

FHA Loan Rider to NAHASDA Useful Life/Use Restriction

This RIDER TO THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT USEFUL LIFE/USE RESTRICTION is made as of [_____, 20__], by _____ (“Owner”) and _____ (“Tribe”).

WHEREAS, Owner has received an FHA Loan for the Property (as described in Exhibit A), and the loan is insured by the United States Department of Housing and Urban Development (“HUD”);

WHEREAS, Owner has received down payment assistance from the Tribe funded by its Indian Housing Block Grant (IHBG) pursuant to the Native American Housing Assistance and Self-Determination Act (NAHASDA), and the Tribe is requiring certain restrictions be recorded against the Property (the “Use Restriction”);

WHEREAS, HUD requires as a condition of its insuring Lender’s financing to the Property, that the lien and covenants of the Use Restriction be subordinated to the lien, covenants, and enforcement of the FHA loan; and

WHEREAS, the Tribe has agreed to subordinate the Use Restriction to the FHA loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree that notwithstanding any other clause or provision in Use Restriction to the contrary, so long as HUD or a successor or assignee of HUD is the insurer or holder of a loan secured by a mortgage on the Property, the following provisions shall apply:

- a. **In the event of conflict between any provision contained elsewhere in the Use Restriction and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.**
- b. As required by 24 C.F.R. § 203.41(c)(2), the Use Restriction automatically terminates if title to the mortgaged property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary of HUD.
- c. As required by 24 C.F.R. § 203.41(d), the Tribe’s recovery of any grant or loan made to the Owner is limited to repayment of the IHBG assistance (at a reasonable rate of interest) that the Tribe provided to make the property affordable as low- or moderate-income housing,
- d. As required by [24 C.F.R. § 203.41\(d\)](#), violation of the Use Restriction does not permit the Tribe or any other beneficiary of this restriction to void conveyance of the Owner’s interest in the property.
- e. Owner and Tribe acknowledge that Owner’s failure to comply with the terms of the Use Restriction does not and shall not serve as a basis for default under the FHA loan.

- f. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire () years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the ____ day of , 20____ (hereinafter the **Termination Date**).

As of the Termination Date, this Restriction shall expire by its own terms and this Land Restriction shall have no further force or effect and shall be extinguished and released without the execution or recording of any further documents.

SIGNATURE PAGE TO FHA LOAN RIDER

OWNER:

TRIBE:

By:

By:

Name:
Title:

Name:
Title:

STATE OF _____
COUNTY OF _____

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that on this _____, _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his/her free and voluntary act and the free and voluntary act of _____ for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[seal]

Notary Public

STATE OF _____
COUNTY OF _____

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that on this _____, _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his/her free and voluntary act and the free and voluntary act of _____ for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[seal]

Notary Public