

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
July 20, 2011

Consideration and Approval of
Waiver of Penalties for the California Department of Veterans Affairs Single Family Housing
Program (10-084), McCreery Apartments (11-004), El Centro Family Apartments (10-022) and La
Vida at Campus Pointe Apartments (10-044) Projects
(Agenda Item No. 7)

I. ACTION

Approve the Waiver of Forfeiture of Performance Deposit for the California Department of Veterans Affairs Single Family Housing Program (Application #10-84), McCreery Apartments Project (Application #11-004), El Centro Family Apartments Project (Application # 10-022) and La Vida at Campus Pointe Apartments Project (Application # 10-044).

BACKGROUND

An Applicant bears the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee Resolution. As provided for under the Government Code, CDLAC permits an Applicant to request the waiver of the forfeiture of the performance deposit if the allocation is not used to issue the bonds within the set timeframe given. For a waiver to be approved, the CDLAC Executive Director subjects the request to two tests: 1) was the issue or event that prevented the issuance of the bonds unforeseen; and 2) was the issue or event wholly outside the control of the applicant and project sponsor. A request must pass both tests.

II. DISCUSSION:

California Department of Veteran Affairs MRB Program (10-084)

The California Department of Veterans Affairs ("CalVet") MRB Program ("Program") received an allocation award on November 17, 2010. The Program's most-recent issuance deadline was June 14, 2011. On June 3, 2011, CDLAC received correspondence from CalVet informing the CDLAC of its desire to relinquish the \$25 million allocation and requested a waiver of the forfeiture of the performance deposit.

CalVet unexpectedly ran into several difficult financial market issues. First, long term interest rates increased dramatically since the initial allocation date and continue to be well above the market rate for mortgages. CalVet's bonds normally price around 30-60 basis points higher than the prevailing MMD rates. On September 9, 2010, when the Department submitted the application for allocation, the MMD rate was 3.91% for "AA" -rated 30-year bonds. On November 16, 2010, the day prior to allocation, the MMD rate had risen to 4.71% for "AA" -rated 30-year bonds, which was still within their range for issuance; although many of their refunding candidates were becoming uneconomical to refund. Due to the uncertainty in the market, the rates continued to rise after the allocation through the end of the year mainly due to large amounts of supply entering the market. The interest rate went up to 5.07% in December 2010. Secondly, according to CalVet, the increase in the stress scenarios provided by Fitch Rating Agency has made it more difficult for CalVet to issue bonds. Lastly, competitive mortgage interest rates were expected to rise but instead have remained historically low resulting in an unexpected slowdown in CalVet's loans. This has resulted in fewer warehoused loans that are eligible to be transferred to the newly issued bonds; along with higher negative arbitrage in the financial analysis.

McCreery Courtyards Apartments Project (Application 11-004)

The McCreery Courtyards Apartments ("Project") received \$22,000,000 in 2009 Carryforward allocation through the California Statewide Communities Development Authority on January 26, 2011. The Project

Sponsor has returned the allocation and is requesting a waiver to the forfeiture of the Performance Deposit.

The project applied to the Department of Housing and Community Development (“HCD”) for a Multifamily Housing Program (“MHP”) loan in September of 2010. However, due to a temporary HCD “Pause” in financing, the MHP loan for \$9,200,000 was not approved by the HCD Loan and Grant Committee until May 2011. Due to the delay in financing, the project was unable to close by the original issuance deadline of May 16, 2011. As result, the project’s originally anticipated construction commencement of spring of 2011 was delayed until spring 2012 due to the Project’s subterranean construction and a high water table in the area. The project sponsor intends to reapply for allocation at the Committee’s December meeting and begin construction in 2012.

El Centro Family Apartments Project (#10-022)

To date, the El Centro Family Apartments Project has not issued its bond allocation. The California Municipal Finance Authority (“CMFA”) requested and received a staff-level Carryforward Extension approval to accommodate a future bond issuance in July of 2011. However, per the CDLAC Regulations, the Project’s performance deposit must be forfeited for failure to issue the bonds by the initial issuance deadline.

The El Centro Family Apartments Project (“Project”) received an allocation award through the CMFA on December 15, 2010. The Project’s original issuance deadline was April 4, 2011; which the Executive Director extended to the Committee meeting date of April 26, 2011 as permitted under CDLAC regulations. However, due to delays in the financing, the Project was unable to close by the revised deadline of April 26, 2011.

On April 26, 2011 at the Committee’s allocation meeting, the Committee approved an additional extension to the issuance date to July 25, 2011. El Centro Family Apartments and HCD together with the City of El Centro negotiated a HUD-required reduction of the HOME loan financing awarded to the project, and agreed to seek Mental Health Services Act (“MHSA”) financing as substitute financing for the project. Although the California Housing Finance Agency and Imperial County Behavioral Health Services (“ICBHS”) indicate that a closing by the end of September is possible, to be conservative the CMFA is requesting a December 31, 2011 closing deadline to give them enough time to ensure the completion of the financing process and the issuance of the bonds for the Project. This will be the first MHSA loan that ICBHS has funded.

La Vida at Campus Pointe Apartments Project (Resolution No. 10-86)

On December 16, 2010, the California Statewide Communities Development Authority received an award of Qualified Residential Rental Project Bond allocation for the La Vida at Campus Pointe Project (“Project”). The initial deadline of March 15, 2011 was extended to May 18, 2011 to allow the project additional time to meet the conditions of its lease agreement.

Since January 2011, C Pointe Senior Associates, L.P. (“Project Sponsor”) has been working closely with Wells Fargo to finalize their loan commitment and move forward to closing. Accordingly, the lender performed an appraisal of the Project and found the Project’s value to be significantly less than originally projected. There were three factors leading to the reduction in value. They are as follows:

- 1) Appraiser used a higher cap rate;
- 2) Appraiser increased expenses by \$200 per unit;
- 3) Appraiser increased vacancy from 3% to 10%.

The determined value from the appraiser was significantly less than the Project Sponsor’s projected amount; based upon an earlier appraisal from a different firm. Consequently, this gap left the Project Sponsor with an additional \$5,220,000 of equity to fill. Having already committed \$3,721,000 in equity

to the Project, the Project Sponsor determined that the additional amount left the Project financially infeasible.

III. RECOMMENDATION:

Given the facts associated with these waiver requests, staff recommends the approval of a waiver of the performance deposit forfeiture for the California Department of Veterans Affairs Single Family Housing Program, McCreery Apartments Project, El Centro Family Apartments Project, and La Vida at Campus Pointe Apartments Project.

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