

REPORT TO CITY COUNCIL

DATE: JANUARY 28, 2009

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: REPEAL RESOLUTION NO. 05-1582 AND APPROVE RESOLUTION NO. 09-1514 ADOPTING THE MORTGAGE CREDIT CERTIFICATE PROGRAM AND AUTHORIZING STAFF TO INITIATE APPLICATION AND EXECUTE AGREEMENT FOR PARTICIPATION

The purpose of this item is to repeal Resolution No. 05-1382 and replace it with Resolution No. 09-1514. Resolution No. 05-1382, approved by City Council on July 27, 2005, pertained to the City's participation in the Mortgage Credit Certificate (MCC) Program in cooperation with the County of Los Angeles, and authorized City staff to submit to the County and the California Debt Limit Allocation Committee (CDLAC) the Los Angeles Mortgage Credit Certificate Program application for participation in the MCC Program. The resolution also included a Cooperative Agreement between the County of Los Angeles and the City for issuance of the mortgage credit certificates, with authority granted to the City Manager to sign the agreement.

The MCC Program is a component of the City's First Time Homebuyer's Program, and is operated by the Los Angeles County Community Development Commission (CDC). The Program offers the first time homebuyer a federal income tax credit, reducing the amount of federal taxes the holder of the certificate would need to pay. The Program can also help the first time homebuyer qualify for a loan by allowing a lender to reduce the housing expense ratio by the amount of tax savings.

Resolution No. 05-1382, the required completed Los Angeles Mortgage Credit Certificate Program application, and the Cooperative Agreement between the County and City, which was executed by the City, was forwarded to the County for processing in September 2006. There were delays in processing this original application by the County, and the County subsequently misplaced the application. Therefore, the County has requested that the City submit another application package with updated information. The application package has been revised per the County's request. In particular, the application form has been updated with respect to dates and current home sales prices for the most recent year. In the resolution, only the date references required changing. With regard to the Cooperative Agreement, the listed officials at the County from which signatures are required have been updated. In all other matters, all three documents remain the same as those reviewed and accepted by the City Council on July 27, 2005.

Upon approval of Resolution No. 09-1514, staff will re-submit the completed program application to the County and CDLAC, and the Cooperative Agreement to the County for its approval, along with the City resolution and a one-time fee of \$2,000 to the County for participation in the MCC Program. There would be no other expenses or fees incurred to continue participation in the Program.

RECOMMENDATION

Staff recommends the City Council Approve Resolution No. 09-1514, allowing the City to participate in the Mortgage Credit Certificate Program in cooperation with the County of Los Angeles; authorizing staff to initiate an application to the County and California Debt Limit Allocation Committee for an allocation for the issuance of mortgage credit certificates and the transfer of such allocation to the County of Los Angeles; and authorizing staff to execute a Cooperative Agreement between the City of Agoura Hills and the County of Los Angeles for the issuance of mortgage credit certificates. Resolution No. 09-1514 also repeals Resolution No. 05-1382.

Attachments:

- Attachment A: Resolution No. 09-1514 (with Exhibit 1: Cooperative Agreement)
- Attachment B: Resolution No. 05-1382

RESOLUTION NO. 09-1514

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, REPEALING RESOLUTION NO. 05-1382, ADOPTING A MORTGAGE CREDIT CERTIFICATE PROGRAM IN COOPERATION WITH THE COUNTY OF LOS ANGELES, AND AUTHORIZING AN APPLICATION TO THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE FOR AN ALLOCATION FOR THE ISSUANCE OF MORTGAGE CREDIT CERTIFICATES AND THE TRANSFER OF SUCH ALLOCATION TO THE COUNTY OF LOS ANGELES

WHEREAS, there is a shortage in the County of Los Angeles (the "County") and in the City of Agoura Hills (the "City") of decent, safe and sanitary housing, particularly of housing affordable by first-time home buyers, and a consequent need to encourage the availability of homes affordable by such persons and otherwise to increase the housing supply in the City and in the County for such persons: and

WHEREAS, the Board of Supervisors of the County has declared its intent to engage in a mortgage credit certificate program (the "Program") pursuant to Part 5 of division 31 of the Health and Safety Code of the State of California (the "Act") and to issue mortgage credit certificates pursuant to the Act to provide funds for the Program; and

WHEREAS, the City hereby finds and determines that it is in the best interest of the City to participate in the Program and to consent to the operation of the Program by the County within the geographic boundaries of the City pursuant to the Act; and

WHEREAS, the City desires to enter into a Cooperative Agreement with the County to provide for the operation of the Program within the boundaries of the City; and

WHEREAS, section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), limits the number of mortgage credit certificates that may be issued in any calendar year by entities within a state and authorizes the governor or the legislature of such state to provide the method of allocation within such state; and

WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State of California (the "Government Code") governs the allocation of the State of California's limited number of mortgage certificates ("the State ceiling" as that term is defined in Section 8869.81 of the Government Code) among governmental units in the State that have the authority to issue such mortgage credit certificates; and

WHEREAS, Section 8869.85 of the Government Code requires a local agency to file an application for a portion of the state ceiling with or upon the direction of the California Debt Limit Allocation Committee ("CDLAC") prior to the issuance of mortgage credit certificates; and

WHEREAS, the City has determined to transfer to the County pursuant to Section 8869.85(d) of the Government Code, the total amount, if any, of authority to issue mortgage credit certificates allocated to the City from the state ceiling; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Agoura Hills resolves as follows:

SECTION 1: Each of the foregoing recitals is true and correct.

SECTION 2: The City hereby adopts the Program for the purpose of increasing the housing supply in the County and in the City and consents to the operation of the Program by the County with respect to all property located within the geographical boundaries of the City, including the payment to the County of the City's proportionate share (based upon the number of participants in the Program) of administration costs applicable to each allocation received from CDLAC, which share is estimated not to exceed \$2,000.

SECTION 3: The Cooperative Agreement between the County and the City (the "Agreement"), a copy of which is attached hereto as Exhibit 1, is hereby approved and the City Manager is hereby authorized and directed to execute and deliver the Agreement, for and in the name and on behalf of the City. The City Manager, with the advice and consent of the City Attorney, is authorized to approve any additions to or changes in the form of the Agreement deemed necessary or advisable, approval of such additions or changes to be conclusively evidenced by execution by the City Manager of the Agreement as so added to or changed. The City Manager with the advice and consent of the City Attorney, is further authorized to enter into such additional agreements with the County, execute such other documents or take such other actions as they may deem necessary or appropriate to carry out the purpose and intent of the Agreement or to cooperate in the implementation of the Program.

SECTION 4: The City Manager, or his designee, is authorized, on behalf of the City, to submit an application, and such other document as may be required, to CDLAC for an allocation in 2009, for application to the issuance of mortgage credit certificates by the County.

SECTION 5: The City hereby authorizes the transfer to the County of the principal amount, if any, of mortgage credit certificates allocated to the City by CDLAC. The City Manager or his designee, on behalf of the City, is authorized and directed to take such steps and execute such documents as are necessary to effect the transfer of such allocation to the County solely for application to the issuance of mortgage credit certificates, the proceeds of which are to be used to induce the origination of home mortgage loans to qualifying persons residing within the City and the County.

SECTION 6: The officers and employees of the City are authorized and directed, jointly and severally, to do any and all things necessary or advisable in order to effectuate the purposes of this resolution or the issuance of the mortgage credit certificates by the County, and all actions previously taken by such officers and employees in connection with the application for the allocation authorized to be requested are ratified and approved.

SECTION 7: Resolution No. 05-1382 is hereby repealed.

SECTION 8: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2009, by the following vote to wit:

AYES: ()
NOES: ()
ABSTAIN: ()
ABSENT: ()

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

**COOPERATIVE AGREEMENT BETWEEN
THE COUNTY OF LOS ANGELES AND
THE CITY OF AGOURA HILLS**

WHEREAS, the County of Los Angeles (the "County") has determined to engage in a mortgage credit certificate program (the "Program") pursuant to Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act") in connection with the construction and acquisition of homes in the County, all as provided for in said Act; and

WHEREAS, the County has determined to finance the Program by the issuance of mortgage credit certificates as authorized by the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, the County, pursuant to the Act, has established the Program by Resolution adopted January 23, 1996, and has determined to cooperate with the City pursuant to the Act and in the exercise of its powers under the Act for purposes of the Program; and

WHEREAS, the City has adopted the Program and determined to cooperate with the County pursuant to the Act in the exercise of their powers under the Act for the purposes of the Program.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter provided, the parties hereto agree as follows:

SECTION 1. The words and phrases of this Cooperative Agreement shall, for all purposes hereof unless otherwise defined herein, have the same meanings assigned to such words and phrases in the Act.

SECTION 2. The County agrees to use its best efforts to undertake the Program and to issue mortgage credit certificates therefore pursuant to the Act and the Code from time to time to the extent that the County receives allocations from the California Debt Limit Allocation Committee ("CDLAC").

SECTION 3. The City represents and warrants to the county that: (I) the City has heretofore adopted a general plan for the City in conformance with the provisions of the Planning Zoning Law of the State of California (Government Code Sections 65000 *et seq.*), (ii) said general plan includes a land use element as required by Government Code Section 65302, and (iii) the Program complies with said land use element and housing element.

SECTION 4. The City agrees that the County may issue mortgage credit certificates under the Program, as specifically set forth in the Act and the Code, with respect to property located within the geographic boundaries of the City and further agrees that the County may exercise any or all of the City's powers for the purpose of issuing mortgage credit certificates pursuant to the Act and the Code with respect to property located within the geographic boundaries of the City. At the expiration of one year from the date funds become available to the City from an allocation under the Program, the County may review the City's progress in committing funds from such allocation and, following consultation with the City, may reallocate

to another city or public agency agreeing to participate in the Program or already participating in the Program any unused portion of such allocation.

SECTION 5. The City agrees to make any deposit required by CDLAC for an application for a mortgage credit certificate allocation. The City further agrees to pay the County its proportionate share (based upon the number of participants in the Program) of administration costs applicable to each allocation received from CDLAC, which share is estimated not to exceed \$2,000.

SECTION 6. The City agrees to undertake such further proceedings or actions as may be necessary in order to carry out the terms and the intent of this Cooperative Agreement.

SECTION 7. Nothing in the Cooperative Agreement shall prevent the County from entering into one or more agreements with other public bodies and political subdivisions within the County, if deemed necessary and advisable to do so by the County.

SECTION 8. This Cooperative Agreement may be amended by one or more supplemental agreements executed by the County and the City at any time, except that no such amendment or supplement shall be made which shall adversely affect the rights of the owners of any mortgage credit certificates issued by the County in connection with the Program.

SECTION 9. This Cooperative Agreement shall expire and be of no further force and effect upon termination of the Program or the sooner agreement of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Cooperative Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, all as of the date first above written.

COUNTY OF LOS ANGELES

By _____
Don Knabe
Chairman of the Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Sachi A. Hamai
Executive Officer - Clerk
of the Board of Supervisors
of the County of Los Angeles

Raymond G. Fortner, Jr.
County Counsel

By _____
Deputy

By _____
Deputy

(SEAL)

CITY OF AGOURA HILLS

By _____
Greg Ramirez, City Manager

ATTEST:

Kimberly M. Rodrigues, CMC City Clerk

Date

APPROVED AS TO FORM:

Craig A. Steele, City Attorney