

## RESOLUTION 2022-1-1

### RE: Approving the revised Down Payment Assistance Policy

**Whereas:** The Board of Commissioners of the Chehalis Tribal Housing Authority (CTHA) is duly chartered per Tribal Ordinance Number One of the Confederated Tribes of the Chehalis Reservation as approved by the voting members of the Tribe; and

**Whereas:** The Board of Commissioners of the CTHA, pursuant to Article V, section 3(r) of said ordinance, has been granted authority to take such actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of CTHA; and

**Whereas:** The Chehalis Tribal Housing Authority has reviewed and approves the Down Payment Assistance Policy.

**Now Therefore, Be It Hereby Resolved:** that the Chehalis Tribal Housing Authority adopts the revised Down Payment Assistance, and this policy supplements and supersedes any and/or all down payment assistance documents and/or policies. A copy of the policy is attached hereto and made a part hereof.

**Certification:** This Resolution, Number 2022-1-1<sup>PCY/JS</sup> was duly considered and approved at a regularly scheduled meeting of the Chehalis Tribal Housing Authority held on the 28<sup>th</sup> day of January, 2022, at which time a quorum was present, and was passed by a vote of: 4 FOR, 0 AGAINST, and 0 ABSTAINED.

  
Jeanette Siufanua, Secretary

  
Philip Youckton, Chairman

# **CHELAHIS TRIBAL HOUSING AUTHORITY DOWN PAYMENT ASSISTANCE PROGRAM POLICY**

## **Policy Statement**

The Purpose of the Chehalis Tribal Housing Authority (CTHA) Down Payment Assistance Program (DPA, or “Program”) is to provide the members of the Chehalis Tribe and, where applicable, other eligible Indian families, with affordable homeownership financing opportunities to help improve the quality of life in the tribal communities. This Policy combines two previous DPA programs into a single program for administrative efficiency and ease of use applicants.

The Chehalis Tribal Housing Authorities Down Payment Assistance Program shall comply with all applicable rules and regulations set forth by the Chehalis Tribal Housing Authorities policies and procedures as well as, when applicable, the rules and regulations implementing the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) .The CTHA Executive Director with the approval of the Board of Commissioners shall be responsible for periodically amending this policy to comply with any applicable laws or regulations.

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## **Program Description**

The Down Payment Assistance Program is specifically designed to increase the availability of affordable housing by addressing homeownership on several levels. The Program is available to both low-income families that qualify under NAHASDA, as well as any families not ineligible under this Policy. For NAHASDA applicants, the program combines the CTHA's Indian Housing Block Grant funds with private first mortgages, thereby multiplying many times over the number of Native families that can be assisted with the CTHA's grant.

- a. Eligibility – The Program is available to first-time homebuyers who are either low-income Indian families with gross incomes at or below 80% of the median income adjusted for family size, or are families not determined income-eligible described herein. The current income limits shall be appended to this policy.
- b. Credit –Program borrowers must meet the credit requirements of the first mortgage lender (bank/lender). Applicants will be pre-screened to determine credit worthiness. CTHA will assist applicants in demonstrating that they have stable income and the ability and willingness to meet financial obligations.
- c. Affordability – Program funds are available to buy down the cost of owning a home. This results in a lower mortgage amount and lower monthly payments. CTHA funds will be in the form of a second mortgage with no monthly payments. This second mortgage is gradually reduced, thus converting it to homeowner equity.
- d. Cash Flow – Assistance may include payment of reasonable loan closing costs associated with the first mortgage and CTHA's second mortgage.
- e. Support – Trained staff will assist eligible borrowers in successfully working through the process of making an application to a bank/lender for a first mortgage loan.
- f. Counseling – Borrowers will be required to participate in homebuyers' classes designed to assist new homeowners in understanding and fulfilling the responsibilities of homeownership.

#### **A. Assistance Available**

The CTHA has established and implemented the Program to assist creditworthy low-income households in purchasing a home. The Program loan may help with down payment and closing costs and is designed to make home mortgage payments more affordable. The following is a list of the assistance offered at this time.

1. Down payment

CTHA will provide a Program loan of 20% of the contract purchase price with a maximum loan of \$40,000 to eligible borrowers who are first-time homebuyers. The loan will be 0% interest and \$0 payment loan. The loan will be forgiven at 20% per year over the five year period of affordability.

## 2. Closing Costs

Funds are available from CTHA to pay all, or a substantial part of, the closing costs of the first mortgage loan. This assistance is limited to actual, reasonable closing costs.

## 3. Maximum Loan Amount

The maximum amount of assistance for each borrower will be \$40,000.

## 4. Minimum Loan Amount

The minimum loan amount for this program is \$5,000.

## 5. Loan Layering

The borrower may access multiple down payment assistance programs to make homeownership more affordable, including other community-sponsored or private loan funds. However, this is a one-time benefit for participants. Each borrower will be allowed to access only one down payment assistance loan through the CTHA and borrowers cannot obtain assistance from a Chehalis tribally funded loan program in conjunction with this loan program. Further, a borrower shall be defined as the household purchasing the home. If there are two Tribal members (or other eligible participants) who are members of the household, that household is entitled only to a single loan under this Program.

## **B. Borrower Eligibility**

### 1. Native Restrictions and Preference

Assistance is only available to Chehalis Tribal members over the age of 18 years who are first-time homebuyers. However, for the portion of the Program funded with Indian Housing Block Grant funding, first-time homebuyer families that are comprised of members of other Indian tribes (as those terms are defined in the Native American Housing Assistance and Self-Determination Act) are eligible, provided that CTHA will provide first preference to applicants who are comprised of Chehalis Tribal member households no matter the date of the application. That preference will work as follows: CTHA will first process the applications of all Chehalis Tribal member households on the list. If there are funds still available, CTHA will then process applications from non-Tribal member Indians in the order that they were received until there is no funding available.

## 2. Income Limitations for Use of Indian Housing Block Grant Funds

The Program is funded by two separate sources of funds: Indian Housing Block Grant funds and Chehalis Tribal (unrestricted) funds. Participation each year is subject to the availability of each of these funding sources for the Program, which shall be in CTHA's sole discretion.

Eligible families that qualify as "low-income" under the Native American Housing Assistance and Self-Determination Act will have their assistance funded with Indian Housing Block Grant funds. Such participants will be required to provide documentation to verify the determination of low-income status. Otherwise eligible applicants who do not qualify as "low-income" will receive their assistance in the form of Chehalis Tribal funds, provided that only Chehalis Tribal members are eligible to receive assistance under this Program in the form of Chehalis Tribal funds.

## 3. Homeownership Counseling Classes

The borrower must successfully complete a CTHA approved home ownership-counseling curriculum. The CTHA Housing Manager shall approve the curriculum.

## 4. First Mortgage Loan

- a. The borrower must be able to obtain a mortgage loan with an eligible lender for the maximum affordable amount. The lending institution must be willing to participate in the Program and its requirements. The borrower will sign a Release of Information form so that CTHA is able to share information with the lending institution.
- b. The lender must, as a part of its mortgage loan, require purchase of property insurance, and must escrow the insurance payments.
- c. The borrower must provide CTHA with a copy of the Purchase and Sale Agreement, Earnest Money Agreement and any and all information required by the first mortgage lender.

## 5. Cash Down Payment

The borrower must be able to provide at least .5% of the sale price in the form of a cash down payment from his or her own assets. This cash payment shall not be borrowed. Funds used to pay for inspections and the appraisal may be counted toward the .5% requirement.

## 6. Assets

The borrower shall not own any other residential property. An exception may be made for inherited property.

Borrowers must be first-time homebuyers, and not have ever owned a home prior to the home being purchased with the assistance provided under this program.

"Residential real property" means real property improved with not less than one nor more than four (4) residential dwelling units; units in residential cooperatives; or, condominium units, including the limited common elements allocated to the exclusive use thereof that form an integral part of the condominium unit.

## 7. Employees

Employees, agents, officers or elected or appointed officials of CTHA are eligible for loans under this program. The Executive Director of CTHA must approve all such loan applications. Employees, agents, officers or elected or appointed officials must comply with 24 CFR 1000.30, 1000.32 and 1000.34 regarding conflict of interest, where applicable.

## C. Ineligibility

1. Applicants will be considered ineligible for not meeting the minimum requirements set out in Section B above or for any of one or more of the following:
  - a. Providing false information on the application.
  - b. Failing to complete required forms or to supply requested information.
  - c. Committing fraud in connection with any CTHA program, or failing to disclose previously committed fraud in connection with any CTHA program.
  - d. For low-income families, appearing on United States Department of Housing and Urban Development's (HUD) list of suspended, debarred and limited denials of participation or having a recent (past two years) record of eviction from any government-assisted housing program.
  - e. Having an outstanding debt owed to any public or Indian housing authority or tribally designated housing entity, including CTHA, or having any debt owed to the Chehalis Tribe itself.

## D. Waiting List/Applicant Pool

1. The Program is operated on a first-come first-served basis (with any preferences the CTHA has defined under the eligibility criteria herein) subject to the availability of funds.

2. CTHA will maintain a list of eligible applicants based on the date and time the completed application is received by CTHA.
3. If funds are unavailable for the Program, CTHA may suspend or discontinue accepting applications until funds become available.

#### **E. Reserved Funds**

1. Funds will be reserved for each applicant when the loan application is complete.
2. Funds will be reserved for ninety (90) days and may be extended for thirty (30) days at a time.

#### **F. Property Requirements**

1. The following property requirements must be met during the life of the loan:
  - a. For all borrowers:
    - i. The home must be the primary residence of the borrower.
    - ii. The property must be located in Washington State.
    - iii. The property must be a single-family residence as defined by the Federal Housing Administration, including condominiums, townhouses, manufactured home and mobile homes.
    - iv. The house must pass all Housing Quality Standards (HQS) as established by the CTHA. If the home was newly constructed, a certificate of occupancy by the permitting jurisdiction will satisfy the HQS requirement.
    - v. If the borrower selects a home in a flood plain, flood insurance must be obtained in an amount adequate to cover the first and second mortgage loan (in compliance with 24 CFR 1000.38, if applicable). The borrower must provide a certification of flood insurance to CTHA annually.
    - vi. The borrower shall be responsible for any insurance coverage required by the CTHA or the lending institution.
    - vii. An appraisal of the property must be completed prior to any loan. The appraised value of the real property may not exceed the purchase price of the real property by more than 10%.

- b. For low-income borrowers using NAHASDA funds:
  - i. The initial purchase price of the home may not exceed the Total Development Cost limits established by the CTHA for the type of single family housing for the area. The CTHA may use HUD established Total Development Cost limits which are attached as an appendices to this policy.
  - ii. The borrower must have the property inspected by a licensed professional home inspector or other person approved by the Housing Authority Director. The borrower must share any written reports with the CTHA.
  - iii. The property must be reviewed by CTHA for environmental impact in accordance with the National Environmental Policy Act (NEPA) and all other applicable statutes, regulations, and Executive Orders.
  - iv. Lead based paint prevention requirements apply to housing acquired under this program.

#### **G. Required Documents**

- 1. The borrower will execute a second mortgage or second deed of trust, as well as a promissory note, as security for the borrower's duties and responsibilities under this program, including but not limited to any repayment obligation. In addition, borrowers will execute an option to purchase to effectuate the option-to-purchase provisions of this program, and any other documents reasonably required by the CTHA under this policy. Each such document shall be executed in the form required by the CTHA.

#### **H. Repayment of the Loan**

- 1. There are no monthly payments or interest associated with CTHA's Program loans.
- 2. The amount of the down payment assistance provided will become due and payable in full upon the happening of the earliest of the following:
  - a. Voluntary or involuntary transfer of the fee or leasehold interest, which includes the home for which down payment assistance has been provided.
  - b. Commencement of a mortgage foreclosure or of a leasehold mortgage foreclosure proceeding, or in the case of a deed of trust, the filing of a Notice of Trustee's Sale, respecting the fee or leasehold interest which



includes the home for which down payment assistance has been provided.

3. So long as the Borrower is in compliance with this policy, and not in default on any mortgage or deed of trust or leasehold mortgage on the property, then on each annual anniversary of the loan, twenty per cent (20%) of the original amount of the loan, up to one hundred per cent (100%), shall be forgiven.

#### **I. Certification of Residency**

1. The property must remain the borrowers' primary residence throughout the term of this loan.

#### **J. Resale Restriction**

1. Program Documents shall include resale restrictions and an option to purchase granted to CTHA.
2. If, at any time during the term of CTHA's loan, the borrower sells or transfers title to the home, the borrower must repay the CTHA any balance due.

#### **K. Assumption of Loan**

1. If the property is sold during the term of CTHA's loan, the CTHA loan may be assumed by a qualified borrower. Generally, the assumption approval will be based on the following:
  - a. The new owners must assume the first mortgage and be contractually obligated to satisfy the mortgage.
  - b. The property must be the new owner's primary residence.
  - c. The new owner(s) must be a Chehalis Tribal Member.
  - d. If borrower applies under the low-income provisions of the Program, the new owners must also be a low-income Indian family, as those terms are defined by the Native American Housing Assistance and Self-Determination Act.

#### **L. Transfer of Home**

1. If the borrower no longer desires to own the property and intends to sell or otherwise transfer title, the borrower must notify CTHA of their intent in writing. Upon receipt of the notice, CTHA shall then have the right to exercise its Purchase Option by delivery of notice to the borrower of such

exercise at any time within thirty (30) days from its receipt of such written notice from the borrower of interest to sell or otherwise transfer the residence.

2. If the CTHA exercises its Option to Purchase the property, closing shall be through an escrow with the title insurance company issuing the owners title insurance policy. The closing shall be within sixty (60) days of the opening of escrow. In the event the CTHA decides to assign the Purchase Option, the opening of the escrow will be within thirty (30) business days after the borrower is notified of CTHA's intent to exercise Purchase Option. In the event CTHA postpones opening of escrow and is unable to select an assignee, CTHA retains the rights to open escrow and complete the purchase provided the escrow is opened within thirty (30) business days and the sales transaction is completed within ninety (90) days from the borrower's notice of intent to sell.
3. Up to ten (10) days before close of escrow, the borrower may give notice to CTHA of the borrower's intent to terminate the escrow. CTHA shall retain the right by notice to the borrower to complete the purchase of the property for an additional period of ten (10) days commencing from the date of the receipt of notice the borrower's intent to terminate the escrow.
4. In the event the CTHA does not exercise its Purchase Option within thirty (30) business days of the borrower's notice pursuant to the Resale Restriction and Purchase Option, the borrower may offer the residence to anyone.
5. Any attempt by the borrower to make a prohibited transfer of title or interest in the property in violation of the executed Program Documents will be void and subject to exercise of the purchase option described in that document.
6. Permitted Transfer by Borrower

The following transfers are not prohibited and therefore are not subject to exercise of the Purchase Option by CTHA:

- a. Transfer by gift of inheritance to the borrower's spouse or children;
- b. Transfer of title by a borrower's death to a surviving joint tenant, tenant by entireties, or surviving spouse of community property;
- c. Transfer of title to a spouse as part of divorce or dissolution proceedings;
- d. Granting of leasehold interest or rental of the residence for a period of less than a year with CTHA approval; or

- e. Transfer of title or interest in the residence to the spouse in conjunction with marriage.

The above transfers are allowable if the Second Mortgage Document covenants continue to run with the title to the property following said transfers, and any transfer documents must contain the following covenant:

*This residence is subject to the Resale Restrictions Agreement and Option to Purchase and Transferee, on behalf of Transferee and Transferee's successors and assigns, covenants and agrees to be bound by and perform the Agreement and to include in any further transfer of the residence the covenant required by the Agreement.*

The borrower must notify CTHA at least thirty (30) business days prior to the sale or transfer of the property. CTHA will approve or disapprove of the proposed Transferee within thirty (30) business days after receiving the notification.

#### **M. Counseling**

1. All borrowers will be required to attend a CTHA-approved homebuyer counseling class prior to loan approval. The purpose of this requirement is:
  - a. To enable the borrower to understand the responsibilities that accompany participation in the Program.
  - b. To enable the borrower to understand the home buying process,
  - c. To enable the borrower to understand and prepare to assume homeownership responsibilities and tasks,
  - d. To develop an understanding of the Program with a goal of promoting feelings of self-respect, pride and community responsibility.
2. If available, borrowers may elect to attend Post-Occupancy counseling. The cost of this counseling may be included in closing costs paid by CTHA if the borrower makes arrangements before the loan closing. If the borrower elects to attend after the loan closing, the costs of the counseling will be at the borrower's expense. Post-Occupancy counseling may include the following topics:
  - a. Budget Counseling
  - b. Home Maintenance

- c. Refresher review of the Program requirements.
3. Any counseling required by the lender of the CTHA shall be at no cost to the borrower.

#### **N. Payment Oversight**

1. CTHA shall work with the borrower to ensure the success of their home ownership. If, for any reason, the first mortgage loan becomes delinquent, the lender will contact CTHA. Upon receipt of any delinquent notices, CTHA staff may contact the borrower to assist in resolving the problem. This intervention does not in any way diminish the borrower's responsibilities to the first mortgage lender.
2. If a borrower is found to be in default of any portion of the first mortgage document, CTHA may provide or refer the borrower to financial counseling in an effort to resolve the problem, and may:
  - a. Arrange a meeting with the borrower to discuss the default;
  - b. Work with the borrower to develop a specific plan of action to correct the default; or
  - c. Monitor the borrower's plan of action until the default is corrected.

#### **O. Subordination**

If a borrower wants to refinance their home during the five (5) year period of affordability, the CTHA will subordinate only under the following circumstances:

- a. The borrower will be taking advantage of a lower interest rate; or
- b. The borrower is not taking any equity (cash) out of the home.

#### **P. Appeals Process**

1. Program applicants who, for any reason, CTHA determines are ineligible will be notified in writing. The notification shall state the reasons for ineligibility. All information relative to the rejection of the applicant shall be documented and placed in the applicant's file.
2. An applicant who has been determined ineligible for the Program may request a second determination within thirty (30) days of the date on the written notification. The applicant may resubmit eligibility documentation at the time of the second determination. A written notification of selection or denial will be provided based on the information submitted by the applicant.

Other recourses for appealing a CTHA decision may also be available and will be described in each letter of denial sent to the applicant.

**Q. Appendix**

1. Income Limits - <http://www.huduser.org/datasets/il/fmr02/index.html>
2. Total Development Costs - [http://www.hud.gov/offices/pih/publications/notices/01/tdc\\_published\\_11-01.pdf](http://www.hud.gov/offices/pih/publications/notices/01/tdc_published_11-01.pdf)

**The undersigned applicant(s) fully understand(s) and will comply with the CTHA Down Payment Assistance Program Policies and Procedures. Applicant(s) understand(s) failure to fully disclose any required or relevant information in an attempt to obtain a loan may result in prosecution for fraud.**

**Applicant:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Applicant:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**CTHA:** \_\_\_\_\_ **Date:** \_\_\_\_\_