Confirmation</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>EXHIBIT D: Estimated Workforce Breakdown</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>EXHIBIT E: Actual Workforce Breakdown</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>EXHIBIT F: Certification For Business Concerns Seeking Section 3 Preference In Contracting and Demonstration of Capability</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>EXHIBIT G: Resident Opportunity Data Form</td>
<td>14</td>
</tr>
</tbody>
</table>
Section 3 Compliance Packet Overview

Contractors, subcontractors, developers, and sub-recipients interested in participating in a City of Modesto housing or community development project that utilizes HUD administered Federal financial assistance must first read through this packet in its entirety.

A completed (and certified if deemed necessary) copy of this packet must be submitted along with each new bid or Request for Qualifications response to specific City of Modesto projects or programs. For information specific to the designated project, primarily project scope of work, deadlines, and funds available please refer to the application for that specific project.

City of Modesto project bids and RFQ’s can be found at the following link: http://www.planetbids.com/Modesto/bidsearchform.cfm?StateID=52

Any additional questions or information can be directed to:

Division Main Line: (209) 577-5245
Division E-mail: Housing@modestogov.com
Mailing Address: City of Modesto
Parks, Recreation, & Neighborhoods Dept.
Recreation & Neighborhood Services Division
Suite 4300
PO Box 642
Modesto, CA. 95353
City of Modesto Urban Development and the Purpose of Section 3:
Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires that the City of Modesto ensure that employment and other economic/business opportunities generated by HUD financial assistance “to the greatest extent feasible” are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low-and very-low income persons.

The City of Modesto Housing Division currently administers several sources of federal financial assistance including Federal Block Grants, as well as both AARA and HERA funds. Each of these funding sources are administered through the United States Department of Housing and Urban Development (HUD) and are allocated to the City of Modesto through HOME funds, Community Development Block Grants (CDBG), and the Neighborhood Stabilization Program (NSP) funding rounds 1-3.

Section 3 applies to specific activities being funded through the above mentioned financial assistance programs including housing rehabilitation (including the reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement), housing construction, and other public construction projects.

Section 3 Beneficiaries:
Section 3 directly benefits the following:

- **Section 3 Resident**: A public housing resident/resident of the City of Modesto who qualifies as a low-income person. Based on HUD definitions a low-income person is one whose household does not exceed 80% of the Area Median Income (AMI) for Stanislaus County. These numbers are based on a fiscal year breakdown and are updated annually. Refer to Exhibit E for the current HUD AMI breakdown for Stanislaus County.

- **Section 3 Business Concern**: Any business that is
  - 51% or more owned by City of Modesto Section 3 Residents; or
  - Whose permanent full-time employees consist of at least 30% current City of Modesto Section 3 residents, or were Section 3 residents within the first 3 years of employment with said company; or
  - Able to provide evidence of a commitment to subcontract in excess of 25% of the dollar award for all subcontracts to business concerns that meet the two previous conditions/requirements in this paragraph.

Section 3 employment opportunities generated by HUD financial assistance for community development projects may include, but are not limited to, management and administrative jobs, architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities (e.g. construction manager, relocation specialist, payroll clerk, etc.), in addition to both general and specialized labor duties. In some cases workplace training on general skills and procedures may be available.

- **A New Hire under Section 3** is considered any Section 3 Resident hired as a full-time employee for permanent, temporary, or seasonal employment opportunities.
Section 3 Thresholds:

Section 3 opportunities are triggered once specific monetary thresholds are met:

1. A direct recipient of HUD administered funds, in this case the City of Modesto, has designated or invested a minimum of $200,000 for an eligible activity or project involving housing construction, rehabilitation, or other public construction.
   a. If this allocation or investment results in the City of Modesto needing “new hires” for this specific activity, to the greatest extent feasible a minimum of 30% of these new hires must be “Section 3 Residents”.
   b. 10% of the total dollar amount of all Section 3 covered contracts for construction/rehabilitation work to the greatest extent feasible shall be awarded by the City of Modesto to “Section 3 Business Concerns”.
   c. 3% of the total dollar amount of all non-construction Section 3 covered contracts to the greatest extent feasible will be awarded by the City of Modesto to “Section 3 Business Concerns”.

2. A general contractor or subcontractor who enters into a construction/rehabilitation agreement with the City of Modesto in excess of $100,000 to complete a specific project must comply with Section 3 requirements.
   a. If a contract results in the contractor/subcontractor needing “new hires” for this specific project, to the greatest extent feasible a minimum of 30% of these new hires must be “Section 3 Residents”.
   b. Section 3 covered contracts DO NOT include contracts issued for the purchase or materials, supplies, or equipment, unless installation is involved.
   c. Multiple contracts awarded to one contractor/subcontractor under and eligible activity for separate and distinct projects are not cumulative.

Section 3 Contracting Policy and Procedure:

In compliance with the Section 3 requirement the City of Modesto has amended its existing Procurement Policy and adopted a Section 3 Contracting Policy/Procedure that is included in all procurements generated for use with HUD funding.

All contractors, business concerns, developers, and sub-recipients seeking to work on or within programs being funded by HUD are required to complete certifications as acknowledgment of the Section 3 contracting and employment provisions prior to submitting bids/proposals to the City of Modesto. Such certifications shall be adequately supported with appropriate documentation as referenced in the required form.

- Approved contractors are required to notify sub-contractors of their responsibilities under Section 3 including, but not limited to, incorporating the Section 3 clause into their subcontracting agreements.
- Approved contractors are required to maintain proper records/documentation to show that they have to the greatest extent feasible tried to utilize area Section 3 residents as trainees and employees
  - Examples of Records/Reports
    - Copies of advertisements for training/employment
- Lists of Section 3 Residents who applied or otherwise expressed an interest in training/employment
- Copies of solicitations or Requests for Proposals (RFP)
- Documentation of pre-construction conferences
- Records of bid evaluations and selections
- Correspondence or other documentation related to Section 3 grievances
- Photographic evidence of displayed signs
- Copies of letters to community organizations
- Copies of notifications of awards to grantees and contractors
- Copies of business affirmative action plans, including records of solicitation mailing lists, direct solicitation of bids or proposals
- Evidence of affirmative steps to include Section 3 business concerns; such as dividing total work requirements into small sub-tasks, joint ventures between a large business and a Section 3 business concern, and limiting competition to Section 3 business concerns pursuant to HUD regulations at 24 CFR Part 963.

**Accepted Forms of Outreach:**

All Section 3 contractors are expected to utilize the following approaches in an effort to recruit Section 3 residents or business concerns.

- Advertising in local media
- Prominently placing a notice of Section 3 commitments under Section 3 at the project site or other places where applications for training and employment are taken
- Contacting local job training centers, employment service agencies, and community organizations,
- Developing on-the-job training opportunities or participating in job training programs

It is recommended that contractors keep a list of Section 3 residents who apply on their own or by referral for available positions.

- The City of Modesto will work with approved developers, contractors, and sub-recipients to maintain an accessible list of qualified Section 3 residents and business concerns for future projects.
EXHIBIT A
SECTION 3 FAQ

1. What is Section 3?
Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

2. What does the term “Section 3 resident” mean?
A “section 3 resident” is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended.

3. What does the term Section 3 Business Concern mean?
Section 3 business concerns are businesses that can provide evidence that they meet one of the following:
   a. 51 percent or more owned by Section 3 residents; or
   b. At least 30 percent of its fully time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
   c. Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

4. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?
Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.
Please contact HUD’s Office of Small and Disadvantaged Business Utilization at 202-708-1428, to learn more about these programs.

5. How is “low-income” determined?
The term “low-income” is used in the Section 3 regulation to include both low- and very low-income individuals. Local income levels can be obtained online at: http://www.huduser.org/DATASETS/il.html.

6. What is a “new hire”?
A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created during the expenditure of Section 3 covered financial assistance.

7. What is a Section 3 covered project?
A Section 3 covered project involves the construction or rehabilitation of housing
(including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

8. Who is considered a recipient of Section 3 funding?
A recipient is any entity which receives Section 3 covered assistance, directly from HUD or from another recipient. It does not include contractors or any ultimate beneficiary under the HUD program to which Section 3 applies.

9. Is a non-profit organization considered a “business” for the purposes of Section 3?
Yes. A non-profit organization is a legitimate business. The non-profit organization must meet the criteria of a Section 3 business concern as defined in 24 CFR Part 135.5 in order to receive Section 3 preference.

10. What is a Service Area?
The Service area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government (the City of Modesto) in which the Section 3 covered financial assistance is expended.

11. What are funding thresholds and how do they apply to Section 3 covered financial assistance?
Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for Public Housing Authorities (PHAs). The requirements of Section 3 apply to all PHAs regardless of the amount of assistance received from HUD. The requirements of Section 3 apply to recipients of Housing and Community Development assistance that invest $200,000 or more into projects/activities involving housing construction, rehabilitation, or other public construction.

12. What dollar threshold amounts apply to contractors/subcontractors?
All contracts (or subcontracts) funded with Public and Indian Housing assistance (regardless of the dollar amount or the type of contract) is subject to the requirements of Section 3. With respect to recipients of Housing and/or Community Development funding, all contractors (or subcontractors) receiving covered funds in excess of $100,000 to complete projects involving housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

13. Does Section 3 apply to other State/local laws?
Compliance with Section 3 shall be achieved to the greatest extent feasible, and consistent with local laws and regulations.

14. Does Section 3 require that the expenditure of HUD financial assistance result in the creation of training, employment, and contracting opportunities?
Recipient agencies are not required to create jobs or contracts for Section 3 residents and business concerns simply for the sake of creating them. Section 3 requires that when employment or contracting opportunities are generated because a project or activity undertaken by a recipient of covered HUD financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts, the recipient must give preference in hiring to low- and very low- income persons and/or businesses owned by these persons or
that substantially employ these persons.

15. Are Section 3 residents or business concerns guaranteed employment or contracting opportunities under Section 3?
No. Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the expenditure of covered assistance.
Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

16. Are recipients and contractors required to provide long-term employment opportunities, and not simply seasonal or temporary employment?
Recipients and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons- including seasonal and temporary employment opportunities.
Employment goals are based on "new hires", which is defined as full-time employees for permanent, temporary or seasonal employment opportunities.
Recipients and contractors are encouraged to provide long-term employment. They may count a Section 3 resident employee for three years to meet the business criterion that at least 30 percent of the permanent, full-time employees are Section 3 residents.

17. When might a recipient agency be exempt from the requirements of Section 3?
If Section 3 covered assistance is awarded and the recipient has no need for additional employees or trainees, or the recipient has no need to contract for work, then the Section 3 requirements are not triggered. However, the recipient agency must still submit a Section 3 Annual Summary report (HUD form 60002), in accordance with 24 CFR §135.90.

18. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?
No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. The determination that a prospective contractor is responsible must include consideration of the firm's compliance with technical and public policy requirements.
Preference to Section 3 business concerns means that a recipient's or contractor's procurement procedures include methods to provide preference to Section 3 business concerns. Accordingly, if a Section 3 business concern is a responsible bidder, but their bid price is slightly higher than a non-Section 3 firm, the recipient agency can give preference to the Section 3 business in an effort to meet its numerical goals annually.

19. What types of new employment opportunities are covered by Section 3?
For Public and Indian Housing (PIH) Programs, all employment opportunities generated by the expenditure of development, operating, and modernization assistance, including management and administrative jobs, technical, professional, construction and maintenance jobs; and jobs at all levels.
For Housing and Community Development Programs, all employment opportunities arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project (i.e., management and administrative jobs, technical, professional, and construction and non-construction jobs; and jobs at all levels).
20. **Who is required to submit Section 3 reports?**
Each recipient of Section 3 covered HUD financial assistance shall submit an annual report to the Assistant Secretary for the purpose of determining the effectiveness of Section 3 (HUD form 60002). Section 3 summary reports are required even if the recipient agency did not undertake any activities that triggered the requirements.

21. **Who can file a complaint when the requirements of Section 3 are not met?**
Any Section 3 resident or Section 3 business (or authorized representative) seeking employment, training or contracting opportunities generated by Section 3 covered assistance may file a complaint using form HUD 958.

22. **Where are Section 3 complaints filed?**
Effective November 2007, Section 3 complaints must be filed at the appropriate FHEO Regional Office in which the violation occurred. Please visit www.hud.gov/offices/fheo to obtain the address and telephone number for FHEO regional offices.

23. **Is there a time limit for filing a Section 3 complaint?**
Yes. Section 3 complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.
EXHIBIT B

**Section 3 Clause:**
All Section 3 contracts shall include the following clause (referred to as the Section 3 Clause).

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under to contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's representative of the contractor's commitments under this Section 3 Clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and locations of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include the Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. the contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, where not filed to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
Company Name: ________________________________
Address: __________________ Primary Contact: __________________
____________________ __________________________
Contact #: __________________
Project Title: ____________________ Proj. #: __________
Federal Funding Source: __________________

I ___________, as an official representative of ________________ (Company Name)
Do hereby certify that I have read and understand the Section 3 compliance guide and clearly understand the utilization requirements to the above cited project. I agree to comply with all said Section 3 requirements and understand that failure to comply will be clearly documented and may result in the following sanctions: cancellation, termination, or suspension in whole or in part of this contract at the sole discretion of the City of Modesto. I have read and understand the portion of this document designated as the Section 3 Clause (also found in 24 CFR 135) and neither the project nor the company are under any contractual restrictions or other disabilities which would prevent the company from complying with said requirements.

Signature of Representative: __________________ Date: __________
Title: __________________
SECTION 3: ESTIMATED WORKFORCE BREAKDOWN

This form is to be completed by the contractor during the bidding/RFP process.

<table>
<thead>
<tr>
<th>JOB CATEGORY</th>
<th>TOTAL ESTIMATED POSITIONS NEEDED FOR PROJECT</th>
<th>TOTAL POSITIONS OCCUPIED BY PERMANENT EMPLOYEES</th>
<th>NUMBER OF POSITIONS NOT OCCUPIED</th>
<th>NUMBER OF POSITIONS TO BE FILLED WITH SECTION 3 RESIDENTS</th>
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<tr>
<td>Administrative Staff:</td>
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*Section 3 Resident:* Public housing resident of the City of Modesto who qualifies as a low-income person. HUD defines a low-income person as one whose household income does not exceed 80% of the median income for the region, with adjustments for family size.
SECTION 3: ACTUAL WORKFORCE BREAKDOWN

This form is to be completed by the contractor at the completion of the reporting period or the completion of the project (whichever comes first).

Company Name: ________________________________
Address: _____________________________ Primary Contact: _____________________________
___________ Contact #: _____________________________

Project Title: _____________________________ Proj. #: _____________________________

PART I: EMPLOYMENT AND TRAINING

<table>
<thead>
<tr>
<th>JOB CATEGORY</th>
<th>TOTAL ESTIMATED POSITIONS NEEDED FOR PROJECT</th>
<th>TOTAL POSITIONS OCCUPIED BY PERMANENT EMPLOYEES</th>
<th>ACTUAL NUMBER OF NEW Hires</th>
<th>ACTUAL NUMBER OF POSITIONS FILLED WITH SECTION 3 RESIDENTS</th>
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<tbody>
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<td>Administrative Staff:</td>
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*Section 3 Resident*: Public housing resident of the City of Modesto who qualifies as a low-income person. HUD defines a low-income person as one whose household income does not exceed 80% of the median income for the region, with adjustments for family size.

PART II: CONTRACTS AWARDED

<table>
<thead>
<tr>
<th>TYPE OF CONTRACT</th>
<th>TOTAL NUMBER OF THIS TYPE OF CONTRACT</th>
<th>TOTAL APPRX. DOLLAR AMOUNT</th>
<th>TOTAL NUMBER OF CONTRACTS TO SECTION 3 BUSINESSES</th>
<th>TOTAL DOLLAR AMOUNT TO SECTION 3 BUSINESSES</th>
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PART III: SUMMARY

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extend feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (check all that apply)

☐ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the City of Modesto where the project is located.

☐ Participated in a HUD program or other program which promotes the training or employment of Section 3 Residents.

☐ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.

☐ Other:

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance program are directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found in 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as a self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808 (e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

PART IV: CERTIFICATION

As the designated representative of this company I hereby certify that the information provided within this document is an accurate report of this company’s section 3 efforts. I acknowledge and understand that this document must be submitted as back-up documentation for each invoice supplied to the City of Modesto for all Section 3 project fund reimbursement.

Signature of Representative: ___________________________ Date: ___________________________

Title: ___________________________ Company Name: ___________________________
EXHIBIT F

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business ________________________________________________________________

Address of Business ______________________________________________________________

Type of Business: □ Corporation □ Partnership □ Sole Proprietorship □ Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:
□ Copy of resident lease □ Copy of receipt of public assistance
□ Copy of evidence of participation in a public assistance program
□ Other evidence ______________________________

For business entity as applicable:
□ Copy of Articles of Incorporation □ Certificate of Good Standing
□ Assumed Business Name Certificate □ Partnership Agreement
□ List of owners/stockholders and % ownership of each □ Corporation Annual Report
□ Organization chart with names and titles □ Latest Board minutes appointing officers
□ Additional documentation and brief function statement

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:
□ List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:
□ List of all current full-time employees □ List of employees claiming Section 3 status
□ PHA/IHA Residential lease less than 3 years from day of employment □ Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:
□ Current financial statement
□ Statement of ability to comply with public policy
□ List of owned equipment
□ List of all contracts for the past two years

_________________________________________________________ (Corporate Seal)

Authorizing Name and Signature

Attested by: ________________________________________________
Eligibility for Preference
A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, __________________________________________, am a legal resident of the City of Modesto and meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.

My permanent address is: ____________________________________________________________

________________________________________________________________________________

I have attached the following documentation as evidence of my status:

☐ Copy of lease
☐ Copy of receipt of public assistance

☐ Copy of Evidence of participation in a public assistance program
☐ Other evidence

_________________________________________ ________________________________
Signature Date

Print Name
SECTION 3 INCOME LIMITS

All residents of public housing developments of the Housing Authority of Stanislaus County, located within the City of Modesto city limits qualify as Section 3 residents. Additionally, individuals residing in the City of Modesto who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Very Low Income (50% AMI)</th>
<th>Low Income (80% AMI)</th>
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</thead>
<tbody>
<tr>
<td>1 individual</td>
<td>$21,700</td>
<td>$34,750</td>
</tr>
<tr>
<td>2 individuals</td>
<td>$24,800</td>
<td>$39,700</td>
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<tr>
<td>3 individuals</td>
<td>$27,900</td>
<td>$44,650</td>
</tr>
<tr>
<td>4 individuals</td>
<td>$31,000</td>
<td>$49,600</td>
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<tr>
<td>5 individuals</td>
<td>$33,500</td>
<td>$53,600</td>
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<tr>
<td>6 individuals</td>
<td>$36,000</td>
<td>$57,500</td>
</tr>
<tr>
<td>7 individuals</td>
<td>$38,450</td>
<td>$61,550</td>
</tr>
<tr>
<td>8 individuals</td>
<td>$40,950</td>
<td>$65,500</td>
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Section 23 - SECTION 3: COMPLIANCE

MODESTO
CALIFORNIA

EQUAL HOUSING OPPORTUNITY
CONFLICT OF INTEREST PROVISIONS
SUMMARY OF RULES FOR CITY OF MODESTO HUD SPONSORED
PROGRAMS

I. Introduction

The City of Modesto (CITY), as grantee, administers a variety of programs sponsored and
funded by United States Department of Housing and Urban Development (HUD Programs) including
Community Development Block Grant (CDBG) Emergency Solution Grant (ESG) Neighborhood
Stabilization Program (NSP 1, NSP 2 and NSP 3), HOME Investment Partnerships Program (HOME),
Community Development Block Grant Recovery (CDBG-R) and Homelessness Prevention and Rapid
Re-housing Program (HPRP), (hereinafter referred to as “HUD sponsored program(s)” and/or “HUD
funded program(s)”). All such programs are governed by conflict of interest rules to prevent (1) undue
influence in decision making process and (2) financial gain or other benefit from the expenditure of
HUD grant funds. Conflict of interest rules apply to CITY and those persons and organizations it
contracts with in relation to HUD grant funds.

This memorandum seeks to provide a summary of controlling conflict of interest rules
applicable to covered persons. For purposes of this summary, “covered person” includes (1)
employees, agents, consultants, officers and elected and appointed officials of (a) CITY or
(b) persons/organizations seeking or receiving HUD grant funds from CITY, which includes
subgrantees, subrecipients, for-profit and non-profit developers, contractors and subcontractors (2)
who exercise functions or responsibilities with respect to HUD sponsored programs or is in a position
to participate in decision-making process or gain inside information with regard to HUD sponsored
programs.

II. Purpose.

It is not possible to provide a complete explanation of conflict of interest rules. The
intention of this document to provide a general summary of relevant conflict of interest rules to
heighten awareness of covered persons to promote the prevention, detection and disclosure of a
conflict of interest and/or potential conflict of interest.

Every attempt has been made to provide current information regarding applicable
conflict of interest rules. Laws and regulations may change in the future and each covered
person is obligated to review applicable rules and provisions and/or seek independent advice to
insure compliance.

Each covered person has the affirmative duty to comply with the conflict of interest rule
and shall immediately notify the City of Modesto in writing of the existence of the conflict of
interest or potential conflict of interest.
III. Recipients or Applicants of HUD Funds From CITY.

Persons/organizations seeking or receiving HUD grant funds from CITY should carefully consider whether any of their activities may give rise to an improper conflict of interest situation. Conflict of interest situations that are not properly addressed can result in:

(1) Loss of HUD funding to a particular program and/or CITY;
(2) voiding of any contract funded or supported by HUD funds from CITY;
(3) disgorging of any financial gain or other benefit received;
(4) abstaining from participating in a decision-making capacity;
(5) termination, resignation or loss of position;
(6) imposition of civil and/or criminal penalties.

Persons/organizations seeking or receiving HUD grant funds from CITY should ask themselves the following questions:

* Are any of my employees or board members:
  - a City employee or consultant who participates in decision-making or exercises influence over the decision-making process of CITY HUD sponsored programs as part of their position?
  - a member of any committee, commission or board that will approve and/or administer expenditure of HUD grant funds or approve a sponsored project or fund recipient?
  - a City Councilmember?

* Are any immediate family members or business associates of my employees or board members?
  - a City employee or consultant who participates in decision-making or exercises influence over the decision-making process of CITY HUD sponsored programs as part of their position?
  - a member of any committee, commission or board that will approve and/or administer expenditure of HUD grant funds or approve a sponsored project or fund recipient?
  - a City Councilmember?

* Will any of my employees or board members receive a financial interest or benefit from HUD grant funds (other than employee salaries or personnel benefits)? Will any immediate family members or business associates of my employees or board members receive a financial interest or benefit from HUD grant funds (other than employee salaries or personnel benefits)?

* To my knowledge, will my program or project have a financial effect on a City official or employee who exercises HUD sponsored program-related functions, or an immediate family member or business associate of such person? For example, will any of these persons be receiving rental payments, other business income, or program services from my program? Or, for example, do any of these persons own real property near the program or project site, and is it likely that my program or project will have an effect on neighboring real property values?
If you can answer "yes" to any of these questions, it is possible that there may be a conflict of interest. You should review the rules below to determine whether an actual conflict situation is raised, and, if so, what action needs to be taken to avoid a violation of the law. You should contact City staff immediately if you suspect that there might be an issue.

Each recipient of HUD grant funds from CITY will be required in its grant contract with the City to warrant and represent, to the best of its knowledge at the time the contract is executed, that they are not aware of any improper conflict of interest circumstances as described below. Also, the contract will obligate contractors to exercise due diligence to ensure that no improper conflict situations occur during the contract. This is a continuing duty and obligates the recipient to monitor for potential conflicts for the term of the grant contract.

A number of federal, state, and City conflict of interest laws will govern activities that are funded with CDBG funds. The following are the major rules summarized here:

* HUD conflict of interest regulations (24 CFR 570.611 and 24 CFR Part 85, Subpart 36).
* The California Political Reform Act (Gov't. Code 87100 to 87500), and implementing regulations (2 CCR 18700 to 18703).
* California Government Code Section 1090, et seq.
* City of Modesto Conflict Disclosure Ordinance ( Modesto Municipal Code, Title 2- Administration, Chapter 10 – Conflict Disclosures, Sections 2-10.01 – 2-10.03)

Excerpts from some of these laws and others are included as an attachment to this summary.

IV. City Officials, Their Family or Business Partners Benefiting from HUD Sponsored Projects.

**HUD Rule.** The HUD conflict of interest rule prohibits any "covered person" associated with the CITY (as defined below) from obtaining a financial interest or benefit from a HUD assisted activity or contract, or the proceeds under any such contract, during that covered person's tenure with the CITY and for one year thereafter. A "covered person" is defined by HUD as any employee, agent, consultant, officer, or elected or appointed official of the City who, with respect to HUD-funded activities under the contract: (a) exercises or has exercised any functions or responsibilities; or, (b) is in a position to participate in a decision-making process; or, (c) is in a position to gain inside information. City staff members or consultants who exercise the above roles or function with respect to the HUD funded activity are considered "covered persons." For purposes of the CITY's HUD funded programs, a "covered person" specifically includes any member of the Modesto City Council, or any member of the City of Modesto Citizens Housing and Community Development Committee (CH&CDC) or any equivalent board, committee or commission of the City of Modesto that reviews and makes recommendations on the funding for the contract, whether or not that Councilmember or director actually participated in the review or recommendation. "Covered person" may also include members of other City boards and commissions, if that board or commission has exercised functions or decision-making with respect to a HUD funded activity.

Under the City's Guidelines, "financial interests or benefits" include, but are not limited to, salaries, consultant fees, commissions, gifts, sales income, rental payments, investment income, or other business income. Program services that may have monetary value to the recipient are also considered a "financial benefit." Thus, for example, a City employee who prepares a contract for expenditure of
HUD grant funds or a City official who sits on a City board that reviews a HUD sponsored funding proposal may not receive rent payments or other income from the contractor while that person remains with the City and for one year after that person leaves the City.

The HUD rule further prohibits anyone with "family or business ties" to the covered public official from receiving a financial interest or benefit. The City's Guidelines define "family ties" to include a spouse, brother, sister, parent or child of the public official, and define "business ties" to mean a general partner or joint venture of a public official.

**State Law.** State law may prohibit a CITY board member or City employee who has or had a financial interest in a HUD sponsored contract or program activity from participating in the City’s decision to fund the program or project.

Financial benefits covered by state law could include indirect effects such as the spillover effects of a HUD sponsored program or project on the value of real property owned by City official that is located near the program or project site. This could be a particular concern for projects or programs that involve the use of HUD grant funds to make significant capital improvements to real property, such as projects involving new construction or substantial rehabilitation of housing or commercial property. This normally affects property owned by a City official within 500 feet of a HUD sponsored project. For property leased by a City official, look to whether the project will either (1) change the City official's use or enjoyment of the leased property, or (2) the project will increase or decrease the official's annual rent by 5%.

Another state law requires that any public official of the City who is an employee or a member of the board of directors of a person or organization receiving HUD grant funds from CITY, even a non-compensated director, should publicly recuse him/herself from participating in any discussions relating to the HUD funded grant-making process. Failure of the person to recuse him/herself before the discussions begin may disqualify the organization’s application for funds.

For example, if one of your employees or board members is also a director of a Community Development District Board, she should recuse herself from any of the CDBG board’s consideration of CDBG grants. If she does not and the CDBG board awards your organization a grant, your organization will be disqualified from receiving the grant.

**V. Interests of persons associated with the contractor.**

The HUD rule also addresses financial interests that are held by certain persons associated with a RECIPIENT OF HUD GRANT FUNDS FROM CITY. The HUD rule prohibits any "covered person" associated with the RECIPIENT from obtaining a financial interest or benefit (with the exception of the use of HUD funds to pay salaries and other related administrative and personnel costs) from a HUD assisted activity or contract, or the proceeds under any such contract, during that covered person's tenure with the contractor and for one year thereafter. A "covered person" is defined by HUD as any employee, agent, consultant, officer, or elected or appointed official of the contractor who, with respect to HUD-funded activities under the contract: (a) exercises or has exercised any functions or responsibilities; or, (b) is in a position to participate in a decision-making process; or, (c) is in a position to gain inside information. This rule extends to those with whom the covered person has "family or business ties" (as defined above). This rule would, for example, prohibit certain employees...
or directors of a RECIPIENT OF HUD FUNDS FROM CITY from using HUD funds to pay for rent on property owned by that employee or director, as well as family and business associates of that person.

HUD funds/ proceeds should also not be used in any self-dealing transaction within the meaning of the California Corporations Code involving a material financial interest of a director of the contractor, unless such a transaction is expressly permitted or considered valid under the Corporations Code.

VI. Remedies and Sanctions.

City of Modesto HUD grant contracts provide that if a RECIPIENT OF HUD FUNDS FROM CITY fails to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the improper conflict situation, the City may (1) suspend payments of HUD grant funds, (2) terminate the contract, (3) require reimbursement by the recipient to the City or to HUD of any amounts already disbursed, and/or (4) bar future HUD funding of the recipient by the City. In addition, the City may suspend payments or terminate the contract in the event HUD suspends or terminates its grant to the City for conflict of interest reasons, or in the event the City reasonably determines that an improper conflict of interest situation may arise from payments under the contract. This could happen whether or not the recipient is responsible for the conflict of interest situation.

A number of penalties may be imposed or remedies, cures, waivers and exceptions may be pursued in the event an actual conflict of interest exists. Early disclosure of an actual conflict of interest or potential conflict of interest is critical and may influence the penalty imposed and/or remedy sought. The ultimate disposition depends largely on the nature, extent and severity of the conflict. The evaluation of an actual conflict of interest is fact sensitive and each case requires examination on the merits.

VII. Guidance.

If a conflict of interest is identified or suspected, covered person(s) shall immediately provide written notification to City of Modesto, Parks, Recreation and Neighborhoods Department. At minimum the written notification shall include documentation of the following:

- Disclosure of the identity of the covered person(s) involved,
- when and how it was discovered,
- the nature of the conflict of interest,
- the financial interest or benefit derived or to be derived from the City of Modesto HUD sponsored program or funding.

The covered person(s) shall cooperate fully with City of Modesto staff and promptly provide any additional information requested by City of Modesto to evaluate the conflict of interest.

The City of Modesto will evaluate the circumstances of the conflict of interest and notify HUD of its findings, and if applicable, a request that HUD grant an exception to the conflict of interest regulations. The factors to be considered by HUD in acting upon a request for an exception are outlined on page 7 of this Summary.
ATTACHMENT TO SUMMARY OF CONFLICT OF INTEREST RULES
FOR CITY OF MODESTO HUD SPONSORED PROGRAMS
EXCERPTS FROM RELEVANT LAWS

All third-party agreements funded under The City of Modesto Community Development Block Grant (CDBG) Program, Emergency Solutions Grant (ESG) Program, Community Development Block Grant Recovery (CDBG-R), Homelessness Prevention and Rapid Re-Housing Program (HPRP), the HOME Investment Partnerships Program (HOME), and Neighborhood Stabilization Programs (NSP1, NSP2 and NSP3) and Homelessness Prevention and Rapid Re-Housing Program (HPRP), (hereinafter referred to as "HUD sponsored program(s)" and/or "HUD funded program(s)"), are governed by the conflict of interest provisions of the United States Department of Housing and Urban Development (HUD), the United States Office of Management and Budget (OMB), the State of California, and the City of Modesto.

1. HUD PROVISION

   The primary HUD regulations that may have application to a City of Modesto HUD sponsored program are found in the Title 24 of the Code of Federal Regulations, Housing and Urban Development and in particular, 24 CFR 84.44, 24 CFR 85.36, 24 CFR 570.489 (h) and 24 CFR 570.611.

   The conflict of interest provisions of the Community Development Block Grant (CDBG) Regulations (24 CFR 570.611) reads in substance as follows:

   (b) Conflicts prohibited. The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in the position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

   (c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any Person who is an employee, agent, consultant, officer, or elected official or appointed official of the Recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

   The conflict of interest provision stated appears and is part of the Agreement for Community Development and or Emergency Solutions Grant Services, CDBG-R, HPRP, NSP1, NSP2, NSP3, and HOME Program Agreements between the City of Modesto and community development corporations. In addition, the City has also given assurance that it, "... shall incorporate or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this agreement."

   This provision would preclude persons who are employed by the City of Modesto or who are officers or public officials of the City and who exercise functions or responsibilities with respect to the CDBG, ESG, CDBG-R, HPRP, NSP1, NSP2, NSP3 and HOME programs from deriving any financial benefit from contracts or subcontracts funded through the HUD sponsored programs during their office or employment and for one year thereafter.
Members of The Citizens Housing and Community Development Committee (CH&CDC) are public officials within this definition since they are an integral and officially recognized component in the decision-making processes of the HUD sponsored programs. As a component of the citizen participation process, the Mayor receives input from the CH&CDC on the City’s Block Grant Program.

If members of the CH&CDC were to receive compensation through a HUD sponsored programs contract or subcontract they would be in conflict of interest. They would have to divest themselves of that financial interest and if they desired to receive a financial interest from a HUD sponsored programs-funded contract or subcontract in the future, they would have to have been off the CH&CDC for at least one year before being eligible to receive such a HUD sponsored programs-funded financial interest. It city employees who exercised any functions or responsibilities with respect to the CDBG program were to receive compensation through a HUD sponsored programs-funded contract or subcontract they would be in conflict of interest. They would have to divest themselves of that financial interest and, if they desired to receive a financial interest from a HUD sponsored programs-funded contract in the future, they would have to have been separated from their City job for at least one year prior to receiving such an interest.

The provisions set forth in 24 CFR 570.611 (d) provide for HUD consideration of waivers to its conflict of interest provisions on a case-by-case basis. Full public disclosure of the conflict is required together with an opinion by the City Attorney that the financial interest for which the exception is sought would not violate state or local law. HUD would then make a determination on whether to grant the requested waiver taking the following factors into consideration:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
2. Whether an opportunity was provided for open competitive bidding or negotiation;
3. Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
4. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in questions;
5. Whether the interest or benefit was present before the affected person was an employee, agent, consultant, officer or official covered by the conflict of interest provisions;
6. Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
7. Any other relevant considerations.

2. **OMB CIRCULAR A-102 PROVISION**

The OMB conflict of interest provision set forth in Circular A-102, "Uniform Requirements for Assistance to State and Local Governments," Attachment 0, "Procurement Standards", is applicable to, "... the procurement of supplies, equipment, construction and services for Federal assistance programs." Paragraph 7, Code of Conduct prohibits the City’s employees, officers and agents from participating in the selection or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, could be involved. A conflict arises when

a. The employee, officer or agent
b. Any member of his immediate family;
c. His or her partner, or
d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

This provision is less stringent than the HUD conflict of interest provision, and would simply require that the affected individual disclose his or her financial interest and abstain from participating in discussions or actions regarding the selection, award or administration of a contract.
3. **STATE OF CALIFORNIA PROVISION**

The State's conflict of interest provisions are contained in the Government Code. Section 87100 of that code prohibits a public official from using his/her official position to influence a decision in which he or she knows or has reason to know he or she has a financial interest. Government Code Section 87100 reads as follows:

No public official at any level of State or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Governmental Code Section 82048 defines public official as, *every member, “... officer, employee, or consultant of a State or local agency.* "CH&CDC members are public officials within this definition since they are an integral and officially recognized component in the decision-making processes of the City's Community Development Block Grant Program.

Government Code Section 87103 provides that an official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material effect on the official or on a member of the official's immediate family on:

(a) a business in which the official has an investment worth $1,000 or more;
(b) real property in which the official has an interest worth $1,000 or more;
(c) any source of income of $250 or more received during the prior 12 months;
(d) a business in which the official is a director, officer, partner, trustee, employee or has a management position;
(e) the donor of a gift to the official of $250 or more received during the prior 12 months.

Government Code Section 1090 prohibits City officers and employees from being financially interested in any contract made by them in their official capacity or by any body or board of which they are members.

Conflict of interest statutes in the Government Code may require a public official who has a conflict of interest due to a financial interest to (1) disclose the interest and abstain from participating in any decision-making process that would affect the interest and/or (2) resign from his/her position on the board, commission or other body of which he/she is a member. Depending on the nature, extent and severity of the violation imposition of civil and/or criminal penalties are possible.

4. **CITY OF MODESTO PROVISION**

The City's conflict of interest provisions, which are found in Modesto's Charter Title 2 Chapter 10, provides:

**Section 2-10.01**

It is the intention of the City Council to require disclosure of every individual financial interest in every agreement of any kind that requires City Council approval and in any development project that comes before the City Council by application for land use approval, so that conflicts of interest that such agreements or applications create for Councilmembers can be more readily determined.

**Section 2-10.02:**

In furtherance of the purposes of the California Fair Political Practices Act, and the City's "Tin Cup" ordinance, it is the intent of the City Council that the identities of all individuals with a financial interest in every agreement of any kind that requires City Council approval and in land development applications before the City Council be known to the Council and to the public. The following definitions are intended to further this purpose:

(a) Development: Any proposed use of real property, whether existing or to be constructed, which use may require City Council approval either directly, or on appeal from the Planning Commission.
(b) Agreement:
(1) Public works contracts and agreements for goods and services that require Council approval are required by Chapter 3 of Title 8 of the Modesto Municipal Code;
(2) Any other agreements submitted by the City Manager to the City Council for approval and any other application, request for entitlement or approval whatsoever;
(3) Grants of money or non-monetary city assistance to any organization, including but not limited to, non-profit corporations, or not for profit associations who seek such assistance from the City Council for any reason; and
(4) Franchises granted by the City Council as provided for in Article 14 of the City Charter and/or any applicable provision of the Modesto Municipal Code.

(c) Application: Any submission of information required to be made to the City by state law, ordinance, contract or resolution for the purpose of development approval or agreement approval.

(d) Applicant: An applicant is any person who submits an application or on whose behalf an application is submitted.

(e) City Council: The Modesto City Council and the Modesto Redevelopment Agency.

(f) Person: Shall mean any individual, firm, company, partnership, limited liability partnership, limited liability corporation, joint venture, association, proprietorship, club or fraternal organization, joint stock company, domestic or foreign corporation, estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee, syndicate, or any other group or combination acting as a unit whether mutual, cooperative, fraternal, non-profit or otherwise.

(g) Financial Interest: Financial interest means ownership or control over any property, real or personal, tangible or intangible available for use by an applicant including, but not limited to, real property, cash, securities, merchandise, raw materials, finished goods, operating supplies, ordinary maintenance material and parts, accounts receivable and notes and loans receivable, prepaid expenses, collateral used as security for a loan made to the person making an application, long-lived legal rights and competitive advantages developed or acquired by an applicant including, but not limited to, redevelopment agreements as well as other intangible assets and rights. A financial interest may also be an expectation of receipt of gross revenue (before adjustments or deductions for any costs of doing business whatsoever) from a person making an application.

(h) Gross Revenue: The term gross revenue shall include transactions in which a person making an application agrees to pay or to reduce the obligation of another.

Section 2-10.03

(a) No application for any land use approval from the City of any type including, but not limited to, subdivision map approvals, zoning changes, general plan amendments, precise plan approvals, conditional use permits, development agreements, and any other request for approval requiring the submission of information to the City, shall be deemed complete for the purposes of any California law, or ordinance including, but not limited to, the California Permit Streamlining Act, until all persons having any financial interest in the applicant(s) have been identified by name, in particular, individual persons owning or controlling "persons" or entities with financial interests in a person submitting an application, subject to the reasonable discretion of the City's Community Development Director. No application deemed incomplete in this regard by the Community Development Director shall proceed, or be acted upon in any manner by either the Planning Commission or the City Council. To cause such an application to be acted upon by deception or otherwise shall be a violation of this Code and a misdemeanor.

(b) No agreement shall be submitted to the City Council for approval until all persons having any financial interest in the applicant(s) have been identified by name, in particular individual persons owning or controlling "persons" or entities with financial interests in an applicant, subject to the reasonable
discretion of the City department director proposing such approval to the City Council. No application deemed incomplete in this regard by the City department director proposing such approval shall be processed or be acted upon in any manner by the City Council. To cause such an application to be acted upon by deception or otherwise shall be a violation of this Code and a misdemeanor.

(c) In order to implement this section every City department director proposing approval of any application by the City Council shall provide every applicant with an application form for the purpose of disclosing the financial interests required to be disclosed by this section. Each applicant must verify in writing, under penalty of perjury, that the financial interest information provided in such application form is true, correct and complete.

(d) Each applicant shall have a continuing obligation to maintain the truth, accuracy and completeness of the financial interest information provided on the application in accordance with this section until after the final consideration by the City Council of any matter arising out of or relating to the application.

(e) In the event that the City Council finds that an applicant did not exert due diligence and good faith in its maintenance of true, accurate and complete financial interest information in accordance with the requirements of this section, then, and in that event, the application shall be deemed to have been, and treated for all purposes as if it had been, incomplete from the first day it was filed through the date of the finding.

(f) Nothing in this section is intended to imply any obligation on the part of City employees, consultants, volunteers or elected officials to investigate research or otherwise verify the content of any application.

(g) This chapter shall not apply to persons having an aggregate economic interest in an applicant less than two thousand dollars ($2,000.00) at all times prior to final Council determination of the application.

(h) This chapter shall not apply to (1) business entities listed, or meeting the financial criteria for listing on the New York or the Pacific Stock exchanges unless it is reasonably foreseeable that a City Council decision will increase or decrease that entity's gross revenues or expenses by one million dollars ($1,000,000) or more, and (2) business entities granted a waiver by a vote of two-thirds (2/3) of the City Council, sitting in public session.

(i) Each Councilmember and the Mayor shall, at least once annually, in conjunction with their State Fair Political Practices Act disclosure requirements, file with the City Clerk a report setting forth the names and addresses of persons (associates) having a financial interest, as defined herein, in any property, contract, application, expectation of receipt of gross revenue or for profit enterprise or venture, no matter how organized, in which the reporting member has a financial interest. It shall be the further obligation of each member to file with the City Clerk amendments to their annual reports on a quarterly basis to ensure, in so far as possible, that the public is aware of matters coming before the Council in which a Councilmember associate has a financial interest.

(Added by Ord. 3269-C.S., § 1, amended by Ord. 3276-C.S., § 1 effective 1-9-03)
ACKNOWLEDGEMENT AND CERTIFICATION

I have read the foregoing Conflict of Interest Provisions Summary of Rules For City of Modesto HUD Sponsored Programs together with the Attachment To Summary of Conflict of Interest Rules For City of Modesto HUD Sponsored Programs Excerpts From Relevant Laws, and hereby certify that I and or the entity/organization identified below has/have and will continue to comply with all applicable conflict of interest laws, rules and regulations including the obligation to immediately notify the City of Modesto, **in writing**, of the existence or potential conflict of interest in relation to a City of Modesto HUD sponsored program.

DATE: ___________________________  
SIGNED: ___________________________

PRINT NAME: ___________________________  
TITLE/POSITION: ___________________________

ENTITY/ORGANIZATION: ___________________________
RESOLUTION ACKNOWLEDGING AND APPROVING THE EARLY TERMINATION OF A THREE-YEAR AGREEMENT BETWEEN THE CITY OF MODESTO AND THE SAN JOAQUIN INSURANCE AUTHORITY (SJVIA) FOR PARTICIPATION IN GROUP MEDICAL INSURANCE COVERAGE

WHEREAS, the City of Modesto provides its employees with employee and dependent health insurance coverage, and

WHEREAS, the City was faced with large increases from existing medical insurance carriers for 2015 medical plan renewals and sought alternative options, and

WHEREAS, the Employee Benefits Advisory Committee (EBAC) consisting of three (3) representatives from each of the City’s bargaining groups reviewed all options and made recommendations to City management regarding health insurance coverage for Plan Year 2015, and

WHEREAS, the SJVIA required a three-year commitment from the City and said it would provide the City a guaranteed pooled rating for that three-year period and, based on past ratings from SJVIA, would have provided the City of Modesto with carrier rate stabilization and flexibility, and

WHEREAS, Resolution No. 2014-353 was adopted on September 23, 2014 entering into a three-year agreement with the SJVIA, and

WHEREAS, on September 20, 2016 the SJVIA presented the City with a tiered pool concept, placing the founding members in a pool with an 11% renewal increase and the remaining twenty-three entities in a second pool with a 26% renewal increase, which went against the intent of the original three-year agreement, and
WHEREAS, during this meeting the City was presented with the option to terminate the three-year agreement early as long as termination notice was received by the SJVIA on or before October 15, 2016, and

WHEREAS, following this meeting the EBAC requested that the City seek alternative options for Plan Year 2017 and during a follow-up EBAC meeting on October 12, 2016 the committee unanimously voted to terminate the agreement early.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby acknowledges and approves the early termination of a three-year agreement between the City of Modesto and the San Joaquin Insurance Authority (SJVIA) for participation in group medical insurance coverage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND PETER C. FOY & ASSOCIATES INSURANCE SERVICES, INC. FOR PARTICIPATION IN GROUP MEDICAL INSURANCE COVERAGE FOR AN INITIAL ONE-YEAR PERIOD, WITH OPTION FOR RATE GUARANTEES IN YEARS TWO AND THREE, STARTING PLAN YEAR 2017; CONTINUE DENTAL AND VISION COVERAGE THROUGH THE CITY’S SELF-INSURED PROGRAM FOR PLAN YEAR 2017; AUTHORIZING THE DEPUTY CITY MANAGER TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY AGREEMENTS, IN A FORM APPROVED BY THE CITY ATTORNEY

WHEREAS, the City of Modesto provides its employees with employee and dependent health insurance coverage, and

WHEREAS, the City was faced with large increases from existing medical insurance carriers for 2017 medical plan renewals and sought alternative options, and

WHEREAS, the Employee Benefits Advisory Committee (EBAC) consisting of representatives from each of the City’s bargaining groups reviewed all options and made recommendations to City management regarding health insurance coverage for Plan Year 2017, and

WHEREAS, the City received a proposal from Peter C. Foy and Associates for group medical insurance for an overall rate increase to our Kaiser plans of 9.83% and a decrease of 25.59% to our Premium PPO plan, and

WHEREAS, the City received a rate guarantee from Peter C. Foy and Associates for a zero percent increase for Plan Year 2018 and a not-to-exceed five percent (5%) increase for Plan Year 2019, and

WHEREAS, the EBAC recommended, and City Management agreed, to replace existing medical carriers with Peter C. Foy and Associates, and
WHEREAS, the City’s self-insured dental and vision plan designs and administration will remain the same.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement between the City of Modesto and Peter C. Foy & Associates Insurance Services, Inc. for participation in group medical insurance coverage for an initial one-year period, with option for rate guarantees in years two and three, starting plan year 2017.

BE IT FURTHER RESOLVED that the Council hereby approves the continuation of dental and vision coverage through the City’s self-insured programs.

BE IT FURTHER RESOLVED that the Deputy City Manager is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary agreements relating to employee and dependent health care as set forth herein, in a form approved by the City Attorney.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2016-428

RESOLUTION ACCEPTING THE 2016 COPS HIRING PROGRAM (CHP) IN THE AMOUNT OF $1,500,000 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING, FOR FUNDING OF TWELVE POLICE OFFICER POSITIONS FOR THREE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office), solicited applications for the COPS FY 2016 COPS Hiring Program (CHP) which provides funding directly to law enforcement agencies to hire and/or rehire career law enforcement officers in an effort to increase their community policing capacity and crime prevention efforts, and

WHEREAS, on October 3, 2016, the City of Modesto received notification from the United States Department of Justice, Office of Community Oriented Policing Services (COPS) Office that the City of Modesto will receive funding twelve Police Officer positions, and

WHEREAS, the 2016 CHP grant will cover up to 75 percent of the approved entry-level salary and fringe benefits of each newly-hired and/or rehired, full-time sworn career law enforcement officer over the three-year (36 months) grant period, with a minimum 25 percent local cash match requirement and maximum federal share of $125,000 per officer position over three years, and

WHEREAS, CHP grant funding will be based on each agency’s current entry-level salary and fringe benefits for full-time sworn officers and any additional costs for higher than entry-level salaries and fringe benefits will be the responsibility of the grantee agency, and
WHEREAS, the total grant award amount is $4,560,162 for three years (Total federal share is $1,500,000 (32.9%) and there is a required local share of $3,060,162 (67.1%), and

WHEREAS, grantees must retain any COPS-funded officer positions awarded under the COPS grant for a minimum of 12-months following the 36-month federal funding period for each position, and

WHEREAS, the mandatory 12-month retention is estimated at $1,871,124 bringing the total cost to the City of Modesto impact to $4,931,286 over the four years of the grant and retention period, and

WHEREAS, the retained COPS-funded positions should be added to the Police Department’s budget with state and/or local funds, over and above the number of locally-funded positions that would have existed in the absence of the grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the COPS Hiring Program (CHP) Grant in the amount of $1,500,000, from the U.S. Department of Justice, Office of Community Oriented Policing, to fund twelve Police Officer positions for three years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2016/2017 OPERATING BUDGET, ESTIMATING REVENUE OF $1,418,182, AND APPROPRIATING FUNDS IN ORGANIZATION 1342-19382 UPON ACCEPTANCE OF THE COPS HIRING PROGRAM GRANT

WHEREAS, the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office), solicited applications for the COPS FY 2016 COPS Hiring Program (CHP) which provides funding directly to law enforcement agencies to hire and/or rehire career law enforcement officers in an effort to increase their community policing capacity and crime prevention efforts, and

WHEREAS, on October 3, 2016, the City of Modesto received notification from the United States Department of Justice, Office of Community Oriented Policing Services (COPS) Office that the City of Modesto will receive funding for twelve Police Officer positions, and

WHEREAS, the 2016 CHP grant will cover up to 75 percent of the approved entry-level salary and fringe benefits of each newly-hired and/or rehired, full-time sworn career law enforcement officer over the three-year (36 months) grant period, with a minimum 25 percent local cash match requirement and maximum federal share of $125,000 per officer position over three years, and

WHEREAS, CHP grant funding will be based on each agency’s current entry-level salary and fringe benefits for full-time sworn officers and any additional costs for higher than entry-level salaries and fringe benefits will be the responsibility of the grantee agency, and
WHEREAS, the total grant award amount is $4,560,162 for three years (Total federal share is $1,500,000 (32.9%) and there is a required local share of $3,060,162 (67.1%), and

WHEREAS, grantees must retain any COPS-funded officer positions awarded under the COPS grant for a minimum of 12-months following the 36-month federal funding period for each position, and

WHEREAS, the mandatory 12-month retention is estimated at $1,871,124 bringing the total cost to the City of Modesto impact to $4,931,286 over the four years of the grant and retention period, and

WHEREAS, the retained COPS-funded positions will be added to the Police Department’s budget with state and/or local funds, over and above the number of locally-funded positions that would have existed in the absence of the grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2016/2017 Operating Budget is hereby amended estimating revenue and expenses of $1,418,182 as indicated on the attached Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour,
who moved its adoption, which motion being duly seconded by Councilmember Grewal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Necessary Budget Adjustments for COPS Hiring Program Grant

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RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL YEAR 2016/2017 AS ADOPTED IN THE OPERATING BUDGET TO ALLOCATE TWELVE POLICE OFFICER POSITIONS AS A RESULT OF THE 2016 COPS HIRING PROGRAM GRANT

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 28, 2016, as part of the Annual Budget of the City of Modesto for Fiscal Year 2016-2017, and

WHEREAS, the Modesto Police Department received notification on October 3, 2016, of a grant award in the amount of $1,500,000 for the 2016 COPS Hiring Program Grant through the U.S. Department of Justice for the partial funding for twelve (12) entry level Police Officers, and

WHEREAS, the additional Police Officer allocations will be effective the first full pay period following Council adoption, (Pay Period beginning November 1, 2016), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2016-17 Operating Budget to increase the total number of sworn Police Officers to 165 from 153.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL YEAR 2016-17 AS ADOPTED IN THE POLICE DEPARTMENT OPERATING BUDGET

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 28, 2016, as part of the Annual Budget of the City of Modesto for Fiscal Year 2016-2017, and

WHEREAS, the Modesto Police Department was authorized additional allocations through the Fiscal Year 2016-2017 budget modification process, and

WHEREAS, position changes will be effective the first full pay period following Council adoption, (Pay Period beginning November 1, 2016), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2016-17 Operating Budget for various departments as follows:

1. Allocate six (6) Police Officers in the Field Operations Division of the Police Department.

2. Allocate two (2) Police Sergeants in the Field Operations Division of the Police Department.

3. Allocate two (2) Police Lieutenants in the Field Operations Division of the Police Department.

4. Allocate one (1) additional Police Officer in the Field Operations Division of the Police Department to achieve 240 sworn staff.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 25\textsuperscript{th} day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

\[\text{SEAL}\]

**ATTEST:**  
STEPHANIE LOPEZ, City Clerk

(SEAL)

**APPROVED AS TO FORM:**

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE PARKING FEE STRUCTURE FOR SINGLE SPACE VEHICLES TO $1 PER HOUR, 24 HOURS PER DAY, AS A PILOT PROGRAM TO DETERMINE THE IMPACT ON EVENING PATRONAGE OF DOWNTOWN BUSINESSES, AND RESCINDING RESOLUTION NO. 2007-359

WHEREAS, Section 3-2.1601 of the Modesto Municipal Code provides that the City Council may from time to time establish and designate municipal off-street parking facilities in the City by resolution of the Council, and

WHEREAS, Section 3-2.1602 of the Modesto Municipal Code provides that the hours and days upon which the operation of off-street parking facilities shall be effective shall be established from time to time by resolution of the Council, and

WHEREAS, Section 3-2.1603 of the Modesto Municipal Code provides that the rates for use of off-street parking facilities shall be established from time to time by resolution of the Council, and

WHEREAS, by Resolution No. 2007-359, Council established the current parking rates, and

WHEREAS, the Healthy Economy Committee met on September 14, 2016 and discussed changing the parking fee structure in an effort to help revitalization of the downtown area and,

WHEREAS, the evening businesses support the recommendation of a one year pilot program that would decrease the evening parking fee rates for all city off-street parking facilities with the understanding that at the end of the one year pilot program, staff will study and report the fiscal impact of the pilot program.

RESCINDED

OCT 3 2017

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2017-393
WHEREAS, the Healthy Economy Committee, as well as staff, supports the recommendation of the following parking fee structure:

SECTION I. GARAGE PARKING FACILITIES.

(1) The following municipal garage parking facilities are: Eleventh Street Garage (Lot 28) west side of 11th Street between I and J Streets;

(2) Ninth Street Garage (Lot 43) west side of 9th Street between K and L Streets;

(3) Tenth Street Garage (Lot 44) west side of 11th Street between J and K Streets

(a) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

(1) A $1 per hour, 24 hours per day, 7 days per week (up to a possible daily maximum of $12). Customers entering and exiting between 6 pm and 6 am will have an evening maximum fee of $5 for single space vehicles. The 24-hour period maximum fee will remain at $12 unless validated in accordance with the provisions of Section 3.2.1604.

(2) Flat fee pre-pay entry charges will continue to be utilized for large events for safety and efficiency of ingress and egress in the parking facilities as deemed necessary by the Parking Supervisor.

(3) Replacement of a lost ticket will remain at the daily maximum fee of $12.

(b) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, will remain at $107 for a book of one hundred stamps.
(c) The Parking Supervisor may designate spaces in said garage parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(d) Monthly parking passes may be authorized by the Parking Supervisor at said garage parking facilities when it does not encroach on the needs of commercial parking and/or other parking agreements. The monthly charges for such passes for the three parking garages (Lots 28, 43 and 44) shall be as follows: $60 for 2007, $62 for 2008, $64 for 2009, $66 for 2010, $68 for 2011, $70 for 2012, $72 for 2013, $74 for 2014, $76 for 2015, $78 for 2016, and $80 for 2017.

(e) From time to time, the promoters of special events have the need to use the entire first floor of the Eleventh Street parking garage for their events. The charges for such “buy-out” rentals shall be $225 per 24-hour period or portion thereof.

(f) In order to accommodate patrons who are unable to locate a parking space, a twenty-minute free grace period shall be allowed.

SECTION 2. SURFACE PARKING lots.

(a) For the purposes of this section, municipal off-street parking facilities shall continue to be defined as those that are equipped with automated collection devices and/or are staffed. Parking lots described in Section 3 below shall be excluded.

(b) Vehicular parking on said parking facilities shall be controlled and regulated as follows:

(1) $1 per hour, 24 hours per day, 7 days per week (up to a possible daily maximum of $12). Customers entering and exiting between 6 pm and 6 am will have an evening maximum fee of $5 for single space vehicles. The 24-hour period maximum fee
will remain at $12 unless validated in accordance with the provisions of Section 3.2.1604

(2) Flat fee pre-pay entry charges will continue to be utilized for large events for safety and efficiency of ingress and egress in the parking facilities as deemed necessary by the Parking Supervisor.

(c) The price for validation stamps to be used with the validation system on said garage parking facilities, as provided by Section 3-2.1604 of the Modesto Municipal Code, shall be $107 for a book of one hundred stamps.

(d) The Parking Supervisor may designate spaces in said parking facilities for the free parking of bicycles. When appropriate signs are erected, bicycles may be parked in such areas without charge.

(e) Monthly parking passes may be authorized by the Parking Supervisor for any surface parking lot when it does not encroach on the needs of commercial parking. The monthly charges for such passes shall be as follows: \$60\ for 2007; \$62\ for 2008; \$64\ for 2009; \$66\ for 2010; \$68\ for 2011; \$70\ for 2012; \$72\ for 2013; \$74\ for 2014, \$76\ for 2015; \$78\ for 2016; and, \$80\ for 2017.

(f) Recreational Vehicles (RVs) may be allowed to park on surface lots as designated by the Parking Supervisor. The charges per 24-hour period, or portion thereof, shall be \$20.\n
(g) Buses and commercial trucks may be allowed to park on surface lots as designated by the Parking Supervisor. The charges per twenty-four hour period, or portion thereof, shall be \$30.\n
(h) From time to time, the promoters of special events have the need to use an entire surface lot for their event. The charges for such “buy-out” rentals shall be $550 for the
surface lot at 10th and H (110 spaces), $275 for the surface lot at 9th and I (55 spaces), $210 for the surface lot at 9th and J (42 spaces), $225 for the first floor of the Eleventh Street garage (45 Spaces), and $750 for the Centre Plaza surface lot (150 spaces). In addition, a discount of $1 per space shall be provided at the Centre Plaza lot when the rental of the Centre Plaza lot is in conjunction with an event at the Modesto Centre Plaza. In that case, the rate will be $600, with $75 of that amount going to the Centre Plaza operating fund.

(i) Additional surface parking facilities and/or hours of operation, including weekends, may be authorized by the Parking Supervisor as appropriate to meet parking needs, comply with existing agreements, or allow for collection of fees for special events.

SECTION 3. FREE PARKING LOTS.

(a) The following municipal off-street parking facilities shall be free parking lots:

(1) Lot 13, north side of H Street between 15th and 16th Streets (Modesto Stanislaus Library);

(2) Lot 15, east side of 11th Street between F and G Streets (north of Fire Station #1); and

(3) Lot 16, east side of 11th Street between F and G Streets (south of Fire Station #1).

SECTION 4. DISABLED PERSONS.

Notwithstanding any other provision of this resolution, disabled persons, as defined in Section 22511.5 of the California Vehicle Code, displaying a distinguishing license plate or distinguishing placard issued pursuant to Section 22511.5 of the California Vehicle Code may park free in any of the municipal off-street parking
facilities specified in this resolution, except in reserved parking spaces.

SECTION 5. JURY PARKING.

Persons ordered to appear for jury duty may park exclusively in the municipal off-street parking facility on the east side of 8th Street between K and L streets in compliance with the fees and regulations specified in this resolution.

NOW THEREFORE BE IT RESOLVED by Council of the City of Modesto that it hereby approves amending the parking fee structure for single space vehicles to $1 per hour, 24 hours per day, as a pilot program to determine the fiscal impact to the parking program as well as possible influence on evening patronage of the downtown businesses.

BE IT FURTHER RESOLVED that Resolution No. 2007-359 is hereby rescinded and replaced by this new parking fee structure effective 30 days from the date of the adoption of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION ABANDONING SYDNEY STREET SOUTH OF JENNIE STREET (E & J GALLO WINERY)

WHEREAS, a verified application by the E & J Gallo Winery on behalf of Gallo Glass Company and G3 Enterprises requesting the full abandonment of Sydney Street south of Jennie Street was received by the City of Modesto on July 7, 2016, a copy of which is attached hereto as Exhibit A and shown in Exhibit B, and incorporated herein by reference, and

WHEREAS, California Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate public right-of-way, and

WHEREAS, a title report was submitted with the vacation request which discloses that fee title of the street right-of-way is vested in Gallo Glass and G3 Enterprises, the proponents of the vacation, and

WHEREAS, the proposed vacation has been referred to affected City departments and local utility companies, and no objection to the proposed vacation has been received, and

WHEREAS, Government Code Section 65402(a) requires that prior to vacating a public right-of-way, the Planning Commission shall make a determination as to whether the vacation is consistent with the General Plan, and

WHEREAS, a hearing was held by the Planning Commission on September 12, 2016, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.
regarding whether the proposed vacation conforms to the City's Urban Area General Plan, and

WHEREAS, by Planning Commission Resolution No. 2016-14, the Planning Commission rendered a report finding that the proposed vacation is in conformance with the Modesto Urban Area General Plan, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, October 25, 2016, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, notices no more than 300 feet apart were posted along the line of the proposed right-of-way to be vacated for two successive weeks prior to the hearing, and notice was published in the Modesto Bee for two successive weeks prior to the hearing, per California Streets & Highways Code Sections 8323 and 8322, respectively, and,

WHEREAS, all things and acts necessary to be done as required by California Streets and Highways Code Sections 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate the subject right-of-way have been done and accomplished,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto finds and determines as follows:

1. The street to be abandoned is not necessary to serve present or future traffic needs in the area.

2. The street to be abandoned is considered a local street and is not designated as collector street or higher in the Circulation Element of the General Plan; therefore, the street abandonment is in conformance with the General Plan.

3. That Environmental Assessment No. EA C&ED 2016-20 determined that the potential environmental effects of the vacation are adequately
addressed within the context of the previously adopted General Plan Master EIR.

BE IT FURTHER RESOLVED that the Council hereby approves the reservation of a ten-foot-wide public utility easement along the Jennie Street frontage of the abandonment area as required by the utility company and the City Engineer or designee.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the abandonment of Sydney Street South of Jennie Street.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

APPROVED AS TO LEGAL DESCRIPTION:

By: Community & Economic Development Department Planning Division

10/25/2016/CEP/Kelly/Item 18
EXHIBIT A

LEGAL DESCRIPTION
TO VACATE PUBLIC RIGHT-OF-WAY

All that portion of Sydney Street (originally known as Maple Street) as shown on the map of "Groinger's Addition to Modesto", filed in Book 1 of Maps, at Page 17, Stanislaus County Records, lying in a portion of Section 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at the northeast corner of Block A as shown on said map; thence south, along the east line of said Block A, a distance of 175.00 feet, to a point on the north line of that portion of Sydney Street vacated by Instrument No. 8806943 of Official Records; thence east, along said north line, a distance of 60.00 feet, to the southwest corner of Lot 23 of Block 1 as shown on said map; thence north, along the west line of said Block 1, a distance of 175.00 feet, to the northwest corner of said Block 1; thence west, a distance of 60.00 feet, to the point of beginning.

Containing a total of 10,500 square feet, more or less.

Reserving an easement for public utilities over and across the northerly 10.00 feet.

See Exhibit B attached hereto and made a part hereof.
Exhibit "B"

Vacated Property Exhibit
MODESTO CITY COUNCIL
RESOLUTION NO. 2016-434

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): ABANDONMENT OF SYDNEY STREET, SOUTH OF JENNIE STREET (E & J GALLO WINERY)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, the E & J Gallo Winery has proposed the abandonment of Sydney Street south of Jennie Street, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2016-20 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on October 5, 2016, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 25, 2016, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed
street abandonment, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.

2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

3. No new or additional mitigation measures or alternatives are required.

4. The subsequent project is within the scope of the project covered by the Master EIR.

5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

6. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

ADAM U. LINDGREN, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2016-20
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2016-20

For the proposed:

ABD-16-001
Abandonment of 175-Ft of Right-of-Way of Sydney Street south of Jennie Street

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

August 15, 2016

Updated: September 2013
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Master Environmental Impact Report (“Master EIR” or “MEIR”). This Initial Study Environmental Checklist (“Initial Study”) is used in determining whether the Abandonment of 175-ft Right-of-Way of Sydney Street south of Jennie Street (“Street Abandonment”) is “within the scope” of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is “within the scope” of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

“Additional significant effects” means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. “Substantial evidence” means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: ABD-16-001—Abandonment of 175-ft Right-of-Way of Sydney Street south of Jennie Street

B. Address or Location: Sydney Street south of Jennie Street, NE Corner of Block “A” of the Grainger Addition to the City of Modesto, Book 1 of Maps at Page 17, Stanislaus County Records.

C. Applicant: E&J Gallo Winery (Drew Layland); 600 Yosemite Blvd., Modesto, CA 95354

D. City Contact Person: Katharine Martin, Associate Planner

Project Manager: Katharine Martin, Associate Planner
Department: Community and Economic Development, Planning Division
Phone Number: 209-577-5465
E-mail address: kamartin@modestogov.com

E. Current General Plan Designation(s): Redevelopment Planning District (RPD)
F. Current Zoning Classification(s): Neighborhood Commercial (C-1) Zone; Light Industrial (M-1) Zone; Professional Office (P-O) Zone

G. Surrounding Land Uses:
   North: Medium-High Density Residential (R-3) Zone; State of California Department of Motor Vehicles (DMV) office
   South: Light Industrial (M-1) Zone; Gallo Winery operations buildings
   East: Professional Office (P-O) Zone; Gallo Winery operations building, vacant land
   West: Neighborhood Commercial (C-1) Zone; AG Science Center administrative office

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Applicant proposes the full abandonment of the remaining 175-feet of right-of-way of Sydney Street, a local dead-end street south of Jennie Street, to facilitate enclosing an existing parking lot adjacent to the street with new fencing and access gates. The Sydney Street right-of-way to be abandoned would become the parking lot entrance. The southerly 78-feet of Sydney Street was previously abandoned in the early 1990's with the realignment of Yosemite Boulevard/CA-132. This proposal would abandon the remaining 175-foot portion of Sydney Street as it exists south of Jennie Street. No utilities are known to exist in the right-of-way to be abandoned. Any future development as a result of the abandonment is to be by separate application.
I. Other Public Agencies Whose Approval is Required: None.
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIR.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   E. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

   D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.
B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

________________________________________  Associate Planner  September 1, 2016
Project Manager  Title  Date
4. **Within the Scope Analysis of this Document:**

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any “No” response must be discussed.

<table>
<thead>
<tr>
<th>Statement</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.</td>
<td>✗</td>
<td>0</td>
</tr>
</tbody>
</table>

5. **Currency of the Master EIR Document**

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “no” response must be explained.

<table>
<thead>
<tr>
<th>Statement</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
<td>0</td>
<td>✗</td>
</tr>
<tr>
<td>(2) This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.</td>
<td>✗</td>
<td>0</td>
</tr>
<tr>
<td>(c) Policies remain in effect which require site-specific mitigation, and avoidance or other</td>
<td>✗</td>
<td>0</td>
</tr>
</tbody>
</table>
Discussion:

(1) The General Plan Master EIR was certified on October 14, 2008, so more than five years has passed since the MEIR was certified. However, the analysis contained in the MEIR is still adequate for subsequent projects, as documented in the discussion below.

(2) The project is consistent with the analysis contained in the MEIR. This is documented in the discussion of the individual issue areas of this initial study.

(2)(a) There have been no substantive changes to the General Plan since the MEIR was certified that would create additional significant environmental effects that were not analyzed by the MEIR.

(2)(b) There has been no new information that would affect the adequacy of the analysis contained in the MEIR.

(2)(c) All policies contained in the MEIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.
1. **TRAFFIC AND CIRCULATION**

a. **Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto’s significance threshold for automobile traffic, or lower (LOS E or F).

**Effect:** The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG’s Congestion Management Plan for designated roads and highways.

**Effect:** A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

**Cumulative Impacts**

**Effect:** Potential for growth inducement or acceleration of development resulting from highway and local road projects.

**Effect:** Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

**Effect:** Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. **Master EIR and/or New Mitigation Measures Applied to the Project**

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. **Project-Specific Effects**
Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

<table>
<thead>
<tr>
<th>1. TRAFFIC AND CIRCULATION</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR’s mitigation measures.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Less Than Significant

Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact

Area General Plan MEIR.

Discussion:

(1) The project would abandon the remaining 175-feet of a local dead-end street south of another local street, and would not cause an increase in traffic. The proposed street abandonment is consistent with the General Plan land use policies. The site is within the Baseline Developed Area of the City and is within the area designated as Redevelopment Planning District (RPD) in the City’s General Plan.

(2) The project would not exceed a level of service standard established by the county congestion management agency for designated roads or highways.

(3) The proposed street abandonment would not cause an increase in level of service for the adjacent streets or conflict with any Congestion Management Plans, or cause an increase in vehicle miles or hours traveled.

(4) Police and Fire staff have reviewed the proposal and indicated no concerns with response times to the project site.

(5) The project would not displace parking spaces or result in less parking than what is required by the Modesto Municipal Code.

(6) The project has been reviewed by Traffic, Planning and Transit staff, who indicated no concerns. The project would not conflict with any adopted plans for alternative transportation.

(7) The project would not result in an increase in vehicle miles traveled in excess of what was considered by the General Plan MEIR.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO\textsubscript{x}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM\textsubscript{10}) and 2.5 microns or less in diameter (PM\textsubscript{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

ABD-16-001: Sydney Street Abandonment
City of Modesto General Plan Master EIR

Initial Study EA No. 2016-20
August 15, 2016
Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
No mitigation measures regarding air quality from the MEIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>2. DEGRADATION OF AIR QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5}.</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>Impact of the Urban Area General Plan.</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>--------------------------------</td>
<td>-----------------------------------------------</td>
<td>--------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) The project proposes the abandonment of an existing 175-foot street segment of Sydney Street, to enclose an existing adjacent parking lot and utilize the abandoned street as a new driveway entrance. Any future development as a result of the abandonment will be by separate application. The site is within the Baseline Developed Area and the Redevelopment Planning District (RPD) of the General Plan.

(3) The proposed street abandonment would not conflict with any air quality policies in the General Plan.

(4-5) The proposed street abandonment would not expose sensitive receptors to pollutants nor create objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures regarding noise from the MEIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>3. GENERATION OF NOISE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1-4) The project proposes the abandonment of an existing 175-foot street segment of Sydney Street, to enclose an existing adjacent parking lot and utilize the abandoned street as a new driveway entrance. Any future development as a result of the abandonment will be by separate application. The proposed street abandonment would not exceed standards for
noise level, nor cause an increase of ambient noise or result in a substantial temporary increase in ambient noise levels.

4. **EFFECTS ON AGRICULTURAL LANDS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

**Effect:** Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

**Cumulative Impacts**

**Effect:** Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

**b. Master EIR and/or New Mitigation Measures Pertinent to the Project**

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

**Discussion:**

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
4. EFFECTS ON AGRICULTURAL LANDS

1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land.

2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan’s planning area boundary.

3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.

4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.

Discussion:

(1) The proposed street abandonment is consistent with the General Plan land use policies. The project site is within the urbanized area of the City. No agricultural land will be converted as a result of the project.

(2) The site is within the Baseline Developed Area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

(3) The site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The area surrounding the proposed street abandonment is developed and will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts
Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
groundwater recharge.

Discussion:

(1) The proposed street abandonment would not be inconsistent with the water supply policies in the General Plan.

(2) The proposal is to abandon an existing 175-foot street segment of Sydney Street, to enclose an existing adjacent parking lot and utilize the abandoned street as a new driveway entrance. Any future development as a result of the abandonment to be by separate application. Water demand for the proposal would not be impacted.

(3) The proposed street abandonment is consistent with the land uses and water demands assumed in the General Plan. The proposal would not have a significant effect on groundwater recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson’s hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be
incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
</tbody>
</table>

Discussion:
(1) The proposed street abandonment would not be inconsistent with the water supply policies in the General Plan.
(2) The proposed street abandonment will not generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.
(3) The proposal will not generate sewage flows. There are no existing sewer lines in the roadway to be abandoned.
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

**Direct Impacts**

*Effect:* No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

**Cumulative Impacts**

*Effect:* Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

ABD-16-001: Sydney Street Abandonment
City of Modesto General Plan Master EIR

Initial Study EA No. 2016-20
August 15, 2016
<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The street abandonment is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

(2) The site of the street abandonment is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

(4) The site is not a biologically sensitive area as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly affected by the project.
(5) The street abandonment would not conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

**Effect:** The modification or demolition of a structure more than 50 years in age may be significant.

**Effect:** Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

**Effect:** Construction in an area of high archaeological sensitivity.

**Cumulative Impacts**

**Effect:** No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

**Discussion:**

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.8 of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
</tbody>
</table>

**Discussion:**

(1) The proposed street abandonment is consistent with the archeological and historical resource policies in the General Plan.

(2-3) The project proposes the abandonment of an existing 175-foot street segment of Sydney Street, to enclose an existing adjacent parking lot and utilize the abandoned street as a new driveway entrance. No buildings are proposed to be demolished, and no City landmarks exist at the site. Any development that would occur as a result of the abandonment would be by separate application.

(4) The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.

(5) The project does not conflict with local policies affecting biological resources.

**9. INCREASED DEMAND FOR STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

**Direct Impacts**

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August 15, 2016
**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

**Discussion:**

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would substantially</td>
<td>☐</td>
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</tr>
</tbody>
</table>
increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.

3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.

<table>
<thead>
<tr>
<th><strong>Potentially Significant Impact</strong></th>
<th><strong>Less Than Significant with Mitigation Incorporated</strong></th>
<th><strong>Less Than Significant Impact</strong></th>
<th><strong>No Impact</strong></th>
</tr>
</thead>
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<td>3)</td>
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</table>

**Discussion:**

1) The proposed street abandonment is consistent with the storm drainage policies in the Urban Area General Plan.

2) The proposal will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

3) The project proposes the abandonment of an existing 175-foot street segment of Sydney Street, to enclose an existing adjacent parking lot and utilize the abandoned street as a new driveway entrance. Any future development as a result of the abandonment will be by separate application.

### 10. FLOODING AND WATER QUALITY

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:
There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. FLOODING AND WATER QUALITY</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Impact</td>
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</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3-5) The site is not located within a 100-year flood plain. The proposal is for the abandonment of an existing local street for use as the entrance to an existing parking lot. Any future development as a result of the abandonment will be by separate application.

(6) The proposed abandonment would not violate water quality standards or waste discharge requirements.

(7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

(8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would eliminate parks or open space.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2-3) The street abandonment will not impact parks or open space, nor cause an increase in the use of existing parks. The proposal is for the abandonment of an existing local street for use as the entrance to an existing parking lot.
12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

**Effect:** No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

**Effect:** Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
12. **INCREASED DEMAND FOR SCHOOLS**

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
</tbody>
</table>

**Discussion:**

1) The project proposes the abandonment of a dead-end street, which would not conflict with the policies relating to schools in the Urban Area General Plan.

2) The project would not conflict with SB50/Proposition 1A funding provisions, or succeeding measures.

13. **INCREASED DEMAND FOR POLICE SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**
Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>13. INCREASED DEMAND FOR POLICE SERVICES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The proposed abandonment would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. Conversion of the street to a parking lot entrance as a result of the abandonment will meet City Standards for emergency services access.

14. **INCREASED DEMAND FOR FIRE SERVICES**

a. **Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

b. **Master EIR and/or New Mitigation Measures Applied to the Project**
Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>14. INCREASED DEMAND FOR FIRE SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed abandonment is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

(3) The proposed abandonment would not cause the erosion or elimination of fire protection services. Conversion of the street to a parking lot entrance as a result of the abandonment will meet City Standards for emergency services access.
15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Effect Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.
(2) The proposed abandonment would not cause an impact to the disposal capacity of solid waste facilities in the County.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

<table>
<thead>
<tr>
<th>Direct Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Effect:</strong> No residual significant direct impacts were disclosed in the Master EIR.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cumulative Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Effect:</strong> No residual significant cumulative impacts were disclosed in the Master EIR.</td>
</tr>
</tbody>
</table>

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. GENERATION OF HAZARDOUS</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ABD-16-001: Sydney Street Abandonment
City of Modesto General Plan Master EIR

Initial Study EA No. 2016-20
August 15, 2016
<table>
<thead>
<tr>
<th>MATERIALS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the hazardous materials policies in the General Plan.
2. The street abandonment does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).
3. The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.
4. The project site is not known to contain any contaminants.

### 17. GEOLOGY, SOILS, AND MINERAL RESOURCES

#### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The street abandonment is consistent with policies relating to geology, soils, and mineral resources in the General Plan.
The street abandonment would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

ABD-16-001: Sydney Street Abandonment
City of Modesto General Plan Master EIR
19. **EFFECTS ON VISUAL RESOURCES**

### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

#### Direct Impacts

**Effect:** New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

#### Cumulative Impacts

**Effect:** No additional cumulative impacts were disclosed in the Master EIR.

### b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

**Discussion:**

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

**ABD-16-001: Sydney Street Abandonment**

**City of Modesto General Plan Master EIR**

**Initial Study EA No. 2016-20**

**August 15, 2016**
Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>19. EFFECTS ON VISUAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The street abandonment is consistent with the policies relating the visual resources in the General Plan.

2-3. The proposal would not impact views from riverside areas and parks, nor would degrade views of riverside areas and parks from public roadways.

### 20. LAND USE AND PLANNING

#### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>20. LAND USE AND PLANNING</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with the Redevelopment Planning District (RPD) land use designation in the General Plan.
The proposed abandonment would not divide an established community. The street to be abandoned is currently a dead-end street and is sparsely used by traffic other than employees and visitors to the existing parking areas it fronts. The abandonment is proposed to facilitate the construction of a fence and access gate to the parking areas.

The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
21. CLIMATE CHANGE

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.</td>
<td></td>
<td></td>
<td></td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.</td>
<td></td>
<td></td>
<td></td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed street abandonment is consistent with the policies relating to climate change in the Urban Area General Plan. The project would not have a significance effect on climate change.

(2) The proposed abandonment is for a street segment that is currently a dead-end that is sparsely used by traffic other than visitors and employees to the existing parking lots it fronts. The abandonment of the street would not affect automobile trip lengths or CO₂ emissions.

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:
N/A

Degradation of Air Quality:
N/A

Generation of Noise:
N/A

Effects on Agricultural Lands:
N/A

Increased Demand for Long-Term Water Supplies:
N/A
Increased Demand for Sanitary Sewer Services:
N/A

Loss of Sensitive Wildlife and Plant Habitat:
N/A

Disturbance of Archaeological/Historic Sites:
N/A

Increased Demand for Storm Drainage:
N/A

Flooding and Water Quality:
N/A

Increased Demand for Parks and Open Space:
N/A

Increased Demand for Schools:
N/A

Increased Demand for Police Services:
N/A

Increased Demand for Fire Services:
N/A

Generation of Solid Waste:
N/A

Generation of Hazardous Materials:
N/A

Geology, Soils, and Mineral Resources:
N/A
Energy:
N/A

Effects on Visual Resources:
N/A

Land Use and Planning:
N/A

Climate Change:
N/A
RESOLUTION OPPOSING PROPOSITION 57, THE PUBLIC SAFETY AND REHABILITATION ACT OF 2016

WHEREAS, the City of Modesto considers it appropriate to oppose actions or initiatives at local, state, and federal levels that could jeopardize the public safety, and

WHEREAS, Proposition 57, known as the Public Safety and Rehabilitation Act of 2016, has qualified for the November 8, 2016 General Election ballot in California, and

WHEREAS, Proposition 57 is intended to ease over-crowding in prisons, incentivize rehabilitation and provide leniency to inmates who avail themselves of meaningful rehabilitation opportunities, and

WHEREAS, Proposition 57 attempts to establish a more reasoned approach for our court system in its disposition of juvenile offenders, as well as standardize and streamline procedures for establishing an offenders’ eligibility for parole, and

WHEREAS, notwithstanding the objectives of Proposition 57, California has experienced increased and sustained property crime in the aftermath of the 2011 public safety realignment and the passage of Proposition 47 in 2014, leading to an increasing number of crimes being treated as misdemeanors, aggravating a pre-existing shortage of beds in county jails, and resulting in an increasing number of offenders being at liberty on the streets of California’s cities, and

WHEREAS, according to the Los Angeles Times, violent crime in California rose in California by 10% in 2015, a figure corroborated by crime statistics maintained by the California Department of Justice, which indicate that over 15,000 more violent crimes occurred in California in 2015 than in 2014, and
WHEREAS, Proposition 57 would potentially lead to early release for offenders convicted of “non-violent crimes”, many of which seem more properly categorized as violent, including throwing acid with the intent to disfigure, and discharging a firearm from a motor vehicle, to name a few, and this triggers concerns that offenders which committed offenses widely regarded as violent will be provided undue leniency, and

WHEREAS, Proposition 57 could increase the likelihood of parole for persons convicted of “non-violent” felonies after completing the full term for his or her primary offense, and by disqualifying earned enhancements, and

WHEREAS, the passage of Proposition 57 may result in undetermined but negative consequences to public safety and well-being for California’s cities and residents alike, and

WHEREAS, no City funds would be spent opposing Proposition 57.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby opposes Proposition 57 the Public Safety and Rehabilitation Act of 2016.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A FIVE YEAR AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES TO GROVER LANDSCAPE SERVICES, INC. FOR PARKS, RIGHT OF WAYS AND PUBLIC LANDSCAPING OWNED AND/OR MAINTAINED BY THE CITY OF MODESTO FOR AN ESTIMATED ANNUAL COST OF $1,670,587, TOTALING $8,352,935 OVER A FIVE YEAR PERIOD AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT IN A FORM APPROVED BY THE CITY ATTORNEY

WHEREAS, the City of Modesto’s Public Works Department, Park Operation Services Division, provides landscape maintenance services to over 500 acres at 75 park sites totaling approximately 8,550,000 square feet, and to over 200 other landscaped sites including: public buildings, street medians, sound walls, traffic islands, right of ways and other miscellaneous sites, and

WHEREAS, funding for this maintenance is provided primarily by the City’s General Fund, although a number of sites are funded from other sources including Tuolumne River Regional Park JPA, Parking Fund, Storm Drain Fund, and several Community Facility Districts, at an estimated annual cost of $1,670,587, and

WHEREAS, due to the expiration of the prior landscaping services agreement, the City Manager authorized the Purchasing Manager to issue Request for Proposal 1516-25 for Landscape Maintenance Services of City parks, landscape median walls, City buildings and Community Facility Districts, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for landscape maintenance
services to Grover Landscape Services, Modesto, CA, conforms to the Modesto Municipal Code 8-3.203.

WHEREAS, on April 12, 2016, bids were formally opened in the City Clerk’s office, and,

WHEREAS, of the nine prospective proposers solicited, Grover Landscape Services, Inc. and Terracare Associates were the two companies that chose to respond, and

WHEREAS, on June 1, 2016, an evaluation committee was formed which was comprised of three City Staff personnel and two outside technical experts from the City of Lodi and the City of Manteca to evaluate the two proposals. In addition, the City Risk Manager was appointed as an observer of the evaluation process, and

WHEREAS, the proposals were evaluated by the Committee based on the criteria of:

References (10 points), Management Plan (25 points), Technical Plan (20 points), Program Implementation (10 points), Proposed Equipment (10 points), and Cost (25 points).

WHEREAS, after a review of the proposals, the Committee determined that Grover Landscape Services, Inc. had garnered the most points.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it authorizing the award of bid, and approving a five year agreement for landscape maintenance services to Grover Landscape Services, Inc. for parks, right of ways, and public landscaping owned and/or maintained by the City of Modesto for an estimated
annual cost of $1,670,587, totaling $8,352,935 over a five year period, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED, that the City Manager or his designee is authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney