

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
September 17, 2014

Consideration of a Request for a Waiver of the Forfeiture of Performance Deposit for the
Monument Arms Apartments Project
(Agenda Item No. 5)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Monument Arms Apartments Project (14-034).

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.

The Monument Arms Apartments received allocation on March 19, 2014 and was assigned an issuance deadline of June 27, 2014. The Project experienced a delay in closing due to the U.S. Department of Housing and Urban Development (HUD) taking more time than anticipated to provide project-related financing approvals. As result, it was necessary to seek a Carry Forward Extension for the Project, which the Executive Director approved extending the deadline to October 17, 2014. Since this time, the Project issued bonds on August 13, 2014. HUD has confirmed the situation with CDLAC staff, and that the delay was not the fault of the Applicant or the Project Sponsor.

RECOMMENDATION:

In light of the circumstances described above, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit for the Monument Arms Apartments (14-034) Project.

Prepared by Leslie Campaz