

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
December 13, 2017

**Consideration of Requests for a Waiver of the Forfeiture of Performance Deposit
And/or Negative Points for Various Qualified Residential Rental Projects (QRRP)**
(Agenda Item No. 4)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit and/or Negative Points for Various Qualified Residential Rental Projects (QRRP).

BACKGROUND:

Approval of a Carryforward extension requires forfeiture of a project's performance deposit. In addition, the full reversion of an award of allocation requires both the forfeiture of the project's performance deposit and the assessment of negative points against the Project Sponsor. The Committee may grant a waiver of each upon a satisfactory showing that: (1) the issue or event that prevented the issuance of the bonds was unforeseen; and (2) the issue or event was wholly outside the control of the Applicant and Project Sponsor. A waiver request must meet both parts of the test.

Kings Canyon Apartments, Application 17-327

The Kings Canyon Apartments ("Project") received an allocation on May 17, 2017 with a bond issuance expiration date of November 13, 2017. Upon the Applicant's request, the Executive Director granted an issuance extension to December 4, 2017, and the performance deposit in support of the project was forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

The Project was unable to close by the expiration date due to a delay in obtaining the Affordable Housing and Sustainable Communities (AHSC) Standard Agreement from Housing and Community Development (HCD). Additionally, during its review of the project documents, HCD required that the project sponsor alter the partnership organizational structure to include Cesar Chavez Foundation as nonmember manager of the general partner. After confirming that this new structure satisfied HCD, the lender, investor and sponsor have filed amendments to the organizational structure with the California Secretary of State, and have also proposed revised authorizing resolutions to the Board Directors for the Cesar Chavez Foundation and the two members of the general partner, Vista Del Monte Affordable Housing, Inc., and Alhambra Village Affordable Housing Corporation. HCD has completed its review and the bond closed on December 1, 2017.

The Applicant requests a waiver of the performance deposit forfeiture, based upon the delays due to the changes in organizational structure required by HCD, resulting in unforeseen delays that were outside of the Applicant's and Sponsor's control.

Magnolia City Lights and Harbor City Lights Apartments, Application No. 17-335

The Magnolia City Lights and Harbor City Lights Apartments ("Project") received an allocation on May 17, 2017 with a bond issuance expiration date of November 13, 2017. Upon the Applicant's request, the Executive Director granted a 5 day hardship extension to November 20,

2017, and an additional extension to December 31, 2017. The performance deposit in support of the project was forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

The Project encountered delays originally due to a delay in the final review by the Housing and Community Investment Department of Los Angeles. (HCIDLA). HCIDLA was unable to subordinate its existing regulatory agreement as originally agreed to, requiring changes in the financial structure and a delay in the final review process. HCIDLA anticipates the project review to be completed in the next 30 days and bond closing is expected by December 31, 2017.

The Applicant requests a waiver of the performance deposit forfeiture based upon the delay caused by the HCIDLA, resulting in unforeseen delays which were both unforeseen and outside of the Applicant's and Sponsor's control.

North San Pedro Apartments, Application No. 17-342

The North San Pedro Apartments Project ("Project") received an allocation on May 17, 2017 with a bond issuance expiration date of November 27, 2017. On October 25, 2017, the Applicant requested to return the previously awarded bond allocation and receive a waiver of the performance deposit forfeiture and negative points associated with the return of the allocation.

The Project has an agreement with the Successor Agency of the City of San Jose (City) for the transfer of the land required for the development. The City began the process of vacating a public right of way earlier this year. In March 2017, it was discovered that the City did not own the land underneath the street that it planned to vacate. Since July 2017, the City and the Project developer have been working to clear the title issues either through negotiations with the original owner's heirs or through the eminent domain process. The Project anticipates that the issues may be resolved within the next 12 months.

The Applicant requests a waiver of the performance deposit forfeiture and waiver of negative points based upon the title issues with the City of San Jose, resulting in the unforeseen delays that were outside of the Applicant's and Sponsor's control.

Beachwood Apartments, Application No. 17-343

The Beachwood Apartments ("Project") received an allocation on May 17, 2017 with a bond issuance expiration date of November 13, 2017. Upon the Applicant's request, the Executive Director granted an issuance extension to February 12, 2018, and the performance deposit in support of the project was forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

The delay was caused primarily due to a Project Based Section 8 HAP contract which must be assigned to a new ownership entity, and HUD must approve changing the ownership entity of the property. HUD is currently in the process of approving the transfer and the new anticipated closing date is December 31, 2017.

The Applicant requests a waiver of the performance deposit forfeiture due to the HUD processing delays, resulting in the unforeseen delays that were outside of the Applicant's and Sponsor's control.

RECOMMENDATION:

In light of the circumstances described above, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit and/or Negative Points for the projects noted above: Kings Canyon Apartments, Magnolia City Lights and Harbor City Lights Apartments, North San Pedro Apartments and Beachwood Apartments.

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