

RESOLUTION NO. 2005-224

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE OWNER OCCUPIED HOUSING REHABILITATION LOAN
PROGRAM GUIDELINES**

WHEREAS, the City of Elk Grove has applied for and received Community Development Block Grant funds ("Funds") from the Government of the United States under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City of Elk Grove identified this housing program activity in its 2003/04 Action Plan to foster the maintenance of housing affordable to target income households as well as those with special needs; and

WHEREAS, the City of Elk Grove wishes to amend the guidelines of this housing program to raise the lending limit from \$40,000 to \$100,000 and under special circumstances, to a greater amount as approved by the Planning Director and the Loan Committee, and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby adopts the Amended Owner Occupied Housing Rehabilitation Loan Program Guidelines.


PASSED AND ADOPTED on this 27th day of July, 2005.



DANIEL BRIGGS, MAYOR OF THE
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY



GUIDELINES FOR THE OWNER OCCUPIED HOUSING REHABILITATION LOAN PROGRAM

CITY OF ELK GROVE
DRAFT AMENDMENT JULY 27, 2005

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PROGRAM OVERVIEW AND OBJECTIVES

The City of Elk Grove Owner Occupied Housing Rehabilitation Loan Program is designed to provide low-income owner-occupants with financial assistance to rehabilitate their homes. The goal of the rehabilitation is to eliminate critical health hazards and make repairs necessary to safety. The program is funded through the City's Community Development Block Grant (CDBG) and is a voluntary, citywide program.

The program will reduce the number of substandard housing units within the City, while maintaining the existing affordable housing stock. Additionally, the program contributes to increasing independence and quality of life for persons with special needs, including the elderly and the disabled.

PROGRAM ELIGIBILITY

Both the applicant and the residential property in question must be eligible for assistance, as set forth below. These eligibility requirements may not be waived.

Applicant

- The applicant shall have legal and/or equitable title to the affected property and shall reside in the dwelling in need of repairs.
- The applicant's total household income shall be at or below 80% of the Area Median Income (AMI) as established by the U.S. Department of Housing and Urban Development, adjusted for household size.
- The applicant shall have no other significant financial means to complete the needed repairs.

Property

- The property shall be a single-family home, duplex, four-plex, manufactured home or mobile home residential dwelling unit that provides complete independent living facilities, including permanent provisions for living, sleeping, cooking, eating and sanitation.
- The property shall be owner-occupied and be located within the incorporated limits of the City of Elk Grove.
- The property shall be in need of rehabilitation to correct hazards and allow continued safe occupancy of the home.

LOAN TERMS

- Eligible applicants whose household income is at 80% AMI or less may receive a non-assumable loan of up to \$100,000 at 3% simple interest with a term of 30 years. Loan repayment may be deferred depending on loan amount and ability to repay. At five-year increments, the loan will be reviewed to determine eligibility for continued deferral of loan repayment.
- Monthly housing expenses as compared to income will determine eligibility for loan deferral. The percentage spent on housing will not exceed 35%.

- Qualified loans may have principal and accrued interest payments deferred for up to 30 years. Generally monthly payments on the principal and the 3% accrued interest amount will begin on the first month of the 30th year, and payments will be amortized over the remainder of the term, however, the ability to repay the loan will be evaluated at that time.
- The loan amount cannot exceed 100% of the after-rehabilitation value of the property. After-rehabilitation value will be determined by an appraisal or a market sales analysis from a title company.
- In cases where the property is owned free and clear, the after-rehabilitation value can be determined by mutual consent between the City and the property owner.
- The loan balance, consisting of unpaid principal and accrued interest, is due and payable immediately in case of the following events: 1) the transfer of the legal title of the property from the borrower to another titleholder; 2) the borrower no longer resides in the home; 3) all borrowers die; and 4) the loan maturity date arrives.
- The loan will be secured through a Deed of Trust, Promissory Note, and related loan documents, signed by all owners listed on the benefiting property's title, whether or not they reside on the property.
- Insurance shall be secured on the mortgaged property and shall be written on "Special" form for the replacement cost of the property. The City shall be named as mortgagee under such insurance for the term of the loan. The City will be provided with a copy of a policy of such insurance or will be provided an "Evidence of Insurance" document. City will be provided a 10-day notice in case of policy cancellation.
- All Owner Occupied Housing Rehabilitation loans that are not in first position on the title will require a Notice of Default to be recorded as part of the transaction.
- In the case of a mobile home, a lien will be established through the California Department of Housing and Community Development.

REQUEST FOR SUBORDINATIONS

Requests for the City of Elk Grove to subordinate its loan will be reviewed by a City representative to verify, that there will be no "cash out," that no additional existing debts are being paid, and that generally the loan is non-predatory, among other things. The following documents will be required for review: 1) Good Faith Estimate of closing costs; 2) Payoff Demand on existing mortgage; 3) Appraisal Report; 4) Any other document deemed necessary by the City to make a determination.

ELIGIBLE REHABILITATION ACTIVITIES

The following items are examples of repairs eligible under the program, but is not all-inclusive:

- Improvements for accessibility to a disabled person,
- Replacement of windows to meet energy efficient standards,
- Replacement of exterior doors that are deteriorated or defective,
- Replacement of defective roofing material, roof sheathing, and roof rafters,
- Replacement of defective finish flooring, sub-flooring, and floor joists and girders,
- Painting of exterior and interior when existing paint is deteriorated,
- Repairing exterior siding when deteriorated,
- Repairing or replacement of defective electrical service panels, wiring, and fixtures,
- Repairing or replacement of defective plumbing fixtures, and waste and vent piping,
- Repairing or replacement of defective porches, steps, railing, and walks,
- Replacement of heating and air conditioning systems with high efficiency units,

- Repairing or replacement of termite damage, dry-rot damage, lead paint and asbestos abatement,
- Repairing or replacement of gutters and downspouts.

The following items are eligible in combination with the items listed above as incidental activities (but may NOT exceed 10% of the overall loan amount):

- Driveway repair,
- Out-building repair,
- Debris removal.

The following are repair items that are NOT eligible under any circumstances:

- Swimming pool;
- luxurious bathroom features;
- fabricated yard ornaments
- elaborate kitchen features;
- decorative lighting features;
- irrigation systems;
- ornamental outdoor lighting;
- insulated or heated garage;
- patio or patio covers;
- landscaping improvements;
- landscape plantings, including sod repair;
- outdoor fireplaces;
- exterior hose bibs.

PROPERTY STANDARDS

Properties must be rehabilitated to City of Elk Grove minimum standards.

RELOCATION

The City of Elk Grove Owner Occupied Housing Rehabilitation Loan Program will not approve or participate in any activities that would require the property owner to vacate the premises on a temporary or permanent basis. Relocation assistance will not be made available for this program.

EXCEPTIONS/SPECIAL CIRCUMSTANCES

Exceptions are defined as any action that would depart from policy and procedures stated in the guidelines. For example, if the cost of rehabilitation for critical code deficiencies exceeds 100% of the after-rehabilitated value of the property, the Housing Coordinator can, on a case-by-case basis, accept a partially secured loan. In such cases, if a household is current on repayment on existing loans, property taxes and insurance, a repayment schedule for the loan will be developed.

REHABILITATION LOAN PROCESS

City staff will work with the homeowner to determine eligibility and gather all supporting documentation. City staff will assist the homeowner in completing the application and financial verifications. The City will lend to the borrower an amount stated in the City of Elk Grove Rehabilitation Loan Agreement and the Truth in Lending Loan Disclosure Statement. Charges including title charges and credit report fees will be paid by Community Development Block Grant funds.

The following is a list of documents that compose the loan application and construction file:

- Loan application
- Confirmation of Receipt of Lead Pamphlet-*Protect Your Family From Lead In Your Home*.
- Homeowner insurance with liability of \$300,000.
- Contractors Agreement
- Construction Loan Contingency Escrow Agreement
- Contract for Services Hold Harmless Agreement and Authorization
- Disclosure Statement
- Loan Conditions
- Notice of Right of Rescission
- Notice to Prior Lien-Holder
- Notice to Proceed
- Mortgage
- Promissory Note

CONTRACTING PROCEDURES

The house will be inspected by the Rehabilitation Specialist and when requested, the City Building Inspector. City staff will prepare itemized rehabilitation work specifications. City staff will work with the homeowner to solicit bids from qualified contractors. To be considered for the job, contractors must be qualified, willing and able to perform the construction work.

If lead-based paint hazard reduction is part of the bid specifications, staff will evaluate the need to involve a professional lead based paint professional.

All responsibilities will be clarified in order for construction to flow smoothly. After bids are received from contractors, the bids will be evaluated, reviewed and selected by the homeowner and City staff. Working closely with the homeowner and the selected contractor, staff will clarify and define the exact scope of work to be done. Determination will also be made for who is responsible for the clean up of the operation and removal of trash from the job site.

Prior to being awarded the contract, the selected contractor must provide copies of:

- Certificate of Insurance, i.e. top binder page showing policy limits.
- State of California contractor's license and be in good standing.
- Employer Identification Number.
- City of Elk Grove business license as required for businesses that have a business address in the City of Elk Grove.
- References.

The contractor's license will also be checked against the Department of Housing and Urban Development's debarment list and the State of California's Contractors Licensing Board.

PRE-CONSTRUCTION CONFERENCE

A preconstruction conference will be used as an opportunity for the contractor(s), the homeowner, and City staff to meet in person to review key aspects of the work, establish open lines of communication, make expectations and roles clear, and raise any concerns. The pre-construction conference will discuss how the entire construction project will be managed to insure success in bring the project in on time, at budget, and according to established quality standards.

Topics that will be discussed during the pre-construction conference:

- Rehabilitation Specifications
- Project schedule
- Occupant protection measures, such as worksite restrictions and protecting the occupants' belongings, worksite set-up
- Progress inspections
- Change order procedures
- Lead based paint hazard reduction items and locations
- Lead based paint hazard clearance procedures and coordination with the balance of the rehabilitation work
- Cleanup procedures
- Grievance procedures
- Payout schedule

CONSTRUCTION WORKSITE

Proper worksite set-up helps contain dust and debris during work. This kind of containment makes daily and final cleanup easier and quicker to perform. It also helps contractors meet safety requirements for their workers and reduces the spread of lead dust, when present, to other parts of the unit. Correct practices help to reduce the chances of lead poisoning, therefore keeping the household safe and helping to protect the contractor and the housing rehabilitation program from liability claims. Improper work and cleanup will not pass lead clearance testing.

Steps will be taken to eliminate the risk to homeowners and other occupants of the house by restricting access to the worksite, containing debris and dust during work, using safe work practices, and cleaning the worksite frequently.

REHABILITATION WORK COMMENCEMENT, INTERIM INSPECTIONS AND PROGRESS PAYMENTS AND CHANGE ORDERS

The homeowner, City staff and the contractor sign the construction contract once loan has been approved. City staff issues a Notice to Proceed, with the copy to the City's building inspector.

- **Construction Contract** - The contract must include an agreement that the homeowner will not order or permit any material changes in the final plans and rehabilitation bid specifications without prior consent of City staff.

- **Notice to Proceed** – Once signed by the City staff, the work can commence.
- **Permits** - The Contractor is responsible for securing all required permits. Note: Homeowner shall reimburse contractor actual permit fees paid proven by paid receipt.
- **Inspections** - Interim and final inspections will be made as appropriate by City staff to assure that construction conforms to the final plans and rehabilitation bid specifications.
- **Disbursement Records** - The rehabilitation specialist and the contractor establish a rehabilitation disbursement record to track all disbursements and change orders. Funds cannot be released without the signatures of the homeowner, the contractor and City staff.
- **Change orders** - All change orders require the approved of the homeowner, the contractor and the rehabilitation specialist. All three parties must sign the change order form prior to commencement of the work proposed by the change.
- **Cost Overruns** - Homeowners must exhibit the ability to pay cost overruns or additional construction financing expenses prior to the approval of any contract modification. The City of Elk Grove loan program is not obligated to increase the rehabilitation loan to cover cost overruns.
- **Lien Waivers** - Lien waivers or releases from all materialmen, contractors, and subcontractors involved in the construction must be obtained prior to final payment to the contractor.
- **City Building Department Inspections** - The rehabilitation specialist will coordinate all necessary inspections with the City's building department.

WORK COMPLETION

City staff will conduct a final walk-through with the homeowner, contractor and lead based paint hazard risk assessor to address any outstanding items. Upon completion of work there will be a final inspection by the City of Elk Grove's building inspector.

At the time of the request for the final payment to the contractor, the following items must be provided to City staff 1) lien releases from all subcontractors, laborers, materialmen and equipment rental; and 2) a copy of a recorded Notice of Completion. The final 10% retention will be held for 35 days after receipt of the recorded Notice of Completion to ensure that all unconditional liens have cleared,

LEAD BASED PAINT HAZARD REDUCTION INSPECTION AND MITIGATION OVERVIEW OF REQUIREMENTS

According to Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, a lead-based paint hazard is "any condition that causes exposure to lead from lead-contaminated dust; bare, lead-contaminated soil; or lead-based paint that is deteriorated; or intact lead-based paint present on accessible surfaces, friction surfaces or impact surfaces that would result in adverse human effects".

Recognizing the hazard that lead based paint poses to homeowners and the federal guidelines regulating the treatment of lead based paint conditions, the City of Elk Grove will work with homeowners to comply with industry standards in lead based paint interim controls, abatement of lead-based paint hazards, or complete abatement of all lead-based paint. A certified lead based paint risk assessor will be consulted as appropriate for each rehabilitation project. Houses built after 1978 are not required to be evaluated and assessed for lead based paint hazards.

Occupants of housing units constructed prior to 1978 will receive the following notifications:

- The Lead Based Paint (LBP) Hazard Information Pamphlet published by the EPA (Environmental Protection Agency)/HUD/Consumer Safety Commission, entitled *Protect Your Family From Lead In Your Home*.
- If lead-based paint hazards are found through testing or if presumption is used, a pamphlet entitled *A Notice of Lead Hazard Evaluation or Presumption* will be provided to loan recipient no later than 15 days after a lead hazard evaluation report has been received and lead-based paint or lead-based paint hazards have been found.
- If lead-based paint hazards are found through testing or if presumption is used, occupants will be notified of any lead hazard evaluation results and of the hazard reduction activities and clearance. A pamphlet entitled *Abatement of Lead Hazards Notification* will be provided at least five days prior to starting work.

GRIEVANCE PROCEDURE

Any person/household applying for a rehabilitation loan through the City of Elk Grove owner occupied housing rehabilitation loan program has the right to appeal if their application is denied. In addition, during pre-construction, construction and post-construction periods, the applicant/borrower has a similar right to have any disputes heard and resolved.

City rehabilitation staff, including the grant technician and rehabilitation specialist, is primarily responsible to assure that the program is implemented in compliance with state and federal regulations and in a timely and responsible manner. This includes developing accurate, professional, and organized files, work write-ups and contract documents. City rehabilitation staff will attend the meeting between the homeowner and the contractor when the contract documents are signed, and facilitate in the clarification and/or corrections of proposed work so a clear understanding is established between both parties.

During and after completion of construction, the contractor's work is monitored for code compliance by the City of Elk Grove's building inspector and for quality by City staff.

The contractual obligation for rehabilitation is ultimately between the contractor and the homeowner. If a situation occurs where the two parties are in conflict, the following procedure will occur:

Stage 1: Before any intervention occurs, the homeowner or contractor shall communicate perceived problems or complaints directly to the other party. In an attempt to resolve the differences, each will give the other an opportunity to respond or correct the problem.

Stage 2: If the Stage 1 attempt fails, the homeowner or contractor may ask City staff to informally intervene. This intervention might include telephone call(s) to the contractor or homeowner, meeting(s) at the job site or in the office, or other actions as appropriate, including such things as the establishment of written working guidelines or other post-contractual agreement. It must be recognized that at this point the homeowner may wish to utilize other options, including contacting the Contractors State Licensing Board and submitting a complaint.

Stage 3: Any controversy between the parties that cannot be settled through the informal intervention process outlined above shall be submitted to binding arbitration. Costs of the arbitration will be borne by the loser, or subject to the terms of the arbitration agreement.

- The parties shall attempt to agree on a single arbitrator to hear the dispute. If they cannot agree, the Planning Director of the City of Elk Grove shall appoint an arbitrator. The costs of the arbitration shall be subject to the terms of the arbitration agreement.
- The arbitration shall be conducted in accordance with the rules of the American Arbitration Association then in force. The parties expressly agree that the arbitration shall be subject to and governed by the Federal Arbitration Act, Title IX, USC 1 et seq.

FAIR HOUSING

The program will be implemented in ways consistent with the City of Elk Grove's commitment to Fair Housing. No person shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with Community Development Block Grant funds on the basis of his or her religion or religious affiliation, age, race, color, ancestry, national origin, sex, marital status, familial status, physical or mental disability, sexual orientation, or other arbitrary cause.

CONFLICT OF INTEREST

No member of the governing body of the City and no other official, employee, or agent of the City government who exercises policy or decision-making authority in connection with the planning and implementation of the Owner Occupied Housing Rehabilitation Program shall directly or indirectly be eligible for this program. Exceptions to this policy can be made only after public disclosure and formal approval by the City Council. Ineligibility shall continue for one year after an individual's relationship with the City ends.

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2005-224**

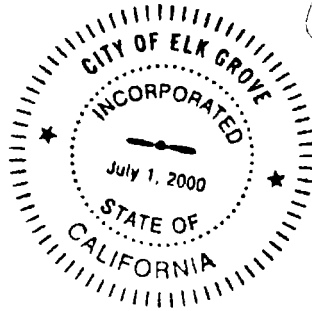
STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)


I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 27th day of July, 2005 by the following vote:

AYES 4: COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper
NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 1: COUNCILMEMBERS: Leary





**Peggy E. Jackson, City Clerk
City of Elk Grove, California**