

**Mortgage Credit Certificate Program
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Section I - Introduction to the MCC Program

SECTION I

INTRODUCTION TO THE MCC PROGRAM

A. GENERAL OVERVIEW

The Mortgage Credit Certificate Program, authorized by Congress in the Tax Reform Act of 1984, is an alternative to mortgage revenue bond-backed financing and provides financial assistance to "first time homebuyers" for the purchase of new or existing single-family housing. In 1985, the State adopted legislation authorizing local bond issuing agencies to make Mortgage Credit Certificates (MCCs) available in California. Contra Costa County received an allocation of mortgage revenue bond-issuing authority for single-family housing and has converted that allocation into a County-wide Mortgage Credit Certificate Program. This allocation can be used in all cities in Contra Costa County, as well as the unincorporated County. In cooperation with all of the cities in the County, the Contra Costa County Community Development Department will administer the program.

What is an MCC?

The MCC operates as in IRS tax credit. The MCC tax credit (20 percent of annual mortgage interest paid) reduces the federal income taxes of qualified Borrowers purchasing qualified homes, thus having the effect of subsidizing their payments.

What is the difference between a "tax credit" and a "tax deduction"?

A "tax credit" entitles a taxpayer to subtract the amount of the credit from their total federal income tax liability (or bill). A "tax deduction" on the other hand, is subtracted from adjusted gross income before federal taxes are computed.

How does the MCC "reduce" the mortgage interest rate?

In Table I-1, a Borrower with a 7.5 percent fixed rate 30-year mortgage of \$200,000 would make \$15,000 in interest payments during the first year of the mortgage. By using a 20 percent MCC, up to \$3,000 (20 percent of \$15,000) of the payments would be allowed to be taken as a "tax credit" toward that buyer's federal income tax liability of \$3,000 or more after all other deductions and credits.

Table I-1

Amount of Mortgage	Rate on Conventional Loan	Annual Interest Payments ¹	First Year MCC Tax Credit
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¹ Only 80 percent of annual interest payments are deducted from gross annual income; the remaining 20 percent are taken as a tax credit from the MCC holder's income tax liability.

\$200,000

7.5%

\$15,000

\$3,000

The MCC will reduce the amount of federal income taxes otherwise due to the federal government from the Borrower, however, the MCC is not refundable. Therefore, the benefit to the homeowner cannot exceed the amount of federal taxes owed for the year, after other credits and deductions have been taken into account. However, the tax credit can be carried forward three tax years or until used, whichever comes first. The Borrower may consider adjusting his or her federal income tax withholding (W-4) so as to benefit on a monthly basis from the MCC. By taking this action, the Borrower will have more disposable income to make mortgage payments.

How does the homebuyer realize the increase in "home-buying power"?

The homebuyer may consider adjusting his/her federal income tax withholding to receive the benefit from the credit on a monthly basis. In this case, the homebuyer will refile a W-4 form with his/her employer reflecting the MCC credit. By taking this action, the number of exemptions will increase, reducing the amount of taxes withheld and thereby increasing the disposable income.

The homebuyer also has the option to wait until the end of the year and realize the tax credit savings when filing the Federal Income Tax returns.

What happens if a qualified homebuyer cannot use the entire amount of the MCC credit for the year in which it applies?

If the amount of the MCC exceeds the homebuyer's tax liability reduced by any other personal credits for the tax year, the unused portion of the credit can be carried forward to the next three years or until used, whichever comes first. The Homebuyer will have to keep track of the unused credit by year. The current year credit is applied first and then the "oldest" amount of unused credit applied next.

How does a homebuyer apply for an MCC?

The homebuyer applies for the Mortgage Credit Certificate with a participating Lender/Broker at the same time he/she makes a formal application for a mortgage loan. The homebuyer should have a signed purchase offer in hand to buy a house and be ready to supply credit information, employment data and other information to the Lender.

There will be a non-refundable fee in applying for an MCC. Lenders will work with borrowers on a first-come, first served basis. There is no allocation of Mortgage Credit Certificates by Lender. After an application is filed, the Lender will arrange with the County to reserve an allocation for an MCC-assisted mortgage loan. This reservation (MCC Commitment) will hold the MCC while the application is being processed by the Lender and the County.

What kind of properties are eligible?

An MCC can only be used for new (never previously occupied) or existing (resale) single-family homes including single family detached homes, condominiums, half-plexes, duplexes, townhouses or manufactured houses (including some mobile homes) in Contra Costa County. Triplexes and four-plexes do not qualify as eligible structures.

What loans can be used with the MCC?

MCCs can be used with conventional, fixed-rate or adjustable rate loans; FHA and VA loans; and privately insured loans. MCCs are not available with (tax-exempt) bond backed loans such as programs backed by the California Housing Finance Agency (CHFA) that carry a below-market fixed interest rate.

How long can a Borrower use the tax credit of the MCC?

A first time homeowner may use the tax credit provided by the MCC as long as he/she lives in home as his/her principal residence and maintains the original mortgage.

What are the purchase price and income limitations on MCC holders?

Mortgage Credit Certificates are available to first-time homebuyers within all cities in Contra Costa County, as well as in the unincorporated County. Table I-2 shows the purchase price and income limitations on MCC Program participants. The County will not underwrite the loans. Rather, all underwriting and execution of required state and federal certifications or affidavits will be performed under agency agreement by Lenders participating in the program. The County will review executed certifications and affidavits from the Lender in order to determine qualification and eligibility. Lenders will process the underlying mortgages using standard procedures, with adjustments to those procedures as needed in order to satisfy MCC requirements.

Table I-2 Mortgage Credit Certificate Program Purchase Price and Income Limitations ²

<u>Purchase Price</u>	<u>Non-Target Areas</u>	<u>Target Areas</u>
New (never previously occupied) units	\$629,005	\$768,784
Existing (resale) units	\$619,381	\$757,021
<u>Income</u>		
1 and 2 person households	\$100,560	\$120,672
3+person households	\$117,320	\$140,784

How many MCCs will be available under the program?

The number of MCCs available depends on the amount of issuing authority for which the jurisdiction applies and varies annually. From each year's authority, Contra Costa County will set aside, or reserve, a portion of MCCs for low-income, non-profit housing development and/or for purchases of homes in designated Target Areas. These MCCs must be used before a specified date or they will revert back to the general pool of MCCs available throughout the County.

B. PURPOSE OF THE MCC OPERATING MANUAL

The MCC Operating Manual describes the program and sets forth the roles and requirements of the County, the Lenders, and Borrower. This document contains a description of the MCC Program processing procedures and program administration. The Borrower, purchase price, and mortgage underwriting requirements as set forth in state and federal regulations also are described. Loan processing forms are contained in a separate document. The County may revise this Manual from time to time. Public notice will be given only for significant program changes.

² Based on 90 percent of average area purchase price limits for non-target areas and 110% average area purchase price for target areas in Contra Costa County as most recently published. This figure will be updated from time to time.

The County encourages all Borrowers to apply for an MCC after receiving an explanation of the program from a participating Lender. Participating Lenders are expected to be well-informed about all the local, state, and federal regulations and eligibility criteria as contained in this Manual so that both applicants and sellers alike are aware of these restrictions before the application is taken. The Lender shall reject those applications where the submitted information indicates that the applicant does not qualify for the program.

C. GENERAL DEFINITIONS

As used in this MCC Operating Manual and all MCC Program documents, unless the context requires otherwise, the following words and terms have the meanings set forth below:

Acquisition Cost has the meaning given that term under Internal Revenue Code 143 (k)(3) and the regulations thereunder. (See Appendix B)

Affidavit means an affidavit filed in connection with the program made under oath and subject to penalties of perjury.

Applicant means any person who applies for an MCC under the Program.

Close of Escrow means the date the loan is recorded at the County Recorder's Office.

County means Contra Costa County Community Development Department.

Date of Issue means the date on which the escrow closing occurs (i.e., the deed is recorded).

Eligible Dwelling means new or previously-owned single-family, owner occupied houses, townhouses, condominiums, mobile homes, and manufactured housing. (See definition of Manufactured Housing - Mobile Homes, below). The property must be located in Contra Costa County and must meet the requirements as set forth in Section III of this Manual. Ineligible dwellings include: unattached mobile homes and trailers, unimproved land, investment or rental property and vacation homes. No more than 15 percent of an eligible dwelling (i.e., based on useable square footage) can be used for purposes other than a principal residence (i.e., office, rental, etc).

Existing Home means a dwelling unit that has been previously occupied prior to loan commitment.

Income as defined in Appendix A.

Issue Date means the date of close of escrow (record date).

Issuer means the Contra Costa County Community Development Department.

Lender (Participating Lender) means a financial institution which is licensed to do business in the State of California, has met all of the requirements established by the County to participate as a Lender in the MCC Program, and has entered into an acceptable MCC Participation Agreement with the County. A Participating Lender can be either a funding lender, correspondent or mortgage broker. However, only a funding Lender can submit the closing MCC documents MCC-011, 012, 013, 014. (See Appendix D).

Loan means an extension of credit provided to an Eligible Borrower to finance the purchase of an Eligible Dwelling. The Mortgage Credit Certificate applies to such loan.

Manufactured Housing (Mobile Home) See Appendix C.

MCC Program means the Mortgage Credit Certificate Program established by the Contra Costa County Community Development Department and administered by the County pursuant to the rules and regulations included in the MCC Program Manual.

Mortgage Credit Certificate Rate means that rate specified by the County in the Mortgage Credit Certificate. The rate established by the Contra Costa County Community Development Department for the MCC Program is 20 percent.

Mortgage Credit Certificate of "MCC" means a tax credit designed to reduce the federal income tax of a qualified buyer purchasing a qualified home in order that he/she will have more disposable income to apply toward his/her mortgage payments. The MCC is issued by the County pursuant to Section 25 of the Internal Revenue Code of 1986, as amended, and applicable to state and local requirements.

New Home means a dwelling unit that is proposed to be constructed, currently under construction, or existing but not previously occupied.

Ownership means any of the following interests in residential real property or in a mobile home classified as personal property:

- ▶ **fee simple interest**
- ▶ **joint tenancy**
- ▶ **tenancy in common**
- ▶ **interest of a tenant-shareholder in a cooperative**
- ▶ **life estate**
- ▶ **interest held in trust for the Applicant that would constitute a present ownership interest if held by the Applicant.**

Ownership does not include a remainder interest, a lease with or without an option to purchase or any interest acquired on the execution of the purchase contract.

Principal Residence for purposes of prior homeownership, "principal residence" means (1) a single-family house, (2) condominium or townhouse unit, (3) stock held by a tenant-stockholder in a cooperative housing corporation [as those terms are defined in the Internal Revenue Code Section 216 (b)(1) and (2)]; (4) occupancy of a unit in a multi-family building owned by the applicant; and (5) and manufactured home (including a mobile home) as defined under federal law which is of a type customarily used at a fixed location.³ Principal residence does not include recreational vehicles, campers, and other similar vehicles. This does not include investment property which has not been occupied as a "principal residence" by the applicant during the past three years.

Related Person means a "related person," as that term is defined under Internal Revenue Code and applicable regulations.

Single-Family and Owner-Occupied Residences for purposes of determining eligibility of a home to be purchased under this program, the term "single-family" residence means a housing unit intended and used for occupancy by one household, (i.e., and multi-family buildings are not eligible to be purchased under this program.)

³ Appendix C - Mobile Homes or Manufactured Housing

Target Area means Census Tracts in which 70 percent or more of the households have an income which is 80 percent or less of the statewide median family income. At the present time, target areas in Contra Costa County include portions of Pittsburg, Bay Point, Martinez and San Pablo. Maps are available through the Community Development Department and are attached as Appendix E to this program manual. Such an area is not subject to the prior home ownership restriction. Maximum purchase prices can be 110 percent of average area purchase price and household income can be 120 percent of median household income for one and two person households and 140 percent of median for households of three or more persons.⁴

Section II--Program Administration and Procedures

SECTION II

PROGRAM ADMINISTRATION AND PROCEDURES

In general, eligible Borrowers apply for Mortgage Credit Certificates in connection with normal mortgage loan application procedures. The Mortgage Credit Certificate application must be filed in conjunction with an application for a mortgage form one of the Lenders/Brokers participating in the MCC program.

The MCC processing procedures are designed to coincide with the standard mortgage loan processing and underwriting procedures that are in place at most mortgage lending institutions. There are of course procedural variations among the participating Lenders, thus the procedures outlined here are meant to serve as guidelines with respect to the sequence of events. However, all the elements of the processing sequence outlined in this Manual must at some point be completed, regardless of sequence, by the Lender/Broker, County, Borrower, and Seller.

The County's Community Development Department is the designated program administrator of Mortgage Credit Certificates for the Contra Costa County MCC Program. The County has delegated its administrative functions to participating Lenders through a Lender Participating Agreement (See MCC-002). In the future, other functions may be delegated to a Designated Agent.

The following are the loan processing and program administration activities for the MCC Program, which are summarized in Table II-1 at the end of this Section:

A. LOAN ORIGINATION AND MCC APPLICATION

1. The Borrower applies for a mortgage loan from a participating Lender/Broker. The participating Lender/Broker can be a funding Lender, correspondent and/or mortgage broker. Lenders receiving the final Mortgage Credit Certificate (MCC-015), however, must be a funding Lender, whereas any participating Lender can file the original

⁴ Table I-2, MCC Program Purchase Price and Income Limitations

application documents and receive the MCC Commitment (MCC-010). (See Appendix D).

2. The Lender determines the Borrower's eligibility for an MCC and the Borrower remits the non-refundable MCC application fee of \$250 to the Lender. Of that fee, \$200 is submitted to Contra Costa County with the MCC application.
3. Lender requests Borrower to supply federal income tax returns for the previous three years. If tax returns are unavailable at the time of application, the Borrower may request his/her tax returns for the IRS either on IRS Form 4506 or by calling the IRS to request the returns at (800) 829-1040. The Lender should certify the receipt of these forms at the time the final MCC documents are submitted. Borrowers who have not filed tax returns may complete the Income Tax Affidavit

(MCC-008) and provide documented proof of their residential status during those years for which no tax returns are available (e.g., notarized letter from landlord and/or canceled rent checks, college transcripts, etc.).

4. Lender determines if Borrower is eligible for an MCC, based on preliminary indications of income, purchase price, prior homeownership, location of residence to be purchased, tax liability and other factors.
5. As part of the mortgage application process, the Lender directs Borrower to sign the Application Affidavit (See MCC-005). This document serves as the application and contains all the certifications and affidavits required by the MCC Program regulations and requirements as follows:
 - a. Certifying that residence will be used as a Principal Residence and that the Borrower and/or the Lender must notify the County when the home ceases being the Principal Residence of the Certificate holder.
 - b. Certification that Borrower has not had an ownership interest in a Principal Residence during preceding 3-year period (not required for a Target Area).
 - c. Certification that the Acquisition Cost does not exceed acquisition cost limits. Seller signature is required on Seller Affidavit prior to issuance of the Certificate. (See MCC-012).
 - d. Certification that this is a new mortgage loan (unless an assumed loan from an existing MCC holder), as defined in Internal Revenue Code. Additionally, the loan must be the primary (first) loan on the property.
 - e. Certification that the loan applied for does not constitute a Prohibited Mortgage (e.g., Veterans Mortgage Bond, CHFA, Mortgage Revenue Bond, assumed loan when not purchased from an MCC holder).
 - f. Certification that the Borrower was not forced to apply through a particular Lender/Broker.
 - g. Certification that Borrower's Gross Annual Household Income does not exceed permitted income limits. This includes the income of all persons both on the deed of trust (co-mortgagors) and those persons occupying the residence.

- h. Certification that no interest is being paid to a Related Person.
 - i. Certification that the MCC cannot be transferred unless the home is sold to an MCC applicant who has applied to the County for an MCC. In such a case, the sales price of the home must fall under the maximum sales price limits.
 - j. Acknowledgement that any material misstatement or fraud is made under penalty of perjury.
6. With Transmittal Form (MCC-003), Lender transmits MCC Application Affidavit (MCC-005), \$200 of the application fee, completed MCC Commitment (MCC-010), signed disclosure of Potential Recapture Tax (MCC-007), a copy of the signed Sales Agreement with all Addendums (or equivalent document) to County and a location map if property is located in a Target Area. The Application Affidavit must be fully completed, including signatures of Borrowers witnessed by two persons and Lender's Certification. The Lender's Certification must be signed by an agent of the Lender legally authorized to sign for the Lender.
7. County accepts Application Affidavit, reviews it for completeness, and checks for both Lender's and Borrower's certifications. If County determines that MCC Application Affidavit is completed properly and that the Borrower and the transaction are in compliance with Program provisions, County endorses MCC Commitment (with a unique MCC code number) and returns it to the Lender stating that the Application is approved and that the County is prepared to issue an MCC (MCC-015) to the Borrower through the Lender provided that there are no material changes from the time of the issuance of the MCC Commitment.
- The MCC Commitment is valid for 120 calendar days, beginning on the date the Borrower's income is verified by the Lender (the date Application Affidavit is signed by the Lender). The Lender should note that income must be re-verified and a 30 day extension requested if the period between original verification and loan closing is longer than 120 days.
8. County maintains a cumulative-to-date total of expected aggregate certified indebtedness and aggregate amount of MCCs to be issued. The County system will produce program commitment reports on a quarterly basis. The aggregate amount of the Mortgage Credit Certificates issued shall not exceed the authorized amounts for the specific period.
9. Lender completes the remainder of the mortgage application process following standard procedures.

B LENDER UNDERWRITING AND VERIFICATION

- 1. Lender performs standard mortgage loan underwriting procedures.
- 2. Lender must take into consideration the effect of the MCC when determining the total amount of household income available for monthly housing payment in order to determine Borrower qualification. Lender determines acceptability of loan in accordance with applicable FNMA, FHLMC, FHA, VA and private mortgage insurance standards and/or underwriting guidelines.
- 3. Lender performs standard verification for loan underwriting. In conjunction with Lender's regular verification process and under the agreement with the County, the

Lender performs reasonable investigation that all MCC program requirements have been satisfied. Lender may verify these facts in any reasonable, efficient manner, as by standard industry practices for processing mortgage loan applications.

4. Lender verifies that the Borrower and the mortgage transaction comply with MCC Program requirements for income, purchase price, first-time homebuyer, location of residence, and other program terms. Lender receives Federal Income Tax Returns and Income Tax Affidavit (if required).
5. Lender completes all other standard underwriting and verification procedures.

C. LOAN CLOSING

1. The Lender confirms that the MCC Commitment is still active and has not expired. The loan may be closed (i.e., funded and recorded) after the MCC Commitment has been issued. However, the County should be notified of any material changes that occurred after MCC Commitment and prior to loan closing. An increase in mortgage amount may negate the MCC Commitment if sufficient MCC allocation is not available, or pre-authorization is not obtained prior to loan closing.
2. The Lender approves the loan with the Borrower following regular procedures. The Lender informs the Borrower that he may change his IRS W-4 Form Employee's Withholding Allowance Certificate to adjust federal withholding tax in an amount comparable to the expected MCC tax credit amount.
3. Lender prepares Loan Closing Documents including all information on MCC Program Documents (MCC-011, 012, 013, 014) and obtains Borrower's and Seller's notarized signatures in addition to the Lender's Closing Certification.
4. Escrow coordinates signing of all documents and delivers to Lender or Lender can send documents to County after closing.
5. Lender reviews for accuracy and delivers MCC documents to County.
6. County reviews final MCC documents, completes and forwards Mortgage Credit Certificate (MCC-015) to Lender.

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7. The County maintains a cumulative total for all MCC authority placed into use.

D. RECORDKEEPING AND FEDERAL REPORTING

1. The Lender must file an annual report (due to the IRS by January 31), using IRS Form 8329.

For six years, the Lender must retain:

- a. Name, mailing address, and TIN (social security number or tax identification number) of the MCC holder (Borrower).
- b. Name, mailing address, and TIN of the issuer (County).

- c. Date of loan (record date), certified indebtedness amount (mortgage amount) and MCC tax credit rate (20 percent).
2. County shall make quarterly reports on IRS Form 8330, beginning with the quarter in which the election is made. The report must include:
 - a. Name, address and TIN of the issuer (County).
 - b. Date of election.
 - c. The sum of the products of the certified indebtedness amount (mortgage amount) and the MCC credit rate for each MCC issued.
 - d. Name, address and TIN of each MCC holder whenever an MCC was revoked.

E. REVOCATIONS

1. Automatic revocation occurs when the residence for which the MCC was issued ceases to be the MCC holder's Principal Residence.
2. Revocation will occur upon discovery by the County or a participating lender of any material misstatement, whether negligent or fraudulent.

F. POST AUDIT

The County retains the express authority to perform annual random case post audits of participating Lender records.

G. RECAPTURE TAX

The Recapture provision is in effect for all MCC recipients who close and record their mortgage home loans in 1991 or thereafter.

If the buyer sells or otherwise disposes of the home during the nine years after the purchase of a home in conjunction with which the buyer received an MCC, all or part of this benefit may be "recaptured." The recapture is accomplished by an increase in the homeowner's federal income tax for the year in which the home is sold. The recapture only applies, however, if the home is sold at a gain and if the homeowner's income has increased above specified levels.

FACTS ABOUT THE RECAPTURE TAX

The tax is payable in the year the borrower sells their home.

1. Exceptions to the Recapture Tax.
 - a. Home is disposed of at a loss;
 - b. Home is disposed of as a result of homeowner's death;
 - c. Home is disposed of later than nine years after close of mortgage loan;
 - d. Home is transferred either to homeowner's spouse or former spouse incident to divorce and homeowner has no gain or loss included in home under Section 1041 of the Internal Revenue Code; or
 - e. Homeowner's Modified Adjusted Gross Income is less than the Adjusted Qualifying Income in the taxable year in which the home is sold.

"Modified Adjusted Gross Income" is the adjusted gross income shown on the homeowner's federal income tax return for the year in which the Residence is sold or transferred plus any interest received or accrued which is excluded from gross income received during the year, minus the amount of gain from the sale of the Residence included in gross income on the homeowner's federal income tax return for that year.

2. Maximum Recapture Tax is the lesser of:
 - a. 6.25 percent of the largest principal amount of the mortgage loan and is the "federally subsidized amount" with respect to the loan;
 - b. 50 percent of the gain on the sale of the home, regardless of whether that gain must be included in the homeowner's income for federal income tax purposes; or
 - c. the calculated Recapture Amount.

PROCEDURES

1. The Notice of Potential Recapture Tax on Sale on Home (MCC-007) must accompany the Initial Phase documents before an MCC Commitment will be issued.
2. The Notice to Mortgagor of Maximum Recapture Tax (MCC-011) must accompany the Close of Escrow Phase documents before an MCC Certificate will be issued.
3. The Lender prepares all of form MCC-007 and MCC-011. MCC-011 is a complicated form which includes specific instructions on how to complete the form.

Table II-1 - OUTLINE OF MCC PROCESS

HOMEBUYER

**Files MCC Application with Participating Lender during Escrow Period
Pays MCC Application Fee (\$250) to Participating Lender.**

LENDER

**Verifies Borrowers eligibility for MCC. Files Transmittal Form (MCC-003)
Coordinators Data form (MCC-004), Application Affidavit (MCC-005 pp 1-3), MCC
Commitment (MCC-010), Notice of Potential Recapture Tax (MCC-007), a copy of the
signed sales agreement, Appraisal Report, 3 years prior tax returns and Application Fee of
(\$200) with the County during the Escrow Period.**

COUNTY

Issues the MCC Commitment (MCC-010) to Lender.

LENDER

**Provides Borrower with a copy of the MCC Commitment (MCC-010), Prepares and forwards MCC Closing
documents; Seller Affidavit (MCC-012), Closing Affidavit (MCC-013), Lender Closing Certificate (MCC-014),
Notice to Mortgagor of Maximum Recapture Tax (MCC-011) to County immediately following loan closing.**

COUNTY

**Issues Mortgage Credit Certificate (MCC-015) to Lender and
Borrower with copy of tax information memoranda.**

LENDER

**Established permanent file for MCC documents and retains for a six year period. Files one time IRS Report
on (IRS Form 8329) to IRS in January of the following year.**

BORROWER

**Accepts MCC and retains for permanent tax records (file a copy of the MCC
each year with federal tax return).
Report MCC use on annual federal tax return
Amend W-4 Form with employer (if desired)**

Section III- Borrower, Purchase Price, and Mortgage Underwriting

SECTION III

BORROWER, PURCHASE PRICE AND MORTGAGE UNDERWRITING REQUIREMENTS.

A. OVERVIEW

For loans involving MCCs, the conventional underwriting standards can be modified to reflect recognition of the MCC-derived mortgage interest credit in determining housing expense and indebtedness ratios. The secondary mortgage market and the mortgage insurance industry have established underwriting policy acceptable for their requirements for MCC-linked loans. These are available as policy statements from the mortgage lending industry.

The Borrower, purchase price, and loan underwriting requirements discussed in this section are incorporated in the MCC program documents that are contained in a separate packet. All applicants and program participants are required to complete and sign the appropriate MCC Program documents and attest to their validity. The Lender will be required to submit certifications on which it will state that to the best of its knowledge, no material misstatements, whether negligently or willfully made, it must notify the County immediately. The County will take all lawful action to correct or modify the problem.

The Lender also should be aware and inform the Borrower that criminal penalties are provided by federal and California law if a person makes a false statement or misrepresentation so as to obtain participation in this Program. In an attempt to assure that all requirements are clear, an MCC Application Affidavit (MCC-005) is required of each applicant and must be included in the MCC loan submission package submitted to the County.

The MCC Program imposes no restrictions on the type of financing arrangement the Lender uses. The MCC Program allows the use of any conventional, FHA, or VA mortgage instrument generally being used in the marketplace and places no restrictions on mortgage terms. Lenders should note that mortgages under tax-free bond programs (e.g., CHFA, Veteran's Mortgage Bonds or Mortgage Revenue Bonds) are not eligible under this program.

B. BORROWER ELIGIBILITY REQUIREMENTS.

Similar to any conventional mortgage loan program, the Borrower must meet the credit and underwriting criteria established by the participating Lender providing the mortgage loan. Based on applicable federal and state regulations, in order to qualify for an MCC, a Borrower must also meet the following requirements.

1. The Borrower may not have held an ownership interest in his/her principal residence within the past three years. The Borrower applying for an MCC cannot have had a present ownership interest in a principal residence at any time during the preceding three years ending on the date the mortgage is executed (date that the deed is recorded). This requirement does not apply to acquisitions of units in Target Areas. This requirement qualifies the Borrower as a "first-time homebuyer" under the federal regulations. The Lender must obtain from the Borrower an affidavit to the effect that the Borrower had not present ownership interest in a principal residence at any time during the three-year period prior to the date on which the mortgage for the MCC is executed. This must be verified by the Lender's examination of the Borrower's federal tax returns for the

preceding three years, to determine whether the Borrower has claimed a deduction for mortgage interest or taxes on real property claimed as a "principal residence." Copies of tax returns can be requested on IRS Form 4506 or by calling the IRS direction [(800) 829-1040]. In the event the Borrower did not file tax returns, the Borrower must complete the Income Tax Affidavit form (MCC-008) with documented proof that he/she was a renter during the three-year period.

Special Exception for Housing In Target Areas

The "first-time homebuyer" requirement does not apply if the home is located in a designated "Target Area." Loan applications submitted to the MCC Program for property located within Target Areas must be clearly identified in the MCC documents, using the Target Area Maps provided by the County.

How to Show Compliance

To demonstrate compliance with this requirement, applicants must complete and sign the Application Affidavit (MCC-005), Closing Affidavit (MCC-013), and provide copies of their last three (3) years signed federal tax returns (or acceptable alternate exhibits if they did not file tax returns-see below).

- a. If the applicant(s) can produce the signed 1040A, 1040EZ, or 1030 returns for the three preceding years with all schedules that show no deductions for mortgage interest or real estate taxes for a principal residence, these forms shall be submitted to the County prior to the County issuing an MCC. The certified tax returns can be requested from the IRS by using form 4506 or calling [(800) 829-1040].
- b. If the applicant(s) filed the short form 1040A or 1040EZ for the last three years, completes and signs the required affidavits, but is unable to produce the signed returns, the applicant must submit a letter from IRS (IRS 1722) verifying the filing status of the applicant to the Lender prior to issuance of an MCC. This letter should confirm that the applicant filed the 1040A or 1040EZ for the three years in question. The letter also can be requested from the IRS by calling the IRS or filing Form 4506 and indicating on the form that a letter of filing status of Form 1040A or 1040EZ for the three years in question is requested.
- b. In the event the applicant(s) was not obligated to file federal income tax returns for any of the preceding three years and/or could not provide the information from (a) or (b) above, it will be necessary for the Lender to obtain from the applicant(s) a completed and signed Income Tax Affidavit (MCC-008) which is required in place of (a) or (b) above, along with a documented proof of the Borrower's residential status (e.g., notarized letter from landlord, rent receipts, college transcripts) as well as other program affidavits.
- c. When the loan is closed during the period between January 1 and February 15 and the applicant has not yet filed his/her Federal income tax return for the preceding year with the IRS, the Lender may with respect to such year, rely on an affidavit of the application that the applicant is not entitled to claim deductions for taxes or interest on indebtedness with respect to property constituting his principal residence for the preceding calendar year.

2. The MCC applicant must occupy the acquired residential housing as a "Principal Residence." The Borrower must use the housing being purchased with the MCC-linked mortgage as a principle residence. The Lender must obtain from the Borrower, using the program affidavits, a statement of the Borrower's intent to use the residence as his/her principal residence with a reasonable time (60 days) after the MCC is issued. This affidavit further states that the MCC holder will notify the Lender and issuer of the MCC if the residence ceases to be his/her principal residence. No more than 15 percent of the residence being purchased may be used for purposes other than the "principal residence" of the Borrower (e.g., office, rental, daycare operation, etc.).
3. In order to qualify for the MCC Program, the purchasers' (i.e., all persons both on the deed of trust and as co-mortgagors) current gross annual income may not exceed \$74,500 for one and two person households and \$89,400 for households of three or more. In a designated Target Area, gross annual household income may not exceed \$85,675 for a 1 and 2 person household and \$104,300 for households of three or more.
4. The MCC may be automatically revoked if the applicant fails to comply with program requirements. An MCC may be revoked under certain circumstances (please see Section II. E. for a detailed list of causes for revocation). For example, revocation occurs if the residence to which the MCC relates ceases to be the Borrower's principle residence. An MCC also may be revoked if the certificate does not meet the requirements of a "qualified MCC."
4. Strict penalties may be imposed on any applicant making a material misstatement, misrepresentation or fraudulent act on documents submitted to obtain an MCC.

Any person making a negligent material misstatement or misrepresentation in any affidavit or certification made in connection with the application for the issuance of an MCC shall be subject to all applicable fines and penalties.

C. PURCHASE PRICE REQUIREMENTS

The Borrower must comply with the following purchase price limits in order to qualify:

1. For NEW (never previously occupied) housing units, the maximum sales price of house and land (See Appendix B) may not exceed \$488,615 if the residence is not in a target area or \$597,196 if it is in a designated target area. (See definition of Target Area).
2. For EXISTING (resale) housing units, the total maximum sales price of the residential unit and land may not exceed \$454,271 if the unit is not located in a target area or \$555,220 if in a designated target area. (See definition of Target Area).

D. MORTGAGE REQUIREMENTS

1. New Mortgage Requirements. A Mortgage Credit Certificate cannot be issued in conjunction with the acquisition or replacement of an existing mortgage or land contract. The Lender must obtain from the Borrower, using the program affidavits, a statement to the effect that the mortgage being acquired in connection with the certificate will not be used to acquire or replace an existing mortgage or land contract.

2. Prohibited Mortgages.
 - a. First mortgages only. If a Borrower takes out a first and second mortgage, the MCC tax credit applies only to the first mortgage.
 - b. A Mortgage Credit Certificate shall not be used in direct or indirect connection with a qualified mortgage bond or a qualified veterans mortgage bond. The Lender must obtain from the Borrower, using the program affidavits, a statement to the effect that no portion of the financing for acquisition of the residence in connection with which the Certificate is used is provided from a qualified mortgage or veterans bond.
3. No Interest Paid to Related Persons. No interest on the mortgage (or certified indebtedness) amount may be paid to a person who is a "related person", as that term is defined under the Internal Revenue Code and applicable regulations. The Lender must obtain from the Borrower, using the program affidavits, a statement to the effect that no related person has or is expected to have, and interest as a creditor in the certified indebtedness amount.

Section IV--MCC Submission and Commitment

SECTION IV

MCC SUBMISSION AND COMMITMENT

A. HANDLING PRIORITY

Complete MCC applications will be processed by the County according to the date of receipt. Lenders will be notified of incomplete applications, which will not be processed until all deficiencies are corrected.

B. MCC APPLICATION

The MCC application process formally begins with the filing by the Borrower through the Lender of the MCC Application Affidavit (MCC-005) with the County. This form must be accompanied by a Transmittal Form (MCC-003) with the Lender's ID number and by an executed copy of the Contract of Sale (Sales Agreement) evidencing the purchase agreement and its terms between the Borrower (MCC applicant) and the seller, and a copy of the current property appraisal. A location map should be submitted if the property is in a designated "Target Area", along with a Coordinators Data Form (MCC-004). The Borrower also must sign the Notice of Potential Recapture Tax (MCC-007), which describes events which could require a repayment of a portion of the tax credit. Finally, the Lender should submit the completed MCC Commitment form (MCC-010) and a check made payable to Contra Costa County for \$200. Upon the receipt of these documents, the County will perform a preliminary screening for compliance with the MCC Program's purchase price and Borrower income limits. Once eligibility is established, the County will notify the Lender that the application has been received and an MCC Commitment has been made. A unique MCC code number is then assigned to the MCC Commitment, which the Lender should refer to in all future correspondence.

B. MCC NUMBERS

The County will assign an MCC code number upon receipt of the formal written MCC application for an MCC Commitment.

C. EXHIBITS FOR MCC SUBMISSION PACKAGE

An MCC loan package submitted to the County for an MCC must contain the exhibits listed below. Each document must be completed and signed where appropriate. Incomplete applications will not be processed until completed. Original documents should be sent to the County, except as otherwise indicated. The Lender must review the submission package and related documents to determine their completeness in accordance with the terms of this MCC Manual. Reasonable efforts should be undertaken to verify the information given, either independently or concurrently with underwriting procedures. The initial application should be bound in an 8 1/2 x 14 folder with the applicant's name (last name, first name) on the file tab.

Initial Application

1. MCC File Transmittal Form (MCC-003)
2. MCC Coordinators Data Form (MCC-004)
3. Completed MCC Application Affidavit (MCC-005)
4. A copy of the signed Contract of Sale (Sales or Purchase Agreement) including all Addendums.
5. A copy of the current property appraisal.
6. Location map if property is located in a designated "Target Area"
7. Notice to Mortgagor of Information regarding Potential Recapture Tax (MCC-011) completed where appropriate by the Lender and signed by the applicant.
8. \$200 application fee. (Check made payable to Contra Costa County).
9. Mortgage Credit Certificate Commitment (MCC-010) completed where appropriate by the Lender.
10. Copies of Federal Income Tax Returns (not required if the property is located in a designated Target Area).

Forms Submitted After MCC Commitment Issued

1. Completed Seller's Affidavit (MCC-012)
2. Closing Affidavit (MCC-013)
3. Lender's Closing Certificate (MCC-014)
4. Notice to Mortgagor of Information Regarding Potential Recapture Tax (MCC-011) completed where appropriate by the Lender and signed by the applicant.

5. Copy of the residential appraisal report (if not submitted in the initial application phase).
- D. RESUBMISSION OF MORTGAGE CREDIT CERTIFICATE APPLICATIONS RETURNED OR REJECTED.**

If an MCC application as represented by the submitted MCC Program documents and exhibits has been returned or denied by the County, any resubmission, if appropriate, must include all information which the County has determined necessary for reconsideration. An MCC application that is being submitted a second time will be reviewed in depth, and a final disposition made.

E. COMMITMENT FOR MORTGAGE CREDIT CERTIFICATE

1. Issuance

The County will review each MCC submission package for acceptability and completeness. Acceptable loan packages will be kept on file at the County, and an MCC Commitment will be issued to the Lender with an expiration period of one hundred twenty (120) days after the Lender has verified income with signed Application Affidavit.

2. Extensions

With regard to any MCC Commitment which is currently outstanding and which will not close prior to the expiration date, an extension may be requested prior to the expiration date, provided that income status is re-verified.

A 30-day extension may be granted upon the Lender's request and by submission of a County extension fee of \$25.00. Additional extensions will be granted only when the County determines that extending circumstances exist. Expiration dates are subject to federal, state and local requirements.

If the applicant can document that any delay in closing was caused by the action or inaction of a governmental agency (other than in the normal course of duty), the County will waive the fee for that extension period.

3. Cancellations

The Lender will immediately notify the County in writing of commitments to be canceled by submitting written notification and returning the original MCC commitment. A reason for the cancellation should be included.

F. CHANGES PRIOR TO CLOSING

1. Changes in the Applicant's financial or marital status after issuance of commitment and prior to closing.
 - a. Changes in current income. The eligibility of the applicant for a loan is based upon the applicant's (and co-mortgagor's) current income (provided the loan closes 120 days after income verification by the Lender), and the MCC Program will issue its Commitment based on facts as they are determined as of the date the Commitment is issued. Subject to the foregoing, changes in the applicant's financial status occurring after the MCC Commitment whether or not foreseen or

predictable at the time of the issuance of the Commitment, and changes in the working status of a spouse will not affect the validity of an MCC Commitment.

- b. Changes in marital status. If the applicant experiences a change in marital status after issuance of the Commitment and prior to loan closing, the new spouse must satisfy the prior homeownership requirements contained in the Application Affidavit, and the Lender must notify the MCC Program. Any income added to the household income previously declared because of a new spouse will not affect the validity of the Commitment provided the closing occurs within 120 days of the income verification by the Lender.

2. Changes in Homeownership Status, Acquisition Cost and Amount of Mortgage Loan After Issuance of Commitment and Prior to Closing.

- a. If the Borrower(s) acquire a present ownership interest in a principal residence prior to loan closing, the commitment shall be revoked if the residence is located in a non-target area; or
- b. If the total acquisition cost of the residence purchased in connection with the MCC increases so as to exceed the acquisition cost limitations set forth herein, the Commitment shall be revoked; or,
- c. If the amount of the loan increases, thereby causing an increase in the credit amount, the Commitment will be revoked if that increase in credit amount serves to increase the aggregate credit amount of all MCCs issued by the County above the aggregate credit limit imposed by law.

3. Other Changes in Circumstances After Issuance of Commitment and Prior to Closing.

The MCC Commitment is issued in reliance upon the Closing Affidavit (Borrower), Seller's Affidavit and the Lender's Closing Certificate that the requirements necessary for issuance of a qualified MCC has been met. The Lender must immediately notify the County in writing of any change in the circumstances upon which the Commitment was issued occur so that the MCC to be issued will not meet the requirements of a qualified MCC, the Commitment will be revoked.