

# ARPA Homeowner Repair Expansion Program Policies & Procedures



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\*These policies supersede any previously adopted policies and are subject to review and revision by the City of Modesto Housing Rehabilitation Loan Committee.



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# Homeowner Rehabilitation Expansion Program Policies & Procedures

## 1.0 APPLICABLE LAWS AND REGULATIONS

- 1.1 All Housing Rehabilitation Program activities shall be conducted in accordance with all applicable 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, 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

- 2.1 Health, safety, and exterior repairs include but are not limited to: abatement of hazardous materials (i.e. mold, lead based paint, etc.), exterior paint, stucco repair, siding repair, fence repair, exterior door replacement, window replacement, roof replacement, yard clean up, and some landscaping.

## 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 Manufactured homes are not eligible for assistance.
- 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 One-Hundred Forty percent (140%) of the Stanislaus County Area Median Income (AMI), adjusted for household size, as published annually by the United States Department of Housing and Urban Development (HUD); live within a Qualified Census Tract as defined by the Department of Housing and Urban Development; and/or have experienced a negative economic impact due to the COVID-19 pandemic.
- 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 Reverse Mortgages will be considered on a case by case basis. Borrower must comply with program loan to value requirements.

4.4 Borrowers with a mortgage shall show that all mortgage, property tax, and insurance payments are current, and meet both of the following debt-to-income ratios:

4.4.1 Front end (housing) debt-to-income ratio shall not exceed 45 percent (45%) 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.

4.4.2 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 the Front-End ratio above, plus any other monthly debt payments such as car loans, personal loans, credit card debt, or child support and alimony payments.

#### 4.5 Credit Report and Liabilities

4.5.1 The Housing Financial Specialist (HFS) must obtain a signed "Authorization to Verify Information" and/or "Eligibility Release Form" from the applicant authorizing the City to pull a credit report and verify any information with a third party.

4.5.2 The HFS shall pull the applicant(s) credit report within three business days of determining income eligibility. The HFS shall order a credit report through the City of Modesto's secure account held with a major credit bureau (e.g. Equifax, Experian, or Transunion). A credit report shall be pulled for all program applicants.

4.5.3 If the applicant is eligible for a loan, the credit report should be reviewed to determine if any public liens will be in prior position to the City loan, or to compare the applicant's actual credit liabilities with the liabilities listed on the application. The credit report should be used for verification of information. The credit score is not relevant for a deferred payment loan. Debt-to-income guidelines should be used to demonstrate the household's ability to continue to live in the home.

4.5.4 If the applicant is eligible for an amortized loan, the credit report should be analyzed for a credit score, verification of debts, and ability and willingness to repay the loan. The HFS shall use debt-to-income ratios allowable under this policy as a guideline for payment affordability.

4.5.5 Special Note: Household income must be collected on all qualifying adult household members. However, only the credit liabilities of the applicant will be used in the credit liability calculation. Adult members of the household who are not on title are not a party to the loan transaction.

4.6 Borrowers shall meet the following credit worthiness criteria:

4.6.1 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.

- 4.6.2 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.
- 4.6.3 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.
- 4.6.4 Borrower shall not have filed bankruptcy, or received a bankruptcy discharge, in the last three (3) years prior to date of application.
- 4.6.5 Homeowner Eligibility – the Housing Rehabilitation Loan Committee (HRLC) will consider applications on a case-by-case basis. The HRLC will have the discretion to consider any extenuating circumstances for a homeowner who may not meet the Homeowner Eligibility Guidelines and may decide to approve the application based on such extenuating circumstances.
  - 4.6.5.1 Applicants with Debt-to-Income ratios outside the limits established within these policies may be considered for assistance if the Debt-to-Income ratio is within 10% of the current Homeowner Rehabilitation Program Policies & Procedures guidelines.
  - 4.6.5.2 Applicants who have defaulted on their property taxes may be considered for assistance if a payment plan has been established with the Stanislaus County Treasurer/Tax Collector's Department and applicant is current on those payments.
- 4.7 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.
- 4.8 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.
- 4.9 Process:
  - 4.9.1 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 (technical assistance);
  - 4.9.2 Housing Rehabilitation Specialist determines properties needs via exterior visual inspection (pre-1978 visual Lead Based Paint Inspection conducted);
  - 4.9.3 Housing Rehabilitation Specialist scope of work and budget to Housing Rehabilitation Supervisor;
  - 4.9.4 HRLC reviews for consideration and approval of the overall project proposal;
  - 4.9.5 Housing Rehabilitation Specialist processes approved projects through the bid process;
  - 4.9.6 Application inquiry through program completion within approximately 90-days, unless there are extenuating circumstances beyond staff control (e.g. – rain delays);
  - 4.9.7 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 Single Family Residence: An eligible Borrower may qualify for the full cost of rehabilitation/reconstruction work needed to address any Eligible Repairs outlined in ELIGIBLE REPAIRS Section, 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 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.
- 5.1.2 Maximum amounts are as follows:
  - 5.1.2.1 Grants up to \$2,500 require HRLC acknowledgement in order for staff to proceed;
  - 5.1.2.2 Loans up to \$22,500 require HRLC approval in order for staff to proceed;
- 5.1.3 Emergency repairs of up to \$5,000 may be authorized by the Director of Community and Economic Development if it poses an “extreme health and safety related emergency (e.g. – security 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 ARPA 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 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.
- 7.3 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 reasonable radius of the subject property. Any alternative methodology for determining estimated value must be approved by the HRLC.

## **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, immediate pay back required for 10 years unless the borrower sells or transfers title or discontinues residence in the dwelling.

- 8.1.1 Term of Grant Agreement: The following grant agreement term will apply to those projects with a grant and loan combination, 5 years. During the Grant Agreement term, the homeowner must comply with all Grant Agreement requirements;
  - 8.1.1.1 Grant assistance will be 10% of total project cost or \$2,500 whichever is less. 20% of the total Grant amount will be forgiven each year the home is owned and continuously occupied by the borrower.
- 8.2 The following terms shall apply to loans made to households with AMI levels between 81% and 140%:
  - 8.2.1 10-year loan with monthly payments
  - 8.2.2 3% simple interest
  - 8.2.3 Must meet Debt to Income Ratio limits specified in HOMEOWNER ELIGIBILITY SECTION.
- 8.3 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.
- 8.4 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.
- 8.5 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 BID SOLICITATION:**

- 9.1 A detailed scope of work and project independent cost estimate developed by the Housing Rehabilitation Specialist (HRS) based on eligible repairs as listed in ELIGIBLE REPAIRS Section 2.0 shall be prepared prior to consideration for HRLC and bid submittal. The Scope of Work shall be approved by the Housing Rehabilitation Supervisor and Borrower.
  - 9.1.1 The independent cost estimate shall be established utilizing local market data and published construction cost guidelines.
  - 9.1.2 The Housing Rehabilitation Supervisor will review the independent cost estimate prepared by the HRS to ensure the cost estimate is reasonable based on local market data. See COST REASONABLENESS Section for further details on Cost Reasonableness.
- 9.2 To comply with City requirements, a minimum of three bids by California Licensed Contractors shall be obtained prior to bid approval consideration. The City of Modesto will make every attempt to obtain the highest number of bids possible for every project.
- 9.3 Bids in excess of 15% of the HRLC approved amount must be brought back to HRLC for approval consideration.
  - 9.3.1 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 Rehabilitation Supervisor.

**10.0 PROCUREMENT**

- 10.1 Procurement projects under this program will occur after Housing Rehabilitation Loan Committee project approval. The HRLC will approve each project based on Housing Rehabilitation Cost Estimates. Upon project approval, project procurement will occur in alignment with the 15% cost reasonableness rule identified in COST REASONABLENESS Section.
- 10.2 Projects procured under the Homeowner Rehabilitation Program will be conducted in a manner that promotes full and open competition and avoid arbitrary action in the procurement process. The following procurement process will be followed by the City:
  - 10.2.1 Procurement of contractors or other services related to the development of housing through either new construction or rehabilitation must be made on the basis of soliciting competitive bids.
  - 10.2.2 The projects will be publicly advertised through the City’s PlanetBid system, when timing permits. All contractors registered on the City’s PlanetBid system will receive notification of project availability.
    - 10.2.2.1 The Community Development Division will notify prospective bidders, when feasible, to encourage as wide a response as possible.
  - 10.2.3 The bid solicitation will include a scope of work, project address, date of mandatory walkthrough, and date bids are due.
  - 10.2.4 Contracts will be awarded to responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement. Non-responsible contractors will not be allowed to bid on City projects under this program for the duration of the program year.
  - 10.2.5 Rehabilitation projects below \$50,000:
    - 10.2.5.1 Contracts under \$50,000 are considered a “Small Purchase” under the City’s purchasing policies.
    - 10.2.5.2 The policy aligns with OMB Guidance Section 200.319 and 200.320
    - 10.2.5.3 Projects under \$50,000 shall be purchased with three quotes, with public advertising through PlanetBid, if time permitted.
    - 10.2.5.4 The mandatory walkthrough will take place eight (8) business days from the date of bid posting. Contractors will have the opportunity to view project items to be repaired and ask any questions for clarification of bid specifications.
    - 10.2.5.5 Depending on the nature of questions addressed and clarification provided at the mandatory walkthrough, the Housing Rehab Specialist (HRS) may need to amend the project’s Scope of Work. If this occurs, the HRS will issue an amended Scope of Work and release to all contractors who attended the mandatory walkthrough.
    - 10.2.5.6 Bid proposals from contractors will be due 8 calendar days from the mandatory walkthrough.



- 10.2.5.7 All bids from contractors must be sent via email to [housing@modestogov.com](mailto:housing@modestogov.com), or dropped off in person to 1010 10<sup>th</sup> Street, Suite 3100, Modesto CA 95354
- 10.2.5.8 All bids will be reviewed by a program supervisor (e.g. Housing Rehabilitation Supervisor or Senior Community Development Program Specialist) and recorded by a program specialist (e.g. Housing Financial Specialist or Housing Rehab Specialist).
- 10.2.5.9 The HRS will summarize the lowest responsible bid results on the “Work Specification” document
- 10.2.5.10 If less than three written quotes are obtained, an exception may be granted with justification documented and approved by the Purchasing Manager.
- 10.2.6 The applicant will be required to accept the lowest responsible bid with certain exceptions. Rejection of the low bidder without cause will result in cancellation of the project.
  - 10.2.6.1 If on the basis of references, or the inability to start work within a reasonable timeframe, the property owner request to reject the low bidder, he/she must do so in writing. Upon confirmation of the reason for rejection by City staff, the low bidder will be rejected, and the next lowest bidder will be considered.
- 10.2.7 Upon selection of lowest responsible bidder, the HRS will prepare the respective documents for contractor, homeowner signatures, and City signatures (e.g. Housing Rehabilitation Contract and Grant/Loan Documents).
- 10.2.8 Once contracts are executed, City Staff will record loan documents with the Stanislaus County Recorder’s Office.
- 10.2.9 Upon receipt of recorded documents, the Housing Rehabilitation Supervisor will:
  - 10.2.9.1 Issue a Notice to Proceed to the contractor. The contractor will have seven (7) calendar days to begin work from the date of issuance.
  - 10.2.9.2 Route contracts for encumbrance the City’s financial system.
- 10.2.10 Upon selection of lowest responsible bidder, the HRS will prepare the respective documents for contractor, homeowner signatures, and City signatures (e.g. Housing Rehabilitation Contract and Grant/Loan Documents).
- 10.2.11 Once contracts are executed, City Staff will record loan documents with the Stanislaus County Recorder’s Office.
- 10.2.12 Upon receipt of recorded documents, the HFS will:
  - 10.2.12.1 Issue a Notice to Proceed to the contractor. The contractor will have seven (7) calendar days to begin work from the date of issuance.
  - 10.2.12.2 Route contracts for encumbrance the City’s financial system.

**11.0 EMERGENCY REPAIRS PROCEDURE**

- 11.1.1 Per MAXIMUM AMOUNT OF PROGRAM ASSISTANCE Section, emergency repairs of up to \$5,000 may be authorized by the Director of Community and Economic Development if it poses an “extreme health and safety related emergency in line with Modesto Municipal Code 8-3.301.
- 11.1.2 From time to time, City of Modesto residents will contact the city with repair requests that constitute an immediate threat to their health and safety. Such cases will be treated as Emergency repairs; leaking roof (during rainy season).
- 11.1.3 These cases will be given priority over other non-emergency projects.
- 11.1.4 Upon homeowner contact with the City’s Housing Division, the HFS will conduct a pre-screening of the prospect applicant and collect pertinent emergency case facts.
- 11.1.5 After pre-screening, the HFS will collect the application and eligibility documentation from the homeowner; the HFS will inform the Housing Rehab Specialist immediately after collecting the pertinent facts.
- 11.1.6 The HFS shall determine program eligibility within three (3) business days of collecting a completed application packet.
- 11.1.7 Upon determining eligibility, the Housing Rehab Specialist shall communicate with the homeowner and will schedule and conduct a property inspection and determine/prepare a detailed scope of work and independent cost estimate within three (3) business days of eligibility determination, depending on the severity of the emergency.
- 11.1.8 Upon completion of the Emergency Repair Scope of Work, the HRS will submit an “Emergency Repair Request” packet which includes the Scope of Work and related case facts to the Housing Rehabilitation Supervisor for review and approval to proceed with procurement for the Emergency Project.
- 11.1.9 Upon approval by the Housing Rehabilitation Supervisor, HRS shall obtain a minimum of three (3) informal bids and shall be awarded to the lowest responsible bidder.
  - 11.1.9.1 Bid documentation will be kept in the file record.
- 11.1.10 Upon contractor selection, the HRS shall prepare the Advanced Payment Agreement and all required loan documentation for homeowner, contractor, and Director of Community and Economic Development execution within three (3) business days of contractor selection. The Notice to Proceed will be issued upon contract execution by all parties. The rehabilitation contract shall specify the number of days for project completion.
  - 11.1.10.1 A homeowner cannot enter into an Advanced Payment Agreement, unless the homeowner meets the homeowner eligibility guidelines as described in Section 4.0 – Homeowner Eligibility.
- 11.1.11 Routine Progress inspections shall be conducted as specified in PROGRESS INSPECTIONS Section; frequency of progress inspections may be increased as needed for emergency repairs.

- 11.1.12 All emergency rehabilitation projects will be presented to the Housing Rehabilitation Loan Committee (HRLC) at the next available HRLC meeting for formal approval.

## 12.0 **CONTRACTOR ELIGIBILITY**

- 12.1 All prospective Contractors must submit or must have submitted, within the past 3 years, a *Contractor Application* to the City which will allow the City to collect all pertinent information to determine contractor eligibility (i.e. DUNS number, Tax ID, etc.).
  - 12.1.1 Contractor failure to submit a Contractor Application may result in a “non-responsive” bid and disqualify the contractor from consideration.
- 12.2 Upon Receipt of bids from prospective contractors, the Housing Rehabilitation Specialist shall determine contractor eligibility by conducting the following:
  - 12.2.1 Verify that the City has a *Contractor Application* on file for each prospective contractor;
  - 12.2.2 If the City does not have a *Contractor Application* on file for the prospective contractor, the Housing Financial Specialist will make arrangements to ensure the prospective Contractor completes and submits a *Contractor Application* in a timely manner.
- 12.3 Upon confirmation that the City has a complete *Contractor Application* on file, the Housing Rehabilitation Specialist shall conduct the following searches for each prospective contractor:
  - 12.3.1 **Debarred/Suspended Search**
    - 12.3.1.1 It is the City of Modesto’s policy not to conduct business with contractors who are excluded/debarred from conducting business with any federal agency.
    - 12.3.1.2 The Housing Rehabilitation Specialist shall ensure that the prospective Contractor is not excluded/debarred from conducting business with any federal agency by conducting a search on the federal System for Award Management website at [www.sam.gov](http://www.sam.gov).
    - 12.3.1.3 To comply with this requirement, Contractors must provide their DUNS number on the *Contractor Application*.
    - 12.3.1.4 Prospective contractors who do not have a DUNS number at time of bid submittal, must request one by accessing the following website: <http://fedgov.dnb.com/webform/displayHomePage.do>
    - 12.3.1.5 Upon conducting the Sam.gov search, the Housing Rehabilitation Specialist shall print the search results and place a copy in the project file.
  - 12.3.2 **California State License Board (CSLB) Search:**
    - 12.3.2.1 It is the City of Modesto’s policy not to conduct business with Contractors who do not hold an active CSLB license.
    - 12.3.2.2 The Housing Rehabilitation Specialist shall verify a prospective Contractor holds an active CSLB license by conducting a search on the CSLB website at <https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/checklicense.aspx>.
    - 12.3.2.3 The CSLB license must be appropriate for the type of rehabilitation work to be conducted (i.e. General Contractor, Electrical, Carpenter, etc.)
    - 12.3.2.4 Upon conducting the CSLB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.
  - 12.3.3 **Better Business Bureau (BBB) Search**

- 12.3.3.1 It is the City of Modesto's policy not to conduct business with contractors who have negative letter rating score (D+ through F) with the BBB.
- 12.3.3.2 The Housing Financial Specialist shall verify a prospective Contractor has a positive letter rating score (A+ through C-) with the BBB.
- 12.3.3.3 Upon conducting the BBB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

**13.0 COST REASONABLENESS AND SCOPE OF WORK:**

- 13.1 As an ARPA recipient, the City of Modesto is held accountable for all funds, property and assets of the ARPA program. The City of Modesto must maintain a financial accounting system for grants that meets the ARPA/CDBG regulations. This includes requirements pertaining to financial management systems and records, allowable costs and audits.
  - 13.1.1 The City of Modesto is required to ensure that CDBG funds are spent only on reasonable and necessary costs associated with approved grant activities and must have a procedure for determining the reasonableness, allowability and allocability of costs.
    - 13.1.1.1 For all assisted projects, the procedure for determining reasonableness will include the preparation of a detailed scope of work and an independent cost estimate.
      - 13.1.1.1.1 A detailed Scope of Work will identify project milestones, reports, deliverables, and end products that are expected to be provided by the performing party. The Scope of Work will also include a timeline for all deliverables.
      - 13.1.1.1.2 An independent cost estimate will be established utilizing local market data and published cost guidelines.
      - 13.1.1.1.3 The project manager and supervisor will work with the appropriate parties to develop the independent cost estimate to ensure the cost estimate is reasonable based on local market data.
- 13.2 To comply with cost reasonableness requirements, the City of Modesto will review all requests for payments to ensure that costs are allowable under regulations, approved in the CDBG grant application, allocated to the correct program activity and are reasonable.
- 13.3 A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
  - 13.3.1 In determining reasonableness of a given cost, consideration shall be given to whether the cost is of a type generally recognized as ordinary and necessary to address the housing condition being considered for repair.
  - 13.3.2 A cost analysis of the scope of work items shall be made and documented in the project file. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability.
  - 13.3.3 Cost analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts.
  - 13.3.4 All change orders may be subject to a cost reasonableness evaluation by the project manager and approval by the HUD Supervisor, or their designee.
- 13.4 Cost reasonableness shall be determined by comparing the bids received with the cost estimate prepared by the Housing Rehabilitation Specialist.

- 13.5 Bids received must be within 15% of the Housing Rehabilitation Specialist's cost estimate.
- 13.6 An explanation must be provided to the HRLC for any bid selected that exceeds 15% of the estimate.
- 13.7 Comparable estimates may also be considered, when optimal, for utilization of subcontractors instead of general contractors for work to be performed.
- 13.8 The Housing Rehabilitation Specialist will work to manage rehabilitation costs through the most efficient and economically feasible project contracting model.

**14.0 ENVIRONMENTAL REVIEW:**

- 14.1 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. .

**15.0 HOUSING REHABILITATION LOAN COMMITTEE (HRLC) APPROVAL:**

- 15.1 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):
  - 15.1.1 One Councilmember (appointed by the Mayor)
  - 15.1.2 One financial institution representative.
  - 15.1.3 One service provider representative.
  - 15.1.4 One general contractor (active or retired).
  - 15.1.5 One Housing Authority of the County of Stanislaus (HACS) representative.
  - 15.1.6 One Citizen-at-Large.
  - 15.1.7 One Citizen's Housing and Community Development Committee Representative.
- 15.2 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.
- 15.3 All actions of the HRLC shall be reflected in meeting minutes to be prepared by staff of the City of Modesto Community Development Division.

**16.0 WRITTEN AGREEMENTS:**

- 16.1 A written agreement must be entered into between the City and all homeowners receiving assistance under this program. The written agreement forms the basis for the contractual obligation between the parties to fund and implement the activity or program. The written agreement will identify responsibilities attributable to each party, and shall outline in exact measure the scope of services to be provided, methods of accountability, and a schedule for payment.

**17.0 PROJECT CONTINGENCIES**

- 17.1 All rehabilitation activities approved by the HRLC shall be contingent on meeting the following requirements:
  - 17.1.1 Execution of a construction contract and Notice to Proceed;

- 17.1.2 Construction Schedule mutually agreed to by the Homeowner, Contractor, and Housing Rehabilitation Specialist;
  - 17.1.3 On-site monitoring and inspections by the Housing Rehabilitation Specialist to verify scope of work, materials, and construction schedule conform to contract requirements;
  - 17.1.4 Written final inspection and approval documentation by the Housing Rehabilitation Specialist;
  - 17.1.5 Recorded Notice of Completion, signed by the homeowner, following final inspection and approval by the Housing Rehabilitation Specialist;
- 17.2 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:
- 17.2.1 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;
  - 17.2.2 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;
  - 17.2.3 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 Rehabilitation Supervisor for final approval signature;
  - 17.2.4 Upon final approval by the Housing Rehabilitation Supervisor, Change Order shall be signed by Homeowner and Contractor;
  - 17.2.5 The combined total of all approved Change Orders shall not exceed the approved financing and contingences;
  - 17.2.6 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).
- 17.3 The homeowner shall maintain Homeowner's 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.
- 17.4 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.

**18.0 CONTRACTOR LIST**

- 18.1 The Housing Rehabilitation Specialist shall maintain a *Contractor List* that includes contractors that have participated in the Homeowner Rehabilitation Program. These contractors must have been vetted through the City's Contractor Eligibility Process as outlined in CONTRACOR ELIGIBILITY SECTION. The list shall contain the names, addresses, license numbers, CSLB license expiration dates, DUNS Number, 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.

- 18.1.1 Information on the *Contractors List* will be updated on an annual basis, or more frequently, if deemed necessary.
- 18.1.2 The *Contractors List* will be 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.
- 18.2 Any person, partnership, or corporation with a current California General Contractor's License is eligible to have bids considered on a housing rehabilitation project.
  - 18.2.1 In accordance with City policies, 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.

**19.0 CONTRACTOR DISQUALIFICATION/REMOVAL FROM CONTRACTOR LIST**

20.1 Contractor failure to comply with program requirements and/or local, state, and federal laws may be grounds for disqualification from participation in this program.

- 19.1.1.1 Breach of the terms of a program contract by a willful or material failure to perform in accordance with the terms thereof.
- 19.1.1.2 Substandard performance on any public contract, including, without limitation:
  - 19.1.1.2.1 A material breach thereof;
    - 19.1.1.2.1.1 A failure to complete work required thereunder in a timely manner or within the contract price when such failure is attributable to the negligent or wrongful actions or inactions of such contractor or such contractor's subcontractors or suppliers;
  - 19.1.1.2.2 Substandard quality of work; or
    - 19.1.1.2.2.1 Any negligent or wrongful failure to cooperate with the contracting agency during performance of the public contract.
- 19.1.2 Any other grounds that the Community Development Manager determines would impair the ability of the Contractor to perform a public contract or any part thereof.
- 19.1.3 In any case, the Community Development Manager may have the discretion to consider the facts and circumstances of a violation, and may impose a different disqualification period and/or condition(s) to satisfy the cure of the violation and allow participation in future bid processes.
- 19.2 **Written Complaint Procedure:**
  - 19.2.1 In the case a written complaint is submitted to staff regarding a contractor who is on the contractor list; the contractor will be notified in writing of the complaint.
  - 19.2.2 Housing Rehabilitation Supervisor and staff will make reasonable efforts to resolve the complaint;
  - 19.2.3 Written complaint will be kept on file for the duration of the time the contractor remains on the contractor list and will be available as part of public record.
- 19.3 **Scope of Disqualification:** Disqualification of a contractor under this Section constitutes disqualification of that Contractor from submitting bids or proposals to the City for the purpose of entering into or in any manner participating in any City contract, or any part thereof, and shall apply to all individuals, divisions, subsidiaries, affiliates and parent corporations of that

Contractor unless the decision to qualify is limited by its terms to one or more specifically identified individuals, divisions, subsidiaries, affiliates, parents or other organizational elements.

**19.4 Disqualification Procedures:** The following procedures will be taken by the City when disqualifying a Contractor from program participation:

- 19.4.1 City will send a written notice to the Contractor informing him/her that a disqualification is being considered;
- 19.4.2 The written notice will include the grounds for the proposed disqualification including the specific conduct or action(s) upon which the proposed disqualification is based;
- 19.4.3 The written notice will include the intended period of disqualification.

**19.5 Hearing Request:**

- 19.5.1 A Hearing Officer will be appointed by the Director of Community & Economic Development
- 19.5.2 Within fifteen (15) calendar days after mailing of the notice of the proposed disqualification, the Contractor may submit a written request for a hearing on the proposed disqualification.
  - 19.5.2.1 Such written request shall specify the name and address of the person to which all subsequent notices and communications should be mailed.
  - 19.5.2.2 Failure of the Contractor to submit a written request for a hearing within the time provided by this subsection, or failure of Contractor to appear at the requested hearing, shall be deemed to be a waiver by Contractor of Contractor's right to request a hearing on the proposed disqualification and the Hearing Officer's decision shall be final.
- 19.5.3 The hearing will be held within thirty 30 days of the request and the Hearing Officer's decision shall be final.

**20.0 PROGRESS INSPECTIONS**

- 20.1 The Housing Rehabilitation Specialist shall conduct routine progress inspections on all housing rehabilitation projects to verify the Contractor is adhering to the agreed upon Contract Schedule.
  - 20.1.1 Routine progress inspections shall mean onsite inspections once weekly, unless project timelines call for more frequent inspections.
- 20.2 The Housing Rehabilitation Specialist shall track each progress inspection by completing a *Progress Inspection Report*, documenting the results and date of the inspection, and place the completed *Progress Inspection Report* in the project file.
- 20.3 If applicable, the Housing Rehabilitation Specialist shall include the reasons for any project delays within the *Progress Inspection Report* and describe a revised project schedule agreed upon by the Contractor, Homeowner, and Housing Rehabilitation Specialist.
- 20.4 Revised project schedules shall be signed by the Contractor, Homeowner and Housing Rehabilitation Specialist.
- 20.5 Further unjustified project delays by the Contractor resulting in non-compliance with the agreed upon project schedule shall result in a credit to the Homeowner until the project has been substantially completed or terminated as defined within the section entitled "Time is of the Essence in the Performance of this Agreement" in the Rehabilitation Program Contract.



20.6 Contractor progress payment requests shall reflect the percentage of the project completed through the time period for which payment is requested. The project completion percentage shall be indicated on the internal payment request form.

## **21.0 CONTRACTOR COMPENSATION**

21.1 Contractor progress payments shall be subject to Housing Rehabilitation Specialist verification, acknowledgement and certification that the work being invoiced for is reflective of the work verified through the Housing Rehabilitation Specialist's progress inspection(s) and through the time period indicated on the payment request.

21.1.1 All contractor progress payments must be accompanied by the "Invoice Checklist" including all required items listed on the invoice checklist for an invoice to be processed by the City's Finance Department.

21.1.2 Progress payment to contractors will occur only after the Housing Rehabilitation Specialist has verified that the work for which reimbursement is being issued, has been completed.

21.1.2.1 Verification of work completion will take place by conducting onsite progress inspections and including an inspection report reflecting a "pass".

21.2 Contractor payment requests will only be processed if signed by the Contractor, Homeowner, Housing Rehabilitation Specialist, and Housing Rehabilitation Specialist 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.

21.3 If the Homeowner is not satisfied with the completed work, or the Contractor has not completed the work in accordance with the Rehabilitation Program Contract, Community Development Division staff will meet with the Homeowner and Contractor to resolve the dispute.

21.4 If such informal resolution is unsuccessful, the Homeowner and the Contractor must follow the arbitration steps and tribunal procedures as outlined in the Rehabilitation Program Contract.

## **22.0 MONITORING**

22.1 The Housing Rehabilitation Staff will mail out annual self-re-certification forms throughout the duration of the affordability term to verify the units remain owner occupied.

22.1.1 Participants will be sent two requests to return re-certification documentation prior to triggering repayment of grant/loan;

22.1.1.1 A pay-off demand will be sent out for any non-compliance.

## **23.0 LEAD BASED PAINT OPERATING PROCEDURES FOR UNITS BUILT PRIOR TO 1978**

23.1 All program applicants shall receive notification of Lead-Based Painting hazards as follows:

23.1.1 The City will provide a Lead Hazard Information Pamphlet "Protect Your Family from Lead in Your Home" to all program applicants.

### **23.2 Homeowner Rehabilitation Federal Assistance Up to \$5,000:**

23.2.1 Lead Based Paint Presumption: Paint testing will not be conducted for housing rehabilitation projects not exceeding \$5,000. The City will presume the presence of lead-based paint for all housing projects assisted with an amount not exceeding

\$5,000. If the rehabilitation project will disturb painted surfaces all lead based paint mitigation activities, other than the actual testing.

23.2.2 If the housing unit is built prior to 1978, the homeowner will be provided a “Notice that Lead-Based Paint or Lead Based Paint Hazards Are Presumed to be Present” to occupants within 5 business days of making such presumption.

23.2.3 Visual Inspection: A visual inspection shall be made by the Rehabilitation Specialist or other staff assigned to make the inspection, to determine if the project will disturb any painted areas. If the project *will not* disturb any painted areas, the case file shall be so documented and the property owner or tenant advised in writing. No additional compliance steps with lead-based paint regulations are required.

23.2.4 Repair Work: If the project *will* disturb paint, then the City will require the rehabilitation contractor to be certified as a lead-based paint abatement supervisor or as a certified lead safe worker; or the rehabilitation contractor will secure a certified lead base paint abatement supervisor to monitor safe work practices in those areas where painted surfaces will be disturbed by the rehabilitation work. Safety precautions for occupant protection (§35.1345), work site preparation and cleanup activities and prohibited methods of removal (§35.140) of lead base paint materials must be followed.

23.2.5 Notice of Completion and Notice of Clearance: A clearance examination of the work site (the area in which the rehabilitation construction was performed) is the responsibility of the rehabilitation contractor and must be performed by a certified lead-based paint inspector/assessor. Once work is completed, the City will provide the owner a report entitled “Summary Notice of Completion Lead Base Paint Hazard Reduction Activity” within fifteen (15) days of the completion date (the date on which clearance is achieved). A copy shall be placed in the project file as documentation.

### **23.3 Homeowner Rehabilitation Federal Assistance \$5,001-\$25,000**

23.3.1 Information Pamphlet: The City shall provide the pamphlet “Protect Your Family from Lead in Your Home” to the applicant.

23.3.2 Paint Testing or Presumption: For projects of this funding level (\$5,001-\$25,000), presumption of the presence of lead base paint **shall** be made.

23.3.3 Noticing: The City shall provide the occupants with a “Summary Notice of Lead Based Paint Inspection” after such inspection is made by a certified lead base paint inspector/assessor in accordance with §35.1320(a).

23.3.4 Risk Assessment: The City shall order test samples of those painted surfaces to be disturbed by the rehabilitation construction or, upon visual inspection by the rehabilitation specialist, on any painted surfaces that are deteriorated. If lead is found in the test samples, a risk assessment shall be ordered by the City and conducted by a certified lead inspector/assessor in accordance with §35.1320(b) before rehabilitation construction begins. The lead base paint inspector/assessor will provide a copy of the results to the City who will notify the owners of the property with the “Summary Notice of Lead-Based Risk Assessment.”

- 23.3.5 Interim Controls: If the risk assessment indicates the presence of lead base paint then lead hazard mitigation activities, including paint standards, interim controls and paint stabilization must be performed on all identified lead paint hazards in accordance with §35.1330. Safety precautions for occupant protection (§35.1345), work site preparation and cleanup activities and prohibited methods of removal (§35.140) of lead base paint materials must be followed.
  - 23.3.5.1 A person performing paint standards, interim controls or stabilization must be trained in accordance with 29 CFR 1926.59 and be a certified lead base paint safe worker or certified lead base paint abatement supervisor.
- 23.3.6 Relocation: As stated in section §35.1345, temporary relocation is required unless: (1) the work will not disturb lead based paint or lead based paint hazards; (2) only exterior work is being conducted and openings to the interior are closed during the work and lead-hazard-free entry to the dwelling is provided; (3) the interior work will be completed in 8 hours, the work sites are contained to prevent dust release into other areas, and no other health or safety hazards are created; or (4) interior work will be completed in 5 consecutive days, work sites are contained, no other health or safety hazards are created, work sites and areas 10 feet from the containment are cleaned at the end of each work day, and occupants have safe access to sleeping, kitchen and bathroom facilities.
- 23.3.7 Clearance: Clearance shall be the responsibility of the rehabilitation contractor who will order the clearance inspection from a certified lead base paint inspector/assessor and in accordance with §35.1340(b).
- 23.3.8 Notice of Completion and Notice of Clearance: Once work is completed and after a clearance examination of the work site is performed by a certified lead paint inspector/assessor, a copy shall be placed in the project file as documentation. The City will provide a “Summary Notice of Completion of Lead Based Paint Hazard Reduction Activity” to the owner within 5 business days from project completion date.
- 23.3.9 controls; however, a certified supervisor and workers will perform all abatement.

**24.0 LOAN MODIFICATIONS**

- 24.1 Loan Modification requests may be considered by the City of Modesto only under the following circumstances:
  - 24.1.1 For projects claiming contractor work to be substandard, project completion must have been within the past 5 years;
  - 24.1.2 If making payments on City Loan and Borrower is facing a financial hardship, modification may be considered to prevent borrower from defaulting on primary or City loan which may trigger foreclosure
- 24.2 The following information will be collected from the borrower to consider a modification:
  - 24.2.1 Financial hardship documentation, if applicable
  - 24.2.2 Borrower must meet current program requirements
    - 24.2.2.1 Income eligibility guidelines (income must not exceed 140% of the Area Median Income);
    - 24.2.2.2 Front and Back End debt to income requirements
  - 24.2.3 Record of any payments made toward the loan
  - 24.2.4 Letter from the borrower which outlines concerns and reason for modification

24.3 If Staff determines the borrower meets the requirements for a loan modification, the request will be presented to the Homeowner Rehabilitation Loan Committee for consideration.