

# **Section 15**

# **Residential Sewer and Water**

# **Infrastructure Connection Program**

## **Policies**



City of Modesto Citizens' Housing & Community Development Committee: Recommended September 13, 2018  
City of Modesto City Council Approved by Resolution 2018-445 on October 9, 2018

\*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 Residential Sewer & Water Infrastructure Connection Program Policies

## 1.0 INTRODUCTION

- 1.1 The Residential Sewer & Water Infrastructure Connection Program is designed to enable local government with existing public water and/or sewer line(s) to connect low and moderate-income (LMI) households.
- 1.2 CDBG funds may also be used to connect manufactured homes that are LMI owner-occupied but the lot is rented.
- 1.3 In order to receive assistance, properties must be in current compliance with the City's: Building Codes, Zoning Ordinance, and Residential Property Standards.

## 2.0 APPLICABLE LAWS AND REGULATIONS

- 2.1 All Residential Sewer & Water Infrastructure Connection Program activities shall be conducted in accordance with all applicable federal, state, and local program funding standards, building codes, and zoning ordinance requirements.
- 2.2 All work conducted in accordance with an approved Residential Sewer & Water Infrastructure Connection Program activity shall be consistent with program funding requirements and any locally approved repair and replacement standards including, but not limited to: site improvements, plumbing systems, accessibility, and abatement of hazardous materials (i.e. mold, lead based paint, etc).
- 2.3 All terms used within these policies shall be as defined by applicable funding source(s) or other locally approved Residential Sewer & Water Infrastructure Connection Program policies and/or standards.
- 2.4 All program applications will be processed in accordance to the date of receipt and are subject to available funding.

## 3.0 ELIGIBLE REPAIRS (in order of priority)

- 3.1 Health and Safety repairs related to Residential Water and/or Sewer services, as determined by utilization of the City of Modesto HUD Housing Quality Standards (HQS) inspection analysis.
- 3.2 Residential Infrastructure Connection to the City's sewer and/or water systems with the intent of promoting health and to protect the environment by eliminating those hazards associated with failing septic sewer systems (and well water and/or groundwater contamination, sinking foundations, water-borne illnesses, etc.).
  - 3.2.1 Eligible repairs include application fees; any and all fees associated with the connection to water or sewer system (i.e. sewer capacity charge; septic tank abandonment fee, encroachment permit, building permit, etc.); costs of a licensed contractor to connect the property to the water or sewer connection for the private property; removal costs associated with septic tanks or cap wells, as required by the

health department; and repairs to LMI household leaking water pipes or sewer pipes related to the connection to the public infrastructure lines, and other reasonable costs deemed necessary to connect to the City's water and/or sewer system.

3.3 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 Residential Sewer & Water Infrastructure Connection Program.

#### **4.0 PROPERTY ELIGIBILITY:**

4.1 The assisted property shall be located within the city limits of the City of Modesto.

4.2 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.

4.2.1 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 the MANUFACTURE HOMES Section of these policies.

4.3 The assisted property shall be owner-occupied and shall be the principal place of residency of owner-occupants (hereafter "Borrower") and hold legal title to the property; or a

4.4 LMI tenant-occupied dwellings provided the landlord is also LMI.

#### **5.0 HOUSEHOLD ELIGIBILITY:**

5.1 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).

5.2 Borrower 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 Residential Sewer & Water Infrastructure Connection Program assistance.

5.3 Borrower 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:

5.3.1 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.

5.3.2 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 the Front End Ration section above, plus any

other monthly debt payments such as car loans, personal loans, credit card debt, or child support and alimony payments.

#### 5.4 Credit Report and Liabilities

- 5.4.1 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, or to verify any information with a third party.
- 5.4.2 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.
- 5.4.3 If the applicant is eligible for a deferred payment 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.
- 5.4.4 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. If the household income is non-taxable, income can be grossed up for non-taxability, using the 25% guideline. If the payment is not affordable or a hardship exists, the HFS should discuss this with management and obtain guidance on how to proceed.
- 5.4.5 Special Note: Household income must be collected on all qualifying adult household members per HUD guidelines. 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.

#### 5.5 Borrower shall meet the following credit worthiness criteria:

- 5.5.1 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 Borrower and Preliminary Title Report search on the property shall be conducted after HRLC approval.
- 5.5.2 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 Borrower’s control, and the payment of the outstanding collection(s) will not impact the Borrower’s ability to financially retain ownership.

- 5.5.3 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.
- 5.5.4 Borrower shall not have filed bankruptcy, or received a bankruptcy discharge, in the last three (3) years prior to date of application.
- 5.5.5 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.
  - 5.5.5.1 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.
  - 5.5.5.2 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.

5.6 If at any time the Borrower 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.

5.7 Borrower shall not be a person, or the immediate family of any person, who is in a decision-making position relative to the Residential Sewer & Water Infrastructure Connection Program.

5.8 Process:

- 5.8.1 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);
- 5.8.2 Housing Rehabilitation Specialist scope of work via Rehab Pro Direct to supervisor;
- 5.8.3 HRLC reviews for consideration and approval of the overall project proposal;
- 5.8.4 Housing Rehabilitation Specialist processes approved projects through the bid process;
- 5.8.5 Application inquiry through program completion within 90-days, unless there are extenuating circumstances beyond staff control (e.g. – rain delays);
- 5.8.6 Quarterly program updates provided to HRLC.

6.0 **MAXIMUM AMOUNT OF PROGRAM ASSISTANCE** (24 CFR 570.208 (a)(3);(b), and 24 CFR 570.202):

- 6.1 An eligible Borrower may qualify for the full cost of work needed to address any Eligible Repairs outlined in the 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.
- 6.2 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.
- 6.3 Maximum amounts are as follows:
- 6.3.1 Grants up to \$10,000 require HRLC acknowledgement in order for staff to proceed;
  - 6.3.2 Loans up to \$49,999 require HRLC approval in order for staff to proceed;
  - 6.3.3 Loans of \$50,000 or more require HRLC approval and subsequent City Council approval in order for staff to proceed.
- 6.4 Additional loans may be granted within Borrower's overall loan-to-value ratios;
- 6.5 Emergency Sewer & Water Infrastructure Connection work 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. – backing up sewage or water line failures).

## **7.0 MAXIMUM AFTER REHABILITATION VALUE**

- 7.1 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.

## **8.0 MAXIMUM COMBINED LOAN TO VALUE RATIO**

- 8.1 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.
- 8.2 For CalHome funded loans (if any), 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.
- 8.3 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 Borrower (for the purpose of verifying any personal liens that may attach to the property) shall be conducted after HRLC project approval.
- 8.4 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.

## **9.0 RATES AND TERMS OF PROGRAM ASSISTANCE**

9.1 Eligible Borrower 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.

9.2 The following rates (simple interest) shall apply on City of Modesto sewer & water infrastructure connection loans, based on the household's Area Median Income (AMI) level:

AMI		Interest Rate (simple interest)
0-50%	=	0%
51-80%	=	3%

9.3 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 Household, the City of Modesto may opt, with HRLC approval, the following:

9.3.1 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,

9.3.2 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.

9.4 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%:

9.4.1 20 year Loan with monthly payments.

9.4.2 3% simple interest.

9.4.3 Must meet Debt to Income Ratio limits specified in HOMEOWNER ELIGIBILITY Section.

9.5 In the event Borrower sells, transfers title, or discontinues residence in the rehabilitated property for any reason, the loan shall become due and payable.

9.5.1 Any other transfer of interest, due to Household 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.

9.6 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.

## **10.0 MANUFACTURED HOMES**

10.1 Assistance to manufactured homes on a non-permanent foundation will be provided as follows:

10.1.1 The total assistance provided to a manufactured home shall not exceed \$20,000 (combined total of all grants, and all programs).

10.1.2 Assistance to manufactured homes will be a one-time grant, subject to available funding allowing for grants.

## **11.0 BID SOLICITATION**

11.1A 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, 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.

11.1.1 The independent cost estimate shall be established utilizing local market data and published construction cost guidelines.

11.1.2 The Housing and Urban Development 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.

11.2 To comply with HUD 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.

11.3 Bids in excess of 15% of the HRLC approved amount must be brought back to HRLC for approval consideration.

11.3.1 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 and Urban Development Supervisor.

## **12.0 PROCUREMENT**

12.1 Procurement projects under this program will occur after Housing Rehabilitation Loan Committee (HRLC) 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.

12.2 Projects procured under the Residential Sewer & Water Infrastructure Connection Program will be conducted in a manner that promotes full and open competition and avoid arbitray action in the procurement process. The following procurement process will be followed by the City:

12.2.1 Procurement of contractors or other services related to the Residential Sewer & Water Infrastructure Connection Program improvements must be made on the basis of soliciting competitive bids. Advertisements for bids must include the following language: "This is a HUD funded project; Section 3 businesses and/or business that employ Section 3 residents are encouraged to respond."



- 12.2.2 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.
  - 12.2.2.1 The Community Development Division will notify prospective bidders, when feasible, to encourage as wide a response as possible.
- 12.2.3 The bid solicitation will include a brief scope of work description, project address, date of mandatory walkthrough, and date bids are due.
- 12.2.4 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 a the duration of the program year.
- 12.2.5 Residential Sewer & Water Infrastructure Connection projects below \$50,000:
  - 12.2.5.1 Contracts under \$50,000 are considered a "Small Purchase" under the City's purchasing policies and HUD's procurement guidelines.
  - 12.2.5.2 The policy aligns with OMB Guidance Section 200.319 and 200.320
  - 12.2.5.3 Projects under \$50,000 shall be purchased with three quotes, with public advertising through PlanetBid, if time permitted.
  - 12.2.5.4 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.
  - 12.2.5.5 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.
  - 12.2.5.6 Bid proposals from contractors will be due 8 calendar days from the mandatory walkthrough.
  - 12.2.5.7 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
  - 12.2.5.8 All bids will be reviewed by a program supervisor (e.g. HUD Supervisor or Senior Community Development Program Specialist) and recorded by a program specialist (e.g. Housing Financial Speicalist or Housing Rehab Specialist).
  - 12.2.5.9 The HRS will summarize the lowest responsible bid results on the "Work Specification" document

- 12.2.5.10 If less than three written quotes are obtained, an exception may be granted with justification documented and approved by the Purchasing Manager.
- 12.2.6 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.
  - 12.2.6.1 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.
- 12.2.7 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).
- 12.2.8 Once contracts are executed, City Staff will record loan documents with the Stanislaus County Recorder's Office.
- 12.2.9 Upon receipt of recorded documents, the HFS will:
  - 12.2.9.1 Issue a Notice to Proceed to the contractor. The contractor will have seven (7) calendar days to begin work from the date of issuance.
  - 12.2.9.2 Route contracts for encumbrance the City's financial system.

### **12.3 Projects over \$50,001:**

- 12.3.1 In alignment with the City's Procurement policy, all projects in excess of \$50,001 will require HRLC approval and subsequent City Council approval, and must follow the City's Formal Bids/Proposals policy process as follows
  - 12.3.1.1 Projects over \$50,01 shall be purchased with through the sealed bid process with obtaining three quotes, with public advertising through PlanetBid
  - 12.3.1.2 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 sealed bids. Advertisements for bid must include the following language: "This is a HUD funded project; Section 3 businesses and/or business that employ Section 3 residents are encouraged to respond."
  - 12.3.1.3 The projects will be publicly advertised through the City's PlanetBid system. All contractors registered on the City's PlanetBid system will receive notification of project availability.
    - 12.3.1.3.1 The Community Development Division will notify prospective bidders, when feasible, to encourage as wide a response as possible.
  - 12.3.1.4 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.

- 12.3.1.5 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.
- 12.3.1.6 Sealed bids from contractors will be due sixteen (16) calendar days from the mandatory walkthrough at the following location: 1010 10<sup>th</sup> Street, Suite 3100, Modesto CA 95354
- 12.3.1.7 The bid opening will be held in a public forum at a City location announced in the Bid solicitation.
- 12.3.1.8 All bids will be opened by a program supervisor (e.g. HUD Supervisor or Senior Community Development Program Specialist) and recorded by a program specialist (e.g. Housing Financial Specialist or Housing Rehab Specialist).
- 12.3.1.9 The HRS will summarize the lowest responsible bid results on the "Work Specification" document provided to the homeowner.
- 12.3.2 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.
  - 12.3.2.1 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.
- 12.3.3 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).
- 12.3.4 Once contracts are executed, City Staff will record loan documents with the Stanislaus County Recorder's Office.
- 12.3.5 Upon receipt of recorded documents, the HFS will:
  - 12.3.5.1 Issue a Notice to Proceed to the contractor. The contractor will have seven (7) calendar days to begin work from the date of issuance.
  - 12.3.5.2 Route contracts for encumbrance the City's financial system.

### **13.0 EMERGENCY REPAIRS PROCEDURE**

- 13.1.1 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.
- 13.1.2 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; e.g. broken sewer line, broken water line, leaking roof (during rainy season), broken HVAC system (during summer/winter), and unsafe electrical and or plumbing conditions.

- 13.1.3 These cases will be given priority over other non-emergency projects.
- 13.1.4 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.
- 13.1.5 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.
- 13.1.6 The HFS shall determine program eligibility within three (3) business days of collecting a completed application packet.
- 13.1.7 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.
- 13.1.8 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 HUD Supervisor for review and approval to proceed with procurement for the Emergency Project.
- 13.1.9 Upon approval by the HUD Supervisor, HRS shall obtain a minimum of three (3) informal bids and shall be awarded to the lowest responsible bidder.
  - 13.1.9.1 Bid documentation will be kept in the file record.
- 13.1.10 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.
  - 13.1.10.1 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.
- 13.1.11 Routine Progress inspections shall be conducted as specified in PROGRESS INSPECTIONS Section; frequency of progress inspections may be increased as needed for emergency repairs.
- 13.1.12 All emergency rehabilitation projects will be presented to the Housing Rehabilitation Loan Committee (HRLC) at the next available HRLC meeting for formal approval.

#### **14.0 CONTRACTOR ELIGIBILITY**

- 14.1 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).
- 14.1.1 Contractor failure to submit a Contractor Application may result in a “non-responsive” bid and disqualify the contractor from consideration.
- 14.2 Upon Receipt of bids from prospective contractors, the Housing Financial Specialist shall determine contractor eligibility by conducting the following:
- 14.2.1 Verify that the City has a *Contractor Application* on file for each prospective contractor;
- 14.2.2 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.
- 14.3 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:
- 14.3.1 **Debarred/Suspended Search**
- 14.3.1.1 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.
- 14.3.1.2 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](http://www.sam.gov).
- 14.3.1.3 To comply with this requirement, Contractors must provide their DUNS number on the *Contractor Application*.
- 14.3.1.4 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>
- 14.3.1.5 Upon conducting the Sam.gov search, the Housing Financial Specialist shall print the search results and place a copy in the project file.
- 14.3.2 **California State License Board (CSLB) Search:**
- 14.3.2.1 It is the City of Modesto’s policy not to conduct business with Contractors who do not hold an active CSLB license.
- 14.3.2.2 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/CheckLicense/checklicense.aspx>.
- 14.3.2.3 The CSLB license must be appropriate for the type of rehabilitation work to be conducted (i.e. General Contractor, Electrical, Carpenter, etc.)
- 14.3.2.4 Upon conducting the CSLB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.
- 14.3.3 **Better Business Bureau (BBB) Search**
- 14.3.3.1 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.
- 14.3.3.2 The Housing Financial Specialist shall verify a prospective Contractor has a positive letter rating score (A+ through C-) with the BBB.
- 14.3.3.3 Upon conducting the BBB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

## 15.0 COST REASONABLENESS AND SCOPE OF WORK:

- 15.1 As a CDBG recipient, the City of Modesto is held accountable for all funds, property and assets of the CDBG program. The City of Modesto must maintain a financial accounting system for grants that meets the CDBG regulations, 24 CFR Part 84 and OMB Circulars A-87 and A-133. This includes requirements pertaining to financial management systems and records, allowable costs and audits.
- 15.1.1 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.
    - 15.1.1.1 For major projects, the procedure for determining reasonableness will include the preparation of a detailed scope of work and an independent cost estimate.
      - 15.1.1.1.1 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.
      - 15.1.1.1.2 An independent cost estimate will be established utilizing local market data and published cost guidelines.
      - 15.1.1.1.3 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.
- 15.2 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.
- 15.3 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.
- 15.3.1 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.
  - 15.3.2 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.
  - 15.3.3 Cost analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts.
  - 15.3.4 All change orders will be subject to a cost reasonableness evaluation by the project manager and approval by the HUD Supervisor.
- 15.4 Cost reasonableness shall be determined by comparing the bids received with the cost estimate prepared by the Housing Rehabilitation Specialist.
- 15.5 Bids received must be within 15% of the Housing Rehabilitation Specialist's cost estimate.
- 15.6 An explanation must be provided to the HRLC for any bid selected that exceeds 15% of the estimate.
- 15.7 Comparable estimates may also be considered, when optimal, for utilization of subcontractors instead of general contractors for work to be performed.

15.8 The Housing Rehabilitation Specialist will work to manage rehabilitation costs through the most efficient and economically feasible project contracting model.

## **16.0 ENVIRONMENTAL REVIEW**

16.1 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. Refer to HUD Policies and Procedures Manual, Section 14 – Environmental Review Plan – for environmental review process.

## **17.0 HOUSING REHABILITATION LOAN COMMITTEE (HRLC) APPROVAL**

17.1 All Residential Sewer & Water Infrastructure Connection Program activities shall be subject to majority vote approval by the City of Modesto Housing Rehabilitation Loan Committee.

## **18.0 APPROVAL CONTINGENCIES**

18.1 All loans shall be evidenced by the following documents and provisions:

- 18.1.1 Loan Agreement;
- 18.1.2 Promissory Notes (s) payable to City of Modesto in the principal amount of the loan and stating the terms and rate of interest;
- 18.1.3 Deed of Trust(s) securing the Note (deed shall be recorded and shall secure City of Modesto's financial interest in the property);
- 18.1.4 Declaration of Conditions, Covenants, and Restrictions (if applicable);
- 18.1.5 Other appropriate security instrument naming City of Modesto as beneficiary;
- 18.1.6 Request for copy of "Request for Notice of Default" on first mortgage; and
- 18.1.7 Any other documents determined necessary by the Community Development Manager.

18.2 All work approved by the HRLC shall be contingent on meeting the following requirements:

- 18.2.1 Execution of a construction contract and Notice to Proceed;
- 18.2.2 On-site monitoring and inspection by the Housing Rehabilitation Specialist to verify scope of work, materials, and construction schedule conform to contract requirements;
- 18.2.3 Written final inspection and approval documentation by the Housing Rehabilitation Specialist;
- 18.2.4 Recorded Notice of Completion, signed by the Household, following final inspection and approval by the Housing Rehabilitation Specialist; and
- 18.2.5 Release of retention payment within 30-days after recording Notice of Completion.

18.3 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:

- 18.3.1 Contractor must notify Housing Rehabilitation Specialist and Housing Financial Specialist 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;
- 18.3.2 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;

- 18.3.3 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;
- 18.3.4 Upon final approval by the Housing and Urban Development Supervisor, Change Order shall be reviewed and signed by Household, Contractor, and Housing Rehabilitation Specialist;
- 18.3.5 The combined total of all approved Change Orders shall not exceed the approved financing and contingences;
- 18.3.6 Households 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.

18.4 The Household 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 Household's insurance policy shall be provided to City of Modesto annually.

18.5 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 Household's flood insurance policy shall be provided to City of Modesto annually.

## **19.0 CONTRACTOR LIST**

19.1 The Housing Financial Specialist shall maintain a *Contractor List* that includes contractors that have participated in the Residential Sewer & Water Infrastructure Connection 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.

19.1.1 Information on the *Contractors List* will be updated on an annual basis, or more frequently, if deemed necessary.

19.1.2 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.

19.1.3 Any person, partnership, or corporation with a current California General Contractor's License is eligible to have bids considered on a housing rehabilitation project.

19.1.4 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.

## **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

## **22.0 MONITORING**

22.1 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 meet certain AMI limits.

22.2 The Housing Rehabilitation Specialists perform annual perform inspections to ensure units meet program compliance requirements.

22.3 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.