

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**  
**March 15, 2017**

**Consideration of a Request for a Waiver of the Forfeiture of the Performance Deposit for CalAg, LLC, CalPlant I, LLC (CalAg), Exempt Facility Project (16-029)**  
**(Agenda Item No. 5)**

**ACTION:**

Consider the approval of a Waiver of the Forfeiture of the Performance Deposit for the CalAg Project.

**BACKGROUND:**

An Applicant bears the risk of forfeiting all or part of their performance deposit if the Allocation is reverted to the Committee and not used in accordance with the conditions and timeframes set forth in the California Debt Limit Allocation Committee (“CDLAC”) Resolution. As provided for within CDLAC’s regulations, CDLAC permits an Applicant to request a waiver of the forfeiture of the performance deposit if the reason prompting the forfeiture is unforeseen and outside the control of the Project Sponsor and the development team.

The CalAg Project received \$225 million in tax-exempt bonds on December 6, 2016 with an Issuance deadline of March 6, 2017. The closing was anticipated to be December 22, 2016. The ushering in of the new President and the associated prospect of federal tax reform in 2017 has caused instability in the tax exempt marketplace. This instability has been evident through significant net outflows from tax-exempt bond mutual funds. This combined with the overall increase in interest rates and the widening spread between high yield rates and the benchmark U.S. Treasury has created a confluence of negative market factors.

More specifically, the tax-exempt bond mutual fund market experienced gross outflows of approximately \$28 billion during November and December of 2016, a historic event not foreseen or predicted by the Project's financing team. As a result of the market outflows combined with the increasing rate environment, CalAg was only able to find investors for about half of \$225 million in bonds preventing timely closing by March 6, 2017. The Borrower anticipates re-applying for allocation in the 3rd quarter of 2017 and seeks a waiver of forfeiture of performance deposit.

**STAFF COMMENTS:**

Staff recommends that the Committee waive the Forfeiture of the Performance Deposit given that the circumstances leading to the reversion were unforeseen and outside of the control of the current Project Sponsor and development team members.

**RECOMMENDATION:**

Staff recommends a waiver of the forfeiture of the performance deposit penalty for CalAg, Exempt Facility Project (16-029).

*Prepared by Richard Fischer*