

# Lompoc Successor Housing Agency Agenda Item



**City Council Meeting Date:** September 2, 2014

**TO:** Patrick Wiemiller, City Administrator

**FROM:** Christie Alarcon, Community Development Program Manager  
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**SUBJECT:** VH Valli Hi Associates, LP's Request to Waive and Reduce Mitigation Fees, and Subordination Request

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## **Recommendation:**

Staff recommends the Successor Housing Agency:

- 1) Deny VH Valli Hi Associates, LP's request to waive 2011, 2012, 2013 and 2014 mitigation fees and reduce future mitigation fees;
- 2) Approve VH Valli Hi Associates, LP's subordination request, with the following condition: Payment of past due mitigation fees totaling \$55,382.48 through the close of escrow; and
- 3) Authorize the City Administrator to sign the necessary documents; or
- 4) Provide alternate direction.

## **Background/Discussion:**

On June 26, 2001, the Lompoc City Council held a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing and adopted Resolution No. 4938(01), approving the issuance of qualified private activity bonds by the Statewide California Communities Development Authority (SCCDA), which allowed VH Valli Hi Associates, LP's predecessor-in-interest, Pacific American Properties, Inc., the ability to purchase and rehabilitate Valli-Hi/Arbor Square Apartments (800 North G Street) with a combination of bond financing and tax credit proceeds (Project). In exchange for removing the property from the property tax rolls, the property owner agreed to mitigate the loss of property tax revenue with annual payments. The Project did not receive any financial assistance from the City, or any Redevelopment Agency funding.

The SCCDA is a Joint Power Authority, formed for the purpose of issuing taxable and tax-free private bond activity and other housing bonds. The City of Lompoc joined

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SCCDA in the mid-1980s, to allow for the issuance of tax-free bonds for both industrial and housing projects in Lompoc, while shielding Lompoc from any risk associated with the bond issuance.

The Project approval in 2001 resulted in the acquisition and rehabilitation of the 125-unit apartment complex. Rehabilitation included the following improvements to approximately half of the units in 2001, in addition to resurfacing of the parking area and installation of a new play area:

- New windows
- New appliances
- Kitchen counters
- Plumbing
- New flooring
- New tub surrounds
- New doors

The Regulatory Agreement dated June 26, 2001, requires VH Valli Hi Associates, LP and its successors to maintain the affordability of the units for a period of 30 years. The Regulatory Agreement satisfies the requirements of Health and Safety Code section 33413, restricting the occupancy of the units to Very Low- and Low-Income Households at Affordable Rent throughout the term and mitigates the financial impact to the Agency (loss of future property tax increment).

VH Valli Hi Associates, LP agreed to pay an annual mitigation fee as described every year until maturity on December 15, 2031:

Due on or before	Amount
December 15, 2002	\$15,000.00
December 15, 2003	\$16,000.00
December 15, 2004	\$17,000.00
December 15, 2005	\$18,000.00
December 16, 2006	<i>Annually increased by the percentage of increase in the Santa Barbara County Annual Median Income (AMI) for the preceding year. \$18,300.91</i>
December 15, 2007	\$18,347.73
December 15, 2008	\$18,000.00
December 15, 2009	\$18,843.75
December 15, 2010	\$18,255.68
December 15, 2011	\$18,485.70
December 15, 2012	\$18,742.65
December 15, 2013	\$18,154.13

The Regulatory Agreement states further that the “agreement shall be recorded as a lien senior to all encumbrances except any taxable and tax-exempt bond financing issued by the California Statewide Communities Development Authority.”

Request for Waiver of Mitigation Fees and Reduction of Future Fees

VH Valli Hi Associates, LP has submitted a request for waiver of mitigation fees that are currently due, including the current year, and a 50% reduction of the mitigation fees going forward due to lack of sufficient operating income to cover expenses. Staff has analyzed the financial statements and a comparison of cash flow to mitigation fee required is as follows:

Date Due	Amount Due	Status	*Cash Flow
12/15/2009	\$ 18,843.75	Waived (8/17/2010)	\$ 67,514.00
12/15/2010	\$ 18,255.68	Waived (9/19/2011)	\$ (13,257.00)
12/15/2011	\$ 18,485.70	Waiver Requested per this Item	\$ (29,517.00)
12/15/2012	\$ 18,742.65		\$ 112,515.00
12/15/2013	\$ 18,154.13		\$ (12,557.00)

*\*Cash Flow before Amortization & Depreciation*

While VH Valli Hi Associates, LP lacked the cash flow ability to pay the required mitigation fees in 2011 and 2013, there was sufficient cash flow in 2012 to pay both the 2011 and 2012 fees, which had previously been denied a waiver. There does not appear to be sufficient cash flow in 2013 to pay the 2013 fee of \$18,154.13 although there does appear to have been sufficient cash flow in 2012 to cover 2011, 2012 and 2013 fees. Staff would like to bring to City Council’s attention this mitigation fee is not a residual receipts payment and the only reason staff has compared cash flows is because of the annual hardship claims and requests to waive the mitigation fees. The Regulatory Agreement does not allow for a waiver of fees, nor does it contain a procedure to request waiver of fees.

Since there is adequate cash flow from 2012, a waiver of the 2011, 2012 and 2013 mitigation fee payments is not justified. A reduction in future fees is not justified either because the refinancing of the existing bond principal will reduce the amount of debt service on the property, allowing better cash flow of the project in the future.

Request for Subordination of Regulatory Agreement

The approval of the subordination will allow for VH Valli Hi Associates, LP to obtain a Fannie Mae loan in the amount \$6,050,000. Upon refinancing of the bond principal, interest and fees, a balance of \$688,791.67 is proposed to be used for the “critical need” plumbing repairs on the property. The refinancing of the existing bond principal will reduce the amount of debt service on the property, allowing better cash flow of the Project. The property does have deferred maintenance; the improved cash flow and influx of cash into the project will allow for some of that maintenance to be completed. This subordination will not place the regulatory agreement in any riskier position than it

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currently has under the current financing to which it is already subordinate. It will also not affect the priority position of the affordability covenants applicable to the property.

**Fiscal Impact:**

VH Valli Hi Associates, LP has received a waiver of past mitigation fees totaling \$37,099.43 and is currently past due a total of \$55,382.48, which they are requesting be waived due to financial hardship.

Mitigation fees offset the loss of property tax increment that would have otherwise been received by the Successor Housing Agency and utilized for the cost of monitoring and servicing affordable housing in Lompoc, the negotiation of such fees in 2001 provided security of revenue to the Successor Housing Agency. By having mitigation fees resources available for the cost of monitoring and servicing affordable housing assets of the Successor Housing Agency, the use of other resources available to the Successor Housing Agency for monitoring and servicing would be reduced.

The subordination will have no fiscal impact to the Successor Housing Agency.

**Conclusion:**

Staff recommends Council approve the subordination of the Regulatory Agreement with the conditions outlined above, resulting in payment of past due mitigation fees of \$55,382.48 and submission of a report of the rehabilitation work. Also, staff recommends Council deny the request for reduction of the annual mitigation fee, as the approval of the subordination will allow for refinance and lesser debt service, resulting in the ability to continue payment of the fees.

Respectfully submitted,

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Christie Alarcon, Community Development Program Manager

**APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR:**

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Teresa Gallavan, Economic Development Director/Assistant City Administrator

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**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Patrick Wiemiller, City Administrator