

Section 6

Homeowner Rehabilitation 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 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 States 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 Grans 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:

<u>AMI</u>		<u>Interest Rate (simple interest)</u>
0-50%	=	0%
51-80%	=	3%

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 CONTRACTOR ELIGIBILITY

- 11.1 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).
 - 11.1.1 Contractor failure to submit a Contractor Application may result in a “non-responsive” bid and disqualify the contractor from consideration.
- 11.2 Upon Receipt of bids from prospective contractors, the Housing Financial Specialist shall determine contractor eligibility by conducting the following:
 - 11.2.1 Verify that the City has a *Contractor Application* on file for each prospective contractor;
 - 11.2.2 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.
- 11.3 Upon confirmation that the City has a complete *Contractor Application* on file, the Housing Financial Specialist shall conduct the following searches for each prospective contractor:
 - 11.3.1 **Debarred/Suspended Search**
 - 11.3.1.1 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.
 - 11.3.1.2 The Housing Financial 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.
 - 11.3.1.3 To comply with this requirement, Contractors must provide their DUNS number on the *Contractor Application*.
 - 11.3.1.4 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>
 - 11.3.1.5 Upon conducting the Sam.gov search, the Housing Financial Specialist shall print the search results and place a copy in the project file.
 - 11.3.2 **California State License Board (CSLB) Search:**
 - 11.3.2.1 It is the City of Modesto’s policy not to conduct business with Contractors who do not hold an active CSLB license.
 - 11.3.2.2 The Housing Financial 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>.

11.3.2.3 The CSLB license must be appropriate for the type of rehabilitation work to be conducted (i.e. General Contractor, Electrical, Carpenter, etc.)

11.3.2.4 Upon conducting the CSLB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

11.3.3 Better Business Bureau (BBB) Search

11.3.3.1 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.

11.3.3.2 The Housing Financial Specialist shall verify a prospective Contractor has a positive letter rating score (A+ through C-) with the BBB.

11.3.3.3 Upon conducting the BBB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

12.0 COST REASONABLENESS:

12.1 Cost reasonableness shall be determined by comparing the bids received with the cost estimate prepared by the Housing Rehabilitation Specialist.

12.2 Bids received must be within 15% of the Housing Rehabilitation Specialist's cost estimate.

12.3 An explanation must be provided to the HRLC for any bid selected that exceeds 15% of the estimate.

12.4 Comparable estimates may also be considered, when optimal, for utilization of subcontractors instead of general contractors for work to be performed.

12.5 Housing Rehabilitation Specialist will work to manage rehabilitation cost through the most efficient and economically feasible project contracting model.

13.0 ENVIRONMENTAL REVIEW:

13.1 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.

14.0 HOUSING REHABILITATION LOAN COMMITTEE (HRLC) APPROVAL:

14.1 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):

14.1.1 One Councilmember (appointed by the Mayor)

14.1.2 One financial institution representative.

14.1.3 One service provider representative.

14.1.4 One general contractor (active or retired).

14.1.5 One Housing Authority of the County of Stanislaus (HACS) representative.

14.1.6 One Citizen-at-Large.

14.1.7 One Citizen's Housing and Community Development Committee Representative.

- 14.2 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.
- 14.3 All actions of the HRLC shall be reflected in meeting minutes to be prepared by staff of the City of Modesto Community Development Division.

15.0 APPROVAL CONTINGENCIES:

- 15.1 All rehabilitation loans shall be evidenced by the following documents and provisions:
 - 15.1.1 Loan Agreement;
 - 15.1.2 Promissory Notes (s) payable to City of Modesto in the principal amount of the loan and stating the terms and rate of interest;
 - 15.1.3 Deed of Trust(s) securing the Note (deed shall be recorded and shall secure City of Modesto’s financial interest in the property);
 - 15.1.4 Declaration of Conditions, Covenants, and Restrictions (if applicable);
 - 15.1.5 Other appropriate security instrument naming City of Modesto as beneficiary;
 - 15.1.6 Request for copy of “Request for Notice of Default” on first mortgage; and
 - 15.1.7 Any other documents determined necessary by the Community Development Manager.

- 15.2 All rehabilitation activities approved by the HRLC shall be contingent on meeting the following requirements:
 - 15.2.1 Execution of a construction contract and Notice to Proceed;
 - 15.2.2 Construction Schedule mutually agreed to by the Homeowner, Contractor, and Housing Rehabilitation Specialist;
 - 15.2.3 On-site monitoring and inspections by the Housing Rehabilitation Specialist to verify scope of work, materials, and construction schedule conform to contract requirements;
 - 15.2.4 Written final inspection and approval documentation by the Housing Rehabilitation Specialist;
 - 15.2.5 Recorded Notice of Completion, signed by the homeowner, following final inspection and approval by the Housing Rehabilitation Specialist;
 - 15.2.6 Release of retention payment within 30-days after recording Notice of Completion.

- 15.3 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:
 - 15.3.1 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;
 - 15.3.2 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;
 - 15.3.3 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;
 - 15.3.4 Upon final approval by the Housing and Urban Development Supervisor, Change Order shall be signed by Homeowner and Contractor;

- 15.3.5 The combined total of all approved Change Orders shall not exceed the approved financing and contingences;
 - 15.3.6 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).
- 15.4 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.
- 15.5 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.

16.0 CONTRACTOR LIST

- 16.1 The Housing Financial 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 Section 11.0. 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.
- 16.1.1 Information on the *Contractors List* will be updated on an annual basis, or more frequently, if deemed necessary.
 - 16.1.2 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.
- 16.2 Any person, partnership, or corporation with a current California General Contractor's License is eligible to have bids considered on a housing rehabilitation project.
- 16.2.1 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.

17.0 PROGRESS INSPECTIONS & CONTRACTOR COMPENSATION

- 17.1 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.
- 17.1.1 Routine progress inspections shall mean onsite inspections once weekly, unless project timelines call for more frequent inspections.
- 17.2 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.

- 17.3 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.
- 17.4 Revised project schedules shall be signed by the Contractor, Homeowner and Housing Rehabilitation Specialist.
- 17.5 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.
- 17.6 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.
- 17.7 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.
- 17.8 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.
- 17.9 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.
- 17.10 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.

18.0 NON-PROFIT SPONSORED HOUSING ACQUISITION AND/OR REHABILITATION ACTIVITIES

- 18.1 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:
 - 18.1.1 Funds provided to a non-profit Developer shall not be used for the administration of the activity.
 - 18.1.2 "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.
 - 18.1.3 Non-profits seeking funding shall submit for Community Development Division review and HRLC approval consideration on a project plan detailing:
 - 18.1.3.1 How the criteria of the Housing Rehabilitation Program will be met;

- 18.1.3.2 Scope of work including total estimated project cost;
- 18.1.3.3 Timeline for project completion;
- 18.1.3.4 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.
- 18.1.3.5 Financing summary of all loans being transferred to homebuyer.

18.1.4 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.

18.1.5 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.

18.1.6 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.

18.1.6.1 Additional information may be required by the HRLC in consideration of the request.

18.1.7 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.

19.0 MONITORING

- 19.1 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.
- 19.2 The requirements include HOME-assisted non-owner-occupied units in single-family (1-4 unit) housing units.
- 19.3 The Housing Rehabilitation Specialists perform annual perform inspections to ensure units meet program compliance requirements.
- 19.4 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.

20.0 LEAD BASED PAINT OPERATING PROCEDURES FOR UNITS BUILT PRIOR TO 1978

- 20.1 All program applicants shall receive notification of Lead-Based Painting hazards as follows:
 - 20.1.1 The City will provide a Lead Hazard Information Pamphlet "Protect Your Family From Lead in Your Home" to all program applicants.

20.2 Homeowner Rehabilitation Federal Assistance Up to \$5,000:

- 20.2.1 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, will be implemented as prescribed by HUD.
- 20.2.2 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.
- 20.2.3 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.
- 20.2.4 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.
- 20.2.5 De Minimis Levels: Safe work practices are not required for projects which are determined to disturb surfaces below *de minimis* levels (§35.1350). The case file shall be documented and a Notice of Completion and Notice of Clearance is not required.
- 20.2.6 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.

20.3 Homeowner Rehabilitation Federal Assistance \$5,001-\$25,000

- 20.3.1 Information Pamphlet: The City shall provide the pamphlet “Protect Your Family From Lead In Your Home” to the applicant.
- 20.3.2 De Minimis Levels: Safe work practices are not required for projects which are determined to disturb surfaces below *de minimis* levels (§35.1350). The case file shall be documented and a Notice of Completion and Notice of Clearance is not required.
- 20.3.3 Paint Testing or Presumption: For projects of this funding level (\$5,001-\$25,000), presumption of the presence of lead base paint **shall not** be made. Instead, paint

will be tested in all areas that will be disturbed by the proposed repair work by a certified lead base paint inspector/assessor.

20.3.4 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).

20.3.5 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.”

20.3.6 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.

20.3.6.1 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.

20.3.7 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.

20.3.7.1 Safe access to sleeping, kitchen and bathroom facilities can be provided in another convenient location outside of the work site, thereby avoiding unnecessary relocation of residents.

20.3.8 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).

20.3.9 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. The lead base paint inspector/assessor will provide a “Lead Hazard Evaluation

Report" (Form DHS 8552) to the City, the owner and to the Department of Health Services.

20.4 Homeowner Rehabilitation Federal Assistance greater than \$25,000 (Identify and Eliminate lead hazards)

20.4.1 Information Pamphlet: The City shall provide the pamphlet "Protect Your Family From Lead In Your Home" to the applicant.

20.4.2 If the amount of assistance is more than \$25,000, the following is required:

20.4.2.1 Paint testing as outlined in Section 20.3.3;

20.4.2.2 Abatement of all lead based paint hazards identified or produced;

20.4.2.3 Use of interim controls on exterior surfaces not disrupted by rehabilitation; and all applicable lead based paint notices.

20.4.3 All paint tests that result in a negative finding of lead-based paint are exempt from any and all additional requirements. If defective paint surfaces are found, they will be properly treated or abated. A certified Inspector/Assessor shall perform all paint testing, risk assessments, and clearances. A trained supervisor may oversee interim controls; however, a certified supervisor and workers will perform all abatement.