



Yolo County Housing

Lisa A. Baker, Executive Director

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BOARD OF COMMISSIONERS

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DATE: October 1, 2009
TO: YCH Board of Commissioners
FROM: Lisa A. Baker, Executive Director
By: Mark Stern, Finance Director
SUBJECT: **Review and Approve Affordability Covenant for the Davis Solar Homes Renovation**

Agenda Item No. 4.01

RECOMMENDED ACTIONS:

That the Board of Commissioners review and approve Affordability Covenant for the Davis Solar Homes Renovation and authorize the Executive Director to sign the Covenant.

BACKGROUND / DISCUSSION

In August 2008, YCH received a \$152,765 grant from the City of Davis for renovations at Davis Solar Homes. Completed renovations to date include repainting exterior stucco soffit and fascia, repair wood damage and carport roofs, installation of smoke alarms and replacing cracked and heaved walks. The balance of the contract is reserved for dual pane window installation.

To comply with the following agreement clause, staff presents the attached affordability covenant.

(d) Prior to disbursements from this grant totaling Fifty-thousand Dollars (\$50,000) or greater, GRANTEE agrees to execute AGENCY Affordable Housing Covenant and record it to the seven farmworker housing units that will ensure permanent affordability of these units to very-low income households.

The existing USDA Rural Development (RD) agreement contains an affordability covenant valid for fifty (50) years through 2029. Approval of this document will make affordability a permanent covenant.

Finance staff have reviewed the rent restrictions and find that current rents are well below the maximum threshold set by the covenant.

FISCAL IMPACT:

YCH has now paid contractors about \$95,000 for the completed remodeling work. The City

Working together to provide affordable housing and community development services for all

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of Davis cannot reimburse the YCH until this covenant has been recorded.

CONCLUSION

Staff recommends approval of this Affordability Covenant in order to expedite reimbursement for the work that has been performed.

Attachment – Affordability Covenant

**RECORDING REQUESTED BY AND
AFTER RECORDATION, MAIL TO:**

The Redevelopment Agency of the City of Davis
Community Services Dept
Attn: Housing & Human Services Sup.
23 Russell Boulevard, Suite 5
Davis, CA 95616

Exempt from recording fees pursuant
to Government Code section 27383

AFFORDABLE HOUSING COVENANT

**Davis Solar Farmworker Housing
3328 and 3330 Biscayne Bay Place, 2761 and 2763 Feather Place,
627 and 629 Isla Place, and 1235 Alice Street**

For valuable consideration, the receipt of which is hereby acknowledged, the REDEVELOPMENT AGENCY OF THE CITY OF DAVIS ("Agency"), acting to carry out the obligations under State of California Redevelopment Law and the policy direction of the Redevelopment Agency Board, and the HOUSING AUTHORITY OF THE COUNTY OF YOLO ("Owner"), hereby agree with respect to the certain parcels of real property (the "Site") at 3328 and 3330 Biscayne Bay Place, 2761 and 2763 Feather Place, 627 and 629 Isla Place, and 1235 Alice Street, legally described on **Exhibit A**, that the Site will be subject to the conditions, restrictions, reservations and rights of the Agency specified below:

1. REDEVELOPMENT GRANT. This Covenant is entered into pursuant to that certain Grant Agreement dated August 6, 2008, as amended by that certain Addendum to Agreement for RDA Funded Housing Services dated June 16, 2009; whereby the Agency granted the Owner \$152,765.00 to aid in rehabilitation work to the Site, as more specifically described in the Grant Agreement.

2. USE OF THE SITE. Owner hereby covenants and agrees, for itself and its successors and assigns, that the Owner shall use the Site for the purpose of providing affordable rental housing to households where at least one member of the household is employed in agricultural work ("Farmworker Households"), in compliance with all of the following:

A. Development. In order to use Housing Set-Aside funds from the Agency, the Owner must continue to provide seven affordable rental housing units on the Site (the "Affordable Units").

B. Income and Rent Restrictions. Owner shall limit occupancy of the Affordable Units to very-low income households whose income is fifty percent (50%) or less of

area median gross income, as updated on an annual basis and adjusted by household size (the "Very-Low Income Household"). Owner shall comply with the Agency's approved Tenant Selection and Screening Guidelines in selecting Very-Low Income Households to occupy the Affordable Units. Owner shall target marketing to Farmworker Households living and/or working in Yolo County in this income category. The monthly rent for the Affordable Units may not exceed one-twelfth of 30% of 50% of the area median income, minus a utility allowance calculated based on the schedule released annually for Yolo County (the "Affordable Rent"). The Agency shall calculate the Affordable Rent annually. For purposes of determining the Affordable Rent, it shall be presumed that occupancy of the Affordable Units is based on number of bedrooms plus one person.

C. No Renewal Without Income Certification. The Affordable Units shall be rented for one-year lease terms, and the tenant's annual income shall be re-certified on an annual basis prior to the renewing of a lease. No lease for the Affordable Units may be renewed unless and until Owner has obtained current information to verify the tenant still qualifies as a Very-Low Income Household.

D. Income Limits Exceeded. If the annual income re-certification described above indicates a tenant does not qualify as a Very-Low Income Household, or if Owner becomes aware that the tenant no longer qualifies as a Very-Low Income Household (such tenant referred to below as a "Nonqualifying Tenant"), Owner shall promptly notify the Nonqualifying Tenant in writing that such tenant's lease shall not be renewed unless the Nonqualifying Tenant qualifies as a Very-Low Income Household prior to the expiration of the lease. At the expiration of the existing lease, Owner shall lease the Affordable Units to a Very-Low Income Household.

3. REPORTING REQUIREMENTS. Within thirty (30) days following the rental of the Affordable Units to a new tenant and on an annual basis as requested by the Agency, Owner shall submit a written report and income re-certification for the tenants residing in the Affordable Units. The annual reports shall include at a minimum the following information:

- (a) The number of persons in the unit
- (b) Tenant name
- (c) Initial occupancy date
- (d) Rent paid per month and utility allowance provided
- (e) Gross income per year for the household
- (f) Documentation used to verify income

Agency may during the term of this Covenant request additional or different information and Owner shall promptly supply such information to the best of its ability in the reports required hereunder.

Owner shall maintain all necessary books and records, including property, personal and financial records, in accordance with generally accepted accounting principles with respect to all matters relating to the Affordable Units. Owner, at such time and in such forms as Agency or its designee may require, shall furnish to Agency or its designee statements, records, reports, data and information pertaining to matters relating to the Affordable Units. Upon

request for examination by Agency or its designee, Owner, at any time during normal business hours, shall make available all of its records with respect to all matters covered by this Covenant. Owner shall permit Agency or its designee to audit, examine and make excerpts or transcripts from these records at Agency's expense.

4. RESERVE ACCOUNTS. Owner covenants that it will establish and maintain operating, maintenance and reserve accounts ("Reserve Accounts") for each of the units that is included in the Site. Within sixty (60) days of executing this Covenant, Owner shall provide the Agency copies of statements showing the name, location and account information for the Reserve Accounts established for each of the units included in the Site.

Following the execution of this Covenant, the Owner shall deposit all Net Cash Flow (as described below) into the Reserve Accounts established pursuant to this Section. For purposes of this Covenant, "Net Cash Flow" is defined as: All rents, revenues, consideration or income (of any form) derived by Owner in connection with or relating to the ownership or operation of the Site, less all customary and reasonable costs and expenses in connection with the operation and maintenance of the Site, including but not limited to premiums for property and liability insurance, utility services not paid directly by tenants, maintenance and repair, security services and payments for social/supportive services; reasonable property management and administrative fees retained by Owner; reasonable and customary cost for accounting and auditing the books and records for the Site; and taxes.

On or before January fifteenth of each year, Owner shall submit to the Agency a report documenting the Net Cash Flow received from each unit on the Site, and statements demonstrating that the Net Cash Flow has been deposited into the Reserve Accounts. Upon request for examination by Agency or its designee, Owner, at any time during normal business hours, shall make available all of its records related to the Reserve Accounts and Net Cash Flow. Owner shall permit Agency or its designee to audit, examine and make excerpts or transcripts from these records at Agency's expense.

5. PRESERVATION AND MAINTENANCE OF THE PROJECT. Owner shall keep the Affordable Units in good condition, order and repair and shall not commit waste or permit impairment, demolition or deterioration of the Affordable Units other than ordinary wear and tear.

6. AGENCY'S RIGHT TO INSPECT. Agency shall have the right to inspect the Site to ensure compliance with the terms of this Covenant upon reasonable notice to Owner.

7. RENTAL AGREEMENT. Owner shall include language in each rental or lease agreement for the Affordable Units requiring that the tenant occupy the Affordable Units as a primary residence and expressly prohibiting the subletting of the Affordable Units.

8. NO DISCRIMINATION. Owner covenants that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, gender, sexual orientation, age, marital status, physical or mental handicap, medical condition, place of birth, national origin or ancestry in the sale, lease, sublease, transfer, use,

occupancy, tenure or enjoyment of the Site, nor shall the Owner itself or any person claiming under or through it 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, subtenants, sublessees or vendees in the Site.

9. TRANSFER RESTRICTIONS. Owner shall not assign or transfer this Covenant or the Site, or any portion thereof, without the prior written approval of Agency's Executive Director, which approval shall not be unreasonably withheld or delayed, and shall be contingent upon the proposed purchaser or assignee entering into a written assignment and assumption agreement in a form and content reasonably satisfactory to Agency's legal counsel.

10. NO IMPAIRMENT OF LIEN. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Covenant shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Owner to the Site shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

11. DURATION. The requirements contained in this Covenant shall remain in effect in perpetuity pursuant to California Redevelopment Law and further extended as a condition of the project grant from the Redevelopment Agency of the City of Davis.

12. SUCCESSORS AND ASSIGNS. Subject to the restrictions on transfer set forth in Section 9 above, the requirements contained in this Covenant shall run with the land and be binding upon Owner and any successor in interest to the Site or any part thereof, for the benefit of the Agency, and its successors and assigns for the entire period during which such covenants shall be in force and effect, without regard to whether the Agency is or remains an owner of any land or interest therein to which such covenants relate.

13. REMEDIES. In the event of any breach of the terms or provisions of this Covenant, the Agency and its successors and assigns shall have the right to exercise any and all rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach. The covenants contained in this Covenant shall be enforceable only by the Agency and its successors and assigns.

14. AMENDMENT. The terms of this Covenant may only be modified by written agreement, signed by duly authorized representatives of both Agency and Owner, which amendment shall be recorded.

IN WITNESS WHEREOF, the Agency and Owner have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized on this, the ___ day of _____, 2009.

OWNER:

AGENCY:

HOUSING AUTHORITY OF THE
COUNTY OF YOLO

By: _____
LISA A. BAKER
Executive Director

Approved as to form:

SONIA CORTÉS
Agency Attorney

REDEVELOPMENT AGENCY OF THE
CITY OF DAVIS

By: _____
BILL EMLÉN
Executive Director

Approved as to form:

HARRIET STEINER
Agency Attorney

State of California)
) SS
County of _____)

On _____ before me, _____
personally appeared _____ who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing is true and correct.

Witness my hand and official seal.

(Signature)

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State of California )  
 ) SS  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_ who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the  
instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing is true and correct.

Witness my hand and official seal.

\_\_\_\_\_  
(Signature)



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE SITE**

All that real property situated in the City of Davis, County of Yolo, State of California, described as follows:

ATTACHMENT A

The legal description of the subject parcel is as follows:

All that portion of the East one-half of Section 10,  
Township 8 North, Range 2 East, M.D.B.&M., described  
as follows:

21-9  
Alice St

BEGINNING at a point on a fence line from which the  
Northeast corner of said Section 10 bears North  
00° 33' East 502.00 feet; thence South 89° 15' 30"  
East 1291.80 feet and thence North 00° 34' 30" East  
1314.00 feet; thence from said point of beginning  
North 89° 27' West 60.00 feet; thence South 00° 33'  
West 101.72 feet; thence curving to the right on an  
arc of 1050.50 feet radius, said arc being subtended  
by a chord bearing North 88° 54' 45" East 60.03 feet  
to a point on said fence line; thence along said  
fence line North 00° 33' East 100.00 feet to the point  
of beginning.

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OFFICIAL RECORDS  
YOLO CO. - CALIF.  
RECORD REQUESTED BY:  
CITY OF DAVIS

Nov 13 9 18 AM '79

PETER J. LAWLEE  
COUNTY RECORDER

21475

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