



City of Modesto

Parks, Recreation & Neighborhoods Department

**HOMEBUYER’S ASSISTANCE PROGRAM
(HAP)**



**For More Information Please Call:
(209) 577-5311**

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INTRODUCTION

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Homebuyer Assistance Program (HAP) to assist low-income families purchase a home. Through funding from the Community Development Block Grant (CDBG) Program and partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The HAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. Eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

For more information please contact:

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TERMS AND CONDITIONS

Purchase Price

The purchase price of the home shall not exceed 115% of the Median Sales Price for Stanislaus County as determined by HUD. This amount is adjusted annually.

The current sales price limit under the program is \$177,100.

Terms

1. The maximum loan amount is \$10,000.
2. The loan shall accrue interest at the rate of 3% simple interest.
3. No monthly payments are required during the 30-year term.
4. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership; refinancing of the property (subordinations are not allowed), upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).
5. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.
6. The HAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Homebuyer’s Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.

PARTICIPANT ELIGIBILITY REQUIREMENTS

Household Income Limits

HOUSEHOLD SIZE	INCOME LIMIT	HOUSEHOLD SIZE	INCOME LIMIT
1 Person	\$34,250	5 Person	\$52,850
2 Person	\$39,150	6 Person	\$56,750
3 Person	\$44,050	7 Person	\$60,650
4 Person	\$48,900	8 Person	\$64,550

(Effective June 2011 and updated annually)

- Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the Median Area Income (MAI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later. CDBG funds can only be used to assist households at or below 80% of MAI.

Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income re-certification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

- Participant must have:
 - Resided in the City of Modesto, including unincorporated areas, with a Modesto address, for the past six (6) consecutive months, or

- been employed in The City of Modesto for the past six (6) consecutive months.
- The applicant must obtain the maximum loan amount from the first mortgage loan. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.
 - Participant(s) must complete an eight hour homebuyer-counseling workshop from a HUD certified agency, prior to participating in the program.
 - Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with CDBG assistance. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)
 - Eligible participant(s) must contribute 1.75% of the sales price to the transaction.
 - Applicant’s middle credit score must be 610 or higher, based on the following credit agencies: Equifax, Experian, and TransUnion.
 - There are some credits issues that applicants must allow for certain time to pass before they can qualify for a HAP loan. These exceptions are as follows:
 - Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)
 - Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).
 - Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

Note: Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original HAP application will be considered. Applicants will not be allowed to make any material changes in the HAP application in an attempt to reverse a City loan denial.

PROPERTY ELIGIBILITY REQUIREMENT

1. The property must be located in a residentially zoned area within Modesto City limits.
2. The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.
3. Properties with built-in pools are not eligible for the program.
4. Bank owned homes and bank approved short sales are eligible for the program.
5. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.
6. If the property was a rental (non-owner occupied), the following rules apply:

- Owner sales, including short sales-the current tenant may be the purchaser or the rental unit must have been vacant for six months. Acquisition of a house must not result in the displacement of any tenants residing in the unit. The seller must provide proof the unit has been vacant for six months.
 - Foreclosed properties-the financial institution that foreclosed on and owns the property will be required to sign a certification that the financial institution has complied with the Protecting Tenants at Foreclosure Act of 2009. (Public Law 111-22)
7. The following inspection reports are required. These reports will be at the buyer’s risk and expense, unless negotiated with the seller.
- Termite inspection.
 - Home inspection by a qualified property inspector.
 - If the home was built prior to 1978, a Lead Based Paint inspection by a state certified Risk Assessor/Inspector is required. Properties with chipping or peeling paint in the interior or exterior will not pass.
 - These three reports are reviewed by City staff. The City will identify any items that are potential health and safety risks to the buyers and, if the loan is approved, the City will require those repairs prior to the buyer being allowed to sign City loan documents.
 - If the participant pays for any required inspection reports or appraisal outside of escrow, the cost may be considered as part of the 1.75% required contribution. Proof of payment must be provided to the City.

The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

COMBINING THE HAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES

The HAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, Stanislaus County Public Facilities Fees (PFF) waivers/deferrals, City of Modesto Capital Facilities Fee waivers/ deferrals, and California Housing Financing Agency (CalHFA) down payment loans. The City of Modesto loan may be in third position.

ASSET LIMITS

A household’s assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than \$15,000 in liquid assets to be eligible for the program. Should the household’s assets be greater than \$15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

1. Savings account and the average 6-month balance of checking account(s).
2. Stocks, bonds, certificates of deposit, money market funds, and other investment funds.
3. Mortgages or deeds of trust held by the applicant.

4. Inheritance, lump-sum insurance payments, capital gains already received.
5. Settlements for personal or property damage already received.
6. Cash value of trusts that are available to the household.
7. Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.
8. Individual Retirement Account, 401(K), and Keough accounts that can be withdrawn without retiring or terminating employment.
9. Assets that, although owned by more than one person, allow unrestricted access by the applicant.
10. Personal property held as investment such as gems, jewelry, coin collections, etc.
11. Cash value of life insurance policies.

CLOSING COST AND FIRST MORTGAGE LOAN TYPE LIMITATIONS

HAP loans may be used to cover all reasonable closing costs the buyer is responsible for paying. Examples (list not inclusive) include:

1. Loan origination fee
2. Loan discount fee
3. Appraisal fee

4. Title report/insurance, escrow
5. Credit report
6. Pre-pays (upfront reserves for taxes, insurance, and homeowners association dues)
7. Other normal settlement charges.

Reimbursement for loan origination fee should not exceed 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost. Overages can be allowed but at the discretion of the Housing Rehabilitation Loan Committee. HAP loans cannot be used to pay off previous debts incurred by the buyer.

HAP loans cannot be used with variable rate loans (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the HAP program are (1) one-year to (3) three-year interest rate buy-downs under the CalHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down.

CO-SIGNER RESTRICTIONS

The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant’s loan approval. When co-signers are required, such co-signers cannot hold title to the property being purchased with HAP assistance. Co-signers must sign the City’s Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such,

co-signers’ income and other criteria (e.g., real estate ownership) are not considered in determining the household’s eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

HOMEBUYER COUNSELING WORKSHOP

Program participants will be required to complete an eight hour homebuyer-counseling workshop from a HUD certified agency.

The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a mortgage loan, finding a realtor, shopping for a home, home maintenance, budgeting, and on-going financial costs.

Upon the participant’s completion of the class, the workshop provider will issue a certificate of completion. Participant must submit the certificate to the first mortgage lender for inclusion in the City’s HAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

PROFESSIONAL HOME INSPECTION

To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection.

Real estate purchase agreements must contain a right of rescission to review the results of the home inspection.

Professional home inspections generally cover the inspection of items such as the home’s foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front.

APPLICATION PROCESS

1. Participant may contact the City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5311 to see if they meet basic program qualifications.
2. Participant completes homebuyer-counseling and receives a certificate of completion from the workshop provider.
3. Participant may wish to pre-qualify for a first mortgage loan. Any reputable lender can participate in the program. For the benefit of the participant, the lender should be located in Stanislaus County.
4. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract. The purchase offer must allow for a review of the home inspection report.
5. Participant works with first mortgage lender for completion of the City HAP loan application package. The City provides the lender with a checklist of the documents that must be submitted to the City. Those documents include the credit package, the first mortgage loan approval, and the accepted sales contract for the property. Other documents, such as inspections, can be submitted later, but must be

- submitted prior to the loan being prepared for submission to the Housing Rehabilitation Loan Committee.
6. Staff will review initial loan application package for eligibility and notify the lender of additional documents that are required.
7. Upon receipt of appraisal and inspections reports, City staff will review the reports and submit a written list of any repairs that will be required.
8. A report is submitted to the Housing Rehabilitation Loan Committee for loan approval.
9. After the loan is approved, any City required repairs will be inspected by City staff.
10. Staff will prepare the necessary loan documents for the HAP loan and will schedule an appointment and will meet with buyer(s) to sign loan documents.
11. The funds will be provided to escrow or Title Company for the home purchase.
12. Escrow agent shall record the City’s Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.
13. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.
14. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

CONDITIONS FOR DISBURSING FUNDS

Before disbursing any funds the homebuyer must:

1. Meet all the Homebuyer Assistance Program eligibility requirements.
2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.
3. Meet all the conditions outlined in the City conditional loan approval letter
4. Submit all the documents required by the City of Modesto.
5. Secure permanent financing (first mortgage).

RECERTIFICATION

Periodically or annually, the City will request proof from the borrower that they continue to occupy the property as their principal residence.

VIOLATIONS AND PENALTIES

The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest due on the loan.

DEBT RATIO GUIDELINES

Following are the two types of debt ratios the City of Modesto will use:

1. Front-End Ratio (housing expense): The standard guideline is 31%. The front-end ratio is the new principal, interest, taxes and insurance (PITI), mortgage insurance, and Homeowners Association dues divided by the gross income.

The typical debts used to determine the qualifying front-end ratio is the future housing expense.

2. Back-end Ratio: The standard guideline is 43%. This is the new housing expense and the minimum monthly payments from the applicant’s liabilities divided by the gross income.

The typical debts used to determine the qualifying back-end ratio are the minimum required monthly payments on all of the following:

- Auto loans
- Student loans
- Personal loans
- Charge cards
- Child Support
- Alimony
- Federal Tax Lien Repayment Schedules

Ratios in excess of 43% will be considered on an exception basis depending upon the overall strength of the application.

DETERMINING ANNUAL INCOME

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the “gross” amount of income of *all* adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income:

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.
2. **Income of all adult household members.** The definition of Annual Income contains income “inclusions” –types of income to be counted—and income “exclusions”—types of income that are not considered (e.g., income of minors); and
3. **Anticipated to be received.** Annual income is used to determine eligibility and a household’s expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.

Annual gross income shall be determined in accordance with the Code of Federal Regulations (CFR), Title 24, Part 5, Section 5.609(b).

The following items shall be **included** in determining Annual Income:

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);
2. Net income from the operation of a business or profession;

3. Interest, dividends, and other net income of any kind from personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.
4. Lottery winnings paid in periodic payments.
5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).
6. Payments in lieu of earnings such as unemployment, worker’s compensation and severance pay;
7. Welfare assistance;
8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
9. All regular pay, special pay, and allowances of a member of the Armed Forces.

The following items shall be **excluded** in determining Annual Income:

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payment received for the care of foster children.
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.

4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
5. Income of a live-in aide.
6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.
7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.
8. Amounts received under training programs funded by HUD.
9. Temporary, nonrecurring, or sporadic income (including gifts).
10. Lump sum payment of SSI and Social Security benefits.
11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.

EQUAL CREDIT OPPORTUNITY ACT

This Homebuyer Assistance Program will be implemented in ways consistent with the City of Modesto’s commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.

CONFLICT OF INTEREST

In accordance to title 24, Section 570.611 of the Code of the Federal Regulations, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program.

