

# City of Lompoc

VH Valli Hi Associates, LP  
Request to Waive and Reduce  
Mitigation Fees, and  
Subordination Request

# Background

- June 26, 2001 – Held TEFRA Hearing, Adopted Resolution 4938(01) approving issuance of qualified private activity bonds by SCCDA which allowed the purchase and rehabilitation of Valli-Hi / Arbor Square Apartments (800 N. G St.) by Pacific American Properties, Inc.



# SCCDA

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

# Valli-Hi / Arbor Square Apartments

- The 2001 approval resulted in the acquisition and rehabilitation of the 125-unit apartment complex.
- Rehabilitation included:
  - New windows, new appliances, kitchen counters, plumbing, new flooring, new tub surrounds and new doors to the units that needed repair and replacement. In addition, the parking area was resurfaced and a new play area was installed.

# Regulatory Agreement

- Dated June 26, 2001
- Maintains the affordability of the units for 30 years
- Restricting rents to Very Low and Low-Income Households
- VH Valli Hi Associates, LP agreed to pay an annual mitigation fee until maturity (12/15/2031)
- The fee mitigates the financial impact to the City (loss of future property tax increment)
- 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 CSCDA”

# Regulatory Agreement - Mitigation Fee

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

# Past Due Mitigation Fees

- In 2011, it was brought to staff's attention that there had been a change in management of the property due to lack of response to request for payment of mitigation fee.
- In 2012, staff was informed of change of "note holder".
- In February 2014, staff spoke with the new asset management company who informed staff that they would be requesting a "deferment" of the fee until 2015 or until they could refinance the property.
- On July 22, 2014, staff received a written request for "waiver" of mitigation fees and reduction of future fees by 50%.

# Request for Waiver of Mitigation Fee and Reduction of Future Fees

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)

- Total outstanding fees of \$55,382.48.
- VH lacked the cash flow ability to pay the required mitigation fees in 2011 and 2013.
- There appears to be sufficient cash flow in 2012 to pay both the 2012 and 2013 fees totaling \$36,896.78.
- Mitigation Fee is an agreed upon annual fee not a residual receipts payment.
- The Regulatory Agreement **does not** allow for a waiver of fees, nor does it contain a procedure to request waiver of fees.



# Request for Subordination of Regulatory Agreement

- Subordination will allow VH to obtain Fannie Mae loan in the amount of \$6,050,000.
- Upon refinance of the bond principal, interest and fees a balance of approximately \$688,791 is proposed to be used for the “critical need” plumbing repairs on the property.
- Refinance will reduce the amount of debt service on the project.
- Allow improved cash flow of the project.
- Allow for cash flow to be directed to deferred maintenance.
- Will not place the regulatory agreement in any riskier position than it is currently under.
- Will not affect the priority position of the affordability covenants applicable to the property.

# Fiscal Impact

- VH has received a waiver of past fees (2009 & 2010) totaling \$37,099.43.
- Currently past due \$55,382.48.
- Mitigation fees offset the loss of property tax increment that would have otherwise been received by the SHA and utilized for the costs associated with monitoring and servicing affordable housing in Lompoc, the negotiation of such fee in 2001 provided security of revenue to the SHA.
- The subordination will have no fiscal impact to the SHA.

## Staff Recommends the Successor Housing Agency (City Council):

- 1) Deny VH Valli Hi Associates, LP's request to waive 2011, 2012 and 2013 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.