BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	Community Services
Department No.:	055
For Agenda Of:	September 10, 2019
Placement:	Administrative
Estimated Time:	
Continued Item:	No
If Yes, date from:	
Vote Required:	Majority

TO:		
FROM:	Department Director	George Chapjian, CSD Director (805) 568-2485
	Contact Info:	Dinah Lockhart, Deputy Director HCD (805) 568-3523 Laurie Baker, Program Manager (805) 568-3521
SUBJECT:	Execution of Amended and Restated Joint Exercise of Powers Authority Agreement with Golden State Finance Authority (GSFA) to join the GSFA as an Associate Member and authorization for GSFA to administer a Mortgage Credit Certificate program in the County	

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: Yes

Risk Management
As to form: Yes

Recommended Actions:

That the Board of Supervisors (Board):

A. Approve the use of the County's 2019, 2020, 2021, 2022 and 2023 "fair share amount for single-family housing programs" (Fair Share) for the administration of a Mortgage Credit Certificate (MCC) program.

B. Approve and adopt a resolution (Attachment D) that authorizes the County to become an Associate Member of Golden State Finance Authority (GSFA), a Joint Powers Authority, and that authorizes the County's CEO or her designee to execute letters – in a form substantially similar to the letter attached hereto as Attachment G – to the California Debt Limit Allocation Committee (CDLAC) that requests that CDLAC assign the County's fair share amount for single-family housing programs (Fair Share) for the years 2019, 2020, 2021, 2022 and 2023 to GSFA;

C. Approve and authorize the Chair of the Board to execute the Amended and Restated Joint Exercise of Powers Agreement (Agreement) with Golden State Finance Authority (GSFA), a Joint Powers Authority, adding the County to the GSFA as an Associate Member (Attachment

E), subject to the Board's right to withdraw the County's membership as described in the Agreement;

D. Approve and authorize the Deputy Director of HCD Administration Division, Dinah Lockhart to execute Attachment K to the Application for an Allocation of the State Ceiling on Qualified Activity Bonds for a Mortgage Credit Certificate Program (Housing Element Certification Form), (attached hereto as Attachment F) for the years 2019-2023;

E. Direct staff to return to the Board on an annual basis to provide information about the status of the program with quarterly reports reflecting the number of constituents within the County who have utilized the program to purchase their home;

F. Determine that the recommended actions are not the acceptance and approval of a project that is subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(4), finding that the project is a creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

Summary Text:

The Mortgage Credit Certificate (MCC) program is a federal income tax credit that qualified homebuyers may apply to their federal tax returns each year for the duration of their mortgage loans to reduce the amount of taxes owed. The tax credit is a dollar-for-dollar reduction in homebuyers' federal tax liability that increases the household income available to qualify for mortgage loans and to make monthly payments. This proposed Single Family Housing Program offered through MCC's is consistent with Program 4.4 under Chapter 5 of the adopted Housing Element for Santa Barbara County and will assist low to moderate income County residents to purchase market-rate homes within Santa Barbara County. The MCC Program was authorized by Congress in the Deficit Reduction Act of 1984 and is governed by Section 25 of the Internal Revenue Code of 1986. Localities and certain state agencies can apply to the California Debt Limit Allocation Committee (CDLAC) for authority to issue MCC's to low-and-moderate-income first-time homebuyers.

The California Housing Finance Agency (CHFA) had been administering a statewide MCC program that was accessible to Santa Barbara homebuyers. As of January 2019, CHFA has discontinued administering the statewide MCC program and, as a result, the program no longer is available to homebuyers in Santa Barbara County. Because CHFA is a State entity, they were not required to obtain the Board of Supervisors' approval to allocate the fair share from each jurisdiction where the MCC program was made available. In order to continue the availability of MCC's to County residents, the County of Santa Barbara may join the Golden State Finance Authority (GSFA), a Joint Powers Authority, and authorize it to administer a MCC program for County residents and assign to them the County's annual fair share amount for single-family programs (Fair Share). A further explanation of the Fair Share is included below. By assigning the County's roughly $3 million in the County's Fair Share to GSFA to implement an MCC program in the County, County residents would have access to the total combined amounts assigned to GSFA by other member jurisdictions in the State, estimated at $200 - $250 million. Currently forty-five (45) other cities and counties in California participate in the GSFA-administered MCC program, including Ventura and San Luis Obispo counties.

The alternative to partnering with GSFA for the administration of an MCC Program is either: a) the County administers its own MCC program via County staff or contract with a qualified entity, in which case only the County's estimated annual amount of $3 million will be available for the program b) not participate in a MCC program, which will result in the $3 million in MCC not being available to County homebuyers and the County's $3 million Fair Share amount would be absorbed by the statewide balance and used for multi-family housing development, or c) the County could choose to administer a Mortgage Revenue Bond program (MRB) The roughly $3 million in County allocation for single-family programs is not significant enough to negatively impact the bond allocation available for multi-family housing.

Background:

In Santa Barbara County, the MCC Program can help to meet the State-mandated Housing Element requirements under Sections 65580 to 65590 of the State of California Government Code, as well as the challenges encountered by first-time homebuyers interested in purchasing homes in Santa Barbara County. The high cost of housing in Santa Barbara County can make purchasing a home difficult for first-time homebuyers. To assist, CDLAC offers the Single-Family-First-Time Homebuyer Program to homebuyers through MCC's to reduce their federal tax liability when they purchase a home. Reducing homebuyers' tax liability effectively increases their income to qualify for a home mortgage.

The MCC allows homebuyers to use 20% of the annual mortgage interest paid to reduce their tax payment to the IRS. The remaining 80% of the mortgage interest paid may be used for the standard mortgage interest tax deduction per current tax law. Attachment A provides a comparison of tax savings by applying just the mortgage interest deduction, and the tax savings by applying both the mortgage interest deduction and mortgage interest tax credit.

For a household of up to two people earning $120,360 per year, $3,398 in annual tax savings can be realized with the use of an MCC from a $450,000 mortgage amortized over 30 years with a fixed interest rate of 5%. The MCC can be applied to homebuyers' tax returns each year for the duration of their mortgage loans. Additionally, this projected tax savings could increase the household's home purchasing power by approximately $45,000 when qualifying for a mortgage to purchase their primary residence. Note that the foregoing is not a full explanation and does not constitute tax advice; taxpayers should consult their own tax advisors for guidance.

For a household of more than three people earning $140,420 per year, $3,774 in annual tax savings can be realized with the use of an MCC from a $500,000 mortgage amortized over 30 years with a fixed interest rate of 5%. The MCC can be applied to homebuyers' tax returns each year for the duration of their mortgage loans. Additionally, this projected tax savings could increase the household's home purchasing power by approximately $50,000 when qualifying for a mortgage to purchase their primary residence.

The MCC Program would be available to all eligible first-time home buyers who purchase a home in any city or unincorporated area in Santa Barbara County. Qualified applicants must be first-time home buyers (have not owned a home in the past three years) and must occupy the home as their principal residence. Applicants must meet the income requirements and the price of the home purchased must not exceed the price limits, established by GSFA via special survey for the area. If applicable, certain census tracts within the eligible loan area of the MCC program will be designated Targeted by the Census Bureau as areas of chronic economic distress. MCC applicants purchasing in these census tracts do not have to meet the First Time Homebuyer requirement. Also, the federally recommended Income and Purchase Price maximums in targeted census tracts are higher. For the County of Santa Barbara, the following income and price limits apply:

Maximum Annual Income		**Maximum Home Price**	
1 – 2 Person Household	3+ Person Household	Targeted Areas (see Attachment B)	Non-Targeted Areas
$120,360	$140,420	$735,058	$601,411

Eligible properties include single family homes, detached units or condominiums, half-plexes, townhomes, manufactured homes, and 2-4 unit properties as long as one unit is occupied by the homeowner.

The MCC program falls under the IRS Tax-Exempt Private Activity Bond program. The IRS issues bond authority to States on a population-based formula. This “bond cap”, also called “volume cap”, may be used for a variety of public benefit programs, including financing affordable housing, home-buyer programs, student loans, industrial uses, and others. Generally, bonds are issued by jurisdictions and other qualifying entities (including public housing authorities and certain non-profit entities) and sold to investors who, in turn, provide loans to the qualifying project. The interest earned on loan repayments is tax exempt.

MCC programs are a qualified use of private activity bond cap; however, the bond cap amount is not used to issue bonds to generate cash for a project; rather, the bond cap used for the MCC program is used as a tax credit for homebuyers; therefore, no bonds are issued. In fact, the amount of bond cap allocated to an issuer is reduced when it establishes a mortgage credit certificate program under Section 25 of the Code. The proposed County MCC program would not impact the County’s ability to issue bonds for future non-housing related purposes. The bond cap allocation for the MCC program is limited to homebuyer programs. The homebuyers’ mortgage loans are traditional loan products provided by banks and mortgage lenders.

In lieu of an MCC program, the County could choose to administer a Mortgage Revenue Bond (MRB) program, where the County issues bonds and makes them available to mortgage lenders. The mortgage lenders then originate mortgage loans on which the interest on the loan repayments is tax exempt. This program is attractive to lenders in economic times when mortgage interest rates are high and lenders can offer below-market interest rates via the MRB program. In the current economy, with relative low interest rates, the MCC program is very effective.

Golden State Finance Authority

Each year CDLAC publishes the per capita allocations of private activity bonds to each qualifying jurisdiction. For 2019, Santa Barbara County’s Fair Share is about $3 million (Attachment C). If approved by the Board, the County will authorize that its Fair Share be assigned to GSFA to administer a MCC program for County residents to purchase single family homes in accordance with applicable provisions of the law.

By partnering with the GSFA, Santa Barbara County's Fair Share amount for Single-Family programs will be leveraged with the Fair Share amounts from other associate member jurisdictions allowing County homebuyers to have access to the combined amounts, estimated to be $200 - $250 million. If no action is taken by the County to either assign its Fair Share Amount to GSFA or administer the program itself, then the County's Fair Share would be absorbed into the Statewide Balance and made available to all participant jurisdictions to assist local developers of multifamily rental housing units with the acquisition and construction of new units, or the purchase and rehabilitation of existing units. Staff's communication with local, non-profit developers revealed that they are supportive of the MCC Program within the County and it would not impact their ability to move forward with financing future affordable rental housing developments. Participation with the GSFA will allow the County to retain local control over its Fair Share and make the combined allocations from other participating jurisdictions available to County residents.

The Golden State Finance Authority (GSFA) is a duly constituted public entity established in 1993 pursuant to Articles 1 through 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California. To date, GSFA has enabled over 75,000 individuals and families to purchase homes in California. GSFA offers a full complement of services for first-time homebuyers including mortgage credit certificates, low-rate financing, down payment assistance, and closing cost assistance. However, other mortgage lenders may participate in the MCC program by agreeing to GSFA's policies, which include that mortgages have fully amortized 30-year terms, and other restrictions designed to protect homebuyers from predatory loans or loans that may become unaffordable over time (adjustable rates, for example).

If the recommended action is approved by the Board, Santa Barbara County would join forty-five (45) other counties (including Ventura, San Luis Obispo, Imperial, Orange, San Bernardino, Kern, and Napa) as an Associate Member of the Joint Powers Authority (JPA). As a member of the JPA, the County would accrue several benefits with respect to the MCC program, including:

- GSFA staff will handle the daily oversight of the MCC Program (training participating bank lenders to originate MCC loans, producing summary origination reports, record keeping, and addressing inquiries from the public, participating lenders and cities) at no cost to the County;

- GSFA will complete the annual California Debt Limit Allocation Committee (CDLAC) applications and pay any associated fees, to request assignment of the County's Fair Share to GSFA in order for GSFA to issue MCCs to qualified first-time homebuyers;

- GSFA will continue the MCC program in the County without interruption by applying to CDLAC for the County's assignment of Fair Share (about $3 million per year), which will be included in the roughly $250 million per year from all Associate Member jurisdictions and made available to first-time homebuyers in the County. The MCC program would continue for 5 years and the Board would have the ability to continue in future years, at its discretion;

- Santa Barbara County MCC recipients will have access to other programs offered by GSFA, including down payment assistance and other loan programs.

<u>GSFA Amended and Restate Joint Exercise of Powers (Agreement)</u>

The Agreement (Attachment E) provides broad authority to GSFA; however, the State will not assign the County's per capita private activity bond cap for any purpose until and unless the County so authorizes. Attachment F provides a copy of a letter that will be sent to CDLAC that authorizes CDLAC to assign the County's Fair Share to GSFA. The Agreement states that, in accordance with California Government Code Section 6508.1, the County shall not be responsible for the debts, liabilities and obligations of the GSFA.

The Agreement will become effective from the date executed by the County and will terminate at such time that the County elects to exercise its authority pursuant to section 20 of the Agreement to withdraw its membership. Approval of the Agreement is based on its existing terms and Staff would return to the Board for approval if the GSFA wants to change any of these terms.

Performance Measure:

GSFA will provide HCD with quarterly reports showing how many households in the County benefited from the MCC program. Reports also will provide information on the purchase prices of homes, household income by HUD's categories of area median income by family size (AMI), and the general location in the County of where homes were purchased (by zip code or another identifier).

Contract Renewals and Performance Outcomes:

The Agreement will terminate at such time that the County elects to exercise its authority pursuant to section 20 of the Agreement to withdraw its membership.

The reports as described under Performance Measure above will be provided for all years that the County continues to participate in the MCC program so that it may be determined whether the program is working to the Board's satisfaction.

None

Fiscal Analysis:

Funding Sources	Current FY Cost:	Annualized On-going Cost:	Total One-Time Project Cost
General Fund			
State			
Federal			
Fees			
Other:			
Total	$ -	$ -	$ -

Narrative: **Not applicable**

Key Contract Risks:

There is no risk to the County and no actual dollars are involved in the relationship between the County and GSFA or GSFA and CDLAC. Mortgage debt is provided by mortgage lenders to the homeowners. The IRS accepts a reduction in taxes owed by the homeowners, up to the amounts of the County allocation or maximum amount allocated by CDLAC to GSFA. This is controlled at the time of MCC issuance as MCCs may not be issued in amounts that exceed GSFA allocation authority.

If the IRS were to discontinue the MCC program, homebuyers would not lose or forfeit their previously issued MCCs and may continue to use their MCCs to reduce their tax liability for the life of their mortgage loans.

If GSFA were to cease to exist, the MCC program would no longer be available to homebuyers. Homebuyers with previously issued MCCs may continue to use their MCCs to reduce their tax liability for the life of their mortgage loans. Future allocations to the County from CDLAC would be available to the County to administer a MCC program on its own via County staff or contract with a qualified entity or, if the County does not use the County allocation, it will be absorbed into the statewide balance and used for multi-family housing development.

Legal Considerations:

State law allows a joint powers agreement to provide that contractual debts of the JPA are not debts of the individual member entities. (Gov't Code § 6508.1). The GSFA joint powers agreement includes a provision specifying that the debts, liabilities and obligations of the GSFA are not the obligations of an individual associate member entity.

However, individual member entities of a JPA cannot avoid joint and several liability for the torts of the joint powers agency itself. (Gov't Code § 895.2.). The County of Santa Barbara's potential tort liability can be addressed in part by the joint powers agency's insurance policy and the County's own insurance policy.

Staffing Impacts:

Legal Positions:	FTEs:
0	0

No staff is required other than the collection of reports from GSFA as described under Performance Measures.

Special Instructions:

1. Please execute two originals of the Amended and Restated Joint Exercise of Powers Agreement (Attachment E) with wet signatures and:
    a. Retain one original in COB files and
    b. Return one original to Andrew Kish. Please contact Andrew for pick up at akish@sbccsd.org
2. Please provide a copy of the Minute Order to akish@sbccsd.org or leave with document for pick up

Attachments:

Attachment A: Example of Federal Tax Credit Savings
Attachment B: Census Tracts for Targeted Areas
Attachment C: 2019 County Fair Share Amount for Single Family Programs
Attachment D: Resolution
Attachment E: GSFA Agreement
Attachment F: The CDLAC Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a MCC Program
Attachment G: Letter to CDLAC