

TRI POINTE HOMES, INC.

FORM 8-K

(Current report filing)

Filed 04/01/14 for the Period Ending 03/28/14

Address	19520 JAMBOREE ROAD, SUITE 200 IRVINE, CA 92612
Telephone	(949) 478-8600
CIK	0001561680
Symbol	TPH
SIC Code	1531 - Operative Builders
Industry	Construction Services
Sector	Capital Goods
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) March 28, 2014



TRI Pointe Homes, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

1-35796
(Commission
File Number)

27-3201111
(IRS Employer
Identification No.)

19520 Jamboree Road, Suite 200, Irvine, California
(Address of principal executive offices)

92612
(Zip Code)

Registrant's telephone number, including area code (949) 478-8600

Not Applicable
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-
-

Item 1.01 Entry into a Material Definitive Agreement

On March 28, 2014, TRI Pointe Homes, Inc. (the “Company”) entered into a Second Agreement to Modify Loan Documents dated as of March 25, 2014 (the “Second Modification Agreement”) with California Bank & Trust to increase the commitment amount under its secured revolving credit facility (the “Revolving Credit Facility”) from \$30,000,000 to \$50,000,000 and to extend the final maturity date of the Revolving Credit Facility from April 19, 2015 to April 19, 2016, subject to specified conditions. The Revolving Credit Facility and the Second Modification Agreement contain representations and warranties of the Company. The assertions embodied in those representations and warranties were made solely for the purposes of the Revolving Credit Facility and the Second Modification Agreement and may be subject to important qualifications and limitations. Moreover, some of those representations and warranties may not be accurate or complete as of any specified date, are subject to a contractual standard of materiality different from that generally applicable to investors, are subject to material adverse effect qualifications, or may be used for the purpose of allocating risk between the parties rather than establishing matters of fact. In addition, certain of these representations and warranties are subject to knowledge qualifications, which means that they would not be deemed untrue, inaccurate or incorrect as a result of matters of which specified persons making the representation and warranty did not have actual knowledge. Accordingly, the representations and warranties in the Revolving Credit Facility and the Second Modification Agreement must not be relied upon as statements of factual information.

The foregoing description of the Second Modification Agreement is not complete and is qualified in its entirety by reference to the Second Modification Agreement, a copy of which is filed as an exhibit to this Current Report on Form 8-K which and is hereby incorporated by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Agreement of a Registrant.

The information set forth in Item 1.01 above is hereby incorporated by reference into this Item 2.03, insofar as it relates to the creation of a direct financial obligation.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

10.1 Second Agreement to Modify Loan Documents, dated as of March 25, 2014, by and between TRI Pointe Homes, Inc. and California Bank & Trust.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: April 1, 2014

TRI Pointe Homes, Inc.

By /s/ Michael D. Grubbs
Michael D. Grubbs,
Chief Financial Officer
and Treasurer

INDEX OF EXHIBITS

<u>Exhibit No.</u>	<u>Description of Document</u>
10.1	Second Agreement to Modify Loan Documents, dated as of March 25, 2014, by and between TRI Pointe Homes, Inc. and California Bank & Trust.



SECOND AGREEMENT TO MODIFY LOAN DOCUMENTS

THIS SECOND AGREEMENT TO MODIFY LOAN DOCUMENTS (“**Agreement**”), dated as of March 25, 2014, by and between CALIFORNIA BANK & TRUST, a California banking corporation (“**Lender**”), and TRI POINTE HOMES, INC., a Delaware corporation formerly known as TRI POINTE HOMES, LLC, a Delaware limited liability company (“**Borrower**”), is made with reference to the following facts:

RECITALS

A. Lender and Borrower previously entered into that certain Amended and Restated Revolving Line of Credit Loan Agreement (Borrowing Base) dated as of May 29, 2012 (as the same has been or may be amended from time to time, including by that certain First Agreement to Modify Loan Documents dated as of December 21, 2012, “**Loan Agreement**”), whereby Lender has extended to Borrower a loan in the maximum principal amount of Thirty Million Dollars (\$30,000,000.00), for the purpose of providing Borrower with funds for the development of residential lots, the construction of existing and future residential home projects within the state of California (individually, a “**Qualified Project**”, collectively “**Qualified Projects**”), and the issuance of letters of credit for the payment of costs incurred or associated with said projects (as the same has been and may be amended from time to time, “**Loan**”).

B. The Loan is evidenced by that certain Second Amended and Restated Construction Loan Promissory Note (Construction Revolving Line of Credit) dated as of May 28, 2013, in the original face amount of Thirty Million Dollars (\$30,000,000.00) (as the same has been or may be amended from time to time, “**Prior Note**”), in the amount of the Loan.

C. As Qualified Projects are admitted into the Loan, as provided in the Loan Agreement, Borrower’s obligations under the Loan shall be secured by, among other things, each and every “**Deed of Trust**” and certain other “**Security Documents**” (both as defined in the Loan Agreement) pursuant to which Borrower shall grant to Lender a first and prior lien on and security interest in all the real and personal property comprising each said Qualified Project.

D. All of the documents evidencing or relating to the Loan, including without limitation the documents evidencing and relating to the modifications to the Loan set forth in this Agreement, collectively shall be referred to as the “**Loan Documents**.” All capitalized terms not specifically defined herein shall have the meanings given to such terms in the Loan Agreement.

E. Borrower has requested that Lender modify the Loan by, among other things:

(1) Increasing the amount of the Loan from the current maximum principal amount of Thirty Million Dollars (\$30,000,000.00) to Fifty Million Dollars (\$50,000,000.00) (“**New Loan Amount**”);

(2) Extending the “**Maturity Date**” (as defined in the Loan Agreement) of the Loan from the current date of April 19, 2015 to the new maturity date of April 19, 2016 (“**New Maturity Date**”), and

(3) Modifying certain other terms and conditions of the Loan Documents as set forth herein.

F. Lender is willing to consent to the modifications of the Loan Documents set forth herein subject to the conditions set forth below and in the (i) Second Amendment to Deed of Trust (Civita – San Diego), (ii) Third Amendment to Deed of Trust (River Walk), (iii) Third Amendment to Deed of Trust (Tamarind), (iv) Second Amendment to Deed of Trust (Brio – La Habra), (v) First Amendment to Deed of Trust (Avenswood), and (vi) First Amendment to Deed of Trust (Tamarind Lane II), all of even date herewith (collectively, “**Recorded Amendments**”). The date on which all of the conditions set forth herein are satisfied and the Recorded Amendments are recorded in the Official Records of each applicable County in which the underlying Deed of Trust is recorded, shall be referred to as the “**Modification Closing Date**.”

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the foregoing premises and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals**. The preamble, recitals and any exhibits hereto are hereby incorporated into this Agreement.

2. **Extension of the Maturity Date**. From and after the Modification Closing Date, in connection with the extension of the term of the Loan to the New Maturity Date, the definitions of “**Initial Line Maturity Date**,” “**Initial Line Period**” and “**Maturity Date**” (all as defined in the Loan Agreement) shall be deleted in their entirety and replaced by the following new definitions:

“**Initial Line Maturity Date**” shall mean April 19, 2015.

“**Initial Line Period**” shall mean that certain Loan period ending on the Initial Line Maturity Date (i.e., April 19, 2015).

“**Maturity Date**” means (a) the final maturity date — i.e., April 19, 2016, subject to extension of the maturity of the Loan during the Reduction Period as set forth in Section 2.1.7(a) below, or (b) such earlier date upon the acceleration of the repayment of the Loan as provided in the Loan Documents after the occurrence of the Event of Default.

3. **Modification of the Loan Amount**.

3.1 **Increase in the Amount of the Loan**. From and after the Modification Closing Date, the amount of the Loan is increased from the current maximum principal amount of Thirty Million Dollars (\$30,000,000.00) to the New Loan Amount of Fifty Million Dollars (\$50,000,000.00). All references in the Loan Documents to the amount of the Loan shall be revised to refer to the New Loan Amount set forth herein.

3.2 **Increase in the Amount of the Prior Note**. As a result of the increase in the amount of the Loan, from and after the Modification Closing Date, the face amount of the Note shall be increased from the maximum principal amount of Thirty Million Dollars (\$30,000,000.00) to the New Loan Amount of Fifty Million Dollars (\$50,000,000.00). All references in the Loan Documents to the face amount of the Prior Note shall be revised to refer to the New Loan Amount set forth herein.

3.3 Restatement of the Prior Note. Borrower shall execute and deliver to Lender a Third Amended and Restated Construction Loan Promissory Note (Construction Revolving Line of Credit) of even date herewith (the Prior Note, as amended by said document, is hereafter referred to as the “**Note**”) evidencing the increase in the amount of the Loan. All references in the Loan Documents to the Prior Note are revised to refer to the Note, as amended and restated.

4. Modification Of Definitions. The following definitions are deleted in their entirety and replaced with the following or added to the Loan Agreement:

4.1 The definition of “**Commitment Amount**” (as defined in the Loan Agreement) deleted in its entirety and replaced by the following new definition:

“**Commitment Amount**” means (a) during the Initial Line Period, the sum of Fifty Million Dollars (\$50,000,000.00), and (b) during the Reduction Period, beginning upon the last day of the first Calendar Quarter following the Initial Line Maturity Date, and on or prior to the last day of each Calendar Quarter thereafter during the Reduction Period, the Commitment Amount shall be reduced in the amount of Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) (each, “**Reduced Commitment Amount**”), until the fourth Calendar Quarter at which time the Commitment Amount shall be reduced to zero:

<u>Date</u>	<u>Reduced Commitment Amount</u>
Initial Line Maturity Date	\$ 50,000,000.00
End of First Calendar Quarter	\$ 37,500,000.00
End of Second Calendar Quarter	\$ 25,000,000.00
End of Third Calendar Quarter	\$ 12,500,000.00
End of Fourth Calendar Quarter	\$ 0.00

4.2 Subsections (b) and (c) of the definition of “**Maximum Aggregate Loan Allocation(s)**” (as defined in the Loan Agreement) deleted in their entirety and replaced by the following new definitions:

(b) With respect to all Lots to be included in the Borrowing Base, (“**Lot Concentration Limitation**”):

(1) For all Qualified Projects financed hereunder, the aggregate Loan Allocations for all Lots Under Development and Developed Lots for all said Qualified Projects (whether Advances have been made and/or have been committed but have not yet advanced) shall not exceed fifty percent (50%) of the Commitment Amount (*i.e.* , \$25,000,000.00 in the aggregate); and/or

(2) For each and every Qualified Project financed hereunder, the total number of Lots Under Development and Developed Lots shall not exceed the lesser of: (A) twenty-four (24) months’ appraised absorption per Qualified Project; or (B) twenty-four (24) months’ actual absorption per Project, as determined by Lender from time to time based upon the actual prior three-month Home sales average for said Qualified Project.

(c) With respect to all Spec Homes to be included in the Borrowing Base (“**Spec Home Concentration Limitation**”):

(1) For all Qualified Projects financed hereunder, the aggregate Loan Allocations for all Spec Homes for all said Projects (whether Advances have been made and/or have been committed but have not yet advanced) shall not exceed thirty percent (30%) of the Commitment Amount (*i.e.* , \$15,000,000.00 in the aggregate); and/or

(2) For each and every Qualified Project financed hereunder, the total number of Spec Homes shall not exceed the lesser of: (A) twelve (12) Spec Homes for the subject Project; (B) four (4) months’ appraised absorption for the subject Project; or (C) four (4) months’ actual absorption for the subject Project, as determined by Lender from time to time based upon the actual prior three-month Home sales average for said Qualified Project.

5. Letter of Credit Line. The following definitions related to the “**Letter of Credit Line**” (as defined in the Loan Agreement) shall be deleted in their entirety and replaced by the following new definitions:

“**Letter of Credit Line**” shall mean that certain line of credit to be provided under the Loan for the purposes set forth in Section 2.3 of this Agreement, which line of credit shall not exceed at any time the sum of Five Million Dollars (\$5,000,000.00). The Letter of Credit Line shall be a revolving line of credit. Prior to the Maturity Date, the Letter of Credit Line may be drawn, repaid and drawn again through individual Advances in repetition, subject to the limitations herein, so long as:

(1) The sum of (a) the amounts outstanding on the Letter of Credit Line, and (b) the cumulative Letter of Credit Line amounts that are committed but not yet advanced on the Letter of Credit Line, never exceed the LOC Total Commitment Amount; and

(2) The sum of (a) the amounts outstanding on the Loan, and (b) the cumulative Loan amounts that are committed but not yet advanced on the Loan, never exceed the Commitment Amount;

(3) No Event of Default has occurred and is continuing.

Upon the Maturity Date, if the Loan is not renewed as provided herein, all amounts outstanding on the Letter of Credit Line shall be repaid during the Reduction Period as set forth herein.

“**LOC Maximum Commitment Amount**” shall mean the amount committed under each Letter of Credit, which sum shall not exceed the sum equal to (a) the lesser of (i) Five Million Dollars (\$5,000,000.00) or (ii) ten percent (10%) of the then applicable Commitment Amount, *less* (b) any outstanding committed portion of the Letter of Credit Line that Borrower has requested and Lender has approved in its discretion be available for disbursement under the Loan.

“ **LOC Total Commitment Amount** ” shall mean the sum of all amounts committed under any Letters of Credit issued hereunder plus all Letter of Credit Advances in the aggregate, which sum shall not exceed Five Million Dollars (\$5,000,000.00).

6. Modifications to Representations and Warranties and Covenants of Borrower . As a result of Borrower’s conversion from a limited liability company to a corporation, Sections 5.1.1, 6.1, 7.1, 7.3 and 7.4 of the Loan Agreement shall be deleted in their entirety and replaced as follows:

“ **5.1.1 Corporate Existence and Authorization** . Borrower is a corporation, validly organized and lawfully existing under the laws of the State of Delaware, is qualified to do business in and is in good standing under the laws of the State of California and Delaware, and has the requisite power and authority to execute, deliver, and perform the Loan Documents. The execution, delivery, and performance by Borrower of the Loan Documents have been duly authorized by all requisite corporate action by or on behalf of Borrower and will not conflict with, or result in a violation of or a default under, the Organizational Documents of Borrower.

6.1 Corporate Existence . Borrower shall continue to be a corporation, validly existing under the laws of the State of California and Delaware.

7.1 Corporate Restrictions . Borrower will not be dissolved or liquidated. Borrower will not amend, modify, restate, supplement, or terminate any of its Organizational Documents in a manner that is adverse to Lender, Borrower will not consolidate or merge with any corporation, any other limited partnership, any limited liability company, or any other Person unless Borrower is the surviving entity in such transaction and such transaction does not result in any Unmatured Event of Default or Event of Default.

7.3 Change in Ownership . Borrower will not suffer to occur or exist, whether occurring voluntarily or involuntarily, any change in the direct or indirect legal or beneficial ownership of more than forty-nine percent (49%) of the capital stock in Borrower. In addition, any change that would result in less than two of the following persons acting as executive officers of Borrower – Douglas F. Bauer, Thomas J. Mitchell and/or Michael D. Grubbs – shall not be permitted without the prior consent of Lender at its sole discretion.

0.1 Loans . Borrower will not directly or indirectly in relation to any Qualified Projects (i) make any loan or advance to any other Person other than purchase money loans made in the ordinary course of business and advances made in the ordinary course of constructing the infrastructure for said Project to Persons engaged in such construction, purchase or otherwise acquire any capital stock or any securities of any other Person, any limited liability company interest or partnership interest in any other person, or any warrants or other options or rights to acquire any capital stock or securities of any other person or any limited liability company interest or partnership interest in any other Person, (ii) otherwise invest in or acquire any interest in any other Person, (iii) guarantee or otherwise become obligated in respect of any indebtedness of any other Person, or (iv) subordinate any claim against or obligation of any other Person to Borrower to any other indebtedness of such Person. The restrictions set forth in this Section 7.4 apply only to Qualified Projects, and shall not apply to any other projects in which Borrower may be directly or indirectly involved.”

7. Conditions Precedent. In no event shall Lender have any obligation to close this transaction unless and until all of the following conditions are satisfied:

7.1 No Defaults. There shall be no: (a) uncured, material default hereunder or under the Loan Documents, (b) continuing representation, covenant or warranty hereunder or under the Loan Documents that is false or misleading in any manner, and (c) event currently existing which, with the passage of time, will result in a material default or the falsity of any continuing representation, covenant or warranty hereunder or under the Loan Documents.

7.2 No Financial Change. There has been no material adverse change in the financial condition of Borrower since the closing of the Loan.

7.3 Payment of Lender's Costs. Borrower shall pay all of Lender's actual out-of-pocket costs and expenses incurred in connection with the documentation and closing of the modifications to the Loan Documents described herein, including without limitation all attorneys' fees and other closing fees and costs.

7.4 Additional Documents. Lender shall have received all additional documents executed by Borrower as required by Lender in connection with this Agreement.

7.5 Title Endorsement. Issuance to Lender of a CLTA Form 110.5(e) endorsement (or any substantially equivalent endorsement (s) as reasonably approved by Lender) to its ALTA Lender's Title Policy for the Deed of Trust in form satisfactory to Lender and insuring the continued first lien priority of the Deed of Trust, except as such exceptions as may be approved by Lender in its sole discretion.

8. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

8.1 No Default. No Event of Default under any of the Loan Documents has occurred that remains uncured, and no event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default or an Event of Default under any of the Loan Documents.

8.2 Representations and Warranties. As of the date hereof, all of the warranties and representations contained in all of the Loan Documents, as amended by the terms of this Agreement, remain true, correct, complete and accurate.

8.3 No Claims or Defenses. As of the date hereof, Borrower has no claims against Lender nor defenses to the enforcement of any of the Loan Documents in accordance with their respective terms, as amended by this Agreement.

8.4 Satisfaction of Conditions. All of the conditions precedent set forth in this Agreement have been fully satisfied.

8.5 No New Liens. Borrower has granted no liens upon the Property or security interests in the collateral described in the Loan Documents, except for the liens and security interests granted in favor of Lender.

9. Further Assurances. Borrower agrees to perform such other and further acts, and to execute such additional documents, agreements, notices or financing statements, as Lender deems necessary or desirable from time to time to create, preserve, continue, perfect, validate or carry out any of Lender's rights under this Agreement and the other Loan Documents.

10. Integration. All rights, remedies, powers and interest provided for Lender herein are in addition to the rights, remedies, powers and interests provided for Lender in the Loan Documents, the terms and provisions of which are incorporated herein by this reference and made a part hereof. If and to the extent any term or provision hereof is inconsistent with any term or provision of the Loan Documents, the term or provision of this Agreement shall prevail.

11. Entire Agreement; Amendments. This Agreement and the other Loan Documents contain the entire agreement between Borrower and Lender with respect to the Loan Documents, and all prior negotiations, commitments, understandings and agreements are superseded by this Agreement and the Loan Documents. No amendment, modification, supplement, extension, termination or waiver of any provision of this Agreement, any Loan Document, or any other agreement executed in connection with any of the foregoing shall be effective unless in writing and signed by Lender and Borrower, and then only in the specific instance and for the specific purpose given.

12. Governing Law. The Loan Documents shall be governed by, and construed and enforced in accordance with, the internal laws of the State of California, without regard to its conflict of laws principles.

13. Section Headings. The section headings of this Agreement are included for convenience only, and shall not affect the construction or interpretation of any provision of this Agreement.

14. Attorneys' Fees. If any action or other proceeding is brought to interpret or enforce any provision of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and expenses.

15. Binding Effect. This Agreement and the other Loan Documents shall be binding upon, and shall inure to the benefit of, Borrower and Lender and their respective successors and assigns, or heirs and personal representatives, as applicable.

16. Severability of Provisions. No provision of this Agreement or any other Loan Document that is held to be inoperative, unenforceable and invalid shall affect the remaining provisions, and this and all provisions of this Agreement and the Loan Documents are hereby declared to be severable.

17. Miscellaneous. No reference to this Agreement is necessary in any instrument or document at any time referring to the Loan Documents. A reference to the Loan Documents shall be deemed a reference to such document as modified hereby.

18. No Commitment. The furnishing of this Agreement and other modification documents shall in no way be construed as a commitment by Lender to modify, amend, extend or otherwise alter the Loan Documents. Lender shall be under no obligation to close the transaction evidenced by this Agreement unless this Agreement and all related documents are returned to Lender fully executed by Borrower, and unless this Agreement is actually executed by Lender and delivered to Borrower.

19. No Other Amendments. Except as expressly amended herein, the Loan Agreement, Note, Environmental Indemnity, any subordination agreement and all of the other Loan Documents remain unmodified and in full force and effect.

20. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which, when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

[The balance of this page is intentionally left blank.]

IN WITNESS WHEREOF, this Agreement has been executed by Borrower and Lender as of the date first above written.

BORROWER:

TRI POINTE HOMES, INC., a Delaware corporation

By: /s/ Michael D. Grubbs

Name: Michael D. Grubbs

Title: Chief Financial Officer

By: /s/ Douglas F. Bauer

Name: Douglas F. Bauer

Title: Chief Executive Officer

LENDER:

CALIFORNIA BANK & TRUST, a California banking corporation

By: /s/ Stefanus Junus

Name: Stefanus Junus

Title: Vice President