

Successor Agency to the Turlock Redevelopment Agency Meeting Agenda



AUGUST 27, 2013

6:00 p.m.

City of Turlock Yosemite Room

156 S. Broadway, Turlock, California



Chairman
John S. Lazar

Agency Members
William DeHart, Jr. **Steven Nascimento**
Forrest White **Amy Bublak**

Executive Director
Roy W. Wasden
Secretary
Kellie E. Weaver
City Attorney
Phaedra A. Norton

NOTICE REGARDING NON-ENGLISH SPEAKERS: The Successor Agency to the Turlock Redevelopment Agency meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request.

NOTICE: Pursuant to California Government Code Section 54954.3, any member of the public may directly address the Successor Agency to the Turlock Redevelopment Agency on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the Agency's consideration of the item.

AGENDA PACKETS: Prior to the Successor Agency to the Turlock Redevelopment Agency meeting, a complete Agenda Packet is available for review on the City's website at www.cityofturlock.org and in the City Clerk's Office at 156 S. Broadway, Suite 230, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Agency after distribution of the Agenda Packet are also available for public inspection in the City Clerk's Office. Such documents may be available on the City's website subject to staff's ability to post the documents before the meeting.

1. CALL TO ORDER

2. CITIZEN PARTICIPATION:

This is the time set aside for members of the public to directly address the Successor Agency to the Turlock Redevelopment Agency on any item of interest to the public, before or during the Agency's consideration of the item, that is within the subject matter jurisdiction of the Agency. You will be allowed three (3) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Agency addresses the matter.

No action or discussion may be undertaken on any item not appearing on the posted agenda, except that Agency may refer the matter to staff or request it be placed on a future agenda.

3. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS

4. CONSENT CALENDAR:

Information concerning the consent items listed hereinbelow has been forwarded to each Agency Member prior to this meeting for study. Unless the Chairman, an Agency Member or member of the audience has questions concerning the Consent Calendar, the items are approved at one time by the Agency. The action taken by the Agency in approving the consent items is set forth in the explanation of the individual items.

- A. Motion: Accepting Minutes of the March 26, 2013 Special Meeting of the Successor Agency to the Turlock Redevelopment Agency

5. PUBLIC HEARINGS: None

6. SCHEDULED MATTERS:

- A. Request to permit Cherry Tree Village Partners, LP to apply for and receive property tax exemption for past and future tax years as provided for under the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants, Article 3, Section 3, and to apply for and receive unpaid and future tax exemption status. *(Pitt)*

Recommended Action:

Resolution: Permitting Cherry Tree Village Partners, LP to apply for and receive property tax exemption for past and future tax years as provided for under the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants, Article 3, Section 3, and allowing Cherry Tree Village Partners, LP to apply for and receive unpaid and future tax exemption status

7. ADJOURNMENT

MARCH 26, 2013
7:00 p.m.
City of Turlock Yosemite Room
156 S. Broadway, Turlock, California

MINUTES
Special Meeting
Successor Agency to the
Turlock Redevelopment Agency

- 1. **CALL TO ORDER** – Chairman Lazar called the meeting to order at 7:22 p.m.
PRESENT: Agency Members Bill DeHart, Steven Nascimento, Amy Bublak, Forrest White and
Chairman John S. Lazar
ABSENT: None

2. **CITIZEN PARTICIPATION:** None

3. **DECLARATION OF CONFLICT OF INTEREST AND DISQUALIFICATIONS:** None

4. **CONSENT CALENDAR**

Action: Motion by Agency Member White, seconded by Agency Member Bublak, and carried unanimously to adopt the consent calendar as follows:

- A. Motion: Accepting Minutes of the February 26, 2013 Special Meeting of the Successor Agency to the Turlock Redevelopment Agency
- B. **Resolution No. SA-2013-002** Approving the execution of a Cooperative Agreement for advance and reimbursement of administrative, overhead and other expenses by and between the Successor Agency to the Turlock Redevelopment Agency and the City of Turlock and taking certain actions in connection therewith

5. **ADJOURNMENT**

Chairman Lazar adjourned the meeting at 7:23 p.m.

RESPECTFULLY SUBMITTED

Kellie E. Weaver
City Clerk



6A

Successor Agency Synopsis

August 27, 2013

From: Maryn Pitt, Assistant to the City Manager
for Housing and Economic Development

Prepared by: Maria Ramos, Community Housing Program Supervisor

Agendized by: Roy W. Wasden, Executive Director

1. ACTION RECOMMENDED:

Resolution: Permitting Cherry Tree Village Partners, LP to apply for and receive property tax exemption for past and future tax years as provided for under the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants, Article 3, Section 3, and allowing Cherry Tree Village Partners, LP to apply for and receive unpaid and future tax exemption status

2. DISCUSSION OF ISSUE:

In December 1997, the former Turlock Redevelopment Agency and the Turlock City Council approved the expenditure of Community Development Block Grants (CDBG) and Redevelopment Agency (RDA) funds to be used for land acquisition and development costs for Cherry Tree Village. An additional RDA loan in the amount of \$225,000 was approved in May 1999 for building permit fees. Additional funding sources used for the project were tax credits, private permanent financing and County of Stanislaus fee deferrals. Cherry Tree Village is a mixed multifamily/senior affordable housing complex located at 139 West Minnesota Avenue, Turlock. This multi-family complex offers 105 affordable units to families at or below 80% of the median area income for Stanislaus County. American Housing Construction, Inc. (AHC) and Central Valley Coalition for Affordable Housing (CVCAH) are the General partners, while LNR Cherry Tree Limited, Inc. and LNR Cherry Tree Investor, LLC, are limited partners for the project. Acting as the non-profit for the City of Turlock, AHC, has a responsibility to each partner. The responsibilities included such functions as insuring the property taxes are paid, units are rented, project is maintained, annual budgets are submitted and all other items included in the agreements.

Recently, AHC, the general partner has decided to no longer be a partner in Cherry Tree Village, thus leaving CVCAH as the sole general partner. In recent years, Cherry Tree Village has not been able to cover the total costs needed to sustain the project and has been unable to pay the property taxes and complete

the deferred maintenance schedules. As the remaining sole general partner, CVCAH, has closely reviewed the budgets and the immediate needs of the Cherry Tree Village. CVCAH has determined that the remaining funds are insufficient to cover the delinquent and upcoming property taxes due. As a tax credit project, providing affordable housing to low income persons and families CVCAH is able to apply and receive property tax (ad valorem only) exemptions for Cherry Tree Village. There are currently five years of in arrears property taxes estimated at \$534,590.00, which includes both the ad valorem and assessment portion of the taxes. CVCAH is requesting the City of Turlock provide permission as provided for in Article 3, Section 3 of the Regulatory agreement to allow Cherry Tree Village to apply for and receive both the delinquent tax exemption as well as continue to apply for and receive the tax roll exemption for the duration of the agreement with the City of Turlock. The terms of the agreement are articulated in Attachment A.

The current Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement) with the City of Turlock Redevelopment Agency holds covenants for thirty (30) years, which will remain in effect until September 23, 2028. By allowing CVCAH to receive exemptions for the delinquent property taxes as well as remain off the tax roll for remainder of the agreement, will allow the property to make the necessary repairs and sustain the project operations.

3. BASIS FOR RECOMMENDATION:

- A. Current Regulatory Agreement requires Cherry Tree Village to remain on the tax roll. Any changes to the existing Regulatory Agreement require Successor Agency authorization.
- B. Allowing the delinquent and future property tax exemptions, the City of Turlock will retain 105 affordable senior and multi-family units.

C. POLICY INITIATIVE –SOCIAL INFRASTRUCTURE - HOUSING RESOURCES:

Our neighborhood housing balance should contribute to the quality of life in our community and provide opportunities for all of our citizens to embrace the richness of our diversity.

1) GOALS:

- a. Maintain quality of life through
 - i) Nuisance abatement
 - ii) Other enforcement mechanisms
- b. Address housing concerns:
 - i) Older neighborhoods rehabilitation

- ii) Homeless issues
- iii) Construction of affordable housing and mixed use developments
- iv) Develop senior housing
- v) Transit oriented housing
- vi) Seek out new grant and funding opportunities

4. FISCAL IMPACT / BUDGET AMENDMENT:

No impact on the current budget. By providing the required authorization to Cherry Tree, LLC, the City of Turlock will be forgiving approximately \$32,100 in arrears property taxes and approximately \$1,402. per year in future annual property taxes to the City..

5. EXECUTIVE DIRECTOR'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

No environmental determination required.

7. ALTERNATIVES:

City Council can choose not to authorize the tax exemption request. However, maintaining the quality of affordable housing would be compromised and there is a potential to lose 105 affordable units. This alternative is not recommended.

Attachment A

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Redevelopment Agency of the
City of Turlock
156 S. Broadway
Turlock, California 95380

No fee for recording pursuant to
Government Code Section 27383

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of this 23rd day of September, 1998 by and between the Redevelopment Agency of the City of Turlock, a public body corporate and politic, (the "Agency"), and Cherry Tree Village, a California limited partnership.

RECITALS

1. The City and Agency have entered into a Loan Agreement with the Borrower under which the Agency will provide a loan (the "Agency Loan") to the Borrower for use, together with funds obtained from other sources, including the City of Turlock (CDBG), for acquisition and pre-development of that certain real property more particularly described in Exhibit A attached hereto (the "Property") and the construction on the Property of up to one hundred and five (105) residential units affordable to very low and other income households, including senior citizens, and a community center (the "Development"). Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the Loan Agreement.
2. All of the funds used by the Agency (\$600,000) to fund the Agency Loan pursuant to the Loan Agreement are from the Agency's Low and Moderate Income Housing Fund. Under California Health and Safety Code Section 33334.2 et seq., the Agency must restrict developments assisted with funds from the Agency's Low and Moderate Income Housing Fund so that the developments remain affordable to low and moderate income households for the longest feasible time. This Agreement is intended to implement that requirement of law. Forty percent (40%) of the loan amount (\$400,000) is HUD CDBG funds.

3. The Agency has agreed to make the Loan to the Borrower on the condition that the Development be maintained and operated in accordance with Sections 33334.2 et seq. And in accordance with additional restrictions (HUD/CDBG) concerning affordability, operation and maintenance of the Development, as specified in this Agreement.
4. In addition, the Agency intends to apply the units in the Development, to the extent permitted by law, toward satisfaction of its project area housing production obligation under Health and Safety Code Section 33413 (b) (2) for the Turlock Redevelopment Project Area. To serve this purpose, the Agency is restricting the units in the Development pursuant to this Agreement so that they remain affordable to households with incomes as specified herein for a term of thirty (30) years.
5. In consideration of receipt of the City and Agency Loan at an interest rate substantially below the market rate, the Borrower has further agreed to observe all the terms and conditions set forth below.
6. In order to ensure that the entire Development will be used and operated in accordance with these conditions and restrictions, the Agency and the Borrower wish to enter into this Agreement.

THEREFORE, the Agency and the Borrower hereby agree as follows:

ARTICLE I

Definitions

1.1 Definitions

When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

- (a) "Actual Household Size" shall mean the actual number of persons in the applicable household.
- (b) "Adjusted Income" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, the Agency shall provide the Borrower with a reasonably similar method of calculation of adjusted income as provided in said Section 6914.
- (c) "Agency" shall mean the Redevelopment Agency of the City of Turlock and, in the event the Agency ceases to exist, the City of Turlock or such successor entity as the City may designate.

- (d) "Agency Deed of Trust" shall mean the deed of trust to the Agency on the property which secures repayment of the Agency Loan and performance of this Agreement.
- (e) "Agency Loan" shall mean all Agency funds loaned to the Borrower pursuant to the Loan Agreement.
- (f) "Agency Loan Agreement" shall mean the Loan Agreement by and among the City, the Agency and Borrower dated Sept. 23, 1998.
- (g) "Agency Note" shall mean the promissory note from Borrower to the Agency evidencing all or any part of the Agency Loan.
- (h) "Agreement" shall mean this Regulatory Agreement and Declaration of Restrictive Covenants.
- (i) "Assumed Household Size" shall mean, for a Unit of the size given below, a household of the corresponding size as shown below:

<u>Number of Bedrooms</u> <u>Size</u>	<u>Assumed Household</u>
Studio	1
One	2
Two	3
Three	4
Four	5

- (j) "Borrower" shall mean Cherry Tree Village L.P., a California Limited Partnership and its successors and assigns to the Development.
- (k) "Certificate of Completion Date" shall mean the date of issuance by the Agency of a certificate of Completion for the Development pursuant to the Loan Agreement.
- (l) "Development" shall mean the Property, the up to one hundred and five (105) residential units and the community center to be developed on the Property, as well as all landscaping, roads and parking spaces existing thereon, as the same may from time to time exist.
- (m) "Median Income" shall mean the median gross yearly income, adjusted for Actual Household Size (or Assumed Household Size as specified herein), in the County of Stanislaus, California, as published from time to time by the State of California. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the Agency shall provide the Borrower with

other income determinations which are reasonably similar with respect to methods of calculation to those previously published by the State.

- (n) "Other Household" shall mean a household with an Adjusted Income which does not exceed eighty percent (80%) of Median Income, adjusted for Actual Household Size.
- (o) "Other Units" shall mean the Units which, pursuant to Section 2.1(c) below, are required to be occupied by Other Households.
- (p) "Property" shall mean the real property described in Exhibit A attached hereto and incorporated herein.
- (q) "Rent" shall mean the total of monthly payments by the Tenant of a Unit for the following: (1) use and occupancy of the Unit and land and associated facilities, including parking; (2) any separately charged fees or service charges assessed by the Borrower which are required of all Tenants, other than security deposits; (3) the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service, cable television service or any other utility or service permitted to be excluded from the calculation of Rent pursuant to the terms of 25 California Code of Regulations Section 6918; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Borrower, and paid by the Tenant.
- (r) "Tenant" shall mean a household occupying a Unit.
- (s) "Term" shall mean the term of this Agreement, which shall commence on the date of issuance of a final certificate of occupancy for the Development by the City of Turlock and shall continue in effect for thirty (30) years thereafter.
- (t) "Unit" shall mean one of the up to one hundred and five (105) units to be constructed on the Property, and to which the provisions of Articles 2 and 4 apply.
- (u) "Very Low Income Household" shall mean a household with an Adjusted Income that does not exceed the lesser of (1) fifty percent (50%) of Median Income, adjusted for actual household size, or (2) the qualifying limits for very low income households, adjusted for Actual Household Size, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 and as published by the State of California Department of Housing and Community Development.

- (v) "Very Low Income Units" shall mean the Units which, pursuant to Section 2.1(a) below, are required to be occupied by Very Low Income Households.

ARTICLE 2

AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirement

- (a) Very Low Income Units. Forty-nine percent (49%) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Very Low Income Households.
- (b) Other Units. The remaining fifty-one percent (51%) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Other Households; provided, however, two Units may be reserved for resident managers, in which case such Units will not be subject to this occupancy requirement.
- (c) Intermingling of Unit. The Very Low Senior Income Units shall not be intermingled with, and shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to the range of sizes and number of bedrooms of the Other Units. Tenants in all Units shall have equal access to and enjoyment of all common facilities of the Development.

2.2 Allowable Rent

- (a) Very Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent charged to Tenants of the Very Low Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Median Income, adjusted for Assumed Household Size.
- (b) Other Rent. Subject to the provisions of Section 2.3 below, the Rent charged to Tenants of the Other Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of eighty percent (80%) of median Income, adjusted for Assumed Household Size.

2.3 Increased Income of Tenants

- (a) Very Low Income Household. If upon recertification of a Tenant's income, the Borrower determines that a former Very Low Income Household no longer qualifies as a Very Low Income Household, but has an Adjusted Income not exceeding eighty percent (80%) of Median Adjusted Income, adjusted for actual Household Size:

- (1) Such Tenant's Unit shall be considered an Other Unit;
 - (2) Such Tenant's Rent may be increased to an Other Rent upon sixty (60) days written notice to the Tenant; and
 - (3) The Borrower shall rent the next available Other Unit to a Very Low Income Household at Rent not exceeding the maximum Rent specified in Section 2.2(a) to comply with the requirements of Section 2.1(a) and Section 2.2(a) above.
- (b) Non-Qualifying Household. If, upon recertification of a Tenant's income, the Borrower determines that a former Very Low Income Household or Other Household has an Adjusted Income exceeding eighty percent (80%) of Median Income, adjusted for Actual Household Size:
- (1) Such Tenant shall be required to vacate the Development within six (6) months and shall be notified in writing of such obligation to vacate promptly following the income recertification; and
 - (2) Upon vacation, the vacated Unit shall be rented to a Very Low Income Household or Other Household, as applicable, at a Rent level as necessary to comply with the requirements of Section 2.1 and 2.2 above.
- (c) Termination of Occupancy. Upon termination of occupancy of a Unit by a Tenant, such Unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Very Low Income Household or Other Household) as the income level of the vacating Tenant, until such Unit is reoccupied, at which time the income character of the Unit (e.g., Very Low Income Unit or Other Unit) shall be redetermined.
- 2.4. Lease Provisions. The Borrower shall use a form of Tenant Lease approved by the Agency. The form of Tenant Lease shall comply with all requirements of this Agreement and the Loan Agreement, and shall, among other matters:
- (a) provide for termination of the Lease and consent by the Tenant to immediate eviction for failure: (1) to provide any information required under this Agreement or reasonably requested by the Borrower to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy in the Development in accordance with the standards set forth in this Agreement, or (2) to qualify as a Very Low Income Household or Other Household, as the case may be, as a result of any material misrepresentation made by such Tenant with respect to the income computation or certification; and
 - (b) be for an initial term of at least one year and provide for no Rent increase during such year. After the initial year, a Tenant lease may be month-to-month; however, the Rent may not be raised more than once per year. The Borrower will provide each Tenant with at least sixty (60) days'

written notice of any increase in Rent applicable to such Tenant, and with such further notice as may be required by Section 2.3 above.

- 2.5 Other Rules. If the Development is subject to State or Federal rules governing funding sources such as low income housing tax credits or (the "Other Rules"), the provisions of the Other Rules regarding assumed household size (as defined in Section 1.1(l) above), continued occupancy by households whose incomes exceed the eligible income limitations (as described in Section 2.3 above), or other matters set forth in this Article 2 shall apply in place of the provisions set forth in the applicable sections of this Agreement.
- 2.6 Nondiscrimination. All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible; provided, however, that Borrower shall give preference to the rental of the Units to eligible households displaced by Agency activity. Except as set forth in the immediately preceding sentence with respect to Agency displacees, the Borrower shall not give preference to any particular class or group of persons in renting the Units, except to the extent that the units are required to be leased to Very Low Income Households and Other Households. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. AFDC or SSI), ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit, nor shall the Borrower or any person claiming under or through the Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of any Unit. All deeds, leases or contracts made or entered into by the Borrower as to the units or the Development or portion thereof, shall contain covenants concerning discrimination as prescribed by the Loan Agreement.
- 2.7. Section 8 Certificate Holders. The Borrower will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective Tenants.

ARTICLE 3
OPERATION AND MAINTENANCE OF THE DEVELOPMENT

- 3.1 Residential Rental Use. The Development shall be operated only for residential rental housing use. No part of the Development shall be operated as transient housing.
- 3.2 Compliance with Loan Agreement. Borrower shall comply with all the terms and provisions of the Loan Agreement.
- 3.3 Property Tax Non-Exemption. Borrower shall not apply for a property tax exemption for the Property under any provision of the law without the Agency's prior written consent.
- 3.4 Taxes and Assessments. Borrower shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any fine or charge from attaching to the Property; provided, however, that Borrower shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Borrower exercises its right to contest any tax, assessment, or charge against it, Borrower, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.
- 3.5 Maintenance. Borrower shall maintain the Development in good repair and working order, and in a neat, clean and orderly condition, including the walkways, community center, driveways, alleyways and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements.
- 3.6 Approval of Management Policies. The Borrower shall submit its written management policies with respect to the development to the Agency for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Agreement, the requirements of the existing housing program under Section 8 of the United States Housing Act, or its successors, and the requirements of all lenders providing financing for the Development.
- 3.7 Tenant Selection. The Borrower shall screen and select tenants for desirability and creditworthiness at its discretion; provided, however, that the Borrower shall consider a prospective tenant's rent history for at least a one year period prior to applicable rent; and provided further, however, that a prospective tenant's ability to pay shall be demonstrated if such prospective tenant has for such one year period paid the same percentage or more of household income for rent as would occur if the household paid the Rent for the Unit permissible pursuant to Section 2.2 of this Agreement.

- 3.8. Preference to Agency Displaces. Borrower shall give a preference in the rental of any Units to eligible households displaced by Agency activity.

ARTICLE 4

INCOME CERTIFICATION AND REPORTING

- 4.1 Income Certification. The Borrower will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the Units in substantially the form approved by the Agency. The Borrower shall make a good faith effort to verify that the income provided by an applicant or occupying household in an income certification is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a pay stub for the most recent pay period; (b) obtain an income tax return for the most recent tax year; (c) conduct a credit agency or similar search; (d) obtain an income verification form from the applicant's current employer; (3) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Tenant income certifications shall be available to the Agency upon request.
- 4.2 Annual Report to Agency. The Borrower shall submit to the Agency (a) not later than the fifteenth (15th) day after the close of each calendar year, a statistical report to the Agency in a form approved by the Agency, setting forth the information called for therein, and (b) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the Agency in order to comply with reporting requirements of the United States Department of Housing and Urban Development or the State of California.
- 4.3 Additional Information. The Borrower shall provide any additional information reasonably requested by the Agency. The Agency shall have the right to examine and make copies of all books, records or other documents of the Borrower which pertain to the Development.
- 4.4 Records The Borrower shall maintain complete, accurate and current records pertaining to the Development, and shall permit any duly authorized representative of the Agency to inspect records, including records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Development shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Agency, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Agency. The Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least three (3) years.

ARTICLE 5
MISCELLANEOUS

- 5.1. Term. The provisions of this Agreement shall apply to the Property for the entire Term, even if the entire Agency Loan is paid in full prior to the end of the Term. This Agreement shall bind any successor, heir or assign of the Borrower, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by the Agency. The Agency makes the Agency Loan on the condition, and in consideration of, this provision, and would not do so otherwise.
- 5.2. Covenants to Run with the Land. The Agency and the Borrower hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to covenants or restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the Agency expressly releases such conveyed portion of the Property from the requirements of this Agreement.
- 5.3. Enforcement by the Agency. If the Borrower fails to perform any obligation under this Agreement and fails to cure the default within thirty (30) days after the Agency has notified the Borrower in writing of the default, or if the default cannot be cured within thirty (30) days and thereafter diligently pursue such cure, the Agency shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:
- (a) Calling the Agency Loan. The Agency may declare a default under the Agency Note, accelerate the indebtedness evidenced by the Agency Note, and proceed with foreclosure under the Agency Deed of Trust.
 - (b) Action to Compel Performance or for Damages. The Agency may bring an action at law or in equity to compel the Borrower's performance of its obligations under this Agreement, and/or for damages.
 - (c) Remedies Provided Under Loan Agreement. The Agency may exercise any other remedy provided under the Loan Agreement.
- 5.4. Attorneys Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including attorneys' fees. This section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

- 5.5 Recording and Filing. The Agency and the Borrower shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records of the County of Stanislaus.
- 5.6 Governing Law. This Agreement shall be governed by the laws of the State of California.
- 5.7 Waiver of Requirements. Any of the requirements of this Agreement may be expressly waived by the Agency in writing, but no waiver by the Agency of any requirement of this Agreement shall, or shall be deemed to, extend to or affect any other provision of this Agreement.
- 5.8 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Stanislaus.
- 5.9 Notices. Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

Borrower: Cherry Tree Village L.P.
800 Wilshire Boulevard, Suite 930
Los Angeles, California 90017

Agency: Redevelopment Agency of the
City of Turlock
156 S. Broadway
Turlock, California 95380

Such addresses may be changed by notice to the other party given in the same manner as provided above.

- 5.10 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the Agency and the Borrower have executed this Agreement by duly authorized representatives, all on the date first written above.

Borrower:

AMERICAN HOUSING CONSTRUCTION

By: [Signature]

Initials: [Initials]

Agency:

REDEVELOPMENT AGENCY OF THE
CITY OF TURLOCK, a public body
corporate and politic

ATTEST:

By: [Signature] EXECUTIVE DIR.

By: [Signature]
City Clerk

EXHIBIT A
(Legal Description)

All the certain real property situated in the County of Stanislaus, State of California, described as follows:

PARCELS 1, 2 AND 3 AS SHOWN ON A PARCEL MAP RECORDED JANUARY 2, 1985 IN BOOK 36 OF PARCEL MAPS, PAGE 7, STANISLAUS COUNTY RECORDS, BEING A PORTION OF LOTS 1, 6 AND 7 OF GEER RANCH, AS SHOWN ON THE MAP FILED IN VOLUME 8 OF MAPS, PAGE 46, STANISLAUS COUNTY.

EXCEPTING THEREFROM PARCEL 1 AND 2 AS SHOWN ON PARCEL MAP RECORDED JANUARY 2, 1985 IN BOOK 36 OF PARCEL MAPS AT PAGE 7, STANISLAUS COUNTY RECORDS.

APN: 7-009/71-09-29-070

BEFORE THE SUCESSOR AGENCY OF THE CITY OF TURLOCK

IN THE MATTER OF PERMITTING CHERRY } RESOLUTION NO. SA-2013-
TREE VILLAGE PARTNERS, LP TO APPLY FOR }
AND RECEIVE PROPERTY TAX EXEMPTION }
FOR PAST AND FUTURE TAX YEARS AS }
PROVIDED FOR UNDER THE PROVISIONS OF }
THE REGULATORY AGREEMENT AND }
DECLARATION OF RESTRICTIVE COVENANTS, }
ARTICLE 3, SECTION 3, AND ALLOWING }
CHERRY TREE VILLAGE PARTNERS, LP TO }
APPLY FOR AND RECEIVE UNPAID AND }
FUTURE TAX EXEMPTION STATUS }
_____ }

WHEREAS, the City of Turlock and the former Redevelopment Agency approved \$1,000,000 expenditure of Community Development Block Grant (CDBG) and Redevelopment Agency (RDA) funds for the land acquisition and predevelopment costs associated with Cherry Tree Village Partners L.P. (Cherry Tree Village); and

WHEREAS, the City of Turlock Redevelopment Agency approved an additional \$225,000 RDA Low Moderate Income Fund loan for building permit costs; and

WHEREAS, Cherry Tree Village is a mixed multifamily/senior affordable housing complex which offers 105 affordable units to families at or below 80% of the median area income for Stanislaus County; and

WHEREAS, American Housing Construction, Inc. (AHC) and Central Valley Coalition for Affordable Housing (CVCAH) are the General partners, while LNR Cherry Tree Limited, Inc. and LNR Cherry Tree Investor, LLC, are limited partners for the project initially; and

WHEREAS, AHC, the general partner has decided to no longer be a partner in Cherry Tree Village, leaving CVCAH as the sole general partner; and

WHEREAS, Cherry Tree Village has not been able to cover the total costs needed to sustain the project and has been unable to pay the property taxes and complete the deferred maintenance schedule; and

WHEREAS, there are currently 5 years of in arrears property taxes estimating at \$534,590. CVCAH is requesting the City of Turlock allow Cherry Tree Village to apply for and receive the tax exemption for the in arrears ad valorem taxes as well as be granted exemptions for future tax years for the duration of the agreement with the City of Turlock.; and

NOW, THEREFORE, BE IT RESOLVED that the Successor Agency of the City of Turlock does hereby:

1. Allow CVCAH to receive the tax exemption status for the previous five years.
2. Allow CVCAH to apply for and retain the tax exemption status for the remainder of the Cherry Tree Regulatory Agreement and Declaration of Restrictive Covenants.
3. Authorize the City Manager, or designee, to execute any and all documents in relation to proving the exemption to the County of Stanislaus in accordance with the Cherry Tree Regulatory Agreement and Declaration of Restrictive Covenants.

PASSED AND ADOPTED at a regular meeting of the Successor Agency of the City of Turlock this 27th day of August, 2013, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

Kellie E. Weaver, Agency Clerk
City of Turlock, County of Stanislaus,
State of California