



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: May 7, 2024

TO: Paul Buddenhagen, City Manager

FROM: Chadrick Smalley, Community Development Director

SUBJECT: Resolution Of The City Council Of The City Of Emeryville Approving Revised Program Guidelines For The Emeryville First Time Homebuyer Program

STAFF RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution revising the Program Guidelines for the Emeryville First Time Homebuyer Program.

BACKGROUND

As part of the City's long-standing efforts to encourage and support homeownership, the City has offered down-payment assistance loans to first-time homebuyers to help make the purchase of a home more affordable to low and moderate-income buyers whose income is no more than 120% of the Area Median Income (AMI). The City's first down payment assistance loan was awarded in 1991, and since then the City has issued 561 down payment assistance loans totaling \$19,052,536. The following Down Payment Assistance Programs have been implemented by the City:

- First Time Homebuyer Loan Program (FTHB), previously funded through redevelopment funds and available to moderate-income households for market rate and Below Market Rate (BMR) units.
- Ownership Housing Assistance Program (OHAP), previously funded through redevelopment funds and available to low-income households for BMR units.
- CalHome Program, previously funded by the State of California and available to low-income first-time homebuyers for market rate and BMR units.
- Housing Enabled by Local Partnership (HELP), previously funded by the State of California and available to low-income buyers for market rate and BMR units.

Currently, there are 184 loans remaining within the City's portfolio. While the down payment assistance loan programs had been successful, in 2013, the City modified the guidelines for all of these down payment assistance programs in an effort to address shrinking financial resources due to the dissolution of redevelopment agencies, minimize risk to the City's housing assets by eliminating the ability to access City-funded Down Payment Assistance (DPA) on BMR units, and ensure funding is targeted to those in greatest need by reducing the maximum amount of assistance a borrower could be eligible for. While the proposed changes in 2013 were created for the market conditions

that existed in a post-foreclosure crisis environment, the market conditions have changed, and since 2013, the City has only closed on one down payment assistance loan.

On March 2, 2021, the City adopted the Affordable Housing Bond Administration and Expenditure Plan ("Plan"). This plan allocated \$1,950,000, collectively in Affordable Housing Fund (Fund 299) and Measure C Housing Bond funds (Fund 284), to support a Homebuyer Assistance Program. The Homebuyer Assistance Program is to provide down payment and closing cost assistance for low to moderate income homebuyers. The Plan also requires the Housing Committee to review and make recommendations for Plan-funded program guidelines. On May 12, 2023, the City sold the Measure C Housing Bonds required to relaunch the FTHB program.

On December 12, 2022, the City adopted the 2023-2031 Housing Element, which references the promotion of homeownership opportunities and support of current homeowners in retaining their homeownership status as a City Housing Policy (H-2-1). Additionally, Housing Element Program M- Homebuyer Assistance Programs is identified as one of the initiatives that supports Policy H-2-1. One of the initial action steps within this program is to update the existing program guidelines to address the issue of low program utilization during the previous planning period (i.e. 2015-2023) prior to relaunching the Homebuyer Assistance Program.

DISCUSSION

Staff, with support from Hello Housing, the City's BMR Portfolio consultant, have researched various other local down payment assistance programs to understand how these programs are structured in neighboring jurisdictions. Additionally, in 2021 Hello Housing worked with Alameda County to analyze data on the AC Boost down payment assistance program and developed a series of implementation changes for the County's program to address barriers for people of color in obtaining homeownership. The following outlines the major FTHB policy recommendations and an overview of the FTHB program guidelines. Staff recommends that program changes be reviewed 12 months after the relaunch of the FTHB program to assess program performance.

Maximum Loan Amount

The current FTHB guidelines state that the maximum loan amount from the City is the least of the following:

- *150% of buyer's down-payment contribution*
- *20% of sale price in contract*
- *20% of the maximum price from the then-current housing affordability table on the City's website*

Borrowers need certainty and clear terms when applying for a loan, especially from a local jurisdiction. Under the current policy, borrowers must contact the City for staff to complete the three calculations necessary to determine how much funding they are eligible for (see Table A). The current policy also incentivizes households with higher incomes (100-120%

AMI) to participate in the program, as they are eligible for the same if not more down payment assistance than those households with low- and median-incomes (100% AMI and below). In researching other local down payment assistance programs, this type of analysis to determine how much funding a prospective homebuyer is eligible for does not occur. Prospective program participants who have recently expressed an interest in the loan program but did not ultimately complete the application process have cited this variability in loan amounts and the uncertainty it creates as a barrier to their participation in the program. To ensure low, median and moderate-income borrowers are able to easily understand the program requirements and utilize the FTHB program to purchase homes in Emeryville, capping the maximum loan amount by income level is recommended.

Table A: Current FTHB Loan Amount Calculations

First Mortgage Requirement	3% DPA*	8% DPA	15% DPA
Sales Price	352,400	352,400	352,400
DPA Needed	10,572	28,192	52,860
Moderate Income Household (120% AMI)			
A. 20% of Sales Price	70,480	70,480	70,480
B. 20% of Affordable Sales Price (120% AMI)	72,389	72,389	72,389
C. 150% DPA Needed	15,858	42,288	79,290
City Loan Amount (Lesser of A, B, C)	15,858	42,288	70,480
Median Income Household (100% AMI)			
A. 20% of Sales Price	70,480	70,480	70,480
B. 20% of Affordable Sales Price (100% AMI)	53,274	53,274	53,274
C. 150% DPA Needed	15,858	42,288	79,290
City Loan Amount (Lesser of A, B, C)	15,858	42,288	53,274
Low Income Household (80% AMI)			
A. 20% of Sales Price	70,480	70,480	70,480
B. 20% of Affordable Sales Price (80% AMI)	32,021	32,021	32,021
C. 150% DPA Needed	15,858	42,288	79,290
City Loan Amount (Lesser of A, B, C)	15,858	32,021	32,021

*DPA = Down Payment Assistance

Staff is recommending the maximum FTHB loan amount be determined on a *tiered assistance system based on AMI levels and number of bedrooms* as follows:

- *The loan amount for one or fewer-bedroom condos is capped at \$100,000 to support homeowners earning between 81% and 120% AMI.*
- *The loan amount for two or more-bedroom condos is capped at \$150,000 to support homeowners earning between 81% and 120% of AMI.*
- *The loan amount for households at 80% AMI or below is capped at \$200,000.*

Borrower Contribution

The current FTHB guidelines state that the buyer must provide downpayment funds as follows:

The maximum total loan-to-value ratio cannot exceed 98%. Borrower downpayment funds may be from any source other than loan funds, such as borrower's own funds, gift funds, or a grant.

The long-standing rationale for requiring an individual to invest their own money in the transaction is that the individual will be more motivated to maintain their mortgage obligations. While this rationale may address risk, this rationale does not take into account the current cash-to-close requirements in a high-cost housing market nor the average cash assets available of households of various races. Hello Housing found in their analysis that households that were successful in purchasing a home were required to bring anywhere between \$15,569 to \$193,709 (average \$41,830) of their own funds to closing. Additionally, Hello Housing noted significant attrition for Black and Latinx households between attending a pre-application workshop and submittal of a full application: nearly half of the applicants that did not submit full applications identified that they did not have enough cash to cover the borrower contribution plus closing costs required to close. Additionally, Hello Housing found that the difference between the average and median stated assets at pre-application compared to successful purchasers was quite stark for Latinx and Black households, which suggests that reducing the cash required to close could make a material difference in increasing homeownership for Black and Latinx households.

Staff is recommending the following change to the borrower contribution policy:

A borrower may borrow up to 100% of the property's Combined Loan-to-Value (CLTV).

Interest Rate

The current FTHB guidelines state that the loan interest rate is:

Simple fixed interest rate of 75% of the rate of the first mortgage, or 5%, whichever is less, if the property has not appreciated from the date of purchase to the date of repayment. In the event there is no other mortgage on the property aside from the City's loan, the interest rate shall be 3%.

The interest rate is important for a borrower as it identifies the additional cost the borrower is assuming for taking on the down payment assistance loan and it comes into play when borrowers are looking to refinance or pay off the loan to the City. The existing policy provides various calculation methods for determining the interest rate of the FTHB loan, which can be confusing to borrowers when looking to pay off their loan. Additionally, the City is not obligated to adjust its interest rate to maintain the relationship between the two rates in circumstances where a high interest rate is refinanced to a lower rate, but this

can create a situation in which the City's interest rate is much higher than that of the refinanced mortgage. This type of policy is not utilized by any other local jurisdictions.

Staff is recommending the following change to the interest rate policy:

The interest rate for a loan from the FTHB Market Rate Program will be fixed at 3%.

Front and Back End Ratio Requirements

The current FTHB guidelines do not have a front or back-end ratio requirement and instead rely on the lenders' front and back-end ratio requirements for the borrower to obtain a first mortgage.

A front-end ratio represents the percentage of housing expenses (i.e., mortgage) to the household income. The United States Department of Housing and Urban Development (HUD) defines households as being "cost burdened" when they expend more than 30% of their income on housing. Several other local jurisdictions (including Alameda County, Walnut Creek, San Francisco, and Santa Clara County) require a minimum front end ratio requirement ranging from 25% to 33% to ensure a household is not obtaining more funding than needed. A back end ratio represents the percentage of all debt (including housing expenses) the household is expending related to their income to ensure the household is not cost burdened. The back end ratio requirement in Alameda County, Dublin, Santa Clara County and San Mateo County is 45% and in San Francisco it is 43%. To ensure households are not cost burdened and do not receive more funding than needed, a minimum front-end ratio requirement and maximum back-end ratio requirement should be implemented.

Staff is recommending the following front-end and back-end ratios policy be implemented in the FTHB guidelines:

- *Minimum Front-End Ratio of 28% for households at 80% or lower AMI.*
- *Minimum Front-End Ratio of 30% for households between 80% and 120% AMI.*
- *Maximum Back-End Ratio of 45% for all household below 120% AMI.*

FTHB Program Manual

The aforementioned recommended changes have been integrated into the attached FTHB Program Guidelines (Manual). The Manual has also been expanded beyond what was originally in the Guidelines to provide clear written guidance on all programmatic requirements for prospective borrowers, lenders, and City staff. The Manual is divided into eight sections and may need to be administratively modified by the City Manager from time to time. The Manual includes the following sections:

1. Introduction

The Introduction section includes an overview and purpose of the Manual.

2. Definition of Terms

This section provides definitions for terms used throughout the Manual.

3. Applicant Eligibility

This section describes the requirements an applicant must fulfill to qualify for the FTHB program. These requirements include household income, first time homebuyer status, eligible home types, principal place of residency, homebuyer education, mortgage pre-approvals, front and back-end ratio requirements, occupancy limits, and home/pest inspection requirements.

4. Loan Terms

This section contains information regarding the FTHB loan terms, including maximum loan amount, interest rates, property appreciation/depreciation, borrower contributions, rental restrictions, eligible/ineligible use of funds, security documentation, pay-off requests, and loan defaults.

5. Mortgage Loan Restrictions

This section describes the requirement for the other mortgage loan the borrower may layer with the FTHB program, including first mortgage loan terms, maximum loan to value ratio, and third-party credits and contributions restrictions.

6. Refinance/Other Liens/Short Sale Policy

This section describes the policies related to refinancing first mortgage loans, requirements for securing additional loans against the property, subordination, and short sales.

7. Owner Occupancy Waivers

This section outlines the eligibility requirement for an owner occupancy waiver, obtaining an extension to the waiver, and requirements for renting out the home during an approved owner occupancy waiver.

8. General Requirements

This section describes the general requirements of the FTHB program, including the title insurance policy, non-discrimination policy, maintenance policy, hazard/property insurance policy, and the prohibition on renting out a home that received a FTHB loan.

FISCAL IMPACT

Adoption of the FTHB Program Guidelines has no direct fiscal impact. The City adopted an Affordable Housing Bond Administration and Expenditure Plan in 2021, allocating \$130,000 in Affordable Housing Funds (Fund 299) and \$1,820,000 in Measure C Affordable Housing Bond Funds (Fund 284), for a total of \$1,950,000 for the FTHB Program. As noted above, the City originated only one FTHB loan since 2013. Staff is recommending adoption of the revised FTHB Program Guidelines to increase the usability

of the program for borrowers, with the aim of increasing the number of FTHB loans originated.

STAFF COMMUNICATION WITH THE PUBLIC

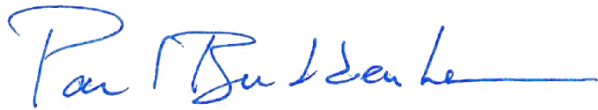
The Housing Committee discussed potential modifications to the FTHB program on August 2, 2023, and reviewed the recommended FTHB policy changes on February 7, 2024. The Committee voted unanimously on February 7, 2023, to recommend that the City Council approve the FTHB policy changes.

CONCLUSION

Staff recommends that the City Council approve the attached resolution adopting the revised FTHB Program Guidelines.

PREPARED BY: Valerie F. Bernardo, Community and Economic Development Coordinator II

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:

A handwritten signature in blue ink, reading "Paul Buddenhagen", is written over a horizontal line.

Paul Buddenhagen, City Manager

ATTACHMENTS:

- Draft Resolution
- Exhibit A: First Time Homebuyer Program Manual