

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
September 16, 2015

**Consideration of Requests for a Waiver of the Forfeiture of Performance Deposit for the
Friendship Manor and Triangle Court Apartments Project (15-002)**
(Agenda Item No. 4)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Friendship Manor and Triangle Court Apartments Project.

BACKGROUND:

An Applicant bears the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the California Debt Limit Allocation Committee (“CDLAC”) Resolution. The Project noted below received a Carryforward extension approval on August 18, 2015; which the Executive Director approved to provide the Project with additional time to issue bonds. Approval of a Carryforward extension requires the forfeiture of each 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, Project Sponsor, and the Development team.

The Housing Authority of the City of Richmond (“Applicant”), on behalf of the Friendship Manor and Triangle Court Apartments Project (“Project”), received an initial allocation on January 15, 2014, a supplemental award on May 21, 2014 and an additional supplemental award on January 21, 2015. The Project had its issuance deadline extended by the Committee to August 18, 2015, as permitted under the CDLAC Regulations. As a result of several unforeseen delays outside the control of RHA RAD Housing Partners, LP (“Project Sponsor”), the CDLAC Executive Director provided a subsequent Carryforward extension to December 31, 2015.

The Project has had difficulty closing due to the complex interactions of the Department of Housing and Urban Development’s (‘HUD’) new Rental Assistance Demonstration Program (“RAD”) with the other more conventional financing sources (e.g., tax-exempt bond financing and low-income housing tax credits); the unanticipated scope and budget revisions required by tax credit investor; and the very challenging process of securing additional financing necessary to close the financing gap resulting from the budget and scope modifications. Each delay of one aspect (e.g., budget and scope revisions) has resulted in inevitable delays to a dependent process. For example the need for additional gap financing from the City of Richmond (“City”) necessitated navigating the City's approval process first, for HOME funds, then because of issues between HUD and the City precluded the use of HOME funds by the City for any project. Each delay in the City funding process delayed the Applicant’s ability to submit materials to HUD necessary for HUD to continue (and in certain respects, begin) its review and approval process.

The Project Sponsor, notwithstanding the challenges, has diligently pursued resolution of the outstanding issues. As a result, the Project is moving forward – all scope and resulting issues have been resolved (i.e., scope agreed to by the Applicant, Lender and Investor with corresponding guaranteed maximum price contract from the general contractor); and the budget is currently in balance with sufficient low-income housing tax credit equity, tax-exempt bond proceeds, and subordinate financing from the City.

A Carryforward extension was required to provide the additional time needed to issue the bonds for this Project. As part of such approval under the CDLAC Regulations, the Applicant is required to surrender

the associated performance deposit. The Applicant and Project Sponsor hereby request a waiver of this requirement based upon the unforeseen delays experienced by the HUD. The development team is now confident that it will be able to complete all closing steps by the extended bond close date of December 31, 2015.

RECOMMENDATION:

In light of the circumstances described above, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit for the Friendship Manor and Triangle Court Apartments Project (15-002).

Prepared by Richard Fischer