

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
July 16, 2014

**Consideration of a Request for a Waiver of the Forfeiture of Performance Deposit for The Park
20th Apartments Project**
(Agenda Item No. 5)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Park 20th Apartments Project (13-106).

BACKGROUND:

An Applicant bears the risk of forfeiting all or part of their performance deposit and receiving negative points if the Allocation is not used in accordance with the conditions and timeframes set forth in the California Debt Limit Allocation Committee (“CDLAC”) Resolution. As provided for under the Government Code, CDLAC permits an Applicant to request the waiver of the forfeiture of the performance deposit and negative points if the allocation is not used to issue the bonds within the set timeframe given. The Project noted below received a Carryforward extension approval; which the Executive Director approved to provide the Project with additional time to issue bonds. Approval of a Carryforward extension requires the forfeiture of the Project’s performance deposit. 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.

Park 20th Apartments (13-106)

On December 11, 2013, Park 20th Apartments (13-106) was awarded \$6,500,000 in tax-exempt bond allocation. The Project continues to experience delays in the completion of loan documents due to an unforeseen construction lender requirement to remove a general partner and replace with another entity. Rabobank notified the Park 20th developer, Golden Empire Affordable Housing, Inc. II that they would not provide the construction financing unless the Terra Group was removed as the Administrative General Partner and replaced by another entity. The project was on track to close by June 30, 2014 until the issue with the general partner replacement was brought forth by the construction lender. The developer now expects to close the bond financing by August 15, 2014. Rabobank has confirmed the situation with CDLAC staff, and that the required revision was not the fault of the Applicant nor the Project Sponsor.

RECOMMENDATION:

In light of the circumstances described, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit for the Park 20th Apartments (13-106) Project.

Prepared by Leslie J. Campaz