

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

County of Sonoma
County Administration
575 Administration Drive
Santa Rosa, CA 945403
Attention: County Administrator

No fee for recording pursuant to
Government Code Section 27383

(Space above for Recorder's Use)

AFFORDABLE HOUSING DEED RESTRICTION

(Deed Restriction Required by California Revenue and Taxation Code Section 237)

RECITALS

- A. The Tribe is the owner of that certain real property located at _____, _____, California, identified as Sonoma County Assessor's Parcel No. _____, and more particularly described by the legal description that is attached hereto and incorporated herein by this reference as **Exhibit A** (the "Property").
- B. The Tribe acquired the Property using a block grant under the Native American Housing Assistance and Self-Determination Act of 1996, 25 U.S.C. §4101 et seq. ("NAHASDA") administered by the Secretary of Housing and Urban Development (the "Secretary") through the Office of Native American Programs of the Department of Housing and Urban Development ("HUD") for the purpose of maintaining affordable low income housing for members of the Tribe and other Indian tribes in Sonoma County, California.
- C. Section 237 of the California Revenue and Taxation Code exempts from taxation property that is owned and operated by a tribe that is continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state, or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or rents that do not exceed those prescribed by the terms of the applicable federal, state, or local financing agreements or financial assistance agreements ("Tribal Housing Exemption"). California Revenue and Taxation Code Section 237 permits a tribe to agree to make payments in-lieu of real property taxes to a county for services, including but not limited to police and fire protection, roads, water and sewage ("County Services"), so long as the payments do not exceed the estimated cost of the County Services provided.
- D. The County and the Tribe entered into that certain Local Cooperation Agreement for Low Income Indian Housing dated as of July 25, 2017 (the "Local Cooperation Agreement").

E. The Tribe and the County agree to this Deed Restriction as contemplated under the Local Cooperation Agreement to establish a deed restriction, agreement, or other legally binding document requiring that the property be used in compliance with California Revenue and Taxation Code Section 237(a)(2)(A) so that the Tribe can submit a claim for the Tribal Housing Exemption to the County Assessor. If the Property meets the requirements for the Tribal Housing Exemption under California Revenue and Taxation Code Section 237, the County Assessor will apply the property tax exemption, the County Tax Collector will generate an annual tax bill with any applicable direct charges, and the Tribe will be responsible for the PILOT payment as set forth in Section 5 of the Local Cooperation Agreement to be paid to the County Administrator's Office at the time real property taxes would be paid for deposit into the General Fund to offset the cost of County services provided for the benefit of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the promises set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows. The foregoing recitals are hereby incorporated by reference and made part of this Deed Restriction.

ARTICLE 1 AFFORDABILITY AND OCCUPANCY COVENANTS

Section 1.1 Affordable Housing Requirements.

(a) Affordable Units. During the Term (as defined below) the Property shall only be leased to low-income Indian families pursuant to NAHASDA, except that if the Property is comprised of more than one housing unit, then at least 30% of the housing units in the Property shall be occupied by or held for occupancy by low-income Indian families. The term 'low-income family' means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The Affordable Units shall be used only as residences for the Term of this Deed Restriction.

(b) Recordation of Deed Restriction. This Deed Restriction shall be duly executed by the County and the Tribe and recorded against the Property in the Official Records of the County of Sonoma.

Section 2.2 Term and Release of Property From Deed Restriction.

(a) Term. The term of this Deed Restriction (the "Term") shall commence on recordation of this Deed Restriction and shall expire on the first to occur of the following: (i) the "useful life" of the property under HUD regulations has come to an end and the Tribe no longer desires to use the home as an affordable housing unit; (ii) the Tribe no longer owns the property; or (iii) the Tribe or the County exercises its option to non-renew the Local Cooperation Agreement per its terms at the end of a renewal term. Upon the occurrence of any of the above circumstances, this Deed Restriction shall automatically terminate without any further action being required by either party hereto.

(b) Notice of Expiration. The Tribe shall provide notice to the County Administrator and the County Assessor at least 30 days in advance prior to any expiration of the Term.

ARTICLE 3 **DEFAULT AND REMEDIES**

Section 3.1 Default. Failure of the Tribe to cure any default in the Tribe's obligations under the terms of this Deed Restriction within thirty (30) days after the delivery of a written notice of default from the County (or such longer period of time up to an additional one hundred twenty (120) days as may be necessary to remedy such default, provided that the Tribe has commenced action during the thirty (30) days necessary to remedy such default, and the Tribe is proceeding with reasonable diligence to remedy such default) will constitute a default under this Deed Restriction, and, in addition to any other remedy authorized by law or equity for breach of this Deed Restriction, the County may exercise the following remedy with respect to the Tribe's failure to satisfy the terms of this Deed Restriction:

Reimbursement to the County of an amount equal to the difference between the in-lieu payments paid to the County and the real property taxes that would have been payable to the County without the exemption for the period of the default.

ARTICLE 4 **GENERAL PROVISIONS**

Section 4.1 Notices. All notices required pursuant to this Deed Restriction shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the Party to receive such notice at the address set forth below:

TO THE COUNTY:

County Counsel
Office of the Sonoma County Counsel
575 Administration Drive
Santa Rosa, CA 95403
ATTN: County Counsel
Tel: (707) 565-2421
Fax: (707) 566-2624

WITH A COPY TO:

County Administration
575 Administration Drive
Santa Rosa, CA 95403
ATTN: County Administrator
Tel: (707) 565-2431
Fax: (707) 565-3778

County Assessor
585 Fiscal Dr Rm 104
Santa Rosa, CA 95403
Tel: (707) 565-1888

TO THE TRIBE:

Federated Indians of Graton Rancheria
6400 Redwood Drive, Suite 300
Rohnert Park, CA. 94928
ATTN: Chairperson
Tel: (707) 566-2288
Fax: (707) 566-2291

WITH A COPY TO:

Maier Pfeffer Kim Geary & Cohen, LLP
1970 Broadway, Suite 825
Oakland CA 94612
ATTN: Jenny Y. Kim, Esq.
Tel: (510) 835-7910 Fax: (510) 835-3040

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 4.2 Entire Agreement. This Deed Restriction constitutes the entire agreement between the parties and supersedes any and all prior and contemporaneous arrangements and understandings between the parties with respect to the subject matter hereof, and no other agreement, statement, or promise made by the parties which is not contained in this Deed Restriction shall be binding or valid. No modification of this Deed Restriction shall be binding unless reduced to writing and signed by the parties.

Section 4.3 Interpretation. The parties to this Deed Restriction have read and reviewed this Deed Restriction and agree that this Deed Restriction reflects the mutual intentions of the parties and any rule of construction (including, but not limited to, Civil Code Section 1654 as may be amended from time to time) to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretations of this Deed Restriction. The terms of this Deed Restriction shall be interpreted so as to insure to the maximum extent possible that the Property is used for low income housing under the terms and conditions of NAHASDA.

Section 4.4 Applicable Law. The laws of the State of California shall govern this Deed Restriction.

Section 4.5 Amendment of Deed Restriction. This Deed Restriction, and any section, subsection, or covenant contained herein, may be amended only upon the written consent of the County and Tribe.

Section 4.6 Further Assurances. The parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Deed Restriction.

Section 4.7 Multiple Originals; Counterpart. This Deed Restriction may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 4.8 Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Deed Restriction is to be held invalid, void or unenforceable by any court of competent jurisdiction, or if any provision of this Deed Restriction is rendered invalid or unenforceable pursuant to any California statute which became effective after the effective date of this Deed Restriction, the remaining portions of this Deed Restriction shall nevertheless remain in full force and effect.

[remainder of page is intentionally blank – signatures follow on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Deed Restriction to be executed as of the day and year first above written.

TRIBE:

FEDERATED INDIANS OF GRATON
RANCHERIA, a federally recognized Indian tribe

By: _____

(Print Name): _____

Title: _____

COUNTY:

COUNTY OF SONOMA, a political subdivision of the State of California

By: _____

(Print Name): _____

Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, the undersigned, a notary public for the state, personally appeared _____, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of _____, a credible witness who is known to me and provided a satisfactory identifying document. _____, being by me duly sworn, deposed and said that he/she/they was present and saw/heard _____, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of _____.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, the undersigned, a notary public for the state, personally appeared _____, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of _____, a credible witness who is known to me and provided a satisfactory identifying document. _____, being by me duly sworn, deposed and said that he/she/they was present and saw/heard _____, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of _____.

WITNESS my hand and official seal.

Signature _____

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY