

2020-015134

Klamath County, Oregon

11/19/2020 01:23:01 PM

Fee: \$97.00

When recorded please return to:

Cowlitz Indian Tribal Housing
107 Spencer Rd
Toledo, WA 98591

Recording Stamp or numbers:

RECIPIENT GUIDANCE 2014-09(R)

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-
DETERMINATION ACT USEFUL LIFE/USE RESTRICTION**

(Indian Housing on Fee Land with Pro-rated Recovery Amount)

Address: 3843 Kelley Dr., Klamath Falls, OR 97603

Located at: Tax parcel No: R-3909-015AA-01200-000

Legal description: Lot 12 in Block 1 of Kelene Gardens, according
to the official plat thereof on file in the office of the County Clerk,
Klamath County, Oregon.

This Affordable Native American Useful Life/Use Restriction, a covenant running with the land, (hereinafter the **Land Restriction**), dated this 18TH day of November, 2020, for good and valuable consideration, is hereby declared covenanted and made by Brandon Quirk & Kiana Rookstool, (hereinafter the **Owner**), who is the owner of the Property. The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by **Cowlitz Indian Tribal Housing**, a tribally designated housing entity, (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. DEED RESTRICTED

1.1 Use Restrictions. The Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income. The terms "federally recognized tribe," "State recognized tribe" and "low-income" are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

1.2 Subsequent Owners. Family or household members who take Subsequent Ownership will not be subject to the binding agreement. However, the binding commitment will not terminate upon subsequent family/household ownership, the binding commitment will not apply to the family/household. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction for the remaining affordability period.

1.2 Restricting Owners. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property; however, subsequent Owners that are family members or household members are not subject to this Land Restriction. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction.

1.3 Covenant Running With the Land. The Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land until the Termination Date.

1.4 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire 10 years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the 18TH day of November , 2030 (hereinafter the Termination Date). ***As of the Termination Date, this Land 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.***

2.0 ENFORCEMENT

2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.

2.2 Due on Sale (OPTIONAL – Not applicable unless initialed by Owner and Tribe to this Land Restriction). The property described in this Land Restriction may not be sold or transferred without the Tribe's consent. Upon breach of this provision, the Tribe may declare all sums due under this Land Restriction immediately due and payable, unless prohibited by applicable law.

• DE
Tribe (Initials)

* BQ KR
Owner (Initials)

2.3 Recovery of Amounts Contributed by the Tribe. (1) The Tribe has contributed through loan(s) or grant(s) \$ 35,000 (Thirty Five Thousand Dollars) to the Owner or Property and shall be entitled to recover some or all of this **DPA amount (Down Payment Assistance)** as follows:

If the Property consists of a single family unit, the Tribe shall be entitled to recover the following declining amounts for any violation of the Land Restriction agreement during the duration of this Land Restriction:

Before or within one (1) year of the date of home purchase	100% of the DPA
After one (1) year but within two (2) years of the date of home purchase	90 % of the DPA
After two (2) years but within three (3) years of the date of home purchase	80% of the DPA
After three (3) years but within four (4) years of the date of home purchase	70 % of the DPA
After four (4) years but within five (5) years of the date of home purchase	60 % of the DPA
After five (5) years but within six (6) years of the date of home purchase	50 % of the DPA

After six (6) years but within seven (7) years of the date of home purchase	40 % of the DPA
After seven (7) years but within eight (8) years of the date of home purchase	30 % of the DPA
After eight (8) years but within nine (9) years of the date of home purchase	20 % of the DPA
After nine (9) years but within ten (10) years of the date of home purchase	10 % of the DPA
After ten (10) years but within eleven (11) years of the date of home purchase	-0- % of the DPA

If the property is not a single family unit, the Tribe shall be entitled to recover the full amount contributed for any violation of the Land Restriction agreement during the duration of this Land Restriction.

2.4 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property (excluding any foreclosing financial institution), shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

3.1 Notice. The Owner, and any subsequent owner of the Property, is obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: Cowlitz Indian Tribal Housing 107 Spencer Road Toledo, WA 98591 that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than sixty (60) days prior to the Owner binding itself to such action(s).

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Owner and subsequent owners in finding individuals eligible under this Land Restriction agreement to occupy, rent, lease, purchase, or obtain title to the property.

3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the Secretary of the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to its Secretary, 25 U.S.C. § 4135(a)(2). In section 1.4 of this Land Restriction agreement, a Term has been set for this Land Restriction and that Term should not be less than what is acceptable to the Secretary of HUD based on the nature and the amount of IHBG funds to this Property. The Tribe should ensure that a Land Restriction has been obtained for a Term that meets HUD's standards.

5.0 MISCELLANEOUS

5.1 Amendment. Any amendment to this Land Restriction by an Owner of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement.

5.2 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.3 Homestead Waiver. This Land Restriction is prior and superior to any Owner right to a homestead exemption under applicable law. Owners of the Property waive their homestead rights to extent that they are in conflict with the rights and remedies set out in this Land Restriction.

Executed as of the date first written above.

OWNER:

*

Signature

*

Signature

SUBSCRIBED AND SWORN BEFORE ME this 13 day of November, 20 20

Lisa Legget-Weatherby
NOTARY PUBLIC in and for the State of
Oregon at Klamath

My commission expires 10/1/2023

CONCURRED IN BY THE TRIBE
(IF DIFFERENT FROM OWNER)

Tribe: Cowlitz Indian Tribal Housing

Signature: Dana Ecklund

Name & Title:

Dana Ecklund, Housing Director

Date: November 13, 2020

