

RESOLUTION NO. 2011-126

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE AFFORDABLE HOUSING LOAN PROGRAM GUIDELINES AND
AUTHORIZING THE CITY MANAGER TO MAKE FUTURE AMENDMENTS**

WHEREAS, the City of Elk Grove (hereinafter also referred to as "City") City Council has created certain fee programs, consistent with the General Plan and state housing laws to provide funding to facilitate the development of affordable housing by providing loans to developers of affordable housing development projects to assist in construction financing; and

WHEREAS, the City Council has previously adopted guidelines for the application process for affordable housing project developers and desires to amend them; and

WHEREAS, minor updates to the guidelines are anticipated on an annual basis, or as needed to provide clarity or consistency with other City policies.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby resolves as follows:

1. Findings.

- a. New residential development in the City that does not provide for housing opportunities for all income levels consistent with the City's Regional Housing Needs Allocation (RHNA), or regional fair share allocation, reduces the City's ability to meet these needs in the future.
- b. The City's projected need for affordable housing exceeds its current mix of housing, and to promote development of affordable housing the City issues loans from the Affordable Housing Fund Fee Program and Very Low Income Housing Trust Fund Fee Program.
- c. Collections in the housing fund fee programs have decreased in the past year resulting in limited housing funds fees available for loans, and it is necessary to clarify and document the affordable housing loan program to issue loans in the future efficiently.

2. Use and Administration of Fees. The Affordable Housing Fund Fees and Very Low Income Housing Trust Fund Fees shall be used, and administered as described in items (a) through (d) below, but not in order of priority.

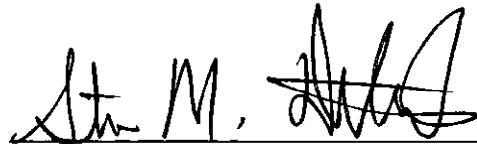
- a. The housing fees will be used to provide loans to developers of affordable housing projects;
- b. Affordable Housing Fund Fees may be used to establish homeownership programs for very low- and low-income households;

- c. The Affordable Housing Loan Program Guidelines, dated June 22, 2011, but updated periodically with City Manager approval, shall govern the affordable housing loan application process in the City.
- d. The additional City staff time associated with participating in discussions and/or meetings with the Affordable Housing Loan Committee will be funded by revenues in the Affordable Housing Fund and/or Very Low Income Housing Trust Fund.

BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove hereby amends the Affordable Housing Loan Program Guidelines dated June 1, 2007 and replaces them with the Affordable Housing Loan Program Guidelines dated June 22, 2011, attached as Exhibit A.

BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove authorizes the City Manager to approve minor updates to the Affordable Housing Loan Program Guidelines to increase clarity or consistency with other City policies.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 22nd day of June 2011.



STEVEN M. DETRICK, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

EXHIBIT A



City of Elk Grove

Affordable Housing Loan Program Guidelines

June 22, 2011

I. BACKGROUND

The City of Elk Grove has two development impact fee programs that provide the financial resources to promote and assist in the development of new affordable housing in the City: the Affordable Housing Fund (AHF) fee program and the Very Low Income Housing Trust Fund (VLIHTF) fee program. The revenues for these funds come from development impact fees paid by project applicants at building permit issuance. Residential project applicants pay the AHF and non-residential project applicants pay the VLIHTF. Revenues in the AHF must be used to provide assistance with new rental residential development costs for very low- and low-income housing and may also be used for homeowner downpayment assistance for very low- and low-income households. Revenues in the VLIHTF must be used to assist in the development of residential housing for very low-income households only. Low-income households are households that earn between 51 and 80 percent of area median income, adjusted for household size. Very low-income households are households that earn 50 percent or less of the area median income, adjusted for household size.

The City's Affordable Housing Loan Program assists affordable housing developers by providing loans for development financing. The loans are intended to be "gap" financing. The "gap" is defined as the difference between total development cost and the maximum potential project funding raised from private and public sources other than Elk Grove's AHF and VLIHTF.

Thus, the public purpose of the City's housing loan funds is to provide financial assistance to income-targeted housing that a for-profit or non-profit developer cannot secure from non-city sources, helping to assure financial feasibility of the project.

II. OVERVIEW OF PROGRAM GOALS

The Affordable Housing Loan Program goals, consistent with the City of Elk Grove's General Plan Housing Element, are as follows:

- a) Increase the supply of affordable housing through new construction;
- b) Ensure long-term affordability of very low- and low-income housing;

- c) Encourage the development of well designed, high quality, and energy efficient residential projects that meet the needs of individuals and families as well as seniors;
- d) Maintain quality living environments for residents of assisted affordable developments and surrounding properties;
- e) Focus time and resources first to multifamily housing affordable to very low- and low-income households, then to zero lot line or reduced setback single-family housing, corner duplexes, and second dwelling units affordable to very low- and low-income households;
- f) Support homeownership programs;
- g) Support the development of apartment and/or single-family (below market rate) development projects;
- h) Encourage the production of the maximum number of units to be in compliance with the state mandated Regional Housing Needs Allocation (RHNA) requirement, determined by the Sacramento Area Council of Governments (SACOG) for the City.
- i) The current RHNA housing unit goals for the period between 2006 and 2013 are as follows:

Income Category	2006-2013 RHNA
Extremely Low	1,697
Very Low	1,697
Low	2,240
Moderate	2,047
SUBTOTAL	7,681
Above Moderate	3,633
TOTAL	11,314

III. GENERAL PROGRAM AND POLICIES

The administration of the Affordable Housing Loan Program shall be guided by the following policies and procedures:

- a. Whenever the City has accumulated no less than five million dollars (\$5,000,000) in AHF and VLIHTF fees available for loans, the City will issue a Request for Proposal (RFP) from developers for new projects. The RFP issued at that time will detail the requirements. Proposal requirements may include, but are not limited to:
 - i. A project description, including unit count, affordability mix, conceptual site plan, and elevations.

- ii. Project location, including a description of nearby amenities.
- iii. Project schedule, including projected dates of financing commitments, land use approvals, plans and permits, construction, funding draws, and full occupancy.
- iv. Preliminary pro forma, showing anticipated project costs and sources of funding.
- v. Project team information, including any experience developing affordable housing.

Proposals will be due no less than thirty (30) calendar days after the release of the RFP.

- b. All loans are intended to be gap financing; the developer is expected to seek financing for the project from other state and local agencies, private investors, and banks. Prior to release of an RFP, the City will consider the timelines and deadline of other state or local agencies that may be offering loans and grants so developers have an opportunity to also apply for these other loans and grants.
- c. Proposals will be evaluated by staff and the AHLC. One or more developers will be selected to move forward to the loan application stage based on the strength of their proposal.
- d. Developers must apply for a loan using the City application forms. (Note: the City is unable to accept new loan applications from proponents of currently funded projects that are not in compliance with loan terms until any default is remedied by the applicant.)
- e. Applications will be reviewed for completeness and staff will work with the applicant to identify the items required for completing the loan application. Underwriting will commence only with complete loan applications. A complete loan application consists of the completed City application forms, including but not limited to the supporting due diligence documents listed in Part 2 of the City loan application, "Supplemental Applicant Documents." Staff will provide notice to a loan applicant when their application is deemed complete in the form of a formal letter.
- f. Complete loans applications will be underwritten by staff, and underwriting will be completed in 45 calendar days. If more than one application is submitted, the strengths and weaknesses of the applications will be considered concurrently by staff and the AHLC. If the developer is faced with internal deadlines for their project, such as land purchase and option requirements, they must consider the length of the underwriting process by City staff and the AHLC; the City general processing times will not be modified.
- g. The underwriting process will include: (1) analysis of project pro-forma, (2) review of due diligence documents (including third party appraisal reports and market studies), and (3) negotiation of loan terms.

- h. Upon completion of underwriting, staff will submit to the AHLC a recommendation which includes, but is not limited to, one of the following: 1) loan approval, 2) loan denial, or 3) a recommendation that the developer continue to make additional improvements to their proposal based on adherence to loan program policies and due diligence. The AHLC will perform an independent review of the loan application, return the loan package to staff with their recommendation, which includes but is not limited to, 1) continued negotiation and collection of additional information requested from the developer, 2) a recommendation for loan approval by the City Council, or 3) a recommendation for denial by the City Council.
- i. The AHLC will provide its recommendation for a loan application within 60 days of the first meeting to discuss the loan application. If the AHLC does not provide a recommendation to Council within 60 days, the application will be deemed denied by the AHLC and will be automatically forwarded to City Council for action.
- j. The AHLC recommendations are not restricted by available funding but need to acknowledge in their recommendation any priority preferences.
- k. The AHLC will consider for each proposed project the merits of the financing plan as well as conformance with the City's General Plan (including, but not limited to, Land Use Policy #6, and H3, Action 1 of the Housing Element).
- l. The AHLC is scheduled to meet on a monthly basis, at a date and time determined possible by the Committee and staff, or as necessary to achieve the Committee objective. The monthly meeting day and time will be posted by the City Clerk.

IV. LOAN FUNDING CRITERIA:

Project Readiness

Project readiness will be a critical factor, as indicated by site control, supporting documentation of other private/public financial commitments and managing partners, and the status of the project's development review applications.

- a. Site Control. The property must be in the control of the applicant, through fee title, executed lease agreement or lease option of sufficient length, an enforceable contingent purchase and sale agreement or option, or a development and disposition agreement with a public agency.
- b. Project Development Review. Loan applicants are required to submit a complete development review application(s), as determined by the City's Planning Department, concurrently or within one week after submitting a complete affordable housing loan application. The development review applications contain critical information about the proposed project that must be considered concurrently with the loan application.

- c. Construction Completion. Projects are expected to be constructed within a short timeframe of receipt of development and affordable housing loan approvals.

Units and Subsidies

- a. Projects that maximize the development of affordable units per site are preferred.
- b. Projects located in close proximity to services, shopping, and public transportation are encouraged.
- c. The proposed project must have the purpose of addressing the goals outlined in the City's Housing Element and the RHNA requirements determined by SACOG.

Use of City Funds

Loans provided by the City are intended to be gap financing. Upon review of a loan application, the City will consider the developer's ability to leverage City funds, maximizing other sources of project financing. Loan applicants are responsible for preparing accurate development cost estimates for their proposed projects. While the City can assist with questions related to City administered development impact fees, the loan applicants are responsible for estimating all project costs, including fees charged by all entities. If applicants submit a loan application early in the development process, where cost estimates may be premature or not fully known, the City cannot be responsible for assisting in additional gap financing if any project costs, including fees, increase at a later time. Should project costs increase after City affordable housing loan approval, applicants are expected to secure revenue to cover such increased costs from non-city sources.

Conditional Funding Commitments and Funding Commitments

Conditional Funding Commitments. Loan applicants for projects which have not yet received approval of their complete development review application may obtain a Conditional Funding Commitment from the City Council. With a Conditional Funding Commitment, the loan amount and loan terms approved for a proposed project will be reserved for a maximum period of nine months, then the loan commitment automatically terminates if project entitlements are not received. Without exception, all conditions must be met to later obtain a Funding Commitment. Should the applicant need additional time to secure development entitlements, a written letter of request documenting the reasons for the request must be submitted to the City Planning Director for consideration for an additional three months to complete the entitlement process and execute the City loan. If a loan applicant seeks further consideration from the City of their proposed project after termination of a Conditional Funding Commitment, the loan applicant must submit a new loan application. After project entitlements are received, draft loan documents will be prepared by City staff for City Council review.

Funding Commitments. The City Council will provide a Funding Commitment after development review entitlements are approved. The City loan documents associated with a proposed project will be reviewed by City Council at the time a Funding Commitment is approved.

Project Performance

Agreements for bond financing, investor equity, and other financial sources for project development must be fully executed/closed within four months of obtaining a Funding Commitment. The City loan closing will be concurrent with the primary source of financing (i.e. first mortgage lender) for the project.

All building permits for a proposed project must be obtained within twelve months of obtaining a Funding Commitment. An extension of up to an additional three months may be allowed with written approval of the Planning Director, based upon documentation of circumstances beyond the control of the applicant.

Long Term Affordability Requirements

All housing units financed by the AHF and VLIHTF carry affordability restrictions into the future. If tax credits and/or State bond financing are also used to finance a project, the City's length of affordability requirements will match those with the longest affordability requirements.

Loan Repayment

City loans are expected to be repaid. The City will prioritize projects that can provide repayment at the earliest point during the loan term.

V. MATERIAL CHANGES TO THE PROJECT

Any changes to the project's design, including but not limited to unit count, unit configuration, etc. and/or financial structure subsequent to the submittal of the loan application and/or receipt of a Conditional Funding Commitment and Funding Commitment must receive City's prior written approval; otherwise, the City reserves the right to withdraw its loan commitment. Requests for material changes to a project must be submitted in writing to the City Manager, and a written approval would be provided on a discretionary basis.

A reduction in the number of affordable units proposed by a developer by one or more units is considered a material change, since a dollar subsidy is associated with each affordable unit. If a reduction to the affordable housing unit count is requested by the developer subsequent to receipt of a Conditional Funding Commitment or Funding Commitment, a pro-rata downward adjustment to the total loan amount, equivalent to the dollar subsidy associated with each affordable unit, will be applied. The City Manager may waive applicable downward adjustments to the loan amount for extraordinary conditions associated with a project.

VI. PROPERTY MANAGEMENT

- a. Management Plan. A comprehensive management plan must be approved by the City prior to loan closing. The plan must address rental procedures, maintenance schedule and standards, eviction procedures, and overall day-to-day operations including safety and security. The loan agreement will specify all the provisions to be

included in the management plan. The City requires approval of the management firm 1) as part of the Funding Commitment process and 2) upon any subsequent change.

- b. *Project Operating Reports*. In order to monitor the operating condition of projects in receipt of City financial assistance, the City requires receipt of the project's annual audited financial statement, consistent with generally accepted accounting principles (GAAP), including the balance, deposits, and withdrawals from the replacement reserves and operating reserves. The City also requires that project quarterly financial statements and rent rolls be provided by loan recipients.
- c. *Property Inspections*. The City will perform property inspections of all projects financed with City funds one or more times during a calendar year. Only properties with operational issues are likely to have multiple City property inspections in a calendar year.

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2011-126**

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


I, Jason Lindgren, 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 June 22, 2011 by the following vote:

AYES : COUNCILMEMBERS: *Detrick, Cooper, Davis, Hume, Scherman*

NOES: COUNCILMEMBERS: *None*

ABSTAIN : COUNCILMEMBERS: *None*

ABSENT: COUNCILMEMBERS: *None*


**Jason Lindgren, City Clerk
City of Elk Grove, California**