

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
March 21, 2018

**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. 5)

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. Using less than 80% of the allocation requires a pro-rata forfeiture of a portion of the 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.

Posada De Colores Apartments, Application No. 17-316

The Posada De Colores Apartments ("Project") received an allocation on March 15, 2017 with a bond issuance expiration date of September 25, 2017. Thereafter, upon the Applicant's request, the Executive Director granted an issuance extension to December 26, 2017, and the performance deposit forfeiture was waived at the November 15, 2018 Committee Meeting. The Applicant requested and was granted an additional extension to March 26, 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 original delay was the result of the Project's Phase 2 Environmental Report showing evidence of ground water and vapor contamination. The results of a second round of testing were received and were encouraging, but not conclusive, resulting in a necessary third round of testing, plus additional reviews and approvals by Alameda County. The Sponsor anticipates a closing by the end of March 2018.

The Applicant requests a waiver of the performance deposit forfeiture, based upon the additional testing and reviews required by Alameda County, resulting in unforeseen delays that were outside of the Applicant's and Sponsor's control.

Cornerstone Place Apartments, Application No. 17-354

The Cornerstone Place Apartments ("Project") received an allocation on July 19, 2017 with a bond issuance expiration date of January 29, 2018. Upon the Applicant's request, the Executive Director granted a hardship extension to February 5, 2018, and thereafter an additional extension of 90 days was requested and granted to May 7, 2018. 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's financing structure includes funding from the City of El Cajon and Affordable Housing and Sustainable Communities (AHSC) program of the California Department of Housing and Community Development (HCD). In 2016, the Developer submitted an application for AHSC Funds from HCD with the San Diego Metropolitan Transit System (MTS). During the closing process, MTS had concerns about the liability associated with the AHSC Funds and delayed signing the AHSC Standard Agreements until they conducted further review of the documents. The Project Sponsor anticipates that the agreements will be signed by March 23, 2018.

The Applicant requests a waiver of the performance deposit forfeiture, based upon the factors noted above, resulting in unforeseen delays that were outside of the Applicant's and Sponsor's control.

PATH Metro Villas Phase 2 Apartments, Application No. 17-361

The PATH Metro Villas Phase 2 Apartments ("Project") received an allocation on July 19, 2017 with a bond issuance expiration date of January 16, 2018. On December 15, 2017, bonds in the amount of \$28,500,000 were issued which was less than 80% of the bond allocation awarded. In accordance with Section 5052 of the Committee's Regulations, the applicant was charged with a partial forfeiture of the performance deposit.

During the time the bonds were in the process of closing, tax reform was being actively debated in Congress and there was the possibility Private Activity Bonds (PAB) would be eliminated. If the PAB program was eliminated, 100% of the bonds issued to the project would have to be fully drawn down before December 31, 2017. Since interest charges are based on the amount of bond proceeds drawn down, the sponsor would have incurred significant interest costs. The ultimate issuance of \$28,500,000 or 78.29% of the bond allocation award was based on what the project could feasibly support.

The project had a hard tax credit readiness deadline of December 18, 2017 due to the allocation of competitive state tax credits. The deadline prevented delaying the closing until the tax reform negotiations were finalized. Had more time been available, a different solution could have been pursued that ensured the issuance of at least 80% of the bond allocation.

The Applicant requests a waiver of the partial performance deposit forfeiture, based upon the factors noted above, resulting in unforeseen delays that were outside of the Applicant's and Sponsor's control.

Maple and Main Apartments, Application No. 17-373

Maple and Main Apartments ("Project") received an allocation on July 19, 2017 with an expiration date of January 29, 2018. Upon the Applicant's request, the Executive Director granted a 90-day extension to April 30, 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 Project was delayed in closing by the expiration date due to difficulties in securing an equity partner during the Tax Credit Reform talks during the last quarter of 2017. After the tax reform act was finally signed at the end of December 2017, the Sponsor was able to select an equity investor in January 2018, start the due diligence process, and move the Project towards closing. The Project is now expected to close in April 2018.

The Applicant requests a waiver of the partial performance deposit forfeiture, based upon the factors noted above, resulting in unforeseen delays that were outside of the Applicant's and Sponsor's control.

800 Block Apartments, Application No. 17-385

The 800 Block Apartments ("Project") received an allocation on September 20, 2017 with a bond issuance expiration date of April 2, 2018. The Applicant has requested a 90-day extension to July 2, 2018. The performance deposit in support of the project will be forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

This project was caught in the uncertainty of the tax reform debate delaying the Sponsors ability to secure a tax credit investor. In addition, the estimated tax credit pricing was higher than the actual offers from the equity investors causing a financing gap. A funding source on the project also withdrew previously committed financing. Negotiations to replace and increase the financing commitments on the Project are underway and expected to be completed soon. This extension will provide the development team the additional time needed to close the funding gap.

The Applicant requests a waiver of the performance deposit forfeiture based upon the factors noted above 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 four (4) projects noted above: Posada de Colores Apartments, Cornerstone Place Apartments, Maple & Main Apartments and 800 Block Apartments. In addition, staff recommends the approval of the Partial Waiver of Forfeiture of the Performance Deposit and/or Negative Points for one (1) project, PATH Metro Villas Phase 2 Apartments.

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