

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
October 17, 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 Project Sponsor and the development team. A waiver request must meet both parts of the test.

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. The performance deposit forfeiture in support of the project was waived at the Committee meeting on March 21, 2018.

The Applicant requested and was granted a 5 day hardship extension to May 7, 2018, and two additional 90 day extensions to August 6, 2018, and to November 5, 2018. The performance deposit forfeiture in support of the project for the August 6, 2018 extension was waived at the Committee meeting on May 16, 2018. The performance deposit in support of the project for the extension to November 5, 2018 will be forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

The Project is a large mixed income project. It was originally delayed in closing due to the abrupt and unexpected withdrawal of the construction lender, Deutsche Bank in mid-April, a few weeks prior to the scheduled bond closing. The Sponsor has been working on replacing the debt and equity providers since the prior extension request to August 6, 2018. Unfortunately due to the size and complexity of the transaction, identifying the new finance partners, completing due diligence and documentation has taken longer than the original projected 90 days. The sponsor has executed a letter of intent with Bank of the West for the construction loan, and the sponsor has also contributed more than \$7,000,000 in equity into the project. Additionally, the new tax credit equity provider has been identified and due diligence has commenced. The Project is now expected to close in late October 2018.

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

Step Up On Second Apartments, Application No. 17-417

The Step Up On Second Apartments (“Project”) received an allocation on December 13, 2017 with a bond issuance expiration date of June 11, 2018. Upon the Applicant’s request, the Executive Director granted a 90-day extension to September 10, 2018 and the performance deposit forfeiture in support of the project was waived at the Committee meeting on July 18, 2018. The Applicant requested and was granted an additional extension to December 10, 2018 and the performance deposit in support of the project will be forfeited to the Committee in accordance with Section 5052 of the Committee’s Regulations.

Originally, the Project was delayed because it involved multiple types of project-based vouchers and coordinating these various sources of subsidies took longer than expected. The Project Sponsor had submitted various proposals to the City of Santa Monica and it took them time to negotiate the preexisting and ongoing vouchers.

When the development process first began with the City of Santa Monica (“City”), the subordination of a City loan was their key consideration in approving the project and City staff initially believed it could be approved without Council involvement. As the discussions continued, the City determined that any sales proceeds involving this property needed to be approved by the City Council. As part of these discussions, the City also determined that a portion of their loan needed to be paid back which also triggered Council approval. So, in addition to the subordination issue, the City Staff determined that other aspects of the transaction needed Council approval, and this happened over a series of meetings between the developer, Step Up on Second and City Staff. The City has now reached a point where the City Staff is willing to bring this forth to City Council so additional time is needed for the Council to approve these items. The Project Sponsor anticipates closing in October or November 2018.

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

Truckee Artist Lofts, Application No. 17-427

Truckee Artist Lofts (“Project”) received an allocation on December 13, 2017 with a bond issuance expiration date of June 25, 2018. Upon the Applicant’s request, the Executive Director granted a 90-day extension to September 24, 2018, and the performance deposit forfeiture in support of the project was waived at the Committee meeting on June 20, 2018. Upon the Applicant’s request, the Executive Director granted an additional 90-day extension to December 24, 2018, and the performance deposit in support of the project will be forfeited to the Committee in accordance with Section 5052 of the Committee’s Regulations.

The increase in project costs (\$7,000,000 over original budget) is, in part, a reason for this request, notwithstanding that the land was contributed along with soft financing from the Town of Truckee

(\$1,650,000), Martis Foundation (\$1,650,000), and CalHFA (\$3,500,000). Other factors contributing to the need for an extension include changes in the low income housing tax credits resulting in reduced equity pricing, increased interest rates, and difficulty in obtaining reasonable bids from major subcontractors. Given the cost increase, the Applicant has submitted to CDLAC a supplemental allocation request for the December 12, 2018 Committee meeting to increase the bond allocation by \$5,023,229. This increase will allow funding of some of the additional costs with tax-exempt funds.

In an effort to overcome the budget shortfall, the developer has revised the architectural plans to eliminate the podium allowing for modular unit construction and has applied for HCD HOME funds with a decision forthcoming in December 2018.

This request is also driven by the termination of the Federal Financing Bank's participation in the purchase of HUD Risk Sharing loans and the Town's decision to establish a CFD in the Railyard development resulting in an annual assessment of \$68,000 on the Truckee Artist Lofts project.

The Applicant requests a waiver of the performance deposit forfeiture based upon the factors noted above resulting in the unforeseen circumstances that were outside the control of the Project Sponsor and the development team.

Hunter Street Apartments, Application No. 17-431

The Hunter Street Apartments ("Project") received an allocation on December 13, 2017 with a bond issuance expiration date of June 25, 2018. Upon the Applicant's request, the Executive Director granted a 90-day extension to September 24, 2018, and the performance deposit forfeiture in support of the project was waived at the Committee meeting on July 18, 2018. An additional 90 day extension was requested and granted to December 24, 2018 and the performance deposit in support of the project will be forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

Increases in project costs are the most significant factor in the need for the requested extension. Construction costs are rising uniformly across the industry and that fact, along with the addition of the infrastructure work originally expected to be performed by the City, and changes in project design dictated by completion of the plan review process that was ongoing at the time of the Applicant's previous request, created time delays that led to higher construction costs. As a result, the project sponsor is facing an unanticipated funding gap. In response, the Sponsor has secured a commitment of \$849,000 in additional HOME funds from the City of Stockton that partially reduces the gap. The Project Sponsor is also working with the local Housing Authority to procure project-based Section 8 rental subsidy that will allow for an increased permanent loan to fill the remaining gap. The approval process at the Housing Authority and the resulting new underwriting analysis to be done by the lender and investor will require additional approvals that would not have been completed by the bond issuance deadline. The continued increase in construction costs as well as the changes to the scope of the Project were both unforeseen and outside the control of the Sponsor and the development team, however the Project Sponsor is working diligently to address these issues and move the Project toward closing. By securing additional HOME funding the Project Sponsor has secured a portion of the additional funds needed to issue bonds and commence

construction of the Project. The Sponsor continues to work through the requisite process to obtain the additional funds. Despite the Sponsor's diligent efforts, however, the nature of that process did not allow it to be completed by the bond issuance deadline.

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

Blue Mountain Terrace Apartments, Application No. 18-330

The Blue Mountain Terrace Apartments ("Project") received an allocation on March 21, 2018 with a bond issuance expiration date of September 17, 2018. Upon the Applicant's request, the Executive Director granted a 90-day extension to December 17, 2018, and the performance deposit in support of the project will be forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

Project costs were 20% higher than anticipated mainly due to an increase in the cost of materials. This resulted in negotiation with the City to secure additional funding and a significant re-design to reduce square footage for cost savings. The revised scope of work was approved August 1st (2 months from submission to the City). The overall cost increase will result in a request for supplemental allocation application to CDLAC on or before the October 12, 2018 application date. This 90 day extension request will extend the CDLAC deadline to a date beyond December 12, 2018 where the project anticipates receiving a supplemental allocation.

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

LA 78 Apartments, Application No. 18-331

The LA 78 Apartments ("Project") received an allocation on March 21, 2018 with a bond issuance expiration date of September 17, 2018. Upon the Applicant's request, the Executive Director granted a 90-day extension to December 18, 2018, and the performance deposit in support of the project will be forfeited to the Committee in accordance with Section 5052 of the Committee's Regulations.

LA78 is the acquisition and rehabilitation of 78 units located across six separate sites in the City of Los Angeles. Seventy-four (74) of the units are covered by a Project Based Section 8 HAP contract, and the property is a resyndication of an existing LIHTC transaction. As a condition to finance the property, a report from a Certified Access Specialist program ("CASP") needs to be submitted to The Los Angeles Housing + Community Investment Department ("HCIDLA") certifying that LA78 will comply with all applicable accessibility standards to the maximum extent feasible. In order to complete the report, the CASP consultant needs a fully permitted set of plans approved by Los Angeles Department of Building and Safety ("LADBS"). The Sponsor of LA78 has been working with LADBS at length in order to obtain a building permit. However, due to the project being a scattered site project, obtaining a permit has taken much longer than expected. Once a permit is obtained and HCIDLA approves the CASP report, the sponsor can close on the

property since debt and equity partners have completed their due diligence and underwriting. The project is expected to close by end of October or early November 2018.

The Applicant requests a waiver of the performance deposit forfeiture and waiver of negative points, based upon the factors noted above resulting in the adverse material changes in the transaction which prevented the bond issuance by the expiration date. The events were unforeseen and were outside the control of the Project Sponsor and the development team.

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 six (6) projects noted above: Maple and Main Apartments, Step Up On Second Apartments, Truckee Artist Lofts Apartments, Hunter Street Apartments, Blue Mountain Terrace Apartments, and LA 78 Apartments.

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