

# **Section 10 - Neighborhood Stabilization Program 2 Homebuyers Program Policy and Procedure (NSP 2)**



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City of Modesto City Council Approved by Resolution 2012-119

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





# City of Modesto Procedures for the Neighborhood Stabilization Program 2 (NSP2) Homebuyer's Program

## Program Description

The Neighborhood Stabilization Program2 (NSP2) is funded by the U.S. Department of Housing and Urban Development (HUD) to assist program eligible low/moderate/middle income (LMMI) homebuyers to purchase selected homes within the city limits of Modesto. The homes available for purchase are previously foreclosed and vacant homes, purchased and rehabilitated by City approved developers to create "move-in ready" homes.

The sales price of the homes will be determined by an appraisal required after the property repairs have been completed. Homebuyers will assume the existing loan made to the developer by the City of Modesto. The loan will be a 30-year fixed rate mortgage at the rate of 3%. Homebuyers may select terms of less than 30 years. The monthly payment will include money for the payment of taxes and insurance, referred to as impounds.

HUD requires the Neighborhood Stabilization Program funding to be expended where continued affordability of the home is ensured. The City loan requires that the homebuyer occupy the home as their primary residence for a minimum of 25 years, referred to as the Affordability Period. The homebuyer will not be allowed to rent the home during the Affordability Period.

If the homebuyer sells, transfers title, rents, or fails to occupy the home during the Affordability Period, the homebuyer must pay the City a portion of the net equity in the home, referred to as "recapture." This is in addition to the principal and interest owed on the City loan. If the homebuyer sells, transfers, rents, or fails to occupy the home during the first 12 months of the Affordability Period, the homebuyer must pay off the City loan and the City is entitled to 50% of the net equity. The City's share will decrease 2% per year, until year 25. After the end of the 25-year Affordability Period, the City will no longer be entitled to any portion of the equity of the home, only any remaining principal and interest owed on the City loan.

Even if the homebuyer is able to pay off the City loan prior to the end of the Affordability Period, the City's recapture of net equity will remain in effect until the end of the 25-year Affordability Period.

## Applicant Program Eligibility Requirements

Applicant(s) must meet the following eligibility requirements:

- The household's annual income must be between 50% and 120% of the Area Median Income (AMI). This is adjusted for family size for Modesto (See income limits).
- Applicant(s) must live within the City of Modesto limits for the past six (6) consecutive months, or been employed in the City of Modesto limits for the past (6) months.
- Head of household's and co-head(s) of household's credit score must be 620 or higher.
- Applicant(s) must contribute a minimum initial investment of 1% of the sales price of the home to the transaction and must be the applicant's own funds.
- No household member may have title to any other property.
- Applicant(s) must complete an eight (8) hour homebuyer counseling class from a HUD-approved housing counseling agency.
- Applicant(s) must occupy the property as their principal residence.
- Applicant(s) must have a satisfactory history of employment, no foreclosure, short sale of a property, or open bankruptcy during the last three years.
- Applicant(s) must meet U.S. residency requirements.

## Determining Program Eligibility

- The interested homebuyer will contact the City of Modesto Parks, Recreation and Neighborhoods Department at 577-5451.
- Staff will explain program guidelines and requirements and ask the potential homebuyer a series of questions that relate to program eligibility. Based on preliminary information, staff will estimate the loan amount the applicant(s) (potential homebuyer) could be eligible for.
- If the applicant wishes to proceed and appears to meet program eligibility requirements, staff will mail the applicant an intake package for completion. The package will include an intake application form and a checklist of required documents that must be returned with the intake application.

If City receives an incomplete intake package, the applicant is notified of the missing documentation. The intake package will not be processed until all required documents are received by the City.

After the City receives the completed intake form and required documents, staff will determine the applicant(s) program eligibility as follows:

- Does the applicant meet the residency requirements?
- Is the current household income between 50% and 120% of Median Area Income based on household size?
- Does the applicant(s) appear to have a satisfactory employment history?

- Does applicant have proof of the required 1% participant contribution on deposit?
- Is any member of the household currently on title to any other property?

Staff will contact one of the two City approved Loan Agents to obtain a credit report on the applicant(s) to ensure the applicant(s) meet the required credit score of 620 or higher. The credit report will contain credit scores for Equifax, Experian, and TransUnion. The middle credit score must be 620 or higher to be eligible for the program. If the credit report indicates an existing mortgage loan, or if the credit report indicates a foreclosure, short sale, or bankruptcy within the last three years, the applicant(s) will be considered ineligible. A letter of explanation will be mailed to the applicant. If staff determines the applicant(s) will benefit from credit counseling, staff will refer the applicant(s) to a HUD approved credit counseling agency.

After the applicant has passed the pre-screening process for eligibility, staff will contact the designated City approved Loan Agent to begin the loan pre-qualification process.

#### Loan Agent Loan Pre-qualification Process

The City will forward the designated Loan Agent a copy of the intake package. The Loan Agent will assign the intake package to a loan representative. The loan representative will contact the applicant and request copies of any documents not submitted in the City intake package. The loan representative will schedule a time to meet with the applicant to complete the loan application and answer any questions either may have.

The application package will include:

- Loan Application (Fannie Mae form 1003)
- Borrower's Certification and Authorization
- Servicing Disclosure Statement
- Federal ECOA
- Customer Identification Verification and AKA
- IRS 4506
- Fair Lending Notice
- Consumer Caution and Home Ownership Counseling Notice
- California Credit Score Notice
- Credit Score Disclosure
- Disclosure of Credit Score Information
- Patriot Act Information Disclosure
- Addendum to Loan Application (domestic partnership disclosure)
- Mortgage Loan Disclosure Statement
- Truth in Lending (TIL)
- Good Faith Estimate (GFE)
- Receipts for TIL and GFE, both federal and state forms

After the property is selected:

- Lead Based Paint Disclosure, if property built prior to 1978 (cannot be completed until the property has been identified)

Within the allowable time, the Loan Representative will send the applicant the Truth in Lending, Good Faith Estimate, GFE, other disclosures requiring signatures, and the City approved cover letter.

The disclosure of fees is the responsibility of the Loan Agent and not limited to the following information:

- No mortgage insurance
- No flood cert or insurance required on any NSP properties
- No appraisal (appraisal will have been completed by developer to establish the sales price)
- Escrow and title fees applicable to escrow company
- The only recording charge will be for the Grant Deed-the City is exempt from a recording fee for the Deed of Trust and Covenants, Conditions, and Restrictions document.
- Property taxes (loans closing after November 1 must have December 10 installment paid; loans closing after March 1 must be the April 10 installment paid)
- Hazard Insurance
- Impounds
- The buyer will contribute 1% of the sales price of the home which will go toward the closing costs. The remaining fees will be paid by the seller, including a one-year home warranty.

The Loan Agent will process the loan application, using standard Federal Housing Administration (FHA) requirements and best practices. The credit package will be submitted to the Loan Agent's FHA certified underwriter for approval, without a property address. The underwriter will determine the applicant's home purchasing power. Under the NSP2 program guidelines, the monthly housing ratio, including principal, interest, taxes, insurance, homeowner's dues, should not exceed 30% of the household's qualifying income. The total debt to income ratio should not exceed 43% of the household's qualifying income. If there are compensating factors available to the FHA underwriter under FHA guidelines, exceptions can be made. The FHA underwriter may consult with the City regarding any underwriting flexibility allowed under FHA guidelines.

Note: The household's qualifying income may be less than the household's total income that is used to determine eligibility. For example, the co-head of household may have a sporadic employment history. Although the co-head of household may have current income that must be included for eligibility purposes, this income may be disqualified by the underwriter for loan pre-qualification or approval purposes.

If the FHA underwriter denies the credit approval, the Loan Agent will notify the City. A letter will be sent to the applicant with the reason for denial. A copy of the denial letter must be forwarded to the City.

If approved by the FHA underwriter, the Loan Agent will issue the standard pre-qualification letter to the applicant(s) and send a copy to the City. The letter must state the loan conditions and loan terms, including the 25-year Affordability Period.

### Homebuyer's Class

If the applicant has not already attended a homebuyer's class, the applicant(s) must attend an 8-hour homebuyer counseling class from a HUD certified agency. The applicant is responsible for the class fee, if any is charged by the agency. The agency will issue the applicant a Certificate of Completion for the class and the applicant must submit a copy of the Certificate of Completion to the Lender and the City.

### Selecting a Home

The price of the home will be the lesser of the after rehabilitation appraised value or the project cost. The project cost is the acquisition cost of the property and the rehabilitation costs.

After the applicant has received the Loan Agent's pre-qualification letter and received a Certificate of Completion for the 8-hour homebuyer's class, the applicant may contact City staff to be given a list of homes available for purchase within their pre-qualified price range. The home listing(s) will indicate the sales price or estimated sales price, description of home and amenities, etc.

When the applicant wishes to view a home(s), the applicant will contact City staff to schedule a viewing of the property (ies). Homes will be available on a first come, first serve basis for any applicant who has been pre-screened by the City, pre-qualified by the City approved loan agents AND completed the 8-hour homebuyer counseling class. After viewing a property, the applicant will be given 24-48 working hours to decide if they wish to purchase the home.

If the repairs to the home are not complete and the buyer wishes the City to "hold" the property for them, the buyers must sign a *Statement of Interest* form and return it to the City, along with a \$500 check payable to the City of Modesto. Only one property at the time can be reserved by a homebuyer. The Statement of Interest form and check must be received by the City prior to the established deadline. If the deadline has passed and the applicant does not wish to purchase the home, the home will become available to the next applicant pre-qualified for the home.

If all repairs to the home are complete when the buyer views and decides to purchase the property, the City will facilitate a purchase contract to be signed by the buyer and

seller. At the time of contract signing, the buyer must submit a check for 1% of the purchase price of the home, less any deposit already paid to the City of Modesto. The City will forward any City held deposit to the escrow/title company.

Terms of the contract are non-negotiable and are as follows:

- The sales price will be pre-determined.
- The buyer's contribution will be 1% of the sales price. The buyer's good faith deposit of \$500 will be credited towards the 1% contribution and the remaining deposit must be paid into escrow. All funds will be held by the escrow company and applied to costs at closing.
- The seller will provide a termite clearance, not more than 90 days old.
- If the home was built prior to 1978, the seller will provide a copy of the lead based paint clearance.
- The buyer will receive a one year warranty paid by the seller. The seller paid cost will be paid through City financing of the property.
- Closing costs in excess of 1% of the sales price of the home will be paid by the seller. The seller paid cost will be paid through City financing of the property.
- The City will utilize the same escrow/title company that was used on the first purchase of the property, resulting in cost savings.
- The transaction closing date will be no more than 45 days after the acceptance of the contract.

The buyer will receive one-year Comprehensive Plus Plan home warranty from Fidelity National Home Warranty at the close of escrow. It is the responsibility of the buyer to know what coverage the home warranty will include. Additional warranty coverage for items not included in the Comprehensive Plus Plan may be eligible for purchase, at the buyer's expense. The buyer should consult Fidelity National Home Warranty at 1-800-862-6837 for additional information. Buyers will be responsible for any home repairs not covered by the warranty, or after expiration of the warranty.

The City encourages all homebuyers to have a home inspection completed by a qualified home inspector prior to purchasing the property. Home inspection companies can be found in the phone book under "Home Inspection Services." The buyer must pay out-of-pocket for the home inspection, but the cost can be refunded to the buyer at the close of escrow, not to exceed \$400.

### Final Loan Approval

The accepted sales contract, appraisal, property inspections, etc, will be sent to the Loan Agent. The Loan Agent will obtain the preliminary title report from the pre-determined escrow/title company.

The Loan Agent will contact the buyer if updated documents are needed, such as updated pay stubs, and update the loan file with any necessary information. The file, along with appraisal, preliminary title report, and other applicable property information, will be re-submitted to the FHA underwriter for final approval. The underwriter will

determine any conditions that must be met prior to the documents being signed, or prior to loan closing.

The Loan Agent will prepare and send the standard loan approval letter to the buyer. The letter must state the loan conditions and loan terms, including the 25-year Affordability Period.

If the underwriter does not approve the loan, but recommends an exception not allowable under FHA best practices, the underwriter can recommend that the loan be approved.

All loans must be submitted to the Housing Rehabilitation Loan Committee for approval. The Loan Agent must submit information must be to the City and City staff will prepare the committee agenda report.

If the loan is denied by the underwriter or the loan committee, a denial letter will be sent to the buyer and a copy will be submitted to the City. The City will notify the Seller, and the home will come available to other pre-qualified applicants.

### Closing

The Loan Agent will prepare the loan documents on behalf of the City of Modesto and under the City's name. The Promissory Note, Deed of Trust Loan Agreement, Declaration of Conditions, Covenants and Restrictions will be prepared by the City and sent to the Loan Agent. The Loan Agent shall provide final Lenders Instructions and all other loan documents as determined by the Loan Agent. :

The Loan Agent shall prepare and send the Lender Instructions to the local escrow/title company.

All prior to document conditions must be cleared before the buyer executes the loan documents.

Loan Agent shall have the buyer sign the loan documents at their office to ensure that the buyer understands the owner occupancy requirement and the terms of the 25-year Affordability Period.

It may take five to six working days from the time the documents are signed by the buyer until the loan is ready to close. The City documents must be returned to the City of Modesto for review and signatures in the following order: Parks, Recreation and Neighborhoods Department, Risk Manager, City Attorney, City Manager, and City Clerk. After the documents are signed by City staff, an electronic file of the loan documents will be sent to the Loan Agent for funding. The original Deed of Trust and Declaration of Conditions, Covenants and Restrictions will be sent directly to the local escrow/title company. The original Promissory Note and Loan Agreement will be retained by the City of Modesto.

After the Loan Agent has verified all of the required documents have been completed and verified all funding conditions, the Loan Agent's assigned funder will notify City staff that the loan is ready to fund. The City will also verify that escrow/title is ready for funds. The City shall fund by check or wire.

### Post-Closing

After the escrow/title company receives the funds, the documents will be recorded with the Stanislaus County Recorder on the following day. The escrow agent shall:

- Notify Loan Agent, developer and City staff that documents were recorded.
- Send Final HUD 1 and certification of recorded documents to the City.
- Return any excess funds to the City of Modesto via delivery to 1010 Tenth Street, Suite 4300, Modesto.
- Prepare checks for fees for Loan Agent, vendors, such as insurance companies, service providers, etc.
- Prepare check for impounds payable to Community Reinvestment Fund (CRF), 801 Nicollet Mall, Suite 1700 West, Minneapolis MN 55402 c/o of City of Modesto.

The City will prepare and transmit the Loan Servicing Set-Up Sheet to CRF and send the impound check to CRF for processing. A copy of the following documents must be submitted to CRF:

- Copy of Promissory Note
- Final HUD or record of impound amounts
- Impound analysis
- Copy of property insurance

The City will send the buyer a letter indicating the loan has been sent to CRF for servicing.

After post-closing reconciliation the Loan Agent will send the buyer's loan file to the City. The Loan Agent will keep copies of any information necessary for the follow-up of the Lender Loan Title Policy.

City staff will prepare the financial file containing the original loan documents and deliver to City Finance Department. Finance will prepare the accounting entries for the loan and the financial file will be held with other financial files, currently in the Parks, Recreation and Neighborhoods Department. The original recorded documents and the Lender Title Policy will be added to the financial file upon receipt. The working file will be held by the Parks, Recreation and Neighborhoods Department.

The Loan Agent will be responsible for receipt and review of the Loan Title Policy (LTP) within 45 days of closing. If the City receives the LTP directly from the escrow/title company, the City will forward the LTP to the Loan Agent for review. The Loan Agent will verify the accuracy of the LTP and submit it to the City with a cover sheet.

# Section 11 - Neighborhood Stabilization Program 3 Policy and Procedure (NSP 3)



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City of Modesto City Council Approved by Resolution 2011-41 on February 8, 2011

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