

# **REDDING RANCHERIA TRIBAL GOVERNMENT POLICIES**

## **Chapter TP 7-300**

### **Home Equity and Real Estate Assistance Loan Program**



**September 5, 2023**

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#### SECTION 1: PURPOSE

To promote the general welfare by assisting all Tribal households to purchase or improve a home to fulfill the original promise, when the Federal Government purchased the reservation in 1923, of providing a secure home for Tribal members;

To overcome the barriers to home ownership faced by Tribal members for reasons of history and current circumstance;

To improve the living conditions for Tribal members who have historically lived in substandard or overcrowded housing or who have spent more than an appropriate amount of their income for housing by providing home ownership assistance to all Tribal households; and

To assist and encourage Tribal members who have achieved basic home ownership to make long-term investments in land and real estate with the goal of reversing patterns caused, in part, by the federal policies of assimilation and termination, during which Tribal member land holdings were diminished; and

To foster self-determination through holdings that are not tied to current Tribal revenues, while promoting the preservation of the Tribe's cultural and traditional ties to the land.

#### SECTION 2: BACKGROUND AND INTENT

(a) Promotion of the General Welfare / Addressing Tribal Needs and Goals

This program is designed to promote the general welfare of the Redding Rancheria and to address specific Tribal needs and goals. This program was developed taking into account specific facts and circumstances of the Redding Rancheria, including needs and goals unique to the Tribe's culture, history, traditions, and demographics. Providing adequate housing for Tribal members was a primary purpose for the creation of the Redding Rancheria and remains a central goal and justification for the reorganization of the Tribal Government. The original Redding Rancheria, consisting of 30.89 acres, was purchased by the United States in 1923, with appropriation to acquire land for "homeless" California Indians.

Congress had begun to appropriate funds to purchase land for homeless California Indians in 1906 based on the 1905 report by Special Agent for California Indians, C.E. Kelsey. His report detailed the deplorable living conditions faced by California Indians at the turn of the century, most of whom were considered landless by the non-Indian communities which grew up around them. In 1853, the U.S. Senate had refused to ratify the 18 treaties that had been negotiated with California Tribes. Ratifications of the

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treaties might have avoided the reduction of the California Indian population from an estimated 150,000 in 1850 to approximately 16,000 in 1905. Kelsey concluded in his report that the major cause for this drastic reduction in population was the landless condition of California's native inhabitants. He speculated that a program of acquiring small tracts of land for these homeless Indians could do "belated justice" by providing secure homes where the Indians could live. Sadly, the Redding Rancheria lands, like many others, never lived up to this initial promise.

The Rancheria is located just outside the southern boundary of the City of Redding in Shasta County. The federal recognition of the Rancheria was subsequently terminated in 1962, pursuant to the California Rancheria Act. As a result of its termination, the Rancheria did not receive any support from the Federal Government from 1962 until the Rancheria was restored by a Stipulated Judgment in *Hardwick v. United States* on December 22, 1983.

During that time, the Rancheria was fully subjected to State jurisdiction and taxation, Tribal members were forced to move away from the Reservation, and Reservation lands passed out of Indian ownership due to the inability of Tribal members to pay local property taxes. The Tribe had no tribally owned lands as a result of the termination of its federal recognition.

The road serving the Rancheria was poorly constructed and maintained. There was inadequate water on the Rancheria for those Tribal members who remained. There was no fire protection or other public services available to the residents of the Rancheria. In 1995, the Tribe discovered that it had methane gas in its on-Reservation well which served the residents of the Rancheria. As a result of this water crisis, the Tribe was forced to negotiate an emergency water connection to the water distribution system operated by the City of Redding. The City agreed to an emergency connection only for a six-month period. Subsequently, the Tribe and the City negotiated a long-term agreement pursuant to which the City furnishes water to the Reservation, however the Tribe must pay over \$200,000 per year in addition to the City's standard water fees.

Only since 1995 has the Tribe begun to develop financial resources with which to address the housing and related infrastructure needs of Tribal Members. Since 1995, the Tribe has reconstructed the road serving the Rancheria with curb, gutter, and sidewalk, has installed street lights and a system of fire hydrants with adequate water pressure and a new water distribution system to accommodate the increased water pressure from the City of Redding's system. The Tribe has also financed the construction of

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a 16,000 square foot Tribal Administration building, a community center, and a Head Start preschool for 41 children.

Because of the central importance of housing to the tribal community, the Tribe has constructed 11 homes for Tribal Members, including four manufactured homes, with funds available from the Bureau of Indian Affairs (BIA) and the United States Department of Housing and Urban Development (HUD).

Total Tribal membership currently consists of 393. This includes 205 adults and 188 minors. Approximately 15 families, containing 20 Tribal members, reside on the Reservation. Because of the Tribe's limited land holdings, there is no space to house additional families on-reservation. Approximately 140 households reside off the Reservation, over 100 of which live in the local area surrounding the Reservation, including the Cities of Redding and Anderson in Shasta County.

Prior to May 1, 1993, 55% of the Tribal members were unemployed. Forty-five percent received some form of public assistance, including AFDC, Supplemental Security Income, Food Stamps, and Medi-Cal. When this policy was initially adopted in 2000, 39 Tribal households had family incomes at or below 80% of the median household income for Shasta County. Thirty-nine households had family incomes at or below 100% of the median household income. Ten households had incomes at or below 120% of the median family income. Families with these annual incomes qualified as low-income and moderate-income families for purposes of housing assistance available through HUD.

When the program was adopted in 2000, 35 percent of Tribal member households paid more than 30% of their incomes for housing. A total of 16% lived in substandard housing in that the housing failed to comply with Shasta County Building Codes. Twenty-one percent lived in overcrowded conditions.

When the program was adopted, it was estimated that less than 10% of Tribal members could afford to purchase a home at the then median home price in Shasta County, \$125,000, given that such a purchase would have required savings of approximately \$30,000 for the down payment and closing costs and an annual income of \$40,800. It was also deemed likely that even fewer families would qualify for a loan from a bank or savings and loan association, given Tribal Members' credit and employment histories, and the traditional separation of Tribal Members from the surrounding non-Indian community.

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Since the program was established in 2000, Tribal members have experienced an increase in home ownership, and the Redding Rancheria has made progress on its road to self-determination. However, during this same time period, the median home price in Shasta County has fluctuated drastically, increasing to \$309,000, as of 2009, dropping in 2011 with the recession, and gradually rising again through the date of this policy revision, requiring the Tribe to reassess the dollar amounts necessary to achieve program purposes. Since program implementation, the Tribal Members have also experienced new opportunities, many short-term in nature, that could steer them away from traditional reliance on the land. The Redding Rancheria continues to believe that true long-term success of the Tribe and the self-determination of its members will depend on home ownership and its traditional and cultural ties to the land. The Redding Rancheria desires to encourage its members to make such long-term commitments (despite other short-term opportunities) to foster self-determination for generations to come.

The Redding Rancheria Tribal Government also recognizes that it will take more than financial resources to reverse the above-mentioned historic patterns, and that it may take generations of prosperity, education, and experience to reverse generations of poverty and a reduced reliance on the land and community. The Redding Rancheria recognizes that some members with greater access to financial resources may actually be less inclined to make long term investments in land and homes, and that the program must continue to evolve in order to meet its original long terms goals.

(b) Coverage under the Redding Rancheria General Welfare Ordinance

This program and its associated benefits are authorized pursuant to the Redding Rancheria General Welfare Ordinance and Chapter TP 1-1100 of the Redding Rancheria Tribal Governmental Policies, as the same may be amended from time to time, and shall be administered in accordance and compliance therewith. Program benefits are intended to constitute Indian Tribal general welfare benefits excluded from taxable income under Internal Revenue Code Section 139E. Program benefits modeled after the IRS "safe harbor" rules are also intended to qualify for tax-free treatment under IRS Revenue Procedure 2014-35 and Notice 2015-34, as the same may be amended, which are looked to as good faith guidance by the Tribe in applying Code Section 139E pending the issuance of final regulations thereunder. All assistance provided in accordance with this policy is intended to qualify for favorable tax treatment to the fullest extent permitted by law.

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The provisions of Chapter TP 1-1100 of the Redding Rancheria Tribal Governmental Policies are hereby incorporated by reference and shall apply to the implementation and benefits authorized by this policy.

### SECTION 3: DEFINITIONS

As used within this Chapter, the following terms shall mean:

- (a) Administrator: The Chief Executive Officer of the Redding Rancheria or authorized designee.
- (b) Chief Executive Officer (CEO): The Chief Executive Officer of the Redding Rancheria.
- (c) On or Near the Reservation: The term "On or Near the Reservation" shall refer to Reservation lands currently or hereafter held in trust by the United States Government for the benefit of the Tribe, as well as lands designated by the Redding Rancheria Tribal Council, or as otherwise recognized in the laws of the Tribe, as having significant socio-economic ties to the Reservation, taking into account proximity, concentration of membership residing in a given geographic area, limitations on the availability of Reservation housing, and historic tribal boundaries.
- (d) Mortgage Assistance: Mortgage Assistance shall include full or partial payment (or forgiveness) of a mortgage payment or payments on a loan held by the Tribe to a member qualifying for assistance under this program.
- (e) Principal Residence: A home in which the member applicant and/or spouse lives in a majority of each year, except for circumstances beyond control of the applicant, such as medical treatment or the need for assisted living, which require the member applicant to reside outside the home for a period of time. Principal Residences for Safe Harbor purposes may include the Principal Residence and ancillary structures that are not used for any trade or business, or for investment purposes.
- (f) Reservation: The Redding Rancheria Reservation lands. For purposes of the Safe Harbor rules, the term "Reservation" is further defined as necessary to comply with 26 U.S.C. Section 168(j), including "Indian country" as defined in Section 1151 of Title 18 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of the Tribe or individual or held by the Tribe or individual subject to a restriction by the United States against alienation.

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- (g) Safe Harbor: The term "Safe Harbor" shall refer to program benefits that qualify for tax-free treatment under IRS Notice 2014-35 and Notice 2015-34, as the same may hereafter be amended. In the event that the IRS issues future Safe Harbor guidance that eliminates or relaxes Safe Harbor requirements, the program shall be deemed to incorporate those changes for safe harbor treatment by reference and without the need for further amendment.
- (h) Tribe: The Redding Rancheria, a federally recognized Indian tribe in Redding, California.
- (i) Tribal Court: The Redding Rancheria Tribal Court.
- (j) Title Company: A company or business licensed by a state or government subdivision to issue title insurance policies, close transactions that transfer rights in real property, record records of transactions with local government, and settle and disperse escrow accounts.

Other terms utilized herein shall have the same meaning as defined within the General Welfare Ordinance.

#### SECTION 4: DELEGATED AUTHORITY

The CEO is hereby delegated all administrative authority to carry out the day-to-day operations of the program, in accordance with the General Welfare Implementing Policies – Chapter TP 1-1100 of the Redding Rancheria Tribal Government Policies.

#### SECTION 5: AUTHORIZED PROGRAMS AND SERVICES

- (a) Authorized Housing Assistance Loans
  - (1) Housing assistance loans shall be available to eligible applicants, as defined in Section 6 of this policy. The limits of Housing Assistance Loans may be changed by Tribal Council resolution, subject to budgetary constraints set by the General Membership of the Tribe, from time to time.
  - (2) Three housing assistance loans are authorized to be offered to eligible applicants, subject to change as described above in Section 5(a)(1), and the terms of this policy.
    - (A) Home Equity I Loans are hereby authorized to be offered to members who are currently eligible or become eligible on or



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before December 31, 2023. No member born after December 31, 1998 will be eligible for a Home Equity I loan.

(B) Home Equity II Loans are authorized to be offered to members who are currently 30 years of age and are otherwise eligible, and to those who reach 30 years of age on or before December 31, 2023. Effective January 1, 2024, program loan authorization extends only to members who have reached the age of 35 years and are otherwise eligible for Home Equity II loans.

(C) Home Equity III Loans are authorized to members who are 45 years of age or older, or who turn 45 years in 2018.

(b) Amount and Source of Housing Assistance Loans

(1) Housing loans of up to \$100,000 shall be available to eligible applicants. These dollar limits may be changed by Tribal Council resolution, subject to budgetary constraints set by the General Membership of the Tribe, from time to time, considering the cost and availability of suitable housing in the area.

(2) Loans will be made from the Redding Rancheria Housing Assistance Fund ("the Fund") established by the Tribe from funds appropriated pursuant to Tribal budget, including such funds as may be borrowed to finance the program, pursuant to this policy. Loans and other expenses of the program shall be subject to the availability of appropriations.

(c) Permissible Uses of Housing Assistance Loans

Housing assistance loans shall be available only for the following purposes:

(1) Construction, acquisition, rehabilitation, repair and maintenance, remodel or improvement of a principal residence.

(2) Mortgage reduction for home used as principal residence.

(3) Land or real estate investment property consistent with the Tribe's long-term goals of self-determination, provided the Tribal member has secured and maintains home ownership of his or her principal residence.

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- (4) Housing assistance loans may also include an advance of such amounts as are necessary to assist a homebuyer in qualifying for a third party loan, provided that the third party lender provides written assurance that it will fund the loan and the proceeds of the third party loan are applied to a purpose that would qualify hereunder, and that the disbursement is made under conditions that satisfy all security, repayment and other conditions of this policy. The CEO shall place time limits on the procurement of third party loan proceeds. If the third party loan is not funded in a timely manner, the advance must be repaid.
- (5) Housing Assistance loans may be used to pay liens or remove other encumbrances placed on the Tribal member's primary residence if such lien or encumbrance is being foreclosed upon, or other similar proceeding, and the property is subject to a forced sale that could alienate the property from the Tribal member's ownership. The Tribal member must sign a declaration stating that there are no other funds available to satisfy the lien.

(d) Housing Program Services and Expenses

Subject to the availability of appropriations, the costs of training, technical assistance, legal and professional fees, staff expenses and interest paid on indebtedness incurred to finance housing assistance loans are authorized.

(e) IRS Safe Harbor Housing Program

The following program benefits are intended to qualify for non-taxable treatment under Internal Revenue Code Section 139E and the IRS Safe Harbor guidance announced in IRS Revenue Procedure 2014-35 and Notice 2015-34, as the same may be updated from time to time:

- (1) Mortgage assistance for principal residences.
- (2) Mortgage assistance to enhance habitability of housing with regard to a principal residence, such as by remedying water, sewage, sanitation service, safety (including but not limited to mold remediation), or heating or cooling issues.
- (3) Mortgage assistance to provide basic housing repairs or rehabilitation with regard to a principal residence (including but not limited to roof repair and replacement).

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SECTION 6: ELIGIBILITY AND PRIORITY FOR HOUSING ASSISTANCE LOANS

(a) Eligibility

- (1) Home Equity I. All enrolled members of the Redding Rancheria who are age 25 years or older prior to December 31, 2023, who are establishing or have established a “household” and have not utilized any other loan authorized under this policy are eligible for a Home Equity I loan. Any unused Home Equity I loan proceeds not used by December 31, 2023 will remain available until fully expended by the borrower.
- (2) Home Equity II. All enrolled members of the Redding Rancheria who are 30 years of age or older on or before December 31, 2023 and are age 35 years thereafter, who are establishing or have established a “household” and have received a compliance certificate or did not participate in any previous loan authorized under this Policy, are eligible for a Home Equity II loan.
- (3) Home Equity III. All enrolled members of the Redding Rancheria who are 45 years of age or older, or become 45 years of age during the calendar year 2018, who are establishing or have established a “household” and have received a compliance certificate for a Home Equity II loan, as may be applicable, are eligible for a Home Equity III loan.

A member will be considered eligible in the calendar year in which they reach the age of eligibility as set forth above.

Members who meet the general eligibility requirements and who have received prior program loans must also obtain a “compliance certificate” with regard to any prior loan that remains active as of the date of his or her application.

(b) Definitions

- (1) A “household” means one or more persons living together as a family unit including the enrolled member applicant.
- (2) A “compliance certificate” shall be issued by the CEO upon review of an applicant’s prior loan file, if the CEO determines that the prior loan is in compliance with the terms and conditions of the program. The CEO may require additional or updated documentation or security,

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to the extent consistent with the program, prior to issuing a compliance certificate. A prior default will not disqualify an otherwise qualified applicant, provided that the applicant maintains a home or property equity in an amount at or above the prior default, or the applicant pledges additional security in an amount equal to the prior default.

(c) Priority

Priority for housing assistance loans shall be administered as follows:

- (1) The Tribal Council, within the Tribal Budget, shall set forth how many housing assistance loans will be available each calendar year, based on the amounts of appropriation.
- (2) Priority each year shall be given to those eligible members who have not previously received a housing assistance loan.
- (3) The Administrator shall maintain a priority list containing the names of all enrolled members who are eligible for housing assistance loans, and shall advise eligible members regarding their eligibility and the availability of loans at the beginning of each year. The priority list shall be updated each year, with the priority to be as follows:
  - (A) Eligible members who have not previously received a housing assistance loan, in descending order by age.
  - (B) Members who become eligible for a program loan during the calendar year in order of birth date (eldest first).
  - (C) Eligible members who have previously received an initial housing assistance loan under the program, who are eligible for a second housing assistance loan under the program, in descending order by age.
  - (D) The Administrator may give special consideration outside of the priority rules to eligible members who face homelessness due to an “emergency” beyond their control, such as fire or natural disaster.
- (4) Eligible members may, by written agreement satisfactory to the Administrator, exchange places on the priority list, provided that such agreement shall acknowledge that no guarantee is provided by the

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Tribe regarding the availability or time of future loans from the program.

- (5) If an eligible member notifies the Administrator that the member is not ready to use or chooses not to utilize a housing assistance loan during a year in which they are on the priority list to receive a housing assistance loan, then the loan shall go to the next eligible member and the name of the member not using the loan shall be provided a priority status (but with no guaranty) on the list for the next year.
- (6) If an eligible member does not utilize the loan when available for two years, then the member's name will be placed on the bottom of the priority list.
- (7) Program benefits are available to any member who satisfies these guidelines subject to budgetary constraints. This program does not discriminate in favor of members of the governing body of the Tribe.
- (8) Program benefits shall be limited to amounts that are not lavish or extravagant under the facts and circumstances.

SECTION 7: APPLICATIONS AND CONDITIONS OF ASSISTANCE

(a) Applications

(1) General Rules

An eligible member who is on the priority list and who wishes to receive a loan shall be required to complete an application for the program. The application shall be in such form as shall be required by the Administrator and may include but not be limited to: statements regarding the type of assistance sought; proposed use of loan proceeds; the names, ages and relationship of all household members; whether the household currently owns or rents its dwelling; the current household address; the condition of the family's current residence; the amount paid for housing; the household income; current housing costs of the household; whether any household members are disabled from working due to age or physical or mental conditions; statements, if applicable, regarding how a land or real estate based investment is consistent with the Tribe's stated goals of self-determination and the program purpose; and any other information deemed necessary and appropriate by the Administrator.

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(2) Income Guidelines for Loan Origination

The Administrator will take appropriate steps to secure the interests of the Redding Rancheria, including the ability to secure repayment in the event of non-compliance by the applicant. Accordingly, the Administrator shall require the applicant to demonstrate an ability to repay the housing loan and service any other debt on an assisted home prior to approval. Consistent with the intent and purposes of the program, the Administrator shall adopt debt to equity and income ratios to use as a guideline for loans provided pursuant to the program.

(3) Approval of Application

Each application shall be reviewed by the Administrator, who shall notify the applicant in writing when the application is approved or disapproved, or if additional information is required to complete the application.

(A) If additional information is required, no further action shall be taken on the application by the Administrator until the additional information is received.

(B) Once all required information has been received, the Administrator shall approve the application unless the use of loan proceeds or other matters associated with the requested loan fail to meet the conditions of this policy.

(C) If an application, although complete, is disapproved by the Administrator because the requested loan is deemed not to be for allowable uses or the applicant does not or cannot otherwise meet the conditions set forth in this policy, the applicant may appeal the decision not to approve the application to the Tribal Council within 30 days following the date that the applicant is notified that the application is disapproved.

(D) An appeal to the Tribal Council must be submitted in writing, through the Administrator, stating the applicant's reason that the application should be approved.

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(E) The Tribal Council shall consider the appeal without undue delay but in no event sooner than 10 days after the appeal is filed with the Administrator. The applicant shall be given not less than 7 days advance written notice of the Tribal Council meeting. The applicant shall have the right to address the Tribal Council at the meeting and submit written or verbal evidence in support of the appeal. The Tribal Council shall make a decision consistent with this policy in a timely manner and shall provide instruction to the Administrator, who shall notify the applicant promptly in writing of the Tribal Council's decision. The Tribal Council's decision shall be final for the Tribe.

(4) Joint Applications

Joint applications shall be permitted under the program, provided that the joint applicants enter into an agreement satisfactory to the Administrator confirming such matters to include, but not limited to:

- (A) That they are jointly and severally liable for program compliance,
- (B) Their rights and obligations upon sale or transfer of the assisted property,
- (C) Transfer of the property upon death,
- (D) Restrictions on encumbrance,
- (E) Restrictions of use of the property, and
- (F) Rules for partition of interests in the property.
- (G) To resolve all issues or disputes arising between the joint applicants out of or related to the assisted property in the exclusive jurisdiction of the Tribal Court.

Joint recipients must provide appropriate security as required by the Administrator to ensure that the Tribe's interests are adequately protected.

(5) Conditions for Using a Program Loan

- (A) The Administrator may require an applicant to attend and complete a home ownership course designed to teach home

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ownership skills such as home repairs and maintenance, and the financial responsibilities of home ownership (such as the assessment and payment of property taxes and insurance, credit and budgeting, etc.).

- (B) The Administrator may require an applicant to attend and complete financial literacy courses and courses, for example, on land or real estate investment designed to teach skills helpful for the success of said investment.
- (C) Where a loan is sought to acquire or build a house and the applicant household intends to finance a portion of the purchase price or construction cost, the applicant household must demonstrate that it has secured the necessary financing, and that the resulting payments will be affordable to the household.
- (D) At the time of the application, an applicant shall be required to provide for disposition of an assisted house or other property secured with a housing assistance loan upon the death of the applicant. Such disposition may be directed through will or trust document or other legal document acceptable to the Administrator. To qualify under this program, the disposition of an assisted home upon death must inure to the benefit of a Member or spouse. Joint applicants may also be required to hold the property as joint tenants with right of survivorship or other forms deemed by the Administrator sufficient to ensure a continued Membership or spousal interest.
- (E) If the applicant requires a portion of the loan proceeds to be utilized to satisfy other obligations in order to be eligible to secure a loan that qualifies hereunder, then the applicant shall be required to provide other security satisfactory to the Tribe to ensure repayment of the housing assistance loan.



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- (F) Upon approval of an application and prior to completion of the loan, the applicant will be required to submit all further documents as deemed necessary by the Administrator, which may include but not be limited to:
- (i) For a new home purchase:
    - Copy of the purchase agreement
    - Truth-in-lending Statement (if applicable)
    - Property appraisal
  - (ii) For land purchase:
    - Copy of the purchase agreement
    - Truth-in-Lending Statement (if applicable)
    - Perk Test or evidence of sewer service
    - Evidence of water service or well
    - Property appraisal
  - (iii) For construction:
    - Copy of bid proposal (licensed contractor is preferred. However, the Administrator may accept plans and budget from a Member that otherwise demonstrate that the project will be completed in accordance with applicable building codes and in a cost effective manner)
  - (iv) For mortgage reduction or pay-off:
    - Copies of the most recent mortgage statement
  - (v) For rehabilitation, repair or renovation:
    - Copies of bid proposal (licensed professional(s) preferred. However, the Administrator may accept plans and budget from a Member that otherwise demonstrate that the project will be completed in accordance with applicable building codes and in a cost effective manner)
    - Copies of purchase invoices for materials

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(vi) For all purchases:

The Tribe reserves the right to require additional documents or to accept substitute documents in addition to or in lieu of those identified in (i) – (v) above; provided that the interests of the Redding Rancheria are protected.

- (G) In the case of new construction, repair, remodel, or rehabilitation, members must submit the full scope of work to be accomplished. The amount of the loan shall not exceed the allowable uses as provided by this policy.
- (H) If the full amount for which the applicant is eligible is not utilized for the initial project, the applicant shall have one additional year to utilize the unused portion of the loan allocation for improvements to the subject property, subject to such limitations as shall be established by the Administrator.
- (I) The Tribe strongly recommends, but does not require, that repair, remodel and rehabilitation activities be undertaken by licensed contractors. Borrowers may accomplish their own work; however, loan proceeds shall not be available for wages for personal labor (sweat equity). Only third-party labor, documented material purchases and sub-contractors will be eligible for use of loan proceeds. All such costs must be clearly for the purpose of the construction or rehabilitation and must improve the property. Receipts must be provided to the Tribe for all costs for which loan proceeds are requested.
- (J) The Administrator shall have the discretion to disburse loan proceeds directly from Tribal accounts or through a directed escrow agent. Where an escrow agent is utilized, the Administrator shall provide escrow instructions in proper form to the escrow agent, which may be a title company chosen by the borrower.
- (K) The Administrator shall review all documents to ensure all material aspects and disclosures are properly noted and a title report is issued on subject property. A lender's title policy insuring the Tribe's loan will disclose any liens, encumbrances, deeds, or easements affecting the land.

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- (L) The Administrator may provide for advisory consultations of regarding any agreements for purchase, contracts with contractors, and other legal agreements. Such consultations may include assistance in review of legal documents, assuring contractors are properly licensed, and advising regarding conditions of contracts.
- (M) Applicants shall be advised to utilize advisor consultation prior to entering into any written agreements.
- (N) Likewise, members should submit all proposed contracts for construction to the Housing Department for review prior to entering into any signed agreement.
- (O) All transactions that may result in the transfer of title, or otherwise affect ownership interests, to real property, the acquisition of which involves the use Program Loan proceeds must be processed through a Title Company.
- (P) Where the property securing the Home Equity Loan is located outside of the State of California, the Administrator may require the Applicant to secure the services of a Title Company to prepare and record the deed or mortgage, as required in that state/country, to secure the note.
- (Q) Escrow transaction will include:
  - (i) Instructions that funds are to be disbursed to parties authorized by both the member and the Redding Rancheria. Any unused proceeds from the escrow will be remitted to Redding Rancheria.
  - (ii) A promissory note to be executed and a Deed of Trust naming Redding Rancheria as beneficiary to be recorded in first position on the property. The Deed may be recorded in subordinate position if conventional mortgage financing is also being used and provided the Administrator concludes that the interests of the Redding Rancheria are adequately protected.
  - (iii) Subordination shall be approved only if the Administrator determines that there is sufficient equity (or other security or collateral) to secure the Redding Rancheria's position following subordination.

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- (iv) A preliminary title report.
  - (v) Demand for pay-off from lien holders (if applicable).
  - (vi) A hazard insurance policy valid for one year.
  - (vii) Any other documents deemed necessary or appropriate by the Administrator. The Tribe reserves the right to require additional documents or to accept substitute documents in addition to or in lieu of those identified in (i) – (vi) above; provided that the interests of the Redding Rancheria are protected.
- (b) Conditions of Housing Assistance Loan
- (1) Maintenance of Home: Housing assistance is loaned to the recipient and must be repaid upon sale or transfer of title to the assisted residence.
  - (2) Contingent Forgiveness: To ensure consistency with the long-term program goals noted above, mortgage assistance benefits are set at a modest amount per year and are conditioned on a long-term commitment by each member over a period of at least 20 years. If program guidelines are met, the member will qualify for mortgage assistance as follows: The loan will be forgiven at the rate of 5% of the full principal loan amount for each year, beginning with the initial year the loan is approved for disbursement, and continuing each year thereafter that the loan remains in compliance with all applicable program guidelines.
  - (3) Default; Remedies: If the applicant conveys title or otherwise violates the terms of this policy, the unpaid balance of the loan shall be due and payable following notice and a reasonable opportunity to cure. The Administrator shall provide notice of default, options, if any, to cure (which may vary depending on the nature of the default), and the time frame within which any cure must be perfected. If the default is not resolved during the cure period, the Administrator shall call the entire balance due unless the applicant is offered, and enters into, a conventional loan arrangement with interest, monthly payments of principal and interest, and adequate security to protect the interests of the Redding Rancheria. The Redding Rancheria is not obligated to offer a conventional loan option upon default and may, in its discretion, seize upon the then current collateral. Delay on the part

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of the Redding Rancheria to collect on a defaulted loan shall not be deemed a discharge or forgiveness. The Redding Rancheria reserves the right of collection and all other remedies (not otherwise prohibited under Section (8) below) through the expiration of applicable statutes of limitation. No waiver of that right shall be implied.

- (4) Change of Title for Estate Planning: Conveyances for estate planning purposes to a living trust in which the applicant is a beneficiary or which change the way title is held, such as by creating a life estate or a joint tenancy with a right of survivorship feature do not require immediate repayment of the loan if the applicant remains in possession and the beneficiaries are Members or the applicant's spouse.
- (5) Death of Applicant:
- (A) Conveyances resulting from the death of the applicant do not require the immediate repayment of the loan if the house is inherited by Tribal Members or the applicant's spouse, the Tribal Members or spouse remains in possession, and the Tribal Members or spouse executes a written agreement, by the end of tax year in which the applicant is deceased or the date upon which the decedent's final tax return is due, to all terms and conditions of the program and the loan and security agreements.
- (B) If decedent is an elder, and the property is inherited by a tribal member or the applicant's spouse, the note is fully forgiven and the security on the note is released.
- (C) If Applicant-Decedent has unused loan proceeds at the time of his/her death, and the loan has been fully consummated with a note and security, such loan proceeds shall be considered part of the estate and managed by the administrator of the estate, provided that the loan proceeds are used for an approved program purpose to benefit Tribal Member heirs. Where a Tribal Member decedent passes intestate or has, otherwise, failed to name an administrator of his/her estate, the Tribal Council will name the person eligible to act on behalf of the estate for the disposition of any Home Equity Program loan proceeds.

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- (6) Exchange of Residence: Upon sale of an assisted home, proceeds sufficient to pay off the remaining balance shall be transmitted directly to the Rancheria or its designee. If the applicant acquires a replacement home that otherwise satisfies the requirements of this program within two years, he or she will qualify (subject to all terms and conditions hereunder) for a new home equity loan up to the amount repaid as a result of the sale of the prior assisted home. If the amount of sale proceeds is not sufficient to repay the balance owed hereunder, the Administrator shall apply the default rules set forth in (3) above.
- (7) Promissory Note, Pledge and Security: The applicant must sign a promissory note agreeing to these terms that is enforceable under the laws of the Redding Rancheria and other jurisdiction where real estate is located. Repayment of the promissory note must be secured by a deed of trust on the property assisted under this program and/or other security or collateral deemed sufficient to secure the repayment rights of the Redding Rancheria. On terms approved by the Administrator, the deed of trust may be subordinated to a purchase money or construction loan or a loan to refinance the property; provided that there is sufficient equity (or other security or collateral) to secure the Redding Rancheria's position following subordination. A deed of trust or other approved security agreement shall contain a default provision authorizing beneficiary to declare the indebtedness due and payable upon default, and a due-on-sale clause.
- (8) Anti-Deficiency Rule: Notwithstanding anything herein to the contrary, no remedies or collection activities shall be pursued against a member that would violate Tribal anti-deficiency rules. In the absence of Tribal law to the contrary, the Tribe shall look to the California Anti-deficiency statutes for guidance in applying these restrictions.
- (9) General Welfare: Mortgage assistance for Housing loans is intended to qualify under Code Section 139E and for Safe Harbor relief. As of the writing of this policy, there is no guidance under Code Section 139E.

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- (c) Conditions of Land or Real Estate Investment Loan
- (1) Maintenance of Land: Land or Real Estate Investment assistance is loaned to the recipient and must be repaid upon sale or transfer of title to the assisted property.
  - (2) Contingent Forgiveness: To ensure consistency with the long-term program goals noted above, Land or Investment assistance benefits are set at a modest amount per year and are conditioned on a long-term commitment by each member over a period of at least 20 years. If program guidelines are met, the loan will be forgiven at the rate of 5% of the principal loan amount for each year, beginning with the initial year the loan is approved for disbursement, and continuing each year thereafter that the loan remains in compliance with all applicable program guidelines.
  - (3) Default Remedies: If the applicant conveys title or otherwise violates the terms of this policy, the unpaid balance of the loan shall be due and payable following notice and a reasonable opportunity to cure. The Administrator shall provide notice of default, options, if any, to cure (which may vary depending on the nature of the default), and the time frame within which any cure must be perfected. If the default is not resolved during the cure period, the Administrator shall call the entire balance due unless the applicant is offered, and enters into, a conventional loan arrangement with interest, monthly payments of principal and interest, and adequate security to protect the interests of the Redding Rancheria. The Redding Rancheria is not obligated to offer a conventional loan option upon default and may, in its discretion, seize upon the then current collateral. Delay on the part of the Redding Rancheria to collect on a defaulted loan shall not be deemed a discharge or forgiveness. The Redding Rancheria reserves the right of collection and all other remedies (not otherwise prohibited under Section (8) below) through the expiration of applicable statutes of limitation. No waiver of that right shall be implied.
  - (4) Change of Title for Estate Planning: Conveyances for estate planning purposes to a living trust in which the applicant is a beneficiary or which change the way title is held, such as by creating a life estate or a joint tenancy with a right of survivorship feature do not require immediate repayment of the loan if the applicant remains in possession and the beneficiaries are Members or the applicant's spouse.

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- (5) Death of Applicant: Conveyances resulting from the death of the applicant do not require the immediate repayment of the loan if the property is inherited by Tribal Members or the applicant's spouse, the Tribal Members or spouse continues to hold said property, and the Tribal Members or spouse executes a written agreement, by the end of tax year in which the applicant is deceased or the date upon which the decedent's final tax return is due, to all terms and conditions of the program and the loan and security agreements.
- (6) Exchange of Land or Real Estate: Upon sale of an assisted land or real estate investment, proceeds sufficient to pay off the remaining balance shall be transmitted directly to the Rancheria or its designee. If the applicant acquires a replacement property that otherwise satisfies the requirements of this program within two years, he or she will qualify (subject to all terms and conditions hereunder) for a new land or real estate loan up to the amount repaid as a result of the sale of the prior assisted investment. If the amount of sale proceeds is not sufficient to repay the balance owed hereunder, the Administrator shall apply the default rules set forth in (3) above.
- (7) Promissory Note, Pledge and Security: The applicant must sign a promissory note agreeing to these terms that is enforceable under the laws of the Redding Rancheria and other jurisdiction where the real estate is located. Repayment of the promissory note must be secured by a deed of trust on the property assisted under this program and/or other security or collateral deemed sufficient to secure the repayment rights of the Redding Rancheria. On terms approved by the Administrator, the deed of trust may be subordinated to a purchase money or construction loan or a loan to refinance the property; provided that there is sufficient equity (or other security or collateral) to secure the Redding Rancheria's position following subordination. A deed of trust or other approved security agreement shall contain a default provision authorizing the beneficiary to declare the indebtedness due and payable on default, and a due-on-sale clause.
- (8) Anti-Deficiency Rule: Notwithstanding anything herein to the contrary, no remedies or collection activities shall be pursued against a member that would violate Tribal anti-deficiency rules. In the absence of Tribal law to the contrary, the Tribe shall look to the California Anti-deficiency statutes for guidance in applying these restrictions.



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(9) General Welfare: Land or Real Estate Investment assistance and associated forgiveness is intended to qualify under Code Section 139E to the fullest extent possible, but does not qualify for Safe Harbor relief under an express category currently set forth in Revenue Procedure 2014-35. As of the writing of this policy, there is no guidance under Code Section 139E.

(d) Provision for Transfer of Title upon Death of Applicant

The applicant must demonstrate to the satisfaction of the Administrator that he or she has made adequate provisions for the transfer of title to the assisted house or land investment upon the death of the applicant to another member or members of the Redding Rancheria or the applicant's spouse. Such adequate provision could be evidenced by a Will, a living trust, taking title as a life estate, as a joint tenant, or by some other method satisfactory to the Administrator. The Administrator may provide assistance to members in completing documents to satisfy the requirement.

(e) Disbursement of Assistance Loan

(1) Funds will be disbursed to a third party only, such as contractor, Mortgage Company, or Escrow Company, unless the applicant can supply proof satisfactory to the Administrator that direct reimbursement is necessary, appropriate, and consistent with the program guidelines. The Administrator shall require receipts and or other proof acceptable to the Administrator with regard to program compliance. The Tribe will not provide oversight for construction related projects. Members will be required to provide the Administrator with a written contract for work so that appropriate loan documents and disbursements can be made. Loans made for mortgage reduction will be disbursed directly to the mortgage holder. The Tribe will present a demand for payoff from the lien holder(s) and provide for payment directly to such lien holder(s).

(2) The Tribe will take no responsibility for oversight of construction related activities. Progress payments will be made on construction as completed, in accordance with provisions of construction contracts. The Tribe reserves the right to place conditions on loan disbursements to assure completion of construction.

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(f) Review of Documents Associated with Acquisition of Land and Homes

The Administrator shall provide for review of all applicable documents associated with acquisitions of homes or land to ensure all material aspects and disclosures are noted and proper instructions are sent to the Title Company with the Loan proceeds. The Tribe reserves the right to refuse a loan if all documents are not in sufficient form to protect the interests of the Tribe and the borrower. Accordingly, applicants are urged to delay entering into purchase agreements prior to review of documents by the Administrator.

(g) Loan Documentation

The Administrator will prepare a Promissory Note, Deeds of Trust or other security documents. All documents relating to the purchase of property will be reviewed by the Administrator prior to the disbursement of funds. In the absence of any document (signed by the Redding Rancheria or its designee) to the contrary, the terms of this policy requiring repayment and security shall automatically apply to the recipient of any funds pursuant to this program. Acceptance of funds pursuant to this program is an acknowledgment by the recipient that the Redding Rancheria shall have collection and enforcement rights to enforce all terms of this policy regardless of the existence or absence of any defect in documentation. Such collection and enforcement rights shall include the right to offset or deduct future payroll or assistance of any sort otherwise payable by the Redding Rancheria.

(h) Insurance

Recipients of housing assistance loans shall be required to obtain and maintain home owners/hazard insurance on their home, which names the Tribe as an additional loss payee.

(i) Third Party Notice

Recipients are required, as a condition of the receipt of assistance hereunder, to notify any third party lenders or creditors who have or may acquire an interest (security or otherwise) on the assisted property of the existence of this program debt. Recipients must report this program as a bona fide debt on any financial statements made or submitted to obtain credit, to provide evidence of financial standing, or in response to any other inquiries seeking information of the recipient's assets, liabilities or

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indebtedness of any sort. Recipient hereby irrevocably consents to the Tribe's disclosure of this debt in response to such third party requests.

(j) Additional Actions

Recipients hereby irrevocably consent to such further actions as the Administrator, in its discretion, may deem necessary to perfect and maintain the Tribe's security and repayment interests hereunder, and agree to execute such further documents or amendments as may be deemed necessary by the Administrator from time to time, to the extent consistent with this program.

(k) No Assignment; Divorce

This program is a member benefit. The recipient does not have the right to transfer or assign program benefits upon divorce or otherwise. Division of the property or transfer to a non-member in divorce proceedings will be treated as an event of Default (as defined herein). A transmutation or similar agreement may be required to evidence compliance with the foregoing or to avoid default status.

(l) Taxation and Default Notices

(1) Non-Safe Harbor/139E and default events: Recipients shall be informed that program benefits that do not meet Code Section 139E or the IRS Safe Harbor rule for tax free mortgage assistance should be treated as taxable benefits unless the Recipient can otherwise demonstrate entitlement to an exemption. The taxable amount, if applicable, in a given year for Recipients who comply with all program guidelines is generally equal to the amount of annual loan forgiveness for that taxable year, and a Recipient who is in Default (as defined above) will be required to report the entire unpaid balance as taxable in the year of default unless the default is timely cured. These general rules may not apply to every circumstance and members are encouraged to seek individual tax advice.

(2) Safe Harbor and 139E assistance: Recipients who comply with all program guidelines and meet Code Section 139E or the Safe Harbor requirements for tax free mortgage assistance shall be notified of their right to exclude mortgage assistance to the extent permitted in Code Section 139E or IRS Revenue Procedure 2014-35 and Notice 2015-34, as the same may be amended. The Administrator reserves the right to require such certifications or documentation as may be

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required to receive IRS Safe Harbor treatment based on IRS Revenue Procedure 2014-35 and future IRS guidance for treatment under the general welfare exclusion.

- (3) General Welfare Exclusion/Insolvency: Nothing herein shall foreclose a Recipient from demonstrating entitlement to any individual exemption from income tax that the individual may be entitled to including, without limitation, Code Section 139E, the common law general welfare exclusion, or insolvency exemptions for loan forgiveness. The Tribe makes no representation with regard to any such exemptions.
- (4) Tax notice: The Tribe shall make a general tax notice available to Recipients summarizing the general tax impacts of the program and the requirements for Code Section 139E and IRS Safe Harbor treatment. However, each Recipient is ultimately responsible for obtaining independent advice as each recipient's individual tax circumstances will vary. The Rancheria does not guaranty, represent or warrant any particular tax treatment. Each Recipient is responsible for reporting and paying his or her own tax liabilities, if any, arising out of the program.

(m) Indemnity

Recipients must, as a condition of receiving assistance, indemnify the Rancheria, the Administrator, their officers, agents and employees, from and against any and all liabilities that arise from the Recipients failure to comply with this program.

(n) Subordination and Re-conveyance

- (1) Subordination: On the initial purchase, the Tribe's secured interest can be recorded in a subordinate position if conventional mortgage financing is also being used and the sum of all notes and Deeds of Trust secured against the property, whether recorded or unrecorded, does not exceed 100% loan to current appraised value. On subsequent re-financings, subordination will be permitted only if the sum of all notes and Deeds of Trust secured against the property, whether recorded or unrecorded, does not exceed 90% loan to current appraised value or, if less, an amount that would maintain a minimum level of equity equal to the amount of any loan forgiveness then achieved under this program.

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- (2) Re-Conveyance: A re-conveyance shall not be permitted.
- (3) Waiver: A program recipient may request a waiver of the restrictions set forth in (1) or (2) above by application to the Tribal Council, provided that such waiver requests must show, to the satisfaction of the Tribal Council, that: (1) the waiver is consistent with the purpose of the program, (2) the waiver is necessary or appropriate to preserving equity in the assisted property, and (3) the waiver is administered in a manner designed to ensure that the interests (security and otherwise) of the Redding Rancheria are protected. Any release or subordination of the Tribe's security interest in an assisted property must be supported by additional security sufficient to protect the interests of the Tribe.

(o) **Disenrolled Members**

The program is designed to benefit enrolled members of the Redding Rancheria. If an individual receives an assisted loan and is later disenrolled, he or she will no longer qualify for additional program loans.

A disenrolled member who is no longer eligible to receive Tribal benefits or per capita payments shall be deemed to be eligible for accelerated forgiveness of his or her assisted loan as provided in (p) below. Forgiveness that qualifies for Code Section 139E or Safe Harbor treatment may be treated as non-taxable assistance. Such individuals who do not otherwise have significant non-tribal income or resources may, but need not, also seek to qualify for treatment under the general welfare exclusion upon presentation of financial information showing individual financial need.

An individual who would otherwise be deemed eligible for accelerated forgiveness but who has non-tribal income or resources above applicable income guidelines or who would not qualify under Code Section 139E or for Safe Harbor treatment may apply for continuation of his or her assisted loan. A disenrolled member desiring to continue his or her assisted loan must, at a minimum, agree to maintain continued security interests satisfactory to the program Administrator and must demonstrate an ability to repay. Such agreements may require the pledge of additional security and the signing of amended promissory notes as necessary to protect the interests of the Redding Rancheria.

No decision with regard to accelerated loan forgiveness will be made until expiration of a reasonable period of time, following notice, during which the applicant shall be provided an opportunity to demonstrate individual

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financial circumstances for loan continuation or compliance with Code Section 139E, the Safe Harbor exemption or the General Welfare Ordinance. The above decisions shall be administered in a manner designed to prevent premature taxation through the IRS doctrines of constructive receipt and economic benefit.

(p) Accelerated Forgiveness

An applicant who demonstrates financial need may qualify for accelerated forgiveness at the discretion of the Tribal Council to the extent consistent with the Redding Rancheria General Welfare Ordinance. The Tribal Council, in its discretion, may also consider applications for accelerated forgiveness to the extent the applicant would otherwise qualify under Code Section 139E, for Safe Harbor relief or other tax-free forgiveness under the federal tax laws. Accelerated forgiveness shall be approved only if consistent with the purpose and policy goals of the program as set forth herein.

Legislative History:

Adopted by Tribal Council Resolution #080-12-11-07, dated December 11, 2007.

Amended by Tribal Council Resolution #071-12-17-13, dated December 17, 2013.

Amended by Tribal Council Resolution #084-12-08-15, dated December 8, 2015.

Amended by Tribal Council Resolution #047-10-23-18, dated October 23, 2018.

Amended by Tribal Council Resolution #045-06-29-21, dated June 29, 2021.

Amended by Tribal Council Resolution #077-10-26-21, dated October 26, 2021.

Amended by Tribal Council Resolution #060-09-05-23, dated September 5, 2023.