



AGENDA

BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

Regular Meetings: First, Second, and Third Tuesday of each month. Location of meeting is specified below.
Teleconference Only - No Physical Location

Regular Meeting April 19, 2022

TELECONFERENCE INFORMATION

This meeting will be held via teleconferencing with members of the Board attending from separate remote locations. As authorized by AB 361, dated September 16, 2021, a local agency may use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency and local officials have recommended or imposed measures to promote social distancing or the body cannot meet safely in person and the legislative body has made such findings.

Members of the public may participate via the Zoom Webinar, including listening to the meeting and providing public comment, by following the instructions below. If you are unable to join the Zoom Webinar of the Board meeting, you may still view the live stream of the meeting by visiting http://monocounty.granicus.com/MediaPlayer.php?publish_id=fd043961-041d-4251-a6e8-803b439caa17

To join the meeting by computer:

Visit <https://monocounty.zoom.us/j/83298334231>

Or visit <https://www.zoom.us/>, click on "Join A Meeting" and enter the Zoom Webinar ID 832 9833 4231.

To provide public comment, press the "Raise Hand" button on your screen.

To join the meeting by telephone:

Dial (669) 900-6833, then enter Zoom Webinar ID 832 9833 4231.

To provide public comment, press *9 to raise your hand and *6 to mute/unmute.

NOTE: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk of the Board at (760) 932-5530 or bos@mono.ca.gov. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517) and online at <http://monocounty.ca.gov/bos>. Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board and online.

UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS

HEARD.

9:00 AM Call meeting to Order

Pledge of Allegiance

1. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Opportunity for the public to address the Board on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.) Please refer to the Teleconference Information section to determine how to make public comment for this meeting via Zoom.

2. RECOGNITIONS

A. Recognizing Milestone Anniversaries of County Colleagues

30 minutes

(Robert Lawton; Various Department Heads) - Recognizing County employees reaching milestone (5-year increment) anniversaries during 2022.

Recommended Action: Conduct recognition ceremony

Fiscal Impact: None.

3. COUNTY ADMINISTRATIVE OFFICER

CAO Report regarding Board Assignments
Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

4. DEPARTMENT/COMMISSION REPORTS

Receive brief oral report on emerging issues and/or activities.

5. CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

A. Appointment to the Economic Development, Tourism and Film Commission

(Alicia Vennos) - Appointment of Florene Trainor to the Economic Development, Tourism & Film Commission for a 4-year term from April 19, 2022 to April 19, 2026, term will expire 2026.

Recommended Action: Appoint Florene Trainor to the Economic Development, Tourism and Film Commission for a 4-year term from April 19, 2022 to April 19, 2026.

Fiscal Impact: None.

B. Appointment to County Service Area #1

Appointment of Haislip Hayes to CSA #1 Board, term will expire December 31, 2024.

Recommended Action: Appoint Haislip Hayes to CSA #1 Board, term will expire 2024.

Fiscal Impact: None.

C. Disease Intervention Specialist (DIS) Workforce Development Grant Agreement

Proposed contract with California Department of Public Health pertaining to the Disease Intervention Specialist (DIS) Workforce Development Grant Agreement Number 21-10569.

Recommended Action: Approve and authorize Bryan Wheeler, Public Health Director, to sign proposed contract and associated certification clauses. Authorize Bryan Wheeler, Public Health Director, in consultation with County Counsel, to administer contract. This authorization shall include making minor adjustments to said contract from time to time as the Public Health Director may deem necessary, provided such amendments do not alter the amount not to exceed and do not substantially alter the scope of work or budget and are approved as to form by County Counsel.

Fiscal Impact: No fiscal impact to the General Fund. \$507,210 in additional expenditures paid for with \$507,210 in new grant revenues for the funding period of July 1, 2021 to December 31, 2025. Appropriations are currently not being requested for the 2021-2022 fiscal year and future appropriations will be included during the annual budget adoption.

D. IHSS Advisory Board Appointments

(Kathy Peterson, Social Services Director) - The In-Home Supportive Services (IHSS) Program helps pay for services so that persons can remain safely in their own home. The Mono County IHSS Advisory Committee provides recommendations and advice regarding IHSS services in the community. Elizabeth Petrunak of Bridgeport and Carolyn Balliet of Mammoth Lakes seek appointment to the advisory board.

Recommended Action: Appoint the following individuals to staggered, three-year terms on the In-Home Supportive Services (IHSS) Advisory Board: Elizabeth Petrunak of Bridgeport for a term commencing on October 1, 2021 and terminating on September 30, 2024; and Carolyn Balliet of Mammoth Lakes for a term commencing on May 1, 2022 and terminating on April 30, 2025.

Fiscal Impact: None. Funding is provided by the State through the IHSS administrative allocations process.

E. Appointment of Members to the Mono County Community Corrections Partnership (CCP) Executive Committee

(Karin Humiston, Chief Probation Officer) - Proposed resolution declaring approval of the appointment of members to the Mono County Community Corrections Partnership (CCP) Executive Committee.

Recommended Action: Adopt proposed resolution. Provide any desired direction to staff.

Fiscal Impact: None.

F. Establish 2022 Governance Ad Hoc Committee

(Robert C. Lawton, CAO) - Creation of an ad hoc committee of the Board to develop a draft Board Governance Manual and to draft update of the existing Board Rules of Procedure for presentation, discussion and final approval by the full board ("2022 Ad Hoc Governance Committee").

Recommended Action:

- 1) Adopt the 2022 Governance Ad Hoc Committee Charter / Scope of Work
- 2) Appoint Chair Bob Gardner and Supervisor Jennifer Kreitz to the Committee
- 3) Direct the Committee to the Board with draft recommendations/documents on or before October 19, 2022

Fiscal Impact: None.

6. CORRESPONDENCE RECEIVED - NONE

Direction may be given to staff regarding, and/or the Board may discuss, any item of correspondence listed on the agenda.

7. REGULAR AGENDA - MORNING

A. COVID-19 (Coronavirus) Update

Departments: CAO, Public Health
15 minutes

(Robert C. Lawton, CAO; Bryan Wheeler, Public Health Director; Dr. Caryn Slack, Public Health Officer) - Update on Countywide response and planning related to the COVID-19 pandemic.

Recommended Action: None, informational only.

Fiscal Impact: None.

B. Permanent Supportive Housing at The Parcel in Mammoth Lakes

Departments: Behavioral Health

15 minutes

(Robin Roberts, Behavioral Health Director) - Loan and related agreements between Mono County and Mammoth Lakes Pacific Associates and Standard Agreement with State of California Department of Housing and Community Development (HCD) for No Place Like Home (NPLH) funds in support of the designation of eight to thirteen permanent supportive housing units, and supportive services programming space, within the affordable housing development to be constructed at the Parcel in Mammoth Lakes.

Recommended Action:

Adopt Resolution R22- __ approving a \$1.8 million loan and associated regulatory and subordination agreements for permanent supportive housing, authorizing the County Administrative Officer to execute the loan, agreements and the State of California No Place Like Home (NPLH) standard agreement and related documents, to provide an additional \$500,000 in NPLH funds to the project, and finding that the project qualifies for the streamlining procedures under California Environmental Quality Act ("CEQA") Guidelines section 15183.3 and that no further environmental review is required.

Adopt Resolution R22- __, restating the text of R20-99, Authorizing the County's Participation in the No Place Like Home Program (Non-Competitive), in its entirety and making minor modifications thereto as requested by HCD.

Fiscal Impact: \$1,557,123 to be disbursed from Mental Health Services Act funds after project construction and occupancy. This expenditure is outlined in the Mono County Behavioral Health MHSA FY 20-23 Three-Year Plan and FY 21-22 Annual Update. \$500,000 in NPLH funds would transfer directly to the Partnership or its associate from HCD.

C. Mono County Budget Policy

Departments: CAO, Finance

20 minutes

(Robert C. Lawton, CAO; John Craig, ACAO; Megan Mahaffey, Accountant III) - Review and discuss changes to current policy for 2022-2023 Budget development.

Recommended Action: Adopt revisions to Budget Policy for 2022-2023.

Fiscal Impact: None.

D. Automated License Plate Reader System

Departments: Sheriff
15 minutes

(Sheriff Ingrid Braun) - Implementation of an Automated License Plate Reader (ALPR) system by the Sheriff's Office.

Recommended Action: Review ALPR policy and receive public comment on ALPR as required by California Civil Code 1798.90.55.

Fiscal Impact: This technology is being funded through the Homeland Security Grant Program. There is no impact to the General Fund.

E. Policy Regarding Acquisition and Use of Military Equipment

Departments: Sheriff

10 minutes

(Ingrid Braun, Sheriff) - Presentation regarding Sheriff's Department Policy regarding military equipment pursuant to Assembly Bill 481.

Recommended Action: Hear report from Sheriff, direct staff to post the proposed policy for thirty days on the County's website and then to agonize it for adoption by ordinance following the thirty-day posting period. Provide any other desired direction to staff.

Fiscal Impact: None.

8. CLOSED SESSION

A. Closed Session - Labor Negotiations

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Bob Lawton, Stacey Simon, Janet Dutcher, John Craig, Patty Francisco, and Oliver Yee. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39 - majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Correctional Deputy Sheriffs' Association. Unrepresented employees: All.

B. Closed Session - Initiation of Litigation

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9. Number of potential cases: One.

C. Closed Session - Public Employee Evaluation

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrative Officer.

THE AFTERNOON SESSION WILL RECONVENE FOLLOWING CLOSED SESSION OR, IF TIME ALLOWS, ITEMS MAY BE TAKEN UP DURING THE MORNING SESSION PRIOR TO CLOSED SESSION.

9. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Opportunity for the public to address the Board on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.) Please refer to the Teleconference Information section to determine how to make public comment for this meeting via Zoom.

10. REGULAR AGENDA - AFTERNOON

A. PUBLIC HEARING: Moratorium on New Short-Term and Transient Rentals

Departments: Community Development

Public Hearing: 1:00 PM (45 minutes)

(Bentley Regehr, Planning Analyst) - Proposed ordinance to temporarily suspend County permitting of new short-term or transient rental operations of residential units. Options applying the moratorium to a combination of single-family units, multi-family units, and residential and non-residential land use designations are described.

Recommended Action: Adopt proposed urgency ordinance ORD22-___, an interim ordinance of the Mono County Board of Supervisors Temporarily Suspending the Permitting of New Short-Term and Transient Rentals of Residential Units in All Land Use Designations. The ordinance may be modified per the options described in the staff report, or in some other fashion as the Board may direct. If a moratorium is adopted, provide direction on processing accepted transient rental applications.

Fiscal Impact: No fiscal impact with current revenues. Fiscal impact unknown concern any future revenues.

11. BOARD MEMBER REPORTS

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

ADJOURN



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED 30 minutes

SUBJECT Recognizing Milestone Anniversaries
of County Colleagues

**PERSONS
APPEARING
BEFORE THE
BOARD**

Robert Lawton; Various Department
Heads

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Recognizing County employees reaching milestone (5-year increment) anniversaries during 2022.

RECOMMENDED ACTION:

Conduct recognition ceremony

FISCAL IMPACT:

None.

CONTACT NAME: Cheyenne Stone

PHONE/EMAIL: 760-932-5408 / cstone@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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Staff Report
2022 Colleague Recognition Program

History

Time	Who	Approval
4/14/2022 3:51 PM	County Counsel	Yes
4/15/2022 7:05 AM	Finance	Yes
4/15/2022 4:27 PM	County Administrative Office	Yes



**COUNTY ADMINISTRATIVE OFFICER
COUNTY OF MONO**

Robert C. Lawton
PO Box 696
Bridgeport, CA 93517-0696
(760) 932-5410
rlawton@mono.ca.gov

**Employee Recognition
Tuesday, April 19, 2022**

BOARD OF SUPERVISORS

CHAIR

Bob Gardner / District 3

VICE CHAIR

Rhonda Duggan / District 2

Stacy Corless / District 5

Jennifer Kreitz / District 1

John Peters / District 4

COUNTY DEPARTMENTS

ASSESSOR

Hon. Barry Beck

DISTRICT ATTORNEY

Hon. Tim Kendall

SHERIFF / CORONER

Hon. Ingrid Braun

ANIMAL SERVICES

Malinda Huggins

BEHAVIORAL HEALTH

Robin Roberts

COMMUNITY DEVELOPMENT

Wendy Sugimura

COUNTY CLERK-RECORDER

Scheereen Dedman

COUNTY COUNSEL

Stacey Simon, Esq.

ECONOMIC DEVELOPMENT

Alicia Vennos

**EMERGENCY MEDICAL
SERVICES**

Chief Chris Mokracek

FINANCE

Janet Dutcher
CPA, GCFM, MPA

**INFORMATION
TECHNOLOGY**

Nate Greenberg

PROBATION

Karin Humiston

PUBLIC HEALTH

Bryan Wheeler

PUBLIC WORKS

Tony Dublino

SOCIAL SERVICES

Kathy Peterson

RE: In Recognition of Years of Public Service

Dear Colleague,

On behalf of the Mono County Board of Supervisors and the County Administrative Office, the honor of your virtual presence is requested at the Tuesday, April 19, 2022 Board of Supervisors meeting to formally recognize a Milestone Anniversary during your years of public service as of 2022. The meeting will be held via Zoom, and the awards ceremony is slated to begin shortly after 9:00 a.m.

A barbecue celebrating all Mono County colleagues who reached Milestone Anniversaries in public service during 2019, 2020, 2021 and 2022 is being planned for June 2022. We hope that you can participate in both the virtual and in-person events.

Thank you for serving our community and your colleagues, and please let me know if you have any questions.

I sincerely hope to see you at the ceremony.

Bob Lawton

Please RSVP to Cheyenne Stone at cstone@mono.ca.gov or [760.932.5408](tel:760.932.5408) by noon Monday, April 18, 2022, for Zoom login information.

Colleague Recognition



Thank you for your dedicated service to
the County of Mono!

2022 Honorees

Tuesday, April 19, 2022

Board of Supervisors Meeting 9:00 A.M.

Board of Supervisors - Bob Gardner, Chair

County Administrative Officer - Bob Lawton

National County Government Month—April, 2022

This year's theme: Counties **THRIVE**

1. **Technology**—equipping counties to expand broadband access to ensure all residents can learn, do business, and communicate effectively.
2. **Health**—improving our overall health and well-being.
3. **Readiness**—preparing the county workforce to gain the skills they need.
4. **Infrastructure**—strengthening resilience and the backbone of our communities.
5. **Vulnerable communities**—advancing equity, strengthening the safety net, and ensuring that our residents have the help they need.
6. **Economic opportunities**—creating conditions for all of us to compete in the 21st century economy.

Department Head Introductions (3-5 minutes)

During this time, when their departments are announced, colleagues are asked to raise hands on the Zoom platform and to remain on until the next department is called.



Assessor

Susan Peters - 20 years

Alexander Picken - 5 years

Board of Supervisors

Robert Gardner - 5 years

John Peters - 5 years

Behavioral Health

Richard Bonneau - 10 years

Jessica Workman - 5 years

Clerk/Recorder

Scheereen Dedman - 5 years

District Attorney

John Estridge - 20 years

David Anderson - 10 years

Sarah Gillespie - 5 years

Todd Graham - 5 years

Elizabeth Pelichowski - 5

years

Economic Development

Jeffrey Simpson - 10 years

Emergency Medical Services

Ray McGrale - 25 years

Jason Foster - 20 years

James DeGraffenreid - 20

years

Michael Sharrar - 10 years

Christopher Mokracek - 5

years

Kirk Riley Jondle - 5 years

Finance

Cameron Frank - 5 years

IT/Support

Eric Bucklin - 5 years

Probation

Jazmin Barkley - 10 years

Karin Humiston - 10 years

Jeffrey Mills - 5 years

Public Health

Leah Roman - 15 years

Maria Gonzalez - 15 years

Public Works

Timothy Keller - 15 years

Anthony Iniguez - 15 years

Cory Gonzales - 10 years

Justin Nalder - 5 years

Chad Senior - 5 years

Stephen Hall - 5 years

Edelmira Dillingham - 5

years

Sean Robison - 5 years

Sheriff

Phillip West - 20 years

Javier Gonzales - 20 years

David Melton - 10 years

Nicholas Way - 10 years

Glenn Martin Thompson -

10 years

Christopher Walston - 5

years

Kyle Osland - 5 years

Jason Pelichowski - 5 years

Jeffrey Gordon - 5 years

Social Services

Kathryn Peterson - 10 years

Jennifer Esparza - 5 years



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

PERSONS APPEARING BEFORE THE BOARD Alicia Vennos

SUBJECT Appointment to the Economic Development, Tourism and Film Commission

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Appointment of Florene Trainor to the Economic Development, Tourism & Film Commission for a 4-year term from April 19, 2022 to April 19, 2026, term will expire 2026.

RECOMMENDED ACTION:

Appoint Florene Trainor to the Economic Development, Tourism and Film Commission for a 4-year term from April 19, 2022 to April 19, 2026.

FISCAL IMPACT:

None.

CONTACT NAME: Alicia Vennos

PHONE/EMAIL: 7609241743 / avennos@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff Report
Application Florene Trainor March 2022

History

Time	Who	Approval
4/7/2022 11:05 AM	County Counsel	Yes
3/30/2022 9:58 AM	Finance	Yes

4/15/2022 4:22 PM

County Administrative Office

Yes



STAFF REPORT

Mono County Board of Supervisors Regular Meeting – April 19, 2022

SUBJECT: Appointment of Florene Trainor to the Mono County Economic Development, Tourism & Film Commission (EDTFC)

RECOMMENDATION: That the Board of Supervisors consider appointing Ms. Trainor to the Mono County Economic Development, Tourism & Film Commission for a 4-year term beginning April 19, 2022 – April 19, 2026, to fill the vacancy for District 2/South County resulting from the completed term of Commissioner Wendy Schneider.

BACKGROUND: Ms. Trainor has resided in the Eastern Sierra for 33 years and is the owner of Flo's Diner restaurant in Chalfant. As a local business owner living in District 2, Ms. Trainor is enthusiastic about being appointed to the Commission and is very well qualified for the position. Ms. Trainor held the position of Public Information Officer for Caltrans in Bishop for over a decade and has extensive knowledge of both Inyo and Mono counties, as well as an in-depth understanding of our regional challenges and opportunities. The Economic Development team and EDTF Commissioners look forward to the insights and contributions that Ms. Trainor will bring to the Commission and thank her in advance for her volunteerism and service.

FISCAL IMPACT: None.

MONO COUNTY APPLICATION FOR APPOINTMENT TO BOARDS/COMMISSIONS/COMMITTEES

DATE	3-20-2021		
NAME	Florence Trainor		
POSITION APPLIED FOR:			
Mono County Economic Development, Tourism & Film Commission			
RESIDENCE ADDRESS	[REDACTED] (Chalfant Valley)		
PHONE			
BUSINESS ADDRESS	[REDACTED]		
PHONE			
OCCUPATION	Owner - Flo's Diner		

How did you learn of the opening? Alicia Vennos

Please state briefly any experience of which you feel will be helpful when you serve in this appointment: Owning a business in Chalfant and my previous experience as the Public Information Officer at Caltrans District 9.

Other information may be submitted by resume if desired.

Summary of background and skills: I have lived in the Bishop area for 33 years, so I know the area. Also, I have owned several businesses and understand what is needed to stay profitable. Lastly, having been the Public Info Officer for Caltrans, I am able to write reports, offer information, and am tech savvy.

Professional experience: See prior question.

Education: Bachelor's - Business & Photography

Professional and/or community organizations: None currently.

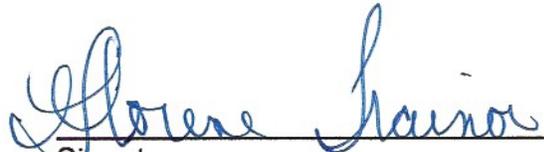
Prior: President Altrusa, Member of Bishop Lions, Professional Photographers of America,

Personal interests and hobbies: Photography, graphic arts, gardening, cooking, traveling, and drinking wine with family & friends on my back porch!

Have you ever been convicted of a felony, which would disqualify you from appointment? If you are appointed and cannot be bonded as required, your appointment will be revoked.

If you desire a personal interview or wish to address the Board, you may contact the Board of Supervisor's Office directly at (760) 932-5533.

Please return application to: Clerk of the Board
County of Mono
P. O. Box 715
Bridgeport, CA 93517


Signature

3-20-2022
Date



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT Appointment to County Service Area #1

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Appointment of Haislip Hayes to CSA #1 Board, term will expire December 31, 2024.

RECOMMENDED ACTION:

Appoint Haislip Hayes to CSA #1 Board, term will expire 2024.

FISCAL IMPACT:

None.

CONTACT NAME: Queenie Barnard

PHONE/EMAIL: 760-932-5534 / qbarnard@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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[County Service Area #1 Application - Haislip Hayes](#)

History

Time	Who	Approval
4/7/2022 5:15 PM	County Counsel	Yes
3/30/2022 9:59 AM	Finance	Yes
4/15/2022 4:22 PM	County Administrative Office	Yes

**MONO COUNTY
APPLICATION FOR APPOINTMENT
TO BOARDS/COMMISSIONS/COMMITTEES**

DATE	3-23-22
NAME	Haislip Hayes
POSITION APPLIED FOR:	
County Service Area #1 Board Member	
RESIDENCE ADDRESS	[REDACTED]
PHONE	[REDACTED]
BUSINESS ADDRESS	[REDACTED]
PHONE	
OCCUPATION	Public works director

How did you learn of the opening? from a board member

Please state briefly any experience of which you feel will be helpful when you serve in this appointment: planning, construction, finding, management of public works and community projects

Other information may be submitted by resume if desired.

Summary of background and skills: Licensed Professional Civil Engineer,

Professional experience: 15+ years as an engineer
working for TOML

Education: BS Civil Engineering

Professional and/or community organizations: RPAC, ECV

Personal interests and hobbies: Cycling (MTB & Road)
hiking, backpacking, running, old cars

Have you ever been convicted of a felony, which would disqualify you from appointment? If you are appointed and cannot be bonded as required, your appointment will be revoked.

If you desire a personal interview or wish to address the Board, you may contact the Board of Supervisor's Office directly at (760) 932-5530.

Please return application to: Clerk of the Board
County of Mono
P. O. Box 715
Bridgeport, CA 93517


Signature

3-23-22
Date



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT Disease Intervention Specialist (DIS)
Workforce Development Grant
Agreement

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed contract with California Department of Public Health pertaining to the Disease Intervention Specialist (DIS) Workforce Development Grant Agreement Number 21-10569.

RECOMMENDED ACTION:

Approve and authorize Bryan Wheeler, Public Health Director, to sign proposed contract and associated certification clauses. Authorize Bryan Wheeler, Public Health Director, in consultation with County Counsel, to administer contract. This authorization shall include making minor adjustments to said contract from time to time as the Public Health Director may deem necessary, provided such amendments do not alter the amount not to exceed and do not substantially alter the scope of work or budget and are approved as to form by County Counsel.

FISCAL IMPACT:

No fiscal impact to the General Fund. \$507,210 in additional expenditures paid for with \$507,210 in new grant revenues for the funding period of July 1, 2021 to December 31, 2025. Appropriations are currently not being requested for the 2021-2022 fiscal year and future appropriations will be included during the annual budget adoption.

CONTACT NAME: Jacinda Croissant

PHONE/EMAIL: 760-924-1842 / jcroissant@mono.ca.gov

SEND COPIES TO:

Jacinda Croissant, Bryan Wheeler, Stephanie Butters

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
<input type="checkbox"/> Staff Report
<input type="checkbox"/> Grant Agreement
<input type="checkbox"/> Contractor Certification Clauses

History

Time	Who	Approval
4/7/2022 5:20 PM	County Counsel	Yes
4/7/2022 10:33 AM	Finance	Yes
4/15/2022 4:22 PM	County Administrative Office	Yes



MONO COUNTY HEALTH DEPARTMENT

Public Health

P.O. BOX 476, BRIDGEPORT, CA 93517 PHONE (760) 932-5580 • FAX (760) 924-1831
P.O. BOX 3329, MAMMOTH LAKES, CA 93546 PHONE (760) 924-1830 • FAX (760) 924-1831

DATE: April 4, 2022
TO: Honorable Board of Supervisors
FROM: Bryan Wheeler, Public Health Director
SUBJECT: Disease Investigation Specialist (DIS) Workforce Development

Recommended Action:

Approve and authorize Bryan Wheeler, Public Health Director, to sign proposed agreement. Authorize Bryan Wheeler, Public Health Director, in consultation with County Counsel, to administer agreement. This authorization shall include making minor adjustments to said contract from time to time as the Public Health Director may deem necessary, provided such amendments do not alter the amount not to exceed and do not substantially alter the scope of work or budget and are approved as to form by County Counsel.

Discussion:

The California Department of Public Health has granted funds to Mono County Health Department for the purpose of conducting activities necessary to expand, train, and sustain a response-ready disease intervention specialist (DIS) workforce.

Fiscal Impact:

No fiscal impact to the General Fund.

\$507,210 in additional expenditures paid for with \$507,210 in new grant revenues for the funding period of July 1, 2021 to December 31, 2025.

Appropriations are currently not being requested for the 2021-2022 fiscal year and future appropriations will be included during the annual budget adoption.

Submitted by Stephanie Butters, Fiscal and Administrative Officer

Reviewed and Approved by Bryan Wheeler, Public Health Director

**CALIFORNIA SEXUALLY TRANSMITTED DISEASE BRANCH
STD Program Management**

Awarded By

THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH, hereinafter “Department”

TO

County of Mono, hereinafter “Grantee”

Implementing the “DIS Workforce Development,” hereinafter “Project”

GRANT AGREEMENT NUMBER 21-10569

The Department awards this Grant and the Grantee accepts and agrees to use the Grant funds as follows:

AUTHORITY: The Department has authority to grant funds for the Project under Health and Safety Code, Section 131085(a).

PURPOSE: The Department shall award this Grant Agreement to and for the benefit of the Grantee; the purpose of the Grant is to conduct activities necessary to expand, train, and sustain a response-ready disease intervention specialist (DIS) workforce.

GRANT AMOUNT: The maximum amount payable under this Grant Agreement shall not exceed the amount of \$507,210.

TERM OF GRANT AGREEMENT: The term of the Grant shall begin on July 1, 2021 and terminates on December 31, 2025. No funds may be requested or invoiced for services performed or costs incurred after December 31, 2025.

PROJECT REPRESENTATIVES. The Project Representatives during the term of this Grant will be:

California Department of Public Health	Grantee: County of Mono
Name: Karlo Estacio, Assistant Branch Chief STD Control Branch	Name: Bryan Wheeler Public Health Director
Address: P.O. Box 997377, MS 7320	Address: P.O. Box 3329
City, ZIP: Sacramento, CA 95899-7377	City, ZIP: Mammoth Lakes, CA 93546
Phone: (916) 552-9820	Phone: (760) 924-1835
E-mail: Karlo.Estacio@cdph.ca.gov	E-mail: bwheeler@mono.ca.gov

Direct all inquiries to the following representatives:

California Department of Public Health, STD Control Branch	Grantee: County of Mono
Attention: Christine Johnson, Grant Manager	Attention: Jacinda Croissant
Address: P.O. Box 997377, MS 7320	Address: P.O. Box 3329
City, Zip: Sacramento, CA 95899-7377	City, Zip: Mammoth Lakes, CA 93546
Phone: (916) 552-9796	Phone: (760) 924-1842
E-mail: Christine.Johnson@cdph.ca.gov	E-mail: jcroissant@mono.ca.gov

All payments from CDPH to the Grantee; shall be sent to the following address:

Remittance Address
Grantee: County of Mono
Attention: “Cashier”: Stephanie Butters
Address: P.O. Box 476
City, Zip: Bridgeport, CA 93517
Phone: (760) 935-5587
E-mail: sbutters@mono.ca.gov

Either party may make changes to the Project Representatives, or remittance address, by giving a written notice to the other party, said changes shall not require an amendment to this agreement but must be maintained as supporting documentation. Note: Remittance address changes will require the Grantee to submit a completed CDPH 9083 Governmental Entity Taxpayer ID Form or STD 204 Payee Data Record Form and the STD 205 Payee Data Supplement which can be requested through the CDPH Project Representatives for processing.

STANDARD GRANT PROVISIONS. The Grantee must adhere to all Exhibits listed and any subsequent revisions. The following Exhibits are attached hereto or attached by reference and made a part of this Grant Agreement:

Exhibit A AWARD LETTER, FUNDING ALLOCATIONS/ALLOCATION PROCESS

Note: Once the Grant Agreement has been fully executed, request for modifications/changes thereafter to the existing grant activities can be made by written notice by either party and must be approved by CDPH. This process does not require a formal amendment but must be agreed to by both parties in writing. Copies must be maintained by both parties. Such modifications/changes must be made 30 days prior to implementation. A written amendment is required when there is an increase or decrease in funding or a change in the term of the agreement.

Exhibit B BUDGET DETAIL AND PAYMENT PROVISIONS

Exhibit C STANDARD GRANT CONDITIONS

Exhibit D ADDITIONAL PROVISIONS

Exhibit E INFORMATION PRIVACY AND SECURITY REQUIREMENTS

Exhibit F FEDERAL TERMS AND CONDITIONS

GRANTEE REPRESENTATIONS: The Grantee(s) accept all terms, provisions, and conditions of this grant, including those stated in the Exhibits incorporated by reference above. The Grantee(s) shall fulfill all assurances and commitments made in the application, declarations, other accompanying documents, and written communications (e.g., e-mail, correspondence) filed in support of the request for grant funding. The Grantee(s) shall comply with and require its contractors and subcontractors to comply with all applicable laws, policies, and regulations.

IN WITNESS THEREOF, the parties have executed this Grant on the dates set forth below.

Executed By:

Date: _____

Bryan Wheeler, Public Health Director
County of Mono
P.O. Box 3329
Mammoth Lakes, CA 93546

Date: _____

Javier Sandoval, Chief
Contracts Management Unit
California Department of Public Health
1616 Capitol Avenue, Suite 74.262
P.O. Box 997377, MS 1800-1804
Sacramento, CA 95899-7377



TOMÁS J. ARAGÓN, MD, DrPH
Director and State Public Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

Exhibit A
Letter of Award

December 30, 2021

TO: CALIFORNIA LOCAL HEALTH JURISDICTIONS

SUBJECT: DISEASE INTERVENTION SPECIALIST WORKFORCE DEVELOPMENT GRANT

The California Department of Public Health (CDPH), Sexually Transmitted Disease Control Branch (STDCB) is pleased to announce the availability of approximately \$10 million in Centers for Disease Control and Prevention (CDC) Federal Funds starting in fiscal year (FY) 2021-22 for the support of governmental public health response to COVID-19 and other infectious diseases.

This funding opportunity is made possible through a federal grant award the CDC has issued through a supplement to PS19-1901, Strengthening STD Prevention and Control for Health Departments (STD PCHD), Catalog of Federal Domestic Assistance (CFDA) #93.977. Counties of San Francisco and Los Angeles are separately funded under the STD PCHD grant and were not included in local health jurisdiction (LHJ) allocations described in this letter.

The overall goal of the funding is to develop, expand, train, and sustain the disease intervention specialists (DIS) workforce. Funding is intended to hire personnel to address projected jurisdictional sexually transmitted disease (STD), HIV, COVID-19, and other infectious disease prevention and response needs over the performance period. Hiring priority should be given to front-line public health workforce (DIS and DIS supervisors) with secondary focus on roles that support the success of frontline DIS response and outbreak efforts. For more information on the CDC DIS Workforce Development grant, please refer to the funding guidance at: <https://www.cdc.gov/std/funding/pchd/development-funding.html>.

Grantee activities will focus on the following key strategic targets:

- Increased capacity to conduct disease investigation
- Linkage to prevention and treatment
- Case management and oversight
- Outbreak response for STD, HIV, COVID-19 and other infectious diseases

Funding availability in subsequent fiscal years will be determined by satisfactory recipient performance and is subject to the availability of appropriated funds and federal award. These funds will be made available to support the DIS workforce development on a yearly basis from July 1, 2021 through December 31, 2025. The amount of annual funding was allocated through a non-competitive formula using the [United States Census Community Resilience Estimates](#).



A summary of the DIS workforce funding allocation process, including the final annual allocation amounts for specific jurisdictions are available at: [DIS Workforce Development](#).

The funds must be used to provide allowable DIS workforce development activities at the local level. For guidance, please see Grant Activities at: [DIS Workforce Development](#).

All grantees must adhere to the Grant Activities, and any subsequent revisions, along with all instructions, policy memoranda, or directives issued by CDPH/STDCB. CDPH/STCB will make any changes and/or additions to these guidelines in writing and, whenever possible, notification of such changes shall be made 30 days prior to implementation.

In order to receive these funds, you must return the following signed documents no later than close of business, **January 31, 2022**.

- Annual budgets for calendar years 2021 through 2025
- Completed CDPH 9083 form

The documents should be e-mailed to STDLHJContracts@cdph.ca.gov and include your agency's name in the subject line when you send the email to help us to easily identify which local health jurisdiction you represent. Please note that no funds are secured until the grant is fully executed.

We look forward to collaborating with you to support this expansion of the DIS workforce. If you have any questions, please feel free to contact Christine Johnson by e-mail at Christine.Johnson@cdph.ca.gov.

Sincerely,



Alexia McGonagle, Acting Chief
Business Operations Support Section
STD Control Branch

Enclosures

cc: Kathleen Jacobson, MD, Chief, STD Control Branch
Edwin Lopez, Chief, Disease Intervention Section, STD Control Branch
Jessica Frasure-Williams, Chief, Program Development Section, STD Control Branch
Cary Escovedo, Northern California Regional Capacity Building Coordinator,
STD Control Branch
Michelle Gonzales, Southern California Regional Capacity Building Coordinator,
STD Control Branch
Pike Long, Bay Area Regional Capacity Building Coordinator,
STD Control Branch
Sophie Lyons, Central Inland Regional Capacity Building Coordinator,
STD Control Branch

County/City	Year 1 Annual Award (7/1/21-12/31/21)	Year 2 Annual Award (1/1/22 - 12/31/22)	Year 3 Annual Award (1/1/23 - 12/31/23)	Year 4 Annual Award (1/1/24 - 12/31/24)	Year 5 Annual Award (1/1/25 - 12/31/25)	Total Five-Year Allocation
San Bernardino County	\$378,476	\$378,476	\$378,476	\$378,476	\$378,476	\$1,892,380
San Diego County	\$523,452	\$523,452	\$523,452	\$523,452	\$523,452	\$2,617,260
San Joaquin County	\$210,741	\$210,741	\$210,741	\$210,741	\$210,741	\$1,053,705
San Luis Obispo County	\$136,267	\$136,267	\$136,267	\$136,267	\$136,267	\$681,335
San Mateo County	\$197,256	\$197,256	\$197,256	\$197,256	\$197,256	\$986,280
Santa Barbara County	\$163,058	\$163,058	\$163,058	\$163,058	\$163,058	\$815,290
Santa Clara County	\$337,870	\$337,870	\$337,870	\$337,870	\$337,870	\$1,689,350
Santa Cruz County	\$135,303	\$135,303	\$135,303	\$135,303	\$135,303	\$676,515
Shasta County	\$120,826	\$120,826	\$120,826	\$120,826	\$120,826	\$604,130
Sierra County	\$100,492	\$100,492	\$100,492	\$100,492	\$100,492	\$502,460
Siskiyou County	\$106,289	\$106,289	\$106,289	\$106,289	\$106,289	\$531,445
Solano County	\$155,420	\$155,420	\$155,420	\$155,420	\$155,420	\$777,100
Sonoma County	\$166,720	\$166,720	\$166,720	\$166,720	\$166,720	\$833,600
Stanislaus County	\$178,035	\$178,035	\$178,035	\$178,035	\$178,035	\$890,175
Sutter County	\$112,756	\$112,756	\$112,756	\$112,756	\$112,756	\$563,780
Tehama County	\$107,799	\$107,799	\$107,799	\$107,799	\$107,799	\$538,995
Trinity County	\$101,982	\$101,982	\$101,982	\$101,982	\$101,982	\$509,910
Tulare County	\$168,801	\$168,801	\$168,801	\$168,801	\$168,801	\$844,005
Tuolumne County	\$106,838	\$106,838	\$106,838	\$106,838	\$106,838	\$534,190
Ventura County	\$216,276	\$216,276	\$216,276	\$216,276	\$216,276	\$1,081,380
Yolo County	\$128,056	\$128,056	\$128,056	\$128,056	\$128,056	\$640,280
Yuba County	\$109,606	\$109,606	\$109,606	\$109,606	\$109,606	\$548,030
Total	\$9,804,356	\$9,804,356	\$9,804,356	\$9,804,356	\$9,804,356	\$49,021,780

*City estimates were calculated using census tracts. Alameda Health Department estimates do not include Berkeley census tracts in the formula.

**To correct for rounding errors, \$2 was added to the lowest award (Alpine County)

Note: In these estimates, \$250,000/year have been set aside to fund tribal governments.

Awards were allocated by applying a base of \$100,000 and distributing the balance of funds based on population at highest risk per the United States Census Community Resilience Estimates. [For more information about how Community Resilience Estimates are calculated, see the US Census technical document.](#)

Exhibit A Funding Allocation Process

PS19-1901: Strengthening STD Prevention and Control for Health Departments (STD PCHD) DIS Workforce Development Funding

The California Department of Public Health (CDPH), Sexually Transmitted Disease Control Branch (STDCB) will allocate approximately \$10 million Centers for Disease Control and Prevention (CDC) Federal funds (PS19-1901) starting in state fiscal year 2021-22 to expand the Disease Intervention Specialist (DIS) workforce at the local level to support governmental public health response to COVID-19 and other infectious diseases.

The CDC [DIS Workforce Development Funding](#) is part of the [American Rescue Plan Act of 2021](#). The goal of the investment is to support 21st century outbreak response needs by:

1. Expanding and enhancing frontline public health staff
2. Conducting DIS workforce training and skills building
3. Building organizational capacity for outbreak response
4. Evaluating and improving recruitment, training, and outbreak response efforts

For the first year, the DIS Workforce funding will be distributed as a supplement to the STD PCHD grant and is available to view at [PS19-1901: STD Prevention and Control for Health Departments \(STD PCHD\)](#).

Funding will be allocated to fifty-nine (59) local health jurisdictions (LHJ) and an additional \$250,000 to fund local tribal governments.

CDPH/STDCB included the following factors in the allocation model with the hierarchy of need consistent for all counties:

- The grant requires that funds be allocated LHJs using the US Census Community Resilience Estimates ([details about what is included is available](#)) or the Social Vulnerability Index. CDPH/STDCB used the Community Resilience Estimates since that is what CDC used to distribute the funds to states. There is an expectation that the most vulnerable communities will be supported, rather than focusing on morbidity.
- This information was presented, and approval was provided by California Conference of Local Health Officers and County Health Executives Association of California.
- As outlined in Exhibit A1, CDPH/STDCB has allocated \$250,000 per year to Tribal governments and \$9,804,356 per year to 59 LHJs.
- San Francisco and Los Angeles (excluding Berkeley, Long Beach and Pasadena) counties are funded independently by CDC and not included in these allocations. Census tracts belonging to City health jurisdictions are not included in the county-level estimates.
- Local deliverables with these funds will include activities related to disease investigation, including contact tracing, case investigation, linkage to care, and partner services. Hiring frontline DIS and DIS supervisors is the priority of these funds but there will be some flexibility regarding other support staff (e.g., triage clerk) or activities (e.g., phlebotomy training).
- According to the 2018 Infrastructure Survey of local STD programs, the average salary of DIS, including DIS Supervisors, ranges between \$38,048 and \$131,418.

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

- A. Upon completion of project activities as provided in Exhibit A and upon receipt and approval of the invoices, the State agrees to reimburse the Grantee for activities performed and expenditures incurred in accordance with the costs specified herein.
- B. Invoices shall include the Grant Number and shall be submitted not more frequently than quarterly in arrears to:

Christine Johnson
California Department of Public Health
STD Control Branch
MS 7320
P.O. Box 997377-7377
Sacramento, CA 95899-7377

Or submitted electronically to STDLHJInvoices@cdph.ca.gov.

- C. Invoices shall:
 - 1) Be prepared on Grantee letterhead. If invoices are not on produced letterhead invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent activities performed and are in accordance with Exhibit A under this Grant.
 - 2) Bear the Grantee's name as shown on the Grant.
 - 3) Identify the billing and/or performance period covered by the invoice.
 - 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this Grant. Subject to the terms of this Grant, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable and approved by CDPH.
- D. Amount awarded under this Grant is identified in the CDPH 1229 Grant Agreement.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to fulfill any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Grantee to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

Exhibit B
Budget Detail and Payment Provisions

4. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than forty-five (45) calendar days following the expiration or termination date of this Grant, unless a later or alternate deadline is agreed to in writing by the program grant manager. Said invoice should be clearly marked "Final Invoice", indicating that all payment obligations of the State under this Grant have ceased and that no further payments are due or outstanding.
- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Grantee fails to obtain prior written State approval of an alternate final invoice submission deadline.

5. Travel and Per Diem Reimbursement

Any reimbursement for necessary travel and per diem shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources ([Cal HR](#)). If the Cal HR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. No travel outside the State of California shall be reimbursed without prior authorization from the CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

EXHIBIT C

STANDARD GRANT CONDITIONS

1. **APPROVAL:** This Grant is of no force or effect until signed by both parties and approved by the Department of General Services, if required. The Grantee may not commence performance until such approval has been obtained
2. **AMENDMENT:** No amendment or variation of the terms of this Grant shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or Agreement not incorporated in the Grant is binding on any of the parties. In no case shall the Department materially alter the scope of the Project set forth in Exhibit A.
3. **ASSIGNMENT:** This Grant is not assignable by the Grantee, either in whole or in part, without the written consent of the Grant Manager in the form of a written amendment to the Grant.
4. **AUDIT:** Grantee agrees that the Department, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to this Grant. Grantee agrees to maintain such records for a possible audit for a minimum of three (3) years after final payment or completion of the project funded with this Grant, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to the project.
5. **CONFLICT OF INTEREST:** Grantee certifies that it is in compliance with all applicable state and/or federal conflict of interest laws.
6. **INDEMNIFICATION:** Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the project, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Grantee in the performance of any activities related to the Project.
7. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of all grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of any applicable state or federal law, or the provisions of this Grant. Grantee further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.
8. **GOVERNING LAW:** This Grant is governed by and shall be interpreted in accordance with the laws of the State of California.

- 9. INCOME RESTRICTIONS:** Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Grant shall be paid by the Grantee to the Department, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by the Department under this Grant.
- 10. INDEPENDENT CONTRACTOR:** Grantee, and its agents and employees of Grantee, in the performance of the Project, shall act in an independent capacity and not as officers, employees or agents of the Department.
- 11. MEDIA EVENTS:** Grantee shall notify the Department's Grant Manager in writing at least twenty (20) working days before any public or media event publicizing the accomplishments and/or results of the Project and provide the opportunity for attendance and participation by Department's representatives.
- 12. NO THIRD-PARTY RIGHTS:** The Department and Grantee do not intend to create any rights or remedies for any third- party as a beneficiary of this Grant or the project.
- 13. NOTICE:** Grantee shall promptly notify the Department's Grant Manager in writing of any events, developments or changes that could affect the completion of the project or the budget approved for this Grant.
- 14. PROFESSIONALS:** Grantee agrees that only licensed professionals will be used to perform services under this Grant where such services are called for.
- 15. RECORDS:** Grantee certifies that it will maintain Project accounts in accordance with generally accepted accounting principles. Grantee further certifies that it will comply with the following conditions for a grant award as set forth in the Request for Applications (Exhibit D) and the Grant Application (Exhibit A).

 - A. Establish an official file for the Project which shall adequately document all significant actions relative to the Project;
 - B. Establish separate accounts which will adequately and accurately depict all amounts received and expended on this Project, including all grant funds received under this Grant;
 - C. Establish separate accounts which will adequately depict all income received which is attributable to the Project, especially including any income attributable to grant funds disbursed under this Grant;
 - D. Establish an accounting system which will adequately depict final total costs of the Project, including both direct and indirect costs; and,
 - E. Establish such accounts and maintain such records as may be necessary for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations.
- 16. RELATED LITIGATION:** Under no circumstances may Grantee use funds from any disbursement under this Grant to pay for costs associated with any litigation between the Grantee and the Department.

17. RIGHTS IN DATA: Grantee and the Department agree that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work submitted under Exhibit A in the performance of the Project funded by this Grant shall be in the public domain. Grantee may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Project, subject to appropriate acknowledgment of credit to the Department for financial support. Grantee shall not utilize the materials submitted to the Department (except data) for any profit making venture or sell or grant rights to a third-party who intends to do so. The Department has the right to use submitted data for all governmental purposes.

18. VENUE: (This provision does not apply to Local Governmental Entities)

The Department and Grantee agree that any action arising out of this Grant shall be filed and maintained in the Superior Court, California. Grantee waives any existing sovereign immunity for the purposes of this Grant, if applicable.

19. STATE-FUNDED RESEARCH GRANTS:

- A. Grantee shall provide for free public access to any publication of a department-funded invention or department-funded technology. Grantee further agrees to all terms and conditions required by the California Taxpayer Access to Publicly Funded Research Act (Chapter 2.5 (commencing with Section 13989) of Part 4.5 of Division 3 of Title 2 of the Government Code).
- B. As a condition of receiving the research grant, Grantee agrees to the following terms and conditions which are set forth in Government Code section 13989.6 ("Section 13989.6"):
 - 1) Grantee is responsible for ensuring that any publishing or copyright agreements concerning submitted manuscripts fully comply with Section 13989.6.
 - 2) Grantees shall report to the Department the final disposition of the research grant, including, but not limited to, if it was published, when it was published, where it was published, when the 12-month time period expires, and where the manuscript will be available for open access.
 - 3) For a manuscript that is accepted for publication in a peer-reviewed journal, the Grantee shall ensure that an electronic version of the peer-reviewed manuscript is available to the department and on an appropriate publicly accessible database approved by the Department, including, but not limited to, the University of California's eScholarship Repository at the California Digital Library, PubMed Central, or the California Digital Open Source Library, to be made publicly available not later than 12 months after the official date of publication. Manuscripts submitted to the California Digital Open Source Library shall be exempt from the requirements in subdivision (b) of Section 66408 of the Education Code. Grantee shall make reasonable efforts to comply with this requirement by ensuring that their manuscript is accessible on an approved publicly accessible database, and notifying the Department that the manuscript is available on a department-approved database. If Grantee is unable to ensure that their manuscript is accessible on an approved publicly accessible database, Grantee may comply by providing the manuscript to the Department not later than 12 months after the official date of publication.

- 4) For publications other than those described in paragraph B.3 above,, including meeting abstracts, Grantee shall comply by providing the manuscript to the Department not later than 12 months after the official date of publication.
- 5) Grantee is authorized to use grant money for publication costs, including fees charged by a publisher for color and page charges, or fees for digital distribution.

Exhibit D
Additional Provisions

1. Cancellation / Termination

- A. This Grant may be cancelled by CDPH without cause upon thirty (30) calendar days advance written notice to the Grantee.
- B. CDPH reserves the right to cancel or terminate this Grant immediately for cause. The Grantee may submit a written request to terminate this Grant only if CDPH substantially fails to perform its responsibilities as provided herein.
- C. The term “for cause” shall mean that the Grantee fails to meet the terms, conditions, and/or responsibilities of this agreement. Causes for termination include, but are not limited to the following occurrences:
 - 1) If the Grantee knowingly furnishes any statement, representation, warranty, or certification in connection with the agreement, which representation is materially false, deceptive, incorrect, or incomplete.
 - 2) If the Grantee fails to perform any material requirement of this Grant or defaults in performance of this agreement.
 - 3) If the Grantee files for bankruptcy, or if CDPH determines that the Grantee becomes financially incapable of completing this agreement.
- D. Grant termination or cancellation shall be effective as of the date indicated in CDPH’s notification to the Grantee. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. In the event of early termination or cancellation, the Grantee shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this Grant.
- F. In the event of termination, and at the request of CDPH, the Grantee shall furnish copies of all proposals, specifications, designs, procedures, layouts, copy, and other materials related to the services or deliverables provided under this Grant, whether finished or in progress on the termination date.
- G. The Grantee will not be entitled to reimbursement for any expenses incurred for services and deliverables pursuant to this agreement after the effective date of termination.
- H. Upon receipt of notification of termination of this Grant, and except as otherwise specified by CDPH, the Grantee shall:
 - 1) Place no further order or subgrants for materials, services, or facilities.
 - 2) Settle all outstanding liabilities and all claims arising out of such termination of orders and subgrants.

Exhibit D
Additional Provisions

- 3) Upon the effective date of termination of the Grant and the payment by CDPH of all items properly changeable to CDPH hereunder, Grantee shall transfer, assign and make available to CDPH all property and materials belonging to CDPH, all rights and claims to any and all reservations, grants, and arrangements with owners of media/PR materials, or others, and shall make available to CDPH all written information regarding CDPH's media/PR materials, and no extra compensation is to be paid to Grantee for its services.
 - 4) Take such action as may be necessary, or as CDPH may specify, to protect and preserve any property related to this agreement which is in the possession of the Grantee and in which CDPH has or may acquire an interest.
- I. CDPH may, at its discretion, require the Grantee to cease performance of certain components of the Scope of Work as designated by CDPH and complete performance of other components prior to the termination date of the Grant.

2. Avoidance of Conflicts of Interest by Grantee

- A. CDPH intends to avoid any real or apparent conflict of interest on the part of the Grantee, subgrants, or employees, officers and directors of the Grantee or subgrants. Thus, CDPH reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Grantee to submit additional information or a plan for resolving the conflict, subject to CDPH review and prior approval.
- B. Conflicts of interest include, but are not limited to:
- 1) An instance where the Grantee or any of its subgrants, or any employee, officer, or director of the Grantee or any subgrant or has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the grant would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the grant.
 - 2) An instance where the Grantee's or any subgrant's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.
- C. If CDPH is or becomes aware of a known or suspected conflict of interest, the Grantee will be given an opportunity to submit additional information or to resolve the conflict. A Grantee with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by CDPH to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by CDPH and cannot be resolved to the satisfaction of CDPH, the conflict will be grounds for terminating the grant. CDPH may, at its discretion upon receipt of a written request from the Grantee, authorize an extension of the timeline indicated herein.

Exhibit D
Additional Provisions

3. Dispute Resolution Process

- A. A Grantee grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Grantee and CDPH, the Grantee must seek resolution using the procedure outlined below.
- 1) The Grantee should first informally discuss the problem with the CDPH Program Grant Manager. If the problem cannot be resolved informally, the Grantee shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Grantee's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Grantee. The Branch Chief shall respond in writing to the Grantee indicating the decision and reasons therefore. If the Grantee disagrees with the Branch Chief's decision, the Grantee may appeal to the second level.
 - 2) When appealing to the second level, the Grantee must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Grantee shall include with the appeal a copy of the Grantee's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Grantee to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Grantee within twenty (20) working days of receipt of the Grantee's second level appeal.
- B. If the Grantee wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Grantee shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Division 2, Chapter 2, Article 3 (commencing with Section 1140) of the California Code of Regulations).
- C. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- D. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Grant Manager.
- E. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Grantee shall be notified in writing by the CDPH Grant Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

Exhibit E
Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

This Information Privacy and Security Requirements Exhibit (For Non-HIPAA/HITECH Act Contracts) (hereinafter referred to as “this Exhibit”) sets forth the information privacy and security requirements Contractor is obligated to follow with respect to all personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on **behalf** of the California Department of Public Health (hereinafter “CDPH”), pursuant to Contractor’s agreement with CDPH. (Such personal and confidential information is referred to herein collectively as “CDPH PCI”.) CDPH and Contractor desire to protect the privacy and provide for the security of CDPH PCI pursuant to this Exhibit and in compliance with state and federal laws applicable to the CDPH PCI.

- I. Order of Precedence: With respect to information privacy and security requirements for all CDPH PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and CDPH, including Exhibit A (Scope of Work), all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.
- II. Effect on lower tier transactions: The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, and the information privacy and security requirements Contractor is obligated to follow with respect to CDPH PCI disclosed to Contractor, or collected, created, maintained, stored, transmitted, or used by Contractor for or on behalf of CDPH, pursuant to Contractor’s agreement with CDPH. When applicable the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
- III. Definitions: For purposes of the agreement between Contractor and CDPH, including this Exhibit, the following definitions shall apply:
 - A. Breach:

“Breach” means:

 1. the unauthorized acquisition, access, use, or disclosure of CDPH PCI in a manner which compromises the security, confidentiality, or integrity of the information; or
 2. the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).
 - B. Confidential Information: “Confidential information” means information that:
 1. does not meet the definition of “public records” set forth in California Government Code section 6252(e), or is exempt from disclosure under any of the provisions of Section 6250, et seq. of the California Government Code or any other applicable state or federal laws; or
 2. is contained in documents, files, folders, books, or records that are clearly labeled, marked, or designated with the word “confidential” by CDPH.
 - C. Disclosure: “Disclosure” means the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information.

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Information Privacy and Security Requirements
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- D. PCI: “PCI” means “personal information” and “confidential information” (as these terms are defined herein):
- E. Personal Information: “Personal information” means information, in any medium (paper, electronic, oral) that:
1. directly or indirectly collectively identifies or uniquely describes an individual; or
 2. could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
 3. meets the definition of “personal information” set forth in California Civil Code section 1798.3, subdivision (a) or
 4. is one of the data elements set forth in California Civil Code section 1798.29, subdivision (g)(1) or (g)(2); or
 5. meets the definition of “medical information” set forth in either California Civil Code section 1798.29, subdivision (h)(2) or California Civil Code section 56.05, subdivision (j); or
 6. meets the definition of “health insurance information” set forth in California Civil Code section 1798.29, subdivision (h)(3); or
 7. is protected from disclosure under applicable state or federal law.
- F. Security Incident: “Security Incident” means:
1. an attempted breach; or
 2. the attempted or successful unauthorized access or disclosure, modification, or destruction of CDPH PCI, in violation of any state or federal law or in a manner not permitted under the agreement between Contractor and CDPH, including this Exhibit; or
 3. the attempted or successful modification or destruction of, or interference with, Contractor’s system operations in an information technology system, that negatively impacts the confidentiality, availability, or integrity of CDPH PCI; or
 4. any event that is reasonably believed to have compromised the confidentiality, integrity, or availability of an information asset, system, process, data storage, or transmission. Furthermore, an information security incident may also include an event that constitutes a violation or imminent threat of violation of information security policies or procedures, including acceptable use policies.
- G. Use: “Use” means the sharing, employment, application, utilization, examination, or analysis of information.

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- IV. **Disclosure Restrictions:** The Contractor and its employees, agents, and subcontractors shall protect from unauthorized disclosure any CDPH PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and CDPH (including this Exhibit), any CDPH PCI to anyone other than CDPH personnel or programs without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
- V. **Use Restrictions:** The Contractor and its employees, agents, and subcontractors shall not use any CDPH PCI for any purpose other than performing the Contractor's obligations under its agreement with CDPH.
- VI. **Safeguards:** The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, security, integrity, and availability of CDPH PCI, including electronic or computerized CDPH PCI. At each location where CDPH PCI exists under Contractor's control, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with CDPH, including this Exhibit, and which incorporates the requirements of Section VII, Security, below. Contractor shall provide CDPH with Contractor's current and updated policies within five (5) business days of a request by CDPH for the policies.
- VII. **Security:** The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing CDPH PCI. These steps shall include, at a minimum, complying with all of the data system security precautions listed in the Contractor Data Security Standards set forth in Attachment 1 to this Exhibit.
- VIII. **Security Officer:** At each place where CDPH PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and to communicate with CDPH on matters concerning this Exhibit.
- IX. **Training:** The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with CDPH, including this Exhibit, or otherwise use or disclose CDPH PCI.
- A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
- B. The Contractor shall retain each employee's certifications for CDPH inspection for a period of three years following contract termination or completion.
- C. Contractor shall provide CDPH with its employee's certifications within five (5) business days of a request by CDPH for the employee's certifications.
- X. **Employee Discipline:** Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally or negligently violate any provisions of this Exhibit.

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Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

XI. Breach and Security Incident Responsibilities:

- A. Notification to CDPH of Breach or Security Incident: The Contractor shall notify CDPH **immediately by telephone call plus email or fax** upon the discovery of a breach (as defined in this Exhibit), **and within twenty-four (24) hours by email or fax** of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification will impede a criminal investigation, in which case the notification required by this section shall be made to CDPH immediately after the law enforcement agency determines that such notification will not compromise the investigation. Notification shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(F), below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves CDPH PCI in electronic or computerized form, notification to CDPH shall be provided by calling the CDPH Information Security Office at the telephone numbers listed in Section XI(F), below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is known to the Contractor, or, by exercising reasonable diligence would have been known to the Contractor. Contractor shall be deemed to have knowledge of a breach if such breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the breach, who is a employee or agent of the Contractor.

Contractor shall take:

1. prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
 2. any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code section 1798.29.
- B. Investigation of Breach and Security Incidents: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer of:
1. what data elements were involved, and the extent of the data disclosure or access involved in the breach, including, specifically, the number of individuals whose personal information was breached; and
 2. a description of the unauthorized persons known or reasonably believed to have improperly used the CDPH PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the CDPH PCI, or to whom it is known or reasonably believed to have had the CDPH PCI improperly disclosed to them; and
 3. a description of where the CDPH PCI is believed to have been improperly used or disclosed; and

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4. a description of the probable and proximate causes of the breach or security incident; and
 5. whether Civil Code section 1798.29 or any other federal or state laws requiring individual notifications of breaches have been triggered.
- C. Written Report: The Contractor shall provide a written report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a complete, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence or further disclosure of data regarding such breach or security incident.
- D. Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:
1. make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the CDPH Privacy Officer of the time, manner, and content of any such notifications, prior to the transmission of such notifications to the individuals; or
 2. cooperate with and assist CDPH in its notification (including substitute notification) to the individuals affected by the breach.
- E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:
1. electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format, content and timeliness provisions of Section 1798.29, subdivision (e). Contractor shall inform the CDPH Privacy Officer of the time, manner, and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
 2. cooperate with and assist CDPH in its submission of a sample copy of the notification to the Attorney General.
- F. CDPH Contact Information: To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by verbal or written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

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CDPH Program Contract Manager	CDPH Privacy Officer	CDPH Chief Information Security Officer
See the Scope of Work exhibit for Program Contract Manager	Privacy Officer Privacy Office Office of Legal Services California Dept. of Public Health 1415 L Street, 5 th Floor Sacramento, CA 95814 Email: privacy@cdph.ca.gov Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Dept. of Public Health P.O. Box 997377 MS6302 Sacramento, CA 95899-7413 Email: cdphiso@cdph.ca.gov Telephone: (855) 500-0016

- XII. Documentation of Disclosures for Requests for Accounting: Contractor shall document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of CDPH PCI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by Civil Code section 1798.25, or any applicable state or federal law.
- XIII. Requests for CDPH PCI by Third Parties: The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of any CDPH PCI requested by third parties to the agreement between Contractor and CDPH (except from an Individual for an accounting of disclosures of the individual's personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.
- XIV. Audits, Inspection and Enforcement: CDPH may inspect the facilities, systems, books, and records of Contractor to monitor compliance with this Exhibit. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the CDPH Program Contract Manager in writing.
- XV. Return or Destruction of CDPH PCI on Expiration or Termination: Upon expiration or termination of the agreement between Contractor and CDPH for any reason, Contractor shall securely return or destroy the CDPH PCI. If return or destruction is not feasible, Contractor shall provide a written explanation to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(F), above.
- A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, CDPH PCI for the time specified as necessary to comply with the law.
- B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor returns or destroys the CDPH PCI or returns the CDPH PCI to CDPH; provided however, that on expiration or termination of the agreement between Contractor and CDPH, Contractor shall not further use or disclose the CDPH PCI except as required by state or federal law.

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- C. Notification of Election to Destroy CDPH PCI: If Contractor elects to destroy the CDPH PCI, Contractor shall certify in writing, to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(F), above, that the CDPH PCI has been securely destroyed. The notice shall include the date and type of destruction method used.
- XVI. Amendment: The parties acknowledge that federal and state laws regarding information security and privacy rapidly evolves and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of CDPH PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.
- XVII. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself and any subcontractors, workforce employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and CDPH, available to CDPH at no cost to CDPH to testify as witnesses, in the event of litigation or administrative proceedings being commenced against CDPH, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, workforce employee or agent is a named adverse party.
- XVIII. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Contractor and their respective successors or assignees, any rights, remedies, obligations, or liabilities whatsoever.
- XIX. Interpretation: The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with federal and state laws and regulations.
- XX. Survival: If Contractor does not return or destroy the CDPH PCI upon the completion or termination of the Agreement, the respective rights and obligations of Contractor under Sections VI, VII and XI of this Exhibit shall survive the completion or termination of the agreement between Contractor and CDPH.

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Attachment 1
Contractor Data Security Standards

1. General Security Controls

- A. **Confidentiality Statement.** All persons that will be working with CDPH PCI must sign a confidentiality statement. The statement must include at a minimum, General Use, Security and Privacy safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of three (3) years following contract termination.
- B. **Background check.** Before a member of the Contractor's workforce may access CDPH PCI, Contractor must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk for theft of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.
- C. **Workstation/Laptop encryption.** All workstations and laptops that process and/or store CDPH PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. The encryption solution must be full disk unless approved by the CDPH Information Security Office.
- D. **Server Security.** Servers containing unencrypted CDPH PCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- E. **Minimum Necessary.** Only the minimum necessary amount of CDPH PCI required to perform necessary business functions may be copied, downloaded, or exported.
- F. **Removable media devices.** All electronic files that contain CDPH PCI data must be encrypted when stored on any removable media or portable device (i.e., USB thumb drives, floppies, CD/DVD, smart devices, tapes, etc.). PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher.
- G. **Antivirus software.** All workstations, laptops and other systems that process and/or store CDPH PCI must install and actively use a comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- H. **Patch Management.** All workstations, laptops and other systems that process and/or store CDPH PCI must have operating system and application security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- I. **User IDs and Password Controls.** All users must be issued a unique username for accessing CDPH PCI. Username must be promptly disabled, deleted, or the password

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changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Must be at least eight characters. Must be a non-dictionary word. Must not be stored in readable format on the computer. Must be changed every 60 days. Must be changed if revealed or compromised. Must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

- J. **Data Sanitization.** All CDPH PCI must be sanitized using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PCI is no longer needed.

2. System Security Controls

- A. **System Timeout.** The system must provide an automatic timeout, requiring reauthentication of the user session after no more than 20 minutes of inactivity.
- B. **Warning Banners.** All systems containing CDPH PCI must display a warning banner each time a user attempts access, stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.
- C. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PCI, or which alters CDPH PCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. This logging must be included for all user privilege levels including, but not limited to, systems administrators. If CDPH PCI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- D. **Access Controls.** The system must use role-based access controls for all user authentications, enforcing the principle of least privilege.
- E. **Transmission encryption.** All data transmissions of CDPH PCI outside the contractor's secure internal network must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end-to-end at the network level, or the data files containing CDPH PCI can be encrypted. This requirement pertains to any type of CDPH PCI in motion such as website access, file transfer, and e-mail.
- F. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting CDPH PCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

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3. Audit Controls

- A. **System Security Review.** All systems processing and/or storing CDPH PCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews shall include vulnerability scanning tools.
- B. **Log Reviews.** All systems processing and/or storing CDPH PCI must have a routine procedure in place to review system logs for unauthorized access.
- C. **Change Control.** All systems processing and/or storing CDPH PCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity, and availability of data.

4. Business Continuity / Disaster Recovery Controls

- A. **Disaster Recovery.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDPH PCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this agreement for more than 24 hours.
- B. **Data Backup Plan.** Contractor must have established documented procedures to securely backup CDPH PCI to maintain retrievable exact copies of CDPH PCI. The backups shall be encrypted. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore CDPH PCI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

5. Paper Document Controls

- A. **Supervision of Data.** CDPH PCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk, or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **Escorting Visitors.** Visitors to areas where CDPH PCI is contained shall be escorted and CDPH PHI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** CDPH PCI must be disposed of through confidential means, using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PSCI is no longer needed.
- D. **Removal of Data.** CDPH PCI must not be removed from the premises of the Contractor except with express written permission of CDPH.

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- E. **Faxing.** Faxes containing CDPH PCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending.

- F. **Mailing.** CDPH PCI shall only be mailed using secure methods. Large volume mailings of CDPH PHI shall be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a CDPH approved solution, such as a solution using a vendor product specified on the CALIFORNIA STRATEGIC SOURCING INITIATIVE.

Exhibit F
Federal Terms and Conditions

(For Federally Funded Grant Agreements)

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

This exhibit contains provisions that require strict adherence to various contracting laws and policies.

Index of Special Terms and Conditions

1. Federal Funds
2. Federal Equal Employment Opportunity Requirements
3. Debarment and Suspension Certification
4. Covenant Against Contingent Fees
5. Air or Water Pollution Requirements
6. Lobbying Restrictions and Disclosure Certification
7. Additional Restrictions
8. Human Subjects Use Requirements
9. Financial and Compliance Audit Requirements
10. Audit and Record Retention
11. Federal Requirements

1. Federal Funds

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Grant may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Grant were executed after that determination was made.
- b. This Grant is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Grant. In addition, this Grant is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Grant in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Grant shall be amended to reflect any reduction in funds.
- d. CDPH has the option to invalidate or cancel the Grant with 30-days advance written notice or to amend the Grant to reflect any reduction in funds.

2. Federal Equal Opportunity Requirements

(Applicable to all federally funded grants entered into by the California Department of Public Health (CDPH) formerly known as California Department of Health Services (CDHS).)

- a. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Grantee will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or CDPH, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Grantee's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Grantee will, in all solicitations or advancements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Grantee's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Grantee will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.

- e. The Grantee will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Grantee's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Grantee may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Grantee will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subGrantee or vendor. The Grantee will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or CDPH may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Grantee becomes involved in, or is threatened with litigation by a subGrantee or vendor as a result of such direction by CDPH, the Grantee may request in writing to CDPH, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

3. Debarment and Suspension Certification

- a. By signing this Grant, the Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Grant, the Grantee certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
 - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

- (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
 - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Grantee is unable to certify to any of the statements in this certification, the Grantee shall submit an explanation to the CDPH Program Contract Manager.
 - d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
 - e. If the Grantee knowingly violates this certification, in addition to other remedies available to the Federal Government, the CDPH may terminate this Agreement for cause or default.

4. Covenant Against Contingent Fees

The Grantee warrants that no person or selling agency has been employed or retained to solicit/secure this Grant upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Grantee for the purpose of securing business. For breach or violation of this warranty, CDPH shall have the right to annul this Grant without liability or in its discretion to deduct from the Grant price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

5. Air or Water Pollution Requirements

Any federally funded grant and/or subgrants in excess of \$100,000 must comply with the following provisions unless said grant is exempt under 40 CFR 15.5.

- a. Government Grantees agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

6. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded grants in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a grant, subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a grant or any extension or amendment of that grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any

disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a grant or subgrant exceeding \$100,000 at any tier under a grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to CDPH Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

7. **Additional Restrictions**

Grantee shall comply with the restrictions under Division F, Title V, Section 503 of the Consolidated Appropriations Act, 2012 (H.R. 2055), which provides that:

“SEC. 503.(a) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

(b) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

(c) The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.”

8. Human Subjects Use Requirements

(Applicable only to federally funded agreements in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

9. Financial and Compliance Audit Requirements

By signing this Agreement, the Contractor/Subcontractor agrees to abide by all requirements specified in 2 CFR 200, *et seq.*, 2 CFR 400, *et seq.*, and 45 CFR, 75, *et seq.*, as applicable, including but not limited to obtaining an annual audit, and any subsequent federal regulatory additions or revisions.

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined in 2CFR Part 200) and expends \$750,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2CFR Part 200. An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
 - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
 - (4) If the Contractor submits to CDPH a report of an audit other than a single audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.

- d. Two copies of the audit report shall be delivered to the CDPH program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the CDPH Program Contract Manager shall forward the audit report to CDPH's Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The CDPH program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

10. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).

- d. The Contractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in Title 2 of the Code of Federal Regulations, Part 200 (2CFR Part 200).

11. Federal Requirements

Grantor agrees to comply with and shall require all subgrantees, if any, to comply with all applicable Federal requirements including but not limited to the United States Code, the Code of Federal Regulations, the Funding Opportunity Announcement, the Notice of Award, the funding agreement, and any memoranda or letter regarding the applicable Federal requirements.

**STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subGrantees, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

County of Mono

Name of Grantee

Printed Name of Person Signing for Grantee

21-10569

Contract / Grant Number

Signature of Person Signing for Grantee

Date

Title

After execution by or on behalf of Grantee, please return to:

California Department of Public Health
STD Control Branch
P.O. Box 997377, MS 7320
Sacramento, CA 95899-7377

CDPH reserves the right to notify the Grantee in writing of an alternate submission address.

Attachment 2

CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Approved by OMB
0348-0046

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>Year ____ quarter ____</p> <p>date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee</p> <p style="padding-left: 100px;">Tier ____, if known:</p> <p>Congressional District, If known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, If known:</p>	
<p>6. Federal Department/Agency</p>	<p>7. Federal Program Name/Description:</p> <p>CDFA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$ _____</p>	
<p>10.a. Name and Address of Lobbying Registrant <i>(If individual, last name, first name, MI):</i></p>	<p>b. Individuals Performing Services <i>(including address if different from 10a. (Last name, First name, MI):</i></p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)</p>

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Contractor Certification Clauses

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)	Federal ID Number
---------------------------------------	-------------------

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed	Executed in the County of
---------------	---------------------------

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably

required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and

Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

Pursuant to Public Contract Code section 2010, a person that submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of \$100,000 or above shall certify, under penalty perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

1. CALIFORNIA CIVIL RIGHTS LAWS: For contracts executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. EMPLOYER DISCRIMINATORY POLICIES: For contracts executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		<i>Federal ID Number</i>
<i>Proposer/Bidder Firm Name (Printed)</i>		
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT IHSS Advisory Board Appointments

**PERSONS
APPEARING
BEFORE THE
BOARD**

Kathy Peterson, Social Services
Director

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

The In-Home Supportive Services (IHSS) Program helps pay for services so that persons can remain safely in their own home. The Mono County IHSS Advisory Committee provides recommendations and advice regarding IHSS services in the community. Elizabeth Petrunak of Bridgeport and Carolyn Balliet of Mammoth Lakes seek appointment to the advisory board.

RECOMMENDED ACTION:

Appoint the following individuals to staggered, three-year terms on the In-Home Supportive Services (IHSS) Advisory Board: Elizabeth Petrunak of Bridgeport for a term commencing on October 1, 2021 and terminating on September 30, 2024; and Carolyn Balliet of Mammoth Lakes for a term commencing on May 1, 2022 and terminating on April 30, 2025.

FISCAL IMPACT:

None. Funding is provided by the State through the IHSS administrative allocations process.

CONTACT NAME: Kathy Peterson

PHONE/EMAIL: 7609241763 / kpeterson@mono.ca.gov

SEND COPIES TO:

Kathy Peterson

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p> staff report</p>

History

Time	Who	Approval
4/7/2022 4:57 PM	County Counsel	Yes

4/6/2022 10:44 AM

Finance

Yes

4/15/2022 4:24 PM

County Administrative Office

Yes



KATHRYN PETERSON, MPH
Director

BRIDGEPORT OFFICE
(760) 932-5600
FAX (760) 932-5287

MAMMOTH LAKES OFFICE
(760) 924-1770
FAX (760) 924-5431



To: Mono County Board of Supervisors
From: Kathy Peterson, Social Services Director
Date: April 1, 2022
Re: In-Home Supportive Services (IHSS) Advisory Committee Appointments

Recommended Action:

Appoint the following individuals to staggered, three-year terms on the In-Home Supportive Services (IHSS) Advisory Board: Elizabeth Petrunak of Bridgeport for a term commencing on October 1, 2021 and terminating on September 30, 2024; and Carolyn Balliet of Mammoth Lakes for a term commencing on May 1, 2022 and terminating on April 30, 2025.

Fiscal Impact:

No general funds are involved. Funding is provided by the State through the IHSS administrative allocations process.

Discussion:

The In-Home Supportive Services (IHSS) Program helps pay for services so that persons can remain safely in their own home. To be eligible, recipients must be over 65 years of age, or disabled, or blind. Disabled children are also eligible for IHSS. IHSS is considered an alternative to out-of-home care, such as nursing homes or board and care facilities.

Welfare and Institutions Code 12301.3 (et seq) required the establishment of IHSS Advisory Committees in each of the 58 counties to perform the following functions: (1) submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services and (2) provide ongoing advice and recommendations regarding IHSS services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor and public employees.

The Mono County Board of Supervisors established the Mono County IHSS Advisory Committee on May 7, 2002, and approved the recruitment and selection of five (5) individuals to serve on the Committee.

The Committee was designed to have a majority of consumers of in-home based services. The other members may be caregivers, advocates for senior and disabled adults or children, or interested community members. A representative from the Social Services Department serves as a non-voting member. Committee members serve staggered, three-year terms, as set by the Board of Supervisors on October 1, 2013.

The Advisory Committee generally meets quarterly on the first Thursday of January, April, July, and October. The Advisory Committee meetings are typically held in person in Bridgeport, as well as by videoconference since the start of the public health emergency.

The current Advisory Committee members are Wendy Ford of Coleville, current IHSS Provider; and Krista Cooper of Mammoth Lakes, Social Services Designee. There are three vacancies. The Social Services Department contracts with Community Service Solutions to facilitate IHSS Advisory Committee meetings.

The Department requests that the Board of Supervisors re-appoint Ms. Elizabeth Petrunak of Bridgeport for a term commencing on October 1, 2021 and terminating on September 30, 2024, and appoint Ms. Carolyn Balliet of Mammoth Lakes for a term commencing on May 1, 2022 and terminating on April 30, 2025. Ms. Petrunak and Ms. Balliet will both serve as advocates for seniors and disabled adults.

Please call me if you have questions about this request. Thank you.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT Appointment of Members to the Mono County Community Corrections Partnership (CCP) Executive Committee

PERSONS APPEARING BEFORE THE BOARD

Karin Humiston, Chief Probation Officer

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution declaring approval of the appointment of members to the Mono County Community Corrections Partnership (CCP) Executive Committee.

RECOMMENDED ACTION:

Adopt proposed resolution. Provide any desired direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Karin Humiston

PHONE/EMAIL: 7609325572 / jlmills@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff Report
Resolution

History

Time	Who	Approval
4/7/2022 4:56 PM	County Counsel	Yes
4/6/2022 1:00 PM	Finance	Yes

4/15/2022 4:24 PM

County Administrative Office

Yes



MAILING : P.O. BOX 596, BRIDGEPORT, CALIFORNIA 93517
BRIDGEPORT OFFICE (760) 932-5570 • FAX (760) 932-5571
MAMMOTH OFFICE (760) 924-1730 • FAX (760) 924-1731

probation@mono.ca.gov

Mark Magit
Presiding Judge
Superior Court

Dr. Karin Humiston
Chief Probation Officer

TO: Honorable Board of Supervisors

FROM: K.S. Humiston

SUBJECT: List of Community Corrections Partnership Executive Committee Members has been updated to include Sophie Bidet as a representative from the Public Defender's Office for the Board of Supervisor's approval.

RECOMMENDATION:

Approval of appointment of Sophie Bidet to the Community Corrections Partnership Executive Committee.

DISCUSSION:

Mono County Community Corrections Partnership Executive Committee at its regular meeting on February 16, 2022 voted to recommend Sophie Bidet's appointment to the Executive Committee.

FISCAL IMPACT:

No impact.



R22-__

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
DECLARING APPROVAL OF THE APPOINTMENT OF THE FOLLOWING
MEMBERS TO THE MONO COUNTY COMMUNITY CORRECTIONS
PARTNERSHIP EXECUTIVE COMMITTEE**

WHEREAS, the Community Corrections Partnership Executive Committee is mandated by statute pursuant to Penal Code 1230.1 (b); and

WHEREAS, a list of Executive Committee Members has been updated to this Board for approval.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO RESOLVES that: the Board of Supervisors of the County of Mono does hereby approve the modification to the Local Implementation Plan for the Mono County Community Corrections Partnership Executive Committee, as submitted by the Chief of Probation, Chair of the Community Corrections Partnership, to provide the accurate and updated listing of members as follows:

Karin Humiston, Chief of Probation

Tim Kendall, District Attorney

Hon. Mark Magit, Superior Court

Sophie Bidet, Public Defender

Ingrid Braun, Sheriff

Robin Roberts, Director of Behavioral Health

Al Davis, Chief of Police, Town of Mammoth Lakes

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PASSED, APPROVED and ADOPTED this ____ day of _____, 2022, by
the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Bob Gardner, Chair
Mono County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board

County Counsel



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

**PERSONS
APPEARING
BEFORE THE
BOARD**

Robert C. Lawton, CAO

SUBJECT Establish 2022 Governance Ad Hoc
Committee

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Creation of an ad hoc committee of the Board to develop a draft Board Governance Manual and to draft update of the existing Board Rules of Procedure for presentation, discussion and final approval by the full board ("2022 Ad Hoc Governance Committee").

RECOMMENDED ACTION:

- 1) Adopt the 2022 Governance Ad Hoc Committee Charter / Scope of Work
- 2) Appoint Chair Bob Gardner and Supervisor Jennifer Kreitz to the Committee
- 3) Direct the Committee to the Board with draft recommendations/documents on or before October 19, 2022

FISCAL IMPACT:

None.

CONTACT NAME: Robert C. Lawton

PHONE/EMAIL: 760-932-5410 / rlawton@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p> Attachment 1 - Ad Hoc Committee Charter</p>
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History

Time	Who	Approval
4/13/2022 9:10 AM	County Counsel	Yes

4/13/2022 4:28 PM

Finance

Yes

4/15/2022 4:25 PM

County Administrative Office

Yes

**County of Mono
2022 Governance Ad Hoc Committee
Charter / Scope of Work
(Board Report – Attachment 1)**

Background

On July 19, 2021, the Mono County Board of Supervisors initiated the Strategic Plan update process with a day-long planning retreat in Bridgeport. Over the next eight months, County residents, County staff and County department heads contributed to developing a framework of priorities, actions and accountability for County government.

On April 5, 2022, the Board adopted the 2022-24 Strategic Plan Update. The Update expresses the County's Mission, Vision and Values, and sets forth 49 action items, each with a completion timeline and a project owner. County Administration committed to regular updates for the Board and any necessary recommendations for project review and amendment.

On April 7 and 8, the Board held a Governance Workshop, facilitated by Babs Kavanaugh and Davis Campbell, of BK Consult, and in which the County Administrative Officer and the County Counsel also participated.

The workshop was the first step in developing a Mono County Governance Manual, incorporating both the principles of the current Rules of Procedure, and agreed-upon norms and styles of governance with respect to the Board, the CAO and policymaker / staff relationships.

Purpose and Scope

The Governance Ad Hoc Committee will collaborate with BK Consult in distilling the Governance Workshop's findings and assessments into a draft document for subsequent Board consideration and adoption.

Committee Duration

The Committee's work is expected to be complete by October 18, 2022.

Committee Members

- Supervisor Bob Gardner
- Supervisor Jennifer Kreitz

County Department, Other Agency, and Consulting Resources

- County Administrative Officer
- County Counsel
- BK Consult



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

Departments: CAO, Public Health

TIME REQUIRED 15 minutes

SUBJECT COVID-19 (Coronavirus) Update

**PERSONS
APPEARING
BEFORE THE
BOARD**

Robert C. Lawton, CAO; Bryan
Wheeler, Public Health Director; Dr.
Caryn Slack, Public Health Officer

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Update on Countywide response and planning related to the COVID-19 pandemic.

RECOMMENDED ACTION:

None, informational only.

FISCAL IMPACT:

None.

CONTACT NAME: Robert C. Lawton

PHONE/EMAIL: 760-932-5415 / rlawton@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
4/7/2022 4:59 PM	County Counsel	Yes
4/6/2022 12:43 PM	Finance	Yes
4/15/2022 4:22 PM	County Administrative Office	Yes



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

Departments: Behavioral Health

TIME REQUIRED 15 minutes

**PERSONS
APPEARING
BEFORE THE
BOARD**

Robin Roberts, Behavioral Health
Director

SUBJECT Permanent Supportive Housing at
The Parcel in Mammoth Lakes

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Loan and related agreements between Mono County and Mammoth Lakes Pacific Associates and Standard Agreement with State of California Department of Housing and Community Development (HCD) for No Place Like Home (NPLH) funds in support of the designation of eight to thirteen permanent supportive housing units, and supportive services programming space, within the affordable housing development to be constructed at the Parcel in Mammoth Lakes.

RECOMMENDED ACTION:

Adopt Resolution R22- __ approving a \$1.8 million loan and associated regulatory and subordination agreements for permanent supportive housing, authorizing the County Administrative Officer to execute the loan, agreements and the State of California No Place Like Home (NPLH) standard agreement and related documents, to provide an additional \$500,000 in NPLH funds to the project, and finding that the project qualifies for the streamlining procedures under California Environmental Quality Act ("CEQA") Guidelines section 15183.3 and that no further environmental review is required.

Adopt Resolution R22- __, restating the text of R20-99, Authorizing the County's Participation in the No Place Like Home Program (Non-Competitive), in its entirety and making minor modifications thereto as requested by HCD.

FISCAL IMPACT:

\$1,557,123 to be disbursed from Mental Health Services Act funds after project construction and occupancy. This expenditure is outlined in the Mono County Behavioral Health MHSA FY 20-23 Three-Year Plan and FY 21-22 Annual Update. \$500,000 in NPLH funds would transfer directly to the Partnership or its associate from HCD.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: x1704 / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff report
Resolution
Ordinance
Loan Agreement
Deed of Trust
Promissory Note
Regulatory Agreement
Subordination Agreement
NPLH Standard Agreement (draft)
Relocation Certification
Revised 2020 NPLH Resolution

History

Time	Who	Approval
4/14/2022 10:00 AM	County Counsel	Yes
4/15/2022 7:07 AM	Finance	Yes
4/15/2022 4:22 PM	County Administrative Office	Yes



MONO COUNTY BEHAVIORAL HEALTH DEPARTMENT

COUNTY OF MONO

P. O. BOX 2619 MAMMOTH LAKES, CA 93546 (760) 924-1740 FAX: (760) 924-1741

TO: Mono County Board of Supervisors

FROM: Robin Roberts, Behavioral Health Director
Stacey Simon, County Counsel
Heather Gould, Goldfarb Lipman

DATE: April 19, 2022

SUBJECT: County support for the designation of eight permanent supportive housing units with a right of first refusal for five additional units, and space for associated supportive services, within Phase I of the Town of Mammoth Lakes' housing project at The Parcel.

RECOMMENDED ACTION:

Adopt Resolution R22-__ approving a \$1.8 million loan and associated regulatory and subordination agreements (loan documents) for permanent supportive housing, authorizing the County Administrative Officer to execute the loan documents and a State of California No Place Like Home (NPLH) standard agreement to provide an additional \$500,000 in NPLH funds to the project, and finding that the project qualifies for the streamlining procedures under California Environmental Quality Act ("CEQA") Guidelines section 15183.3 and that no further environmental review is required.

Adopt Resolution R22-__, restating the text of R20-99, Authorizing the County's Participation in the No Place Like Home Program (Non-Competitive) in its entirety and making minor modifications thereto as requested by HCD.

DISCUSSION:

For the last four years, Mono County Behavioral Health (MCBH) has worked toward the development of permanent supportive housing (PSH) in the Town of Mammoth Lakes. PSH is an evidence-based housing intervention that combines on-going rental assistance with supportive services such as health and mental health care, targeted towards preventing or reducing homelessness.

As a part of this work, MCBH has negotiated with the Town and its developer, Pacific West Communities ("Pacific West") for eight PSH units to be included in the 81-unit Phase I development on "The Parcel". In addition to the eight units dedicated to PSH, Pacific West has agreed that Mental Health Services Act (MHSA)-eligible households referred by MCBH would have a first priority right to lease five additional units. Pacific West has formed a California limited partnership called Mammoth Lakes Pacific Associates (the "Partnership") to own and operate the project. In exchange, the County would loan the Partnership \$1.8 million in MHSA funds and facilitate a contribution from the California Department of Housing and Community Development (HCD) of \$500,000 in No Place Like Home (NPLH) funds towards project development costs.

Below is a summary of recent actions:

- On June 8, 2021, the Mono County Board of Supervisors approved a pre-development loan agreement with Pacific West, through which approximately \$222,876 was provided and used for pre-development activities.
- On June 23, 2021, MCBH received notice that its co-application for \$500,000 through the No Place Like Home program was successful.
- On September 21, 2021, the Mono County Board of Supervisors approved the No Place Like Home First Amended Memorandum of Understanding with Pacific West and the Town of Mammoth Lakes setting forth the parties' understandings regarding the use of funds (the "MOU").
- On December 21, 2021, MCBH provided an update on the PSH project, informing the Board that Pacific West and the Town had recently applied for funding through the state's new "Housing Accelerator" program.
- On February 3, 2022 Pacific West and the Town were notified of the award of \$38,656,617 through the Housing Accelerator program for Phase I of "The Parcel."

Loan and Regulatory/Subordination Agreements

Provided for your approval today and delegation of signature authority to the CAO with respect to documents in substantially the same form as presented, is a draft loan agreement, and associated regulatory and subordination agreements, between the County and the Partnership for the full amount of MHSA funds committed to the project: \$1,800,000. Of this total, \$222,876.57 has already been paid out under the pre-development loan agreement approved by the Board in June of 2021. The proposed loan agreement would amend and restate the pre-development loan agreement to add the remaining \$1,557,123, thereby reaching the full amount to be loaned. The loan will be a 55-year deferred payment loan with carrying a 3% interest rate. The County anticipates that its loan will be disbursed at permanent loan closing.

The draft regulatory agreement memorializes the Partnership's obligations to the County regarding long-term affordability, operation and maintenance, together with the County's obligation to provide supportive services at the project. The proposed subordination agreement relates to the priority of the County's loan in relation to other funding sources for the project. The version in your packet includes redline changes requested by the County, but remains under negotiation among the various lenders. Ultimately, the County will seek to arrive at terms that are standard for public entity lenders in this situation, equivalent to the terms obtained by the Town of Mammoth Lakes.

Additional documents, in the form of a promissory note and deed of trust, are included for the Board's information. All obligations relating to the original predevelopment financing will be assumed by the Partnership from Pacific West. Collectively, these documents are referred to as the "loan documents". The attached loan documents are substantially final, with remaining terms to be negotiated consistent with this staff report and the proposed resolution prior to execution.

The funds have been included in MCBH's Mental Health Services Act (MHSA) Three-Year Plans and Annual Updates for the last several years and this project was developed in direct response to identified stakeholder needs through the Community Program Planning Process.

No Place Like Home Standard Agreement

HCD has provided Mono County with a draft standard agreement for the \$500,000 of No Place Like Home grant funds that will be awarded. It is expected that the agreement will be finalized by HCD in the coming weeks. However, staff seeks Board approval of the draft today, together with authorization for the CAO to execute the final agreement in substantially the same form, provided any revisions are minor and are approved by County Counsel. The reason for this "early" approval is to allow the Partnership to close on the property and expedite the project during Mono County's short building season. It generally takes HCD at least 60 days to produce a final agreement.

HCD will disburse the NPLH funds directly to the Partnership (or its affiliate and the affiliate will loan the funds into the project). The County is obligated through the MOU to provide supportive services to the project for 20 years and will also be obligated to provide certain indemnities pertaining to the NPLH funds and the project to HCD. Pacific West and the Partnership have indemnified the County for claims arising from or relating to the NPLH funds in the MOU.

Also provided for Board approval is a "Relocation Certification" required by HCD for the NPLH funds, which attests that the property is currently vacant and there are no relocation obligations and indemnifies HCD against any claims regarding relocation.

Environmental Review

Because the Board's decision to support the development of The Parcel through approval of the agreements described above constitutes a project under CEQA, the Board is required to take certain actions and make specific findings under CEQA. In this instance, the Town of Mammoth Lakes, as the project sponsor, is the lead agency under CEQA. Mono County is a responsible agency.

Policy Considerations

Finally, the Board should be aware that in developing the loan documents proposed for approval today, staff took the approach that terms should be structured to increase the chance of successful project completion by Pacific West and the Partnership, unless doing so compromised an important policy goal of the County. Therefore, where a discretionary decision arose in preparing the loan documents, for example, whether to require residual receipts payments or charge a monitoring fee for county staff time in ensuring compliance with the regulatory agreement, staff determined that they should not, and will continue to finalize the documentation with that approach unless directed otherwise by the Board.

FISCAL IMPACT:

The remaining loan amount (\$1,557,123) would be disbursed from Mental Health Services Act funds after project construction, when occupancy has been stabilized. This expenditure is outlined in the Mono County Behavioral Health MHSA FY 20-23 Three-Year Plan and FY 21-22 Annual Update. \$500,000 in NPLH funds would transfer directly to the Partnership or its associate from HCD.



R22-__

**RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
APPROVING A \$1.8 MILLION LOAN FOR PERMANENT SUPPORTIVE HOUSING
AND ASSOCIATED AGREEMENTS, AUTHORIZING EXECUTION OF CERTAIN
STATE OF CALIFORNIA NO PLACE LIKE HOME DOCUMENTS, AND FINDING
THAT THE PARCEL PROJECT QUALIFIES FOR THE STREAMLINING
PROCEDURES UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
("CEQA") PURSUANT TO SECTION 15183.3 OF THE CEQA GUIDELINES AND NO
ADDITIONAL ENVIRONMENTAL REVIEW IS REQUIRED FOR THE COUNTY'S
APPROVAL OF THE COUNTY LOAN, THE NO PLACE LIKE HOME FUNDING
AND RELATED SERVICES**

WHEREAS, the County intends to loan \$1.8 million in Mental Health Services Act funding (the "Loan") to Mammoth Lakes Pacific Associates, a California limited partnership (the "Partnership") towards the development and operation of an affordable housing project in the Town of Mammoth Lakes on property referred to as the Parcel (the "Project"); and

WHEREAS, the County will also provide certain supportive services in connection with the Loan (the "Services"); and

WHEREAS, the County has applied, with Pacific West Communities, Inc. ("Pacific West"), the Partnership's sponsor, for No Place Like Home Funds ("NPLH") from the State of California Department of Community Development ("HCD") and was awarded such funds; and

WHEREAS, in connection the NPLH award, the County will execute a Standard Agreement and certain other documents relating to the NPLH funds, to allow for HCD to provide NPLH funding to the Project (the "NPLH Funding"); and

WHEREAS, the Loan and associated Regulatory Agreement/Subordination Agreement, Services and NPLH funds allow for the development and operation of eight permanent supportive housing units as part of the Project, along with five additional units available for

1 households qualified for Mental Health Services Act services and supports, and related
2 supportive services space; and

3 **WHEREAS**, the Town of Mammoth Lakes, as lead agency under CEQA, by Ordinance
4 No. 20 - 01, attached as Attachment 1 to this Resolution and the related CEQA Environmental
5 Infill Checklist, attached as Attachment 1 to this Resolution, found that the master development,
6 of which the Project is a part (the "Parcel Project"), qualifies for the streamlining procedures
7 prescribed under State CEQA Guidelines section 15183.3, and determined that the Parcel
8 Project will not require additional environmental review under CEQA; and

9
10 **WHEREAS**, the County, as responsible agency under CEQA, reviewed and considered
11 the CEQA Infill Environmental Checklist and Town of Mammoth Lakes' Ordinance No. 20-01,
12 which included findings determining that the Parcel Project, which includes the Project,
13 qualifies for the streamlining procedures under CEQA Guidelines section 15183.3. The County
14 determined that no further environmental review under CEQA is needed for approval of the
15 Loan, Services, and NPLH funding;

16
17 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors as follows:

18 **SECTION ONE.** The Board of Supervisors hereby finds that:

- 19
20 a. The foregoing recitals are true and correct;
- 21 b. The County has reviewed and considered the Infill Environmental Checklist
22 prepared for the Parcel Project, which includes the Project, attached hereto as a
23 part of Attachment 1, and the findings made by the Town of Mammoth Lakes,
24 attached hereto as Attachment 1 and finds that no additional environmental
25 review is required for the County's approval of the Loan, Services and NPLH
26 Funding, in that no changes have been made in the Project approved by the
27 Town of Mammoth Lakes, and no substantial evidence has been introduced into
28 the record showing that there is a change in circumstances, or any new
29 information that was not known and could not have been known with reasonable
30
31
32

1 diligence, that would involve any new or substantially increased environmental
2 impacts.

- 3 c. Based on the foregoing, the Project, and the related Loan, Services, and NPLH
4 documents are exempt from review under CEQA pursuant to CEQA Guidelines
5 Sections 15183.3 (Streamlining for Infill Projects).
6

7 **SECTION TWO:** The Board of Supervisors approves the Loan, Regulatory and
8 Subordination Agreements (hereafter collectively the “Loan Documents”), Services and NPLH
9 Standard Agreement and Relocation Certification in accordance with the terms described in this
10 Resolution and in the Staff Report accompanying this Resolution.
11

12 **SECTION THREE:** The Board of Supervisors authorizes the County Administrative
13 Officer or designee ("CAO") to execute the Loan Documents, the NPLH Standard Agreement
14 and Relocation Certification in substantially the form provided, with such minor amendments
15 thereto as may be necessary to finalize the transaction, provided that such final documents are
16 substantially consistent with this Resolution and the Staff Report, and approved as to form by
17 County Counsel.
18

19 **SECTION FOUR:** The CAO shall execute such other instruments, and shall take any
20 and all other action, as may be reasonably necessary to complete the Loan Documents, Services
21 and NPLH Funding, and Project, including, without limitation, causing a notice of
22 determination to be filed with the Mono County Clerk-Recorder pursuant to CEQA Guidelines
23 Section 15183.3.
24

25 **SECTION FIVE:** The Clerk of the Board of Supervisors is hereby designated as the
26 custodian of documents and any other materials that constitute the record of proceedings upon
27 which the decisions herein are based. These documents may be found at the office of the Clerk
28 of the Board of Supervisors.
29

30 **SECTION SIX:** This resolution shall take immediate effect upon adoption.
31
32

1 **PASSED, APPROVED and ADOPTED** this 19th day of April 2022, by the following
2 vote, to wit:

3 **AYES:**

4 **NOES:**

5 **ABSENT:**

6 **ABSTAIN:**

7
8
9
10 _____
Bob Gardner, Chair
Mono County Board of Supervisors

11
12 **ATTEST:**

APPROVED AS TO FORM:

13
14 _____
Clerk of the Board

15 _____
County Counsel

ATTACHMENT 1

TOWN OF MAMMOTH LAKES ORDINANCE NO. 20-01

(INCLUDING INFILL CHECKLIST)

ORDINANCE NO. 21-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, APPROVING DISTRICT ZONING AMENDMENT 20-001 TO ADOPT THE 2021 PARCEL MASTER PLAN AND ZONING CODE AMENDMENT 20-005 TO REPEAL MUNICIPAL CODE SECTION 17.32.020, *AFFORDABLE HOUSING OVERLAY ZONE (AH)* FOR PROPERTIES LOCATED AT 1699 TAVERN ROAD AND 33 CENTER STREET (APNs: 035-010-020-000 and 035-100-003-000) AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO STATE CEQA GUIDELINES SECTION 15183.3

WHEREAS, the Town's 2019-2027 Housing Element (adopted by Town Council in August 2019) and the Town's 2017 Community Housing Action Plan (accepted by Town Council in December 2017) established goals and objectives aimed at developing The Parcel as a livable workforce neighborhood; and

WHEREAS, the Town purchased The Parcel on March 30, 2018 with the purpose of developing the property for workforce housing; and

WHEREAS, the Town received, from a developer interested in potentially acquiring The Parcel, a request for consideration of a District Zoning Amendment to adopt the 2021 Parcel Master Plan and a Zoning Code Amendment to repeal the Affordable Housing Overlay Zone, in accordance with Chapters 17.120 and 17.112 of the Town of Mammoth Lakes Municipal Code, for properties located within the D, RMF-1 and AH zoning districts; and

WHEREAS, Town staff determined that the requested District Zoning Amendment and Zoning Code Amendment would advance the Town's goal of facilitating the development on The Parcel of housing affordable to households of various income levels, regardless of which developer or developers are ultimately selected to construct such housing, and recommended to the Planning and Economic Development Commission that the requested amendments be approved; and

WHEREAS, on December 9, 2020 the Planning and Economic Development Commission conducted a duly noticed public hearing at which time all those desiring to be heard were heard and determined that the findings can be made for approval of District Zoning Amendment 20-001 and Zoning Code Amendment 20-005 pursuant to Municipal Code (MC) Sections 17.120.060 and 17.112.060, respectively, and therefore unanimously recommended approval of District Zoning Amendment 20-001 and Zoning Code Amendment 20-005 to the Town Council; and

WHEREAS, on January 6, 2021, the Town Council conducted a duly noticed public hearing at which time all those desiring to be heard were heard, and considered testimony and materials in the staff report and accompanying documents and exhibits; and

WHEREAS, all legal prerequisites for the adoption of this Ordinance have occurred;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are all true and correct.

Section 2. Environmental Review. Based on its review of the entirety of the record of proceedings, including a Infill Environmental Checklist (Checklist) prepared for The Parcel project, the Town Council finds and determines that The Parcel project qualifies for the streamlining procedures prescribed under State CEQA Guidelines section 15183.3. As set forth in the findings below and in the Checklist, the Town has analyzed The Parcel project in light of previously certified EIRs relating to the project, and it has determined that The Parcel project will not cause any effects that require additional environmental review under the California Environmental Quality Act (CEQA). The Town Council additionally makes the following findings, which establish the applicability of State CEQA Guidelines section 15183.3 to The Parcel project, and takes the following actions pursuant to the requirements of CEQA:

1. **CEQA (Streamlining - California Environmental Quality Act Guidelines Section 15183.3)**

a. *The Project is located in an urban area and is adjoined by existing qualified urban uses in its entirety.*

For the purpose of State CEQA Guidelines section 15183.3, an “urban area” includes an incorporated city such as the Town. (See Pub. Resources Code, Section 21094.5, subd. (e)(5).) Additionally, more than 75 percent of the project’s perimeter is surrounded by qualified urban uses. CEQA defines a “qualified urban use” as “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.” (Pub. Resources Code, Section 21072.) Based on aerial maps, virtually all parcels surrounding the project site include qualified urban uses. Therefore, the proposed project meets this first criteria to utilize the Infill Streamlining Provision under State CEQA Guidelines section 15183.3.

b. *The Project is a small walkable community project.*

For the purposes of CEQA’s Infill Streamlining provisions, a small walkable community project is a project that is all of the following:

i. In an incorporated city that is not within the boundary of metropolitan planning organization;

The Town is an incorporated city and is not located within the boundaries of a metropolitan planning organization.

ii. Within an area of approximately one-quarter mile diameter of contiguous land that includes a residential area adjacent to a retail downtown area and that is designated by the city for infill development consisting of residential and commercial uses. A city may designate such an area within its general plan,

zoning code, or by any legislative act creating such a designation, and may make such designation concurrently with project approval; and

The General Plan evaluates the project site in conjunction with Main Street and Old Mammoth Road and collectively defines this area as a vibrant mix of retail, commercial, and workforce housing and envisions the residential development on the project site as a catalyst for continued commercial development in the surrounding area. (General Plan, pp. D-3, D-4.) Both the Main Street Corridor and Old Mammoth Road Corridor included Zoning of “Downtown” per the Town’s Zoning Map (updated January 2015). As such, the Main Street Corridor adjoins the project site to the north, and the Old Mammoth Road Corridor adjoins the project site to the east. Further, existing multi-family and single-family residential uses are present to the south and west of the project site. Downtown (D) District is intended to provide a thriving mix of residential, non-residential, and lodging uses and a distinctive gateway entry into town, with a focus on ground-level commercial uses and active frontages. The development standards are intended to concentrate development along Main Street with a focus on shop front buildings that frame the street and provide an animated, pedestrian-friendly environment with high visual quality. Therefore, the Town has already designated the project site and surrounding area for infill development consisting of residential and commercial uses.

- iii. Either a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.

The proposed project would have a density of 16-23 units per acre (gross).

The proposed project meets each of these criteria, discussed as above. As such, the proposed project meets the definition of a small walkable community project.

c. *The project is not inconsistent with any applicable provisions of Appendix M.*

Qualifying residential projects located outside the boundaries of a metropolitan planning organization, such as the Town, are only required to implement the project features described in Section III of Appendix M of the State CEQA Guidelines. Specifically, Section III includes three provisions:

- i. Is the project a non-residential infill project that includes a renewable energy feature?
The proposed project is primarily a residential project, although a small number of other uses are contemplated. Therefore, this provision is not applicable to the project.
- ii. Is the project site included on any list compiled pursuant to Section 65962.5 of the Government Code?

The project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code.

- iii. Does the infill project include residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, of a high volume roadway or other significant source of air pollution, as defined in Appendix M?

Unless more specifically defined by an air district, city or county, Appendix M defines a “high-volume roadway” to mean freeways, highways, urban roads with 100,000 vehicles per day, or rural roads with 50,000 vehicles per day. No streets surrounding the project site meet this definition of a “high-volume roadway.” Similarly, no land uses surrounding the project site constitute a significant source of air pollution. Therefore, no measures are required to be implemented to comply with this provision of Appendix M.

No other Appendix M criteria are applicable to the project.

- d. The Project would not have a significant effect on the environment that either has not already been analyzed in a prior EIR or that is more significant than previously analyzed. The Project was analyzed in the Final Program Environmental Impact Report for the Town of Mammoth Lakes 2005 General Plan Update (State Clearinghouse No. 2003042155, dated May 2007) and Town of Mammoth Lakes General Plan Land Use Element/Zoning Code Amendments and Mobility Element Update Draft Environmental Impact Report (State Clearinghouse No. 2015052072, dated June 2016) (Prior EIR) and the Project will have no new specific effects. The Town has prepared an Infill Environmental Checklist (“Checklist”)(Exhibit 3) which documents consistency with the previous environmental documents.
- e. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential significant environmental effects of the Project, as set forth in the Checklist and the Prior EIR. The Checklist found that no new mitigation measures are required for the Project, and the mitigation measures relating to the Project as set forth in the Prior EIR remain in effect. The mitigation measures applicable to the Project are binding on the Project based on the previously certified EIR and the efficacy and impacts of such measures have been analyzed in the Prior EIR. Town Council Resolution 16-68 includes the findings for the Prior EIR which are incorporated by reference and included as Exhibit 4.
- i. Though the Project would not have a significant effect on the environment that either has not already been analyzed in a prior EIR or that is more significant than previously analyzed, the project will nonetheless be required to comply with all uniformly applicable development policies or standards that apply to the project, including but not limited to compliance with the Migratory Bird Treaty Act (MBTA), as well as the following 2005 General Plan Update policies:
1. I.1.B.d.4: Future development projects with the potential to significantly impact animal or plant habitats shall assess site-specific resource values

and potential impacts where the habitats of special status plant and animals species are known to exist and provide a method of protecting, monitoring, replacing, or otherwise mitigating the impacts of development in and around these sensitive habitats, as required by CDFG and Department of Fish and Game.

2. I.1.B.c.3: All feasible project modifications shall be considered to avoid wetland disturbance. Direct or indirect losses of wetlands and/or riparian vegetation associated with discretionary application approval shall be compensated by replacement, rehabilitation, or creation of wetlands habitat mitigation as approved by appropriate State and Federal agencies.
 3. I.1.B.d.1: The Town of Mammoth Lakes shall coordinate with the State Department of Fish and Game, U.S. Fish and Wildlife Service, and other appropriate agencies and maintain an up-to-date inventory of all Special Status Wildlife Species and Special Status Plants and Plant Communities within the Planning Area.
 4. I.1.B.d.3: The Town shall maximize the protection of primary wildlife habitats through public and/or private management programs, which may include: 1) the construction of active and passive recreation and development areas away from the habitat, and 2) use of fences, or other barriers and buffer zones.
- f. The custodian and location of the documents and other material which constitute the record of proceedings upon which this decision is based is the Town Clerk at the Town of Mammoth Lakes Offices, 437 Old Mammoth Road, Suite 230, Mammoth Lakes, California 93546.

Section 3. Findings. The Town Council hereby finds and determines based on the information presented herewith:

2. **FINDINGS FOR DISTRICT ZONING AMENDMENT (Municipal Code Section 17.120.060)**
 - a. **That the master plan is consistent with the General Plan and any applicable specific plan;**

The master plan is consistent with the goals, objectives and policies of the General Plan, any applicable specific plan or adopted master plan of development because The Parcel Affordable Housing Project ("Project") will provide additional affordable housing opportunities in town while advancing the General Plan's sustainability, small town atmosphere, and environmental protection goals. Additionally, the Project will strengthen the Town's commitment to being a "great place to live and work" as it will provide much-needed affordable workforce housing in a centralized location that is close to jobs, services and recreation opportunities. Additionally, the master plan will specifically implement General Plan Policy H.1.F to create a livable workforce

neighborhood at The Parcel and General Plan Action H.1.F.1. to develop housing on The Parcel within the Housing Element planning period.

- b. That any exception from the standards and requirements of this Code is warranted by the design and amenities incorporated in the master plan and is desired by Council;**

The proposed Master Plan includes several modifications to current code requirements necessary to help achieve the development goals for the Parcel as specified in the General Plan and 2019 Preferred Conceptual Land Use Plan. Specifically, the proposed Master Plan would increase allowable building height, lot coverage and allowable land uses while decreasing snow storage, setbacks and required parking. In addition, a 100% increase in density is requested through the concurrent Use Permit application pursuant to the Town's Density Bonus Program. These requested changes are necessary in order to accommodate the proposed number of affordable units while preserving a significant amount of open space (roughly 3.1 acres) and constructing new street, sidewalk and MUP connections through the site. The design of the project and public amenities, including a central park, daycare facility, community center, and between 400 and 580 units of permanently affordable workforce housing, are consistent with the Conceptual Land Use Plan accepted by Town Council in December 2019 and warrant the proposed zoning changes included in the Master Plan.

- c. That the master plan would not be detrimental to the public interest, health, safety, convenience, or welfare of the town;**

The proposed Master Plan would not be detrimental to the public interest, health, safety, convenience or welfare of the Town. Rather, the Master Plan will achieve the longstanding community goals of providing an affordable workforce housing neighborhood on the Parcel site, which is consistent with the General Plan, the 2017 Community Housing Action Plan, and the 2019 Preferred Conceptual Land Use Plan. The Master Plan represents the largest affordable housing project ever proposed in the Town, and would provide significant community benefit by addressing a substantial portion of Mammoth Lakes' housing need.

- d. That the master plan is compatible with the surrounding area;**

The proposed Master Plan includes a number of provisions meant to ensure compatibility with the surrounding area. Proposed building height limits in certain Development Areas are intended to provide a transition in building scale and type from the adjacent higher intensity commercial areas to neighboring residential areas, and detailed building design standards are included to ensure that new development is consistent with existing Town Design Guidelines. The project will also include a variety of public amenities including a new daycare facility and public park and will provide new multi-modal connections through the site, which will better integrate surrounding neighborhoods with the nearby commercial areas.

- e. **That the affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities for the master plan and the proposed or anticipated uses and/or development; and**

The Parcel site has been intended for affordable housing for 30 years, and is physically suitable in terms of design, location, shape and size. Regarding public and emergency vehicle access, staff and the developer have consulted with the Mammoth Lakes Fire Protection District and other emergency service providers throughout the entitlement process, and the Master Plan and subsequent building permit process will ensure that all emergency access requirements are met. Regarding public services and utilities, the Master Plan has incorporated comments from local utility providers, including water, power and gas, and compliance with applicable utility requirements is required prior to building permit issuance.

- f. **That the phasing plan provides a workable, functional, and efficient relationship throughout the development of the master plan.**

Development of The Parcel is proposed to take place in six individual phases, but will be also dictated by the unique parameters of the public and private financing available for affordable housing. The Development Area Plan included in the Master Plan was developed with this in mind and allows for a phased approach to development. However, the final financing plan for each phase may require changes to the number of units and thus, overall size of each Development Area (or phase), not to exceed a project total of 580 units. In addition, phases may be developed “out of sequence,” concurrent with another phase, or both depending on financing availability. Overall, the phasing plan sets forth the intended phasing of the development while also providing for the flexibility necessary to respond to an ever-changing affordable housing financing and market landscape over time, thereby providing a workable, functional and efficient relationship between the Town, the developer and the housing market.

3. FINDINGS FOR ZONING CODE AMENDMENT (Municipal Code Section 17.112.060)

- a. **The proposed amendment is internally consistent with all other provisions of the General Plan and any applicable specific plan or master plan**

The request to amend the Zoning Code to repeal Section 17.32.020, *Affordable Housing Overlay Zone (AH)* including associated minor amendments to reflect the removal of the AH zone is internally consistent with all other provisions of the General Plan and is necessary in order to allow the 2021 Parcel Master Plan to serve

as the sole zoning for the site. There is no specific plan applicable to the Project site and the amendment will be internally consistent with the 2021 Parcel Master Plan.

b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the town; and

The proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare of the Town. Rather, the amendment is necessary to implement the proposed Master Plan, which will achieve the longstanding community goals of providing an affordable workforce housing neighborhood on the Parcel site consistent with the General Plan, the 2017 Community Housing Action Plan, and the 2019 Preferred Conceptual Land Use Plan. The Master plan represents the largest affordable housing project ever proposed in the Town, and would provide significant community benefit by addressing a substantial portion of Mammoth Lakes' housing need.

c. The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA).

The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA). See CEQA findings included in Section 1 above.

d. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

The proposed amendment is internally consistent with other applicable provisions of the zoning code because removal of the Affordable Housing (AH) zoning district will allow the 2021 Parcel Master Plan to be implemented which will continue to meet the intent of the AH zoning district to *promote the development and provision of affordable housing within the community*. Additionally, the Master Plan and the associated entitlement applications have been found to meet all applicable Municipal Code standards.

Section 4. Approval. Based on the findings contained in this Ordinance and all other evidence in the record of proceedings in this matter, the Town Council:

- a. Certifies that the proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA) because the Town has prepared the Parcel Infill Environmental Checklist dated December 2020 has been completed in compliance with CEQA and reflects the independent judgment of the Town Council and directs Town staff to file a Notice of Determination pursuant to Public Resources Code § 21152.
- b. Hereby approves District Zoning Amendment 20-001 and adopts the 2021 Parcel Master Plan in its entirety to read as shown in attached Exhibit "1," which is incorporated herein by this reference.

- c. Hereby approves Zoning Code Amendment 20-005 to repeal to repeal Municipal Code Section 17.32.020, *Affordable Housing Overlay Zone (AH)* including associated minor Zoning Code amendments to reflect the removal of the AH zone as shown in attached Exhibit “2,” which is incorporated herein by this reference.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof, is held invalid or unconstitutional, then such decision shall not affect the validity of the remaining sections or portions of this Ordinance or part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 6. Effective Date. The Mayor shall sign and the Town Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

ADOPTED, SIGNED and **APPROVED** this 20th day of January, 2021.



LYNDA SALCIDO, Mayor Pro-
Tem

ATTEST:



JAMIE GRAY, Town Clerk

The 2021 Parcel Master Plan

Town Council

Sarah Rea
Lynda Salcido
Bill Sauser
Kirk Stapp
John Wentworth

Planning and Economic Development Commission

Michael Vanderhurst, Chair
Jennifer Burrows, Vice Chair
Paul Chang
Greg Eckert
Jessica Kennedy

Town Staff

Grady Dutton, Parcel Director
Sandra Moberly, Community and Economic Development Director
Haislip Hayes, Public Works Director
Chandler Van Schaack, Senior Planner
Amy Callanan, Associate Engineer

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I. EXECUTIVE SUMMARY

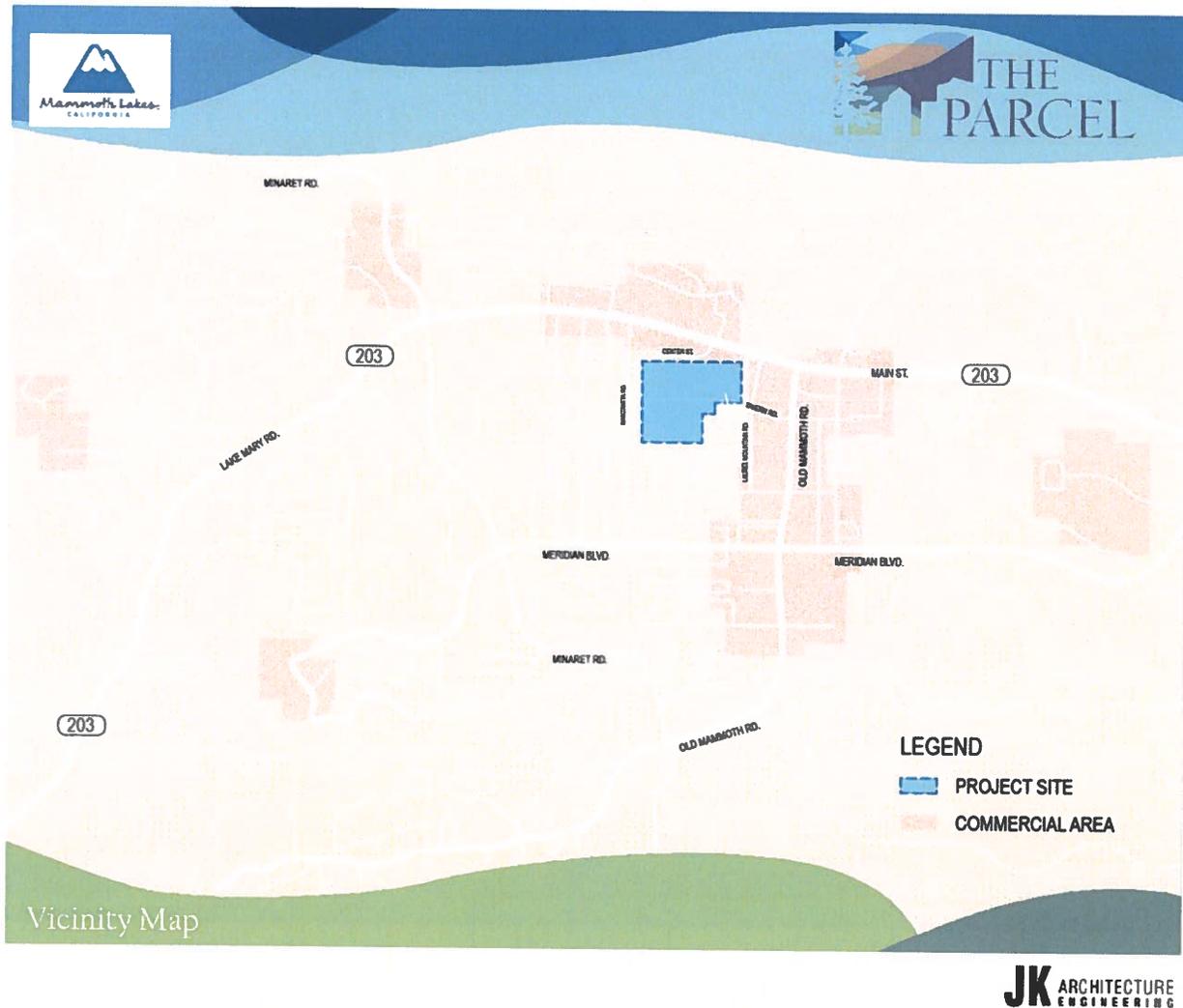


Figure 1: Vicinity Map

The Parcel Master Plan (“Master Plan”) was approved by the Town Council on _____ and updates and replaces the 1991 Shady Rest Master Plan. This Master Plan builds on the principles, recommendations, and strategies detailed in the 2019 Final Conceptual Land Use Plan (“The Preferred Plan”) and provides site specific zoning and detailed regulatory guidance for The Parcel. This Master Plan includes specific development standards regulating land use; architectural design standards including building mass and articulation, roofs, materials, colors and height; development site standards including density, lot coverage, setbacks, open space and snow storage; parking requirements; signage; infrastructure including utilities, solid waste and stormwater; and circulation and mobility including sidewalks and pathways, the street network, and transit facilities. These standards are intended to be prescriptive in nature to allow for phased development proposals to be submitted to the Town through the Major Design Review process pursuant to Town of Mammoth Lakes Municipal Code Section 17.88. Future amendments to this Master Plan are anticipated to accommodate changes to the affordable housing financing landscape; unique development proposals; and new ideas, approaches, and strategies as build-out

progresses. Such amendments shall follow the process requirements outlined in the “Amendments” section on page 28.

In areas where this Master Plan is silent as to a specific development standard found in the Municipal Code, the standards for the underlying zone district (RMF-1) shall apply. The maximum allowable density as set forth in this Master Plan is based upon the gross allowable density for the site under the General Plan HDR-1 land use designation and RMF-1 zone district standards (12 units/acre for a total of 300 units) plus additional density allotted through the Town of Mammoth Lakes General Plan Policy L.2.D, and Zoning Code Chapter 17.140 which allow up to 24 units per acre if the development is restricted for workforce housing. Approval of this Master Plan includes approval of a Use Permit pursuant to Sections 17.68.050 and 17.138.060 to allow for a net project density of up to 580 affordable workforce housing units.

A. Introduction

The Shady Rest Master Plan was adopted in 1991 and was the result of a land exchange between the United States Forest Service and a private developer that had an affordable housing mitigation requirement for the Trails subdivision.

The 1991 Shady Rest Master Plan allows up to 172 units on the approximately 25-acre site currently referred to as The Parcel, with a mix of 120 low and very low income and 52 moderate income units (i.e., up to 120% AMI). An Affordable Housing Overlay Zone was placed on The Parcel as a part of the Forest Service for the land exchange, which limits allowable development on the Parcel to housing that is affordable to moderate income households and below (up to 120% AMI) (Municipal Code Section 17.32.020). The 2007 General Plan identifies The Parcel as “intended primarily for workforce housing.”

Since adoption of the 2007 General Plan, various conceptual plans have been prepared for The Parcel. These include:

- The Shady Rest Site Development Concept as part of the Downtown Neighborhood District Plan (Town of Mammoth Lakes, 2010).
- Hart Howerton Concept (Mammoth Mountain Ski Area, 2016); and
- Dahlin Concept Plan (Mammoth Lakes Housing, Inc., 2016).

None of these previous conceptual plans resulted in an amendment to the 1991 Shady Rest Master Plan.

In 2018, in accordance with the recommendations of the [2017 Community Housing Action Plan](#), the Town of Mammoth Lakes purchased The Parcel and initiated a Conceptual Land Use Planning process for the site known as “Plan The Parcel”. During the Conceptual Land Use Planning process, the Town performed robust community engagement through several outlets, such as social media, online surveys for design concepts, public interest interviews, information tables at local events, local organization meetings, monthly updates at public meetings, community meetings, and a multi-day design workshop.

Table 1: 2019 “Plan The Parcel” Conceptual Land Use Plan Public Engagement Opportunities	
Joint Town Council and Planning and Economic Development Commission Workshops	<ul style="list-style-type: none"> • Workshop 1: June 26, 2019 • Workshop 2: October 9, 2019 • Workshop 3: December 11, 2019
Multi-Day Design Workshop	<ul style="list-style-type: none"> • August 20 – 23, 2019 • Presentations on Facebook live
Community Meetings	<ul style="list-style-type: none"> • Spanish Community Meeting 1: August 11, 2019 • Spanish Community Meeting 2: August 17, 2019
Monthly Updates at Public Meetings	<ul style="list-style-type: none"> • Town Council • Mammoth Lakes Housing, Inc. Board • Planning and Economic Development Commission
Local Organization Meetings	<ul style="list-style-type: none"> • Rotary: July 25, 2019 • Mammoth Voices: August 1, 2019 • Contractors Association: September 12, 2019
Information Tables at Local Events	<ul style="list-style-type: none"> • Mammoth Creek Park: July 4, 2019 • Men’s Softball League: July 22, 2019 • Village Fest: July 26, 2019 • Firefighter’s Foundation Picnic: July 28, 2019
Public Interest Interviews	<ul style="list-style-type: none"> • Interviews Day 1: May 7, 2019 • Interviews Day 2: May 8, 2019
Engage Mammoth Lakes (online)	<ul style="list-style-type: none"> • Survey 1 (Conceptual Land Use Planning): June 2019 • Survey 2 (Development Objectives): August 2019 • Map Your Comments: August 2019 • Survey 3 (Design Ideas for Housing at The Parcel): August 2019 • Survey 4 (Design Alternatives): September 2019 • Survey 5 (Preferred Plan): November/December 2019
Social Media	<ul style="list-style-type: none"> • Facebook • Twitter • Instagram

The Preferred Conceptual Land Use Plan for The Parcel was accepted by Town Council in December 2019 (“The Preferred Plan”) and includes an Action Table that lists critical actions for

the successful development of The Parcel. In accordance with the Action Table, the Town is in the process of engaging a development partner to develop The Parcel in multiple phases as quickly and efficiently as funding availability and restrictions allow.

Once a developer is selected, the Town will enter into a Disposition and Development Agreement (DDA). This DDA will outline the intent and obligation of both parties to work toward development of The Parcel with up to 580 affordable residential units restricted to individuals and families working in the region. The DDA references this Master Plan as the governing planning document to regulate development on The Parcel site.

B. Role of the Master Plan

The purpose of a Master Plan is to “allow for flexibility in the application of Zoning Code standards to proposed development. A master plan is a set of specific development criteria tailored to an individual property or group of properties that constitutes site specific zoning for the subject properties” (Municipal Code Section 17.120.010).

This Master Plan is consistent with the Town of Mammoth Lakes General Plan and other applicable Town-wide plans, policies and standards, including the Preferred Plan. Any deviations from the recommendations of the Preferred Plan have been found by Staff to be necessary based on financing availability, construction feasibility, or other development considerations, and have been vetted through the master planning review process.

This Master Plan updates and replaces the 1991 Shady Rest Master Plan and provides site specific zoning and development standards for the Parcel site. These regulatory standards are intended to achieve the Preferred Plan’s Guiding Principles and Development Objectives. The complete Guiding Principles and Development Objectives from The Preferred Plan are included as Attachment A. In addition to the development standards included herein, development within the Parcel will be subject to the Town’s Design Review process to ensure that development is consistent with the Town’s adopted Design Guidelines, and certain uses will require approval of a Use Permit. In addition, all development parcels and associated infrastructure including but not limited to streets, sidewalks and utilities shall meet all applicable Public Works standards, conformance with which shall be required prior to conveyance of any parcels to the developer and verified through the building permit process.

The primary purpose of the standards included in this Master Plan is to achieve the Preferred Plan’s Principles and Objectives, with an understanding that considerations for construction and financing feasibility may require modifications, and other new ideas and approaches may be needed throughout the build out process. Therefore, this Master Plan sets forth the specific development parameters for The Parcel while providing flexibility to accommodate unique development phasing needs and changes to the affordable housing development landscape over time.

Development of The Parcel will be also dictated by the unique parameters of the public and private financing available for affordable housing. The Development Area Plan included in this Master Plan (Figure 2) was developed with this in mind and allows for a phased approach to development. However, the final financing plan for each phase may require changes to the number of units and thus, overall size of each Development Area (or phase), not to exceed a project total

of 580 units.

C. Planning Area Overview

The Parcel (formerly known as the Shady Rest Tract) is a 25-acre undeveloped site located in Mammoth Lakes at the west end of Tavern Road, between Manzanita Road, Center Street, and Laurel Mountain Road. The Parcel has long been zoned to fulfill a significant portion of the existing affordable housing need in Mammoth Lakes. It is located near to services, employment opportunities, recreation and existing neighborhoods.



Figure 2: Planning Area Existing Conditions from the Preferred Conceptual Land Use Plan

D. Public Engagement

As part of the community outreach for the 2021 Parcel Master Plan, a virtual public meeting was held (due to the Covid-19 pandemic) on October 13, 2020 to provide an update on The Parcel development process and proposed Master Plan. A draft of the Master Plan was posted for public review from October 26 to November 10, 2020 with a short survey and request for public feedback. Following the public review period, a public workshop with community leadership from PEDC and Town Council was held on November 10, 2020 to receive additional feedback on the draft Master Plan and associated entitlements. The final draft of the Master Plan, which incorporates comments received by the public, PEDC and Town Council, was brought to PEDC for a public hearing and recommendation to Town Council on December 9, 2020.

The Town also maintained an email distribution list and webpage for The Parcel, which included materials in both English and Spanish. Informational cards, surveys, and social media posts were also provided in both English and Spanish. Attachment B contains documentation from public engagement activities and events.

II. MASTER PLAN DEVELOPMENT STANDARDS

A. ALLOWABLE LAND USES

The Parcel will be developed as a mixed-use residential neighborhood consisting mainly of attached multi-family affordable housing. The Preferred Plan Development Objectives also call for provision of supportive uses such as daycare facilities and community gathering spaces as well as other amenities such as parks and playgrounds. This section specifies which land uses are allowed on the Parcel. Additional uses not included in the Preferred Plan (i.e., small-scale commercial uses, mobile businesses, and home occupations) are allowed in certain phases subject to Use Permit approval in order to accommodate potential changes in the needs of residents as each Development Area is developed.

Development Area 1, as shown in Figure 5, is intended to provide a total of 81 units (80 affordable housing units and one manager unit) in two buildings and includes space for a Daycare Facility and Community Center as well as a Public Park. Additional non-residential uses listed in Section 2 below shall be permitted only in Development Areas 1, 2 and 3 and shall require approval of a Use Permit.

I. Permitted Land Uses.

The following uses are permitted within The Parcel Master Plan area and do not require approval of a Use Permit or other discretionary application:

- Attached Multi-Family Residential
- Detached Single Family Dwellings
- Supportive Housing
- Day Care Facilities
- Public Parks and Playgrounds
- Public Recreational and Cultural Facilities
- Community Assembly

- Open Space
- Home Occupations
- Accessory uses and structures incidental to permitted uses
- Temporary uses as prescribed in [Municipal Code Chapter 17.56](#)

2. Uses Requiring Use Permit Approval.

The following non-residential uses are permitted in Development Areas 1, 2 and 3 subject to approval of a Use Permit:

- Neighborhood oriented commercial uses such as General Retail, Personal Service and/or restaurants no greater than 2,500 square feet in size
- Mobile Businesses

As part of the Use Permit review process, the Town may require additional information including but not limited to management plans or other operating agreements in order to ensure that such uses are compatible with the surrounding neighborhood.

Additional land uses not included in this section are prohibited unless expressly authorized by State or Federal law. Transient occupancy or rental and hotel and motel uses are not permitted in the Master Plan area. All uses shall comply with the Performance Standards listed in Municipal Code Section 17.36.070.

B. DESIGN REVIEW

All Development Areas included in this Master Plan (Figure 5) shall meet the Development Standards described herein. In order to ensure that development is also compatible with existing Town Design Guidelines, Major Design Review approval shall be required prior to building permit issuance for any development within the Master Plan Area. Municipal Code standards and/or The Town Design Guidelines shall determine any design standards not specifically included in this Master Plan. Each Major Design Review Application will include:

1. Number of proposed residential units;
2. Affordability parameters;
3. Square footage and location of proposed non-residential uses;
4. Building plans detailing height, massing, and architectural details;
5. Site design, including orientation, location, and design of buildings relative to existing structures; outdoor areas, walkways, trails, and streets on or adjacent to the property; topography; existing trees and vegetation, and other physical features of the natural and built environment;
6. Size, location, design, development, and arrangement of circulation, parking, sidewalks, Multi-Use Paths (MUPs), and other paved areas;
7. Exterior colors and materials as they relate to each other and the overall appearance of the project, the mountain environment, and to surrounding development;
8. Height, materials, colors, and variety of fences, walls, and screen plantings;
9. Location and screening of mechanical equipment and refuse storage areas;
10. Location, design, and compliance of exterior lighting features;

11. Location and type of landscaping including selection, size, and water-efficiency of plant materials, design of hardscape, and irrigation;
12. Design and location of stormwater management features and snow storage areas; and
13. Size, location, design, color, lighting, and materials of all signs

In addition to the required Design Review findings, buildings within each Development Area shall conform with the following standards for building design, roofs, facades/ balconies/ decks, windows and doors, entrances, materials, and colors.

As a part of the Design Review process, an analysis of the conformance of the proposed unit/affordability composition for each phase (and the Parcel overall) will be prepared to ensure compliance with the Infill Infrastructure Grant (IIG). The intent of this analysis is to ensure that each phase (and the Parcel overall) will provide units consistent with the requirements of the IIG grant up to the required 418 units in the bedroom count/unit type configurations included in the IIG grant.

C. BUILDING DESIGN

I. Building Mass and Articulation

- a. No building shall have an exterior wall more than one story in height that is longer than 120' without an offset of 4' for at least 10' in width, or an angular offset of at least 20 degrees.
- b. Façade articulation. All building facades that face or will be visible from a public street or adjacent property shall include one or more of the following treatments:
 - i. Variety in Wall Plane. Exterior building walls shall vary in depth through a pattern of offsets, recesses, or projections (including stoops, balconies or porches).
 - ii. Façades shall provide visual interest by incorporating at least two primary building materials but there shall not be more than four primary materials per building elevation. Window trim, belt courses, soffit, fascia, or other building material detailing are not considered primary building materials.
 - iii. Variety in Height or Roof Forms. To the extent feasible, building height is varied so that a portion of the building has a noticeable change in height; or roof forms are varied over different portions of the building through changes in pitch, plane, and orientation.
 - iv. Façade Design Incorporates Architectural Detail. The building façades incorporate details such as window trim, window recesses, cornices, belt courses, or other design elements.
- a. Vertical Articulation for Tall Buildings. In buildings of three or more stories, upper and lower stories shall be distinguished by incorporating one or more of the following features. These features may be applied to the transitions between any floors, except where otherwise specified.
 - i. A change in façade materials at the transition between two stories.
 - ii. A horizontal design feature such as a water table, belt course, or bellyband.

- iii. A base treatment at the ground floor consisting of a material such as stone, concrete masonry, or other material distinct from the remainder of the façade and projecting at least one inch from the wall surface of the remainder of the building.

2. Building Orientation and Entries:

- a. Main Entry Orientation
 - i. A primary building entry shall face the public right of way, drive aisle or MUP and be oriented to within 45 degrees of parallel to the street. Direct pedestrian access shall be provided between the public sidewalk or MUP and such primary building entry.
 - ii. Provide clearly identifiable pedestrian entrances at the ground level of buildings. Provide protection from weather where possible.
 - iii. Use landscape elements to mark pedestrian entrances.
 - iv. Lighting shall be provided to all entrances/porches/arcades & passageways.
 - v. Design entryways to minimize snow shoveling such as including ground level entrances with interior access to parking or garages.
 - vi. In courtyard-style developments in which residential buildings are located in the interior of a block, entries may face interior courtyards, walkways, and paseos. However, those buildings or portions of buildings adjacent to the public street shall include a primary entry facing the street, with direct pedestrian access between the entry and the public sidewalk

3. Window Details

- a. An orderly arrangement of windows and doors shall be provided.
- b. Window trim shall enhance, decorate and provide shadow relief to the building facade.
- c. Bay windows may be used where appropriate.
- d. Window boxes may be used where appropriate.

4. Screening of Equipment.

All exterior mechanical and electrical equipment shall be screened or incorporated into the design of buildings so as not to be visible from the street. Equipment to be screened includes, but is not limited to, all roof mounted equipment, air conditioners, heaters, utility meters, cable equipment, telephone entry boxes, backflow preventions, irrigation control valves, electrical transformers, pull boxes, and all ducting for air conditioning, heating, and blower systems. Screening materials shall be consistent with the exterior colors and materials of the building.

5. Roofs.

- a. Incorporate eaves and overhangs to provide snow protection and visual interest
- b. Vent pipes and other roof-top fixtures shall be collected into orderly clusters or incorporated into chimney structures.
- c. Flat roofs are permitted.
- d. Acceptable roof materials are included within Section C.6.

6. Materials.

- a. Exterior building materials shall be sustainable, durable, and low maintenance and shall provide a natural aesthetic.
 - i. Vary the texture, scale and color of wall materials to add visual interest (as per Figure 3).
 - ii. The following materials and patterns are allowable:
 - Fiber cement siding (such as Hardi or a similar product)
 - Lap siding, board and batten, shiplap, tongue and groove textures
 - Natural stone accents
 - Tiling accents
 - Stucco (no more than 20% of the exterior building)
 - Metal (accents, siding or roofs)
 - Wood / wood-like materials / other synthetic materials that mimic natural materials
 - Asphalt shingles, architectural grade (roofs)
 - Built up or membrane (roofs)

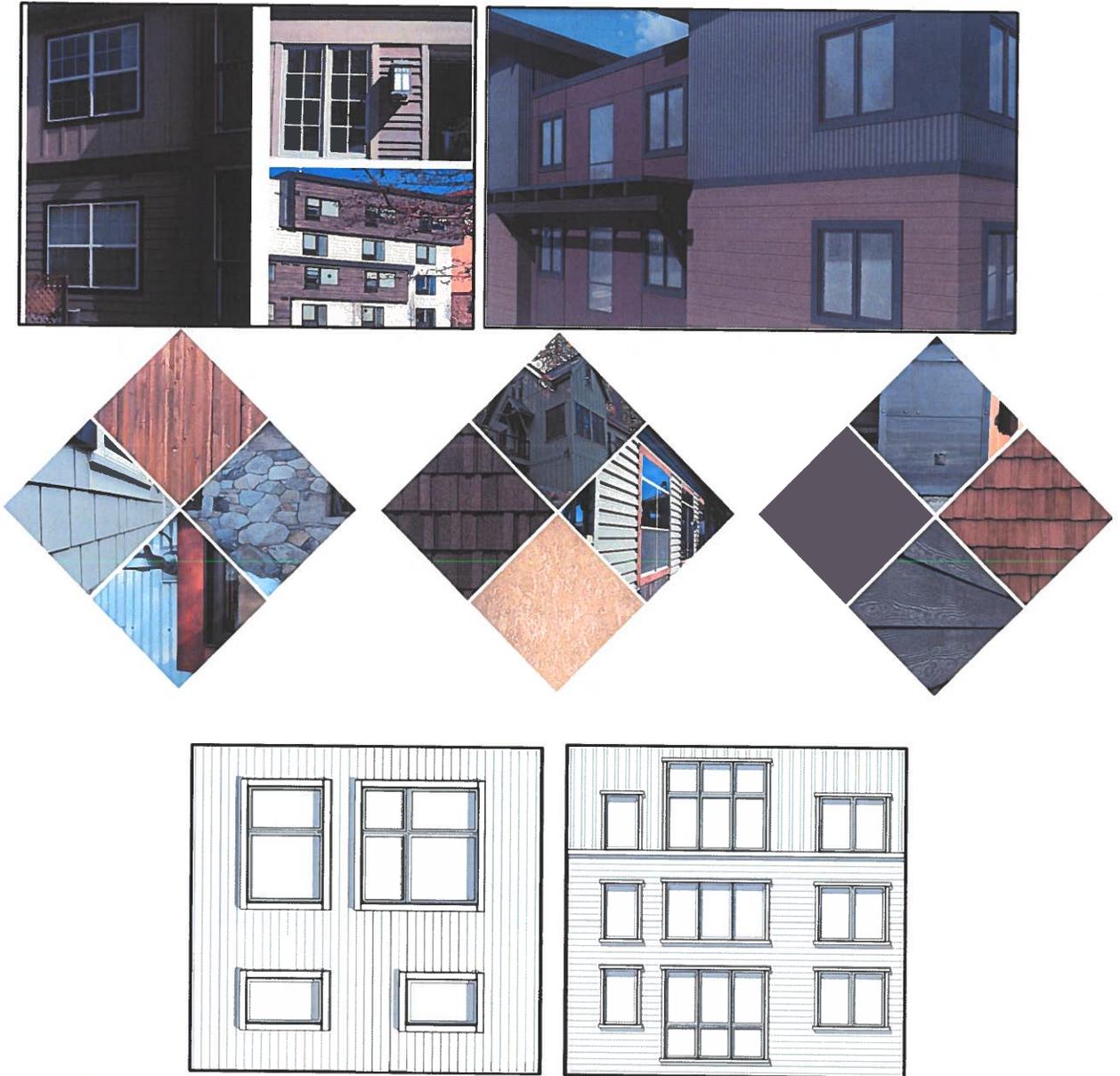


Figure 3: Examples of orderly windows and varying textures and materials

7. Colors

- a. All exterior colors shall complement colors on neighboring buildings.
- b. Building colors shall draw from a natural palette in darker shades and minimize reflectivity. Avoid bright colors that compete with the natural surroundings.
- c. Colors identified in Figure 4 or similar colors are acceptable. Variations in color associated with natural materials (i.e., stone, wood) are acceptable.



Figure 4: Exterior Color Palette

8. Building Height.

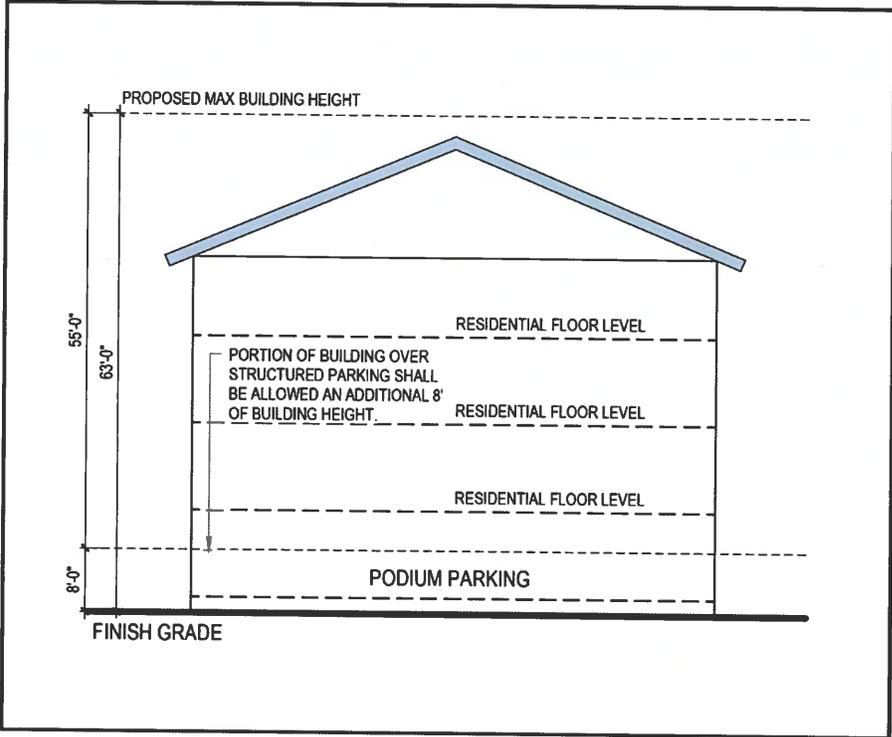
Buildings shall not exceed four stories over parking in any Development Area. Building height shall be measured per Municipal Code Section 17.36.060.B unless otherwise specified. The maximum building height for each Development Area and building type is as follows (see Figure 5 below):



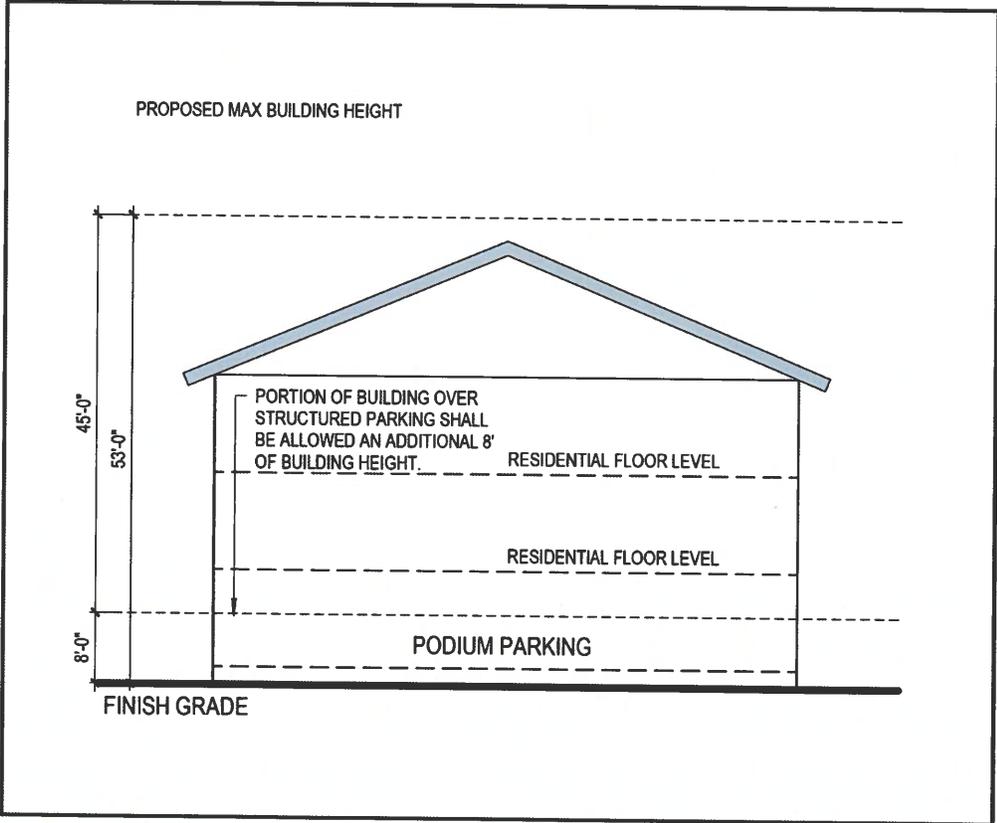
Figure 5: Development Areas and Maximum Building Heights

- a. Development Areas 1, 2 and 3 – 4 stories (55' maximum height)
- b. Development Areas 4, 5 and 6 – 3 stories (45' maximum height), with buildings in Area 4 adjacent to the Mill Ditch not to exceed 2 stories.
- c. Development Area 6 Exception: Buildings in Area 6 adjacent to the Shady Rest neighborhood shall not to exceed 2 stories (35' maximum height)
- d. Where a building sits atop a parking podium, the building height shall be measured from the top of the parking podium provided that the building height does not increase by more than eight feet.
- e. Additional height not to exceed 4 stories or 55 feet for buildings not located on the perimeter of the site is allowed subject to Town approval through the Design Review process.

4 STORY BUILDING PODIUM



3 STORY BUILDING PODIUM



2 STORY BUILDING

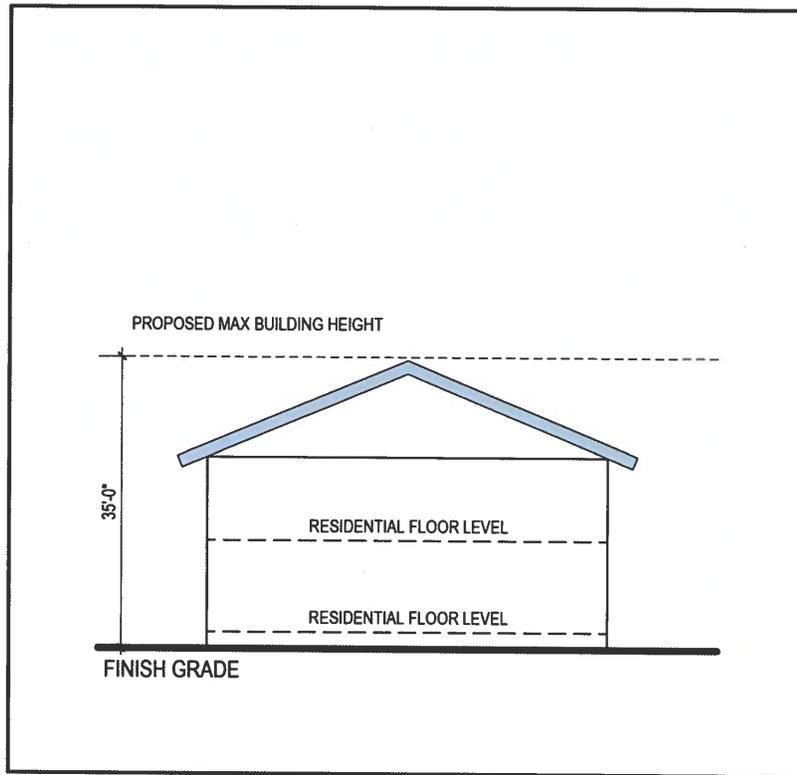


Figure 6: Maximum Building Heights

D. DEVELOPMENT AREAS - SITE STANDARDS

1. Number of Units.

Table 2 below shows the maximum number of dwelling units allowed in each Development Area. There is no minimum number of units required per Development Area as long as the total number of units in the Project is 400 units or more.

	Maximum Dwelling Units
Area 1:	81
Area 2:	89
Area 3:	85
Area 4:	85
Area 5:	160
Area 6:	80
TOTAL:	580

Table 2: Maximum Dwelling Units per Development Area

2. Density and Number of Units.

Development of The Parcel at a maximum allowable gross density of 24 dwelling units per acre, with the overall number of units not to exceed 580 total, is contingent upon approval of a Density

Bonus. Once a Density Bonus is approved, the associated Conditions of Approval shall be included with this Master Plan as Attachment C.

Each Development Area will be subject to discretionary Major Design Review Approval prior to building permit issuance.

3. Lot Coverage.

- a. Lot Coverage shall be measured as the percentage of lot area occupied by structures, decks, driveways and parking areas (regardless of driveway material), walkways, and all impervious surfaces, exclusive of any required ROW dedications. When calculating lot coverage of a structure or building, the exterior walls of the structure or building at ground level shall be used.
- b. Maximum allowable lot coverage for the entire 25-acre site shall not exceed 65%. This does not include dedicated ROWS. The total lot coverage for any individual Development Area shall not exceed 70%.
- c. Exceptions: The following features may be excluded from lot coverage calculations:
 - i. Eaves;
 - ii. 100% of the area of covered and uncovered decks that are at least eight feet above grade;
 - iii. Paved walkways less than 5' in width (driveways and parking areas are counted 100 percent towards lot coverage regardless of material); and
 - iv. Subterranean or podium structures topped by landscaped open space areas of at least 10 feet by 10 feet by four feet deep.

4. Setbacks.

Setbacks described herein replace the requirements in Municipal Code Section 17.36.100A.1. Municipal Code Section 17.36.100C shall not apply to the Mill Ditch (see Section 6 below). Setbacks shall be measured per Municipal Code Section 17.36.100E.

- a. Perimeter Setbacks.
 - i. Structures and roadways/ drive aisles on the perimeter of the Parcel development shall meet the following minimum setbacks:
 - 20' from property line to structures
 - 10' from property line to drive aisles
- b. Interior Setbacks. Within the Master Plan Area, buildings shall meet or exceed the minimum setbacks described below:
 - i. Front: 0' from ROW unless it is determined through Design Review that additional setbacks are required to provide for snow storage
 - ii. Side: 10' from other buildings or 0' from property line
 - iii. Rear: 10' from other buildings or 0' from property line

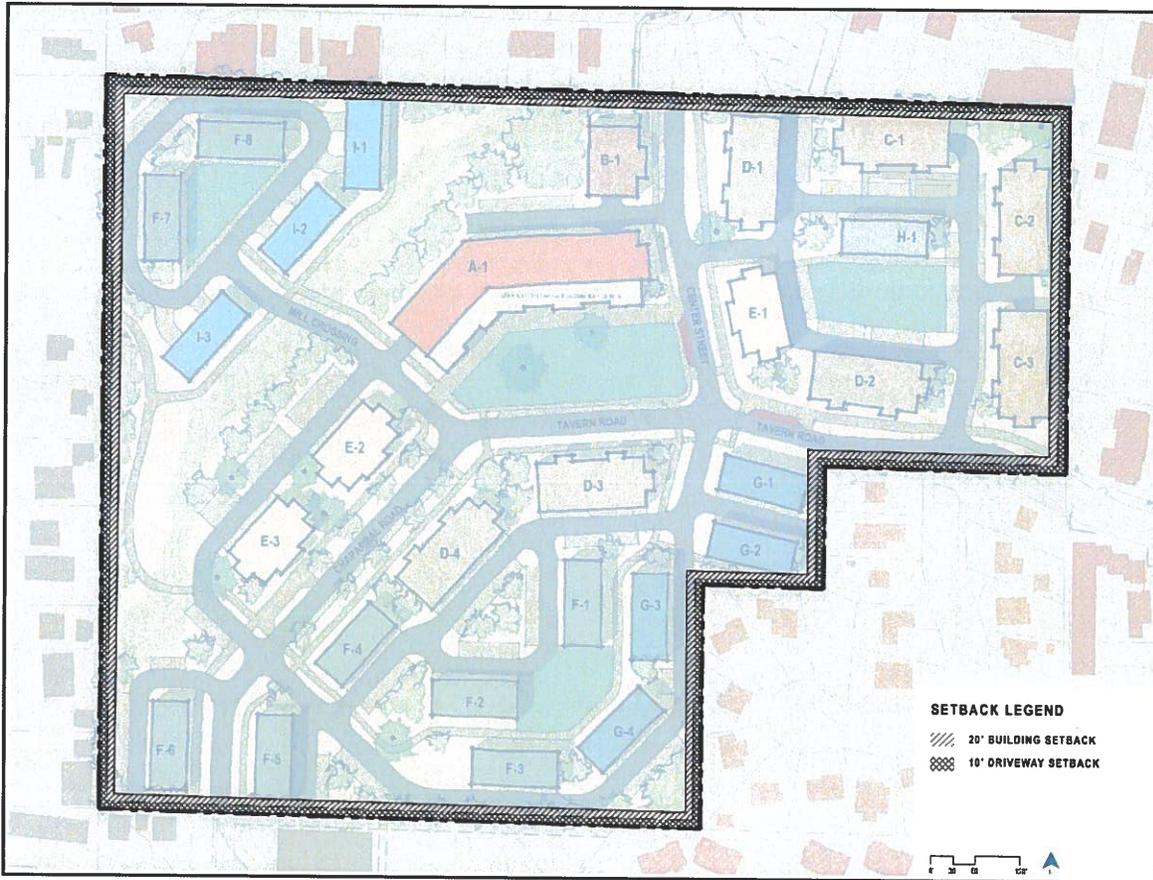


Figure 7: Perimeter Setbacks

5. Building Separation.

All individual buildings shall have a minimum building separation of no less than 10 feet and shall comply with the California Building Standards Code and Mammoth Lakes Fire Protection District Code.

6. Open Space, Mill Ditch & Community Amenities.

Figure 8 below shows the approximate size of the required improved open spaces within the Master Plan.

The sidewalks and multi-use paths are described in the Circulation & Mobility section below. Building A-1 includes space for a daycare center and a community center that will provide amenities for residents and the general public. Details for these spaces are included in the Major Design Review Application for Development Area 1 (DR 20-005).

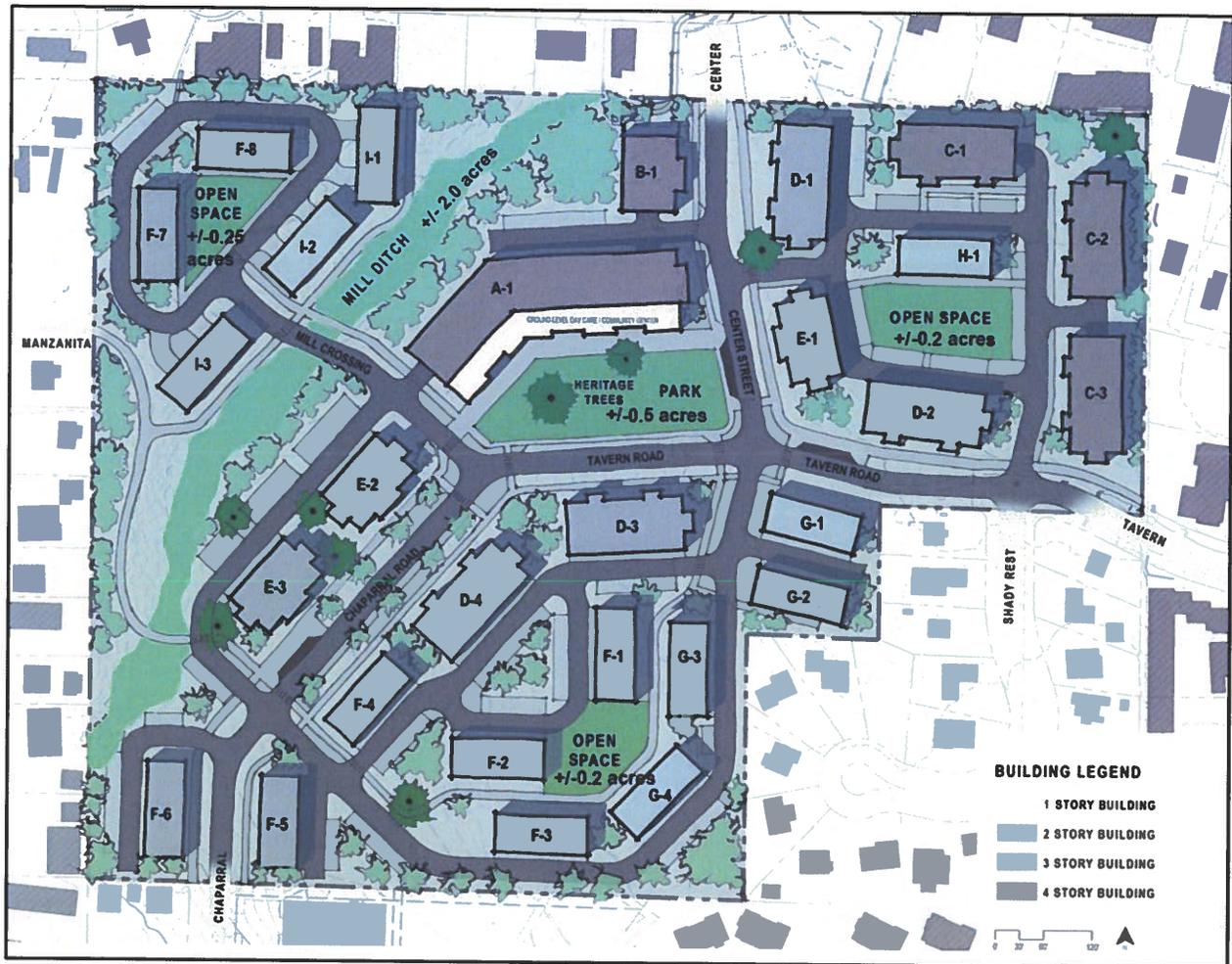


Figure 8: Open Space

- a. Open Space: Open Spaces as depicted in Figure 8 shall be available for public use based on an easement or equivalent as described in the conditions of approval of each Development Area. Table 3 below lists the minimum open space for each Development Area.

Description	Minimum Size
Development Area 1	0.5 acres (dedicated Public Park)
Development Area 2 or 3	0.2 acres
Development Area 5 or 6	0.2 acres
Development Area 4	0.2 acres
Mill Ditch Linear Space	2.0 acres
Total Open Space:	3.1 acres

Table 3: Minimum Open Space per Development Area

- b. Mill Ditch: The Mill Ditch is intended to function as stormwater management and as a community amenity. Stormwater Management is found within Drainage Section G (3).

- i. The Mill Ditch is intended to remain a natural and open space. Any changes or improvements to the Mill Ditch shall be considered as part of the Design Review Application for Development Area 4.
- c. Existing heritage trees shall be strategically preserved to provide shade for path users during the summer and allow for solar exposure to facilitate snow melt in the winter and spring.
- d. **Community Amenities:** Development Area 1 shall include both indoor and outdoor community spaces.
 - i. A Public park (minimum 0.5 acres) as shown in Figure 8 shall be incorporated within Development Area 1.
 - ii. All Community Amenities shall adhere to the Master Plan’s Allowable Land Uses.
 - iii. Community Amenities shall be constructed concurrent with the Development Phase for which the amenity is approved through the Major Design Review process.

7. Snow Removal & Snow Storage.

Public right of way or easement to the Town shall be dedicated to accommodate snow storage from all roads, public parking areas, sidewalks and MUPs within the ROW.

Snow Storage areas for each Development Area will be defined in each Development Area’s Major Design Review Application.

- a. **Snow Removal.** Snow Removal within the ROW will be the responsibility of the Town of Mammoth Lakes. Snow Removal within privately held Development Areas shall be the responsibility of the landowner.
- b. **Snow Storage.** Each Development Area shall be designed and constructed to provide snow storage areas equal to a minimum of 60 percent of all uncovered required parking and driveway areas. Snow Storage areas shall be designed to minimize bucketing and pushing longer distances. The preferred method of snow removal shall be by loader (Cat 966), trackless blower, and lager Kodiak loader mounted snowblowers. Ramping of snow as a practice should be avoided. Open Spaces, as described in Section 6(a), parks, planting strips within the right of way, bioswales may be used in snow storage calculations
- c. **Reduction of Snow Storage Area.** The review authority may reduce or waive the required snow storage area(s) if a Snow Storage Management Plan is provided that is found to comply with Municipal Code Section 17.36.110, subsections (B)(3) and (C) through (E). Snow Storage areas will be defined in each Development Area’s Major Design Review Application.

E. PARKING

The total minimum parking required for the Master Plan Area is outlined in Table 4 below.

1. Residential Parking Requirements:

Parking requirements for residential land uses shall be provided in compliance with Table 4 below, except where the requirement is modified in compliance with Section 17.44.040 (Alternative Parking Provisions).

Residential Unit Size	Minimum Parking Spaces / Unit
Studios	0.5 spaces
1-Bedrooms	1 spaces
2-3 Bedrooms	1.5 spaces
4+ Bedrooms	2 spaces

Table 4: Residential Parking Requirements

2. Non-residential Parking Requirements:

Parking requirements for non-residential land uses shall be provided at a rate of 1 space per 1,000 sf of gross leasable area, except where the requirement is modified in compliance with Section 17.44.040 (Alternative Parking Provisions).

Loading shall meet the provisions of the Municipal Code.

3. Bicycle Parking Requirements:

Bicycle parking shall meet the provisions of the Municipal Code except as below:

- a. 0.75 spaces per residential unit are required, with 10% short-term and 90% long-term in each Development Area.
- b. Each Development Area shall provide for cargo bikes and/ or electric bikes within their bicycle parking requirements.

4. Additional Parking Requirements:

- a. Parking for electric vehicle charging in one or more Development Areas shall be provided.
- b. Dedicated space for car and ride sharing shall be provided.
- c. On-street parking shall be open to the public and shall not be reserved and shall not be counted towards fulfilling minimum parking requirements.
 - i. A minimum of twenty-five (25) on-street parking spaces shall be provided within the Master Plan Area as follows:
 - Development Area 1: minimum 20 spaces
 - Development Area 5: minimum 5 spaces
- d. Additional parking may be provided with any Development Area and shall not require a Master Plan amendment.

5. Parking Design Standards:

- a. Parking design shall meet the requirements of Municipal Code Section 17.44.100.
- b. Parking shall be designed so as to not require curb stops.
- c. Exterior uncovered parking spaces shall be designed for easy access by snow removal equipment.



Figure 9: Parking Areas and Access

F. SIGNS

1. Signage.

Signs within each Development Area shall be consistent with Municipal Code Chapter 17.48 and approved through the Major Design Review process.

2. Directional and wayfinding signage.

All directional and wayfinding signage within The Parcel development shall be consistent with the Town of Mammoth Lakes Municipal Wayfinding and Community Messaging Program or Mammoth Lakes Trail System signage as appropriate.

G. INFRASTRUCTURE

1. Utilities.

All utility lines shall be underground and shall be constructed to Town Standards and the standards of the entity providing the utility service. Utilities shall, to the extent possible, be placed in the ROW.

- a. **Telecommunications / Broadband:** The project will deliver fiber-to-the-premise which can be leveraged for the delivery of broadband and telephone services in conduit which is owned by the Town of Mammoth Lakes.
- b. **Propane:** Above-ground propane tanks are prohibited.

2. Solid Waste/ Recyclable Materials.

The developer shall provide facilities for solid waste/ recyclable materials separation, storage, and removal in accordance with the requirements of Municipal Code Section 17.36.130. Final numbers, size, location and design of these facilities will be approved by the Community and Economic Development Director prior to building permit issuance for each development phase.

3. Drainage and Erosion Control.

Drainage and Erosion Control shall be subject to the provisions of Municipal Code Section 12.08.090 and Town of Mammoth Lakes' Public Works Standards.

- a. Low impact development features, per the California Stormwater Best Management Practice Handbook, such as bioswales and raingardens, will be utilized to the extent practical.
- b. The existing Mill Ditch, a manmade irrigation channel, shall be managed in accordance with Municipal Code Section 12.10.
 - i. The existing Mill Ditch wetlands will be managed per applicable Regional Water Quality Control Board Lahontan Region requirements.
- c. The design of Development Area 4 will include detailed studies of the Mill Ditch and tributary drainage requirements. These studies will include, but are not limited to, cross sections of the Mill Ditch to determine any improvements that are required to manage stormwater while achieving a baseline low-flow meandering stream within the bottom as seasonal stream features and year-round natural amenities for the Town of Mammoth Lakes.
- d. Development Area 4 will include a vehicular bridge across the Mill Ditch drainage channel which shall meet the Town of Mammoth Lakes' Public Works Standards.

H. CIRCULATION & MOBILITY

1. Sidewalks and Multi-Use Paths (MUPs).

Sidewalks and MUPs will complement and bolster the existing MUP network in Mammoth Lakes to connect residents to destinations around town. See **Figure 10** below.

- a. MUP – 12' width and constructed per Town Public Works Standards.
- b. Sidewalk – 6' width and constructed per Town Public Works Standards.
- c. Sidewalks and MUPs located adjacent to streets will, in general, be located on the north and east sides of the street to take advantage of maximum winter solar gain.
- d. Sidewalks and MUPs will have wayfinding signage linked to the existing town-wide municipal and trail wayfinding system.
- e. The sidewalks and MUPs will complement and connect to existing and planned off-site mobility connections and shall be designed in the Major Design Review Application process.

- f. Residential buildings shall include pathways or sidewalks connecting to public sidewalks and paths.
- g. Pedestrian crossings shall be provided, and design details shall be determined through the Major Design Review process.

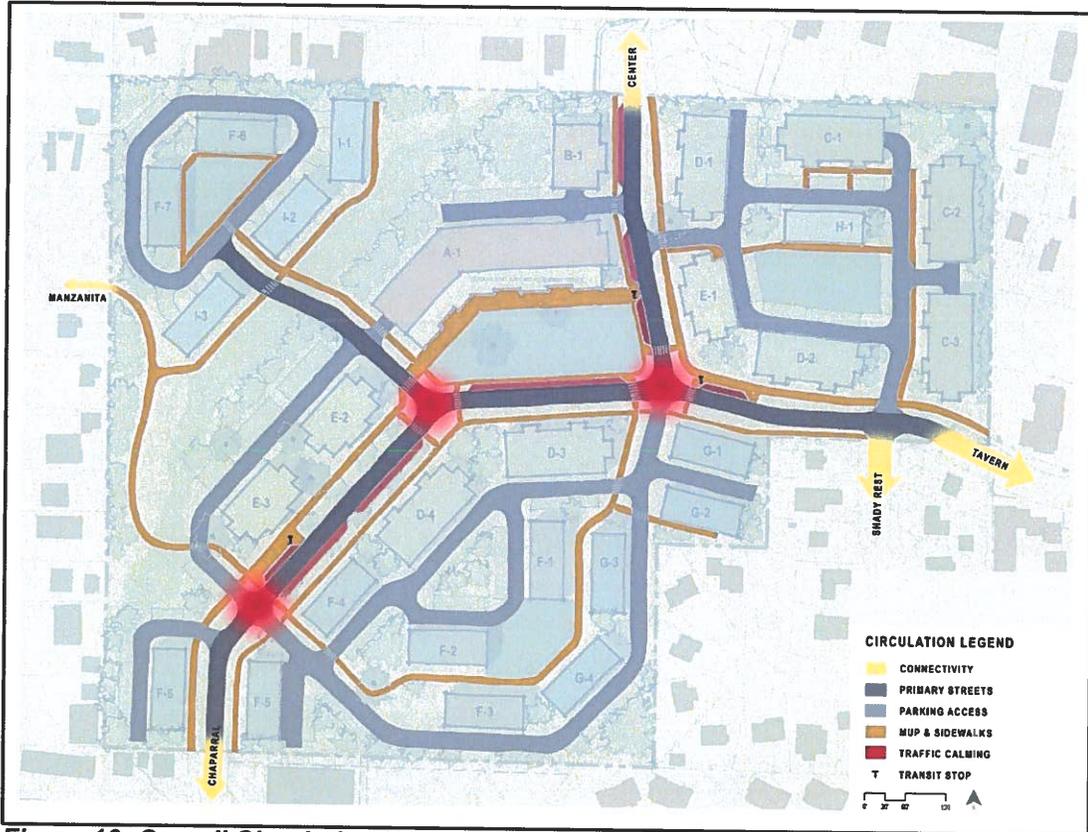


Figure 10: Overall Circulation Network

2. Vehicular Circulation Network.

Vehicular circulation includes Public Right of Way (ROW), private neighborhood streets and driveways, as shown in Figure 10.

- a. The following public vehicular access points shall connect to existing ROW:
 - North - Center Street
 - East - Tavern Road
 - South - Shady Rest Road and Chaparral Road.
- b. Private neighborhood streets shall be designed to meet the needs of motorized vehicles, bicycles and pedestrians alike.
- c. A connection to Arrowhead Drive may be approved as part of a a Major Design Review Application for any Development Area and shall not constitute a revision or amendment to the Master Plan.
- d. Private neighborhood streets, driveways, and sidewalks and MUPs within each Development Area may be subject to revisions through the Major Design Review process.

- e. All parking accesses / drive aisles will provide fire access of 20'-26' wide depending on building height. This shall be approved for each Development Area through the Major Design Review process.
- f. Any plan modifications to Development Areas 2 and 3 that are suggested to meet the intent of the Preferred Plan's desire to "improve adjacent properties' interface with The Parcel through better frontage conditions" and "create street alignment in the northeastern corner of The Parcel that takes into consideration how these lots could redevelop" may be presented and/or approved through the Major Design Review process and does not require an amendment to the Master Plan. The sketch in Figure 11 below provides one potential example of such a plan modification.

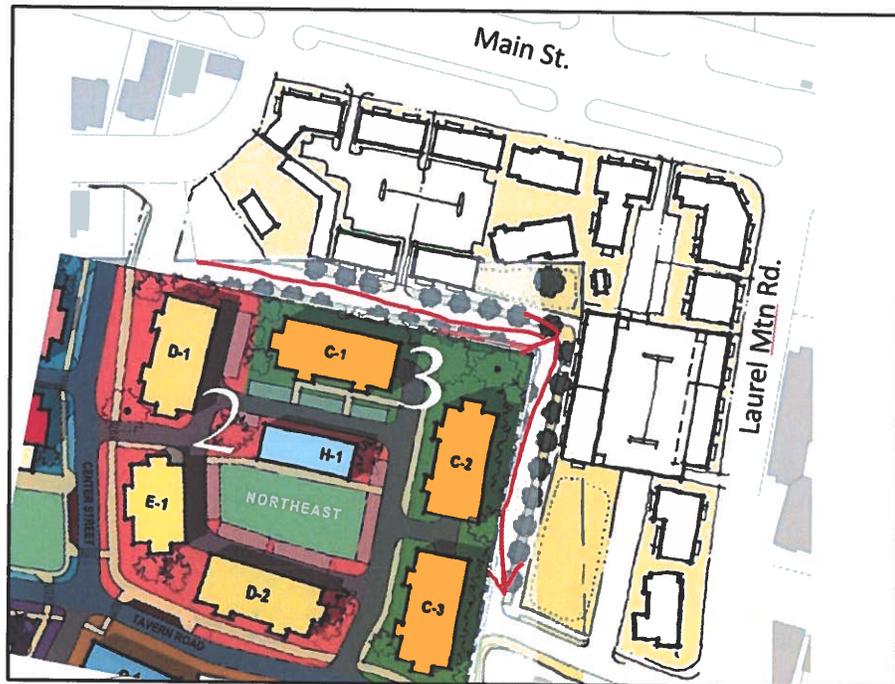


Figure 11: Development Area 2 and 3 Streets & Drive Aisle Potential Option

3. Street Standards.

The standards of The Town Department of Public Works and the Mammoth Lakes Fire Protection District shall be met for all Public Rights-of-Way and private neighborhood streets. Any proposed modifications to these standards may be approved by the Public Works Director and Fire Chief through the Major Design Review process.

- i. All interior streets will have 11' minimum traveled ways.
- ii. Typical Road Sections depicted in Figures 12-15 shall be met to the greatest extent possible.
- iii. New trees planted in landscaped areas shall be deciduous.
- iv. A Major Design Review Application for development may include a memo from a traffic engineer to address adequate traffic calming and to confirm, revise, or create roadway speed limits based on trips generated and is subject to approval by the Public Works Director.

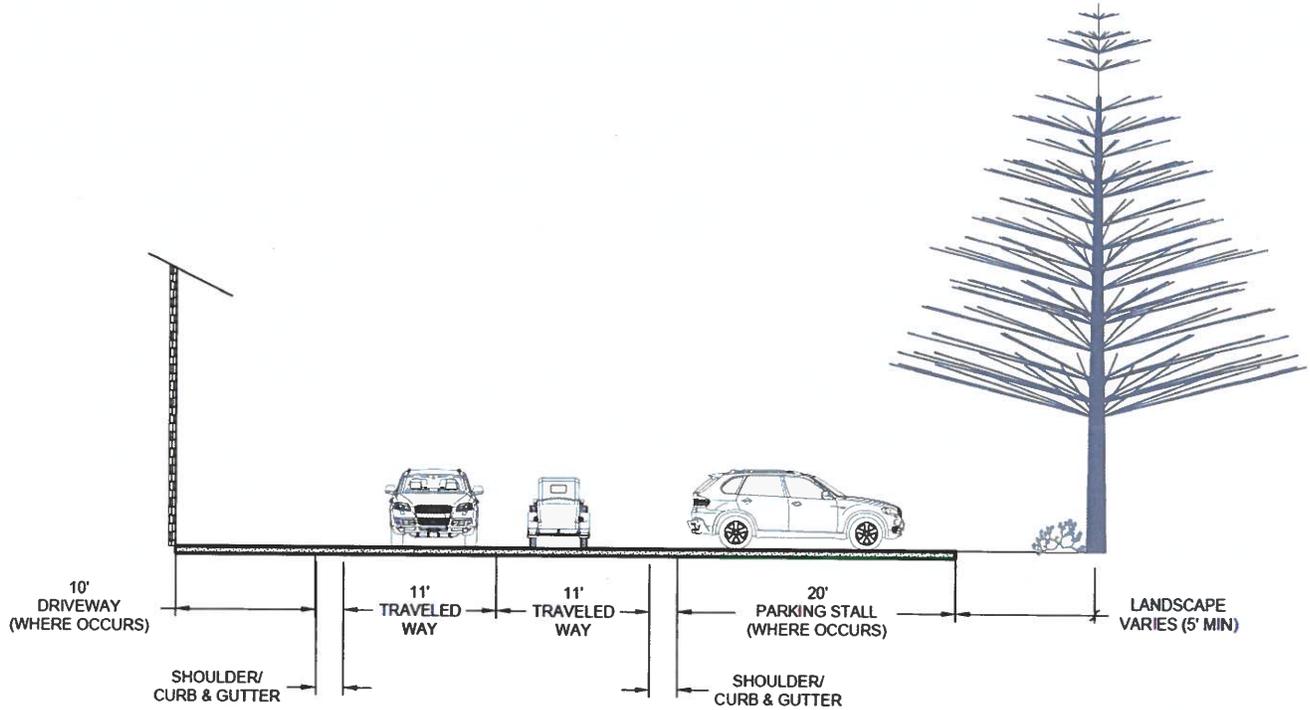


Figure 12: Typical Internal Circulation Road Section 1

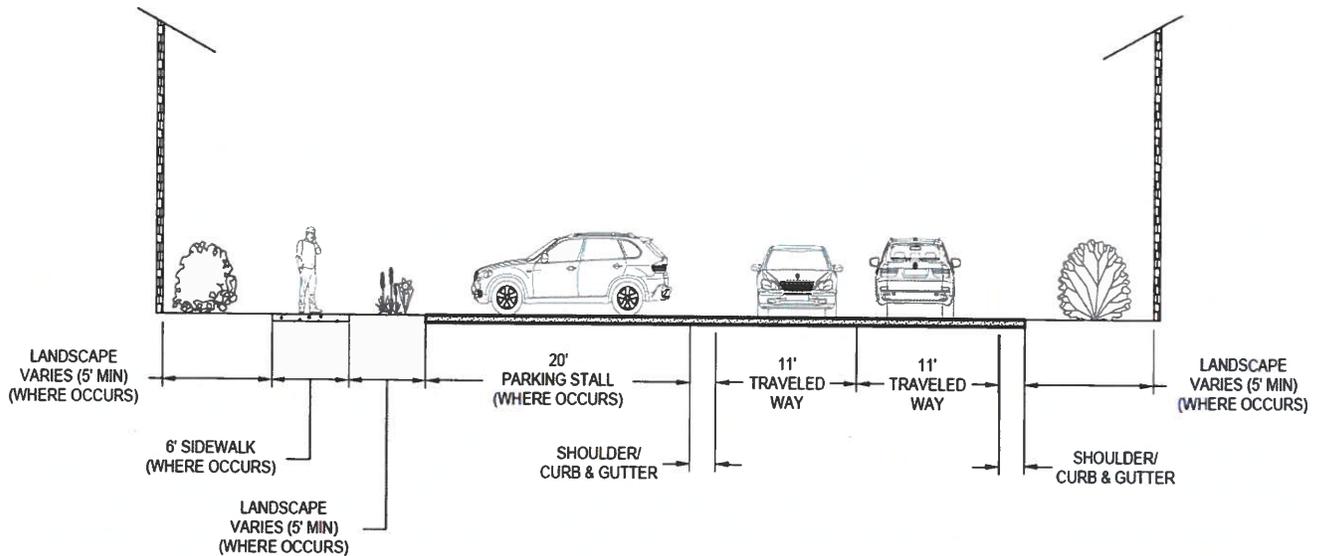


Figure 13: Typical Internal Circulation Road Section 2

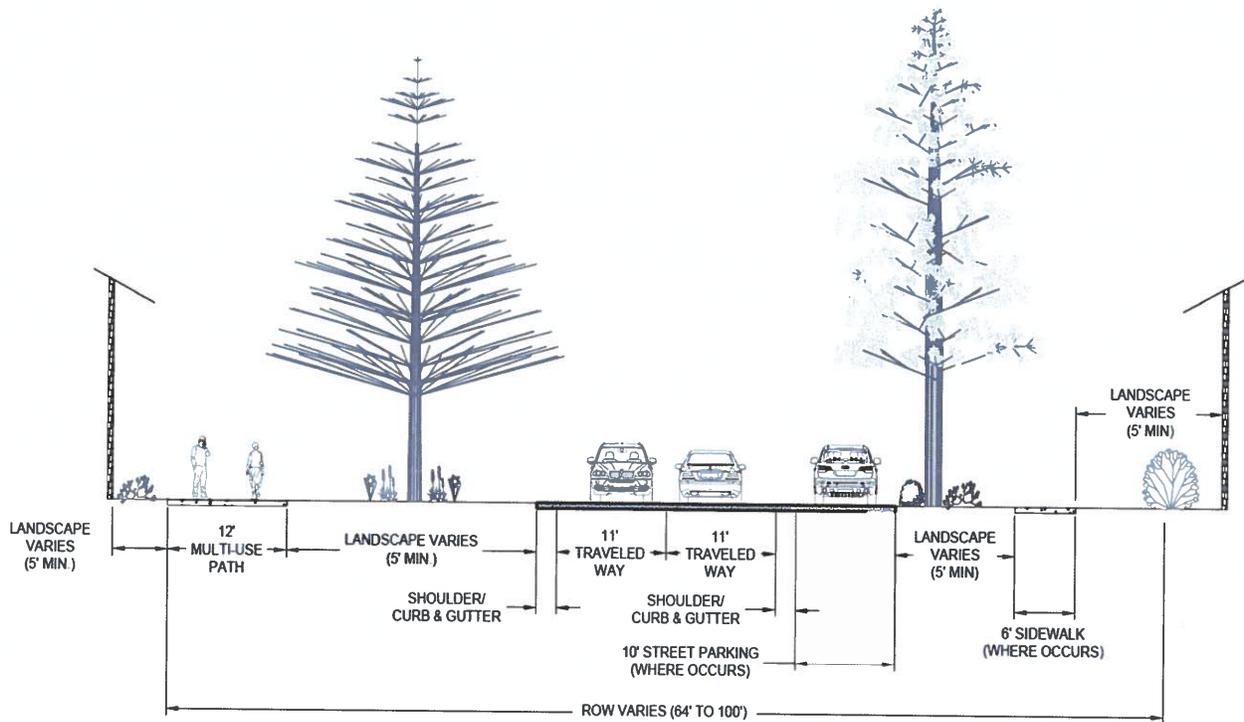


Figure 14: Typical Road Section (Chaparral Road, Tavern Road & Center Street)

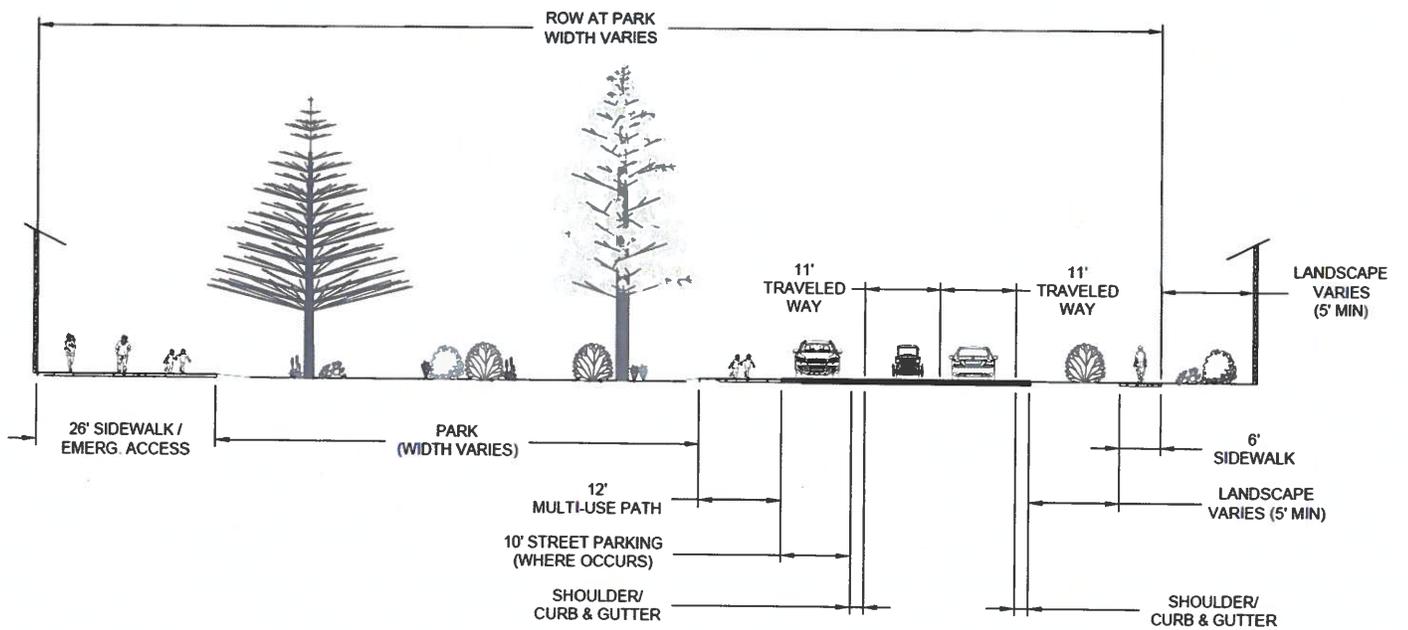


Figure 15: Typical Road Section (Tavern Road at Park)

4. Transit.

At least one bus stop pair (one stop in both directions on the bus line) and at least one additional bus stop, with shelters at each stop, shall be located within The Parcel. The bus stop pair shall be included as part of Development Area 1 and shall be located in close proximity to the location shown in Figure 16 below, central to the site, near to the community facility and park. The additional bus pull-out shall be included as part of Development Area 5. Transit services will be provided by the Eastern Sierra Transit Authority (ESTA) in coordination with the Town of Mammoth Lakes.

- a. Additional Transit improvements such as transit frequency, stop locations, design, and amenities, may occur in accordance with Town of Mammoth Lake’s mobility goals and strategies as set forth in Town adopted transportation plans. Changes found to be consistent with adopted Town mobility goals or adopted plans shall be allowed pursuant to the Master Plan.

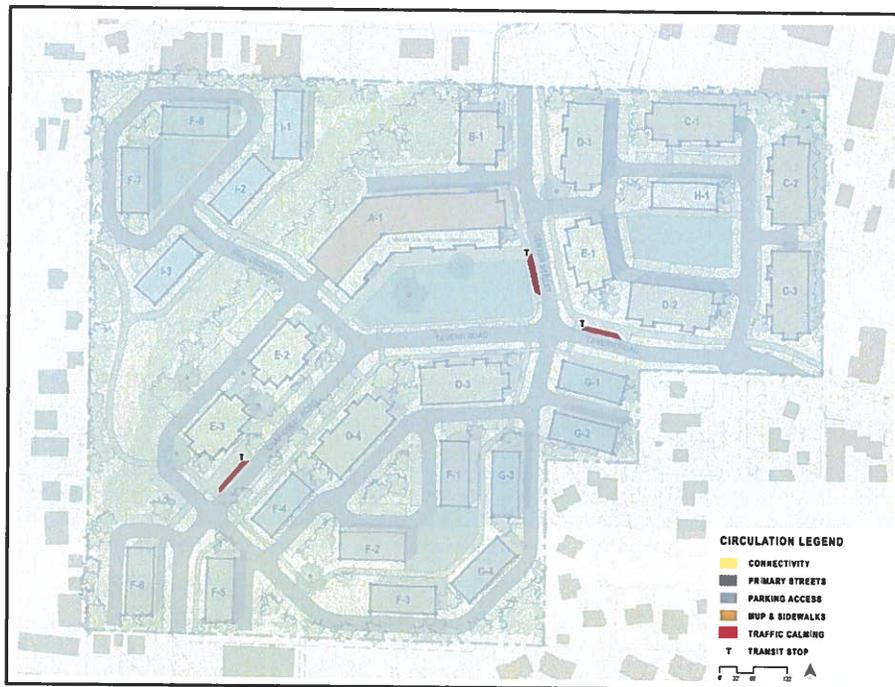


Figure 16: Transit Stops

I. AFFORDABLE AND WORKFORCE HOUSING

All housing units within the development shall be deed-restricted affordable housing for individuals and households working in the region, except as noted in Sections I.1.(c) and (d) below.

A Workforce Housing Agreement shall be provided for each Development Area prior to issuance of a Certificate of Occupancy that will include occupancy standards, and sale, resale and rental restrictions.

1. Rental Units (120% AMI and below).

At least 85 percent of all affordable units within the development shall be rental units deed-

restricted for individuals and households earning up to 120% of the Mono County area median income, which is adjusted and published annually by the State of California. Rental rates for these units will be set by the State or Federal regulatory requirements of the financing used for developing the housing.

- a. Affordable rental units shall be restricted for no less than 55 years.
- b. A Workforce Housing Agreement in compliance with Municipal Code Section 17.138.090 is required.
- c. Property Manager Units are an exception to the 120% AMI or less income restriction.
- d. Up to five manager units are permissible for each Development Area, but there can be no more than 1 property manager unit per 32 residential rental units total on The Parcel.

2. Rental and Ownership Units (above 120% AMI).

Rental or homeownership units for households earning between 120% and 200% of the Mono County area median income are permitted subject to the following requirements:

- a. Rental rates and affordability terms (for rental units) or purchase prices and resale restrictions (for ownership units) will be set by the regulatory requirements of the financing used for developing the housing or set at rates affordable to the targeted residential market in accordance with the HUD definition of affordable housing¹.
- b. A Workforce Housing Agreement in compliance with Municipal Code Section 17.138.090 is required.
- c. The number of total units (rental or ownership) serving 120% to 200% of AMI shall not exceed more than 15% of the total units within the development.

III. IMPLEMENTATION

A. AMENDMENT PROCESS

This Master Plan may be amended pursuant to Municipal Code Section 17.120.070.

I. Minor Master Plan Amendments.

The Community and Economic Development Director may administratively approve Minor Amendments as described in Municipal Code Section 17.120.070 when any of the following apply:

- a. The Amendment meets the Municipal Code Section 17.120.070.
- b. The Amendment does not cause the total residential units on The Parcel to be less than 400 or greater than 580 units.
- c. The Amendment does not affect the Affordable and Workforce Housing section within this Master Plan

¹ According to the U.S. Department of Housing and Urban Development (HUD), a household should not spend more than 30 percent of their gross household income on housing.

- d. The Amendment creates additional public benefit such as more parks or open spaces, additional transit stops, more recreational trails, more parking etc.
- e. The Amendment creates additional public access points (vehicular or pedestrian).

2. Major Master Plan Amendments.

Major Master Plan Amendments are governed by the Town of Mammoth Lakes Zoning Code 17.120.050 and shall be required when any of the following apply:

- a. The total residential units on the Parcel is less than 400 or greater than 580.
- b. Decreases public vehicular egress points and no longer includes Chaparral, Center and Tavern.

B. SUSTAINABILITY.

Utilizing environmentally sustainable design concepts is an important consideration in the ongoing implementation of this Master Plan. In terms of site design, the Master Plan integrates the natural features on the site including the Mill Ditch, wetlands, heritage/habitat/unique trees, and creates open space for recreation, pets and the natural environment. In terms of building design and construction, all residential units in the development will meet or exceed California's Title 24 energy code, and will be subject to specific sustainability requirements associated with the financing source for that phase. Each state and federal affordable housing financing source requires specific and ever-changing sustainability measures which will be met. The requirements of such financing are revised, typically on an annual basis, so are therefore not incorporated herein but at minimum include requirements such as:

- i. using a certified energy consultant early in the design
- ii. low water and low maintenance landscaping
- iii. durable material (roofs, insulating, exterior)
- iv. Energy Star Appliances
- v. High quality insulation

IV. ATTACHMENTS

Attachment A: The Parcel Guiding Principles and Development Objectives

Guiding Principles and Development Objectives

The Community Housing Action Plan (CHAP) identified that guiding principles be developed during the community process to master plan The Parcel. The following Guiding Principles and Development Objectives were established based on community input. The Guiding Principles convey overarching community priorities and shared values for The Parcel, while the Development Objectives are more specific and may include measurable outcomes. The Development Objectives are intended to help achieve the Guiding Principles. Guiding Principles are lettered (A – F) and there are four or five Development Objectives (i, ii, iii, etc.) for each Guiding Principle.

Community feedback showed three top Development Objectives, which have been highlighted in yellow below. Both English and Spanish respondents identified the same top three development objectives. Additionally, both English and Spanish respondents identified providing deed-restricted rental and ownership products and safe and intuitive pedestrian and bicycle connections (see blue highlights below) in their top 10 Development Objectives; no other top 10 Development Objectives overlapped between English and Spanish respondents

A Provide long-term community housing by addressing a substantial portion of Mammoth Lakes' current housing need.

- i Provide a variety of housing types (e.g., small house, duplex, triplex, townhouse, apartment).
- ii Provide a mix of unit types (e.g., studio, one-bedroom, two-bedroom, three-bedroom) to meet the needs of a variety of families and individuals.
- iii Provide both deed-restricted rental and ownership products to accommodate households of different ages and incomes.
- iv Serve moderate income households and below (\leq 120% AMI) consistent with the 2017 Needs Assessment.

B Provide a range of mobility options and multi-modal (walk, bike, transit, etc.) connections from The Parcel to community destinations.

- i Provide safe and intuitive pedestrian and bicycle connections through The Parcel to surrounding areas.
- ii Design a circulation network that prioritizes pedestrians, bicyclists, and transit.
- iii Explore transit potential to determine how best to provide transit stops, possible shelters, and connectivity to the larger Mammoth Lakes community.
- iv Include traffic calming measures to create a safe, family-oriented neighborhood that minimizes vehicular speeding.
- v Explore parking and traffic management strategies to further encourage alternative travel modes, considering that some future residents will rely on individual vehicles.

C Provide amenities and open spaces while focusing on community housing and striving to make the best use of every square foot of land.

- i Incorporate supportive uses (such as childcare facility) into the design.
- ii Provide amenities (such as community gathering spaces and/or parks and playgrounds) necessary for the successful functioning of a livable neighborhood.
- iii Design amenity spaces to be multi-purpose (such as park space with snow storage, when compatible).
- iv Consider pets in the design of the neighborhood.
- v Provide parking for residents and guests, but limit the land required for parking, thereby reserving available land for other uses.

D Focus on environmentally sustainable design concepts.

- i Integrate natural features (wetlands, trees, and open space) into the neighborhood design.
- ii Incorporate sustainable infrastructure and energy-efficient designs.
- iii Integrate well-planned snow storage areas and accommodate efficient snow management operations.
- iv Minimize the amount of impervious paving to allow water absorption into soil on site and minimize runoff.
- v Design for high durability and low maintenance.

E Establish a livable, integrated, and well-designed community housing neighborhood that stands the test of time.

- i Create a neighborhood that connects seamlessly to the street network and reflects a design character appropriate to the Eastern Sierra Nevada mountain setting.
- ii Design the site to provide a transition in building scale and type from the adjacent higher intensity commercial areas to neighboring residential areas.
- iii Ensure the site is designed to be pedestrian-oriented and comfortable to walk in and through.
- iv Build upon the recent efforts of Walk, Bike, Ride and Downtown Revitalization to ensure the new neighborhood becomes an integral part of the greater community.

F Balance guiding principles and development objectives with a viable development program that is sustainable over the long-term and can be constructed in an orderly and timely fashion.

- i Prepare an overall program for development and management that implements guiding principles, to the extent feasible, while achieving long-term viability.
- ii Accommodate densities and design features necessary to qualify for essential funding.
- iii Consider specific and relevant regulatory actions that would be necessary to implement the development program.
- iv Consider economic factors, including those related to potential investors, affordable housing developers, and future residents.
- v Develop a phasing plan that reflects market conditions and encourages construction to begin as early as practical.

Attachment B: Future Design Considerations from The Preferred Conceptual Land Use Plan

The following items were raised during the Plan The Parcel process and should be considered at future stages of design and development of The Parcel.

- Provide reasonable storage space for each unit in both interior and exterior storage closet/space (bikes, skis, snowboards, paddleboards, wheelchairs, etc.), including secured storage space. Also, consider space for mud rooms and coat closets.
- Provide space for electric bike and vehicle charging.
- Provide space for car and ride sharing.
- Incorporate shared trash/recycling facilities.
- Design entryways to minimize snow shoveling (e.g., ground level entrances with interior access to garage).
- Design individual unit entries, not entries accessed via shared internal hallways. Shared internal hallways are less desirable (e.g., tenants in Aspen Village Apartments must pay for heating and lighting in shared internal hallways).
- Provide on-site management for snow removal and maintenance.
- Consider simple roof lines and metal roofs to address issues with snow shed and ice dams (Aspen Village Apartments roof lines create snow shed and ice dam issues, and the use of heat tape on these roofs was unsuccessful).
- Orient buildings and decks to face south. Aspen Village Apartments face north, which is an issue for maintenance and safety of tenants (e.g., icing issues, snow falling off roofs, etc.).
- Design and locate buildings so snow doesn't shed onto pedestrian areas (e.g., Aspen Village Apartments shed roofs are located two feet from sidewalks, so ice dams will fall onto sidewalks).
- Preserve existing trees as feasible but prioritize solar access and orientation.
- Incorporate new deciduous trees to maximize solar access but select durable trees that can survive well and are low maintenance (e.g., don't drop sap/berries/etc.). Aspen Village Apartments has found that aspen trees don't survive heavy snow seasons well.
- Utilize a lens of Latino Urbanism for design of public spaces, internal and external unit configurations, public art, etc.
- Consider space for a Family Resource Center(s) where one or more non-profits or government entities (e.g., Mono County Social Services) could provide services to residents on-site. Services could include childcare, job search, after school programs for children, mental health, substance abuse, domestic violence services, etc.

- Provide restrooms in formal open space areas.
- Provide seating and benches around trails.
- Consider pets in the design of trails and open spaces.
- Prohibit short-term (transient or nightly) rentals.
- Obtain FHA approval for ownership units during development.
- Adhere to building code requirements for energy efficiency and accessibility features at a minimum.
- If modular construction is used, ensure the construction reflects snow conditions and is of high quality to avoid maintenance issues (e.g., Aspen Village Apartments has issues with drywall buckling, dry rot, and roof icing/snow fall issues). The quality of modular construction has improved (e.g., Manzanita Apartments and Jeffreys Apartments, also constructed with modular, are in better condition than Aspen Village Apartments).
- Ensure that the buildings are not subject to flooding.
- Ensure design addresses rain-on-snow events

EXHIBIT 2

PROPOSED REVISIONS TO MUNICIPAL CODE TITLE 17 (ZONING CODE) ¹

TABLE 17.16.030: ZONING DISTRICTS		
<i>Zoning Map Symbol</i>	<i>Zoning District Name</i>	<i>General Plan Land Use Classification Implemented by Zoning District</i>
A	Airport	Airport (A)
CSP	Clearwater Specific Plan	Clearwater Specific Plan (CSP)
D	Downtown	Commercial 2 (C-2)
I	Industrial	Industrial (I)
MHP	Mobile Home Park	High Density Residential 1 (HDR-1)/High Density Residential 2 (HDR-2)
MLR	Mixed Lodging/Residential	Commercial 1 (C-1)
NVSP	North Village Specific Plan	North Village Specific Plan (NVSP)
OMR	Old Mammoth Road	Commercial 2 (C-2)
OS	Open Space	Open Space (OS)
OSSC	Open Space/Stream Corridor Protection (Zoning Overlay)	Multiple Land Use Designations
PRD	Planned Residential Development	N/A
P-QP	Public and Quasi Public	Institutional Public (IP)
R	Resort	Resort (R)
RMF-1	Residential Multi Family 1	High Density Residential 1 (HDR-1)
RMF-1 (AH)	Residential Multi Family 1 Affordable Housing Overlay	High Density Residential 1 (HDR-1)
RMF-2	Residential Multi Family 2	High Density Residential 2 (HDR-2)
RR	Rural Residential	Low Density Residential 1 (LDR-1)
RR-E	Rural Residential - Equestrian Overlay	Low Density Residential 1 (LDR-1)
RSF	Residential Single Family	Low Density Residential 2 (LDR-2)
SDD	Snow Deposition Design (Zoning Overlay)	N/A

¹ Strikethrough/underline is used to show the deleted and new text. The text shown in ~~strikethrough~~ is text to be deleted and the text shown in underline is new text.

Chapter 17.32 Special Purpose Zoning Districts

- 17.32.010 General Provisions
- ~~17.32.020 Affordable Housing Overlay Zone (AH)~~
- 17.32.030 Equestrian Overlay Zone (E)
- 17.32.040 Open Space/Stream Corridor Overlay Zone (OSSC)
- 17.32.050 Snow Deposition Design Overlay Zone (SDD)
- 17.32.060 Airport Zone (A)
- 17.32.070 Mobile Home Park Zone (MHP)
- 17.32.080 Open Space Zone (OS)
- 17.32.090 Planned Residential Development Zone (PRD)
- 17.32.100 Public and Quasi Public Zone (P-QP)
- 17.32.110 Resort Zone (R)

17.32.010 General Provisions

In addition to the purposes outlined in Section 17.04.020, the following special purpose zones are established because of the special or unique land use character characteristics with which they are associated and because of the need to implement specific sections of the General Plan.

A. **Overlay Zones.** The special purpose overlay zones are as follows:

1. ~~Affordable Housing Overlay Zone (AH)~~
2. Equestrian Overlay Zone (E)
3. Open Space/Stream Corridor Protection Overlay Zone (OSSC)
4. Snow Deposition Design Overlay Zone (SDD)

B. **Special Purpose Zones.** The special purpose zones are as follows:

1. Airport Zone (A)
2. Mobile Home Park Zone (MHP)
3. Open Space Zone (OS)
4. Planned Residential Development Zone (PRD)
5. Public and Quasi-Public Zone (P-QP)
6. Resort Zone (R)

~~17.32.020 Affordable Housing Overlay Zone~~

C. **Purpose.** ~~In addition to the purposes outlined in Section 17.04.020, the Affordable Housing Overlay Zone is intended to promote the development and provision of affordable housing within the community and thereby implement the policies of the Housing Element of the General Plan. Standards of development and performance shall be designed to make the provisions of affordable~~

housing more attractive to private developers while retaining good design and compatibility with adjacent land uses.

D. ~~Uses permitted.~~

1. ~~Single family and multi family residential development developed and intended to be purchased or rented based on criteria and formulas established by the state Department of Housing and Community Development for very low, other low and moderate income household categories;~~
2. ~~Accessory uses and structures incidental to permitted uses;~~
3. ~~Temporary uses as prescribed in Chapter 17.56; and~~
4. ~~Model homes or units and subdivision sales offices subject to the granting of a use permit.~~

E. ~~Permits required.~~ A development for property with an Affordable Housing overlay requires filing of a Master Plan in order to establish the zone and development standards.

F. ~~Property development standards.~~ The following development standards shall apply to an affordable housing project:

1. ~~The maximum number of dwelling units permitted in an affordable housing project shall be that designated for the zone in which the project is located and as modified by the density adjustment provisions of Section 17.20.030;~~
2. ~~Requirements calling for the provision of covered off street parking spaces for residential units shall not be applied to affordable housing projects;~~
3. ~~Infrastructure facilities normally required for residential development may be modified by the Commission for affordable housing projects if deemed necessary to ensure affordability of dwelling units. Examples of the modified facility requirements could include the use of private streets at reduced construction standards, and waiver of any required off site improvements;~~
4. ~~There shall be no minimum area requirement for individual lots or individual dwelling units in an affordable housing project; and~~
5. ~~If deemed appropriate by the Council, any or all fees normally imposed by the Town on development projects may be waived or reduced. Included in this fee category are such fees as zoning or subdivision fees, plan check and building permit fees, major thoroughfare fees and master plan fees. Waiver of such fees shall be based upon the project proponent supplying the Council with evidence and assurances that savings realized from such waivers will be passed on to the future residents by way of reduced rent or purchase price for units.~~

G. ~~Performance standards.~~ For affordable housing projects, performance standards shall be as specified in the Master Plan and shall be incorporated into the conditions of approval of the project.

- H. ~~**Pre-application procedure.** Prior to submitting an application for an affordable housing project, the applicant or prospective developer should hold preliminary consultations with the Director to obtain information and guidance before entering into binding commitments incurring substantial expense in the preparation of plans, surveys and other data. Such preliminary consultations should be relative to a Master Plan which outlines the concept and characteristics of the project.~~
- I. ~~**Application.** In addition to the information and materials required by Chapter 17.120 (Master Plans), the following shall also be required:~~
1. ~~The boundaries of the subject property indicating the land area and sufficient contour information to clearly indicate the topography of the property and any significant features;~~
 2. ~~The approximate location of each existing and each proposed structure in the development area, the use or uses of the structures, the number of stories, the gross building and floor areas, and approximate location of all entrances;~~
 3. ~~All streets, driving lanes, parking areas, loading areas, public transportation points, and illumination facilities for the same;~~
 4. ~~All pedestrian walks, malls, fences and open areas for the use of the public;~~
 5. ~~Types of surfacing, such as paving, turfing, or gravel to be used at the various locations;~~
 6. ~~A preliminary grading plan of the area;~~
 7. ~~A preliminary landscaping plan of the project area;~~
 8. ~~Plans and elevations of buildings, structures and signs indicating the architectural style, colors, construction standards and lighting;~~
 9. ~~The proposed means for assuring continuing existence, maintenance and operation of the various common elements and facilities. If a community association or similar governing structure is to be established, a copy of the covenants, conditions and restrictions (CC&Rs) shall be made a part of the record;~~
 10. ~~A preliminary or draft contract to be executed between the Town and the applicant/developer, or such other document approved as to form by the Town Attorney, which contractor or document outlines the sales and rental prices for the various types of units to be established, provisions for the sale, resale, renting and restrictions that will be applicable to the project and which ensure the continued availability of units for purchase or occupancy by households of very low, other low and moderate incomes;~~
 11. ~~A preliminary report and overall plan describing proposed provisions for storm drainage, sewage disposal, water supply and such other public improvements and utilities as the town engineer may require; and~~
 12. ~~Such other information as may be required by the Director to permit a complete analysis and appraisal of the project.~~

- J. ~~**Adoption of Master Plan.** The Master Plan and accompanying maps, contracts and other documentation submitted with the application for an affordable housing project shall be approved and adopted in accordance with the provisions of Chapter 17.120 (Master Plans) and shall be subject to such conditions, requirements and stipulations as are deemed appropriate and necessary to ensure compliance with the purposes of the Housing Ordinance and the Housing Element of the General Plan.~~

Chapter 17.148 Definitions

17.148.020 Definitions of Specialized Terms and Phrases

- **Residential Zone.** Any property within the town which is zoned with the intent of a residential land use including: ~~Affordable Housing (overlay)~~, Residential Multi-Family 1, Residential Multi-Family 2, Rural Residential, Rural Residential (Equestrian overlay) and Residential Single-Family as set forth on the Town's official Zoning Map.

EXHIBIT 3

INFILL ENVIRONMENTAL CHECKLIST

The Parcel

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1.0 INTRODUCTION

This document is an Infill Environmental Checklist to evaluate potential environmental effects resulting from implementation of The Parcel (project). The project is subject to the guidelines and regulations of the California Environmental Quality Act (CEQA). Therefore, this document has been prepared in compliance with the relevant provisions of CEQA and the State CEQA Guidelines as implemented by the Town of Mammoth Lakes (Town). This Infill Environmental Checklist evaluates the potential direct, indirect, and cumulative environmental effects associated with the project and demonstrates that such effects have been previously and adequately analyzed in the *Final Program Environmental Impact Report for the Town of Mammoth Lakes 2005 General Plan Update* (State Clearinghouse No. 2003042155, dated May 2007) (2007 General Plan EIR); where applicable, in the *Town of Mammoth Lakes General Plan Land Use Element/Zoning Code Amendments and Mobility Element Update Draft Environmental Impact Report* (2016 Update EIR); and/or impacts would be less than significant.

1.1 STREAMLINING PER CEQA GUIDELINES SECTION 15183.3

Under CEQA (Public Resources Code Section 21000, et. seq.) and the State CEQA Guidelines, the Town of Mammoth Lakes as lead agency is generally required to analyze the potential environmental impacts of a project. Senate Bill 226 (SB 226), signed into law in 2011, made changes to the CEQA review process for infill projects. Specifically, SB 226 called for establishing streamlined CEQA provisions for infill projects. These provisions are implemented through CEQA Guidelines Section 15183.3, which states that to be eligible for streamlining procedures, an infill project must:

- 1) Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least 75% of the site's perimeter;
- 2) Satisfy performance standards in Appendix M of the CEQA Guidelines; and
- 3) Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy or, alternatively, for a project proposed outside of the boundaries of a metropolitan planning organization the project must qualify as a small walkable community project.

For eligible infill projects, CEQA Guidelines Section 15183.3 state that:

“CEQA does not apply to the effects of an eligible infill project under two circumstances. First, if an effect was addressed as a significant effect in a prior EIR for a planning level decision, then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR. Second, an effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect. Depending on the effects addressed in the prior EIR and the availability of uniformly applicable development policies or standards that apply to the eligible infill project, streamlining under this section will range from a complete exemption to an obligation to prepare a narrowed, project-specific environmental document.”

Section 15183.3 is consistent with the directive in SB 226 that CEQA analysis of infill projects “shall be limited” to effects that were not analyzed in a prior EIR or are more significant than previously analyzed.

1.2 PROJECT LOCATION

The Parcel (project) is located within the Town of Mammoth Lakes (Town), in the southwest portion of Mono County, on the eastern side of the Sierra Nevada mountain range; refer to Exhibit 1, Regional Vicinity. The project site is approximately 25.19 acres and is comprised of Assessor’s Parcel Numbers (APNs) 035-010-020-000 and -100-003-000. Specifically, the site is located at the west end of Tavern Road, north end of Chaparral Road, and south of Center Street; refer to Exhibit 2, Site Vicinity. Regional access to the site is provided via Main Street, while primary local access to the project site is provided via Center Street, Tavern Road, and Chaparral Road.

1.2.1 ENVIRONMENTAL SETTING

The project site is a vacant, forested site that is surrounded by commercial and residential development on all sides and was formerly used as cabins (the Shady Rest Summer House Tract) that were owned by the United States (U.S.) Forest Service and used for summer cabins in the 1920s. By 1983, these summer cabins were either removed or relocated off-site (to the south) as part of a land exchange and the site currently remains vacant.

The project site is relatively flat, gently sloping down-grade in a north-northeastern direction. The project site accepts run-off from surrounding properties to the west which flows through the site in a streambed that generally flows in a northeastern direction. A wetland is associated with the main on-site drainage feature. Other vegetation communities present on-site include aspen groves, Booth’s willow Geyer’s willow – yellow willow thickets, Jeffery pine forest and woodland, and montane meadow.

Based on the *Town of Mammoth Lakes General Plan 2007* (General Plan) Land Use Map, the project site is designated High-Density Residential 1 (HDR-1), which allows a density of up to 12 units per acre. General Plan Policy L.2.D. allows up to 24 units per gross acre if all units within the project are deed restricted for workforce housing. The increase in density permitted pursuant to L.2.D is in addition any allowed State Density Bonus. It is acknowledged that one on-site property (33 Center Street) is designated C-2 and would be used for roadway right-of-way purposes.

Based on the Town’s Zoning Map, the project site is zoned Residential Multi-Family 1 (RMF-1) with an Affordable Housing Overlay zone. The RMF-1 zone allows a maximum density of 12 units per acre in addition to any allowed State Density Bonus. The Affordable Housing Overlay has only been applied to the project site and is intended to facilitate the development of lower income units for the purpose of workforce housing. Per this overlay, all units must be affordable to households with incomes ranging from very low-income up to moderate-income. It is acknowledged that one on-site property (33 Center Street) is zoned Downtown (D) and would be used for roadway right-of-way purposes.



Source: Google Earth Pro, August, 2020.

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PROJECT SITE



11/2020 JN 1796351

THE PARCEL PROJECT
INFILL ENVIRONMENTAL CHECKLIST

Site Vicinity

Exhibit 2

SURROUNDING LAND USES

Land uses surrounding the project site include commercial, retail, and office uses along Center Street and Lauren Mountain Road, as well as multi-family residential and single-family residential uses. Specifically, surrounding uses include the following:

- North: Center Street and commercial/retail/office uses (e.g., Mammoth Lakes Nursery, Cinnamon Bear Inn, Mammoth Real Estate, and a Shell gas station) bound the project site to the north. Frontage Road and Main Street (SR-203) are located further north. These land uses are designated Commercial 2 (C-2) and zoned Downtown.
- East: Forest land, single-family residential, commercial/retail uses (e.g., De Resort Hotels & Management, Green Mammoth cannabis store, and Country Liquor and Deli), and Laurel Mountain Road bound the project site to the east. Multi-family residential uses and Shady Rest Road are also located to the east of the project site. These areas are designated C-2 and Low-Density Residential 2 (LDR-2), respectively, and zoned Downtown and Residential Single-Family, respectively.
- South: Single-family residential and multi-family residential uses (e.g., Sherwin View Park Apartments, Wildflower Condominiums, and Timberline Condominiums) are located to the south and southeast of the project site. These areas are designated HDR-1 and High Density Residential 2 (HDR-2) and zoned Residential Multi-Family 1 and Residential Multi-Family 2.
- West: Single-family residential and multi-family residential uses bound the project site to the west. This area is designated HDR-1 and zoned Residential Multi-Family 1.

1.3 PROJECT BACKGROUND

1.3.1 2007 General Plan EIR

The *Final Program Environmental Impact Report for the Town of Mammoth Lakes 2005 General Plan Update* (2007 General Plan EIR) analyzed the environmental impacts associated with the update of the Town's General Plan in 2005 (2005 General Plan Update), including development of the project site as High Density Residential 1 (HDR-1). The HDR-1 designation is intended primarily to provide areas for development of multi-family housing at a maximum density of 12 dwelling units per acre. These densities would accommodate townhouses, condominiums, and apartments. Density may be increased pursuant to state law or up to double for housing projects where all units are deed restricted for workforce housing pursuant to the provisions of the Housing Element in the General Plan. This designation includes standards that ensure compatibility with adjacent properties; provide adequate recreation space, snow storage, and building separation; and generally provide for well-designed livable developments. Setbacks and lot coverage also provide for preservation of existing trees. The HDR-1 designation preserves areas of town for resident housing by prohibiting hotels, motels, timeshares, or other transient occupancies. The project site is specifically designated for workforce housing.

The proposed project was specifically analyzed in the 2007 General Plan EIR as part of the “Main Street, Old Mammoth Road, and Shady Rest District”. Page 24 of the General Plan states that the Main Street, Old Mammoth Road, and Shady Rest areas should invite pedestrian activity and provide gathering places and opportunities for interaction in a vibrant mix of retail, commercial, and workforce housing. Development should be attractive with a high level of detail and active storefront uses resulting in a pleasing pedestrian-oriented streetscape. Commercial corridors should be walkable year-round, vibrant, colorful, and accessible. Uses should be mixed to allow offices, residential housing and visitor accommodations above ground floor retail. Buildings should have distinctive mountain architecture and varied roof forms with accentuating physical landmarks at intersections, street corners, and other appropriate locations. The streetscape should be safe and designed for the pedestrian with the inclusion of street furniture, trees, flowers and planters, interesting sidewalk surfaces and public art. New development should improve connectivity and circulation with bike and pedestrian paths, sidewalks and roads. Specifically, the Shady Rest area (the project site) should include the following characteristics:

1. A livable in-town neighborhood for the workforce:
 - a. Not fractional, not second homes
 - b. Mechanisms to ensure units remain at determined rates in perpetuity
 - c. Variety of unit size and scale
2. Preservation and restoration of unique site features, including wetlands
3. A community-oriented design:
 - a. Neighborhood context and connections:
 - (1) Pedestrian and auto connections to adjoining areas and neighborhoods (e.g., Sierra Valley District, Tavern Road, Main Street, and Center Street)
 - (2) Traffic calming and management with adjoining neighborhoods
 - (3) Trail and pedestrian emphasis
 - (4) Transit accessible
 - b. Integrated site planning and architectural design:
 - (1) Accessible wetlands and community park(s) connected to the community
 - (2) Significant tree preservation
 - (3) Unobtrusive, articulated buildings
 - (4) Minimum paving, maximum permeable surface
 - (5) High quality materials
 - (6) Parking
 - (7) Energy efficient design
 - (8) Innovative snow management
4. A future catalyst to surrounding commercial areas
5. Developed in phases:

- a. High quality of living throughout (no disparity, grouping or phasing by income)
- b. Reasonable product absorption rate
6. Long-term affordability:
 - a. Durability of materials and design
 - b. Designed for low operating and maintenance costs and energy efficiency
 - c. Transit accessibility
7. Provision of key resident amenities such as:
 - a. Child care
 - b. Active and passive recreation

Further, the proposed project is specifically identified in the High-Density Residential 1 (HDR-1) designation for the project site (as the Shady Rest Tract), as follows:

“High-Density Residential 1 (HDR-1) This designation allows residential multi-unit townhouses, condominiums and apartments at a density of six (6) to a maximum of twelve (12) dwelling units per acre. This designation applies to the Sierra Valley District, the Shady Rest Tract, and portions of the Old Mammoth District. The Shady Rest Tract is intended primarily for workforce housing. The HDR-1 designation is intended to preserve existing housing and allow for additional high quality housing opportunities. Development standards ensure compatibility with adjacent properties, building separation, adequate on-site recreation space, and well-designed livable development.”

Last, the 2007 General Plan included Appendix C, *Physical Development Concept*, which included a description of the proposed project, as follows:

“The Physical Development Concept organizes and describes the most important ideas that can guide the future evolution of the community. This diagram is focused on the areas that are expected to undergo the most change. The following are the major ideas: ...

2. Workforce housing is essential to the community by providing affordable living for people who live and work in Mammoth Lakes. Existing and future mixed use neighborhoods, such as the large undeveloped Shady Rest site, have great potential to be locals’ workforce neighborhoods.”

The 2007 General Plan EIR, which considered future development of workforce housing at the project site (referenced as the Shady Rest site) concluded significant and unavoidable impacts regarding aesthetics/light and glare, air quality, biological resources, hazards and hazardous materials, noise, and public services and recreation. The following is a summary of the findings made:

Less Than Significant Impact

- Geology and Soils;
- Hydrology and Water Quality;
- Land Use and Relevant Planning; and
- Population and Housing.

Less Than Significant Impact With Mitigation Incorporated

- Mineral Resources;
- Transportation;
- Utilities and Service Systems; and
- Cultural Resources.

Significant and Unavoidable

- Aesthetics/Light and Glare;
- Air Quality – construction, operational, and cumulative air emissions;
- Biological Resources;
- Hazards and Hazardous Materials [Wildland Fires];
- Noise; and
- Public Services and Recreation [Libraries, Hospitals, and Parkland].

At the time of approval of the 2007 General Plan EIR, a Mitigation Monitoring and Reporting Program (2007 MMRP) was adopted by Town Council. The 2007 MMRP is binding and applies to all future development in the Town of Mammoth Lakes.

1.3.2 2016 Update EIR

During the Town's Zoning Code Update, a proposal was made to use floor area ratio (FAR) to regulate the intensity of development in the Town's commercial zoning districts. As part of this process, the General Plan was also amended to update boundaries of commercially designated land in the Land Use Element; changing land use element policy and text associated with regulating population growth from a People At One Time (PAOT) approach to an impact assessment based approach, and a change in the buildout methodology; and deleting Land Use Element Community Benefits Incentive Zoning (CBIZ) and modifying Transfer of Development Rights (TDR) policies. In addition, the Town proposed to adopt and implement a Mobility Element Update. The Mobility Element Update addresses the two key concepts that are a focus of the 2007 General Plan: the triple-bottom line, which is the community's social, economic, and natural capital, and "feet-first" transportation, which emphasizes and prioritizes non-motorized travel first, public transportation second, and vehicle last.

In response, the *Town of Mammoth Lakes General Plan Land Use Element/Zoning Code Amendments and Mobility Element Update Draft Environmental Impact Report* (2016 Update EIR) analyzed the impact of implementing a FAR standard with no unit or room density limitations within the Town's commercial areas. In addition to the Zoning Code Update, the 2016 Update EIR also analyzed impacts of the

associated General Plan Land Use Element Amendments and a Mobility Element Update, all of which collectively known as the Land Use Element/Zoning Code Amendments and Mobility Element Update (the 2016 Update). The 2016 Update EIR included more recent buildout assumptions that are consistent with these updates for the 2016 General Plan Update. The 2016 Update EIR concluded significant and unavoidable impacts regarding air quality and public services. The following is a summary of the findings made:

Less Than Significant Impact

- Agricultural and Forestry Resources;
- Geology and Soils;
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use and Relevant Planning;
- Mineral Resources;
- Population and Housing; and
- Utilities and Service Systems.

Less Than Significant Impact With Mitigation Incorporated

- Aesthetics/Light and Glare;
- Biological Resources;
- Cultural Resources; and
- Noise.

Significant and Unavoidable

- Air Quality – construction, operational, and cumulative air emissions;
- Public Services and Recreation – Parks and other recreational facilities; and
- Transportation – Level of service at various intersections.

At the time of approval of the 2016 Update EIR, an updated Mitigation Monitoring and Reporting Program (2016 MMRP) was adopted by Town Council. As the 2016 Update EIR was a tiering document from the 2007 General Plan EIR and the as well as Trails System Master Plan Environmental Impact Report (EIR), the 2016 MMRP documents, the applicable/modified 2007 General Plan EIR Mitigation Measures, the applicable/modified Trails System Master Plan EIR Mitigation Measures, as well as necessary new Mitigation Measures identified for the purposes of the 2016 Update. The 2016 MMRP is binding and applies to all future development in the Town of Mammoth Lakes (as applicable). Where the 2016 MMRP measures are not applicable, the Town relies on the 2007 MMRP.

1.3.3 Master Plan

The Shady Rest Master Plan (1991 Shady Rest Master Plan) was adopted in 1991 to provide affordable housing development through a land exchange with the Federal Government. The Shady Rest Master Plan allows up to 172 units with a mix of 120 low and very low income and 52 moderate income units (i.e., up to 120 percent Area Median Income [AMI] for Mono County¹). An Affordable Housing Overlay zone was placed on site as part of the U.S. Forest Service for the land exchange.

Since adoption of the Town's General Plan in 2007, various concept plans have been prepared for the project site. These include:

- The Shady Rest Site Development Concept as part of the Downtown Neighborhood District Plan (Town of Mammoth Lakes, 2010);
- Hart Howerton Concept (Mammoth Mountain Ski Area, 2016); and
- Dahlin Concept Plan (Mammoth Lakes Housing, Inc., 2016).

None of these previous concept plans have resulted in amendments to the 1991 Shady Rest Master Plan. In 2018, the Town of Mammoth Lakes purchased the project site with the intent to construct an affordable housing community on-site. The Preferred Conceptual Land Use Plan (Preferred Plan) for the project site was prepared based on extensive community outreach and participation. The purpose of the Preferred Plan is to document the community's aspirations for The Parcel and provide conceptual design guidance to facilitate development. The Preferred Plan is not a regulatory document, and flexibility from the design, key features, and development program is expected to accommodate changes to the affordable housing development landscape over time, unique developer proposals, and new ideas, approaches, and strategies as build-out progresses. The Preferred Plan was accepted by Town Council in December 2019.

1.4 DOCUMENTS INCORPORATED BY REFERENCE

The following documents were utilized during preparation of this Infill Environmental Checklist and are incorporated into this document by reference. These documents are available on the Town's website: <http://www.townofmammothlakes.ca.gov>.

- *Town of Mammoth Lakes General Plan 2007*. The Town of Mammoth Lakes Council adopted the *Town of Mammoth Lakes General Plan 2007* (General Plan) on August 15, 2007. The General Plan establishes standards, guidelines, and priorities that define the community now and for the future. The General Plan is organized by elements. Each element is introduced with an explanation of the intent of the goals, policies, and actions within that element. The General Plan contains the following elements:
 - Economy;
 - Arts, Culture, Heritage, and Natural History;

¹ Area Median Income (AMI) is determined annually by the State for each County and varies by household size. In Mono County, the 2019 AMI for a 4-person household is \$81,200. AMI would be used in calculating Very Low Income (less than or equal to 50 percent AMI), Low Income (between 51 and 60 percent, or 61 to 80 percent AMI), and Moderate Income (81 to 120 percent AMI) levels for each household.

- Community Design;
 - Neighborhood and District Character;
 - Land Use;
 - Mobility (updated in 2016);
 - Parks, Open Space and Recreation (updated in 2012);
 - Resource Management and Conservation;
 - Public Health and Safety
 - Housing (updated in 2015); and
 - Noise (1997).
- Final Program Environmental Impact Report for the Town of Mammoth Lakes 2005 General Plan Update (State Clearinghouse No. 2003042155, dated May 2007). The *Final Program Environmental Impact Report for the Town of Mammoth Lakes 2005 General Plan Update* (2007 General Plan EIR) analyzed the environmental impacts associated with the update of the Town's General Plan (2005 General Plan Update), as discussed above.
 - Town of Mammoth Lakes General Plan Land Use Element/Zoning Code Amendments and Mobility Element Update Draft Environmental Impact Report (State Clearinghouse No. 2015052072, dated June 2016). During the Town's Zoning Code Update, a proposal was made to use floor area ratio (FAR) to regulate the intensity of development in the Town's commercial zoning districts. In response, the *Town of Mammoth Lakes General Plan Land Use Element/Zoning Code Amendments and Mobility Element Update Draft Environmental Impact Report* (2016 Update EIR) analyzed the impact of implementing a FAR standard with no unit or room density limitations within the Town's commercial areas, as discussed above.
 - Mammoth Lakes Municipal Code (codified through Ordinance No. 19-02, adopted March 6, 2019). The *Mammoth Lakes Municipal Code* (Municipal Code) consists of all the regulatory and penal ordinances and administrative ordinances of the Town of Mammoth Lakes. It is the method the Town uses to implement control of land uses, in accordance with General Plan goals and policies. The *Mammoth Lakes Zoning Ordinance*, Title 17, of the Municipal Code identifies land uses permitted and prohibited according to the zoning category of particular parcels. Municipal Code Title 15, *Buildings and Construction*, specifies rules and regulations for construction, alteration, and building for uses of human habitation.
 - Town of Mammoth Lakes Parks and Recreation Master Plan (adopted February 2012). The Town of Mammoth Lakes Council adopted the *Town of Mammoth Lakes Parks and Recreation Master Plan* (Parks and Recreation Master Plan) on February 1, 2012, which assesses the Town's recreation needs for the future and establishes goals and policies that would guide park improvements. The Parks and Recreation Master Plan contains an analysis of the supply, demand, and needs for park and recreation facilities and services within the Town and includes a comprehensive assessment of public and private facilities available in and around Mammoth Lakes. It also recommends implementation strategies to help meet the challenges of providing parks and recreation facilities and a vision for developing parks and recreation within Mammoth Lakes for the next 17 years.

1.5 PROJECT DESCRIPTION

The proposed project involves implementation and adoption *The 2021 Parcel Master Plan* (proposed Master Plan), to construct a variety of affordable housing types with associated streets, community space/amenities, new bus stops, open spaces/parks, parking, and necessary utility infrastructure. The proposed Master Plan would replace the existing adopted 1991 Shady Rest Master Plan and would act as the regulatory document for the site. The Master Plan builds on the principals, recommendations, and strategies detailed in the Preferred Plan and provides site specific zoning and detailed regulatory guidance regulating land use; architectural design standards including building mass and articulation, roofs, materials, colors and height; development site standards including density, lot coverage, setbacks, open space and snow storage; parking requirements; signage; infrastructure including utilities, solid waste and stormwater; and circulation and mobility including sidewalks and pathways, the street network, and transit facilities. These standards are intended to be prescriptive in nature to allow for phased development proposals to be submitted to the Town through the major design review process pursuant to *Mammoth Lakes Municipal Code* (Municipal Code) Section 17.88. The Master Plan sets forth the specific development parameter for the project site, while providing flexibility to accommodate unique development phasing needs and changes to the affordable housing development landscape over time.

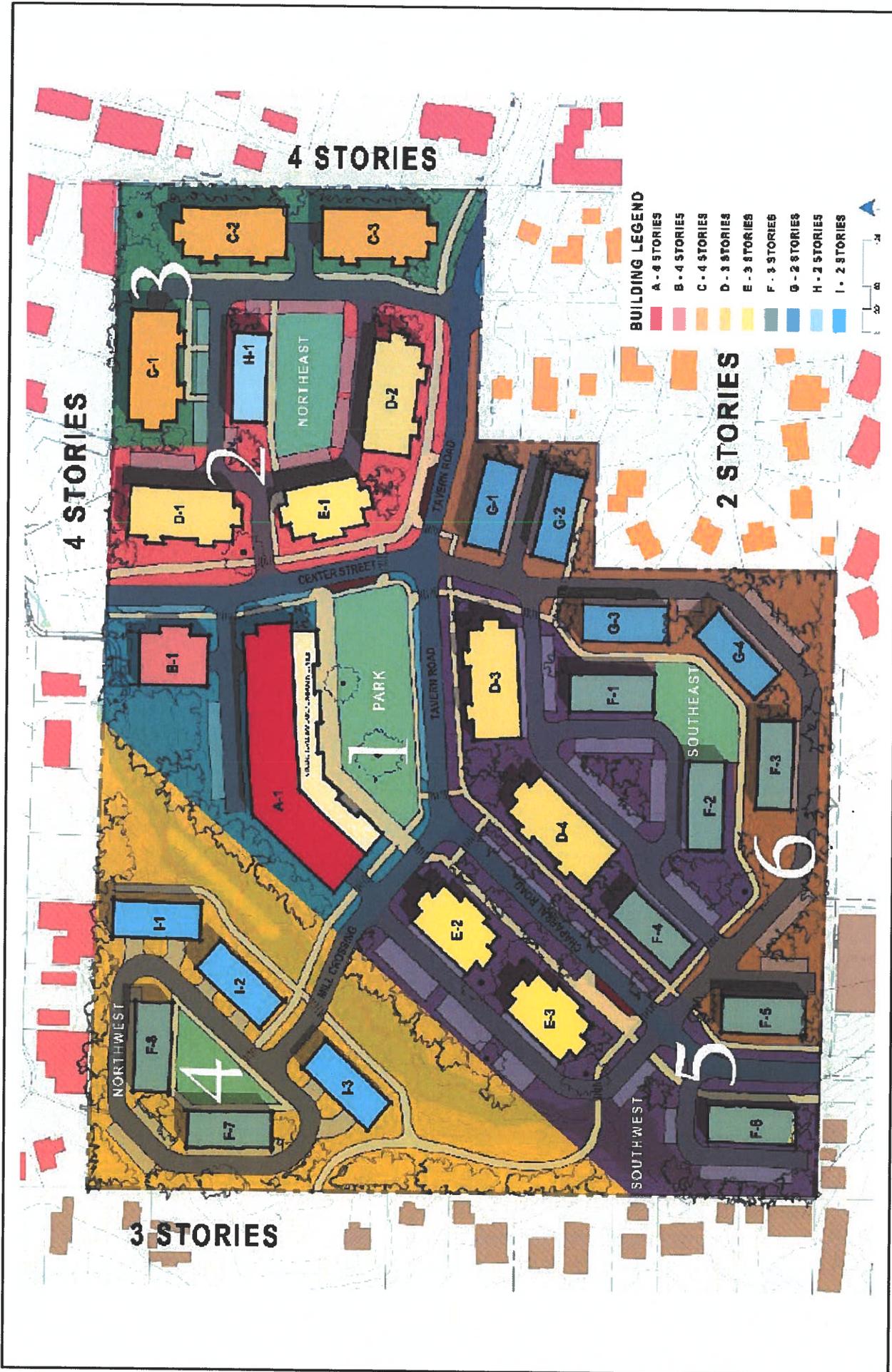
Implementation of the proposed Master Plan would result in the development of 400 to 580 residential units, which equates to 16 to 23 dwelling units per acre (gross) at the project site; refer to [Exhibit 3, *Development Areas and Perimeter Building Heights*](#). The units would range in sizes from approximately 400 square feet for studio units to a minimum of 1,200 to 2,500 square feet for four-bedroom units. Depending on the building type, units would be available for rental or ownership. Specifically, 85 percent of all units would be rental units for households with incomes at or below 120 percent AMI, and up to 15 percent of the units (or up to 87 units) would be rental or ownership units reserved for households working in the region with income more than 120 percent AMI but below 200 percent AMI. All units would be restricted to individuals and households working in the region for the purpose of workforce housing.

In addition to residential units, the project also proposes to construct at least one community-serving facility (e.g., a childcare center, community center, or supportive service) to support a high quality of life for residents and strengthen neighborhood stability.

Development would be compatible with the surrounding context (existing and anticipated) by providing a transition in height and intensity to match the height allowed in adjacent neighborhoods and commercial areas. Proposed building heights would range two to four stories in height; refer to [Exhibit 3](#). Proposed heights would transition from lower buildings (up to two stories) near lower density single-family residential housing to the east, to three story buildings closer to existing multi-family residential uses, and up to four stories in height abutting commercial development to the north.

Transportation System and Parking

The project proposes an on-site circulation network of neighborhood streets, at least two transit stops, and sidewalks and multi-use paths (MUPs). [Exhibit 4, *Proposed Circulation Network*](#), depicts the proposed roadway rights-of-way, MUPs, and sidewalks. The proposed MUPs would be paved with



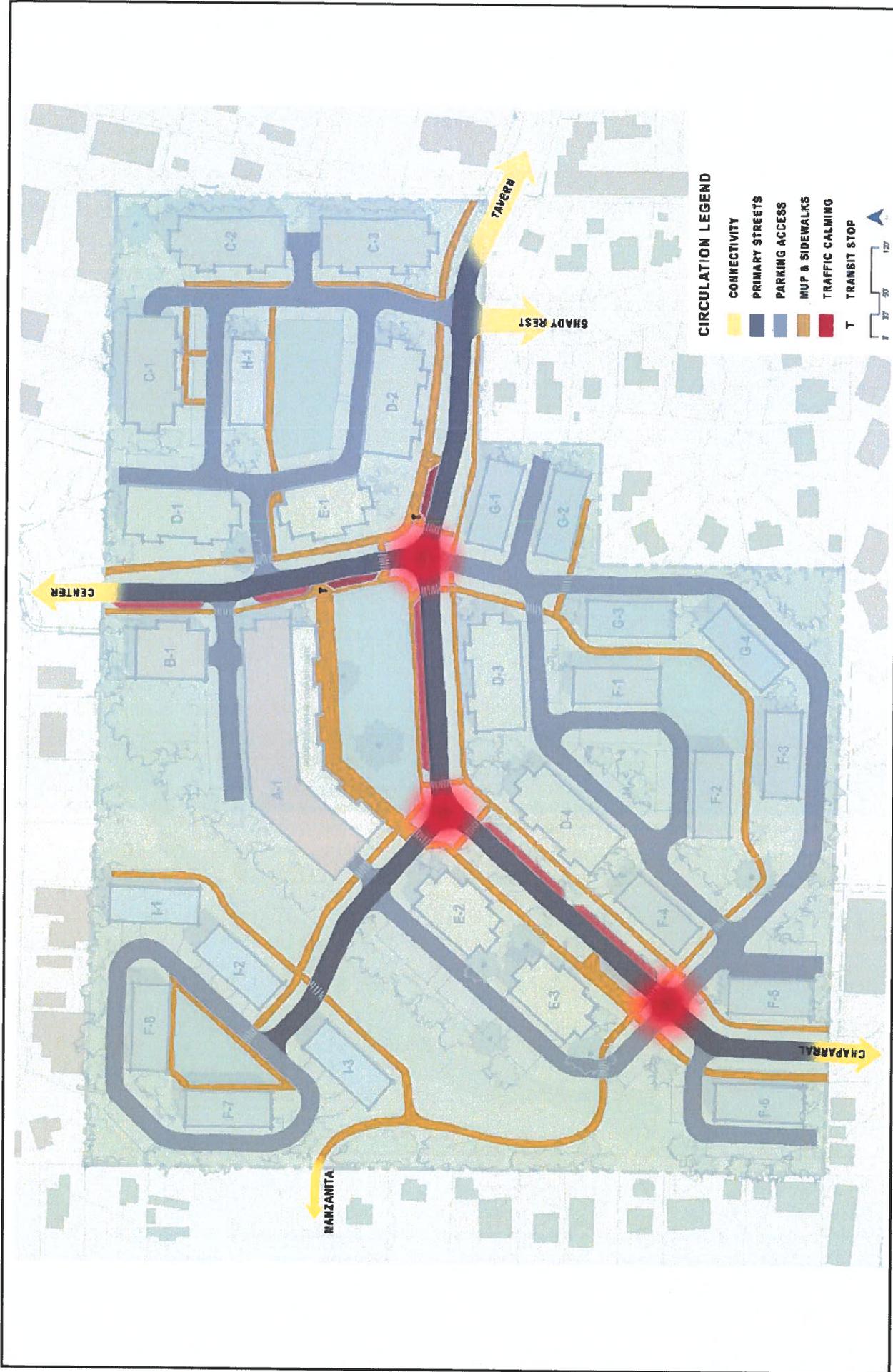
Development Areas and Perimeter Building Heights

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Proposed Circulation Network

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asphalt. MUPs would be buffered by planting areas to provide space for snow storage. All street design includes the following features:

- Pedestrian facilities on both sides of the street when feasible;
- 13-foot drive lanes;
- Bioswales or planting strips for pedestrian separation and snow storage, where feasible; and
- Deciduous street trees to provide shade in summer and solar exposure in winter.

Paths for pedestrians would be added to Tavern Road between The Parcel and Laurel Mountain Road, and to Center Street between The Parcel and Main Street where adequate rights of way exist. The project also proposes two on-site bus stops (which include one stop in each direction of travel) that would be centrally located. The bus stops would include appropriate shelters as well.

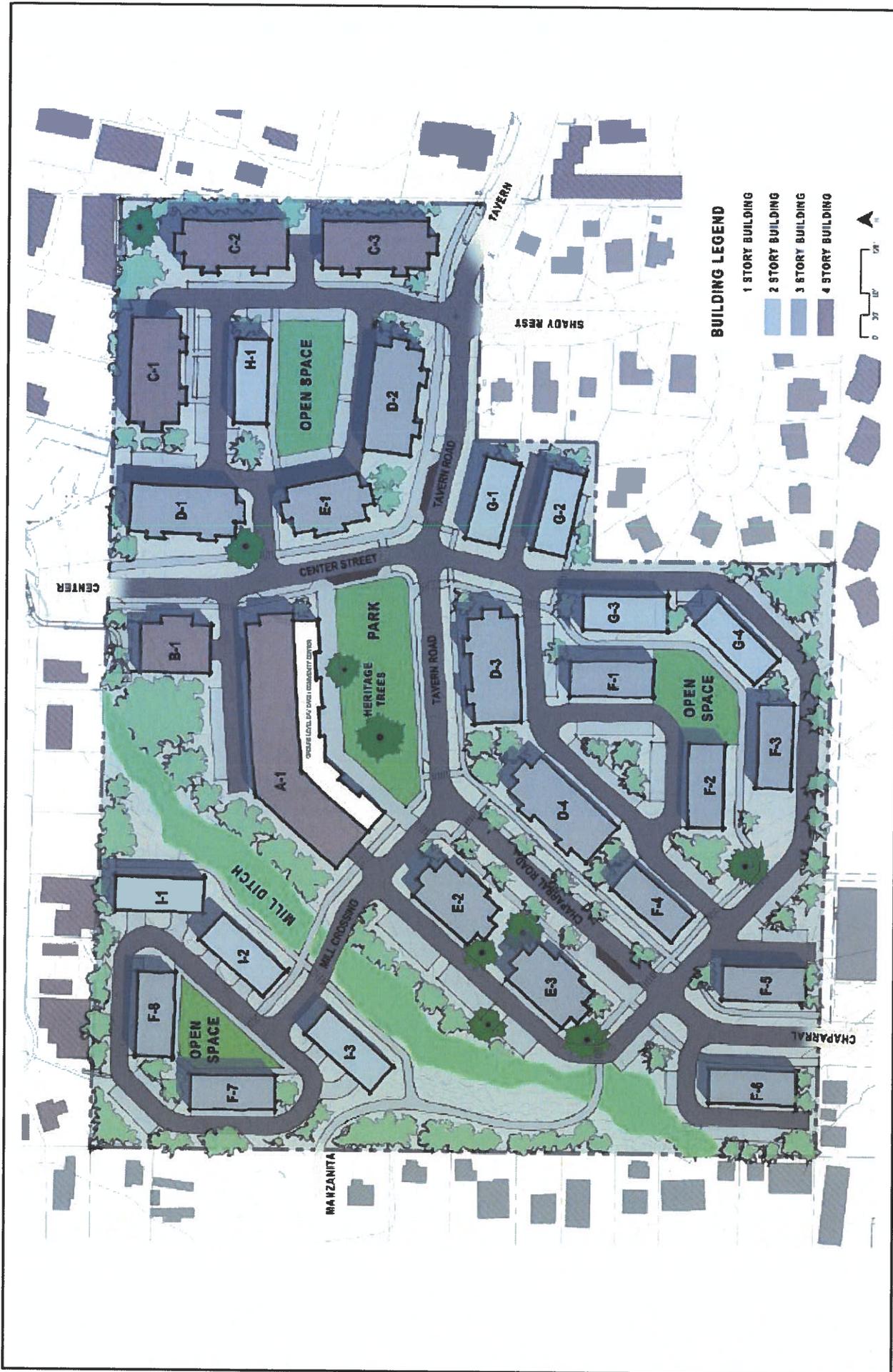
The project would require all parking to be developed using the parking rates listed on [Table 1, Proposed Parking Reduction](#), and would be provided as “tuck-under” parking, podium parking, or surface parking. The proposed project would construct podium parking to accommodate the majority of residents’ parking needs. The “podium” configuration satisfies a variety of performance needs including substantially reduced snow removal (including storage and trucking), year-round availability, protection from the weather for the convenience and safety of residents, and efficient use of land. In addition to resident parking spaces that correspond to units in the building where the spaces are located, a minimum of 25 additional on-street parking spaces are provided. These on-street spaces could be utilized for visitor parking or parking for community amenities such as parks. Availability of on-street parking during winter months would be subject to weather conditions and snow removal situations. Parking for adjacent commercial uses would be provided under the proposed Master Plan at a rate of one space per 1,000 square feet gross leasable area, unless alternative parking provisions apply.

**Table 1
Proposed Parking Reduction**

Unit Types	Master Plan Requirement	Municipal Code Requirement	Percent Reduction
Studio	0.5 spaces	1 space	50%
1-Bedroom	1 space	1 space	0%
2-3 Bedroom	1.5 spaces	2 space	25%
4+ Bedroom	2 spaces	3 space	33%

Trails/Open Space/Parkland

According to the Master Plan Figure 8, *Open Space*, the project proposes approximately 3.1 acres of open spaces for recreational purposes; refer to [Exhibit 5, Proposed Open Space](#). These spaces include an



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Proposed Open Space

Exhibit 5

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at least 0.5-acre central park that anchors the neighborhood, along with smaller pocket parks that serve as open space for the community. The open spaces are meant to provide public gathering spaces, which could be used for community performances, picnicking, celebrations (e.g., birthdays), outdoor kids play activities and yoga or exercise classes, horseshoes and cornhole, and other outdoor activities. The project would also construct informal open spaces such as bioswales, planting strips, and open spaces within and adjacent to development blocks intended to provide snow storage capacity during winter, and could be used for additional purposes when clear of snow, such as recreation and habitat for native flora and fauna.

The project proposes to maintain the existing wetland habitat (identified as Mill Ditch Linear Open Space) and would construct a MUP along Mill Ditch. The project also proposes a bridge over the Mill Ditch as part of the final phase of the project (refer to *Phasing and Construction*, below for a discussion on project phases), as shown on Exhibit 5. It is noted that footing of the proposed bridge would be located outside of the existing wetland. Should any future improvements require filling/dredging of wetlands, these activities would be subject to a separate environmental review process.

Master Plan

The proposed project would remove the existing Affordable Housing Overlay and replace these regulations with the proposed Master Plan. However, in areas where this Master Plan is silent as to a specific development standard found in the Municipal Code, the standards for the underlying zone district (RMF-1) would apply.

Phasing and Construction

It is acknowledged that construction of the proposed project is subject to market fluctuations, evolving funding sources and programs, and changes based on future developer(s) proposals. Notwithstanding, for the purposes of this analysis, it is anticipated that project would be constructed in six phases; refer to Exhibit 3. The phases are generally grouped by similar building types and reflect funding program thresholds, specifically low-income housing tax credits (LIHTC), and delineate infrastructure improvements anticipated in each phase. These phase boundaries and unit mixes may be adjusted based on future developer(s) proposals. For the purposes of this analysis, each phase is anticipated to take approximately 28 months to construct, with Phase 1 starting in summer 2021 and Phase 6 completing in Summer (July) 2028.

1.6 DISCRETIONARY ACTIONS

The Town of Mammoth Lakes is the Lead Agency under CEQA and has discretionary authority over the proposed project. The project would be subject to various Town permits and approvals, including, but not limited to:

- CEQA Clearance;
- Master Plan Adoption;
- Use Permits;
- Design Review; and

- Issuance of applicable grading and building permits.

Other discretionary actions that may be required for the proposed project could include the following:

- Army Corps of Engineers – Section 404 Permit;
- Lahontan Regional Water Quality Control Board;
 - Section 401 certification;
 - Waste Discharge Requirements (WDR);
 - NPDES Construction General Permit;
- California Department of Fish and Wildlife – Section 1602 Lake or Streambed Alteration Agreement (or other approval in-lieu of a formal agreement such as an Operation-by-Law letter); and
- Great Basin Unified Air Pollution Control District – Construction Permit.

1.7 CHANGES COMPARED TO THE PREVIOUSLY ADOPTED ENVIRONMENTAL DOCUMENTATION

The 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, as shown on the Town's Land Use Map (Figure 3-4 on page 3-10 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR considered development of the project site for the purposes of workforce housing as part of the "Buildout Analysis" assumptions. Per these assumptions, buildout of the project site included development of approximately 25 acres of land, and construction of 12 dwelling units per acre (up to 300 units). It is acknowledged that the General Plan and Zoning Code allows the granting of double density for deed-restricted workforce housing (for a maximum additional 300 units). The 2007 General Plan EIR also assumed a population increase of 1,638 persons at the project site at buildout. This calculation was based on the base density of maximum allowance of 300 units plus an additional 172 units for the density bonus program, for a total of 472 units at the project site [at a ratio of 3.47 person per unit]).

The project proposes 16 to 23 dwelling units per acre (gross) (or 400 to 580 residential units) and an increase in population of up to 2,013 persons. Based on these and the Town's buildout model assumptions, the proposed project could result in a net increase of up to 108 units and an increase of up to 375 persons at the project site, compared to the General Plan and 2016 Update buildout assumptions.

It is acknowledged that the 1991 Shady Rest Master Plan allows for development of 172 units at the project site. The proposed project would replace the 1991 Shady Rest Master Plan with the proposed Master Plan, increasing the allowed units to 580 units. This represents an increase of 408 units compared to the 1991 Shady Rest Master Plan assumptions.

2.0 INFILL ENVIRONMENTAL CHECKLIST

2.1 BACKGROUND

1.	Project Title: The Parcel
2.	Lead Agency Name and Address: Town of Mammoth Lakes 437 Old Mammoth Road, Suite 230 Mammoth Lakes, California 93546
3.	Contact Person and Phone Number: Ms. Sandra Moberly Community and Economic Development Director 760.965.3630
4.	Project Location: The project site is approximately 25.19 acres and is comprised of Assessor's Parcel Numbers (APNs) 035-010-020-000 and -100-003-000. Specifically, the site is located at the west end of Tavern Road, north end of Chaparral Road, and south of Center Street; refer to <u>Exhibit 2</u> . The property addresses are listed as 1699 Tavern Road and 33 Center Street.
5.	Project Sponsor's Name and Address: Town of Mammoth Lakes Sandra Moberly, Community and Economic Development Director 437 Old Mammoth Road, Suite 230 Mammoth Lakes, California 93546
6.	General Plan Designation: High-Density Residential 1 (HDR-1)
7.	Zoning: Residential Multi-Family 1 (RMF-1) with an Affordable Housing Overlay
8.	Prior environmental Document(s) Analyzing the Effects of the Infill project (including State Clearinghouse Number if assigned): <i>Final Program Environmental Impact Report for the Town of Mammoth Lakes 2005 General Plan Update</i> (State Clearinghouse No. 2003042155, dated May 2007) and <i>Town of Mammoth Lakes General Plan Land Use Element/ Zoning Code Amendments and Mobility Element Update Draft Environmental Impact Report</i> (State Clearinghouse No. 2015052072, dated June 2016).
9.	Location of Prior Environmental Document(s) Analyzing the Effects of the Infill Project: Town of Mammoth Lakes, California.
10.	Description of Project: The proposed project includes adaptation and implementation of the proposed Master Plan to construct a variety of affordable housing types with associated streets, community space/amenities, new bus stops, open spaces/parks, parking, and necessary utility infrastructure; refer to <u>Exhibit 3</u> . The development would include 400 to 580 residential units, which equate to 16 to 23 dwelling units per acre (gross). The units would range in sizes from approximately 400 square feet for studio units to minimum of 2,500 square feet for four-bedroom units. Depending on the building type, units would be available for rental or ownership. Specifically, 85 percent of all units would be rental units reserved for households with incomes at or below 120 percent AMI, and up to 15 percent of the units (or up to 87 units) would be rental or ownership units reserved for households working in the region with income more than 120 percent AMI but below 200 percent AMI. All units would be restricted to individuals and households working in the region for the purpose of workforce housing. In addition to residential units, the project also proposes to construct

	at least one community-serving facility (e.g., a childcare center, community center, or supportive service) to support a high quality of life for residents and strengthen neighborhood stability. As such, this Infill Environmental Checklist analyzes the incremental environmental impacts associated with the proposed project, compared to those analyzed in the 2007 General Plan EIR and 2016 Update EIR.
11.	Surrounding Land Uses and Setting (Briefly describe the project’s surroundings, including any prior uses of the project site, or if vacant, describe the urban uses that exist on at least 75 percent of the project’s perimeter): Surrounding land uses include commercial, retail, and office uses along Center Street and Lauren Mountain Road, as well as multi-family residential and single-family residential uses; refer to <u>Section 1.2.1, <i>Environmental Setting</i></u> .
12.	Other public agencies whose approval is required (e.g., permits, financing approval or participation agreement). <ul style="list-style-type: none"> • Army Corps of Engineers; • Lahontan Regional Water Quality Control Board; • California Department of Fish and Wildlife; and • Great Basin Unified Air Pollution Control District.
13.	Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.? As documented in this Infill Environmental Checklist, the project would not be subjected to CEQA and therefore, would not be subject to the AB 52 process; refer to <u>Section 3.18, <i>Tribal Cultural Resources</i></u> .

2.2 APPENDIX M PERFORMANCE STANDARDS

For a project to qualify under CEQA Guidelines Section 15183.3, they must:

- (a) Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site’s perimeter. For the purpose of this subdivision “adjoin” means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way;
- (b) Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities strategy *or* meet the definition of a small walkable community project; and
- (c) Satisfy the performance standards provided in Appendix M to the CEQA Guidelines.

(CEQA Guidelines, Section 15183.3, subd. (b)(1)-(3).)

As discussed further below, the project meets each of these eligibility requirements.

a) *The Project is located in an urban area and is adjoined by existing qualified urban uses in its entirety?*

For the purpose of CEQA Guidelines section 15183.3, an “urban area” includes an incorporated city such as the Town. (See Pub. Resources Code, Section 21094.5, subd. (e)(5).)

Additionally, more than 75 percent of the project’s perimeter is surrounded by qualified urban uses. CEQA defines a “qualified urban use” as “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.” (Pub. Resources Code, Section 21072.) Based on aerial maps (see, e.g., Exhibit 2), virtually all parcels surrounding the project site include qualified urban uses. Therefore, the proposed project meets this first criteria to utilize the Infill Streamlining Provision.

b) *The Project is a small walkable community project.*

For the purposes of CEQA’s Infill Streamlining provisions, a small walkable community project is a project that is all of the following:

(A) In an incorporated city that is not within the boundary of metropolitan planning organization;

The Town is an incorporated city and is not located within the boundaries of a metropolitan planning organization.

(B) Within an area of approximately one-quarter mile diameter of contiguous land that includes a residential area adjacent to a retail downtown area and that is designated by the city for infill development consisting of residential and commercial uses. A city may designate such an area within its general plan, zoning code, or by any legislative act creating such a designation, and may make such designation concurrently with project approval; and

The General Plan evaluates the project site in conjunction with Main Street and Old Mammoth Road and collectively defines this area as a vibrant mix of retail, commercial, and workforce housing and envisions the residential development on the project site as a catalyst for continued commercial development in the surrounding area. (General Plan, pp. D-3, D-4.) Both the Main Street Corridor and Old Mammoth Road Corridor included Zoning of “Downtown” per the Town’s Zoning Map (updated January 2015). As such, the Main Street Corridor adjoins the project site to the north, and the Old Mammoth Road Corridor adjoins the project site to the east. Further, existing multi-family and single-family residential uses are present to the south and west of the project site. Downtown (D) District is intended to provide a thriving mix of residential, non-residential, and lodging uses and a distinctive gateway entry into town, with a focus on ground-level commercial uses and active frontages. The development standards are intended to concentrate development along Main Street with a focus on shop front buildings that frame the street and provide an animated, pedestrian-friendly environment with high visual quality.

Therefore, the Town has already designated the project site and surrounding area for infill development consisting of residential and commercial uses.

- (C) Either a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.**

The proposed project would have a density of 16 to 23 units per acre (gross).

(CEQA Guidelines, Section 15183.3, subd. (f)(5).)

The proposed project meets each of these criteria, discussed as above. As such, the proposed project meets the definition of a small walkable community project.

- c) The project is not inconsistent with any applicable provisions of Appendix M.*

Qualifying residential projects located outside the boundaries of a metropolitan planning organization, such as the Town, are only required to implement the project features described in Section III of Appendix M. Specifically, Section III includes three provisions:

- 1. Is the project a non-residential infill project that includes a renewable energy feature?**

The proposed project is a residential project. Therefore, this provision is not applicable to the project.

- 2. Is the project site included on any list compiled pursuant to Section 65962.5 of the Government Code?**

The project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code.

- 3. Does the infill project include residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, of a high volume roadway or other significant source of air pollution, as defined in Appendix M?**

Unless more specifically defined by an air district, city or county, Appendix M defines a “high-volume roadway” to mean freeways, highways, urban roads with 100,000 vehicles per day, or rural roads with 50,000 vehicles per day. No streets surrounding the project site meet this definition of a “high-volume roadway.” Similarly, no land uses surrounding the project site constitute a significant source of air pollution. Therefore, no measures are required to be implemented to comply with this provision of Appendix M.

- 4. Does the project achieve below average regional per capita vehicle miles travelled (VMT)?**

As discussed in Section 3.17, Transportation, Response (b), based on the Town’s VMT Calculator, current average trip lengths for multifamily (mid-rise) residential uses average 21.9 miles.² The Town’s VMT thresholds of significance for residential projects in the Town are a 15 percent reduction of the average trip length, which would be 18.6 miles. Given the project’s 580 maximum dwelling units, the project would result in average trip lengths well below 10.0 miles (this is due to the project being an infill development project). As such, the project would achieve well below the average regional per capita VMT.

No other Appendix M criteria are applicable to the project.

2.3 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The infill project could potentially result in one or more of the following environmental effects; refer to Appendix A, Infill Environmental Checklist.

	Aesthetics		Mineral Resources
	Agriculture and Forestry Resources		Noise
	Air Quality		Population and Housing
	Biological Resources		Public Services
	Cultural Resources		Recreation
	Energy		Transportation
	Geology and Soils		Tribal Cultural Resources
	Greenhouse Gas Emissions		Utilities and Service Systems
	Hazards and Hazardous Materials		Wildfire
	Hydrology and Water Quality		Mandatory Findings of Significance
	Land Use and Planning		

² Correspondence from Haislip Hayes, Town of Mammoth Lakes Public Works Director, on November 9, 2020.

2.4 LEAD AGENCY DETERMINATION

On the basis of this initial evaluation:

I find that the proposed infill project **WOULD NOT** have a significant effect on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects. A Notice of Determination (Section 15094) will be filed.

✓

I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. With respect to those effects that are subject to CEQA, I find that such effects **WOULD NOT** be significant and a **NEGATIVE DECLARATION**, or if the project is a Transit Priority Project a **SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT**, will be prepared.

I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that although those effects could be significant, there will not be a significant effect in this case because revisions in the infill project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION**, or if the project is a Transit Priority Project a **SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT**, will be prepared.

I find that the proposed infill project would have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that those effects **WOULD** be significant, and an infill **ENVIRONMENTAL IMPACT REPORT** is required to analyze those effects that are subject to CEQA.

Sandra Moberly

Town of Mammoth Lakes

Signature

Agency

Sandra Moberly, AICP

December 3, 2020

Printed Name

Date

2.5 EVALUATION OF ENVIRONMENTAL IMPACTS OF INFILL PROJECTS

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone. A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) For the purposes of this checklist, “prior EIR” means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents. “Planning level decision” means the enactment or amendment of a general plan, community plan, specific plan, or zoning code. (Section 15183.3[e].)
- 4) Once the lead agency has determined that a particular physical impact may occur as a result of an infill project, then the checklist answers must indicate whether that impact has already been analyzed in a prior EIR. If the effect of the infill project is not more significant than what has already been analyzed, that effect of the infill project is not subject to CEQA. The brief explanation accompanying this determination should include page and section references to the portions of the prior EIR containing the analysis of that effect. The brief explanation shall also indicate whether the prior EIR included any mitigation measures to substantially lessen that effect and whether those measures have been incorporated into the infill project.
- 5) If the infill project would cause a significant adverse effect that either is specific to the project or project site and was not analyzed in a prior EIR, or is more significant than what was analyzed in a prior EIR, the lead agency must determine whether uniformly applicable development policies or standards that have been adopted by the lead agency, or city or county, would substantially mitigate that effect. If so, the checklist shall explain how the infill project’s implementation of the uniformly applicable development policies will substantially mitigate that effect. That effect of the infill project is not subject to CEQA if the lead agency makes a finding, based upon substantial evidence, that the development policies or standards will substantially mitigate that effect.
- 6) If all effects of an infill project were either analyzed in a prior EIR or are substantially mitigated by uniformly applicable development policies or standards, CEQA does not apply to the project, and the lead agency shall file a Notice of Determination.
- 7) Effects of an infill project that either have not been analyzed in a prior EIR, or that uniformly applicable development policies or standards do not substantially mitigate, are subject to CEQA. With respect to those effects of the infill project that are subject to CEQA, the checklist shall

indicate whether those effects are significant, less than significant with mitigation, or less than significant. If there are one or more “Significant Impact” entries when the determination is made, an infill EIR is required. The infill EIR should be limited to analysis of those effects determined to be significant. (Sections 15128, 15183[d].)

- 8) “Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures will reduce an effect of an infill project that is subject to CEQA from “Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how those measures reduce the effect to a less than significant level. If the effects of an infill project that are subject to CEQA are less than significant with mitigation incorporated, the lead agency may prepare a Mitigated Negative Declaration. If all of the effects of the infill project that are subject to CEQA are less than significant, the lead agency may prepare a negative Declaration.
- 9) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to an infill project’s environmental effects in whatever format is selected.
- 10) The explanation of each issue should identify:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any, to reduce the impact to less than significance.

3.0 ENVIRONMENTAL ANALYSIS

3.1 AESTHETICS

This section corresponds with 2007 General Plan EIR Section 4.1, *Aesthetics*.

Except as provided in Public Resources Code Section 21099, would the project:

a) *Have a substantial adverse effect on a scenic vista?*

As detailed on page 4-3 of the 2007 General Plan EIR, included among the important viewpoints within the Town are Mammoth Crest, Crystal Crag, Lake Mary Road, the ski slopes on Mammoth Mountain, Lincoln Mountain, Sherwin Mountain (Range), State Route (SR) 203 (Main Street) east of Old Mammoth Road, U.S. Highway 395 along its entire length in the Planning Area of the Town, the White Mountains, Old Mammoth Road south of Mammoth Creek, and many other striking features. Mammoth Mountain and portions of the Sierra Nevada mountain range and White Mountains can be seen from nearly all points within the Town. As discussed on page 4-12 of the 2007 General Plan EIR, continued development within the Town's Urban Growth Boundary (UGB; defined as the geographic area in which growth could occur) would permanently replace some existing views and scenic vistas with more intensive urban type uses. The primary areas of visual impact would be Snowcreek Meadow (proposed resort development) and the vicinity of North Village (Specific Plan area with visitor-oriented commercial and visitor lodging uses).

As detailed on page 4-15 of the 2007 General Plan EIR, all major development projects would undergo environmental and design review on a site-specific basis, per CEQA, the Town's Municipal Code and all applicable regulatory requirements to ensure that facilities and structures would be sited in a way that would not have substantial adverse effects to scenic vistas. In addition, policies and several implementation measures contained in the 2005 General Plan Update would ensure that no new development is permitted on prominent ridgelines and bluffs (I.5.B.b.4), building heights would remain below average tree tops in the forested portions of the community (I.5.B.b.5), and new construction is determined through the development review process to ensure that the scale is appropriate and appropriate with adjacent land uses, including preservation of existing views, light and solar access (VI.4.B.a.2). Further, Implementation Measure VI.1.A.c would allow exemptions to height limitations for development projects; any such exemption would be subject to rigorous visual analysis acceptable to the Town, showing that the exception is warranted in light of other community goals and benefits and does not significantly impact views (page 4-14 of the 2007 General Plan EIR). The maintenance of the existing UGB would further assist in limiting development from additional areas of the Town that could have an effect on a scenic vista (page 4-14 of the 2007 General Plan EIR). Therefore, the 2007 General Plan EIR concluded that the 2005 General Plan's policies and implementation measures, along with project-specific environmental and design review by the City, would reduce impacts to scenic vistas to a less than significant level.

The project site is located to the south of Main Street, and to the west of Old Mammoth Road. Main Street serves as the main (commercial) corridor for motorists, pedestrians, and bicyclists in the Town. The most notable views from Main Street are of the Sherwin Range and Mammoth Rock to the south

and the natural topography of Mammoth Mountain to the west. Views of Mammoth Mountain to the west are available from most locations along Main Street (Figures 4.1-5 through 4.1-7 of the 2016 Update EIR). However, in many instances, intervening buildings, trees, and high drifts of snow during the winter obstruct full views of Sherwin Range and Mammoth Rock from mid-block areas along Main Street. Old Mammoth Road is a primary commercial corridor in the Town for motorists and pedestrians. Compared to Main Street, Old Mammoth Road has a more pedestrian-oriented environment, with a narrower street width, continuous sidewalks, and more buildings located closer to the street edge. Notable views viable along Old Mammoth Road include the Knolls to the north and Sherwin Range and Mammoth Rock to the south (Figures 4.1-5 through 4.1-7 of the 2016 Update EIR).

Full views of the Sherwin Range and Mammoth Rock to the south of the project site are currently largely obstructed by intervening buildings, trees, and high drifts of snow during the winter. The project proposes transition in height and intensity of development to match the height allowed in adjacent neighborhoods and commercial areas; refer to [Exhibit 3](#). As such, the northern portion of the project site would include development with proposed heights up to four stories (55 feet) whereas the areas nearby off-site single family would be up to two stories (35 feet). It is acknowledged that some existing on-site and surrounding mature pine trees exceed 55 feet; as such, proposed building heights would remain below average tree tops. Due to the location of the project site (set back from Main Street and Old Mammoth Road), the orientation of the project site from these scenic views, and the existing presence of structures and mature trees, project implementation would not result in a significant increase in view blockage of visual resources, as seen from public views along Main Street toward the Knolls to the north and Old Mammoth Road toward the Sherwin Range and Mammoth Rock to the south.

Overall, the proposed project would result in less than significant impacts on designated public views within the project area and would not result in any new specific effects or more significant effects than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?*

As detailed on page 4-4 of the 2007 General Plan EIR, SR 203 is eligible for designation as a scenic highway in its entirety but has not been formally established as one. The current conditions on SR 203 within the UGB limit the views of the landscape because of the localized topography, tree canopy and existing development. As stated on page 4-16 of the 2007 General Plan EIR, policies and implementation measures contained in the 2005 General Plan Update would require the Town's site plan review to make every feasible effort to save large specimen trees (I.1.B.d.1), to cluster development so as to retain and preserve existing trees and open space (I.2.A.a.4), that no new

development is permitted on prominent ridgelines and bluffs (I.5.B.b.4), building heights remain below average tree tops in the forested portions of the community (I.5.B.b.5) and for the Town to work with Caltrans to implement Scenic Highway status for US 395 and State Route 203 Corridors (VII.3.C.a.1). Additionally, the 2007 General Plan EIR included Mitigation Measures 4.1-1, 4.1-2, and 4.1-3 that would enforce the existing setback requirements along Mammoth Creek, include standards in the Design Review Guidelines to assure an attractive face in the vicinity of the Main Street (SR 203) and Old Mammoth Road intersection, and ensure that development at the Mammoth Yosemite Airport that is visible from Highway 395 is consistent with State scenic highway regulations. As such, the 2007 General Plan EIR concluded that implementation of the Town design review requirements, along with the 2005 General Plan's implementation measures and mitigation measures, would reduce impacts to scenic resources, including views from SR 203, and local trees and rock outcrops to a less than significant level.

SR 203 (Main Street), trending in an east/west direction approximately 180-feet north of the project site, is eligible to be designated as a State Scenic Highway. As discussed in Response 3.1(a) above, the proposed project would not result in increased view blockage of visual resources as seen from Main Street, and proposed improvements do not front Main Street. As such, no increased impacts would result in this regard. Further, the project proposed the adaptation of a Master Plan for the project site, which includes design standards (page 11 of the Master Plan) to address issues such as building height and massing, tree preservation, and lighting. These standards are specifically designed for the site in accordance to the previously approved (and binding) Mitigation Measure 4.1-2 from the 2007 General Plan EIR to ensure that development in proximity to SR 203 would not detract from scenic resource. Additionally, views of the project site are not afforded from Highway 395 due to intervening topography, structures, and vegetation. Overall, the proposed project would result in less than significant impacts on scenic resources and would not result in any new specific effects or more significant effects than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Previously certified environmental documents include mitigation measures to reduce potential impacts associated with implementation of the General Plan.

4.1-2 The Town shall amend the Design Review Guidelines to include standards to assure that public and private facilities in the vicinity of the Main Street (SR203) and the Old Mammoth Road intersection shall be designed to present an attractive face to the road. The standards shall address such issues as building height and massing, tree preservation, and lighting to ensure that public and private development in proximity to SR203, which is eligible for designation as a scenic highway, do not detract from scenic resources. (2007 General Plan EIR Mitigation Measure 4.1-2)

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Approved Mitigation Measures.

- c) *Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analyses under *Issue 4.1-3* (page 4-18) of the 2007 General Plan EIR.

Concerning short-term impacts to visual character and quality, temporary exposed graded surfaces, construction debris, the presence of construction equipment, construction cranes, truck traffic, and stockpiled equipment resulting from future construction may impact views of individual sites from surrounding uses and roadways (page 4-18 of the 2007 General Plan EIR). However, these impacts are short term and would cease upon completion of an individual project.

Concerning long-term impacts, new development would result in the construction of structures that are consistent with the designs and materials that have been previously determined appropriate to Mammoth Lakes, its setting, and history through the previously adopted Design Guidelines (page 4-18 of the 2007 General Plan EIR). As new development would be subject to design review requirements of the Town, the new development or redevelopment would result in a quality of development that is consistent with the community character. The 2005 General Plan Update proposes the adoption of polices and implementation measures to reduce potential impacts regarding the visual quality and character of the Town; refer to page 4-18 of the 2007 General Plan EIR for a list of relevant policies and implementation measures. Although these polices and implementation measures would ensure that new development would be consistent with the existing character of the Town, development associated with implementation of the 2005 General Plan Update would involve the replacement of undeveloped vacant areas with building structures, landscaping, fuel modification zones, etc. The replacement of undeveloped areas with urbanized uses would result in impacts to the visual character and/or quality of the Town (page 4-20 of the 2007 General Plan EIR). Despite that all future development projects would be subject to project-specific environmental and design review, and the applicable policies and implementation measures would be implemented, the existing visual character of the Town would still be permanently changed with implementation of the 2005. Thus, due to the permanent change in visual character of newly developed areas of the Town, the 2007 General Plan EIR concluded that impacts to the Town's visual character and quality are significant and unavoidable (page 4-20 of the 2007 General Plan EIR)

The project site is surrounded by commercial, retail, and office uses along Center Street and Laurel Mountain Road, as well as multi-family residential and single-family residential uses. The proposed development would not conflict with the General Plan or Municipal Code policies concerning long-term impacts to visual character/quality upon adaptation of the proposed Master Plan; refer to Section 3.11, Land Use and Planning. Per the General Plan, the "Community Vision" for Mammoth Lakes embodies important values and principles that recognize the uniqueness of the natural surroundings and the Town's character as a village in the trees. Building heights are encouraged to be kept within the tree canopy. To maintain a community of cohesive residential neighborhoods in a unique mountain environment, natural beauty, critical environmental areas and open space are protected. As such, standards for design and development that complement and are appropriate to the Eastern Sierra

Nevada mountain setting and the Town's sense of a "village in the trees" with small town charm have been included in the Town's Municipal Code requirements.

The proposed project would remove the existing Affordable Housing Overlay and replace these regulations with the proposed Master Plan. However, in areas where this Master Plan is silent as to a specific development standard found in the Municipal Code, the standards for the underlying zone district (RMF-1) would apply. The project would result in the construction of 400 to 580 residential units (16 to 23 dwelling units per gross acre). In addition to residential units, the project also proposes to construct at least one community-serving facility (e.g., a childcare center, community center, or supportive service) to support a high quality of life for residents and strengthen neighborhood stability. Development would be compatible with the surrounding context (existing and anticipated) by providing transition in height and intensity to match the height allowed in adjacent neighborhoods and commercial areas. Proposed building heights would range two to four stories in height; refer to Exhibit 3. Proposed heights would transition from lower buildings (up to two stories [or 35 feet]) near lower density single-family residential housing to the east, to three story buildings (or 45 feet) closer to existing multi-family residential uses, and up to four stories (or 55 feet) in height abutting commercial development to the north. It is acknowledged that some existing on-site and surrounding mature pine trees exceed 55 feet; as such, proposed building heights would remain below average tree tops.

The proposed project would be required to comply with Municipal Code requirements regarding scenic quality, such as requirements for future development to undergo the Town's Design Review process (Municipal Code Chapter 17.88, *Design Review*). The design review process, would ensure that the project would:

- Implement the goals, policies and objectives of the General Plan related to community design and character;
- Promote excellence in site planning and design and the harmonious appearance of buildings and sites and ensure the man-made environment is designed to complement, not dominate, the natural environment;
- Regulate the design, coloration, materials, illumination, and landscaping of new construction, and renovations within the town in order to maintain and enhance the image, attractiveness, and environmental qualities of the town as a mountain resort community;
- Ensure that new landscaping provides a visually pleasing setting for structures on the site and within the public right-of way and to prevent indiscriminate destruction of trees and natural vegetation, excessive or unsightly grading, indiscriminate clearing of property, and destruction of natural significant landforms;
- Ensure that the architectural design of structures and their materials and colors are appropriate to the function of the project and the high-elevation climate of Mammoth Lakes and are visually harmonious with surrounding development and natural landforms, trees, and vegetation; and

- Supplement other Town regulations and standards in order to ensure control of aspects of design that are not otherwise addressed.

The proposed project would also be required to comply with the requirements for tree removal, in accordance with Municipal Code Section 17.36.140, *Tree Removal and Protection*. This section includes provisions to protect and to regulate the removal of certain trees, based on the important environmental, aesthetic, and health benefits that trees provide to Mammoth Lakes residents and visitors, and the contribution of such benefits to public health, safety and welfare. These benefits include, but are not limited to, enhancement of the character and beauty of the community as a "Village in the Trees," protection of property values, provision of wildlife habitat, reduction of soil erosion, noise buffering, wind protection, and visual screening for development. As such, the proposed project would be required to obtain appropriate tree removal permit(s) and/or a tree removal and protection plan, and, as such, would be subject to all requirements set forth accordingly (Municipal Code Section 17.36.140). In accordance with Municipal Code Section 17.36.140(I), *Mitigation for tree removal*, if required by the Director either in conjunction with a tree removal permit, construction-related tree removal, or as penalty for tree removal performed without a permit, replacement planting may occur in areas suitable for tree replacement with species identified in the Town of Mammoth Lakes' Recommended Plant List. The replacement ratio would be determined by the Director. If required, the minimum replacement tree size would be seven gallons. Replacement requirements may also be determined based on the valuation of the tree as determined by a Registered Professional Forester (RPF) or arborist.

As such, with compliance with the Town's Municipal Code requirements, including the design review process and tree removal and protection regulations, the proposed development would be consistent with the Town's "Village in the Trees" character and would be complementary to the visible massing of the existing buildings in the surrounding area. Further, as discussed, the 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, as shown on the Town's Land Use Map (Figure 3-4 on page 3-10 of the 2007 General Plan EIR). As such, potential aesthetic impacts associated with the proposed high density residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have been considered in the 2007 General Plan EIR. The project's long-term impacts pertaining to the scenic resources would be less than significant levels.

Overall, the proposed project would result in less than significant impacts on scenic resources and would not result in any new specific effects or more significant effects than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- d) *Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?*

As detailed on page 4-20 of the 2007 General Plan EIR, given the isolated mountain setting, some fugitive light and glare impacts already exist in the Planning Area due to existing developments and land uses that do not meet the current requirements of the Town's Lighting Ordinance (currently Municipal Code Section 17.36.030, *Exterior Lighting*). These impacts reduce the quality of star-gazing for residents and visitors, and the intensification of development under the 2005 General Plan Update would incrementally contribute to the existing built environment. The 2005 General Plan Update proposes the adoption of several implementation measures to reduce potential light and glare impacts; refer to page 20 of the 2007 General Plan EIR for a list of relevant policies and implementation measures. As discussed on page 4-21 of the 2007 General Plan EIR, development projects would be subject to environmental and design review on a site-specific basis to ensure that light and glare impacts do not substantially increase the amount and intensity of nighttime lighting nor cause light spillover onto adjoining properties, do not reduce night sky visibility, and do not increase the potential for glare onto adjacent areas including the Highway 395 Scenic Corridor. Additionally, all new development would be required to comply with the requirements of the Town's Lighting Ordinance (currently Municipal Code Section 17.36.030). Further, the 2007 General Plan EIR included Mitigation Measure 4.1-4, which requires revision of the Lighting Ordinance to project views of the night sky and to ensure that the intent of the Lighting Ordinance is met.

While the Town has policies and regulations regarding lighting and was planned to review the Lighting Ordinance in accordance with Mitigation Measure 4.1-4, given the increase in development that would occur under the 2005 General Plan Update compared with existing conditions, the 2007 General Plan EIR determined that the 2005 General Plan Update would result in an increase in lights at night which would impact the night sky (page 4-21 of the 2007 General Plan EIR). As such, the 2007 General Plan concluded that a significant and unavoidable impact with regard to night lighting and a reduction in the quality of star-gazing for residents and visitors would occur.

The 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, as shown on the Town's Land Use Map (Figure 3-4 on page 3-10 of the 2007 General Plan EIR). As such, potential environmental impacts associated with the proposed high density residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have been considered in the 2007 General Plan EIR.

The project is located near the commercial areas of the Town. The proposed project would comply with the allowable construction hours and exterior lighting requirements identified in the Town's Municipal Code. Specifically, Section 12.08.260, *Hours of Work*, of the Municipal Code limits grading operations to between 7:00 a.m. and 8:00 p.m. Monday through Saturday, with Sunday construction permitted between 9:00 a.m. and 5:00 p.m. upon the approval of the Town's Public Works Director (or designee) for construction within 500 feet of residential or commercial occupancies. Further, Section 17.36.030, *Exterior Lighting*, of the Municipal Code provides rules and regulations for outdoor lighting within the Town. Additionally, the project would be subject to environmental and design review in accordance with Chapter 17.88, *Design Review*, of the Municipal Code, which would ensure that project-generated illumination would not exceed the standards set forth in Chapter 17.88 of the Municipal Code. As such, although the project would result in an increase in lights at night in the region, impacts in this regard would be less than significant with compliance with all applicable

Municipal Code provisions, and would not result in any new specific effects or more significant effects than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.2 AGRICULTURE AND FORESTRY RESOURCES

This section corresponds with 2007 General Plan EIR Section 4.7, *Land Use*, and Section 6.0, *Other CEQA Considerations*.

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

As discussed on page 6-5 of the 2007 General Plan EIR, there are no prime or unique farmlands or other agricultural operations within the UGB or the Municipal Boundary of the Town. However, the United States Forest Service (USFS) has issued grazing leasehold permits to a number of cattle and sheep operations, several of which enter into the Planning Area. The USFS indicated that there have been some land use conflicts stemming primarily from recreational uses with respect to lease hold activities in the vicinity of the Visitor Center/Shady Rest Park, and in the vicinity of the Sherwin Gravel Pit. As detailed on page 4-196 of the 2007 General Plan EIR, the Inyo National Forest Land and Resource Management Plan places an emphasis on cultural resources, ski facility development, fish resources, geology research, land exchanges, visual resource, wildlife resources, water resources and also encourages recreation use of the Inyo National Forest lands (page 4-196 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR determined that the increase in population as a result of the implementation of the 2005 General Plan Update would not conflict with the USFS Plan, even though the plan originally intended for these sites for grazing/agricultural uses. In addition, the 2005 General Plan Update would not lead to a conflict with existing zoning for agricultural uses or a Williamson Act contract nor would it result in conversion of farmland to non-agricultural uses for the

same reasons. Therefore, the 2007 General Plan EIR concluded that the 2005 General Plan Update would not impact agricultural resources.

According to the California Department of Conservation, the project site is not located within areas identified as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.³ Thus, similar to the 2005 General Plan, no impacts would occur in this regard and the proposed project would not result in any new specific effects or more significant effects than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

b) *Conflict with existing zoning for agricultural use, or a Williamson Act contract?*

Refer to Response 3.2(a) above for a discussion on potential agricultural impacts associated with 2005 General Plan Update as discussed in the 2007 General Plan EIR.

The project site is zoned RMF-1 and is not covered under a Williamson Act contract. Therefore, development of the proposed project would not conflict with existing zoning for agricultural use or a Williamson Act contract, and the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

c) *Conflict with existing zoning for, or cause rezoning, of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*

Refer to Response 3.2(a) above for a discussion on potential forest land impacts associated with 2005 General Plan Update as discussed in the 2007 General Plan EIR.

The project site is zone RMF-1 with an Affordable Housing Overlay. Although the project site is located within an area of known forest habitat, the project site is not zoned for forest land, timberland, or timberland zoned Timberland Production. Therefore, the proposed project would not conflict

³ California Department of Conservation, *California Important Farmland Finder*, <https://maps.conservation.ca.gov/DLRP/CIFF/>, accessed October 13, 2020.

with such zoning and would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

Refer to Response 3.2(a) above for a discussion on potential forest land impacts associated with 2005 General Plan Update as discussed in the 2007 General Plan EIR.

Although the project site is located within an area of known forest habitat and the project would involve the removal of trees, the project site is not located on National Forest land and no known forestry operations currently occur at the project site or in the project vicinity. Based on the site's General Plan land use designation of HDR-1 and zoning of RMF-1 with an Affordable Housing Overlay, the site has always been intended for residential purposes by the Town. Additionally, the project site is surrounded by existing development on all sides. As such, implementation of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Refer to Responses 3.2(a) through 3.2(d). Implementation of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

3.3 AIR QUALITY

This section corresponds with 2007 General Plan EIR Section 4.2 *Air Quality*, as well as Section 6.0(D), *Significant And Unavoidable Environmental Impacts*.

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

a) *Conflict with or obstruct implementation of the applicable air quality plan?*

This impact threshold corresponds to the analysis under *Issue 4.2-1* (page 4-35) of the 2007 General Plan EIR.

The Town is located within the Great Basin Valleys Air Basin (Basin), which is governed by the Great Basin Unified Air Pollution Control District (GBUAPCD). The currently applicable GBUAPCD air quality plans are the *Air Quality Maintenance Plan and PM₁₀ Redesignation Request for the Town of Mammoth Lakes* (2014 AQMP) (dated November 6, 2013) and the *Town of Mammoth Lakes Air Quality Management Plan 2014-2016 Triennial Progress Report* (2017 AQMP) (dated December 2017), an update to the 2014 AQMP. The modeling analysis included in the 2017 AQMP is based on growth projections and vehicle miles traveled (VMT) from the buildout of the General Plan.

The 2007 General Plan EIR discussed the potential air quality impacts associated with the Town's 2004 condition as well as for the buildout year (2024) condition, and analyzed the potential conflict with the *Air Quality Management Plan for the Town of Mammoth Lakes* (1990 AQMP), adopted by the Town Council and GBUAPCD in November and December 1990 (2007 General Plan EIR page 4-24). The 2007 General Plan EIR determined that implementation of the 2005 General Plan Update would potentially result in development that would exceed the 1990 AQMP vehicle miles traveled (VMT) cap (2007 General Plan EIR page 4-35), which could subsequently result in an exceedance of coarse particulate matter (PM₁₀).

As discussed in the 2007 General Plan EIR, the 2005 General Plan Update incorporates implementation measures that either directly or indirectly reduce PM₁₀ emissions. Specifically, several implementation measures would encourage higher density residential and mixed-use development adjacent to commercial centers, mountain portals and transit corridors, which would inherently reduce the number of vehicle trips, VMT, and encourage alternative modes of transportation (2007 General Plan EIR page 4-38). The 2007 General Plan EIR also included Mitigation Measure 4.2-1, which would limit the total Town VMT to the level specified in Municipal Code Section 8.30.110, *Road Dust Reduction Measures*. Mitigation Measure 4.2-1 also require specific projects that would result in 500 daily vehicle trips to have a VMT analysis incorporated into the AQMP model for the project. As stated on page 4-39 of the 2007 General Plan EIR, the Town would not grant approval to any project which would cause peak VMT to exceed the maximum VMT level as specified in the Town's Municipal Code Section 8.30.110. However, if it could be determined that a higher VMT level as the result of a project may be sustained without exceeding the National Ambient Air Quality Standards (NAAQs), then appropriate amendments to the Town's Municipal Code and 1990 AQMP may be considered. With adaptation of the implementation measures and implementation of Mitigation Measure 4.2-1, the 2007 General Plan EIR concluded that less than significant impacts would occur as a result of the 2005 General Plan.

The 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, as shown on the Town's Land Use Map (Figure 3-4 on page 3-10 of the 2007 General Plan EIR). As such, potential air quality impacts associated with the proposed project (constructing high density residential workforce housing per General Plan Land Use designation of HDR-1, Shady Rest Tract) have been considered in the 2007 General Plan EIR.

As discussed under Impact Section 3.3(b) below, the proposed project's construction and operational emissions would not exceed the adopted Mojave Desert Air Quality Management District (MDAQMD) thresholds with implementation of the required GBUAPCD Rules and Regulations, consistent with the methodology highlighted in the 2016 Update EIR (i.e., the MDAQMD's regional thresholds of significance are used per guidance from the GBUAPCD). The 2016 Update EIR methodology was adopted as the 2007 General Plan EIR did not include a project level threshold. Furthermore, 100 percent of the project's units would be affordable housing, the project would include bike lanes and an on-site bus stop, and would connect residential development to Main Street (a commercial center as well as transit corridor), which would help reduce VMT, and also exempts the project from having to complete a VMT analysis. Therefore, the project would be consistent with the analysis in the 2007 General Plan EIR and would not add an additional impact.

The project would also be required to comply with all applicable GBUAPCD Rules and Regulations. Lastly, the project would be required to comply with all applicable General Plan policies, as described in the 2007 General Plan EIR and 2016 Update EIR, which would further reduce impacts associated with plan consistency to a less than significant level with mitigation measures.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?*

This impact threshold was modified since the 2007 General Plan was prepared, and corresponds to the analysis under *Issues 4.2-2* (page 4-39) and *4.2-3* (page 4-44) of the 2007 General Plan EIR.

As discussed above, the 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations (Figure 3-4 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR considered potential air quality impacts associated with the proposed high density residential workforce housing on the project site, which is designated as HDR-1 (Shady Rest Tract).

As stated on pages 4-39 and 4-44 of the 2007 General Plan EIR, the Mammoth Lakes portion of the Basin is designated as nonattainment for O₃ (State standard only), and that the Town is considered to be in nonattainment of the federal 24-hour PM₁₀ standard. The 2007 General Plan EIR noted that the O₃ impact is primarily the result of pollution generated in San Joaquin Valley, and that exceedances of the O₃ standard would likely occur without any contribution of emissions of O₃ precursors (nitrogen oxides and hydrocarbons) from Town activity (page 4-39 of the 2007 General Plan EIR). Nevertheless, as shown on Table 4.2-2 of the 2007 General Plan EIR, exceedances of the federal 24-hour PM₁₀ standard on road dust dominated days is anticipated as a result of implementation of the 2005 General Plan. It is also noted on Table 4.2-3 of the 2007 General Plan EIR that the increase in emissions at full buildout of the Town (including the anticipated high density residential development on the project site) represents a one percent increase for both PM₁₀, among increases in other criteria pollutants.

The 2007 General Plan EIR included implementation measures from *Issue 4.2-1* as well as Mitigation Measure 4.2-2 to reduce potential impacts associated with 24-hour PM₁₀ and one-hour O₃ standards. Mitigation Measure 4.2-2 would require the Town to evaluate PM₁₀ level on an annual basis using the AQMP model established for the 2007 General Plan EIR, and restrict future development as necessary to manage Town-wide VMT at levels that ensure compliance with federal PM₁₀ NAAQS. Implementation of implementation measures outlined under *Issues 4.2-2* and *4.2-2* and Mitigation Measure 4.2-2 would be expected to ensure that the future development in accordance with the 2005 General Plan Update would meet the federal PM₁₀ standard (page 4-47 of the 2007 General Plan EIR). Nevertheless, the 2007 General Plan EIR concluded that even with implementation of Mitigation Measure 4.2-2, attainment of the State standard for PM₁₀ and one-hour standard for O₃ are not expected, and the impact remains significant and unavoidable (page 4-43 of the 2007 General Plan EIR).

It is noted that the 2005 General Plan Update is a long-range plan guiding future growth in the Town and does not contain project level details (page 4-43 of the 2007 General Plan EIR). Thus, the individual project-level construction emissions for the proposed was analyzed below to determine if a project-level impact would occur.

Short-Term Construction Impacts

The proposed project's construction emissions were modeled within the California Emission Estimator Model Version 2016.3.2 (CalEEMod). Construction assumptions were provided by the Town; refer to [Section 1.5, Project Description](#). The maximum buildout potential of 580 residential units, along with 660 parking spaces, and a half-acre central park was modeled. It was conservatively assumed that most of these parking spaces would be podium or tuck-under style. The project would be built in six phases, with construction starting in summer 2021 and ending in summer 2028. In total, the project would have 29,522 cubic yards of cut and 15,734 cubic yards of fill, with 13,788 cubic yards of soil export. The 2007 General Plan EIR did not adopt a significance threshold that would be applicable to the project; thus, consistent with the 2016 Update EIR and GBUAPCD recommendations, the MDAQMD numerical air quality significance thresholds were adopted. [Table 2, Maximum Daily Construction Emissions](#), describes the project's maximum daily construction emissions, as modeled in CalEEMod. As seen in [Table 2](#), the proposed maximum buildout of the project would not exceed the established MDAQMD numerical air quality thresholds for direct and indirect sources.

Table 2
Maximum Daily Construction Emissions

Construction Phase (Year)	Daily Maximum Pollutant Emissions (lbs/day) ^{1,2}					
	ROG	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Summer Emissions						
2021	5.7	48.23	43.68	0.09	5.68	3.32
2022	9.13	62.55	69.18	0.15	8.48	4.41
2023	39.7	57.02	66.56	0.15	8.62	4.29
2024	40.44	70.92	89.64	0.21	10.92	5.17
2025	39.89	64.18	87.29	0.21	10.54	4.81
2026	38.61	47.7	62.02	0.14	8.13	3.83
2027	35.43	34.61	46.07	0.12	5.72	2.28
2028	32.44	17.21	22.6	0.06	2.86	1.14
Maximum Daily Emissions	40.44	70.92	89.64	0.21	10.92	5.17
<i>Significance Threshold³</i>	137	137	548	137	82	65
Emissions Exceed Thresholds?	No	No	No	No	No	No
Winter Emissions						
2021	5.17	48.22	43.43	0.09	5.68	3.32
2022	8.16	62.63	68.73	0.15	8.48	4.41
2023	39.15	57.07	66.2	0.15	8.62	4.28
2024	39.51	71.05	89.13	0.2	10.92	5.17
2025	39.01	64.31	86.8	0.21	10.54	4.81
2026	38.15	47.77	61.7	0.15	8.13	3.83
2027	35.02	34.75	45.77	0.12	5.72	2.28
2028	32.38	17.28	22.45	0.06	2.86	1.14
Maximum Daily Emissions	39.51	71.05	89.13	0.21	10.92	5.17
<i>Significance Threshold³</i>	137	137	548	137	82	65
Emissions Exceed Thresholds?	No	No	No	No	No	No
ROG = reactive organic compounds; NO _x = nitrogen oxides; CO = carbon monoxide; SO _x = sulfur oxides; PM ₁₀ = particulate matter smaller than 10 microns; PM _{2.5} = particulate matter smaller than 2.5 microns Notes: 1. Emissions were calculated using CalEEMod version 2016.3.2. 2. The reduction/credits for construction emission mitigations are based on mitigation included in CalEEMod. The mitigation includes complying with MM AIR-1 and MM AIR-2, which requires the following: properly maintain mobile and other construction equipment; replace ground cover in disturbed areas quickly; water exposed surfaces three times daily; cover stock piles with tarps; water all haul roads three times daily; limit speeds on unpaved roads to 15 miles per hour; and use CARB certified engines. In addition, the project's architectural coatings would comply with the ROG limits listed in the 2019 CALGreen Code Section 4.50. 3. Regional daily construction thresholds are based on the MDAQMD significance thresholds. Refer to Appendix B, Air Quality, Energy, and Greenhouse Gas Data, for assumptions used in this analysis.						

As shown in Table 2, the project would not exceed the adopted MDAQMD thresholds with implementation of the required GBUAPCD Rule 401 and Rule 402. The Mitigation Measures from the 2007 General Plan EIR would not be applicable to the project site, as they are of a programmatic level and relate to VMT, which the project is exempt from as an affordable housing project. Thus, with compliance of the GBUAPCD Rules 401 and 402, the proposed project would have a less than significant short-term construction impact.

Long-Term Operational Impacts

The proposed project’s operational emissions were modeled with CalEEMod and the California Air Resources Board (CARB) 2017 Emission FACtor Model (EMFAC2017). Table 3, Long-Term Operational Air Emissions, highlights the proposed project’s operational emissions from area, energy, and mobile sources. According to *The Parcel Buildout Transportation Analysis* (Transportation Analysis), prepared by LSC Transportation Consultants, Inc., dated December 3, 2020, the project would generate 3,184 daily trips during weekdays and 3,541 daily trips during Saturdays and Sundays.

Table 3
Long-Term Operational Air Emissions

Emissions Source	Pollutant (pounds/day) ^{1,3}					
	ROG	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Summer Emissions⁴						
Area	12.87	10.34	52.04	0.07	1.06	10.6
Energy	0.10	0.87	0.37	<0.01	0.07	0.07
Mobile	8.71	16.51	53.78	0.18	18.59	5.08
Total Summer Emissions⁵	21.68	27.71	106.18	0.25	19.71	6.21
<i>Significance Threshold²</i>	137	137	548	137	82	65
<i>Is Threshold Exceeded? (Significant Impact?)</i>	No	No	No	No	No	No
Winter Emissions⁴						
Area	12.87	10.34	52.04	0.07	1.06	1.06
Energy	0.10	0.87	0.37	<0.01	0.07	0.07
Mobile	10.58	17.18	54.28	0.18	18.59	5.08
Total Winter Emissions⁵	23.55	28.38	106.68	0.25	19.71	6.21
<i>Significance Threshold²</i>	137	137	548	137	82	65
<i>Is Threshold Exceeded? (Significant Impact?)</i>	No	No	No	No	No	No
ROG = reactive organic compounds; NO _x = nitrogen oxides; CO = carbon monoxide; SO _x = sulfur oxides; PM ₁₀ = particulate matter smaller than 10 microns; PM _{2.5} = particulate matter smaller than 2.5 microns Notes: 1. Based on CalEEMod version 2016.3.2 and EMFAC2017 modeling results, worst-case seasonal emissions for area and mobile emissions have been modeled. 2. Regional daily thresholds are based on the MDAQMD significance thresholds. 3. Refer to <u>Appendix B, Air Quality, Energy, and Greenhouse Gas Data</u> , for assumptions used in this analysis. 4. Mitigation includes compliance with MM AIR-3. The project architectural coatings would comply with the ROG limits listed in the 2019 CALGreen Code Section 4.50.						

As seen in Table 3, the majority of the project’s operational emissions would be from mobile sources, consistent with the 2007 General Plan EIR. Furthermore, the project’s total operational emission would be below the MDAQMD thresholds. As an 100 percent affordable housing project, the project would include design features that which would help reduce the project’s total VMT, and help lower mobile source emissions. Thus, the proposed project would have a less than significant operational impact.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

c) *Expose sensitive receptors to substantial pollutant concentrations?*

This impact threshold corresponds to the analysis under *Issue 4.2-4* (page 4-47) of the 2007 General Plan EIR.

A project could have the potential to expose sensitive receptors to elevated pollutant concentrations if it would cause or contribute substantially to elevated pollutant concentration levels or place the project in an area with elevated pollutant concentrations. As detailed in the 2007 General Plan EIR, construction and operational activities associated with the implementation of the 2005 General Plan Update would not result in an exceedance of the federal PM₁₀ standard; however, sensitive receptors would still likely be exposed to exceedances of the State PM₁₀ and ozone (O₃) standards (page 4-47 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR concluded that implementation of the implementation measures and Mitigation Measures 4.2-1 and 4.2-2 outlined under *Issues 4.2-1* and *4.2-2* would be expected to ensure that the 2005 General Plan Update would not expose sensitive receptors to PM₁₀ concentrations that would exceed the federal standard. However, sensitive receptors could be exposed to substantial pollutant concentration associated with implementation of the 2005 General Plan and increasing the total population within the Town would likely lead to some increase in exposure of sensitive receptors to substantial pollutant concentration (page 4-48 of the 2007 General Plan EIR). Although it is noted that exceedances of the O₃ standard would likely occur without any contribution of emissions of O₃ precursors from Town activities, the 2007 General Plan EIR concluded that the 2005 General Plan Update would result in significant and unavoidable impacts in this regard due to the existing substantial pollutant concentration.

It is noted that the 2005 General Plan Update is a long-range plan guiding future growth in the Town and does not contain project level details (page 4-43 of the 2007 General Plan EIR). Thus, the individual project-level construction emissions for the proposed was analyzed below to determine if a project-level impact would occur.

Construction Activities

The GBUAPCD has developed a permitting process prior to the construction of any development within the Basin to ensure that construction activities would not result in exceedances of the National Ambient Air Quality Standards (NAAQS). The GBUAPCD emphasizes the use of control measures during construction activities. As stated in Impact Section 3.3(b), the project would comply with all applicable GBUAPCD rules and regulations, which would reduce impacts associated with construction by demonstrating that the appropriate control measures would be utilized during construction activities. Additionally, as described in Impact Section 3.3(b), the proposed project would not exceed the established MDAQMD air emission thresholds for construction emissions. Construction of the project would occur in six phases, with grading, building construction, paving, and architectural coatings occurring during all six phases. While some of the phases would have overlap, construction activities would be spread out over the entire project site and not concentrated to a single area near sensitive receptors. Therefore, sensitive receptors in the area would not be exposed to substantial pollution concentrations during the construction of the proposed project.

Operational Activities

The proposed project would include residential uses, as well as parking and open space. These land uses do not have the potential to emit large amounts of toxic air contaminants (TACs) during operation. Operational equipment that have the potential to emit TACs (emergency generators, boilers, etc.) would be required to go through the GBUAPCD permitting process prior to installation. Thus, the proposed project would not expose sensitive receptors to substantial pollution concentrations during operations and a less than significant impact would occur.

Carbon Monoxide Hotspot

The 2007 General Plan EIR did not analyze a Carbon Monoxide Hotspot for the project site. As described in the 2016 Update EIR, the 2016 Update would not create a CO hotspot impact. As discussed in Impact Section 3.3(b), the proposed project would not include construction or operational CO air emissions that would exceed established MDAQMD thresholds. Furthermore, the project site is located within a basin that is unclassified or in attainment for CO ambient air quality standards.⁴ Thus, the proposed project would also have a less than significant CO hotspot impact.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?

This impact threshold corresponds to the analysis under *Issue 4.2-5* (page 4-48) of the 2007 General Plan EIR.

As stated previously, the 2005 General Plan Update is a long-range plan guiding future growth in the Town and does not contain project level details (page 4-43 of the 2007 General Plan EIR). As such no specific sources of objectionable odors could be identified in the 2007 General Plan EIR (page 4-48 of the 2007 General Plan EIR). Nevertheless, the 2007 General Plan EIR discussed applicable standards to reduce potential odor impacts from future development, including Town policies prohibiting installation of wood-burning stoves in new construction under Municipal Code Section 8.30.030, *Standards For Regulation of Solid Fuel Burning Appliances*. In addition, objectionable odors are considered air contaminants by the GBUAPCD (Rule 109.B.2) and compliance with GBUAPCD Rule 402 prohibits the discharge of air contaminants that cause injury, detriment, nuisance, or annoyance to any considerable number of people (page 4-48 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR concluded that less than significant impacts would occur in this regard.

⁴ California Air Resources Board, *Area Designations for State Ambient Air Quality Standards Carbon Monoxide*, https://ww3.arb.ca.gov/degis/adm/2019/state_co.pdf?_ga=2.12416243.693936443.1606846592-1237135880.1551377444, accessed by December 2, 2020.

The 2007 General Plan EIR analyzed the potential odor impacts from the 2005 General Plan Update and the project site (Shady Rest Tract/HDR-1) and concluded a less than significant impact. The proposed project involves the construction of 580 affordable housing units, along with necessary parking, and open space uses. Implementation of the project would not result in any new specific effects or greater impacts to other emissions (such as those leading to odors adversely affecting a substantial number of people) beyond those analyzed in the 2007 General Plan EIR. Furthermore, compliance with all applicable GBUAPCD rules and regulations would help reduce odors from heavy-duty equipment exhaust. Therefore, a less than significant impact would occur.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.4 BIOLOGICAL RESOURCES

This section corresponds with 2007 General Plan EIR Section 4.3, *Biological Resources*. Site-specific information is based primarily on the following documents; refer to Appendix C, *Biological Resources Assessment and Delineation Report*.

- *The Parcel, Town of Mammoth Lakes, California, Biological Resources Assessment Report* (Biological Resources Assessment), prepared by Michael Baker International, dated June 2020; and
- *The Parcel, Town of Mammoth Lakes, California, Delineation of State and Federal Jurisdictional Waters* (Delineation Report), prepared by Michael Baker International, dated June 2020.

Would the project:

- a) ***Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?***

The 2007 General Plan EIR analyzed the potential for encountering species identified as a candidate, sensitive, or special status species for all future developments within the Town. Overall, the 2007 General Plan EIR concluded that development associated with implementation of the Updated Plan would involve the redevelopment of land or the development of vacant lands within the UGB (page 4-80 of the 2007 General Plan EIR). The policies and implementation measures on page 4-79 of the 2007 General Plan EIR would ensure that a current inventory of candidate, sensitive, or special status species would be maintained (I.1.B.d.1) and that the protection of sensitive sites would be maximized through public and private management programs (I.1.B.d.3). In addition, Implementation Measure I.1.B.d.4 would require a biological assessment for development projects. The measure also requires the provision of protection or replacement of identified species that would be impacted so as to mitigate potential impacts. Therefore, with implementation of the implementation measures identified in the 2005 General Plan, the 2007 General Plan EIR concluded that impacts attributable to land

and/or infrastructure development within the UGB to species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFG or the USFWS would be reduced to a less than significant level (page 4-81 of the 2007 General Plan EIR).

According to the Biological Resources Assessment, no special status plant species were observed on-site during the field survey conducted on May 29, 2020 as part of the Biological Resources Assessment. No special status plant species is expected to occur in the general vicinity of the project site, with the exception of subalpine fireweed (*Epilobium howellii*), which has a low potential to occur.

One special status wildlife species (olive-sided flycatcher [*Contopus cooperi*]) was observed on-site during the field survey and is identified by the California Department of Fish and Wildlife (CDFW) as a Species of Special Concern. Olive-sided flycatcher is a long-distance migratory species and is only expected to occur within the project area from late spring until August. In addition, although not observed during the field survey, yellow warbler (*Setophaga petechia*) was observed on-site in 2007. Based on the results of the field survey and a review of specific habitat preferences, occurrence records, known distributions, and elevation ranges, the Biological Resources Assessment determined that the project site has a high potential to support yellow warbler, which would be a new specific effect. All remaining special status wildlife species identified by the California Natural Diversity Database (CNDDB) are presumed to have a low potential to occur or are not expected to occur within the project site.

The project would be required to comply all uniformly applicable development policies or standards would be applied to the project, including compliance with the Migratory Bird Treaty Act (MBTA), as well as the following 2005 General Plan Update policies:

- I.1.B.d.4: Future development projects with the potential to significantly impact animal or plant habitats shall assess site-specific resource values and potential impacts where the habitats of special status plant and animals species are known to exist and provide a method of protecting, monitoring, replacing, or otherwise mitigating the impacts of development in and around these sensitive habitats, as required by CDFG and Department of Fish and Game.

With mandatory compliance with the MBTA and the aforementioned uniformly applicable development policies or standards on the project, project's impact to special status wildlife species, including the olive-sided flycatcher and yellow warbler, would be reduced to less than significant levels. Consistent with the 2005 General Plan Policy I.1.B.d.4, a Biological Assessment was conducted consistent with standard policy I.1.B.d.4, which identifies methods of protecting, monitoring, and avoiding potential impacts to these nesting bird species. A Workers Environmental Awareness Program (WEAP) training would be developed and employed to all contractors and a pre-construction nesting bird clearance survey to be conducted if project-related activities are to be initiated during the nesting season. As stated in the 2007 General Plan EIR (page 4-80), compliance with General Plan Policy I.1.B.d.4 would reduce impacts in this regard to less than significant levels.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

As discussed on page 4-83 of the 2007 General Plan EIR, development associated with implementation of the 2005 General Plan Update would involve the redevelopment of land or the development of vacant lands within the UGB. The policies and implementation measures on page 4-82 of the 2007 General Plan EIR would serve to establish a framework for addressing impacts to riparian habitat or other sensitive natural community. Implementation Measure I.1.B.c.3 requires that if riparian vegetation were to be impacted that replacement, rehabilitation or the creation of such vegetation be provided subject to the approval by state and federal agencies. Implementation Measure I.1.B.d.2 would ensure the preservation of existing habitats and other sensitive natural communities through preservation and conservation strategies. In addition, Implementation Measure I.1.B.d.4 requires that an assessment of site-specific resource values be conducted for future development projects. The measure also requires the provision of protection, monitoring, replacing, or otherwise mitigating potential impacts in and around sensitive habitats. As such, with implementation of the above implementation measures contained in the 2005 General Plan, the 2007 General Plan EIR concluded that impacts to riparian habitats or other sensitive natural community due to development within the UGB would be reduced to a less than significant level (page 4-84 of the 2007 General Plan EIR).

According to the Biological Resources Assessment, four vegetation communities were observed and mapped within the boundaries of the project site during the field survey: aspen groves, Booth's willow – Geyer's willow – yellow willow thickets (mixed willow riparian scrub), Jeffery pine forest and woodland, and montane meadow. As stated, mixed willow riparian scrub and montane wet meadow are considered special-status riparian vegetations/habitats.

A Delineation Report was prepared to document all aquatic and other hydrological features within the project site that are potentially subject to the jurisdiction of the ACOE pursuant to Section 404 of the Federal Clean Water Act (CWA), the local Regional Water Quality Control Board (RWQCB) pursuant to Section 401 of the CWA and/or Section 13263 of the California Porter-Cologne Water Quality Control Act (Porter-Cologne Act), and CDFW pursuant to Sections 1600 et seq. of the California Fish and Game Code (CFGC); refer to Appendix C. State jurisdictional features observed within the project site consisted of unnamed drainages (Drainage 1, Drainage 2, and Drainage 3). Lahontan RWQCB jurisdiction totaled 1.19 acres (0.13 acre non-wetland waters and 1.06 acre wetland waters of the State) and 1,382 linear feet. CDFW jurisdictional area totaled 1.19 acres of riparian vegetated streambed and 1,373 linear feet. No ACOE jurisdictional area was documented within the project site; refer to Table ES-1, Summary of Jurisdictional Areas Within the Project Site, of the Delineation Report (Appendix C). According to the Delineation Report, the riparian habitats on-site is captured within the on-site wetland (Mill Ditch), as illustrated on Figure 5, *CDFW Jurisdictional Map*, of the Delineation Report; refer to Appendix C.

As discussed in Section 1.5 and shown on Exhibit 5, the project proposes a bridge over the on-site wetland (Mill Ditch), potentially impacting areas where the on-site riparian vegetations occur. As such, a new specific effect would result in this regard. The project would be required to comply all uniformly applicable development policies or standards would be applied to the project, including compliance with the Migratory Bird Treaty Act (MBTA), as well as the following 2005 General Plan Update policies:

- I.1.B.c.3: All feasible project modifications shall be considered to avoid wetland disturbance. Direct or indirect losses of wetlands and/or riparian vegetation associated with discretionary application approval shall be compensated by replacement, rehabilitation, or creation of wetlands habitat mitigation as approved by appropriate State and Federal agencies.
- I.1.B.d.1: The Town of Mammoth Lakes shall coordinate with the State Department of Fish and Game, U.S. Fish and Wildlife Service, and other appropriate agencies and maintain an up-to-date inventory of all Special Status Wildlife Species and Special Status Plants and Plant Communities within the Planning Area.
- I.1.B.d.3: The Town shall maximize the protection of primary wildlife habitats through public and/or private management programs, which may include: 1) the construction of active and passive recreation and development areas away from the habitat, and 2) use of fences, or other barriers and buffer zones.

The project proposes to maintain the existing wetland habitat (identified as Mill Ditch Linear Open Space). The project would be required to comply with all existing Federal, State, and local laws and regulations governing wetlands and riparian habitat. Should any future improvements require filling/dredging of wetlands, these activities would be subject to a separate environmental review process. With compliance with these uniformly applicable development policies or standards on the project, project's impact to riparian habitat or other sensitive natural community would be reduced to less than significant levels.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- c) *Have a substantial adverse effect on State or Federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

As detailed on page 4-84 of the 2007 General Plan EIR, development that would occur under the 2005 General Plan Update could directly and indirectly impact wetlands and other jurisdictional waters of the U.S. On a local level, Section 12.08.050 of the Municipal Code prohibits the filling or draining of any wetland area without obtaining a permit from the appropriate agency. Implementation Measure

I.1.B.c.3 requires that direct or indirect losses of wetlands and/or riparian vegetation associated with discretionary applications shall be compensated by replacement, rehabilitation, or creation of wetland habitat as mitigation as approved by appropriate agencies. Any development located within the wetlands areas regulated by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, and California Department of Fish and Game would be subject to review by those agencies and would require the approval of those agencies, such as a Lake and Streambed Alteration Agreement (I.1.B.c.2). Therefore, with implementation of the measures identified in the 2005 General Plan Update (page 4-85 of the 2007 General Plan EIR), impacts to federally protected wetlands would be reduced to a less than significant level.

Refer to Response 3.4(b) above. The project proposes a bridge over the on-site wetland (Mill Ditch) as part of the final phase of the project. It is noted that footing of the proposed bridge would be located outside of the existing wetland, which would be considered a new specific effect. The uniformly applicable development policy (2005 General Plan Update Policy I.1.B.c.2) would ensure impacts in this regard are less than significant.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

As discussed on page 4-88 of the 2007 General Plan EIR, the introduction of new population associated with development could potentially impact wildlife species or established wildlife corridors. Specifically, there are 11 known special status animal species within the Municipal Boundary as listed on Table 4.3-1 of the 2007 General Plan EIR, along with the sage grouse which is listed as outside the Municipal Boundary but within the Planning Area. In addition, mountain lions and black bears have also been found to travel into the UGB. As discussed on page 4-52 of the 2007 General Plan EIR, the migratory route nearest to the UGB is utilized by the Mammoth Pass herd segment of the Round Valley Herd of mule deer. The route used by this herd segment heads westerly below Mammoth Rock south of the Urban Growth Boundary, passes through the Mammoth Lakes Basin, and then crosses over Mammoth Pass into the Middle Fork of the San Joaquin River drainage. Migrating deer from this herd segment may be impacted by increased traffic, which could result in an increase in road kills.

Impacts on deer populations are considered less than significant because implementation of the 2005 General Plan Update would not impact migration corridors, or substantially reduce populations, and fragmentation of habitat would be reduced by the fact that future development would remain within the UGB. Impacts associated with encroachment into bear habitat can be reduced to less than significant levels by the implementation measures mentioned above. In addition, Town facilities and new development would utilize animal-resistant trash receptacles as well as fences and other buffer zones to discourage the movement of wildlife into urbanized areas. The probability for an increase in

potential attacks by mountain lions is considered low based on the number of such recorded incidents in California and therefore, such impact is considered to be less than significant.

All projects are required to comply with Section 6.24 of the Municipal Code, which prohibits the feeding of wildlife. Moreover, future development projects would be reviewed so as to ensure that development would not interrupt wildlife or interfere with wildlife corridors. The 2007 General Plan EIR included implementation measures (as listed on page 4-87 of the 2007 General Plan EIR) that would ensure that impacts to biological resources are reduced to a less than significant level. Further, the 2007 General Plan EIR included Mitigation Measure 4.3-1, which require developers of residential properties to include a disclosure statement that Mammoth Lakes is an area of habitat for mountain lions which indicates a potential risk, particularly to children and small pets.

Overall, the 2007 General Plan EIR concluded that the implementation of implementation measures included in the 2005 General Plan, Mitigation Measure 4.3-1, applicable wildlife management practices, coupled with the limitation of development to areas within the UGB, would reduce impacts to the movement of any native resident or migratory fish or wildlife species, impacts to established native resident or migratory wildlife corridors, and impacts to the use of native wildlife nursery sites to less than significant levels.

The project site is situated within a highly developed area of the Town of Mammoth Lakes. The surrounding residential and commercial development has isolated the project site from other natural open space areas located to the north, south, east, and west of the project site. According to the Biological Resources Assessment, the montane meadow and native trees within the project site and throughout the Town of Mammoth Lakes are expected to support some local wildlife movement; however, any wildlife currently utilizing the project site and adjacent areas as a wildlife corridor are likely adapted to disturbance associated with urban environments. Project activities are not expected to impede wildlife movement through the area. The natural open space areas to the north, south, east, and west of the project site and Town of Mammoth Lakes would continue to provide opportunities for local wildlife movement and function as a corridor for highly mobile wildlife species.

Further, according to the Biological Resources Assessment, olive-sided flycatcher was observed on-site during the field survey. Olive-sided flycatcher is a long-distance migratory species and is only expected to occur within the project area from late spring until as early as August. No other native resident or migratory fish or wildlife species were identified on-site. As discussed under Response 3.4(a), potential project impacts to migratory birds would be minimized with compliance with the MBTA and the 2005 General Plan Policy I.1.B.d.4. As such, the project would not result in significant impacts to native resident or migratory fish or wildlife species.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

As discussed on page 4-89 of the 2007 General Plan EIR, the 2005 General Plan Update would not conflict with any adopted policy or ordinance regarding the protection of biological resources. Rather, it would supplement and strengthen existing Town policies and measures designed to protect those resources. The Town currently has several codes that apply to development projects that provide protection to natural resources within Town limits. Municipal Code Chapter 6.24 prohibits feeding of wildlife. In addition, Municipal Code Chapter 8.12 requires proper refuse disposal so as to eliminate the availability of refuse for wildlife. Finally, Municipal Code 17.16.050 requires the preservation of trees and other vegetation.

In addition to the municipal codes referenced above, the 2005 General Plan Update contains implementation measures to protect biological resources, and specifically provides for policies and implementation measures to protect native and large specimen trees. Implementation Measure I.2.A.a.5 provides for the adoption of standards to protect trees and promote the health of the forest, which includes the replanting of native tree species removed as a result of land clearing during project construction. This measure is consistent with Municipal Code 17.16.050, which requires preservation of trees and other vegetation. Various other policies and implementation measures contained in the Updated Plan that provide protection to biological resources include Implementation Measure I.1.B.f.1 to make every feasible effort to save large specimen trees and pursue aggressive replanting with native trees to retain the forested character of the Town. Implementation Measure I.2.A.a.3 allows new development to use clustering as feasible in order to retain and preserve existing trees and open space. Implementation Measure I.7.A.a.4 limits the use of turf to avoid or minimize impacts on native trees and encourages the use of native and compatible non-native plant species, especially drought resistant species, to the extent possible when meeting landscaping requirements. Therefore, the 2005 General Plan Update would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. As such, the 2007 General Plan EIR concluded that no impacts would occur in this regard (page 4-90 of the 2007 General Plan EIR).

The project would involve removal of trees, including white fir, lodgepole pine, and Jeffrey pine trees; refer to [Appendix C](#). The proposed project would be required to obtain appropriate tree removal permit(s) and/or a tree removal and protection plan, and, as such, would be subject to all requirements set forth accordingly in accordance with Municipal Code Section 17.36.140, *Tree Removal and Protection*. In accordance with Municipal Code Section 17.36.140(I), *Mitigation for tree removal*, if required by the Director either in conjunction with a tree removal permit, construction-related tree removal, or as penalty for tree removal performed without a permit, replacement planting may occur in areas suitable for tree replacement with species identified in the Town of Mammoth Lakes' Recommended Plant List. The replacement ratio would be determined by the Director. If required, the minimum replacement tree size would be seven gallons. Replacement requirements may also be determined based on the valuation of the tree as determined by a Registered Professional Forester (RPF) or arborist.

As such, adherence to Municipal Code requirements and all applicable General Plan policies (i.e., Policies R.1.B, R.1.C, and R.2.B) would reduce project's potential impacts to on-site pine trees to less than significant levels.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?*

As detailed on page 4-90 of the 2007 General Plan EIR, there are no adopted or on-going regionwide habitat conservation plans in place within the Planning Area. The Town is covered under other approved plans, including the Draft Owens Basin Wetland and Aquatic Species Recovery Plan and Management Guidelines (USDI 1998), the Sherwin Grade Deer Herd Management Plan (CDFG 1986), the Draft Recovery Plan for the Sierra Nevada Bighorn Sheep (*Ovis canadensis californiana*) (USFWS 2003), the Riparian Bird Conservation Plan for 14 Priority Riparian-Dependent Species (Riparian Habitat Joint Venture 2000), and the Greater Sage-Grouse Conservation Plan for the Bi-State Area of Nevada and Eastern California (Sage-Grouse Conservation Team 2004). The 2007 General Plan EIR concluded that the 2005 General Plan Update would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan (page 4-92 of the 2007 General Plan EIR).

Similarly, the proposed project would not conflict any Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan with respect to migratory wildlife or corridors. Development of the proposed project would result in no impacts in this regard and would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

3.5 CULTURAL RESOURCES

This section corresponds with the 2007 General Plan EIR Section 4.14, *Cultural Resources*. Site-specific information is based primarily on *Cultural Resources Technical Memorandum for the Parcel Project, Town of Mammoth Lakes, Mono County, California* (2020 Cultural Resources Memo), prepared by Rincon Consultants, Inc., dated October 16, 2020; refer to Appendix D, Cultural Resources Assessment.

Would the project:

a) *Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?*

As discussed on page 4-366 of the 2007 General Plan EIR, implementation of the 2005 General Plan Update would allow for new development as well as redevelopment of sites within the UGB. There are no known historic resources within the UGB. However, new development or redevelopment could result in the demolition or alteration of physical characteristics of an unknown historical resource that has historical significance that justifies its inclusion in, or eligibility for inclusion in, the California Register of Historical Resource. Therefore, implementation of the 2005 General Plan Update could result in the discovery of historical resources and potential impacts to historic resources. The 2005 General Plan Update included policy and implementation measures (as detailed on page 4-366 of the 2007 General Plan EIR), as well as Mitigation Measures 4.14-1 through 4.14-3 to ensure the preservation of historic resources. As such, the 2007 General Plan EIR concluded that implementation of the policy and implementation measures as well as Mitigation Measures 4.14-1 through 4.14-3 would reduce impacts in this regard to less than significant levels.

According to the 2020 Cultural Resources Memo, no historical resources are located within the project site. As a result, the project would not cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5 development of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

b) *Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?*

As discussed on page 4-368 of the 2007 General Plan EIR, implementation of the Updated Plan would allow for new development as well as redevelopment of sites within the UGB. New development or redevelopment could impact an archaeological site(s) during grading and excavation activities. Due to the primarily developed and disturbed condition of the lands within the UGB, where development would occur, the potential number and distribution of such sites or resources is anticipated to be limited. The Updated Plan proposes the adoption of the policy and implementation measures (page 4-369 of the 2007 General Plan EIR) to reduce potential impacts associated with cultural resources. Moreover, the 2007 General Plan EIR included Mitigation Measures 4.14-4 through 4.14-6 to reduce potential impacts associated with previously undiscovered archaeological resources. As such, the 2007 General Plan EIR concluded that implementation of the policy and implementation measures as well as Mitigation Measures 4.14-4 through 4.14-6 would reduce impacts in this regard to less than significant levels.

The 2020 Cultural Resources Memo identified 17 prehistoric archaeological sites and three isolated prehistoric artifacts within 0.5-mile of the project site. The project location was subject to a cultural

resource assessment in 2007 (2007 Cultural Assessment), during which a previously recorded prehistoric archaeological site CA-MNO-714 was found on-site and was evaluated for eligibility for listing in the National Register of Historic Places (NRHP).⁵ CA-MNO-714 is a lithic scatter with ten bedrock milling features previously evaluated in the 1980s. According to the 2007 Cultural Assessment, CA-MNO-714 has been previously excavated on several occasions between 1975 and 1986. Although not identical, eligible criteria for the California Register of Historic Resources (CRHR) are similar enough to those of the NRHP. As such, the 2007 Cultural Assessment concluded that the CA-MNO-714 site is not NRHP or CRHR-eligible and mitigation is not mandated. The 2020 Cultural Resources Memo confirmed these findings.

Due to the cultural resource sensitivity of the project site, site disturbance activities would be subject to the previously approved Mitigation Measures 4.14-4 through 4.14-6, which would reduce project impacts to previously undiscovered archeological resources, including other unknown resources associated with CA-MNO-714, if any. With implementation of the recommended Mitigation Measures, potential project impacts to archeological resources would be reduced to less than significant levels. As such, development of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents:

Previously certified environmental documents include mitigation measures to reduce potential impacts associated with implementation of the General Plan. Any modifications to the original measures are shown in ~~strike through~~ for deleted text and double underlined for new inserted text. These changes are considered minor and editorial in nature, and do not affect the conclusions of this Infill Environmental Checklist or represent “significant new information” as defined in CEQA Guidelines Section 15088.5.

4.14-4 A qualified archaeologist shall perform the following tasks prior to development activities ~~on any part of the Town:~~

- ~~• Subsequent to a preliminary Town review, if evidence suggests the potential for prehistoric resources, a field survey for prehistoric resources within portions of the project area not previously surveyed for cultural resources shall be conducted.~~
- ~~• Subsequent to a preliminary Town review, if evidence suggests the potential for sacred land resources, the Native American Heritage Commission for information regarding sacred lands shall be consulted.~~
- Conduct a WEAP training on archaeological sensitivity for all construction personnel prior to the commencement of any ground-disturbing activities. Archaeological sensitivity training should include a description of the types of cultural material that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find.

⁵ BonTerra Consulting, *Draft Cultural Resources Assessment Report for the Hidden Creek Crossing Project Town of Mammoth Lakes, Mono County, California*, October 17, 2007.

- Inventory all prehistoric resources using appropriate State record forms and submit two (2) copies of the completed forms to the Town.
- Evaluate the significance and integrity of all prehistoric resources within the project area, using criteria established in the CEQA Guidelines for important archaeological resources.
- If human remains are encountered on the project site, the Mono County Coroner's Office shall be contacted within 24 hours of the find, and all work should be halted until a clearance is given by that office and any other involved agencies. If the Coroner determines that the remains may be Native American, contact the Native American Heritage Commission for notification to the most likely descendants of the descendent and follow the required protocols specified in Public Resources Code Section 5097.98.
- All resources and data collected within the project area should be permanently curated at an appropriate repository within the Town or County. (2007 General Plan EIR Mitigation Measure 4.14-4)

4.14-5

All ground-disturbing construction work should be observed by archaeologist and Native American monitors. If cultural materials or archaeological remains are encountered during the course of grading or construction, the developer shall cease any ground disturbing activities near the find. A qualified archeologist will be retained to evaluate significance of the resources and recommend appropriate treatment measures. Treatment measures may include avoidance, preservation, removal, data recovery, protection, or other measures developed in consultation with the Town and the developer. With the assistance of the archaeologist, the Town shall:

- Consider establishing provisions to require incorporation of archaeological sites within new developments, using their special qualities as a theme or focal point.
- Educate the public about the area's archaeological heritage.
- Propose mitigation measures and recommend conditional of approval to eliminate adverse project effects on significant, important, and unique prehistoric resources, following appropriate CEQA guidelines.
- Prepare a technical resources management report, documenting the inventory, evaluation, and proposed mitigation of resources within the project area. Submit one copy of the completed report, with original illustrations, to the Town for permanent archiving. (2007 General Plan EIR Mitigation Measure 4.14-5)

4.14-6

If during grading and excavation an archaeological resource is found, construction shall be temporarily diverted, redirected or halted as appropriate. Any discovery of such resources shall be treated in accordance with federal, state, and local regulations, including those outlined in the CEQA Guidelines Section 15064.5 (e) and as appropriate, the Native American Historical, Cultural and Sacred Sites Act. For archaeological remains, conservation of a resource for which preservation in

place is not feasible, relocation and if that is not feasible, documentation shall be required. (2007 General Plan EIR Mitigation Measure 4.14-6)

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Approved Mitigation Measures.

c) *Disturb any human remains, including those interred outside of formal cemeteries?*

As discussed on page 4-371 of the 2007 General Plan EIR, new development or redevelopment could result in the discovery of human remains during grading and excavation activities. However, due to the primarily developed and disturbed condition of the lands within the UGB where development would occur, the potential location of such sites or resources would be minimal. Nevertheless, 2005 General Plan Update included policy and implementation measures (page 4-372 of the 2007 General Plan EIR) to reduce potential impacts associated with cultural resources. Additionally, Mitigation Measure 4.14-7 have been included in the 2007 General Plan EIR to ensure impacts in this regard would be reduced to less than significant levels.

It is possible to encounter buried human remains during construction within the Town given the proven prehistoric and historic occupation of the region, the identification of multiple surface and subsurface archaeological resources within and in the immediate vicinity of the project area, and the favorable natural conditions that would have attracted prehistoric and historic inhabitants to the area. Accordingly, the project would be required to comply with the previously approved Mitigation Measure 4.14-7, which would address this potential impact through establishing standard procedures in accordance to State regulations. Following implementation of Mitigation Measure 4.14-7, impacts in this regard would be reduced to less than significant levels. As such, development of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Previously certified environmental documents include mitigation measures to reduce potential impacts associated with implementation of the General Plan.

4.14-7 Should the existence of, or the probable likelihood, of Native American or other human remains be found during development of a site, the landowner shall contact the County Coroner and no further excavation or disturbance of the site or nearby area shall be permitted until the County Coroner determines that no investigation of the cause of death is required. If the remains are determined to be Native American, the Coroner shall, as required by Public Resources Code Section 5097.98, notify the Native American Heritage Commission, which shall contact the most likely descendants and those descendants shall have 24 hours to inspect and make a recommendation to the landowner as to the appropriate means for removal and nondestruction of the remains and artifacts found with the remains. If an agreement cannot be reached between the landowner and the descendants,

the Native American Heritage Commission shall mediate the disagreement, and if resolution is not reached, the landowner shall reinter the remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance. The applicant may develop a prospective agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission. (2007 General Plan EIR Mitigation Measure 4.14-7)

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Approved Mitigation Measures.

3.6 ENERGY

This section corresponds with 2007 General Plan EIR Section 6.0, *Other CEQA Considerations*, and 2016 Update EIR Section 6.0, *Other CEQA Considerations*.

Would the project:

- a) ***Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?***

This impact threshold was not required or specifically analyzed at the time when the 2007 General Plan EIR and 2016 Update EIR were prepared.

Nevertheless, Section 6.0, *Other CEQA Considerations*, of the 2007 General Plan EIR qualitatively analyzed the resources and energy consumption anticipated under the 2005 General Plan Update buildout, which includes the construction of a high density residential development on the project site (designated as HDR-1). As detailed on page 6-1 of the 2007 General Plan EIR, implementation of the 2005 General Plan Update would result in a commitment of limited, slowly renewable, and nonrenewable resources (i.e., lumber and other forest products, steel, metals, aggregated materials, water, petrochemical or petroleum-based materials, and fossil fuels for vehicles), as these resources would be used in construction projects. Additionally, the 2005 General Plan Update would involve the ongoing consumption of limited, nonrenewable, and slowly renewable resources such as natural gas and electricity, petroleum based fuels, fossil fuels, and water. Energy resources would be used in the retail spaces for heating and cooling of areas, transporting people and goods to, from, and within the spaces, heating and refrigeration for food storage and preparation, heating and cooling of water, and lighting. Title 24 of the California Administrative Code (currently the California Code of Regulations) would require conservation practices that would limit the amount of energy consumed by the project. Nevertheless, the use of such resources would continue to represent a long-term commitment of essentially nonrenewable resources. As such, the 2007 General Plan EIR concluded that the commitment of the limited, slowly renewable, and nonrenewable resources required for the construction and operation of the 2005 General Plan Update would limit the availability of these

resources for future generations or for other uses during the life of the program (page 6-2 of the 2007 General Plan EIR). However, continued use of such resources is consistent with regional and local growth and anticipated change in the area.

Section 6.3, *Energy*, of the 2016 Update EIR includes an update on the applicable standards and policies in regard to energy consumption within the Town. As detailed on page 6-5 of the 2016 Update EIR, CARB has adopted an Airborne Toxic Control Measure to limit heavy-duty diesel motor vehicle idling in order to reduce public exposure to diesel particulate matter and other toxic air contaminants. This measure prohibits diesel-fueled commercial vehicles greater than 10,000 pounds from idling for more than five minutes at any given time. CARB has also approved the Truck and Bus regulation (CARB Rules Division 3, Chapter 1, Section 2025, subsection [h]) to reduce NO_x, PM₁₀, and PM_{2.5} emissions from existing diesel vehicles operating in California. This regulation will be phased in, with full implementation for large and medium fleets by 2023 and for small fleets by 2028. In addition to limiting exhaust from idling trucks, CARB recently promulgated emission standards for off-road diesel construction equipment of greater than 25 horsepower. The regulation aims to reduce emissions by requiring the installation of diesel soot filters and encouraging the retirement, replacement, or repower of older, dirtier engines with newer emission-controlled models. Implementation began January 1, 2014, and the compliance schedule requires that best available control technology turnovers or retrofits be fully implemented by 2023 for large and medium equipment fleets and by 2028 for small fleets. The CARB In-Use Off-Road Diesel Vehicle Regulation requires construction equipment to meet the USEPA/CARB certified Tier 4 standards for engines by the same schedule.

As detailed on page 6-7 of the 2016 Update EIR, Executive Orders S-3-05 and B-30-15 are orders from the State's Executive Branch for the purpose of reducing Statewide GHG emissions. These Executive Orders establish the goals to reduce GHG emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. As such, it is expected that emissions trajectory and associated energy use would follow a declining trend, consistent with Statewide efforts to meet these future year targets. Further, Southern California Edison (SCE) has committed to meeting the requirement to procure at least 33 percent of its energy portfolio from renewable sources by 2020 through the procurement of energy from eligible renewable resources, to be implemented as fiscal constraints, renewable energy pricing, system integration limits, and transmission constraints permit. As of 2014, the most recent year for which data are available, SCE's renewable energy resources included geothermal, small hydro, wind, solar, and biomass, which accounted for 23.5 percent of its overall energy mix (page 6-8 of the 2016 Update EIR).

In addition to Title 24, the Building Standards Code, project within California would be required to comply with the California Green Building (CALGreen) Code. Further, projects within the Town would incorporate applicable General Plan goals and policies in a manner to achieve the reductions in energy usage, as well as encourage installing renewable energy sources, recycling, and waste diversion, above and beyond State regulatory requirements (page 6-6 of the 2007 General Plan EIR). Physical and operational project characteristics for which sufficient data are available to quantify the reductions from building energy and resource consumption have been included in the quantitative analysis below.

Electricity Consumption

As described on page 6-7 of the 2016 Update EIR, in 2013, SCE's total annual electric sales to customers was approximately 87.4 billion Kilowatt hours (kWh). However, according to SCE's *2019 Annual Report*, total annual electric sales to customers within SCE jurisdiction has been steadily declining, with 87.2 billion kWh sold in 2017, 87.1 billion kWh sold in 2018, and 84.7 billion kWh sold in 2019. These annual sales are lower than the 2013 values, analyzed in the 2016 Update EIR, indicating a decreasing consumption trend while development and growth is occurring.

The proposed project would be required to comply with the 2019 Title 24 standards, which is 53 percent more energy efficient than the 2016 Title 24 standards for residential uses. Furthermore, the complete project buildout would consume approximately 3.437 million kWh, which would increase 2019 SCE annual sales by approximately 0.0041 percent; refer to [Appendix B](#). This is lower than the 2016 Update EIR analysis of 4.7 million kWh and 0.01 percent increase. In addition, SCE would be required to comply with the California Renewable Portfolio Standards (RPS) and Senate Bill (SB) 100, which requires that a certain percentage of procured energy is from renewable energy. SCE's compliance with the RPS and SB 100 would help reduce consumption of finite energy resources within the State. Thus, since the project would have a lower energy usage than what was analyzed in 2016 Update EIR, and the 2016 Update EIR concluded a less than significant impact, the project would be consistent with the 2016 Update EIR, and a less than significant impact would occur.

Propane Consumption

As previously discussed, the project would not consume natural gas as all of the Town uses propane to fuel furnaces, water heaters, and stoves, etc. Based off the CalEEMod modeling, the project would consume approximately 3,435,500 kBTU of propane gas per year; refer to [Appendix B](#). According to the methodology listed in Section 6.3 of the 2016 Update EIR, this would be equivalent to approximately 94, 500-gallon propane tanks. While this would exceed the projections within the 2016 Update EIR, all propane consuming appliances would be required to comply with the 2019 Title 24 standards. Compliance with the 2019 Title 24 standards would ensure that propane consumption is not wasteful, inefficient, or unnecessary, as the 2019 Title 24 standards is more energy efficient than the previous 2016 Title 24 standards.

Mobile Fuel Consumption

According to the CalEEMod modeling results, the proposed project would generate approximately 8 million vehicle miles traveled (VMT) per year, which would have a total annual fuel consumption of approximately 281,286 gallons; refer to [Appendix B](#). The 2016 Update EIR concluded that the total buildout of the land uses accommodated through the 2016 Update would create a total VMT of 49.8 million miles per year, which would represent about 0.009 percent of the Statewide gasoline consumption and 0.02 percent of the Statewide diesel consumption.

As the proposed project would have a lower total VMT than what was previously analyzed in the 2016 Update EIR, and the 2016 Update EIR concluded a less than significant impact, the project would be consistent with the 2016 Update EIR and also have a less than significant impact in this regard.

Construction Fuel Consumption

As described in the 2016 Update EIR, it was assumed that the 2016 Update buildout would consume approximately 598,200 gallons of diesel fuel per year and that this would be a less than significant impact. Based off the CalEEMod modeling, the construction of the project would consume approximately 331,805 gallons of diesel fuel; refer to [Appendix B](#). This diesel fuel consumption would only occur during construction and would cease once construction is done. Furthermore, the project would look would seek to hire construction workers from the local workforce, which would minimize commuting distances and overall VMT. Additionally, construction activities would be less intensive than what was modeled in the 2016 Update EIR as diesel engine technology keeps improving and older construction equipment with lower engine tiers are being phased out. Thus, as the project would have a one-time diesel fuel consumption that would be lower than the yearly modeled value in the 2016 Update EIR analysis, the project would have a less than significant impact in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency and a less than significant impact would occur.*

This CEQA Appendix G checklist item was not required or specifically analyzed at the time when the 2007 General Plan EIR or 2016 Update EIR were prepared.

Refer to Response 3.6(a), above, for a qualitative analysis on the resources and energy consumption anticipated under the 2005 General Plan Update buildout in the 2007 General Plan EIR.

The Town does not have a specific local plan for renewable energy or energy efficiency. However, the Town's General Plan Resource Management and Conservation Element includes energy conservation goals and policies for the Town. [Table 4, General Plan Energy Conservation Consistency Analysis](#), discusses the project's consistency with these applicable energy conservation goals and policies found within the Resource Management and Conservation Element.

As described in [Table 4](#), the proposed project would be consistent with applicable energy conservation goals from the Town's General Plan Resource Management and Conservation Element. Furthermore, the project would be an infill project with 100 percent of the units reserved for affordable housing. The project would also include bike lanes, sidewalks, half an acre of open space, and an on-site bus stop. All of these project design features would help lower the project's total VMT and as such, lower the project's fuel consumption. Thus, the project would have a less than significant impact in this regard.

Table 4
General Plan Energy Conservation Consistency Analysis

General Plan Goal	General Plan Policy	Project Consistency Analysis
R.6. Optimize efficient use of energy.	R.6.C. Encourage energy efficiency in new building and retrofit construction, as well as resource conservation and use of recycled materials	The proposed project would be built following the 2019 CALGreen and Title 24 building codes. This would include recycling 50 percent of construction waste, as well as using recycled green materials where feasible. In addition, the 2019 residential Title 24 standards is 53 percent more energy efficient than the existing 2016 standards. This energy reduction comes in the form of solar photovoltaic solar panels, energy efficient appliances, and high efficiency LED lighting. Thus, the project would not conflict with this goal and policy.
R.8. Increase use of renewable energy resources and encourage conservation of existing sources of energy.	R.8.D. Encourage use of renewable fuels such as biodiesel.	The proposed project and the Town would encourage construction contractors to use biodiesel fuel where feasible and would not conflict with this policy. Thus, the project would not conflict with this goal and policy.
	R.8.G. Encourage use of decentralized solar electric power production systems	The project would be consistent with the 2019 Title 24 standards, which requires residential development to include photovoltaic solar panels. As such, the project would be consistent with this policy.

Sources: Town of Mammoth Lakes, *General Plan Resource Management and Conservation Element*, updated 2019.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.7 GEOLOGY AND SOILS

This section corresponds with 2007 General Plan EIR Section 4.4, *Geology, Seismicity, Soils, and Mineral Resources*. Site-specific information is based primarily on the *Preliminary Geotechnical Investigation, Hidden Creek Crossing (Shady Rest), Mammoth Lakes, California* (Geotechnical Investigation), prepared by Sierra Geotechnical Services, Inc., dated June 2, 2004; refer to Appendix E, Geotechnical Investigation.

Would the project:

- a) *Directly or indirectly cause potential substantial adverse effects, including the risk of loss injury, or death involving:*
- i) *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*

According to the 2007 General Plan EIR, the Town is located within close proximity to the Hilton Creek Fault (approximately 10 miles east of the Town), Owens Valley Fault (approximately 48 miles south of the Town), and Chalfant Valley Fractures (approximately 36 miles east of the Town). As detailed on page 4-108 of the 2007 General Plan EIR, the 2005 General Plan Update proposed the adoption of several polices and implementation measures to reduce potential impacts associated with geologic hazards. The 2007 General Plan EIR concluded that impacts related to rupture of a known earthquake fault would be reduced to less than significant with compliance with existing regulations and previously approved implementation measures.

According to the Geotechnical Investigation, the project site is not located within any Earthquake Fault Zones or Alquist-Priolo Hazard Zones. As the project site is not located within an Alquist-Priolo Earthquake Fault Zone, risk of rupture is minimal and no impacts would occur in this regard. As such, the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

- ii) *Strong seismic ground shaking?*

According to the Geotechnical Investigation, the project site has potential for moderate ground shaking (moment magnitude (M_w) of approximately 6.6) along the nearby Hartley Springs fault, located approximately 1.4 miles west of the project site. No known active, potentially active, or inactive faults transect the project site. The nearest known active regional fault is the Hartley Springs fault.

As discussed on page 4-107 of the 2007 General Plan EIR, due to the Town's close proximity to the Hilton Creek Fault, Owens Valley Fault, and Chalfant Fractures, a major earthquake occurring in the Planning Area may be expected to produce moderate to extreme groundshaking and lurching. As detailed on page 4-108 of the 2007 General Plan EIR, the 2005 General Plan Update proposed the adoption of several polices and implementation measures to reduce potential impacts associated with

geologic hazards. Development within the Town is required to comply with the California Building Code as well as Section 12.08.080 of the Town Municipal Code, which requires engineered plans and a soils report to be submitted with an application for a grading permit. Site development plans would be reviewed by the Town to determine conformance with specific recommended geotechnical procedures. Field inspection would be conducted by the Town during earthwork and construction operations. The observation of cuts, fills, backfills, foundation excavations, and the preparation of pavement subgrades shall take place during these phases of site development. As concluded on 4-110 of the 2007 General Plan EIR, with implementation of the previously approved implementation measures and compliance with existing regulations, potential impacts associated with the exposure of people or structures to seismic hazards, including rupture of a known earthquake fault, strong seismic ground shaking, and seismic related ground failure, including liquefaction, would be reduced to the extent possible and would be less than significant.

Development of the proposed project would be subject to the Town's existing Municipal Code and the seismic design requirements identified in the Town's Municipal Code and California Building Code, in addition to the recommendations outlined in the Geotechnical Investigation. Compliance with existing regulations and implementation of recommendations outlined in the Geotechnical Investigation would reduce project's impact to less than significant levels in this regard. As such, the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

iii) Seismic-related ground failure, including liquefaction?

Liquefaction and seismically-induced settlement or ground failure is generally related to strong seismic shaking events where the groundwater occurs at shallow depth (generally within 50 feet of the ground surface) or where lands are underlain by loose, cohesionless deposits. Liquefaction typically results in the loss of shear strength of a soil, which occurs due to the increase of pore water pressure caused by the rearrangement of soil particles induced by shaking or vibration. During liquefaction, soil strata behave similarly to a heavy liquid.

Refer to Response 3.7(a)(ii) for a summary of the findings on seismic-related ground failure, including liquefaction, in the 2007 General Plan EIR.

According to the Geotechnical Investigation, the potential for liquefaction to occur on-site is considered low given the lack of a permanent water table and the medium dense to dense nature of bearing soils present on-site. Development of the proposed project would also be subject to the Town's Municipal Code which includes a review of liquefaction and landslide potential, the California Building Code's minimum standards for structural design and construction, and implementation of recommendations outlined in the Geotechnical Investigation. Thus, less than significant impacts

would occur and the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

iv) Landslides?

According to the 2007 General Plan EIR and the Geotechnical Investigation, no landslide activity has been recorded within the Town or at the project site. Thus, less than significant impacts would occur in this regard. The proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) Result in substantial soil erosion or the loss of topsoil?

Construction of the proposed project would produce loose soils, which are subject to erosion if the surface area were to be disturbed or vegetation were to be removed. Grading and trenching for construction may expose soils to short-term wind and water erosion. According to the Geotechnical Investigation, erosion is possible on the pad and slopes if left unprotected during the snowmelt run-off season.

As discussed on page 4-107 of the 2007 General Plan EIR, implementation of the 2005 General Plan Update would result in construction on individual parcels in accordance with land use designations and densities. As noted on page 4-111 of the 2007 General Plan EIR, soils throughout the UGB are sensitive to disturbance from development and exhibit moderate to high erosion potential depending on the grade of the slope. Construction of individual development sites would therefore expose earth surfaces to wind and rain action. If slopes and exposed surfaces are not protected by vegetation or some other form of protection, uncemented soils could experience erosion during strong winds or heavy precipitation. In turn, erosion would generate potential impacts to nearby streams and watercourses or the storm drain system due to sedimentation.

As detailed on page 4-111 of the 2007 General Plan EIR, the 2005 General Plan Update proposed the adoption of several polices and implementation measures to reduce potential impacts associated with geologic hazards. As discussed on page 4-111 of the 2007 General Plan EIR, all development must comply with Municipal Code Sections 12.08.090, *Drainage and erosion design standards*, 12.08, *Land clearing*,

earthwork and drainage facilities, and 12.08.080, *Engineered grading permit requirements*. These Municipal Code sections serve to implement the implementation measures in the 2005 General Plan. The Town reviews the development standards in the Municipal Code to ensure that the Town's requirements include advances in construction techniques that serve to minimize soil erosion and slope instability. In addition, best management practices (BMPs), which would reduce and/or eliminate erosion potential, would be incorporated into future development projects. Implementation of BMPs would ensure that future development would not result in substantial soil erosion or the loss of topsoil. Therefore, the 2007 General Plan EIR concluded that erosion-related hazards would be less than significant (page 4-112 of the 2007 General Plan EIR).

The proposed project would also be subject to the Municipal Code requirements pertaining to the minimization of soil erosion during earthwork activities and Lahontan RWQCB's Water Quality Control Plan standards, in addition to recommendations outlined in the Geotechnical Investigation, such as planting and irrigation of cut and fill slopes and/or installation of erosion control and drainage devices. Upon compliance with all applicable standards and regulations, project's impacts pertaining to soil erosion and/or the loss of topsoil would be reduced to less than significant levels. As such, the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- c) *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

Refer to Response 3.7(a)(iii), 3.7(a)(iv), and 3.7(d) for discussions on project's impacts related to liquefaction, landslide, and collapse (from expansive soils), respectively.

As noted under Response 3.7(b) above, soils in the UGB are sensitive to disturbance from development and exhibit moderate to high erosion potential depending on the grade of the slope (page 112 of the 2007 General Plan EIR). Consequently, depending on the location of a development site, future development could occur on collapsible/loose sandy soils, which could potentially affect the structural integrity of a building. Development within the Town is required to comply with the California Building Code as well as Section 12.08.080 of the Town's Municipal Code, which requires engineered plans and a soils report to be submitted with an application for a grading permit. Site development plans would be reviewed by the Town to determine conformance with specific recommended geotechnical procedures. Field inspection would be conducted by the Town during earthwork and construction operations. The observation of cuts, fills, backfills, foundation excavations, and the preparation of pavement subgrades shall take place during these phases of site development. Further, as detailed on page 4-112 of the 2007 General Plan EIR, the 2005 General Plan Update proposed the adoption of several polices and implementation measures to reduce potential

impacts associated with geologic hazards. As such, the 2007 General Plan EIR concluded that impacts associated with unstable soils, including lateral spreading and subsidence, would be less than significant with compliance with all applicable regulations and previously approved implementation measures.

Lateral Spreading

Lateral spreading is a phenomenon in which large blocks of intact, non-liquefied soil move down slope on a liquefied soil layer. Lateral spreading is often a regional event. For lateral spreading to occur, the liquefiable soil zone must be laterally continuous, unconstrained laterally, and free to move along sloping ground.

According to the Geotechnical Investigation, the potential to liquefaction on-site is considered low. Subsequently, lateral spreading is not anticipated. Nevertheless, the Geotechnical Investigation recommends the removal of approximately 3 to 4-feet of “unsuitable” topsoil and alluvial deposits from below and to approximately 5-feet beyond any building footprints to mitigate against differential settlement below the structures. With implementation of all applicable regulations as well as recommendations outlined in the Geotechnical Investigation, required pursuant to the Town’s Municipal Code requirements, would further reduce project’s impacts in this regard. As such, the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Subsidence

According to the U.S. Geological Survey, land subsidence occurs when large amounts of groundwater have been withdrawn from certain types of rocks, such as fine-grained sediments. The rock compacts because the water is partly responsible for holding the ground up. When the water is withdrawn, the rocks fall in on itself. Events, other than the removal of groundwater, that can cause land subsidence include aquifer-system compaction, drainage of organic soils, underground mining, hydrocompaction, natural compaction, sinkholes, and thawing permafrost.

According to the Geotechnical Investigation, the generalized static groundwater level on-site is approximately 100-feet below the ground surface. Nevertheless, due to the depth to water level at the project site, the project is not anticipated to result in significant impacts pertaining to subsidence. As such, the project would not result in significantly greater impacts in this regard than previously analyzed in the 2007 General Plan.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- d) *Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?*

Expansive soils are those that undergo volume changes as moisture content fluctuates, swelling substantially when wet or shrinking when dry. Soil expansion can damage structures by cracking foundations, causing settlement, and distorting structural elements.

Based on the 2007 General Plan EIR, no expansive soils have been mapped or encountered within the Town (page 4-113 of the 2007 General Plan EIR). Nevertheless, as detailed on page 4-114 of the 2007 General Plan EIR, the 2005 General Plan Update proposed the adoption of several polices and implementation measures to reduce potential impacts associated with geologic hazards. Overall, as no expansive soils is anticipated, less than significant impacts were identified in the 2007 General Plan EIR.

According to the Geotechnical Investigation, low expansive soils exist on-site. Thus, development of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR. Impacts would be less than significant in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

e) *Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?*

As discussed in [Section 3.19](#), the MCWD provides sewer service to the Town.

As discussed on page 4-114 of the 2007 General Plan EIR, individual septic systems in the Mammoth Basin above an elevation of 7,650 feet and within the entire drainage area of the Town is prohibited. Therefore, septic tanks would not be used for wastewater disposal. Thus, no impacts related to appropriate soil structure for the development of septic systems were identified in the 2007 General Plan EIR.

No septic tanks or alternative wastewater systems would be constructed as part of the project. Therefore, no impacts are anticipated in this regard and the proposed project would not create greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issue 4.14-3* of the 2007 General Plan EIR.

As discussed on page 4-371 of the 2007 General Plan EIR, there are no known unique paleontological resources or sites, and no known unique geologic features in the developable portions of the community. The soils within the UGB are glacial till and relatively recent volcanic materials; no paleontological resources would be expected. Nevertheless, as detailed on page 4-371 of the 2007 General Plan EIR, the 2005 General Plan Update proposed the adoption of Implementation Measure IV.2.B.a.1 to ensure the continued efforts in understanding and appreciation of the cultural, natural, and historical resources of the region, including that of paleontological resources. Overall, as there are no known unique paleontological resources or sites within the Town, the 2007 General Plan EIR concluded that implementation of the 2005 General Plan Update would result in less than significant an impact to paleontological resources.

According to the *Draft Cultural Resources Assessment Report For The Hidden Creek Crossing Project, Town Of Mammoth Lakes, Mono County, California* (2007 Cultural Resources Memo) prepared by BonTerra Consulting for the project site and dated October 17, 2007, no fossil localities have been previously recorded within the project area and no finds have been documented in proximity. Further, it is acknowledged that the Quaternary glacial deposits in the project area are unlikely to encounter significant fossil vertebrate remains. Based on the 2007 General Plan EIR (which considered development of the project site) and the 2007 Cultural Resources Memo, evidence suggests that the potential for encountering paleontological resources on-site is low. As such, the project impacts in this regard would be less than significant and would not result in any new significant effects or greater impacts than that analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.8 GREENHOUSE GAS EMISSIONS

At the time of the 2007 General Plan EIR preparation, the CEQA Guidelines did not expressly address global climate change. As such, this section and its associated CEQA Appendix G checklist items were not required or specifically analyzed at the time when the 2007 General Plan EIR was prepared. The Town has incorporated the GHG emissions threshold questions from the CEQA Appendix G Checklist into this Infill Environmental Checklist. The analysis below considers significance thresholds and addresses whether the project may have potentially significant impacts related to GHG

emissions. The 2016 Update EIR is used for reference in this section; this section corresponds with 2016 Update EIR Section 4.6, *Greenhouse Gas Emissions*.

Would the project:

- a) ***Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?***

According to the 2016 Update EIR, future developments within the Town would result in direct and indirect project-related greenhouse gas (GHG) emissions. Direct project-related GHG emissions would occur as a result of construction activities, area sources, and mobile sources. Indirect project-related GHG emissions would result from energy consumption, solid waste generation, and water demand. As the GBUAPCD has not adopted GHG significance thresholds, the 2016 Update EIR utilizes the Bay Area Air Quality Management District threshold (BAAQMD) threshold of 6.6 metric tons of carbon dioxide equivalent (MTCO_{2e}) per year per service population (SP) for GHG emissions. The 2016 Update EIR determined that the impacts concerning GHG emissions would be less than significant as the programmatic-level project-related emissions would be below the 6.6 MTCO_{2e}/year/SP threshold.

The BAAQMD has updated their GHG thresholds since the adoption of the 2016 Update EIR. The BAAQMD *California Environmental Quality Act Air Quality Guidelines* (BAAQMD CEQA Thresholds), adopted May 2017, includes the updated BAAQMD GHG threshold for service population for individual projects. According to the BAAQMD CEQA thresholds, a significant GHG impact would occur if a project exceeds the 4.6 MT CO_{2e}/year/SP threshold.

As described in [Section 1.5](#), the proposed project would have a maximum buildout of 580 residential units, including parking, and open space areas. The 580 units would have a population of up to 2,013 individuals. Construction of the project would occur over six phases, starting in summer 2021 and ending in summer 2028. According to the Transportation Analysis, the project would create 3,184 daily trips during the weekdays and 3,541 daily trips during Saturdays and Sundays. [Table 5, Project Greenhouse Gas Emissions](#), describes the project's direct (construction, area source, mobile source) and indirect (energy, solid waste, water demand) emissions.

As shown in [Table 5](#), the project would generate GHG emissions of 2.16 MTCO_{2e}/year/SP, which would be below the BAAQMD threshold of 4.6 MTCO_{2e}/year/SP. Thus, similar to the 2016 Update EIR, the project would have a less than significant impact.

**Table 5
Project Greenhouse Gas Emissions**

Source	CO ₂	CH ₄		N ₂ O		Total Metric Tons of CO ₂ e
	Metric Tons/year ¹	Metric Tons/year ¹	Metric Tons of CO ₂ e ²	Metric Tons/year ¹	Metric Tons of CO ₂ e ²	
Direct Emissions						
• Construction (amortized over 30 years) ⁴	258.96	0.04	1.00	0.00	0.00	259.96
• Area Source ⁶	471.76	0.02	0.39	<0.01	2.54	474.69
• Mobile Source ⁴	2,796.69	0.09	2.24	0.00	0.00	2,798.94
<i>Total Direct Emissions</i> ^{3,5}	3,527.41	0.15	3.63	<0.01	2.54	3,533.59
Indirect Emissions						
• Energy	709.09	0.03	0.63	<0.01	2.40	712.11
• Solid Waste	13.54	0.80	20.01	0.00	0.00	33.55
• Water Demand	46.88	0.99	24.66	0.02	7.03	78.58
<i>Total Indirect Emissions</i> ³	769.51	1.82	45.30	0.02	9.43	824.24
Total Project-Related Emissions ³	4,357.83 MTCO₂e/year					
Project Service Population (SP)	2,013					
Project GHG Emissions per SP	2.16 MTCO₂e/year/SP					
BAAQMD Project SP Threshold	4.6 MTCO₂e/year/SP					
Exceed BAAQMD Threshold?	No					
Notes:						
1. Emissions calculated using California Emissions Estimator Model Version 2016.3.2 (CalEEMod) computer model.						
2. CO ₂ Equivalent values calculated using the EPA Website, <i>Greenhouse Gas Equivalencies Calculator</i> , http://www.epa.gov/cleanenergy/energy-resources/calculator.html , accessed November 2020.						
3. Totals may be slightly off due to rounding.						
4. Construction GHG emissions are typically amortized over the length of a project's duration (30 years). Consistent with this industry practice, the projects total construction emissions (7,798.89 MTCO ₂ e) have been amortized over 30 years.						
4. 100 percent of the project's unit would be affordable housing. Additionally, the project would be located near Main Street and include bike lanes and a bus stop, which would help lower the project's vehicle miles traveled (VMT) and lower mobile GHG emissions.						
5. Emission reductions applied in the CalEEMod model include regulatory requirements such as compliance with the 2019 Title 24 Building Standards Code, the 2019 CALGreen Code, AB 341, and SB 100. These mandatory regulatory requirements would include high efficiency lighting, low flow plumbing fixtures, solid waste diversion, and electricity from renewable energy sources.						
6. The Town does not use natural gas but would rely on propane gas instead. All units were modeled to include propane heating systems.						
Refer to Appendix B, <i>Air Quality, Energy, and Greenhouse Gas Data</i> , for detailed model input/output data.						

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

The Town does not currently have an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. The 2016 Update EIR concluded that the 2016 Update would incorporate strategies and measures that would reduce GHG emissions by increasing energy-efficiency

beyond requirements, reducing indoor and outdoor water usage, and incorporating waste reduction measures.

The proposed project would also incorporate strategies and measures to reduce GHG emissions. Specifically, the proposed project would meet or exceed the residential energy conservation standards set forth in the California 2019 Title 24 Building Standards Code (2019 Title 24) and 2019 CALGreen Code. The 2019 Title 24 standards reduces residential energy consumption by approximately 53 percent compared to the previous 2016 Title 24 Code.⁶ Following compliance with the 2019 Title 24 Building Code and CALGreen Code, the project would include low-flow plumbing systems and water efficient irrigation systems to conserve water. Lastly, the project would comply with Assembly Bill 341, which requires that at least 75 percent of solid waste is recycled, composted, or reduced.

As discussed in Impact Section 3.8(a), the proposed project would not exceed the applicable BAAQMD threshold. Furthermore, the project is an infill project with 85 percent of the project's units being affordable housing units near a major transit stop and downtown area. This would help the State achieve the goals in Senate Bill (SB) 375 and SB 743 to reduce VMT. Additionally, the project goals would be in-line with the Town's draft Safety Element Update Resource Management and Conservation Policy R.11 to help reduce GHG emissions. In addition, as shown in Section 3.6, the project would implement the Town's General Plan goals and policies for energy conservation. As a result, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Impacts would remain less than significant in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.9 HAZARDS AND HAZARDOUS MATERIALS

This section corresponds with 2007 General Plan EIR Section 4.5, *Public Safety and Hazards*. Site-specific information is based primarily on the *Phase I Environmental Site Assessment – Shady Rest Tract, Town of Mammoth Lakes, State of California* (Phase I ESA), prepared by Michael Baker International, dated January 2, 2018; refer to Appendix F, Phase I Environmental Site Assessment.

Would the project:

- a) ***Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?***

⁶ California Energy Commission, *2019 Building Energy Efficiency Standards FAQ*, https://www.energy.ca.gov/sites/default/files/2020-03/Title_24_2019_Building_Standards_FAQ_ada.pdf, accessed by November 10, 2020.

As discussed on page 4-131 of the 2007 General Plan EIR, implementation of the 2005 General Plan Update would create the potential to increase the locations of use of hazardous materials and thus the transport of hazardous materials associated with such uses as well as the potential exposure of employees and the public to hazardous materials associated with such uses. All projects within the Planning Area would be required to comply with all federal, state and local regulations regarding the handling, transport and management of hazardous materials and waste. In addition, the 2005 General Plan Update included implementation measures to address the routine transport, use, or disposal of hazardous materials (page 4-131 of the 2007 General Plan EIR). With the federal, State, and local regulations and the implementation measures, the 2007 General Plan EIR determined that impacts regarding the routine transport, use, or disposal of hazardous materials would be reduced to less than significant levels.

The proposed project involves a residential development. Hazardous materials are not typically associated with residential uses; minor cleaning products, along with the occasional use of pesticides and herbicides for landscape maintenance, are generally the extent of hazardous materials that would be routinely utilized on-site. The types and quantities of hazardous materials utilized by residential development are not anticipated to result in significant hazards to the public or environment during operation of the project. Further, the project would be required to comply with the California Building Code, California Fire Code, as well as other Federal, State, and local regulations related to the protection of the public's health and safety. Thus, development of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

As discussed on page 4-133 of the 2007 General Plan EIR, new commercial and industrial development or the expansion of commercial and industrial uses would result in an increase in the use and transport of hazardous materials within the Town. The increased use and transport of hazardous materials in the Town increases the potential for accidental releases of hazardous materials. It is noted that accidental releases would most likely occur in the commercial and industrial areas and along transportation routes leading to and from these areas, as well as along the major access routes including U.S. Highway 395, SR 203, Meridian and Minaret Road (page 4-133 of the 2007 General Plan EIR).

All projects within the Planning Area would be required to comply with all federal, state and local regulations regarding the handling, transport and management of hazardous materials and waste. In addition, the Updated Plan includes implementation measures to address the routine transport, use, or disposal of hazardous materials (page 4-134 of the 2007 General Plan EIR). With the regulations

and the implementation measures, the 2007 General Plan EIR concluded that impacts associated with the use of hazardous materials would be less than significant (page 4-135 of the 2007 General Plan EIR).

According to the Phase I ESA, the project site is currently vacant and no regulatory properties are located within the boundaries of the project site. Additionally, no known corrective action, restoration, or remediations related to hazardous materials have occurred on the project site. Based on the Phase I ESA, historical or current uses of adjoining and adjacent properties are also not anticipated to negatively impact the soil, soil gas, and/or groundwater beneath the project site. Thus, project implementation is not anticipated to create a significant hazard related to accidental release of hazardous materials based on past and current uses of the project site and surrounding areas. However, during project construction, there is a possibility of accidental release of hazardous substances such as petroleum-based fuels or hydraulic fluid used for construction equipment. The level of risk associated with the accidental release of these hazardous substances is not considered significant due to the small volume and low concentration of hazardous materials utilized during construction. The construction contractor would be required to use standard construction controls and safety procedures that would avoid and minimize the potential for accidental release of such substances into the environment. Standard construction practices would be observed such that any materials released are appropriately contained and remediated as required by local, State, and Federal law. With implementation of all applicable regulations, impacts in this regard would be reduced to less than significant levels. Thus, implementation of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

c) ***Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?***

As detailed on page 4-133 of the 2007 General Plan EIR, Figure 4.5-1, School Parcels and Buffer Map (page 4-136) of the 2007 General Plan EIR identifies the parcels with the existing and planned schools, as well as a line 0.25 miles from the edge of those parcels. Although the project would allow for new and expanded development in the Planning Area including services or institutions that may involve the handling or emission of hazardous emissions within one-quarter mile of existing and proposed school facilities in the Town, no additional development could occur that is any different than the development that would occur under the previous General Plan.

As detailed on page 4-137 of the 2007 General Plan EIR, while the Updated Plan could result in the location of a use that emits or handles hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school, the Town will consult with the School District and any such proposed use would be required to undergo environmental analysis to ensure that the impacts would be less than significant. As per Section 17.24.100 “Environmental Standards” of the Municipal Code, the

use, storage and disposal of hazardous materials shall be subject to the approval and conditions of the Mammoth Lakes Fire Protection District and the Mono County Health Department. All fifty-five-gallon containers shall be labeled and sealed at all times and shall be stored on impervious surfaces approved by the public works director. Furthermore, no changes are being proposed to the hospital or other hazardous material producers by the 2005 General Plan Update and compliance with the applicable regulations and oversight by the appropriate agencies as well as the proposed implementation measures in the 2005 General Plan Update would reduce risks to school sites to a less than significant level (page 4-138 of the 2007 General Plan EIR).

The nearest school to the project site is Kids Corner, located approximately 530 feet north of the project site at 77 Forest Trail. Thus, the project is located within one-quarter mile of an existing or proposed school. However, as discussed in Responses 3.9(a) and 3.9(b) above, the proposed project would not result in significant impacts related to the routine transport, use, or disposal, or accidental release of hazardous materials. Thus, implementation of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

This impact threshold was not required or specifically analyzed at the time when the 2007 General Plan EIR was prepared.

According to the Phase I ESA, the project site is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Thus, no impacts would occur in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?*

With implementation of the implementation measures in the 2005 General Plan Update and compliance with the mitigation measures in the *Mammoth Yosemite Airport Supplement to Subsequent EIR, SCH 2000034005, March 2002* (SSEIR), compliance with federal regulations and the Airport Land Use Plan prepared by the Mono County Airport Land Use Commission (ALUC) for land uses in the vicinity of the Mammoth Yosemite Airport, impacts regarding safety for people working or residing in the area of the Mammoth Yosemite Airport would be less than significant (page 4-138 of the 2007 General Plan EIR).

The closest airport to the project site is the Mammoth Yosemite Airport, located approximately 6.2 miles east of the site at 1300 Airport Road. According to the *Mammoth Yosemite Airport - ALUC Airport Safety Zone Plan/Land Use Plan (Existing Runway)* map, the project site is not located within any airport safety zones established for the Mammoth Yosemite Airport.⁷ Based on distance to the closest airport, project implementation would not result in a safety hazard or excessive noise for people residing or working in the project area, or be located within an airport land use plan. No impacts would occur in this regard and development of the proposed project would not result in any new specific effects or greater impacts in this regard than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

f) *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The Town maintains *The Town of Mammoth Lakes Emergency Operations Plan* (EOP), adopted in August 16, 2017 by Resolution No. 2017-71, which set forth the responsibilities, functions, and operations of the Town government and its interrelationship with other agencies and jurisdictions which provide services during an emergency. The EOP meets the State's Standardized Emergency Management Systems requirements, provides emergency response procedures such as identification of critical hazard areas, locations for meeting and staging in an emergency event, communications, and emergency evacuation.

As discussed on page 4-138 of the 2007 General Plan EIR, development under the 2005 General Plan Update would not impair implementation or physically interfere with the EOP, because no circulation changes are being proposed which conflict with the procedures set forth in the plan. The 2005 General Plan Update provides the implementation measures to ensure that proper and adequate emergency response planning is provided as future development occurs within the Town (page 140 of the 2007 General Plan EIR). With implementation of these implementation measures contained in the 2005 General Plan Update and compliance with EOP, development associated with

⁷ Town of Mammoth Lakes, *Mammoth Yosemite Airport, Mammoth Lakes, California, Airport Layout Plan, ALUC Airport Safety Zone Plan/Land Use Plan (Existing Runway)*, Sheet 13, <https://www.townofmammothlakes.ca.gov/442/Airport-Planning-Narratives>, July 2014.

implementation of the 2005 General Plan Update would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Thus, the 2007 General Plan EIR concluded that impacts in this regard would be less than significant (page 4-140 of the 2007 General Plan EIR).

Construction activities for the proposed project could result in temporary impacts to street traffic in the project vicinity. Partial or full lane closure might be required for local infrastructure improvements to support the project. Nevertheless, the project would be reviewed by the Town prior to construction activities, and the Town would ensure project compliance with all applicable local polices form the General Plan, including Goal S.4, Policy S.4.A, Policy M.1.4, and Policy M.1.4.1, to ensure that adequate emergency response capability within the Town is maintained. Specifically, General Plan Goal S.4 is to maintain adequate emergency response capabilities in the Town; Policy S.4.A is to aid emergency vehicle access; Mobility Element Update Policy M.1.4 emphasizes public safety in the planning and design of the transportation system; and Mobility Element Update Action M.1.4.1 is to encourage coordination with MLFPD and MLPD to plan for and ensure appropriate emergency access and response times. As such, project construction would not have a significant impact on emergency vehicle access in the project vicinity. Additionally, the project proposes an appropriate circulation network within the project site consistent with the Town's Municipal Code regulations pertaining to mobility; refer to Exhibit 4. As such, the proposed project would not conflict with the adopted EOP. Less than significant impacts would occur in this regard, and the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

As discussed on page 4-119 of the 2007 General Plan EIR, the Planning Area has been rated as having a very high fire potential. Additional development in the Planning Area in accordance with the 2005 General Plan Update would increase the number and variety of potential ignition sources for wildland fires including illegal or inappropriate burning, fires started by recreational vehicles, improper disposal of cigarettes, barbecues, and other sources. However, this impact is somewhat reduced by the fact that additional development is to be located in the UGB and most of the wildland areas are located outside the UGB (page 4-140 of the 2007 General Plan EIR). The 2005 General Plan Update includes various measures to address the risk of exposure from wildland fires. Assuming agencies with jurisdiction over surrounding areas susceptible to wildland fires (i.e., USFS, Inyo National Forest, etc) effectively manage fuel sources, the risk of exposure of fires would be reduced to a less than significant level. However, portions of the surrounding areas outside of the Town's jurisdiction are located within very high wildland fire hazard areas. Wildland fires could potentially spread to the Town if appropriate fire control planning and response measures are not undertaken by other agencies. Given that

implementation of measures to reduce the impact are not under the control of the Town, the potential impact is considered to be significant and unavoidable (page 4-143 of the 2007 General Plan EIR).

The project site is not located within a Very High Fire Hazard Severity Zone, as defined by the California Department of Forestry and Fire Protection (CAL FIRE).⁸ Further, the proposed project would be subject to compliance with the California Building Code, California Fire Code, as well as other Federal, States, and local regulations related to the fire protection. Additionally, according to the 2016 Update EIR, the ESRFSC prepared the Fire Safe Plan to help east side residents of Inyo and Mono Counties improve their defense against wildland fires. The ESRFSC collaborates with local volunteer fire departments and assists CAL FIRE in training fire prevention volunteers to perform residential fire hazard inspection. With implementation of applicable regulations, plans, and programs, project implementation would not expose people or structures to exacerbated risks to wildfire and the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.10 HYDROLOGY AND WATER QUALITY

This section corresponds with 2007 General Plan EIR Section 4.6, *Hydrology and Water Quality*.

Would the project:

- a) *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issues 4.6-1* (page 4-161) and *4.6-5* (page 4-169) of the 2007 General Plan EIR.

As part of Section 402 of the Clean Water Act, the Environmental Protection Agency (EPA) has established regulations under the NPDES program to control direct storm water discharges. In California, the State Water Regional Control Board (SWRCB) administers the National Pollutant Discharge Elimination System (NPDES) permitting program and is responsible for developing NPDES permitting requirements. The NPDES program regulates industrial pollutant discharges, which include construction activities. The SWRCB works in coordination with the RWQCB to preserve, protect, enhance, and restore water quality. The project site is within the jurisdiction of the Lahontan RWQCB.

⁸ California Department of Forestry and Fire Resources, *Mammoth Lakes Fire Hazard Severity Zones in LRA*, <https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>, September 17, 2007.

As detailed on page 4-161 of the 2007 General Plan EIR, development in accordance with the 2005 General Plan Update would likely lead to an increase in the amount of impervious surfaces in the area. This increase would cause a decrease in the amount of water percolation into the ground and result in greater surface runoff quantities at higher velocities. During construction of the individual development sites, runoff from disturbed areas may contain silt and debris, resulting in short-term increases in the existing sediment load in the storm drain system. As a result, water quality could be impaired as well as the water-carrying capacity of the drainage channel, potentially aggravating current flood conditions (page 4-161 of the 2007 General Plan EIR). As discussed on page 4-161 of the 2007 General Plan EIR, the Lahontan RWQCB reports that surface runoff (which has increased the concentrations of nutrients, organic compounds, heavy metals, asphaltic concrete particles, and petroleum deposits) and storm water drainage have adversely affected the water quality within Mammoth Creek. In addition, the increased use of pesticides, herbicides, fertilizers and other chemicals associated with development and recreational areas may impair surface waters through stormwater discharges and runoff. All construction projects would be subject to compliance with federal, State and local water quality and waste discharge requirements, including the NPDES Program, as deemed appropriate. The 2005 General Plan Update also proposes the adoption of numerous implementation measures to reduce potential impacts regarding water quality and waste discharge (page 4-161 of the 2007 General Plan EIR). With these implementation measures and compliance with federal, State and local water quality and waste discharge requirements, water quality standards or waste discharge requirements would not be violated. As such, the 2007 General Plan EIR concluded that impacts with regard to water quality standards or waste discharge requirements would be less than significant (page 4-162 of the 2007 General Plan EIR). Moreover, the 2007 General Plan EIR concluded that development associated with the 2005 General Plan Update would not result in a substantial degradation of water quality due to compliance with all applicable federal, State and local regulations, as well as implementation of the applicable implementation measures (page 4-169 of the 2007 General Plan EIR).

The proposed project would construct a variety of affordable housing types with associated streets, community space/amenities, new bus stops, open spaces/parks, parking, and necessary utility infrastructure. Construction activities could result in short-term impacts to water quality due to the handling, storage, and disposal of construction materials, maintenance and operation of construction equipment, and earthmoving activities. These potential pollutants could damage downstream waterbodies. Under the NPDES permitting program, construction dischargers whose projects disturb one or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the SWRCB's General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ (General Construction Permit). The General Construction Permit requires the project Applicant to prepare and implement a storm water pollution prevention plan (SWPPP), which would specify best management practices (BMPs) to be used during construction of the project to minimize or avoid water pollution, thereby reducing potential short-term impacts to water quality. Construction activities within the Town, including the construction for the proposed project, would also be subject to local regulations, including Chapters 12.04, 12.08, and 15.08, and Section 17.08.020 of the Town's Municipal Code. Municipal Code Chapter 12.04, *Construction and Encroachments in the Public Right of Way*, establishes encroachment permit requirements that stabilize construction sites and reduce runoff velocities by preventing erosion and sedimentation. Municipal Code Chapter 12.08, *Land Clearing, Earthwork, and Drainage Facilities*, establishes

requirements for protection of drainage paths and installation of devices capturing stormwater runoff at select sites. Municipal Code Chapter 15.08, *Construction Site Regulations*, require construction sites to protect drainage paths and control erosion from areas cleared of vegetation during construction. Municipal Code Section 17.08.020, *Standards for All Development and Land Use, Grading and Clearing*, enforces erosion control and runoff quality requirements at construction sites in compliance with the Lahontan RWQCB requirements.

During project operation, residential development proposed under the project has the potential to increase the amount of impermeable surfaces compared to pre-project (existing) condition, as considered under the 2007 General Plan. The project would be required to comply with all applicable federal, State, and local water quality and waste discharge requirements, including the incorporation of BMPs in accordance with the NPDES Program. BMPs may include structural BMPs, which are facilities that help to prevent pollutants in storm water runoff from leaving a developed property, entering storm drains, and impacting local waterways. With implementation measures as outlined on page 4-161 of the 2007 General Plan EIR and compliance with federal, State and local requirements, water quality standards or waste discharge requirements would not be violated. As such, the proposed development would result in less than significant impacts during construction and operations, and would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?*

This impact threshold was not required or specifically analyzed at the time when the 2007 General Plan EIR was prepared.

The proposed project is not currently used for groundwater extraction or groundwater recharge purposes. Although the project has the potential to increase the amount of impermeable surfaces compared to pre-project (existing) condition, mandatory compliance with all applicable federal, State, and local water quality and waste discharge requirements, including the incorporation of BMPs in accordance with the NPDES Program, would reduce impacts associated with impermeable surface to less than significant level; refer to Response 3.10(a). Further, the 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, as shown on the Town's Land Use Map (Figure 3-4 on page 3-10 of the 2007 General Plan EIR). As such, potential environmental impacts associated with the proposed high density residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have been considered in the 2007 General Plan EIR. Impacts to groundwater

supplies would be less than significant and would not be greater than that previously analyzed in the 2007 General Plan EIR 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that would:*

i) *Result in substantial erosion or siltation on- or off-site?*

This impact threshold was modified since the 2016 Update EIR was prepared and corresponds to the analysis under *Issue 4.6-2* (page 4-163) of the 2007 General Plan EIR.

As discussed on page 163 of the 2007 General Plan EIR, development in accordance with the 2005 General Plan Update could lead to alterations of the existing drainage patterns, especially where drainage occurs on private property, or development occurs near natural drainage channels. All construction projects would be subject to compliance with applicable federal, State and local requirements including the NPDES Program, to reduce erosion and siltation. All development must comply with Municipal Code Sections 12.08.090, *Drainage and erosion design standards*, 12.08, *Land clearing, earthwork and drainage facilities*, and 12.08.080, *Engineered grading permit requirements*. These Municipal Code provisions serve to implement the relevant implementation measures (page 4-164 in the 2007 General Plan EIR). BMPs, which would reduce and/or eliminate erosion potential, would also be incorporated into development projects. The 2005 General Plan Update also contains a number of implementation measures designed to minimize erosion and siltation through drainage control from new development (page 4-164 of the 2007 General Plan EIR 2007 General Plan EIR). With these implementation measures and compliance with federal, State and local design and construction requirements, the 2007 General Plan EIR concluded that substantial erosion or siltation within or adjacent to the Planning Area would not occur (page 4-165 of the 2007 General Plan EIR).

The proposed project would construct a variety of affordable housing types with associated streets, community space/amenities, new bus stops, open spaces/parks, parking, and necessary utility infrastructure. Development of the project site would result in the potential for erosion/siltation, similar to that considered as part of the 2007 General Plan EIR. As disclosed in the 2007 General Plan EIR, the project would be required to develop an SWPPP with associated BMPs in accordance with NPDES requirements. Construction activities would also be subject to local regulations, including Municipal Code Chapters 12.04, 12.08, and 15.08, and Section 17.08.020, which would stabilize construction sites, reduce runoff velocities, protect drainage paths, require installation of stormwater-capturing devices, and control erosion. As the 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, potential environmental impacts associated with the proposed high density

residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have been considered in the 2007 General Plan EIR. As such, compliance with federal, State and local design and construction requirements would ensure the project would not result in significant impacts concerning substantially altering the existing drainage pattern of the site or project area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces. Overall, the proposed development would result in less than significant impacts to erosion/siltation, and would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issue 4.6-3* (page 4-165) of the 2007 General Plan EIR.

As discussed on page 4-165 of the 2007 General Plan EIR, flood-prone areas may enlarge or contract as developments both upstream and downstream occur. All future development within an identified flood hazard area would be subject to the design requirements and regulations set forth by the Town, Mono County and/or FEMA. All development must comply with Municipal Code Sections 12.08.090, 12.08, and 12.08.080. These Municipal Code provisions serve to implement the implementation measures in the 2005 General Plan. Additionally, the Mammoth Lakes Storm Drainage Master Plan (SDMP) identifies general drainage improvements throughout the Town that would remedy existing drainage problems and accommodate 2005 Master Plan buildout development. These improvements would serve to reduce the potential for flooding. The 2005 General Plan Update also contains a number of implementation measures designed to control the rate or amount of surface runoff to reduce the potential for flooding (page 4-165 of the 2007 General Plan EIR). The implementation measures in the 2005 General Plan Update and Municipal Code sections serve to maintain the existing drainage pattern of the Planning Area, including streams and river courses. With these implementation measures and compliance with federal, State and local design and construction requirements, the 2007 General Plan EIR concluded that surface runoff rates within the Planning Area would not be substantially increased (page 4-166 of the 2007 General Plan EIR).

As discussed under Response 3.10(c)(i) above, the proposed project would not involve greater impacts concerning substantially altering the existing drainage pattern of the site or project area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, compared to that analyzed in the 2007 General Plan EIR. During project construction, the proposed project would be required to develop an SWPPP with associated BMPs. Construction activities would also be subject to local regulations, including Municipal Code Chapters 12.04, 12.08, and 15.08, and Section 17.08.020, which would stabilize construction sites, reduce runoff velocities,

protect drainage paths, require installation of stormwater-capturing devices, and control erosion. As the 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, potential environmental impacts associated with the proposed high density residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have been considered in the 2007 General Plan EIR. Therefore, with implementation of existing NPDES regulations and associated BMPs, Municipal Code requirements, and construction of on-site stormwater retention system, impacts related to increase in runoff, including potential to result in flooding, would be less than significant. As such, the proposed development would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

As discussed on page 4-167 of the 2007 General Plan EIR, the SDMP provides hydraulic modeling of the drainage system and prioritizes the implementation of storm drainage facility improvements designed to accommodate development allowed in the previous General Plan. The general distribution and types of land uses would be similar under the 2005 General Plan Update with regard to stormwater runoff. All construction projects would be subject to compliance with all applicable federal, state and local water quality and waste discharge requirements, including the NPDES Program. In addition, the 2005 General Plan Update includes implementation measures created to minimize runoff water such that the capacity of existing or planned stormwater drainage systems would not be exceeded, nor would there be substantial additional sources of polluted runoff from new development (page 4-168 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR concluded that the implementation of the 2005 General Plan Update would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, and impacts would be less than significant.

During project construction, the project would be required to develop an SWPPP with associated BMPs. Construction activities would also be subject to local regulations, including Municipal Code Chapters 12.04, 12.08, and 15.08, and Section 17.08.020, which would stabilize construction sites and reduce runoff velocities and volume. As discussed above, the 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, and potential environmental impacts associated with the proposed high density residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have already been considered in the 2007 General Plan EIR. As such, similar to the 2007 General Plan EIR, with implementation of existing NPDES regulations and associated BMPs, Municipal Code requirements, and construction of on-site stormwater retention system,

impacts related to increase in runoff would be less than significant. Overall, the proposed development would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) *In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issues 4.6-6* (page 4-169), *4.6-7* (page 4-171), and *4.6-10* (page 4-175) of the 2007 General Plan EIR.

As discussed on page 4-169 of the 2007 General Plan EIR, the General Plan identifies several potential flood hazard areas in the Town. The Mammoth Creek Areas located in the southeast quadrant of the Town and Murphy Gulch east and north of the UGB are designated flood zones by the FEMA. Areas most prone to flooding would include the Corrals and portions of Old Mammoth located along the Creek alignment. Several stretches of Mammoth Creek, all located in the Old Mammoth area, are also subject to 500-year flooding. As detailed on page 4-170 of the 2007 General Plan EIR, the Town has established a conservation easement and building setbacks along Mammoth Creek for the purpose of resource and floodplain management. None of the future development areas shown on the 2005 General Plan Update would occur within the 100-year flood zones (page 4-170 of the 2007 General Plan EIR). It is noted that the implementation measures in the 2005 General Plan Update serve to reduce hazards to residential uses as a result of flooding (page 4-171 of the 2007 General Plan EIR). With the relevant implementation measures (page 4-170 of the 2007 General Plan EIR) included in the 2005 General Plan Update and compliance with all applicable federal, State and local design requirements, including FEMA design requirements, residential uses would be designed and located to meet the minimum flood hazard requirements (page 4-171 of the 2007 General Plan EIR). As such, the 2007 General Plan EIR concluded that impacts with regard to flooding as a result of the placement of housing within a designated flood hazard area would be less than significant.

According to the 2007 General Plan EIR, the Town is not located in an area that would be impacted by a seiche or tsunami (page 4-175 of the 2007 General Plan EIR). Further, any new development placed in a potential seiche inundation zone would undergo a site-specific analysis to ensure appropriate drainage is in place or would be constructed so that people or structures are not exposed to significant risk of loss, injury or death involving seiche. Thus, the 2007 General Plan EIR concluded impacts related to tsunami or seiche zones to be less than significant.

The proposed project is not located in the vicinity of a 100-year floodplain.⁹ Therefore, the project would not involve the placement of any habitable structures within a flood hazard boundary. The

⁹ Federal Emergency Management Agency, *National Flood Hazard Layer FIRMette*,

project site would not be located in an area that would be impacted by a tsunami nor located within the vicinity of a water body that would cause inundation of the project site by a seiche. As such, impacts related to flooding, tsunami, or seiche would be less than significant and would not result in any new specific effects or greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

e) *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

This impact threshold was not required or specifically analyzed at the time when the 2007 General Plan EIR was prepared.

According to the Sustainable Groundwater Management Act (SGMA) Basin Prioritization Dashboard, the project site is not located within an area covered by an established groundwater sustainability plan.¹⁰ The *Water Quality Control Plan for the Lahontan Region, North and South Basins* (Basin Plan) includes policies and regulations for municipal wastewater, treatment, disposal, and reclamation. The Basin Plan also establishes specific erosion and sediment control guidelines for land developments within the Town. These standards are designed to provide developers with a uniform approach for the design and installation of adequate systems to control erosion and mitigate urban drainage impacts from the Town in an effort to prevent the degradation of waters of Mammoth Creek and Hot Creek. Under a MOU with the Lahontan RWQCB (MOU No. 6-91-926), the Town administers erosion control measures on a project by project basis to make sure that they are in place and operational.

Development of the proposed project would be required to comply with the water quality regulations detailed in the Basin Plan and would not conflict with or obstruct its implementation. Further, the proposed project would be required to comply with the Municipal Code and associated BMPs to minimize or avoid water pollution. Impacts would be less than significant in this.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

<https://msc.fema.gov/portal/search?AddressQuery=mammoth%20lakes#searchresultsanchor>, accessed October 23, 2020.

¹⁰ California Department of Water Resources, *SGMA Basin Prioritization Dashboard*, <https://gis.water.ca.gov/app/bp-dashboard/p2/>, accessed August 21, 2020.

3.11 LAND USE AND PLANNING

This section corresponds with 2007 General Plan EIR Section 4.7, *Land Use and Planning*.

Would the project:

a) *Physically divide an established community?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issue 4.7-1* (page 4-191) of the 2007 General Plan EIR.

As discussed on page 4-191 of the 2007 General Plan EIR, the project would result in additional development of the remaining undeveloped land or redevelopment of existing developed lands. Development would occur in accordance with the land use designations and intensities of development allowed in the 2005 General Plan. However, no policy or proposal in the plan divides the community or any neighborhood within the community (page 4-194 of the 2007 General Plan EIR). For example, no roadway, other public project, or proposed land use designation is being proposed as part of this project to divide an existing residential or commercial neighborhood. Further, the policies and implementation measures in the 2005 General Plan Update serve to create a community that is integrated and cohesive. With implementation of the land use plan, policies, and implementation measures included in the 2005 General Plan, no established area within the community would not be physically divided. As such, the 2007 General Plan EIR concluded that the impact regarding the physical division of a community or land use incompatibilities is less than significant (page 4-195 of the 2007 General Plan EIR).

The proposed project is an infill project for a vacant site, located within a developed area within the Town and is surrounded on all sides by developed uses. Further, the project's proposed on-site circulation network of neighborhood streets, a pair of transit stops, and trails and MUPs would facilitate multi-modal access throughout this area of the Town; refer to Exhibit 4. As such, the proposed project would not physically divide an established community but rather, improve accessibility in the project area. Overall, the project would result in less impacts in this regard and would not result in substantially greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issue 4.7-2* (page 4-195) of the 2007 General Plan EIR.

As discussed on page 4-195 of the 2007 General Plan EIR , full buildout of the 2005 General Plan Update would alter the existing land use density and intensities within the Municipal Boundary. Specifically, The project anticipates an increase in the amount of residential development in the UGB. Approximately 1,294 acres would be designated residential under the 2005 General Plan Update (refer to Figure 2.1.3 of the 2007 General Plan EIR), resulting in an increase of approximately 20 acres of residential land over previous conditions (prior to adaptation of the 2005 General Plan). Moreover, the 2005 General Plan Update would allow for a total of 16,710 residential units, resulting in an increase of 6,839 residential units. As discussed on page 4-197 of the 2007 General Plan EIR , while this increase in intensity of development could increase impacts locally the circumstances and locations under which such density transfers may occur are unknown and it is speculative to analyze potential impacts at this time. If and when an application is submitted for a density transfer, environmental review would be necessary. Overall, the 2007 General Plan EIR concluded that the project is consistent with the plans and policies outlined in the Mono County General Plan for those lands adjacent to the Mammoth Lakes Municipal Boundary. The issues, opportunities and constraints identified in the Mono County General Plan have been identified in this EIR and are carried forward into the analysis.

The 2007 General Plan EIR was a programmatic level analysis for the Town and included all potential future developments anticipated under the Town's land use designations, as shown on the Town's Land Use Map (Figure 3-4 on page 3-10 of the 2007 General Plan EIR). As such, potential environmental impacts associated with the proposed high density residential workforce housing on the project site (per General Plan Land Use designation of HDR-1) have been considered in the 2007 General Plan EIR. It should be noted that the 2016 Update EIR also considered buildout of the General Plan land use map, with a density of 12 units per acre (or 300 units) designated for the project site and the option to allow up to double density if all the units are deed restricted for workforce housing.

The following is an analysis on the project's consistency with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect.

Consistency With General Plan Land Use Designation

The project site is designated as HDR-1, which allows for development of residential multi-unit townhouses, condominiums, and apartments at a density of six to 12 units per acre (or a maximum of 300 units for the project site) and is intended for workforce housing. Per General Plan Policy L.2.D, a granting of twice the density for the HDR-1 is allowed (which would be 24 units per gross acre or a maximum of 600 units for the project site), as long as all units are deed restricted for workforce housing. The project proposes the development of approximately 400 to 580 deed-restricted affordable workforce housing units, which equate to 16 to 23 dwelling units per acre (gross). As such, the proposed project would be consistent with the development density for the HDR-1 General Plan designation.

The proposed Master Plan would serve as a district planning effort to aid in future planning for the project ("Shady Rest") site, consistent with General Plan Policy L.1.D and Action L.1.D. As stated in Section 1.5, the project would include up to 580 affordable workforce housing units. Most units are

reserved for incomes at or below 120 percent AMI. Up to 15 percent of the workforce housing units (or up to 87 units) would be reserved for households with income more than 120 percent AMI but below 200 percent AMI. All ownership units would be deed restricted to individuals and households working in the region. As such, the project would substantially increase housing supply available to the workforce (General Plan Goal L.2), and would ensure supplies of housing for employees and reduce automobile trips (General Plan Action L.3.E). The project would also include a mix of housing types and forms consistent with the Town's design and land use policies (General Plan Policy L.2.B), and provide activities, amenities, and services (i.e., daycare facility) to support long-term visitation (General Plan Policy L.5.F).

Consistency With Zoning

The project site is zoned RMF-1 with an Affordable Housing Overlay. The RMF-1 zone is intended as an area for the development of mixed residential uses (single-family dwellings, apartments, and other multiple family developments). Transient occupancy or rental and hotel and motel uses are not permitted in this zone. Group Living quarters uses are permitted only with a use permit. Bed and breakfast uses are permitted. Only those uses are permitted that are complementary to, and can exist in harmony with, such residential developments. The RMF-1 zone allows a maximum residential density of 12 units per acre (300 units at the project site) with the allowance of double density (allowing an additional 300 units at the project site) through the Affordable Housing Overlay. The Affordable Housing Overlay is intended to promote the development and provision of affordable housing within the community, and thereby implementing the policies of the Housing Element of the General Plan. In order to be granted the double density within the Affordable Housing Overlay, all units must be deed restricted for affordable households with incomes ranging from very low, other low and moderate income (Municipal Code Section 17.138.040, *Town Density Bonus*).

The proposed project would replace these regulations with the proposed Master Plan. Any areas where the Master Plan regulations are silent (as to a specific development standard found in the Municipal Code), the standards for the underlying zone district (RMF-1) would apply. The maximum allowable density as set forth in the Master Plan is up to 23 units per acre (or up to 580 units) deed restricted for workforce housing. In compliance with the Density Bonus approved for the site, a Workforce Housing Agreement would be required for each development area on-site prior to issuance of a Certificate of Occupancy that would include occupancy standards, and sale, resale, and rental restriction. As such, the proposed Master Plan would be consistent with the Town of Mammoth Lakes General Plan Policy L.2.D, and Municipal Code Chapter 17.140, *Affordable Housing Density Bonuses and Incentives—State Density Bonus Program*.

As currently zoned, the project site would only allow for residential development and would not permit other supportive uses for activities, amenities, and services. The proposed Master Plan would allow for development of a residential neighborhood deed restricted for affordable workforce housing, with allowance for supportive uses such as day care facilities, community gathering spaces, and other amenities such as parks and playgrounds. Additional uses (i.e., small-scale commercial uses, mobile businesses, and home occupations) would be permitted with Use Permit approval in order to accommodate potential changes in the needs of residents.

The proposed Master Plan would provide site specific regulations and guidelines relative to land use; architectural design standards including building mass and articulation, roofs, materials, colors and height); development site standards including density, lot coverage, setbacks, open space, and snow storage; parking requirements; signage; infrastructure including utilities, solid waste and stormwater; and circulation and mobility including sidewalks and pathways, the street network, and transit facilities. The Master Plan sets forth the specific development parameters for the project site while providing flexibility to accommodate unique development phasing needs and changes to the affordable housing development landscape over time.

Last, development of the proposed Master Plan would be required to comply with all Town Zoning regulations pertaining to the following:

- Grading and Clearing (Municipal Code Section 17.36.050);
- Required snow storage area (Municipal Code Section 17.36.110);
- Propane Tanks (Municipal Code Section 17.36.080);
- Dumpsters (Municipal Code Section 17.36.130);
- Fences and Walls (Municipal Code Section 17.36.040);
- Exterior Lighting (Municipal Code Section 17.36.030);
- Design Review (Municipal Code Chapter 17.88);
- Outdoor Storage and Work Areas (Municipal Code Section 17.52.240);
- Signs (Municipal Code Chapter 17.48);
- Parking (Municipal Code Chapter 17.44); and
- Landscaping (Municipal Code Chapter 17.40).

Overall, the Master Plan has been designed to provide for site-specific zoning requirements that better fit the Town's needs and vision for the project site. Upon approval of the proposed Master Plan, the project would not conflict with any Municipal Code provisions and impacts in this regard would be less than significant. In conclusion, the proposed project would be consistent with applicable land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect, and impacts would be similar to those identified in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.12 MINERAL RESOURCES

This section corresponds with 2007 General Plan EIR Section 4.4, *Geology, Soils, Mineral Resources and Geotechnical Hazards*.

Would the project:

a) *Result in the loss of availability of a known mineral resource of value to the region and the residents of the State?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issue 4.4-6* (page 4-115) of the 2007 General Plan EIR.

As discussed on page 4-115 of the 2007 General Plan EIR , mineral development including clay, aggregate, do occur in the Planning Area. The activities associated with mineral development have the potential to impact the environment through hauling activities, transport emissions, noise and other means. Any projects associated with mineral development would be required to undergo environmental review and permitting. In addition, any party proposing mineral extraction that is subject to the Surface Mining and Reclamation Act (SMARA) would have to apply to the Town and pay the appropriate processing fees. The 2005 General Plan Update proposes the adoption of policy and implementation measures as outline on page 4-115 of the 2007 General Plan EIR to reduce potential impacts associated with mineral resources. As such, the 2007 General Plan EIR concluded that development associated with implementation of the 2005 General Plan Update within the UGB would not result in the loss of mineral resources.

No activities associated with mineral development are known to have occurred or are anticipated to occur within the project site. As such, less than significant impacts in this regard would occur as a result of the project, and the level of impact would not be greater than that previously analyzed in the 2007 General Plan EIR .

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?*

Refer to Response 3.12(a). Impacts would not be greater than that previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.13 NOISE

This section corresponds with 2007 General Plan EIR Section 4.8, *Noise*.

Would the project result in:

- a) *Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issues 4.8-1* (page 4-212), *4.8-3* (page 4-213), and *4.8-4* (page 4-217) of the 2007 General Plan EIR.

Furthermore, this impact threshold was modified since the 2016 Update EIR was prepared and corresponds to the analyses that begin on pages 4.8-18, 4.8-21, and 4.8-27 of the 2016 Update EIR.

As concluded on pages 4-212 and 4-216 of the 2007 General Plan EIR, the 2005 General Plan Update would not expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies, with oversight by the appropriate agencies and compliance with applicable regulations, including standards established by the HUD, the Guidelines for Noise and Land Use Compatibility established by the State of California Department of Health Services Environmental Health Division, as well as the Town's Noise Ordinance (Chapter 8.16 of the Municipal Code); refer to 2007 General Plan EIR Table 4.8-2, *Applicable State Laws and Regulations*, and Table 4.8-3, *Town Exterior Noise Ordinance Standards*.

The 2007 General Plan EIR concluded that the projected increase in traffic as a result of the 2005 General Plan Update anticipated buildout would result in an increase in the amount of ambient noise in the Town during the high traffic periods, which are the winter weekend days. The types of developments and activities anticipated under the 2005 General Plan Update are not expected to greatly increase traffic volumes at night and thus traffic related noise during nighttime periods are not expected to greatly increase. However, as shown in Table 4.8-8 (page 4-214) of the 2007 General Plan EIR, future traffic noise levels at some of the locations would exceed 60 dB Ldn at the 100-foot distance. Where noise-sensitive receptors (full-time occupancy residences) are located next to roads, there is a potential for noise impacts (depending on site-specific conditions) if noise levels exceed 60 dB Ldn. It is noted that interior noise levels should be satisfactory (45 dB Ldn or less) at all locations of the Town (page 4-214 of the 2007 General Plan EIR) as normal construction practices that satisfy building codes would reduce exterior noise levels by 20 to 35 dB. Nevertheless, as concluded on page 4-216 of the 2007 General Plan EIR, a significant and unavoidable impact would occur as a result of the 2005 General Plan Update because the noise generated by traffic from implementation of the 2005 General Plan Update would exceed current ambient levels by up to 6 dBA, which may be readily noticeable. Overall, although the existing regulations and the implementation measures as part of the 2005 General Plan Update would ensure that permanent increases in noise levels within the UGB would not exceed the threshold of 60 dB Ldn in outdoor activity areas or 45 dB Ldn within interior spaces of existing noise-sensitive uses, a significant unavoidable impact would occur due to the incremental increase in noise as a result from the projected increase in traffic.

Additionally, it is noted that construction activities associated with future development in accordance with the 2005 General Plan Update would be temporary in nature and would occur in accordance with the Town Noise Ordinance during the daytime hours and within prescribed noise limits (refer to Table 4.8.3 of the 2007 General Plan EIR). On a long-term basis, the concerns would pertain to an increase in the number and frequency of amplified sound music or other sounds from special events, an increase in the number and frequency of high-noise recreational vehicle use (such as snow jets, power boats, and motorized bikes), and other similar sources (page 4-217 of the 2007 General Plan EIR). The 2005 General Plan Update would provide for additional growth within the Town (including the construction of high density residential within the project site), which would result in an increase in outdoor activities (page 4-219 of the 2007 General Plan EIR). Nevertheless, all projects would be required to comply with existing regulations as well as policies in the 2005 General Plan Update and in the existing Noise Element. As such, the 2007 General Plan EIR concluded that compliance with applicable regulations and policies and implementation measures would result in a less than significant impact with regard to temporary or periodic increase in ambient noise levels.

The 2016 Update EIR concluded that construction activities associated with the implementation of the 2016 Update would result in less than significant noise impact with incorporation of Mitigation Measure MM AES-1, as well as compliance with the TSMP Mitigation Measures TSMM 4J-1A through TSMM 4J-CC. All construction activities would be required to adhere to maximum exterior noise levels pursuant to Municipal Code Section 8.16.090, *Prohibited Acts*. All mobile and stationary internal-combustion powered equipment and machinery are required to be equipped with suitable exhaust and air-intake silencers in proper working order under the Town's Noise Ordinance.

Construction Noise

Construction of the proposed project would occur in six phases, starting in summer 2021 and ending in summer 2028. Construction activities would include typical heavy-duty construction equipment. The nearest sensitive receptors to the project site are located approximately 20 feet away to the south, west, and north of the project site boundary. In addition, according to the proposed Master Plan, there would be an additional 30 feet setback required between the project boundary and nearest proposed building on-site. As such, the nearest sensitive receptors would be at least 50 feet away from the nearest building construction area, with most construction occurring at a distance greater than 50 feet.

According to the 2007 General Plan EIR, development of the proposed project site (Shady Rest Tract/HDR-1) would not create a construction noise impact, as construction activities associated with future development in accordance with the 2005 General Plan Update would be temporary in nature and would occur in accordance with the Town Noise Ordinance during the daytime hours and within prescribed noise limits (refer to Table 4.8.3 of the 2007 General Plan EIR). The 2007 General Plan EIR did not analyze specific construction equipment noise levels, but the 2016 Update EIR did. The proposed project would use similar construction equipment as was analyzed within the 2016 Update EIR.

Pursuant to Municipal Code Section 8.16.090, the maximum exterior noise levels allowed in single-family residential areas for mobile (e.g., excavator, backhoe, dozer, loader, etc.) and stationary

equipment (e.g., generators, compressors, pumps, etc.) during 7:00 a.m. to 8:00 p.m. Monday through Saturday are 75 dBA and 60 dBA, respectively. In addition, the maximum exterior noise levels allowed in single-family residential areas for mobile and stationary equipment during 8:00 p.m. to 7:00 a.m. Monday through Saturday, and all day on Sundays and legal holidays, are 60 dBA and 50 dBA, respectively. According to the 2016 Update EIR, construction occurring within 200 feet from single family residential uses or within 100 feet of multi-family residential uses may exceed the thresholds. However, with implementation of the Mitigation Measures TSMM 4.J-1a through 4.J-CC and MM AES-1, temporary construction noise impacts to sensitive receptors would be less than significant. Thus, with the incorporation of Mitigation Measure MM AES-1 and TSMM 4.J-1A through 4.J-CC, the proposed project would have a less than significant construction impact.

Mobile Noise

Future development generated by the proposed project would result in some additional traffic on adjacent roadways, thereby potentially increasing vehicular noise in the vicinity of existing and proposed land uses. Table 6, Existing and Project Peak Hour Volumes, highlights the Existing and Existing with Project peak hour volumes, as discussed in *The Parcel Buildout Transportation Analysis*, prepared by LSC Transportation Consultants, Inc., dated December 3, 2020. According to the California Department of Transportation (Caltrans), a doubling of traffic (100 percent increase) on a roadway would result in a barely perceptible increase in traffic noise levels (3 dBA).¹¹ As shown in Table 6, peak hour trip volumes would not exceed the Caltrans threshold at any intersection except for the Center Street and Site Driveway intersection (50 peak hour trips to 159 peak hour trips).

Table 6
Existing and Project Peak Hour Volumes

Intersection	Total Existing Peak Hour Volumes	Project Peak Hour Trips	Total Existing with Project Peak Hour Volumes	% Peak Hour Trip Increase with Project	Doubling of Traffic?
Main Street and Center Street	1,800	99	1,899	6%	No
Lauren Mountain Road and Tavern Road	239	148	387	62%	No
Old Mammoth Road and Tavern Road	1,266	113	1,379	9%	No
Meridian Boulevard and Azimuth Drive	1,878	30	1,908	2%	No
Center Street and Site Driveway	50	109	159	218%	Yes
Notes: ADT = average daily trips					
1. Represents ADT along the roadway segments.					
Source: LSC Transportation Consultants, Inc., <i>The Parcel Buildout Transportation Analysis</i> , December 3, 2020.					

Peak hour trips were modeled within the Federal Highway Administration (FHWA) RD-77-108 roadway model to calculate a community noise equivalent level (CNEL). Consistent with industry standards, the peak hour trips were multiplied by a factor of 10 to calculate the average daily trips (ADTs). Table 7, Traffic Noise Levels, shows the FHWA RD-77-108 roadway modeling; refer to

¹¹ California Department of Transportation, *Technical Noise Supplement to the Traffic Noise Analysis Protocol*, September 2013.

Appendix G, Noise Data for model input and outputs. The nearest sensitive receptors along Center Street are multi-family residential uses. As seen in Table 7, while this intersection exceeds the Caltrans threshold and would increase noise levels by approximately 5 dBA, this intersection would increase the roadway noise at Center Street to 48 dBA, which is below the Noise Ordinance Chapter 8.16.70 threshold of 50 dBA for multi-family residential uses in a suburban area. Furthermore, this is below the 6 dBA increase analyzed within the 2007 General Plan EIR and would be below the 60 dBA threshold that was adopted in the 2007 General Plan EIR. Lastly, according to the 2016 Update EIR, long-term noise measurements within the Town range from 46 to 64 dBA (page 4.8-11 to 4.8-13), and the Future With Project noise level would be within the low range of the measured ambient noise level. Therefore, the project’s peak hour trip volumes would not cause a significant noise impact at the nearby sensitive receptors.

**Table 7
Traffic Noise Levels**

Roadway	ADT ³	dBA @ 100 Feet from Roadway Centerline	Distance from Roadway Centerline to: (Feet)			ADT ³	dBA @ 100 Feet from Roadway Centerline	Distance from Roadway Centerline to: (Feet)			Exceed Municipal Code Threshold of 50 dBA? ²
			60 CNEL Noise Contour	65 CNEL Noise Contour	70 CNEL Noise Contour			60 CNEL Noise Contour	65 CNEL Noise Contour	70 CNEL Noise Contour	
Existing			Existing With Project								
Center Street and Site Driveway	500	43.0	-	-	-	1,590	48.0	-	-	-	No
Future			Future With Project								
Center Street and Site Driveway	500	43.0	-	-	-	1,590	48.0	-	-	-	No
Notes: ADT = average daily traffic; dBA = A-weighted decibels; CNEL = community noise equivalent level, - = centerline is within the roadway right of way. 1. Traffic noise volume were modeled with the Federal Highway Administration (FHWA) RD-77-108 Noise Prediction Model. 2. The suburban land uses near Center Street and the proposed Site Driveway are commercial and multi-family. According to Chapter 8.16 of the Town’s Municipal Code, multi-family dwelling residential land uses have a threshold of 50 dBA for exterior land uses. 3. ADT’s were calculated by multiplying the peak hour volumes by 10, consistent with industry practice. Source: Noise modeling is based on traffic data within LSC Transportation Consultants, Inc., <i>The Parcel Buildout Transportation Analysis</i> , December 3, 2020. Refer to <u>Appendix G, Noise Data</u> ; for modeling inputs and results.											

Operational Noise

Stationary Mechanical Noise

The 2007 General Plan EIR analyzed stationary noise sources and concluded that a less than significant impact would occur with compliance of the standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Heating Ventilation and Air Conditioning (HVAC) units would be installed on the roof of the proposed buildings. Typically, mechanical equipment noise is 55 dBA at 50 feet from the source.¹² According to the California Department of Transportation (Caltrans), noise attenuates at a rate of 7.5 dBA for each doubling of distance over “soft” surfaces (e.g., absorptive surfaces such as soft dirt, grass, or scattered bushes and

¹² Elliott H. Berger, Rick Neitzel, and Cynthia A. Kladden, *Noise Navigator Sound Level Database with Over 1700 Measurement Values*, July 6, 2010.

trees.^{13 14} The nearest sensitive receptors to the project site are multi-family and single-family residences located approximately 20 feet to the south, west, and north of the proposed project site boundary. According to the proposed Master Plan, project would be required to have setback of at least 30 feet to the edge of the proposed building. Based off this, the closest proposed building located to a proposed sensitive receptor is approximately 60 feet (Building G-2). At this distance, HVAC noise levels would be approximately 52 dBA. It should be noted that this conservative analysis does not take into account the addition distance from the proposed building heights of at least 36 feet, which would further attenuate the HVAC noise levels. According to the proposed Master Plan, all exterior mechanical equipment shall be screened or incorporated into the design of buildings so as not to be visible from the street, completely shielding the HVAC units from the nearest sensitive receptor to the south. Complete shielding of the HVAC units would reduce noise levels by approximately 8 dBA.¹⁵ As such, HVAC noise levels would be approximately 44 dBA with an enclosure, which would not exceed the Town’s 45 dBA CNEL exterior noise compatibility standard for single-family residences in a suburban area. Furthermore, according to the 2016 Update EIR, long-term noise measurements within the Town range from 46 to 64 dBA (page 4.8-11 to 4.8-13), which are higher than the projected HVAC noise levels of 44 dBA. Thus, impacts would be less than significant in this regard.

Parking Lot Noise

The proposed project would include approximately 660 parking spaces with a mixture of podium, tuck-under, and street parking. Estimates of the maximum noise levels associated with the parking lot activities attributed to the project are presented in Table 8, *Maximum Noise Levels Generated by Parking Lots*.

**Table 8
Maximum Noise Levels Generated by Parking Lots**

Noise Source	Maximum Noise Levels at 50 Feet from Source
Car door slamming	61 dBA Leq
Car starting	60 dBA Leq
Car idling	53 dBA Leq
Source: Kariel, H. G., <i>Noise in Rural Recreational Environments</i> , Canadian Acoustics 19(5), 3-10, 1991.	

As shown in Table 8, parking lot activities can result in noise levels up to 61 dBA at a distance of 50 feet. It is noted that parking lot noise are instantaneous noise levels compared to noise standards in the CNEL scale, which are averaged over time. As a result, actual noise levels over time resulting from parking lot activities would be far lower than what is identified in Table 8. Podium Parking under the apartment buildings would have intermittent parking lot noise due to the movement of vehicles. However, noise levels generated by podium parking would be inaudible at off-site uses as the structure would be completely enclosed underground. Furthermore, the on-site parking spaces would

¹³ Assuming a noise attenuation rate of 7.5 dBA for each doubling of distance over “soft” surfaces (e.g., absorptive surfaces such as soft dirt, grass, or scattered bushes and trees. California Department of Transportation, *Technical Noise Supplement*, 2009.

¹⁴ Cyril M. Harris, *Noise Control in Buildings*, 1994.

¹⁵ Federal Highway Administration, *FHWA Roadway Construction Noise Model User’s Guide*, January 2006.

be spread out over the project site and would not cause excessive parking lot noise. As such, the project would have a less than significant parking lot noise impact.

Crowd Noise

The project would include a park in the middle of the project site, near the proposed Tavern Road. This park area has the potential to be accessed by groups of people intermittently for various occasions (e.g., private parties, events, and other social gatherings, etc.). Noise generated by groups of people (i.e., crowds) is dependent on several factors including vocal effort, impulsiveness, and the random orientation of the crowd members. Crowd noise is estimated at 60 dBA at one meter (3.28 feet) away for raised normal speaking.¹⁶ This noise level would have a +5 dBA adjustment for the impulsiveness of the noise source, and a -3 dBA adjustment for the random orientation of the crowd members.¹⁷ Therefore, crowd noise would be approximately 62 dBA at one meter (3.28 feet) from the source (i.e., at the park).

As shown in Exhibit 3, the park would be in the center of the project site, approximately 300 feet from the nearest sensitive receptor. Based on the Inverse Square Law, crowd noise would be reduced to approximately 23 dBA at the closest sensitive receptor, to the north of the project site. Furthermore, an apartment building would be in-between the park and nearest sensitive receptor, further reducing noise levels by approximately 15 dBA. As such, outdoor activities associated with the park would produce a noise of level of approximately 8 dBA at the nearest sensitive receptor, which would not exceed the Town's 45 dBA CNEL exterior noise compatibility standard for single-family residences. As such, the proposed park would not generate noise levels that would exceed the Town's noise standards at the closest sensitive receptors. Therefore, impacts would be less than significant.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Previously certified environmental documents include mitigation measures to reduce potential impacts associated with implementation of the General Plan.

MM AES-1 Construction equipment staging areas shall use appropriate screening (i.e., temporary fencing with opaque material) to buffer views of construction equipment and material from public and sensitive viewers (e.g., residents and motorists/bicyclists/pedestrians), when feasible. Staging locations shall be indicated on the project Building Permit and Grading Plans and shall be subject to review by the Town of Mammoth Lakes Community and Economic Development Director in accordance with the Municipal Code requirements. (2016 Update EIR Mitigation Measure AES-1)

TSM 4.J-1.A Engine idling from construction equipment such as bulldozers and haul trucks shall be limited, to the extent feasible. (2016 Update EIR Mitigation Measure TSM 4.J-1.A)

¹⁶ M.J. Hayne, et al, *Prediction of Crowd Noise*, Acoustics, November 2006.

¹⁷ Ibid.

- TSMM 4.J-1.B The construction staging areas shall be located as far as feasible from sensitive receptors. (2016 Update EIR Mitigation Measure TSMM 4.J-1.B)
- TSMM 4.J-1.C All construction activities shall comply with the Town's Noise Ordinance. (2016 Update EIR Mitigation Measure TSMM 4.J-1.C)

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Approved Mitigation Measures.

b) *Generation of excessive groundborne vibration or groundborne noise levels?*

This impact threshold corresponds to the analysis under *Issue 4.8-2* (page 4-212) of the 2007 General Plan EIR.

As discussed previously as well as on page 4-212 of the 2007 General Plan EIR, it is noted that the 2005 General Plan Update is a long-range plan guiding future growth in the Town and does not contain project level details. Nevertheless, it is stated that any specific development projects would be required to comply with standards established in the local general plan or noise ordinance, or applicable standards of other agencies (page 4-213 of the 2007 General Plan EIR). Specifically, Municipal Code Section 8.16.090, *Prohibited Acts*, prohibits operating or permitting the operation of any device that creates a vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 150 feet from the source if on a public space or public right-of-way. As such, the 2007 General Plan EIR concluded that oversight by the appropriate agencies and compliance with the applicable regulations would result in a less than significant impact with regard to groundborne vibration and noise.

Vibration Impacts

The 2007 General Plan EIR did not analyze specific construction equipment vibration levels. However, construction of the proposed project would require similar construction equipment to what was analyzed in the 2016 Update EIR. The 2016 Update EIR analyzed potential construction vibration impacts and concluded that construction equipment vibration levels that occurred at a distance greater than 43 feet would not cause a significant impact. As discussed above, the nearest sensitive receptors to the project site are located approximately 20 feet to the south, west, and north of the project site boundary. According to the proposed Master Plan, the project would require a 30-foot setback from the proposed on-site buildings and the project boundary. Thus, construction would occur at a distance of at least 50 feet to the nearest structure. It should also be noted that construction would occur throughout the project site and would not be concentrated in or confined to one specific area of the project site. As this distance is greater than the 43 feet analyzed in the 2016 Update EIR, and the 2016 Update EIR concluded that operational of large heavy construction equipment would not cause a vibration impact at a distance greater than 43 feet, the proposed project would not create a construction vibration impact. Thus, impacts would be less than significant.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- c) *For a project located within the vicinity of a private airstrip an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis under *Issue 4.8-5* (page 4-219) of the 2007 General Plan EIR.

As discussed on page 4-219 of the 2007 General Plan EIR, the Mammoth Yosemite Airport is located approximately 7 miles from the Town with a relatively small size of CNEL 70 and 75 noise exposure areas. Implementation of the 2005 General Plan Update would comply with applicable regulatory requirements (e.g. Title 24 [Building] CCR T25-28), which would preclude locating sensitive receptors within the Mammoth Yosemite Airport's 65 CNEL contour and, as such, the 2005 General Plan Update would not result in the exposure of sensitive receptors in the UGB to excessive noise levels (page 4-219 of the 2007 General Plan EIR). Further, as discussed on page 4-212 of the 2007 General Plan EIR, residential uses and schools would not be exposed to excessive groundborne vibration or groundborne noise as these uses are required to be located outside of the Mammoth Yosemite Airport's 65 CNEL noise contour. As such, the 2007 General Plan EIR concluded that impacts in this regard would be less than significant.

The Mammoth Yosemite Airport is located approximately 6.2 miles east of the project site at 1300 Airport Road. According to the *Mammoth Yosemite Airport - ALUC Airport Safety Zone Plan/Land Use Plan (Existing Runway)* map, the project site is not located within any airport safety zones established for the Mammoth Yosemite Airport.¹⁸ Based on distance to the closest airport, project implementation would not result in excessive noise levels for people residing or working in the project area, or be located within an airport land use plan. No impacts would occur in this regard and development of the proposed project would not result in any new specific effects or greater impacts in this regard than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

¹⁸ Town of Mammoth Lakes, *Mammoth Yosemite Airport, Mammoth Lakes, California, Airport Layout Plan, ALUC Airport Safety Zone Plan/Land Use Plan (Existing Runway)*, Sheet 13, <https://www.townofmammothlakes.ca.gov/442/Airport-Planning-Narratives>, July 2014.

3.14 POPULATION AND HOUSING

This section corresponds with 2007 General Plan EIR Section 4.9, *Population, Housing, and Employment*.

Would the project:

- a) *Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

As discussed on page 432 of the 2007 General Plan EIR, the 2005 General Plan Update would neither induce nor foster, that is, cause, this growth to occur because a General Plan does not actually cause or induce growth, but is instead dependent on demand for recreational and related opportunities which has its principal origins in other parts of California and the West. As shown in Table 4.9-6, *Incremental Development for Buildout of the Proposed 2024 General Plan Compared with the Existing General Plan*, on page 4-234 of the 2007 General Plan EIR, the 2005 General Plan Update at buildout would result in a reduction of 686 residential units compared with the previous General Plan, with the majority of this reduction occurring in multi-unit transient housing (reduction of 680 units). Although the 2005 General Plan Update proposes a reduction of six non-transient residential units, the 2005 General Plan Update contains additional policies, such as limiting Shady Rest (the project site) to primarily workforce housing and permitting workforce housing, that would enhance opportunities for workforce housing increasing the availability of these units to residents through deed restrictions. Therefore, the reduction in residential units would not impact resident housing supply. The 2005 General Plan Update would result in a total population of approximately 60,700 people, which is slightly less than the projected population of 61,376 under the previous General Plan (page 4-233 of the 2007 General Plan EIR). Therefore, the 2005 General Plan Update would not indirectly provide for a substantial increase in population. Based on the above, the 2007 General Plan EIR concluded that while the 2005 General Plan Update would accommodate a relatively substantial increment of population growth, it would neither directly nor indirectly induce that growth or cause it to occur, and less than significant impact with regard to the inducement of a direct or indirect substantial population growth occur.

The proposed project is not anticipated to induce substantial unplanned population growth in the area, either directly or indirectly. Per the existing General Plan designation and zoning for the project site, buildout included development of approximately 25 acres of land with a density of 12 dwelling units per acre (up to 300 units) with an option to grant double density (up to 600 units). The project proposes 16 to 23 dwelling units per acre (gross) or 400 to 580 residential units and an increase in population of up to 2,013 persons¹⁹, which is consistent with the existing General Plan and Zoning buildout assumptions for the project site. However, it is acknowledged that the existing 1991 Shady Rest Master Plan only considers construction of 172 units at the site. Therefore, the proposed project (with anticipated development of up to 580 units) would result in a net development potential increase of up to 408 units and an increase of up to 1,416 persons at the project site when compared to anticipated buildout conditions of the 1991 Shady Rest Master Plan.

¹⁹ The population increase was calculated based on the average household size of 3.47 persons per household, which combines the household size for permanent population with the household size for visitor and seasonal populations; refer to Sections 4.9 of the 2016 Update EIR.

As discussed in Section 1.3.3, *Master Plan*, the Master Plan proposes to replace the 1991 Shady Rest Master Plan and increase maximum allowable density of the project site from 172 units to 580 units. Upon adaptation of the Master Plan, the specific development criteria would be amended to be consistent with the buildout assumptions of the General Plan designation and zoning for the site. As such, the 400 to 580 residential units and resulting population increase of 2,013 persons under the proposed project are consistent with the population and housing projections considered in the General Plan and Zoning Code.

Additionally, given the nature of the proposed use (i.e., affordable housing development), the proposed project is not anticipated to generate new jobs (that may result in potential employees relocating to the Town), but rather would provide affordable housing for the Town's workforce. Therefore, no indirect population growth as a result of jobs associated with the project is anticipated. As such, the project would not result in substantial increases in unplanned population growth in a local context. Overall, the project would result in less than significant impacts to unplanned population growth and would not result in substantially greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

As discussed on page 4-236 of the 2007 General Plan EIR, a General Plan Update could result in the displacement of housing units if land designated for residential use were changed to a non-residential designation. However, the 2005 General Plan Update does not propose any changes of existing residential uses to non-residential uses. In fact, the 2005 General Plan Update proposes increased affordable housing opportunities within the IP zone through density bonuses and through the re-designation of a portion of land from HDR to HDR-1, which would prohibit transient residential units in the future preserving more land for resident housing. As such, the 2007 General Plan EIR concluded that the 2005 General Plan Update would result in a less than significant impact with regard to the displacement of substantial numbers of existing housing or residents.

No existing housing is present on-site. Thus, implementation of the proposed projects would not result in the displacement of existing housing. No impacts would result in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

3.15 PUBLIC SERVICES

This section corresponds with 2007 General Plan EIR Section 4.10, *Public Services*, and Section 4.12, *Recreation*, as well as the 2016 Update EIR Section 4.10, *Public Service*, and Section 6.2, *Significant Unavoidable Impacts*.

a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

i) *Fire Protection?*

The 2007 General Plan EIR determined that implementation of measures to ensure that service providers have opportunity during the development review process to provide comments (2007 General Plan Policy II.1.C.a.1), new development adequately mitigates its impact on fire protection (2007 General Plan Policy II.1.C.a.2), and any sites designated for public safety facilities are sited at locations that facilitate prompt response times (2007 General Plan Policy II.1.D.a.6). In addition, 2007 General Plan Policy II.4.A.e.4 assists in establishing and implementing appropriate funding sources to facilitate the expansion of the Main Street fire station, relocation of the training tower, construction of fire employee housing, and development of a third fire station. The imposition of the development impact fee (Code Section 15.16.082) also would serve to further ensure that potential impact to fire protection services is reduced. Last, the Town collects development impact fees (DIFs) to fund the required fire suppression facilities, vehicles, and equipment. New development is projected to pay over 58 percent of the cost of the required fire suppression facilities, vehicles, and equipment needed to service buildout of the 207 General Plan. The Mammoth Lakes Fire Protection District (MLFPD) provides fire protection and emergency response to the project site. As such, the MLFPD also collects a fixed percentage of the Town's property taxes to fund their development and operations. Therefore, the 2007 General Plan EIR concluded that with implementation of the General Plan policies and existing regulations, impacts in this regard would be less than significant.

The 2016 Update EIR determined that the 2016 Update would not result in the need for new or physically altered fire protection facilities in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection and emergency services. As discussed in the 2016 Update EIR, although demand for fire protection may increase with implementation of the 2016 Update as a result of development density and population increases, existing development standards (i.e., requirements for automatic sprinkler systems, alarms, smoke and carbon monoxide detectors and other fire suppression requirements), building code and fire code requirements, as well as the service impact analyses required on a project-by-project basis would ensure that growth in the Town would not exceed the carrying capacity of infrastructure or public services. In addition, future development in the Town would be subject to MLFPD's review as well as payment of DIFs, which would offset the impacts of increased demand for public services, which include fire services. As such, impacts associated with the 2016 Update were determined to be less than significant.

The proposed project would include the development of approximately 400 to 580 residential units, thus introducing additional residents to the project area. Similar to the 2007 General Plan EIR and 2016 Update EIR, the proposed project would be subject to existing development standards, building code and fire code requirements, payment of DIFs, and MLFPD's review. As such, impacts would be less than significant and the proposed project would not result in any significant impacts in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) *Police Protection?*

Police protection services in the Town are provided by the Mammoth Lakes Police Department (MLPD).

The 2007 General Plan EIR determined that permanent and transient population growth resulting from implementation of the 2007 General Plan would result in a greater volume of emergency calls to the police department and could potentially impact police protection and law enforcement services and facilities. As buildout of the 2007 General Plan occurs, MLPD services will increase as needed to respond to population growth. The 2007 General Plan implementation measures ensure that service providers have opportunity during the development review process to provide comments (2007 General Plan Policy II.1.C.a.1), new development adequately mitigates its impact on police protection (2007 General Plan Policy II.1.C.a.2), and any sites designated for public safety facilities are sited at locations that facilitate prompt response times (2007 General Plan Policy II.1.D.a.6). The imposition of the development impact fee (Municipal Code Section 15.16.082) also would serve to further ensure that potential impact to police protection services is reduced. The 2007 General Plan EIR concluded that the 2007 General Plan implementation measures, along with existing regulations regarding the payment of DIFs, would reduce impacts to police protection services to a less than significant level.

The 2016 Update EIR determined that the 2016 Update would not result in the need for new or physically altered police protection facilities in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection and emergency services. As discussed in the 2016 Update EIR, although demand for police protection may increase with implementation of the 2016 Update as a result of development density and population increases, existing development standards (i.e., setbacks, snow storage, lighting standards, site security requirements, and parking standards), crime deterrence brought by the increased pedestrian activity associated with developments, as well as service impact analysis required on a project-by-project basis would ensure that growth in the Town would not exceed the carrying capacity of infrastructure or public services. All future development in the Town would be subject to MLPD's review as well as payment of DIFs, which would offset the impacts of increased demand for public services, which include police protection services. Further, all future development in the Town would coordinate with the MLPD

to plan for and ensure appropriate emergency access and response times in accordance with the newly approved Action M1.4.1 as part of the 2016 Update. As such, impacts associated with the 2016 Update were determined to be less than significant.

The proposed project would include the development of approximately 400 to 580 residential units, thus introducing additional residents to the project area. Similar to the 2007 General Plan EIR and 2016 Update EIR, the proposed project would be subject to existing development standards, and MLPD's review. As such, impacts would be less than significant and the proposed project would not have any significant impacts in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

c) Schools?

The 2007 General Plan EIR determined that development of the 2007 General Plan may strain existing school capacity and create demand for expanded services and facilities. Population growth proposed under the 2007 General Plan would generate additional students within the Mammoth Unified School District (MUSD) services area. The 2007 General Plan EIR determined that buildout of the 2007 General Plan would exceed the available capacity of the district. All development projects are required to comply with Senate Bill 50, which requires the payment of new school construction facility fee. The fee charged is the fee in the place at the time of issuance of a permit. The payment of these fees by a developer serves to mitigate all potential impacts on school facilities that may result from implementation of a project to levels that are less than significant (Government Code Section 65995). Furthermore, the 2007 General Plan includes several implementation measures to ensure the potential impacts to school facilities and services are reduced, including payment of appropriate development fees (2007 General Plan Policy II.1.A.b.5), and appropriate schools siting, design, and development (2007 General Plan Policies II.1.A.b.1, II.1.A.b.2, and II.1.A.b.3). Based on the information provided by MUSD and the 2007 General Plan implementing policies, the 2007 General Plan EIR determined that less than significant impacts on school facilities and services would result.

The 2016 Update EIR determined that implementation of the 2016 Update would not significantly impact MUSD school facilities or services with payment of the required development fees pursuant to California Education Code Section 17620 (a)(1) at the time of obtaining a building permit. In addition, the MUSD disclosed that the number of students enrolled in the school district has not changed substantially in approximately a decade. Additionally, payment of the required development fees is considered sufficient mitigation for all potential impacts from development projects on school facilities to a less than significant level pursuant to Government Code Section 65995. As such, the 2016 Update EIR concluded a less than significant impact would result in this regard.

The proposed project would include the development of approximately 400 to 580 residential units, thus introducing up to 108 net new residential units to the project site (or 54 new students based on

the MUSD projection estimate of 0.499 students per unit [2007 General Plan EIR page 4-249]). Similar to the 2007 General Plan and 2016 Update EIR, the proposed project would be subject to the require development fees pursuant to California Education Code Section 17620 (a)(1). Upon payment of school impact fees, impacts would be less than significant in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) Parks?

The 2007 General Plan EIR determined that an additional 22 acres of park development and acquisition would be needed at buildout of the 2007 General Plan in order to maintain performance objects. The 2007 General Plan EIR found that impacts in this regard would be significant and unavoidable given the uncertainty of future park acreage at the Town at the time of adoption. Notwithstanding, the 2007 General Plan EIR also determined that with implementation of appropriate parkland dedications or payment of in lieu fees through DIFs or Subdivision approvals, potential impacts to existing parks and recreational facilities and programs that would occur due to continued growth associated with the 2007 General Plan would be less than significant.

As detailed in the 2016 Update EIR, the 2016 Update could result in an increase in population in the commercially designated areas which could potentially increase the demand for existing neighborhood/regional parks and other recreational facilities, or require the expansion of an existing recreational facilities. The Town has adopted a level of service (LOS) standard of 5 acres of parks per 1,000 residents in accordance with the *Town of Mammoth Lakes, Parks and Recreation Master Plan (PRMP)*, adopted February 1, 2012. For regional park acreage, the LOS standard is 2.5 acres per 1,000 residents. As of the time the 2016 Update EIR was prepared, the LOS was 3.12 acres of developed local parkland per 1,000 residents and 5.13 acres undeveloped parkland per 1,000 residents. For regional parkland, the LOS was 1.46 acres of developed parkland per 1,000 residents and 3.96 acres of undeveloped parkland per 1,000 residents. This was below the Parks and Recreation Master Plan goals for LOS for developed parkland, but above the LOS standard for undeveloped parkland.

The 2016 Update EIR detailed the evaluation of future projects' impacts on open space, recreation and parks would utilize an impacts-based approach under the 2016 Update. An impacts-based approach is intended to ensure that growth in the Town would not exceed the carrying capacity of parks and recreational services, and that the potential for significant environmental impacts would be identified and mitigated if necessary; refer to page 4.10-34 of the 2016 Update EIR. Future development in the Town would be subject to applicable DIFs for parkland and recreation pursuant to Municipal Code Section 15.16.081.B. Future residents and visitors would be subject to the *Mammoth Lake Recreation, Trails and Parks Investment Initiative Ordinance (Measure R)*²⁰ as well as the *Mammoth Lakes*

²⁰ Measure R, or the "Mammoth Lakes Recreation, Trails and Parks Investment Initiative" Ordinance No. 08-01 was adopted by Town Council on February 20, 2008, and approved by the voters on June 3, 2008. The Ordinance imposed a Transactions and Use Tax in the amount of one-half percent for the purpose of funding Recreation, Trails and Parks.

*Mobility, Recreation and Arts & Culture Utility Users Tax Ordinance (Measure U)*²¹, both of which would help fund the parks and recreation facilities in the Town. Nevertheless, as the Town was behind on the goal of providing 5 acres of developed parkland per 1,000 residents, the 2016 Update EIR concluded that even with the proposed improvements to regional parks, new planned park and recreational facilities, access to other parks and recreational amenities, and funding associated with the DIF programs and Measures R and U, implementation of the 2016 Update would lead to significant and unavoidable impacts for parks and recreational services.

The project proposes 400 to 580 residential units and an increase in population of up to 2,013 persons. Based on these and the Town's buildout model assumptions, the proposed project could result in a net increase of up to 108 units and an increase of up to 375 persons at the project site, compared to the General Plan and 2016 Update buildout assumptions. As discussed in [Section 1.5](#), the project would provide approximately 3.1 acres of open spaces for recreational purposes. These spaces include an at least 0.5-acre central park that anchors the neighborhood, along with smaller pocket parks that serve as open space for the community. The open spaces are meant to provide public gathering spaces, which could be used for community performances, picnicking, celebrations (e.g., birthdays), outdoor kids play activities and yoga or exercise classes, horseshoes and cornhole, and other outdoor activities. The project would also construct informal open spaces such as bioswales, planting strips, and open spaces within and adjacent to development blocks intended to provide snow storage capacity during winter, and could be used for additional purposes when clear of snow, such as recreation and habitat for native flora and fauna. Since the proposed project would provide on-site parkland and would also comply with applicable regulations, including the aforementioned Measures R and U as well as applicable DIF programs, the project's impacts would be less than significant in this regard. It is acknowledged that the project constitutes an improvement over conditions contemplated in the 2016 Update because it would both pay the required DIF fees and also provide a minimum of an addition 0.5-acre of parks, among other open space/recreational uses. Nevertheless, the Town would continue to fall short of the 5 acres per 1,000 residents LOS and, therefore, the overall impact for the Town would be considered significant and unavoidable. While the impact is significant and unavoidable, the proposed project would not result in any new specific effects or more significant effects than disclosed and analyzed in the 2007 General Plan EIR or the 2016 Update EIR. As a result, no further review is required pursuant to 15183.3.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

Measure R is a special fund designated for use by the Town of Mammoth Lakes only for the planning, construction, operation, maintenance, programming and administration of all trails, parks and recreation facilities managed by the Town of Mammoth Lakes without supplanting existing parks and recreation facility maintenance funds.

²¹ Measure U, or the "Mammoth Lakes Mobility, Recreation and Arts & Culture Utility Users Tax Ordinance" was adopted by the Mammoth Lakes Town Council on March 17, 2010, and approved by the voters of the Town of Mammoth Lakes on June 8, 2010. Measure U is a special fund designated for use by the Town of Mammoth Lakes, and used only for the planning, construction, operation, maintenance, programming and administration of facilities and projects for Mobility, Recreation and Arts & Culture.

e) *Other public facilities?*

Library Services

The Town is served by the Mono County Library System. The 2007 General Plan EIR determined that the 2007 General Plan would result in an increase of population and a corresponding demand for library services. The 2007 General Plan includes implementing policies to encourage service providers (Mono County) to participate in the development review process (2007 General Plan Policy II.1.C.a.1). However, although the Town has control over certain aspects of the funding and construction of the library, the library is a County facility, ultimately controlled by the County. As such, the 2007 General Plan EIR determined that although the Town's implementing measures would reduce impacts in this regard to a less than significant level, the impacts to library services cannot be mitigated by the Town to a less than significant level.

Around the time of 2007 General Plan was adopted, Mono County opened a new library at 400 Sierra Park Road (December 2007). As such, the 2016 Update EIR determined that the existing Mammoth Lakes Library Branch adequately serves the Town and surrounding populations. Wait times for conference facilities and work stations are reasonable and there are rarely any scheduling conflicts. It is noted that expansion of the Mammoth Lakes Library Branch in 2007 resulted in the facility more than doubling in size from 7,000 square feet to 17,000 square feet and provided substantial increase in amenities such as two conference rooms, a shared classroom with the Cerro Coso Community College, art and craft area, and children's area. Furthermore, future development that would occur in the commercially designated areas would be required to pay the required library DIFs (pursuant to Section 15.16.081.B of the Municipal Code) and would also be subject to the 1.68 percent property tax allocation which supports funding of the Mono County Library System and its facilities. Thus, impacts were determined to be less than significant in this regard.

The proposed project would include the development of approximately 400 to 580 residential units, thus introducing up to 108 net new residential units at the project site, compared to the 2007 General Plan buildout assumptions. Similar to the 2016 Update, the proposed project would be subject to the library DIFs in accordance with Section 15.16.081.B of the Municipal Code. As such, impacts in this regard would be less than significant.

Hospital Services

The 2007 General Plan acknowledged that buildout of the 2007 General Plan would result in permanent and transient population increases in the Town and, as a result, would increase the demand for hospital and health services. The 2007 General Plan policies reduced impacts through siting of public safety facilities at locations that facilitate prompt response times and requiring resort visitor developments to provide on- and off-site amenities' for their guests' benefit and enjoyment. These amenities could include on-site infirmary/medic assistance. Although these policies reduced impacts to hospital services to a less than significant level, the 2007 General Plan is a 20-year plan and the Southern Mono health Care District does not have funded improvements for the expansion of facilities over a 20-year timeframe. Since the Town does not have ultimate control over the provision of health care services, impacts to hospital and health services was determined to be significant and unavoidable. No feasible mitigation measures were identified.

It is acknowledged that in 2007, Mammoth Hospital opened its 38,000 square foot expansion that houses an Emergency Department, surgery center, fully digital Medical Imaging Department, and a three-bed Birthing Center.

As discussed above, in Section 4.14, *Population and Housing*, the proposed 400 to 580 residential units and resulting population increase of 2,013 persons under the proposed project are consistent with the population and housing projections considered in the General Plan and Zoning Code. As such, the proposed project would not result in substantially greater impacts than previously analyzed in the 2007 General Plan EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.16 RECREATION

This section corresponds with 2007 General Plan EIR Section 4.12, *Recreation*, and 2016 Update EIR Section 4.10, *Public Services*, and Section 6.2, *Significant Unavoidable Impacts*.

- a) *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

Refer to Response 3.15(d).

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

Refer to Response 3.15(d).

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.17 TRANSPORTATION

This section corresponds with 2007 General Plan EIR Section 4.13, *Transportation and Circulation*, as well as 2016 Update EIR Section 4.2, *Air Quality*, Section 4.11, *Transportation and Traffic*, and Section 6.0, *Other Mandatory CEQA Considerations*. Site-specific information is based primarily on *The Parcel Buildout Transportation Analysis* (Transportation Analysis), prepared by LSC Transportation Consultants, Inc., dated December 3, 2020; refer to [Appendix H, *Transportation Analysis*](#).

Would the project:

- a) ***Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?***

This impact threshold was modified since the 2007 General Plan EIR and 2016 Update EIR were prepared, and corresponds to the analysis under *Issue 4.13-7* (pages 4-345) of the 2007 General Plan EIR and page 4.11-27 of the 2016 Update EIR.

The 2007 General Plan EIR determined that with implementation of the General Plan policies and implementation measures would expand the existing trail, sidewalk, and bicycle network, which support the use of alternative modes of transportation (2007 General Plan EIR page 4-349). Additionally, public transit facilities and options would be expanded to reduce visitors and residents reliance of private automobiles. Implementation of the 2007 General Plan's policies and implementation measures would ensure that impacts and/or conflicts to adopted policies, plans, or programs supporting alternative transportation methods are reduced to a less than significant level.

The 2016 Update EIR determined that the 2016 Update would support and implement policies of adopted plans and programs related to pedestrian, bicycle, and public transit facilities. Specifically, the 2016 Update proposed new goals, policies, and actions to improve public transit, bicycle, and pedestrian facilities within the Town. With regard to pedestrian facilities, the 2016 General Plan Goal M.8 aims to support the Town's "feet first" objectives by providing a linked year-round pedestrian system that is safe and comprehensive, and the 2016 General Plan Goal M.9 aims to provide an attractive and accessible pedestrian environment throughout the Town. With regard to bicycle facilities, the 2016 General Plan Goal M.10 aims to support feet-first objectives by providing a linked, year-round recreational and commuter bicycle system that is safe and comprehensive. Specifically, General Plan Action M.10.1.6 would require major new commercial and residential development or redevelopment to provide covered and secure bicycle parking and shower and locker facilities, or to assist in funding bicycle improvements in nearby locations.

With regard to transit facilities, the proposed 2016 General Plan Goal M.12 aims to provide a year-round public transit system that is convenient and efficient, and increases transit ridership for all trip types, and the 2016 General Plan Goal M.13 aims to ensure the financial sustainability of transit. Specifically, General Plan Policy M.12.1 would expand and increase the reliability of transit service;

and General Plan Policy M.12.2 would ensure that all planning processes address transit facilities and services, including areas where transit service, access, and amenities can be improved, and consider land use pattern that support high transit ridership. According to the 2016 Update EIR, implementation of the 2016 Update would expand the transit system and increase overall transit use by approximately 0.4-percent, which would better sustain transit expansion and availability and would not exceed the capacity of the projected transit system. Additionally, the 2016 Update would be consistent with applicable multi-modal policies of the California General Plan Guidelines: Complete Streets and Circulation Element. Overall, the 2016 Update would implement the objectives of the General Plan by providing an enhanced pedestrian, bicycle, and transit network, and maintain and improve the safe and efficient movement of people, traffic and goods in a manner consistent with the “feet first” initiative. As such, the 2016 Update EIR concluded that the 2016 Update would not conflict with any adopted plans and policies and less than significant impacts would occur in this regard.

Pedestrian/Bicycle Facilities

Implementation of the proposed project would result in an increase in approximately 108 net residential units, which would increase the demand for pedestrian and bicycle facilities in the project area. With regards to pedestrian facilities, sidewalks are currently provided along the north and south sides of Main Street, east side of Laurel Mountain Road (portion north of Tavern Road), and the south side of Tavern Road (between Laurel Mountain Road and Old Mammoth Road). There are no sidewalks along Center Street, Tavern Road (portion west of Laurel Mountain Road), or Chaparral Road. It is noted that the 2016 Update identifies future pedestrian facilities along the full extent of Laurel Mountain Road, as well as on Tavern Road (portion west of Laurel Mountain Road); refer to 2016 Update EIR Figure 3-1, *Complete Streets*. A connection from the western boundary of the project site to Manzanita Road is also identified. With regards to bicycle facilities, Class I multipurpose bike/pedestrian trails are provided along both sides of Main Street (portion east of Laurel Mountain Road). Existing Class II bike lanes are provided along Main Street and along Tavern Road (portion east of Laurel Mountain Road). Per the Mobility Plan, Class II bike lanes are planned for Laurel Mountain Road and Old Mammoth Road.

According to the Transportation Analysis, the project site is located within a convenient bicycle/walk distance to many trip destinations, including the Vons plaza (0.6-mile), the Mammoth High School (0.6-mile), the Mammoth Elementary School (1 mile) and the United States Postal Service (0.2-mile), as well as many of the larger employers. As described above, there are existing bicycle and pedestrian facilities available for these trips, except for the roadways immediately adjacent to the site. As such, the project proposes new sidewalks and/or MUPs on Tavern Road between the project site and Laurel Mountain Road, and on Center Street between the project site and Main Street, in addition to sidewalks and/or MUPs proposed within the project site; refer to [Exhibit 4](#). A connection (presumably available to both cyclists and pedestrians) between Manzanita Road and the project site is also proposed. Based on the Transportation Analysis, no improvements are warranted to the south of the project site along Chaparral Road due to the low level of usage. The proposed sidewalks and/or MUP improvements would create an attractive, accessible, and safe pedestrian and bicycle systems per General Plan Goals M.8, M.9, and M.10, which would support the Town’s “feet first” objectives. According to the Transportation Analysis, the proposed sidewalks and bike lanes along Tavern Road and Center Street would be sufficient to serve the cyclists and walkers along these streets. Once reaching Manzanita

Road, cyclists and walkers would disperse in various directions, also resulting in levels at any one location that do not warrant improvements. As such, the Transportation Analysis concludes that with construction of the proposed sidewalks/MUPs, bicycle and pedestrian conditions would be adequate to support the proposed project. Less than significant impacts to pedestrian and bicycle facilities would occur in this regard.

Transit Facilities

With regards to transit facilities, the Eastern Sierra Transit Authority provides transit services to the Town. All routes within the Town are free, and services vary by season. Specifically, the Purple Line provide local service on a year-round basis, with the closest stop to the project site located along Old Mammoth Road between Tavern Road and Main Street. Town Trolley provides services to the Town during summer, and the closest stops to the project site located along Main Street near the United States Postal Service, and near the Forest Trail intersection to the east. The Red Line provides transit service to the project site during winter, along Main Street, with the closet stops also located along Center Street near the Outlet Mall and Fun Shop. Overall, transit stops are available within a five-minute walk time from the project site.

According to the Transportation Analysis, considering the number of units, expected occupancy and variations in work schedules, an estimated maximum of 120 transit passengers would be generated by the proposed development in a peak hour during the peak seasons. The proposed project includes at least one bus stop pair, located on the west side of Center Street just north of Tavern Road, and on the north side of Tavern Road just east of Center Street. Buildout of the proposed project would generate additional transit ridership that would require an expansion of the existing transit service. As such, a condition of approval would be imposed on the project requiring the Town to amend the existing bus service for at least the winter season to accommodate the new bus stop proposed by the project. The specific routing and scheduling to this new bus stop would be evaluated as part of a comprehensive transit planning process in order to address how this amended service fits with other routes and community needs. The proposed bus stops and amended bus service would support the General Plan Policy M.12.1 and M.12.2 and help provide a convenient and efficient public transit system per General Plan Goal M.12.

Overall, the project proposes new sidewalks and/or MUPs, which would contribute to General Plan Goals M.9 and M.10, and a new bus stop, which would contribute to General Plan Goal M.12. As such, development of the proposed project would not result in any new specific effects or greater impacts in regard to transit, roadway, bicycle and pedestrian facilities than previously analyzed in the 2016 Update EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

This impact threshold was modified since the 2007 General Plan EIR and 2016 Update EIR were prepared, and corresponds to the analysis under *Issue 4.2-1* (page 4-35) of the 2007 General Plan EIR and page 4.2-19 of the 2016 Update EIR.

The 2007 General Plan included consideration of vehicle miles travelled (VMT) in Appendix F, *Traffic Study*. As stated on page 4-35 of the 2007 General Plan EIR, implementation of the 2005 General Plan Update would result in 128,270 VMT. According to the 2016 Update EIR, the 2016 Update under the existing roadway network would potentially result in development that could exceed the daily VMT cap in the Great Basin Unified Air Pollution Control District's *Air Quality Management Plan* (AQMP) for the Town of Mammoth Lakes and potentially result in emissions of PM₁₀ that would cause an exceedance of the National Ambient Air Quality Standards (NAAQS). As such, the 2016 Update EIR adopted GPMM 4.2-1, which requires a VMT analysis for specific projects in those cases where the project would result in 500 daily vehicle trips for incorporation into the AQMP model; and GPMM 4.2-2, which may condition or restrict future development as necessary to manage Town-wide VMT at levels that ensure compliance with federal PM₁₀ NAAQS. Further, Municipal Code Chapter 8.30, *Town Particulate Emissions Regulations*, requires the Town to include a limit of 179,708 VMT in its review of proposed development projects. The 2016 Update EIR concluded that compliance with adopted GPMMs 4.2-1 and 4.2-2 as well as Municipal Code Chapter 8.30 would reduce impacts in regard to VMT to less than significant levels.

In September 2013, Senate Bill 743 became effective, which identifies VMT as the most appropriate CEQA transportation metric for CEQA purposes. The Governor's Office of Planning and Research published the *Technical Advisory on Evaluating Transportation Impacts in CEQA* (Technical Advisory), dated December 2018, to provide advice and recommendations, which agencies and other entities may use at their discretion. Pursuant to CEQA Guidelines Section 15064.3(b)(3), the Technical Advisory identifies screening thresholds that may be utilized by lead agencies to screen out VMT impacts using project size, maps, transit availability, and provision of affordable housing. The Town recently adopted VMT screening thresholds (December 2020), which are utilized to evaluate the project's potential VMT impacts.

Screening Criteria: Provision of Affordable Housing

Land use projects that add affordable housing to infill locations generally improve jobs-housing match, in turn shortening commutes and reducing VMT. Therefore, a project consisting of a high percentage of affordable housing may be a basis for the lead agency (i.e., the Town) to find a less than significant impact on VMT. Generally, a 100 percent affordable residential development (or the residential component of a mixed-use development) in infill locations is presumed to have less than significant VMT impacts absent substantial evidence to the contrary. Lead agencies may develop their own presumption for residential project (or the residential component of a mixed-use development) containing a particular amount of affordable housing based on local circumstances and evidence. These projects are screened out from completing a VMT analysis based on the provision of certain percentage of affordable housing units. Further, any affordable residential units provided by a project may factor the effect of the affordability on VMT into the assessment of VMT generated by those units.

The project proposes approximately 400 to 580 residential units, all (100 percent) of which would be deed restricted for affordable workforce housing. Based on the Town's screening criteria, the project would result in a less than significant VMT impact and is screened out from further VMT analysis. Further, it is acknowledged that based on the Town's VMT Calculator, current average trip lengths for multifamily (mid-rise) residential uses average 21.9 miles.²² The Town's VMT thresholds of significance for residential projects in the Town are a 15 percent reduction of the average trip length, which would be 18.6 miles. Given the project's 580 maximum dwelling units, the project would result in average trip lengths well below 10.0 miles (this is due to the project being an infill development project). As such, development of the proposed project would not result in significant impacts in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

c) *Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*

This impact threshold was modified since the 2007 General Plan EIR and the 2016 Update EIR were prepared, and corresponds to the analysis under *Issue 4.13-4* (page 4-338) of the 2007 General Plan EIR and page 4.11-26 of the 2016 Update EIR.

The 2007 General Plan EIR determined that while the 2007 General Plan policies and measures do not specifically address design features for roads, Policy II.1.C.a.2 requires that as part of the project review process, conditions of approval and implementation of the development Impact Fee schedule, that new development would adequately mitigate its potential impact on public safety, which includes hazards due to a design feature or incompatible uses. Emergency providers would review any modifications to roadways to ensure that emergency service would not be impacted. Implementation of the Town design review requirements, along with the 2007 General Plan policies and implementation measures, would reduce impacts regarding hazards due to a design feature or incompatible uses to a less than significant level.

As part of the 2016 Update, the 2016 Update EIR acknowledge that increased density would increase traffic volume thus increasing sensitivity to poor roadway design and increase vehicle/pedestrian conflicts. However, the 2016 Update would incorporate policies and specific features that are intended to reduce roadway hazard resulting from a design feature or incompatible use. Specifically, the 2016 Update included General Plan Policy M.1.5 to reduce conflicts between vehicles and pedestrians through improved access, design, and management, including driveways, frontage roads, and turn lanes; General Plan Policy M.3.1 to encourage street design and traffic calming techniques that enhance residential neighborhoods and streets, improve public safety, maintain small-town character, and enhance resort design objectives; and General Plan Policy M.3.2 to facilitate

²² Correspondence from Haislip Hayes, Town of Mammoth Lakes Public Works Director, on November 9, 2020.

implementation of traffic-calming techniques by encouraging development of public-private partnerships and pilot projects. Overall, the 2016 Update EIR concluded that implementation of the 2016 Update would address any new hazards associated with existing conditions and with potential growth, and impacts would be less than significant in this regard.

Development of the proposed project would result in an increase in density at the project site, which could result in a new specific affect as a result of increased hazards due to geometric design features or incompatible uses. As stated above, the project proposes sidewalks and/or MUPs within the project site and in the immediate vicinity, which would improve circulation in the area. According to the Transportation Analysis, two serious incidents, resulting in injury or fatality, occurred over a 10 year period (2009 through 2018) within the vicinity of the site. The Transportation Analysis concluded that the incidents do not indicate a substantial bicycle/pedestrian safety issue in the site vicinity. Further, it is acknowledged that the project proposes to sign a “Do Not Block” pavement box or other appropriate traffic control device or management tool at the intersection of Center Street and project frontage, which is also a condition of approval on the project. Based on the Transportation Analysis, this project feature incorporated as part of the proposed project would not result in significant safety affects pertaining to transportation design. Further, that the Transportation Analysis determined that proposed site access roadways would function adequately with one travel lane in each direction. Overall, the project’s impacts in regard to hazards would be less than significant.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

d) *Result in inadequate emergency access?*

The 2007 General Plan EIR determined that with the various policies and measures regarding emergency access and the Town’s EOP (2017), development associated with the 2007 General Plan would result in less than significant impacts with regard to emergency access (page 4-341 through 4-342 of the 2007 General Plan EIR).

According to the 2016 Update EIR, provisions within the General Plan and the 2016 Update (including the General Plan Goal S.4, Policy S.4.A, Policy M.1.4, and Action M1.4.1) would encourage coordination with MLFPD and MLPD to maintain emergency access for development, including roads and utility lines. Further, site plans for future development within the Town would be reviewed by the MLFPD for adequate emergency access. During operation, adherence to the Town’s egress and ingress requirements for emergency access would ensure that site-specific emergency access would be adequate. In addition, the implementation of the 2016 Update would result in new roadway extensions and connections. These new roadway extensions and improved connectivity under the 2016 Update would not cause additional impediment and would, potentially, facilitate emergency access during operation. Therefore, the 2016 Update EIR concludes that with the implementation of General Plan and Mobility Element Update (part of the 2016 Update) policies, impacts with respect to emergency access would be less than significant.

As stated above, the project proposes a circulation network to facilitate movement through the project site. All parking accesses/drive aisles within the project site would be required to provide a 20 to 26 foot wide fire access lane, depending on building height. Subsequent Major Design Review Application for development may include a memorandum from a qualified traffic engineer to address adequate traffic calming and to confirm, revise, or create roadway speed limits based on trips generated, which would be subject to approval by the Town's Public Works Director. While temporary lane closures may be required during project construction, travel along surrounding roadways would remain open and would not interfere with emergency vehicle access in the site vicinity. In addition, the project would be required to comply with applicable MLFPD codes for emergency vehicle access. All appropriate fire and emergency access conditions would be incorporated into the design of the project and would be reviewed by the Town and MLFPD prior to the issuance of grading permit(s). As such, the project's impacts would be less than significant in this regard and would not be greater than that previously analyzed in the 2016 Update EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.18 TRIBAL CULTURAL RESOURCES

As of July 1, 2015, California Assembly Bill 52 (AB 52) was enacted and expanded CEQA by establishing a formal consultation process for California tribes within the CEQA process. The bill specifies that any project that may affect or cause a substantial adverse change in the significance of a tribal cultural resource would require a lead agency to "begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Section 21074 of AB 52 also defines a new category of resources under CEQA called tribal cultural resources. Tribal cultural resources are defined as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" and is either listed on or eligible for the California Register of Historical Resources or a local historic register, or if the lead agency chooses to treat the resource as a tribal cultural resource.

On February 19, 2016, the California Natural Resources Agency proposed to adopt and amend regulations as part of AB 52 implementing Title 14, Division 6, Chapter 3 of the California Code of Regulations, CEQA Guidelines, to include consideration of impacts to tribal cultural resources pursuant to Government Code Section 11346.6. On September 27, 2016, the California Office of Administrative Law approved the amendments to Appendix G of the CEQA Guidelines. As the 2016 Update EIR was prepared prior to adaptation of these amendments, consideration of impacts to tribal cultural resources pursuant to Government Code Section 11346.6 was not addressed within the 2016 Update EIR.

It is acknowledged that as part of the 2016 Update process, the Town commissioned a Sacred Lands File (SLF) search and Native American contact list request for the Town's Planning Area through the

California Native American Heritage Commission (NAHC) on June 23, 2015 and conducted follow-up consultation by letter with Native American groups and/or individuals identified by the NAHC as having affiliation with the project vicinity. Each Native American group and/or individual listed was sent a project notification letter and map and was asked to convey any knowledge regarding prehistoric or Native American resources (archaeological sites, sacred lands, or artifacts) located within the project or surrounding vicinity. The letter included information such as the project location and a brief description of the proposed project. Results of the SLF search and follow-up consultation would provide information as to the nature and location of additional prehistoric or Native American resources to be incorporated in the impact analysis whose records may not be available at the EIC.

Pursuant to NAHC suggested procedure and in compliance with Senate Bill 18, the Town sent follow up letters via certified mail on August 26, 2015 to the nine (9) Native American individuals and organizations identified by the NAHC as being affiliated with the vicinity of the Town's Planning Area to request any additional information or concerns they may have about Native American cultural resources that may be affected by the proposed project.

At the time of publication of the 2016 Update EIR, the Town received no responses from the Native American community.

This section corresponds with 2016 Update EIR Section 4.5, *Cultural Resources*.

- a) *Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:*
- i) *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or*

As detailed in Section 3.5, *Cultural Resources*, no historic resources listed or eligible for listing in a State or local register of historic resources as defined in subdivision (k) of Section 5020.1 are located on the project site; refer to Appendix D. As such, no impacts related to historic tribal cultural resources defined in Public Resources Code Section 5020.1(k) would occur, and implementation of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2016 Update EIR.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

- ii) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

As stated above, the proposed project would not be subjected to the AB 52 consultation process. Implementation of the proposed project would not result in any new specific effects or greater impacts than previously analyzed in the 2016 Update EIR. The 2016 Update EIR included requests for Native American tribal consultations for the purposes of Senate Bill 18. At this time, the Town received no responses from these nine (9) Native American individuals and organizations identified by the NAHC as being affiliated with the vicinity of the Town's Planning Area. Notwithstanding, the 2007 General Plan EIR included Mitigation Measures 4.14-4 through 4.14-6 to reduce potential impacts associated with previously undiscovered archaeological resources, which were also applied to the 2016 Update EIR.

As discussed in Section 3.5, Cultural Resources, the 2020 Cultural Resources Memo identified 17 prehistoric archaeological sites and three isolated prehistoric artifacts within 0.5-mile of the project site. The project location was subject to a cultural resource assessment in 2007 (2007 Cultural Assessment), during which a previously recorded prehistoric archaeological site CA-MNO-714 was found on-site and was evaluated for eligibility for listing in the National Register of Historic Places (NRHP).²³ CA-MNO-714 is a lithic scatter with ten bedrock milling features previously evaluated in the 1980s. According to the 2007 Cultural Assessment, CA-MNO-714 has been previously excavated on several occasions between 1975 and 1986. Although not identical, eligible criteria for the California Register of Historic Resources (CRHR) are similar enough to those of the NRHP. As such, the 2007 Cultural Assessment concluded that the CA-MNO-714 site is not NRHP or CRHR-eligible and mitigation is not mandated. The 2020 Cultural Resources Memo confirmed these findings. Nonetheless, similar to those impacts disclosed in the 2007 General Plan EIR and 2016 Update EIR, there is a potential for grading in native soils to uncover unknown tribal cultural resources. The proposed site disturbance activities would be subject to the previously approved Mitigation Measures 4.14-4 through 4.14-6, which would reduce project impacts to previously undiscovered archeological resources, including other unknown resources associated with CA-MNO-714, if any. With implementation of the recommended Mitigation Measures, potential project impacts to unknown TCRs would be reduced to less than significant levels. As such, development of the proposed project would not result in new significant affects.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Refer to Mitigation Measures 4.14-4, 1.14-5, and 4.14-6.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

²³ BonTerra Consulting, *Draft Cultural Resources Assessment Report for the Hidden Creek Crossing Project Town of Mammoth Lakes, Mono County, California*, October 17, 2007.

3.19 UTILITIES AND SERVICE SYSTEMS

This section corresponds with 2007 General Plan EIR Section 4.11, *Public Utilities*.

Would the project:

- a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

This impact threshold was modified since the 2007 General Plan EIR was prepared and corresponds to the analysis from pages 4-287, 4-288, 4-291 through 4-294 of the 2007 General Plan EIR.

Water

Water supply and wastewater treatment for the Town are provided by the Mammoth Community Water District (MCWD). The 2007 General Plan EIR, pages 4-273 through 4-286, states that with the inclusion of future water supplies, demand reduction measures, and implementation of the water shortage contingency plan, the projected water demand from buildout of the 2007 General Plan would not exceed the water supply. However, due to the uncertainty of the timing of implementation of the measures, the EIR concludes that the 2007 General Plan would have a significant impact on water supply. Mitigation Measure 4.11-1, which would ensure the existence of water supply prior to development, would reduce the impact to a less than significant level.

Further, the General Plan buildout assumptions were updated in the 2016 Update EIR (refer to Table 2-4, *Buildout Analysis*). Although the 2016 Update would result in a more concentrated growth pattern in the Town's commercial district, the 2016 Update EIR concluded that the less than significant impacts to water facilities would occur with implementation of mitigation measures and policies from the General Plan, payment pursuant to applicable DIF programs, plan check of service line upgrades associated with site-specific developments, and compliance with the MCWD and Water Service Code (MCWD Water Code), which establishes regulations for the design, construction, alteration, use, and maintenance of public water mains, distribution systems, reservoirs, booster pump stations, pressure reducing stations, connections and services, and all system appurtenances (2016 Update EIR pages 4.12-17 and 4.12-18).

The proposed project would include the development of approximately 400 to 580 residential units, thus introducing approximately 108 net new units to the project site; refer to [Section 1.5](#). The project would increase the water utility demand incrementally, resulting in a new specific affect. As such, the project would be required to comply with Mitigation Measure 4.11-1, and would be subject to applicable DIF programs, plan check of service line upgrades associated with site-specific developments, and MCWD Water Code requirements for constructions of new or upgrade water facilities.

It is acknowledged that the MCWD updated the Urban Water Management Plan (*2015 Urban Water Management Plan* [2015 UWMP] dated January 2017), which the conclusions and recommendations

determine key aspects of long-term capital investment by the MCWD for water supply and treatment, and influence future land use planning and development levels within the Town, to the extent these are influenced by the practical and regulatory requirements linking water supply reliability and land use decisions. The 2015 UWMP's planning horizon is 20 years, through 2035 (which considers buildout of the Town's General Plan). This 20-year timeline was used as the approximate horizon for buildout of the Town. The 2015 UWMP has been prepared to comply with California Water Code, Section 10610 - 10657, the Urban Water Management Planning Act (UWMPA, or Act), and the Water Conservation Bill of 2009. Based on the conclusions of the 2015 UWMP (page 7-5), based on the historical record, MCWD has adequate water supply to meet community needs under the full range of water year types, including both the Severe One-year and Multiple-year droughts. During the intermediate planning horizons and through 2035 (Town buildout), the combined use of Mammoth Creek surface water, local groundwater, and recycled water results in a supply mix that can reliably meet the community needs under the full range of water year types (page 7-5).

Notwithstanding, the project proposes a net increase of up to 108 new units. Based on correspondence conducted between Town staff and the MCWD, the MCWD has confirmed that water supply is available to serve the proposed project; refer to [Appendix I, Will Serve Letter](#). Further, per the existing General Plan policies, the following implementation measures from the 2005 General Plan Update would apply to the proposed project:

- I.7.A.a.2: The Town shall use drought tolerant landscaping and water efficient irrigation practices for all town maintained landscaped areas, new parks, and park improvements projects where feasible.
- I.7.A.a.3: The Town shall work collaboratively with Lahontan Regional Water Control Board, Mammoth Community Water District and other interested stakeholders to determine the feasibility of utilizing domestic gray water for landscape irrigation purposes. If it is determined that the use of domestic gray water for landscape irrigation does not pose a threat to the community and its environmental resources, the Town shall develop the criteria to allow and encourage its safe and efficient use for golf courses, parks, town maintained landscaped areas and any other appropriate use.
- I.7.A.a.4: New development will use native and compatible non-native plant species, especially drought resistant species, to the extent possible when fulfilling landscaping requirements. Use of turf shall be limited to avoid or minimize adverse impacts on native trees.
- II.1.C.a.2: As part of the project review process, conditions of approval and implementation of the Development Impact Fee schedule, the Town shall require that new development adequately mitigates its impact on: fire protection, public safety, workforce housing availability, road capacity, and pedestrian connectivity.

As such, the projects net increased demands of water infrastructure would remain less than significant with compliance with the existing Town policies and regulations.

Wastewater

Page 4-286 of the 2007 General Plan EIR states that with the projected wastewater flow demands for the project estimated to be an average of 2.6 mgd with peak daily flows of 4.3 and the design capacity of the wastewater treatment plant at 4.9 mgd, the MCWD's treatment process would continue to meet the effluent limitations and treatment policies set forth by the Lahontan Regional Water Quality Control Board. Further, the 2007 General Plan EIR, page 4-287, states that the population increase and structural development associated with the 2007 General Plan would increase the quantity of wastewater generated and associated requirements for collection, treatment, and disposal. The existing treatment facility has a capacity for 4.9 mgd. Revised wastewater collection values provided by MCWD based on the estimated peak population under the 2007 General Plan (60,700) are estimated to be 2.6 mgd (average) and 4.3 mgd (maximum). The estimated maximum quantity of wastewater requiring treatment would not exceed the capacity of the treatment facility. Therefore, the 2007 General Plan EIR concluded that the project would have a less than significant impact and no mitigation measures are necessary.

The 2016 Update EIR, considered updated buildout assumptions of the Town's 2016 General Plan land use assumptions, which included the project site for buildout considerations. As part of this analysis, the increase in population upon implementation of the 2016 Update would increase demand on sewer lines in Main Street and Old Mammoth Road, which has the potential to exceed the capacity of the existing lines serving the Town's commercial districts. Nevertheless, the 2016 Update EIR concluded that impacts to wastewater facilities would be minimized with implementation of State-mandated water reduction measures (which would reduce wastewater generation), efficiency standards, and compliance with the MCWD's Sanitary Sewer Code. Specifically, Sanitary Sewer Code Section 5.03.G and H require the Applicant of any new development to obtain a letter of sewer availability to ensure that a sewer permit is obtained prior to construction of any improvements. Further, the 2016 Update EIR includes Mitigation Measure MM WW-1, which requires project Applicant to upgrade lines specifically impacted by a project. As such, the 2016 Update EIR concluded that the less than significant impacts to waste facilities would occur with implementation of Mitigation Measure MM WW-1.

As discussed in [Section 1.7](#), the project proposes 16 to 23 dwelling units per acre (gross) (or 400 to 580 residential units) and an increase in population of up to 2,013 persons. Based on these and the Town's buildout model assumptions, the proposed project could result in a net increase of up to 108 units and an increase of up to 375 persons at the project site, compared to the General Plan and 2016 Update buildout assumptions. This increase would add to the demand placed on wastewater utilities, resulting in new specific affects. Based on correspondence conducted between Town staff and the MCWD, the MCWD has confirmed that sewer service is available to serve the proposed project; refer to [Appendix I](#). The project would be required to comply with State-mandated water reduction measures, efficiency standards, and the MCWD's Sanitary Sewer Code. Further, the project would be required to comply with the following existing Town policies/implementation measures from the 2007 Update EIR:

- II.1.C.a: Ensure that new development densities do not exceed the capacity of public service infrastructure and utility systems. Require new development to upgrade or fund facilities to meet increased demand or require reduced density or project

redesign for any project that would result in deterioration of service levels or cause available capacity to be exceeded if capacity expansion is infeasible.

- II.1.C.a.1: The Town shall ensure service providers are involved in development review process.

With compliance with all existing policies and regulations, including the Sanitary Sewer Code would ensure that the projects net increased demands of wastewater infrastructure would remain less than significant.

Stormwater

The 2007 General Plan EIR page 4-167 states that implementation of the Town's Storm Drain Master Plan (SDMP) would result in the construction of necessary storm drain infrastructure to support buildout of the General Plan. All future construction would be subject to compliance with all applicable Federal, State, and local water quality and waste discharge requirements, including the NPDES Program. In addition, the 2007 General Plan includes implementation measures created to minimize runoff water such that the capacity of existing or planned stormwater drainage systems would not be exceeded, nor would there be substantial additional sources of polluted runoff from new development. The 2007 General Plan EIR concluded that implementation of these measures in the 2007 General Plan would serve to prevent runoff water from exceeding the capacities of the existing and planned capacities of the stormwater drainage systems and prevent polluted runoff. With these measures and compliance with Federal, State, and local design and construction requirements, storm drainage capacities would be maintained and substantial additional sources of polluted runoff would not occur.

The proposed project would include the development of approximately 400 to 580 residential units, thus introducing additional residents to the project site. As development intensity is increased, a potential increase in impervious surfaces could result in increased demand for stormwater infrastructure. The project would be subject to Development Impact Fees for necessary drainage facilities (established by Municipal Code Section 15.16.082). With compliance with all existing standards and regulations, less than significant impacts would occur in this regard.

Electric Power, Natural Gas, and Telecommunications

Southern California Edison (SCE) provides electrical services to the Town. The Town is not serviced by a natural gas pipeline, instead, propane is commonly used in Mammoth Lakes to fuel furnaces, water heaters, and stoves, and AmeriGas and Eastern Sierra Propane both provide propane to the Town. Based on the findings made on page 4-291 through 4-294, there are sufficient energy and communication facilities to accommodate the projected growth that would occur under the 2007 General Plan. In addition, the Town has adopted by Resolution No. 04-77, Renewable Energy Policies, for the Town, which are supportive of energy conservation, renewable energy resources, and community education and outreach. These policies are mirrored in the 2007 General Plan. Therefore, the 2007 General Plan would not result in substantial adverse physical impacts associated with the provision of new or physically altered energy or communication facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable levels of service.

It is acknowledged that the 2016 Update EIR considered buildout of the 2016 General Plan Update. As detailed on the 2016 Update EIR page 6-6, the 2016 Update is estimated to have an electricity demand of approximately 4.7 million kilo-watt hours (kWh), representing a nominal amount (approximately 0.005 percent) of SCE network electric sales for 2013. The 2016 Update also estimated a natural gas demand of approximately 1.9 million kilo British thermal units (kBtu) per year, a demand that could be met with an additional 52 new propane tanks. Overall, the 2016 Update EIR concluded that the 2016 Update would not result in a substantial increase in demand for electricity or natural gas, and impacts in this regard would be less than significant.

Additionally, according to the 2007 General Plan EIR, SCE would be able to supply enough electricity to accommodate the needs of the region at anticipated buildout of the General Plan that was approved in 2007.

As stated previously, the proposed residential development was considered in the 2016 Update EIR. The proposed project would include the development of approximately 400 to 580 residential units, thus introducing additional residents to the project area, with a net increase of approximately 108 units, which would be a new specific affect. The project would be required to comply with the Renewable Energy Resources Program (Public Resources Code Sections 25740 through 25751), which consists of funding and regulations for the implementation of increase renewable energy use, and the California Public Utilities Code Division 1, Part 1 (Public Utilities Act), Chapter 2.3, Article 16, which outlines the procedures for attainment of 20 percent renewable energy through the California Renewables Portfolio Standard Program. With the anticipated transition to renewable energy, the demand for (currently nonrenewable) electricity and natural gas as a result of the proposed project is not anticipated result in the relocation or construction of new or expanded electric power or natural gas facilities. Further, the 108 net new units is not anticipated to require the construction or expansion of communication facilities such that a significant environmental effect would result. As such, no new significant affects would result with compliance with the Town's existing regulations.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Previously certified environmental documents include mitigation measures to reduce potential impacts associated with implementation of the General Plan.

- 4.11-1 The Town shall not approve new development applications that would result in a water demand in excess of available supplies as determined by the MCWD. The Town shall work with MCWD to ensure that land use approvals are phased so that the development of necessary water supply sources is established prior to development approvals. (2007 General Plan EIR Mitigation Measure 4.11-1)

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Adopted Mitigation Measures.

- b) *Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?*

This impact threshold was modified since the 2007 General Plan was prepared and corresponds to the analysis on pages 4-273 through 4-286 of the 2007 General Plan EIR.

As discussed on page 4-273 of the 2007 General Plan EIR, the MCWD prepared a Water Assessment for the project described in the previously circulated Draft Program EIR and an Amendment to the Water Assessment to assess the water demands of the project through the year 2020 as required by SB 610. The District adopted an updated UWMP in December 2005, which includes projects through 2025. According to the 2007 General Plan EIR, MCWD concluded that water supply may not be sufficient to serve the growth. While MCWD is pursuing various courses to reduce demand (i.e., water audits, education, retrofits, water main replacement program to replace leaking pipes, mandatory prohibitions, etc.) and increase supply (i.e., groundwater supplies from Mammoth Basin watershed or Dry Creek watershed, and recycled water from MCWD's wastewater collection and treatment system) for the region, the water supply remained uncertain. Specifically, as shown on Table 4.11-9 of the 2007 General Plan, the future water supply with supply reduction measures and future water supply development at buildout, a surplus of 182 acre-feet is anticipated in a single dry water year. Nevertheless, due to the uncertainty of the timing of implementation of the water reduction measure, the 2007 General Plan EIR included Mitigation Measure 4.11-1, which would require the Town to ensure the existence of water supply prior to development. The 2007 General Plan EIR subsequently concluded that with implementation of Mitigation Measure 4.11-1, impacts in this regard would be reduced to less than significant levels.

As indicated on the Further, as part of the 2016 Update EIR water supply for buildout of the updated General Plan in 2016 was considered. The 2016 Update EIR Table 4.12-6, *Water Supply by Source for Planning Scenarios at Town Buildout*, the MCWD has adequate water supply to meet community needs under the full range of water year types, including both the severe one year and sustained multi-year droughts under 2010 conditions. Table 4.12-7, *Projected Water Demand at 2030 Buildout - Land Use Element/Zoning Code Amendments* of the 2016 Update EIR indicated that the maximum water demand of the 2016 Update would not exceed the MCWD's maximum supply or entitlement. Accordingly, adequate supply from the MCWD is anticipated to provide for the proposed project. As such, the 2016 Update EIR concluded that the less than significant impacts to water facilities would occur with implementation of mitigation measures (Mitigation Measure 4.11-1) and policies from the General Plan, payment pursuant to applicable DIF programs, plan check of service line upgrades associated with site-specific developments, and compliance with the MCWD and Water Service Code (MCWD Water Code), which establishes regulations for the design, construction, alteration, use, and maintenance of public water mains, distribution systems, reservoirs, booster pump stations, pressure reducing stations, connections and services, and all system appurtenances. Specifically, Mitigation Measure 4.11-1 is modeled after the aforementioned Mitigation Measure 4.11-1 from the 2007 General Plan EIR, and would require the Town to ensure that land use approvals are phased so that development of necessary water supply is established prior to new development approvals.

As discussed in Section 3.19(a) Water above, 2015 UWMP (page 7-5) determined that the MCWD has adequate water supply to meet community needs under the full range of water year types, including both the Severe One-year and Multiple-year droughts. During the intermediate planning horizons and through 2035 (Town buildout), the combined use of Mammoth Creek surface water, local groundwater, and recycled water results in a supply mix that can reliably meet the community needs under the full range of water year types (page 7-5).

Notwithstanding, the project proposes a net increase of up to 108 new units. Based on correspondence conducted between Town staff and the MCWD, the MCWD has confirmed that water supply is available to serve the proposed project; refer to Appendix I. Further, per the existing General Plan policies I.7.A.a.2, I.7.A.a.3, I.7.A.a.4, and II.1.C.a.2, discussed above, would apply to the proposed project. As such, the projects net increased water demands on the MCWD's water supply would remain less than significant with compliance with the existing Town policies and regulations as well as the previously adopted Mitigation Measure 4.11-1.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Refer to Mitigation Measure 4.11-1.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Approved Mitigation Measures.

- c) *Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

As discussed on 2007 General Plan EIR page 4-288, the capacity of wastewater collection and transfer systems could be strained as a result of increased use related to permanent and transient population growth under the 2007 General Plan. However, estimates derived from the MCWD 2000 Urban Water Master Plan found that the maximum quantity of wastewater requiring treatment would not exceed the capacity of the treatment facility. The 2007 General Plan EIR goes on to state that the MCWD uses a wastewater model of the collection system to identify needed improvements on a project-by-project basis and as developers are conditioned to implement such improvements prior to obtaining necessary connections into the existing system. As such, with compliance with existing regulatory requirements, impacts were determined to be less than significant.

The project proposes a net increase of up to 108 new units. With compliance with all existing policies and regulations, including the Sanitary Sewer Code, would ensure that the projects net increased wastewater generation would not result in significant impacts to wastewater treatment compared to what was analyzed in the 2007 General Plan EIR. Impacts would be less than significant in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

- d) *Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?*

This impact threshold was modified since the 2007 General Plan was prepared and corresponds to the analysis on page 4-289 through 4-291 of the 2007 General Plan EIR.

The 2007 General Plan EIR determined that with the existing capacity in the Benton Crossing Landfill as well as the option for disposal for five years at the Pumice Valley Landfill, there is adequate landfill capacity for the population that would occur as a result of buildout of the 2007 General Plan. In addition, the 2007 General Plan includes measures to reduce waste and increase recycling in the Town. Therefore, the 2007 General Plan would not result in the construction of a new landfill or expansion of existing facilities to accommodate the project's solid waste disposal needs. The 2007 General Plan EIR page 4-290 states that the Town would continue to operate the waste collection and recycling program in accordance with the IWMA. The Town is expanding its recycling capacity to achieve the State mandated 50 percent diversion rate. The 2007 General Plan included measures to ensure compliance with the applicable Federal, State, and local statutes and regulations related to solid waste:

- I.1.D.a.1: The Town shall support programs to recycle paper, cardboard, glass, metal, plastics, motor oil, and to compost or generate energy from tree prunings, brush, and other vegetation.
- I.1.D.a.2: The Town shall institute a program to achieve maximum recycling of waste products generated by the community to prolong the useful life of the landfill.
- I.1.D.a.3: The Town shall develop effective and efficient recycling programs for multi-family developments and businesses.
- I.1.D.a.4: The Town shall provide recycling programs and containers at town facilities, projects, and programs to the extent feasible.

With the Town's existing waste collection and recycling program and the policies identified above regarding waste reduction, the 2007 General Plan would comply with applicable Federal, State, and local statutes and regulations related to solid waste.

The 2016 Update EIR reconsidered buildout of the General Plan, including the 2016 land use buildout assumptions. As part of this analysis, the 2016 Update EIR determined that there is still adequate landfill capacity at the Benton Crossing Landfill to accommodate the solid waste generation and disposal needs for the 2016 Update. All future development in the Town would also be subject to compliance with the Town's Source Reduction and Recycling Element (SRRE) for solid waste reduction as well as Assembly Bills 939 and 341, which require measures to enhance recycling and source reduction efforts and expand opportunities for additional recycling services and recycling manufacturing facilities. As such, the 2016 Update EIR concluded that impacts in this regard would be less than significant.

The proposed project could result in a net increase of up to 108 units at the project site, compared to the buildout assumptions considered in the General Plan and 2016 Update. This new specific affect could increase the demand for waste collection services. The proposed project would also be required to comply with the SRRE (providing efficient recycling programs and recycling containers throughout

the community) and Assembly Bills 939 and 341. As such, compliance with the Town's existing policies and programs would ensure that these increased impacts are less than significant.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

e) *Comply with Federal, State, and local management and reduction statutes and regulations related to solid waste?*

This impact threshold was modified since the 2007 General Plan was prepared and corresponds to the analysis on page 4-290 through 4-291 of the 2007 General Plan EIR.

Refer to Response 3.19(e). The project would be required to comply with existing regulations, including the SRRE and Assembly Bills 939 and 341. As such, compliance with the Town's existing policies and programs would ensure that these increased impacts are less than significant.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact.

3.20 WILDFIRE

This section corresponds with 2007 General Plan EIR Section 4.5, *Public Safety and Hazards*.

If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:

a) *Substantially impair an adopted emergency response plan or emergency evacuation plan?*

This impact threshold was not included in the CEQA Guidelines at the time the 2007 General Plan EIR was prepared, but, nonetheless, was included in the environmental analysis in other topic areas. This discussion corresponds to the analysis on page 4-140 through 4-143 of the 2007 General Plan EIR.

The 2007 General Plan EIR found that the General Plan includes various measures to address the risk of exposure from wildland fires. Assuming agencies with jurisdiction over surrounding areas susceptible to wildland fires (i.e., USFS, Inyo National Forest, etc.) effectively manage fuel sources, the risk of exposure of fires would be reduced to a less than significant level. However, portions of

the surrounding areas outside of the Town's jurisdiction are located within very high wildland fire hazard areas. Wildland fires could potentially spread to the Town if appropriate fire control planning and response measures are not undertaken by other agencies. Given that implementation of measures to reduce the impact are not under the control of the Town, the potential impact is considered to be significant and unavoidable.

Although areas surrounding the Town's municipal boundaries (which were considered as part of the 2007 General Plan) are located in State responsibility areas and near a very high fire hazard zone, the project site is not specifically located within or adjacent to a State responsibility area or a Very High Fire Hazard Severity Zone.²⁴ The nearest Very High Fire Hazard Severity Zone in both a local response area and a State response area from the project site is located greater than one mile from the project site. As such, the proposed project would not result in a greater impact than previously analyzed in the 2007 General Plan EIR and no impacts would occur in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Refer to Response 3.20(a). No impact would occur.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Refer to Response 3.20(a). No impact would occur.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

²⁴ California Department of Forestry and Fire Resources, *Mammoth Lakes Fire Hazard Severity Zones in LRA*, September 17, 2007.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

- d) *Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

Refer to Response 3.20(a). As the project site is not specifically located within or adjacent to a local or State responsibility area zoned as a Very High Fire Hazard Severity Zone²⁵, no impact would occur in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: No Previously Certified Mitigation Measures Are Applicable to This Topical Area.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: No Impact.

3.21 MANDATORY FINDINGS OF SIGNIFICANCE

Based on this Infill Environmental Checklist, the setting, design, impacts, and mitigation measures identified for the 2007 General Plan EIR would not be substantially changed for this project. New circumstances or new information, including any new or revised environmental laws, regulations, or policies have not modified the impacts of the proposed project compared to that analyzed in the 2007 General Plan EIR.

- a) *Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

The project does not have the potential to degrade the environment, reduce the habitat of a fish or wildlife species, threaten plant or animal communities, reduce or restrict endangered plant or animal species, or eliminate important examples of major periods of California history or prehistory with 2007 General Plan EIR and 2016 Update EIR mitigation measures incorporated; refer to [Section 3.4](#), [Section 3.5](#), *Cultural Resources*, and [Section 3.7](#), *Geology and Soils*. As such, the proposed project would not result in impacts beyond those identified in the 2007 General Plan EIR in this regard.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Refer to the mitigation measures identified above.

²⁵ Ibid.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Adopted Mitigation Measures.

- b) *Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

Given the nature and scope of the proposed project, and in consideration of the mitigation measures included in the 2007 General Plan EIR and the 2016 Update EIR, the project would not involve impacts that are cumulatively considerable.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Refer to the mitigation measures identified above.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Adopted Mitigation Measures.

- c) *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

Construction-related activities are anticipated to have some relatively minor, temporary impacts which can be mitigated with implementation of measures included in the 2007 General Plan EIR or the 2016 Update EIR. Additionally, potential long-term (operational) impacts would similarly be reduced to less than significant levels through implementation of required 2016 Update EIR and the 2007 General Plan EIR mitigation measures. Thus, the proposed project would not involve environmental effects that could cause substantial adverse effects on human beings, either directly or indirectly.

Applicable Mitigation Measures From Previously Certified Environmental Documents: Refer to the mitigation measures identified above.

New Mitigation Measures: No New Mitigation Measures Are Required.

Level of Significance: Less Than Significant Impact With Previously Adopted Mitigation Measures.

4.0 REFERENCES

The following references were utilized for the preparation of this Infill Environmental Checklist:

BonTerra Consulting, *Draft Cultural Resources Assessment Report for the Hidden Creek Crossing Project Town of Mammoth Lakes, Mono County, California*, October 17, 2007.

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Appendix A
Infill Environmental Checklist



The following Modified Initial Study Checklist is based on the California Environmental Quality Act (CEQA) Appendix N Infill Environmental Checklist Form. It is modified to evaluate the proposed project changes for which an environmental impact report has previously been completed to assist in the determination of the need for supplemental environmental documents, in this case, a Supplemental Negative Declaration, Mitigated Negative Declaration, or EIR document or if the project is exempt from CEQA. For purposes of this study, references to “the project” in the left-hand column questions refer to the proposed modifications (proposed project) as compared to the General Plan and 2016 Update evaluated in the 2007 General Plan EIR and 2016 Update EIR.

The first four columns to the right of the modified checklist questions identify whether the proposed project modifications would result in new impacts, and if so whether these impacts would be less than significant, less than significant with mitigation from the 2007 General Plan EIR and 2016 Update EIR incorporated, or potentially significant.

The fifth column asks whether the impacts associated with proposed project, if any, were sufficiently disclosed in the previous environmental documents.

Finally, the last column indicates whether or not a Supplemental Document is needed. A Supplemental Document would be needed if there were new significant unmitigated or substantially more severe impacts, which would result from the proposed project and which were not sufficiently disclosed in the previous environmental document or with implementation of regulations or Town policy.



INFILL ENVIRONMENTAL CHECKLIST

	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
I. AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:						
a) Have a substantial adverse effect on a scenic vista?		X			YES	NO
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X		YES	NO
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?		X			YES	NO
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?		X			YES	NO
II. AGRICULTURAL RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	X				YES	NO
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	X				YES	NO
c) Conflict with existing zoning for, or cause rezoning, of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?		X			YES	NO
d) Result in the loss of forest land or conversion of forest land to non-forest use?		X			YES	NO
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	X				YES	NO
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:						
a) Conflict with or obstruct implementation of the applicable air quality plan?		X				



INFILL ENVIRONMENTAL CHECKLIST						
	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?		X				
c) Expose sensitive receptors to substantial pollutant concentrations?		X				
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?		X				
IV. BIOLOGICAL RESOURCES. Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X			YES	NO
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?		X			YES	NO
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?		X			YES	NO
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?		X			YES	NO
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?		X			YES	NO
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	X				YES	NO
V. CULTURAL RESOURCES. Would the project:						
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in Section 15064.5?	X				YES	NO
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?			X		YES	NO
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X		YES	NO



INFILL ENVIRONMENTAL CHECKLIST						
	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
VI. ENERGY. Would the project:						
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?		X			NO	NO
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?		X			NO	NO
VII. GEOLOGY AND SOILS. Would the project:						
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:						
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	X				YES	NO
ii) Strong seismic ground shaking?		X			YES	NO
iii) Seismic-related ground failure, including liquefaction?		X			YES	NO
iv) Landslides?		X			YES	NO
b) Result in substantial soil erosion or the loss of topsoil?		X			YES	NO
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?		X			YES	NO
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?		X			YES	NO
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	X				YES	NO
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?		X			YES	NO
VIII. GREENHOUSE GAS EMISSIONS. Would the project:						
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?		X			YES	NO



INFILL ENVIRONMENTAL CHECKLIST						
	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?		X			YES	NO
IX. HAZARDS AND HAZARDOUS MATERIALS. Would the project:						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?		X			YES	NO
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?		X			YES	NO
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?		X			YES	NO
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	X				NO	NO
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	X				YES	NO
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?		X			YES	NO
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?		X			YES	NO
X. HYDROLOGY AND WATER QUALITY. Would the project:						
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?		X			YES	NO
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?		X			NO	NO
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:						
i) Result in substantial erosion or siltation on- or off-site?		X			YES	NO



INFILL ENVIRONMENTAL CHECKLIST

	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?		X			YES	NO
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?		X			YES	NO
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	X				YES	NO
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?		X			NO	NO
XI. LAND USE AND PLANNING. Would the project:						
a) Physically divide an established community?		X			YES	NO
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?		X			YES	NO
XII. MINERAL RESOURCES. Would the project:						
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?		X			YES	NO
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?		X			YES	NO
XIII. NOISE. Would the project result in:						
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X		YES	NO
b) Generation of excessive groundborne vibration or groundborne noise levels?		X			YES	NO
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	X				YES	NO
XIV. POPULATION AND HOUSING. Would the project:						
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for		X			YES	NO



INFILL ENVIRONMENTAL CHECKLIST

	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
example, through extension of roads or other infrastructure)?						
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	X				YES	NO
XV. PUBLIC SERVICES.						
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
i) Fire protection?		X			YES	NO
ii) Police protection?		X			YES	NO
iii) Schools?		X			YES	NO
iv) Parks?		X			YES	NO
v) Other public facilities?		X			YES	NO
XVI. RECREATION						
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?		X			YES	NO
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?		X			YES	NO
XVII. TRANSPORTATION. Would the project:						
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?		X			YES	NO
b) Conflict or be inconsistent with CEQA Guidelines section 15064.3, Subdivision(b)?		X			YES	NO
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?		X			YES	NO
d) Result in inadequate emergency access?		X			YES	NO
XVIII. TRIBAL CULTURAL RESOURCES. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:						



INFILL ENVIRONMENTAL CHECKLIST

	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	X				YES	NO
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	X				YES	NO
XIX. UTILITIES AND SERVICE SYSTEMS. Would the project:						
a) Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			X		YES	NO
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X		YES	NO
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?		X			YES	NO
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?		X			YES	NO
e) Comply with Federal, state, and local management and reduction statutes and regulations related to solid waste?		X			YES	NO
XX. WILDFIRE. If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:						
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	X				NO	NO
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	X				NO	NO
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that	X				NO	NO



INFILL ENVIRONMENTAL CHECKLIST						
	New Impacts of Proposed Project				Certified EIR	
	No Impact	Less Than Significant Impact	Less Than Significant With 2007/2016 Mitigation	Potentially Significant Impact	Impacts Disclosed?	Subsequent or Supplemental Documentation Required?
may result in temporary or ongoing impacts to the environment?						
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	X				NO	NO
XXI. MANDATORY FINDINGS OF SIGNIFICANCE.						
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X		YES	NO
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X		YES	NO
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X		YES	NO

Appendix B
Air Quality, Energy, and
Greenhouse Gas Data

Appendix C
Biological Resources Assessment and
Delineation Report

Appendix D
Cultural Resources Assessments

Appendix E

Geotechnical Investigation

Appendix F
Phase I Environmental Site Assessment

Appendix G

Noise Data

Appendix H

Transportation Analysis

Appendix I
Will Serve Letter

Appendix J
Applicable Adopted Mitigation Measures

EXHIBIT 4

RESOLUTION NO. 16-68

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN MAMMOTH LAKES,
STATE OF CALIFORNIA**

- 1. CERTIFYING THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT FOR GENERAL PLAN AMENDMENT 15-002 AND ZONING CODE AMENDMENT 15-002 (LAND USE ELEMENT/ZONING CODE AMENDMENT AND MOBILITY ELEMENT UPDATE);**
- 2. ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT;**
- 3. ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS;**
- 4. ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM;
AND**
- 5. APPROVING GENERAL PLAN AMENDMENT 15-002.**

WHEREAS, the Town Council directed staff to prepare an update to the General Plan and Zoning Code (Municipal Code Chapter 17) to change the way density is calculated in the Commercial Zones from a rooms/units limitation to a floor area ratio (FAR) limitation; and

WHEREAS, the Town Council directed staff to include the 2012 Draft Mobility Element in the environmental analysis for the project for the purpose of adoption concurrently with the Floor Area Ratio update; and

WHEREAS, the Town Council has previously adopted Resolution 09-22, adopting policies for the evaluation of projects related to people at one time (PAOT) and impact assessment which recommended a shift from PAOT-based project evaluation to impact-based evaluation and mitigation and to develop Project Impact Evaluation Criteria (PIEC) that allows simple, but precise, summary evaluation of the impacts that are important to the community; and

WHEREAS, the Town Council then adopted Resolution 09-34, adopting the Project Impact Evaluation Criteria Policy Recommendations which included direction to undertake work program items to further implement the Policy Recommendations; and

WHEREAS, the Town Council adopted Resolution 14-61 rescinding the Community Benefits and Incentive Zoning (CBIZ) policy; and

WHEREAS, the Town Council directed staff to update the General Plan and Zoning Code pursuant to Town Council Resolutions 09-22, 09-34, and 14-61; and

WHEREAS, on November 9, 2016, the Planning and Economic Development Commission conducted a duly noticed public hearing and determined General Plan Amendment 15-002, related to Floor Area Ratio (FAR), is consistent with the General Plan and with the applicable provision of the Town of Mammoth Lakes Municipal Code, Chapter 17.72, and, therefore, recommended approval of General Plan Amendment 15-002 to Town Council; and

WHEREAS, the Town Council of the Town of Mammoth Lakes has evaluated potential environmental effects of the proposed Land Use Element/Zoning Code Amendment and Mobility Element Update through the preparation and circulation of a Draft Environmental Impact Report and has considered all comments and responses included in the Final Environmental Impact Report and the associated Mitigation Monitoring and Reporting Program; and

WHEREAS, the Town provided a 45-day public review period for the Draft Environmental Impact Report (DEIR) as required under CEQA Guidelines section 15087(e) and 15105 from June 24, 2016 to August 8, 2016; and

WHEREAS, the Town Council has reviewed the Environmental Impact Report prepared for the project pursuant to the California Environmental Quality Act (CEQA) Guidelines and has found that the Final Environmental Impact Report reflects the Town's independent judgement and analysis, and

WHEREAS, the DEIR was prepared, processed and noticed in accordance with CEQA, the State CEQA Guidelines; and

WHEREAS, the DEIR identified that the Project has potentially significant effects with regards to air quality, public services (recreation), and traffic/transportation that will remain significant despite the implementation of all feasible mitigation measures and a Statement of Overriding Considerations is included for consideration by the Town Council; and

WHEREAS, the Town Council conducted a noticed public hearing on the proposed General Plan and Zoning Code amendments and the associated California Environmental Quality Act documents and actions on December 7, 2016, at which time all those desiring to be heard were heard; and

WHEREAS, the Town Council considered, without limitation:

1. The staff report to the Town Council with exhibits;
2. The General Plan, Municipal Code, and associated Land Use Maps;
3. The Draft and Final Environmental Impact Report;
4. Oral evidence submitted at the hearing; and
5. Written evidence submitted at the hearing.

NOW THEREFORE, BE IT RESOLVED that the Town Council, in its independent judgement, makes the findings set forth below in Section 2 and takes the actions set forth below in Section 3:

Section 1. Recitals. The above recitals are all true and correct.

Section 2. Findings. The Town Council HEREBY FINDS AND DETERMINES based on the information presented herewith:

- a. The change is consistent with the goals, objectives and policies of the General Plan, any applicable specific plan or adopted master plan of development because the Land Use Element and Mobility Element Update (“Project”) will allow flexibility in density/intensity of development in the Commercial Land Use Designations while ensuring that impacts to the public are mitigated through the use of PIEC during project evaluations. Additionally, the Project will strengthen the Town’s commitment to the “triple bottom line” which is the community’s social, economic, and natural capital, and “feet-first” transportation strategies, which emphasizes and prioritizes non-motorized travel first, public transportation second, and vehicle last.
- b. The change is in the interest of or will further the public health, safety, comfort, convenience and welfare because the Project will maintain the existing Urban Growth Boundary (UGB), will provide more flexibility in regards to density calculations in the Commercial Land Use Designations, and will emphasize feet first and greater use of alternate transportation in the town which will reduce vehicle miles traveled (VMT).
- c. The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA) because the Town has prepared an Environmental Impact Report that analyzes impacts of the Project and includes mitigation measures to reduce a majority of the environmental impacts to a less than significant level. Environmental impacts that cannot be reduced to a less than significant level are described and findings are made in Exhibit 2 (CEQA Findings of Fact) and Exhibit 3 (Statement of Overriding Considerations).
- d. The proposed amendment does not result in a mandatory element of the General Plan being amended more than four times during any calendar year because this will be the first amendment of the General Plan for 2016 (Government Code Section 65358, Municipal Code Section 17.112.080).

Section 3. Actions. The Town Council hereby takes the following actions:

- a. Adopts the California Environmental Quality Act (CEQA) Findings of Fact in substantially the form attached hereto as Exhibit 1 and certifies the Environmental Impact Report (State Clearinghouse No. 2015052072) (as described in Exhibits 3 and 4 attached hereto); and
- b. Adopts the Statement of Overriding Considerations in substantially the form attached hereto as Exhibit 2.
- c. Adopts the Mitigation Monitoring and Reporting Plan in substantially the form attached hereto as Exhibit 3, and

- d. Adopt the required Municipal Code findings and approves General Plan Amendment 15-001 (Land Use Element and Mobility Element Update) attached hereto as Exhibits 5, 6, and 7.

Section 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at Town of Mammoth Lakes, Town Hall, 437 Old Mammoth Rd., Suite R, Mammoth Lakes, CA 93546. The custodian for these records is Town Clerk. This information is provided pursuant to Public Resources Code section 21081.6.

APPROVED AND ADOPTED THIS 7th day of December, 2016.


SHIELDS RICHARDSON, Mayor

ATTEST:

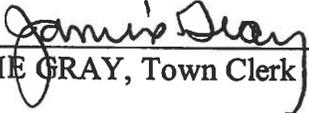

JAMIE GRAY, Town Clerk

EXHIBIT 1

FINDINGS OF FACT PURSUANT TO CEQA GUIDELINES SECTION 15091

SECTION 1: INTRODUCTION.

Findings for the Final Program Environmental Impact Report (EIR), State Clearinghouse Number 2015052072, are being made pursuant to State CEQA Guidelines §15091.

1.1 Statutory Requirements for Findings

The Final EIR consisting of the Draft and Final EIR is consistent with State CEQA Guidelines Section 15132 relative to the contents of the FEIR, including but not limited to a table of contents, summary, the project description, environmental setting, a discussion of the affected environment and environmental consequences, mitigation measures, unavoidable adverse impacts, impacts found not to be significant, cumulative impacts, project alternatives, Draft Mitigation and Monitoring plan, comments and recommendations received on the Draft EIR, and responses to the comments received on the Draft EIR.

Consistent with the requirements of CEQA and the Guidelines, the FEIR for the Town of Mammoth Lakes Land Use Element/Zoning Code Amendment and Mobility Element Update identifies environmental effects in proportion to their severity and probability of occurrence. The FEIR identifies certain potentially significant adverse environmental effects of the project. The FEIR also identifies mitigation measures, which will reduce or eliminate these potentially significant effects. The analysis contained in the FEIR also concludes that after the incorporation of mitigation measures the project would result in a significant and unavoidable impacts in the following areas:

- Air Quality
- Public Services (Recreation)
- Transportation and Traffic

CEQA Guidelines Section 15091 requires specific findings in conjunction with approval of a project that will create one or more significant environmental effects. Specifically:

15091. Findings

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

For the significant direct and cumulative effects identified in the FEIR, the findings are:

Air Quality: The Project includes mitigation measures that will reduce pollutants to comply with state and federal regulations. With the incorporation of the mitigation measures as well as the scope of the Project, development associated with the plan would not be expected to result in air pollution levels that exceed federal standards. However, despite the implementation of the Updated Mobility Element and multiple measures that will reduce town generated emissions, emissions from activities within the community would continue to result in exceedances of the state standard for PM-10. Transport of ozone from the central valley would continue to cause exceedances of the state one-hour standard for ozone. While mitigation is incorporated into the project that substantially lessens the impact and meets federal requirements, no feasible mitigation measures to reduce existing and future PM-10 levels to meet the state standard have been identified.

Public Services (Recreation): The proposed project would result in an increase in population for the town which would increase the demand for parks and recreational services. Existing and proposed park facilities including recent improvements to Whitmore Park, new planned park and recreational facilities, access to other parks and recreational amenities, and funding associated with the DIF program, and Measure R and U, implementation of the Project would satisfy some of the demand for parks and recreational services but would not meet the Level of Service (LOS) goal of 5 acres of parks per 1,000 residents. As the Town is currently below the Level of Service goal of 5 acres of parks per 1,000 residents for developed parkland, and as the Project would further increase demand for parks and recreational facilities and would exacerbate impacts to parks and recreational facilities, impacts to parks and recreation facilities are considered significant and unavoidable.

Transportation and Traffic: Implementation of the recommended mitigation measures would reduce potentially significant LOS impacts at all affected intersections under all Project scenarios. However, if traffic demands do not meet signal warrants such improvements would not be implemented. Because implementation of the mitigation measures are under the jurisdiction of another agency, the approval of which are uncertain, the potentially significant impacts at Main Street intersections would be considered significant and unavoidable.

In making these findings, not all of the rationale and data contained in the FEIR have been repeated. The FEIR and other source documents referenced therein are incorporated herein by reference as if set forth in full in this document. Except to the extent they conflict with the findings and determination set forth in this document, the analysis and conclusions of the FEIR, including responses to comments and any supplemental responses provided by Town of Mammoth Lakes staff and consultants in connection with the proposed project, are hereby adopted as findings by the Town Council of the Town of Mammoth Lakes.

EXHIBIT 2

STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant environmental effects, which will occur as a result of the proposed General Plan Land Use Element/Zoning Code Amendments and Mobility Element Update (Project). With implementation of the Mitigation Measures discussed in the EIR, these effects can be mitigated to levels considered less than significant except for significant, unavoidable impacts in the areas of air quality, recreation, and traffic.

CEQA Section 21081 provides that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one of more significant effects on the environment that would occur if the project were carried out unless the agency makes specific findings with respect to those significant environmental effects. Where a public agency finds that economic, legal, social, technological, or other considerations makes infeasible the mitigation measures or alternatives identified in the EIR, and thereby leave significant unavoidable effects, the public agency must also find that “specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.”

In making this determination, the Lead Agency is guided by CEQA Guidelines Section 15093, which provides as follows:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having considered the unavoidable adverse impacts of the Project, the Town Council hereby determines that all feasible mitigation measures have been adopted to reduce or avoid the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts. Further, the Town Council finds that economic,

social and other considerations of the Project outweigh the unavoidable adverse impacts described previously. In making this finding, the Town Council has balanced the benefits of the proposed Project against its unavoidable environmental impacts and has indicated its willingness to accept those risks.

The following statements are in support of the Town's action based on the EIR and/or other information in the record. The following benefits of the proposed Project outweigh its significant environmental impacts

1. The Land Use Element/Zoning Code Amendments maintain an Urban Growth Boundary (UGB) which ensures that development will be contained within a small urban footprint and development does not encroach into the National Forest lands outside of the UGB. The National Forest lands outside of the UGB are available for recreation by residents and visitors. These areas include amenities such as Mammoth Lakes Basin, Devils Postpile National Monument, Red's Meadow, Inyo National Forest, and the John Muir and Ansel Adams Wilderness Areas. In addition, the MMSA includes ski, snowmobile, hiking, sightseeing and biking opportunities at Mammoth Mountain, Tamarack Cross-Country Ski Center at Twin Lakes, Scenic Gondola Rides, and Snowmobile Adventures. New residents and visitors would be able to utilize the range of recreational areas and parkland that surround the Town.
2. The Land Use Element/Zoning Code Amendments ensure that the carrying capacity of the town is not exceeded by using Project Impact Evaluation Criteria (PIEC) which includes but is not limited to evaluations of air quality, including vehicle miles travelled (VMT); biological resources; cultural resources; geology and soils; hazards; hydrology; land use; noise; public services and utilities, including water demand; and transportation. Use of PIEC is intended to help ensure that growth in the Town would not exceed the carrying capacity of infrastructure or other constraints, such as VMT and water supply, and that the potential for significant environmental impacts will be identified and mitigated to the extent feasible.
3. The Land Use Element/Zoning Code Amendments will allow flexibility in density/intensity in the Commercial Land Use Designations while ensuring that impacts to the public are mitigated through the use of PIEC during project evaluations. The Mobility Element Update would result in a greater use of alternate transportation through the provision of trails, bicycle lanes, and an increase in transit. The increase in intensity coupled with implementation of the Mobility Element Update would emphasize feet first and greater use of alternate transportation in the Town thereby reducing vehicle miles travelled (VMT). Additionally, focusing density within the commercial areas of town will help to create a thriving destination resort community with residential neighborhoods oriented around a series of distinct, connected and vibrant mixed use districts which provide a range of shopping, dining, services, and employment opportunities.
4. The Project will strengthen the Town's commitment to the "triple bottom line", which is the community's social, economic, and natural capital, and "feet-first" transportation strategies,

which emphasizes and prioritizes non-motorized travel first, public transportation second, and vehicle last.

5. The Project creates policies that will significantly improve accessibility throughout the community while reducing dependence on the automobile. The Project would assist in meeting the Town's objective to create a Downtown area in which people park their vehicles once and walk throughout the area thereby reducing congestion and vehicle miles travelled. Reducing vehicle miles travelled reduces emissions of certain criteria pollutants, including CO and NOx, which would help to reduce the proposed Project's air quality impact.
6. The implementation of the Mobility Element Update would meet the objectives of the 2007 General Plan to achieve a progressive and integrated multi-modal transportation system, one that emphasizes "feet first, public transportation second, and car last." In addition, the Mobility Element Update would be consistent with the California Complete Streets Act (AB 1358). AB 1358 requires that municipalities craft a specific network of travel options through an adopted General Plan circulation element. Under AB 1358, the Circulation Element must reflect land use patterns that further support the effectiveness of a multimodal transportation network. The Mobility Element Update would expand upon the Town's adopted Mobility Element, focus on multi-modal transportation, and provide specificity as required under AB 1358. Thus, the adoption of the Mobility Plan Update would engender regional and state confidence with respect to funding. A more secure funding source would further ensure future roadway, pedestrian, and transit improvements. Finally, the Mobility Element Update would result in a complete street network including alternate modes of transportation such as pedestrian, bicycle, trails, and multi-use paths.
7. The combined Land Use Element/Zoning Code Amendments and the Mobility Element Update would implement California Senate Bill 375 (SB 375), which requires that land use and transportation planning be integrated to reduce VMT. Under SB 375, this is achieved through land use patterns that allow alternatives to the automobile, such as proximity of residential uses to jobs, services, and other destinations that accommodate walking and cycling. The Land Use Element/Zoning Code Amendments and the Mobility Element Update would also implement SB 743, which is intended to support residential/mixed-use densification for the purpose of inducing greater pedestrian and other multi-modal activity and, thus, reduce vehicle miles traveled. Given the benefits of the Land Use Element/Zoning Code Amendments and Mobility Element Update in supporting the "feet first" objectives of the General Plan and addressing State legislation to reduce VMT.

For the foregoing reasons, the Town Council approves the Project despite these potentially significant environmental effects, which can be considered "acceptable". (State CEQA Guidelines § 15093.)

EXHIBIT 3

**FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR LAND USE
ELEMENT/ZONING CODE AMENDMENT AND MOBILITY ELEMENT UPDATE,
INCLUDING THE MITIGATION MONITORING AND REPORTING PROGRAM
(SECTION 4.0 OF THE FINAL EIR)**

(SCH No. 2015052072)

DOCUMENT IS AVAILABLE ON THE TOWN WEBSITE HERE:

<http://www.townofmammothlakes.ca.gov/DocumentCenter/View/6338>

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EXHIBIT 4

**DRAFT ENVIRONMENTAL IMPACT REPORT FOR
LAND USE ELEMENT/ZONING CODE AMENDMENT AND MOBILITY ELEMENT
UPDATE**

(SCH No. 2015052072)

DOCUMENT IS AVAILABLE ON THE TOWN WEBSITE HERE:

VOLUME I: DRAFT EIR AND APPENDIX A:

<http://www.townofmammothlakes.ca.gov/DocumentCenter/View/6088>

VOLUME II: APPENDIX B THROUGH APPENDIX F:

<http://www.townofmammothlakes.ca.gov/DocumentCenter/View/6089>

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**EXHIBIT 5
PROPOSED REVISIONS TO THE GENERAL PLAN¹**

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~~L.1.A. Policy: Limit total peak population of permanent and seasonal residents and visitors to 52,000 people.~~ Utilize Project Impact Evaluation Criteria (PIEC) to evaluate the relationship between growth, density, and population to ensure the balance of economic, social, and environmental factors so as to ensure that development does not exceed the carrying capacity of the Town.

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~~L.3.F. Policy: Ensure appropriate community benefits are provided through district planning and development projects.~~

~~L.3.F.1. Action: Study the experiences of other communities in finding fair and equitable standards and formulas for gaining community benefits.~~

~~L.3.F.2. Action: Develop formula-based methods and standards for community benefits applicable to projects of a certain size.~~

~~L.3.F.3. Action: Develop and maintain a list of uses, facilities, infrastructure, programs and services for use as community benefits.~~

~~L.3.F.4. Action: Develop size, space and program characteristics and criteria for uses and facilities deemed as community benefits.~~

~~L.3.H. Policy: Density may be clustered or transferred within clearly articulated district, master and, specific plans to enhance General Plan goals and policies. Development rights may also be transferred between districts when that transfer furthers protection of identified environmentally sensitive areas.~~

~~L.3.H.1. Action: Prepare a transfer of development rights ordinance describing the methods and findings for approving such density transfers.~~

~~L.5.G. Policy: In the C-1 and C-2 Designations, density may be increased to no more than twice the density for hotel, motel, and similar transient lodging projects that specifically enhance the tourism, community, and environmental objectives of the Town. This enhancement must be through the provision of amenities, services, and/or environmental benefits above and beyond those required to meet the incremental demands of the project. — These amenities, services, and environmental benefits include, but are not limited to those listed under “Community Character” on page 24 of this General Plan. Any such increase shall further the Community Vision, shall be consistent with the discussion of “Build-out” on page 37 of this General Plan, shall be consistent with approved District Plans, and shall be subject to such rules, processes, and findings~~

¹ Strikethrough/underline is used to show the deleted and new text. The text shown in ~~strikethrough~~ is text to be deleted and the text shown in underline is new text.

~~as may be adopted by the Town Council in its sole discretion. The Town shall review and adjust, as needed, the General Plan's buildout calculations every five years. If construction of significant commercial/lodging/residential products has not occurred within the five year period, a summary of construction shall be prepared and included in the General Plan files but a detailed buildout analysis shall not be required.~~

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Commercial 1 (C-1) The C-1 designation allows medium-scale, commercial mixed uses. ~~The base density for residential is six (6) to a maximum of twelve (12) residential dwelling units per acre and a maximum of forty (40) hotel rooms per acre. The maximum floor area ratio is 2.0.~~ This designation is located along Main Street between the North Village district and Mono Street, and is intended to create a transition zone to the more intensive Commercial 2 and North Village designation. ~~A minimum floor area ratios and amount of commercial uses will be established in the Zoning Code.~~

Commercial 2 (C-2) This designation allows for the community's medium- and large-scale commercial uses. ~~The base density for residential is six (6) to a maximum of twelve (12) residential dwelling units per acre and a maximum of forty (40) hotel rooms per acre. The maximum floor area ratio is 2.0.~~ Intended uses include retail and office space for services as well as visitor lodging and residential uses. ~~A minimum floor area ratio and amount of commercial uses will be established in the Zoning Code.~~

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~~Determining a reasonable build-out forecast for the 20-year planning period of the General Plan is challenging. Although many different approaches can be used to make projections, any forecast must acknowledge that because of changing demographics, market and economic conditions, numbers will be constantly changing.~~

~~The build-out population for the General Plan was established by preparing a recreational trend forecast, a demographic and economic trend forecast and a land use capacity analysis. The recreation trend forecast looked at recreational visitor trends that support factors for growth using a ratio of visitation to project a future population. The demographic and economic trend forecast, based on the University of California at Santa Barbara (UCSB) Economic Forecast Project, did the same relative to economic and population trends. The land use capacity analysis assessed the number of units and population that could be developed through certain land use designations and development assumptions.~~

~~The assumptions of the three models support the projection that the total number of residents, visitors and workers on a winter weekend will grow to between 45,000 to 52,000 by the year 2025. Based on these analyses, the General Plan establishes a policy of a total peak population of residents, visitors and employees at 52,000 people. Ultimately, these land use designations could result in a build-out population over 52,000 but less than 60,000 if all land were built to capacity.~~

~~The following paragraphs describe how build-out will be limited to 52,000 people.~~

~~Maintaining build-out population will be achieved through implementation of the General Plan goals and policies. First: district planning will be conducted to establish project context, program and characteristics. Second: project-related impacts will be evaluated and mitigated to maintain acceptable Levels of Service and population policies through the California Environmental Quality Act (CEQA) or other analysis. Third: project-related market, economic and fiscal impacts will be evaluated as needed. Next, the functional and aesthetic qualities of site and architectural design will be evaluated through the discretionary review process. Because of superseding development regulations, site conditions, design review and market conditions, not all sites will be able to meet these standards at maximum density and overall density will be reduced.~~

~~Designation of a site for a certain use does not necessarily mean that the site will be developed with the designated use and density within the horizon of the General Plan. Similarly, sites that are not anticipated to be developed may actually be used. For the purposes of calculating land use capacity, the following assumptions are used:~~

- ~~• Population is described as People at One Time (PAOT) and includes residents and visitors. PAOT is used as a measurement because of the large visitor population in the town of Mammoth Lakes at any given time~~
- ~~• Peak population is described for approximately the seventh busiest winter day, which is the Town's typical winter Saturday~~
- ~~• Development on individual parcels will be controlled by lot coverage limits, building height restrictions, floor area ratio limits, and implementation of community benefit and performance standards and policies in the various master and specific plans~~
- ~~• The capacity of the ski area will remain constant over the next twenty years~~

- ~~• The number of people engaged in activities other than skiing will increase as the town matures from 25% to between 35% and 45%~~
- ~~• Permanent population will grow at a rate of between 1.4% and 2.4% per year~~
- ~~• Permanent resident units accommodate 2.4 people per unit on average and all other units accommodate 4 people per unit on an average winter Saturday (These household size and occupancy assumptions are based on past utilization and are simply used to calculate potential build-out. They do not constitute policy.)~~
- ~~• Most commercial development will take place in the Resort, North Village, and Commercial 1 and 2 designations. The total amount of commercial development at build-out is anticipated to be 1,265,000 square feet~~

~~Industrial development will be limited primarily to the "Industrial" designation; although, there will be a small amount in other designations. The total amount of industrial development at build-out is anticipated to be approximately 500,000 square feet~~

Build Out

The Land Use Element of the General Plan establishes the location and intensity of planned land uses. Buildout, as described in this General Plan, refers to the maximum number of potential residential units and maximum amount of commercial, industrial, and non-residential square footage within the Town's municipal boundary. The General Plan buildout provides a framework for the future growth of the Town of Mammoth Lakes. While the buildout projection identifies areas for potential growth and development, it is not expected that the full buildout will be reached in the 20-year horizon of the General Plan.

The buildout shapes how the town will look and feel and guides municipal infrastructure and facility needs. The buildout also informs the Town's Capital Improvement Plan (CIP) that delineates the location and improvements associated with each public facility. CIPs are prepared based on the buildout information and are updated over time to reflect changing community conditions. The Development Impact Fee program is based on the Capital Improvement Plan and the anticipated future infrastructure and facility needs. Development Impact Fees fund only physical improvements and the General Fund finances operations and maintenance. Additionally, buildout projections are used by other partner agencies like the Mammoth Community Water District to inform their future planning of infrastructure and facilities.

The General Plan buildout captures significant population fluctuations caused by the seasonality of the Town's economy. Planning for facilities and infrastructure requires an understanding of these population fluctuations, as demand for some services are created by the permanent population and other demands are created by peak populations, which include permanent and visitor populations. For example, planning for facilities such as libraries, schools, and parks is based on the buildout of the permanent population. Utility planning (for water, sewer, etc.) is based on service usage during peak periods. Air quality limitations (measured in part by Vehicle Miles Traveled (VMT)) are also based on usage on the Town's Design Day which is the 7th busiest winter Saturday.

In the past, the Town used People at One Time (PAOT) as the metric for calculating buildout. After the General Plan was approved in 2007 using PAOT to calculate buildout, the Town Council reviewed PAOT and in 2009 adopted Resolution No. 09-22 which approved a shift away from PAOT-based project evaluation to impact based evaluation and mitigation, reflecting and

including the following: The impacts in the 2007 General Plan FEIR Alternative 3: Reduced Development Alternative corresponding to 52,000 PAOT should be used as benchmarks and standards in evaluating projects and planning documents to acceptable impact levels. Additionally, in June of 2009 the Town Council adopted Resolution No. 09-34 which further emphasized the shift away from PAOT and recommended that the General Plan policy setting the peak population at 52,000 be amended to reflect the shift from PAOT to PIEC. The current buildout calculation reflects this shift away from counting people. The buildout presented here is based on residential and lodging units and commercial square footage which is a common practice in California to calculate General Plan buildout.

Although many different approaches can be used to make buildout projections, any forecast must acknowledge that because of changing demographics, market and economic conditions, numbers will be constantly changing. As a part of the update process in 2016, Town staff worked to make the buildout calculation as clear as possible using objective assumptions, with the goal that the buildout will be easily replicated in the future. Information from the Department of Finance, the Town's Development Impact Fee Population Analysis (July 2015), and the Town's GIS system, has been used to prepare the buildout projection.

Land Use Designation/Proposed Maximum DU/AC and FAR	Total Land Area (acres)		Existing Commercial and Industrial (sq ft)		Assumed Density and Intensity for Future Development		New Future Units		New Commercial and Industrial (sq ft)		Total Units at Buildout		Total Population at Buildout		Total Commercial and Industrial (sq ft) at Buildout	
	Vacant Land Area (acres)	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units	Existing Units
RESIDENTIAL																
Low-Density Residential 1 (LDR-1) - 2 DU/AC	208	61	287	-	2 DU/AC	122	N/A	409	1,419	N/A	409	1,419	N/A			
Low-Density Residential 2 (LDR-2) - 4 DU/AC	384	69	1,569	-	4 DU/AC	276	N/A	1,845	6,402	N/A	1,845	6,402	N/A			
High-Density Residential 1 (HDR-1) - 6-12 DU/AC	112	36	692	-	12 DU/AC	604	N/A	1,296	4,497	N/A	1,296	4,497	N/A			
High-Density Residential 2 (HDR-2) - 6-12 DU/AC, 36 rooms/AC	263	12	3,886	-	12 DU/AC	144	N/A	4,030	13,984	N/A	4,030	13,984	N/A			
Resort (R) - 6-8 DU/AC, 12-16 rooms/AC ¹²	554	292	1,719	65,175	N/A	1,943	305,675	3,662	12,707	370,850	3,662	12,707	370,850			
COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL PUBLIC																
Commercial 1 (C-1) - 0.75 - 2.0 FAR ¹⁴	32	2	226	24,984	2.0 FAR	180	1,857	406	1,409	26,841	406	1,409	26,841			
Commercial 2 (C-2) - 0.75 - 2.0 FAR ¹⁴	90	8	559	1,021,994	2.0 FAR	659	339,520	1,218	4,226	1,361,514	1,218	4,226	1,361,514			
Industrial (I) ^{9 10}	68	68	2	296,941	N/A	193	196,606	2	2	493,547	2	2	493,547			
Institutional Public (IP) ¹¹	218	30	36	-	4 DU/AC	120	N/A	229	795	N/A	229	795	N/A			
SPECIFIC PLAN																
Clearwater Specific Plan (CSP) - 80 rooms/AC ⁷	6	N/A	74	11,948	80 rooms/AC	176	41,500	244	845	41,500	244	845	41,500			
North Village Specific Plan (NVSP) ^{7 13}	57	29	599	131,033	0.359	1,259	3,967	1,958	6,794	135,000	1,958	6,794	135,000			
OTHER																
Airport (A)	192	N/A	N/A	7,250	N/A	N/A	40,000	N/A	N/A	40,000	N/A	N/A	40,000			
Open Space (OS)	317	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
National Forest (NF)	12,837	N/A	259	350,234	N/A	N/A	N/A	259	899	N/A	259	899	N/A			
TOTAL	15,337	607	9,902	1,909,559	N/A	5,650	229,125	15,538	53,980	2,469,252	15,538	53,980	2,469,252			

Footnotes:

1. Acres are given as adjusted gross acreages rounded to the nearest acre, which do not include right-of-ways.
2. Consistent with Zoning Code Section 17.32.110.C.7 a hotel room is considered one-half of a unit.
3. Includes all non-residential uses including post office, office uses, day care, retail, industrial, etc.
4. Residential density is expressed as dwelling units per acre and commercial intensity is expressed as floor area ratio (FAR), which is the amount of building square feet in relation to the size of the lot.
5. Includes 172 units within the HDR-1 land use designation achieved through a Town or State density bonus.
6. The total population number includes all residents/visitors in town with 100 percent occupancy. The vacancy rate fluctuates in town between a year-round vacancy rate of 72% to a seasonal vacancy rate of 10% (Tishler Bise DIF Report 2015). Assuming the seasonal vacancy rate the maximum population in town at buildout would be 48,582.
7. The total number of units and square footage of retail and nonretail uses for Specific Plans were taken directly from the approved land use plans associated with each Specific Plan document.
8. Estimates of population by residential designation are based on an average of 3.47 people per unit which is consistent with the 2007 General Plan.
9. The Industrial Zone includes two caretakers units that are limited to only one person per unit as the caretaker of the property.
10. Assumptions for buildout of the Industrial Land Use Designation are consistent with the 2007 General Plan.
11. The General Plan permits housing accessory to the college within the IP land use designation at a density of 4 units per acre. The Kern Community College District/Mammoth Lakes Foundation owns a total of 229 acres of land and has constructed 36 units of student housing.
12. Density is based on approved Master Plans.

13. Commercial density in the North Village Specific Plan is limited to 135,000 square feet. The NVSP also includes an allowance for up to 3,317 rooms of density which can be converted to commercial square footage at a rate of 1 room per 450 square feet of commercial area. It is likely that the commercial square footage in the Village will exceed 135,000 but the increase in commercial square footage would result in a decrease in rooms.

14. Vacant land within the C1 and C2 land use designations includes frontage road area of 2.6 acres total (0.9 acres within the C1 and 1.7 acres within the C2).

Appendix A: Action Table

~~L.3.F.1. Action: Study the experiences of other communities in finding fair and equitable standards and formulas for gaining community benefits.~~

~~L.3.F.2. Action: Develop formula-based methods and standards for community benefits applicable to projects of a certain size.~~

~~L.3.F.3. Action: Develop and maintain a list of uses, facilities, infrastructure, programs and services for use as community benefits.~~

~~L.3.F.4. Action: Develop size, space and program characteristics and criteria for uses and facilities deemed as community benefits.~~

~~L.3.H.1. Action: Prepare a transfer of development rights ordinance describing the methods and findings for approving such density transfers.~~

Appendix E: Useful Terms for Understanding the General Plan

- **Community Benefit**

~~A community benefit as used in this plan is a project component(s) that enhances the tourism, community, or environmental objectives of the Town through the provision of amenities, services, or environmental benefits above and beyond those required to meet the incremental demand of the project itself. These amenities, services, and environmental benefits include, but are not limited to those listed under Community Character on page 24 of this General Plan.~~

- Floor Area. The total horizontal enclosed area of all the floors below the roof and within the outer surface of the walls of a building or other enclosed structure unless otherwise stipulated.

The following is included in Floor Area: Floor area includes, but is not limited to, all habitable space (as defined in the California Building Standards Code) that is below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of party walls separating such buildings or portions thereof or within lines drawn parallel to and two feet within the roof line of any building without walls. In the case of a multi-story building that has covered or enclosed stairways, stairwells or elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent.

The following is excluded from Floor Area: Floor area does not include mechanical, electrical, and communication equipment rooms that do not exceed two percent of the building's gross floor area; bay windows or other architectural projections where the vertical distance between the lowest surface of the projection and the finished floor is 30 inches or greater; areas that qualify as usable open space; and areas used for off-street parking spaces or loading spaces, driveways, ramps between floors of a multi-level parking garage, and maneuvering aisles that are located below the finish grade of the property.

For Non-Residential Uses: For non-residential uses, gross floor area includes interior walkways or corridors, interior courtyards, and walkways, paseos, or corridors covered by a roof or skylight. Non-residential gross floor area does not include arcades, porticoes, and similar open areas that are located at or near street level and are

accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.

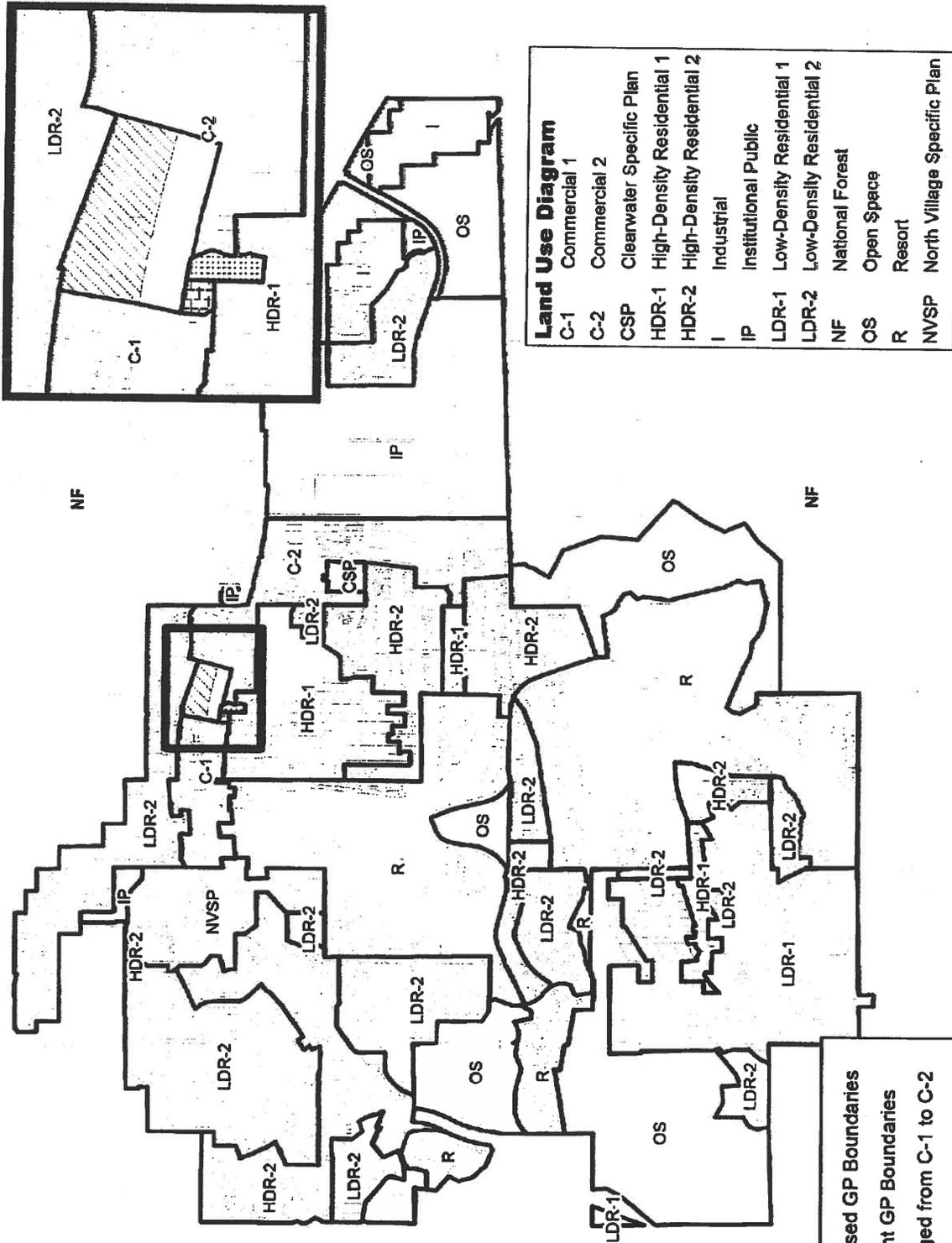
- Floor Area Ratio (FAR). The ratio of floor area of a building or buildings on a lot divided by the total lot area. Floor area located below finished grade, the ceiling of which does not extend more than five feet above finished grade, is excluded when calculating FAR.

- People at One Time (PAOT)

~~Used in this General Plan as an estimate of the number of people — permanent residents, second homeowners, and visitors — residing (lodging) in the town on an average winter Saturday night.~~

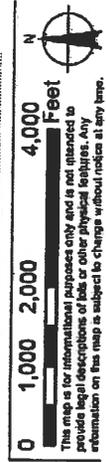
EXHIBIT 6

**PROPOSED REVISIONS TO THE GENERAL PLAN LAND USE DIAGRAM
(FIGURE 5 OF THE GENERAL PLAN)**



Land Use Diagram

C-1	Commercial 1
C-2	Commercial 2
CSP	Clearwater Specific Plan
HDR-1	High-Density Residential 1
HDR-2	High-Density Residential 2
I	Industrial
IP	Institutional Public
LDR-1	Low-Density Residential 1
LDR-2	Low-Density Residential 2
NF	National Forest
OS	Open Space
R	Resort
NVSP	North Village Specific Plan



	Proposed GP Boundaries
	Current GP Boundaries
	Changed from C-1 to C-2
	Changed from C-2 to C-1
	Changed from C-2 to HDR-1

FIGURE 2-4

Proposed Revisions to the Land Use Diagram
 Land Use Element/Zoning Code Amendment and Mobility Element Update
 Source: Town of Mammoth Lakes, 2014.

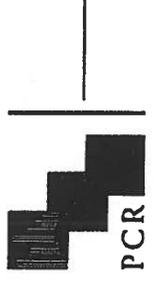


EXHIBIT 7

DRAFT GENERAL PLAN MOBILITY ELEMENT

DOCUMENT IS AVAILABLE ON THE TOWN WEBSITE HERE:

<http://www.townofmammothlakes.ca.gov/DocumentCenter/View/5928>

STATE OF CALIFORNIA)
COUNTY OF MONO)
TOWN OF MAMMOTH LAKES) ss.

I, JAMIE GRAY, Town Clerk of the Town of Mammoth Lakes, DO HEREBY CERTIFY under penalty of perjury that the foregoing is a true and correct copy of Resolution No. 16-68 adopted by the Town Council of the Town of Mammoth Lakes, California, at a meeting thereof held on the 7th day of December, 2016, by the following vote:

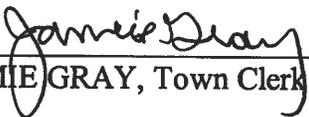
AYES: Councilmember Fernie, Hoff, and Mayor Pro Tem Wentworth

NOES: None

ABSENT: Councilmember Sauser and Mayor Richardson

ABSTAIN: None

DISQUALIFICATION: None



JAMIE GRAY, Town Clerk

TOWN OF MAMMOTH LAKES

Notice is hereby given that on January 6, 2021 the Town Council introduced an Ordinance entitled:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, APPROVING DISTRICT ZONING CODE AMENDMENT 20-001 TO ADOPT THE 2021 PARCEL MASTER PLAN AND ZONING CODE AMENDMENT 20-005 TO REPEAL MUNICIPAL CODE SECTION 17.32.020, AFFORDABLE HOUSING OVERLAY ZONE (AH), FOR PROPERTIES LOCATED AT 1699 TAVERN AND 33 CENTER STREET (APNS: 035-010-020-000 AND 035-100-003-000) AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO STATE CEQA GUIDELINES SECTION 15183.3.

A copy of the complete text of the Ordinance is posted and may be read at the Town Offices, Minaret Mall, Old Mammoth Road, Mammoth Lakes, and/or a copy may be obtained from the office of the Town Clerk at a nominal charge.

Dated: January 7, 2021



JAMIE GRAY, Town Clerk
Town of Mammoth Lakes

TOWN OF MAMMOTH LAKES

Notice is hereby given that on January 20, 2021 the Town Council adopted an Ordinance entitled:

ORDINANCE NO. 21-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, APPROVING DISTRICT ZONING CODE AMENDMENT 20-001 TO ADOPT THE 2021 PARCEL MASTER PLAN AND ZONING CODE AMENDMENT 20-005 TO REPEAL MUNICIPAL CODE SECTION 17.32.020, AFFORDABLE HOUSING OVERLAY ZONE (AH), FOR PROPERTIES LOCATED AT 1699 TAVERN AND 33 CENTER STREET (APNS: 035-010-020-000 AND 035-100-003-000) AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO STATE CEQA GUIDELINES SECTION 15183.3.

by the following vote:

AYES: Councilmembers Stapp and Wentworth and Mayor Pro Tem Salcido

NOES: None

ABSENT: None

ABSTAIN: None

DISQUALIFICATION: Councilmember Rea and Mayor Sauser

A certified copy of the complete text of the Ordinance is posted and may be read at the Town Offices, Minaret Mall, Old Mammoth Road, Mammoth Lakes, and /or a copy may be obtained from the office of the Town Clerk at a nominal charge.

Dated: January 21, 2021



JAMIE GRAY, Town Clerk
Town of Mammoth Lakes

STATE OF CALIFORNIA)
COUNTY OF MONO) ss.
TOWN OF MAMMOTH LAKES)

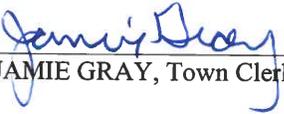
I, JAMIE GRAY, Town Clerk of the Town of Mammoth Lakes, DO HEREBY CERTIFY under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. 21-01, which was introduced at a meeting of the Town Council of the Town of Mammoth Lakes, California, held on January 6, 2021 and adopted at a meeting of the Town Council on January 20, 2021 by the following vote:

AYES: Councilmembers Stapp and Wentworth and Mayor Pro Tem Salcido

NOES: None

ABSENT: None

DISQUALIFICATION: Councilmember Rea and Mayor Sauser



JAMIE GRAY, Town Clerk

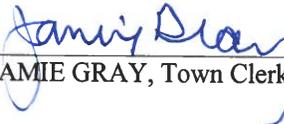
STATE OF CALIFORNIA)
COUNTY OF MONO) ss.
TOWN OF MAMMOTH LAKES)

AFFIDAVIT
OF PUBLISHING
AND POSTING

JAMIE GRAY, being first duly sworn, deposes and says: That she is the duly appointed Town Clerk of the Town of Mammoth Lakes; that in compliance with State laws of the State of California, Ordinance No. 21-01, being:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, APPROVING DISTRICT ZONING CODE AMENDMENT 20-001 TO ADOPT THE 2021 PARCEL MASTER PLAN AND ZONING CODE AMENDMENT 20-005 TO REPEAL MUNICIPAL CODE SECTION 17.32.020, AFFORDABLE HOUSING OVERLAY ZONE (AH), FOR PROPERTIES LOCATED AT 1699 TAVERN AND 33 CENTER STREET (APNS: 035-010-020-000 AND 035-100-003-000) AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO STATE CEQA GUIDELINES SECTION 15183.3.

was published in summary in The Sheet newspaper on January 15 and 29, 2021 and was posted at the Town Administrative Offices.



JAMIE GRAY, Town Clerk

COUNTY DEVELOPMENT LOAN AGREEMENT

(The Parcel/Sawyer – MHSA Loan)

Between

Mono County

and

Mammoth Lakes Pacific Associates

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COUNTY DEVELOPMENT LOAN AGREEMENT
(Mono County Loan)

This County Development Loan Agreement is entered into as of May 1, 2022 (the "Effective Date"), by and between the Mono County, a political subdivision of the State of California (the "County"), and Mammoth Lakes Pacific Associates, a California limited partnership ("Borrower"), with reference to the following facts:

RECITALS

A. Capitalized terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. Borrower owns that certain real property located in the Town of Mammoth Lakes, California, County of Mono, State of California, as more particularly described in Exhibit A attached hereto and incorporated herein (the "Property").

C. The County has received funds from the California Department of Mental Health, ("DMH") pursuant to Proposition 63, the Mental Health Services Act (the "Act" or "MHSA"). The Act was enacted by the voters of the State of California in November of 2004. The MHSA funds must be used by the County in accordance with the Act and California Code of Regulations Title 9, Section 3100, et seq.

D. The County, along with Borrower's sponsor, also applied for and received funding from the State of California Department of Housing and Community Development ("HCD") through its No Place Like Home Program (Round 3) authorized by Government Code Section 15463 Part 3.9 of Division 4 (commencing with Section 5849.1) of the of the Welfare and Institutions Code, and Section 5890 of the Welfare and Institutions Code ("NPLH" or "No Place Like Home").

E. Borrower will develop eighty-one (81) units of housing on the Property, eight (8) of which will be reserved for households eligible under the No Place Like Home Program (the "NPLH Units"). An additional preference will be provided, to prioritize five (5) other units for households eligible to receive services under the Mental Health Services Act (the "MHSA Units"). The housing units, including the NPLH Units, MHSA Units, as well as the social service offices, spaces and other ancillary improvements to be developed on the Property or in connection with the hosing are referred to in this Agreement as the "Improvements". The Property and the Improvements are collectively referred to as the "Development." The NPLH Units and the MHSA Units are referred to in this Agreement as the "County-Assisted Units".

F. As contemplated in the 2019-2020 Annual Update, and its 2017-2020 Three Year Plan for Mental Health Services Act funding, the County made Two Hundred Twenty-Two Thousand, Eight Hundred Seventy Six Dollars and Fifty-Seven Cents (\$222,876.57) in MHSA Funds available to the Development (the "Predevelopment Loan") to fund a Mono County Department of Behavioral Health ("MCBH") satellite office and other space to provide services and supports for persons eligible for No Place Like Home and Mental Health Act Services (the "MHSA Capital Facility").

G. As further contemplated in the 2020-2021 Annual Update and its 2020-2023 Three Year Plan for MHSA funding, the County is making an additional One Million Five Hundred Fifty-Seven Thousand One Hundred Twenty Three Dollars and Forty-Three Cents (\$1,557,123.43) of Community Services and Supports MHSA funding available for predevelopment and development costs associated with the Development (the "Additional Loan").

H. The Predevelopment Loan is evidenced by that certain Predevelopment Loan Agreement dated June 8th, 2021 (the "Predevelopment Loan Agreement") between Borrower's predecessor in interest and sponsor, Pacific West Communities, Inc. ("Sponsor"). The Predevelopment Loan Agreement, and related documents, contemplated a loan in the amount of \$306,021, but the Sponsor did not draw down the full amount of available predevelopment funds and the remaining \$83,144.43 will not be disbursed. On April 1, 2022 pursuant to that certain Assignment and Assumption Agreement between Sponsor and Borrower, Sponsor assigned and the Borrower assumed the Predevelopment Note and related documents (the "Assignment and Assumption Agreement").

I. The Predevelopment Loan and the Additional Loan, constitute the "Loan" or the "County Loan". The County Loan is evidenced by this Agreement, the related Promissory Note "Note", and Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement"). The Loan is secured by that certain Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust"). Concurrently with the Borrower's execution of this Agreement and the Note and the recordation of a fully executed Deed of Trust and Regulatory Agreement, the Predevelopment Note will be cancelled and the Predevelopment Loan will be incorporated into the Note along with the Additional Loan. In addition, the Predevelopment Loan Agreement will be cancelled and this Agreement will govern the terms and conditions of the Predevelopment Loan. The Assignment of Collateral Documents between Sponsor and County, as assigned to Borrower pursuant to the Assignment and Assumption Agreement will remain in full force and effect (the "Collateral Assignment").

J. The Town of Mammoth Lakes determined the Development qualifies for the streamlining procedures under CEQA Guidelines section 15183.3, determined the Development project will not cause any effects that require additional environmental review under California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") per California Public Resources Code Section 21159.23 and CEQA Guidelines Section 15194, and made findings in support of that determination. The County considered the Infill Environmental Checklist prepared for Development and findings made by the Town of Mammoth Lakes. No additional environmental review is required for the County's approval of the loan, in that no changes have been made in the development approved by the City of Mammoth Lakes.

NOW, THEREFORE, the above Recitals are incorporated into and will be part of this Agreement and the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

The following capitalized terms have the meanings set forth in this Section 1.1 wherever used in this Agreement, unless otherwise provided:

- (a) "Accelerator Loan" has the meaning set forth in Section 1.1(h)(3).
- (b) "Accessibility Requirements" has the meaning set forth in Section 3.8 below.
- (c) "Additional Loan" has the meaning set forth in Recital G.
- (d) "Agreement" means this County Development Loan Agreement.
- (e) "Annual Operating Expenses" means with respect to a particular calendar year, the following costs reasonably and actually incurred for operation and maintenance of the Development, to the extent that they are consistent with the annual operating budget for the Development approved by the County pursuant to the Regulatory Agreement and an annual independent audit performed by a certified public accountant using generally accepted accounting principles:
 - (1) property taxes and assessments imposed on the Development;
 - (2) debt service currently due on a non-optional basis (excluding debt service due from surplus cash of the Development) on loans associated with the Development and approved by the County;
 - (3) on-site service provider fees for tenant social services, provided the County has approved, in writing, the plan and budget for such services before such services begin pursuant to the Regulatory Agreement;
 - (4) property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry and pursuant to a management contract approved by the County;
 - (5) the Asset Management Fee;
 - (6) fees for accounting, audit, and legal services incurred by Borrower in the asset management of the Development, not to exceed amounts that are standard in the industry, to the extent such fees are not included in the Asset Management Fee;
 - (7) premiums for property damage and liability insurance;
 - (8) utility services not paid for directly by tenants, including water, sewer, and trash collection;

- (9) maintenance and repair expenses and services;
- (10) any annual license or Certificate of Occupancy fees required for operation of the Development;
- (11) security services;
- (12) advertising and marketing;
- (13) cash deposited into reserves for capital replacements of the Development in the amount set forth in Section 4.9(a) of the Regulatory Agreement;
- (14) cash deposited into an operating reserve to maintain the amount set forth in Section 4.9(b) of the Regulatory Agreement (excluding amounts deposited to initially capitalize the account);
- (15) cash deposited into any other reserve accounts as required by permanent lenders and as approved by the County;
- (16) payment of deferred Developer Fee (without interest) not exceeding a cumulative Developer Fee in the maximum amount set forth in Section 3.17 below;
- (17) extraordinary operating costs specifically approved in writing by the County; and
- (18) payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses approved by the County in writing not listed above.

Annual Operating Expenses do not include the following: depreciation, amortization, depletion or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Development, as determined by the accountant for the Development.

(f) "Applicable Governmental Approvals" means the County and other governmental permits and approvals necessary for the Construction Work and operation of the Development, including but not limited to CEQA approvals, submissions of design development review documents, detailed exterior plans, overall design and architectural review and any required operating licenses.

(g) "Approved Development Budget" means the proforma development budget, including sources and uses of the Approved Financing, as approved by the County pursuant to 3.15 below, and attached hereto and incorporated herein as Exhibit B.

(h) "Approved Financing" means sources of financing for the Development included in the Approved Development Budget which includes the following:

(1) a construction bond loan from bonds issued by the California Multifamily Financing Authority and purchased by America First Multifamily Investors, L.P. in the approximate amount of Forty Four Million Six Hundred Ten Thousand Eight Hundred Fifty Eight Dollars (\$44,610, 858) (the "Construction Loan")

(2) a permanent loan from [] in the approximate amount of Six Million Two Hundred Fifty Thousand Dollars (\$6,250,000) (the "Permanent Loan");

(3) a permanent loan of Housing Accelerator funding from HCD in the approximate amount of Thirty Eight Million Six Hundred Fifty Six Thousand Six Hundred Seventeen Dollars (\$38,656,617) (the "Accelerator Loan");

(4) an Infill Infrastructure Grant from the California Department of Housing and Community Development in the approximate amount of Six Million Seven Hundred Fifty Thousand Dollars (\$6,750,000) (the "IIG Grant");

(5) No Place Like Home funding from HCD in the approximate amount of Five Hundred Thousand Dollars (\$500,000) (the "NPLH Funding");

(6) a land loan from the Town in the approximate amount of Six Hundred Fifty Thousand Dollars (\$650,000) (the "Town Land Loan"); and

(7) a fee deferral from the Town in the approximate amount of Two Hundred Eighteen Thousand Four Hundred Forty-Four Dollars (\$218,477) (the "Town Fee Deferral").

(i) "Asset Management Fee" means asset management fees payable to Borrower in the amounts set forth in 3.16.

(j) "Borrower" has the meaning set forth in the first paragraph of this Agreement.

(k) Intentionally Blank

(l) "CEQA" has the meaning set forth in Recital J.

(m) "Certificate of Occupancy" means the Certificate of Occupancy or equivalent document issued by the City to certify completion of the Construction Work.

(n) "Collateral Assignment" has the meaning set forth in Recital I.

(o) "Completion Date" means the date that a final Certificate of Occupancy, or equivalent document, is issued by the City to certify completion of the Construction Work and that the Development may be legally occupied.

(p) "Construction Closing" means the date upon which all financing necessary for the construction of any new Improvements on the Property closes, and any deeds of trust related to such financing, are recorded against the Property.

- (q) "Construction Plans" has the meaning set forth in Section 2.12.
- (r) "Construction Loan" has the meaning set forth in Section 1.1(h)(a).
- (s) "Construction Work" means the physical construction work to construct the Improvements, which shall be performed in accordance with the Applicable Governmental Approvals, the Construction Plans, and all required permits.
- (t) "County" has the meaning set forth in the first paragraph of this Agreement.
- (u) "County-Assisted Units" has the meaning set forth in Recital E and means the eight (8) to thirteen (13) Units, the occupancy of which is restricted by the County to households with certain income limits, as further set forth in the Regulatory Agreement.
- (v) "County Loan" has the meaning set forth in Recital I.
- (w) Intentionally Blank
- (x) Intentionally Blank.
- (y) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing of even date herewith among Borrower, as trustor, Inyo-Mono Title Company, as trustee, and the County, as beneficiary, which will encumber the Property to secure repayment of the County Loan and performance of the covenants of the Loan Documents.
- (z) "Default" has the meaning set forth in Section 6.1 below.
- (aa) "Default Rate" means the lesser of the maximum rate permitted by law and ten percent (10%) per annum.
- (bb) "Developer Fee" has the meaning set forth in Section 3.17.
- (cc) "Development" has the meaning set forth in Recital E.
- (dd) "DMH" has the meaning set forth in Recital C.
- (ee) "Effective Date" means the date first written above.
- (ff) "Final Cost Certification" means a certification of the Final Development Costs, prepared by Borrower, and audited by an independent public accountant approved by the County. The Final Cost Certification shall be in a form acceptable to the County.
- (gg) "Final Development Cost" means the total of the cost of acquisition of the Property and the performance of the Construction Work as shown on the

Final Cost Certification.

(hh) "Force Majeure" means the occurrence of one or more of those events described in Section 7.14, permitting an extension of time for performance of obligations under this Agreement.

(ii) "Gross Revenue" means with respect to a particular calendar year all revenue, income, receipts, and other consideration actually received from operation and leasing of the Development. Gross Revenue includes, but is not limited to:

- (1) all rents, fees and charges paid by tenants;
- (2) Section 8, or other rental subsidy payments received for the dwelling units;
- (3) deposits forfeited by tenants;
- (4) all cancellation fees;
- (5) price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income;
- (6) proceeds from vending and laundry room machines;
- (7) the proceeds of business interruption or similar insurance;
- (8) subject to the rights of Senior Lenders, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Development (or applied toward the cost of recovering such proceeds); and
- (9) subject to the rights of Senior Lenders, condemnation awards for a taking of part of all of the Development for a temporary period.

Gross Revenue does not include tenants' security deposits; loan proceeds; capital contributions; interest income earned on reserves, provided that the interest shall be considered reserve funds and is being used for the purposes for which the applicable reserve was established; lender impounds, provided that the interest is held by the lender and used for the purposes of the impound account; or similar advances.

(jj) "Hazardous Materials" means: (i) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, Freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical, and (ii) any waste, substance or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic materials", "toxic waste", "toxic substances," or words of similar import under any Hazardous Materials Law.

(kk) "Hazardous Materials Claims" means with respect to the Property

(i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or the Property pursuant to any Hazardous Materials Law; and (ii) all claims made or threatened by any third party against Borrower or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials.

(ll) "Hazardous Materials Law" means any federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments thereto as of this date and to be added in the future and any successor statute or rule or regulation promulgated thereto.

(mm) "HCD" means the California Department of Housing and Community Development.

(nn) "IIG Grant" has the meaning set forth in Section 1.1(h)(4).

(oo) "Improvements" has the meaning set forth in Recital E.

(pp) "Loan Documents" means this Agreement, the Note, the Regulatory Agreement, and the Deed of Trust.

(qq) "MHSA" or the "Act" shall mean the Mental Health Services Act adopted by the voters of the State of California in November 2004 as Proposition 63.

(rr) "MHSA Capital Facility" is defined in Recital F.

(ss) "MHSA Eligible Household" shall have the meaning set forth in the Regulatory Agreement.

(tt) "Note" means the promissory note dated concurrently herewith executed by Borrower and evidencing Borrower's obligation to repay the County Loan.

(uu) "Notice of Completion" means the Notice of Completion executed by Borrower in the form specified in California Civil Code Section 8182.

(vv) "NPLH" or "No Place Like Home" has the meaning set forth in Recital D.

(ww) "NPLH Eligible Household" shall have the meaning set forth in the Regulatory Agreement.

(xx) "NPLH Funding" is defined in Section 1.1(h)(5).

(yy) "Parties" means the County and Borrower.

(zz) "Permanent Closing" means the closing of the Accelerator Loan.

- (aaa) "Permanent Financing" means the sum of the following amounts:
 (i) the Accelerator Loan (ii) County Loan; (iii) Town Land Loan; (iv) the Town Fee Deferral; (v) the NPLH Funding; (vi) the IIG Grant; (vii) the Permanent Loan.
- (bbb) "Permanent Loan" has the meaning set forth in Section 1.1(h)(2).
- (ccc) "Predevelopment Loan" has the meaning set forth in Recital F.
- (ddd) "Predevelopment Loan Agreement" has the meaning set forth in Recital H.
- (eee) "Property" has the meaning set forth in Recital B.
- (fff) "Regulatory Agreement" means the regulatory agreement between the County and Borrower associated with the County Loan, to be recorded against Borrower's fee interest in the Property.
- (ggg) "Senior Lender" has the meaning set forth in Section 2.5.
- (hhh) "Senior Loan" has the meaning set forth in Section 2.5.
- (iii) "Term" means the term of this Agreement which commences as of the date of this Agreement and unless sooner terminated in accordance with this Agreement, continues until fifty-five (55) years after the Permanent Closing, provided, however, if a record of the Permanent Closing cannot be located or established, then fifty-seven (57) years after the date of this Agreement.
- (jjj) "Town" means the Town of Mammoth Lakes, California.
- (kkk) "Town Deferral Fee" has the meaning set forth in Section 1.1(h)(7).
- (lll) "Accelerator Loan" has the meaning set forth in Section 1.1(h)(3).
- (mmm) "Town Land Loan" has the meaning set forth in Section 1.1(h)(6);
- (nnn) "Transfer" has the meaning set forth in Section 4.9 below.
- (ooo) "Unit" means any one (1) of the eighty one (81) apartment units to be constructed on the Property, including one (1) manager's unit.

Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

- EXHIBIT A: Legal Description of the Property
 EXHIBIT B: Approved Development Budget

ARTICLE 2 COUNTY LOAN PROVISIONS

Section 2.1 Loan.

The County has loaned the Predevelopment Loan to the Borrower to help finance the MHSA Capital Facility. The County shall loan to Borrower the Additional Loan for the purposes set forth in Section 2.3 of this Agreement. Borrower's obligation to repay the County Loan is evidenced by the Note. Upon satisfaction of all applicable requirements and necessary approvals, the County shall loan to Borrower the County Loan.

Section 2.2 Interest.

(a) Subject to the provisions of Section 2.2(b) below, the outstanding principal balance of County Loan will accrue simple interest at the rate of three percent (3%) per annum based on a 365-day year from the date of disbursement.

(b) In the event of a Default, interest on the County Loan will begin to accrue at the Default Rate, as of the date of Default and continuing until such time as the County Loan is repaid in full or the Default is cured.

Section 2.3 Use of County Funds.

As of the date of this Agreement, all Predevelopment Loan Funds have been expended for development costs associated with the MHSA Capital Facility consistent with the Predevelopment Loan Agreement. Borrower shall use the Additional Loan as permanent financing for the Development, consistent with the Approved Development Budget, subject to the disbursement conditions set forth in Section 2.6 and Section 2.7 below. Borrower shall not use the County Loan for any other purposes without the prior written consent of the County.

Section 2.4 Security.

Borrower shall execute the Deed of Trust to secure the Note, and shall record it as a lien against Borrower's fee interest in the Property. Borrower shall also cause or permit the Regulatory Agreement to be recorded against Borrower's fee interest in the Property. Subject to the requirements of Section 2.5, the Deed of Trust may be subordinate in lien priority to the deeds of trust securing the Construction Loan and USDA Loan. The Regulatory Agreement shall be recorded senior to the deeds of trust securing all financing, and may not be subordinated except, if required by HCD's applicable regulations, to the deeds of trust benefiting HCD and securing the Accelerator Loan and NPLH Loan and the related regulatory agreement between Borrower and HCD. Any such subordination shall be made pursuant to a subordination agreement that is acceptable to the County.

Section 2.5 Subordination.

(a) Any agreement by the County to subordinate the Deed of Trust to security for the Construction Loan and USDA Loan (each a "Senior Loan"), or any loan obtained by Borrower to refinance a Senior Loan, is subject to the satisfaction of the following conditions:

(1) All of the proceeds of any proposed Senior Loan, less any transaction costs, must be used to provide construction and/or permanent financing for the Development.

(2) The proposed lender of a Senior Loan (each a "Senior Lender") must be a state or federally chartered financial institution, a nonprofit corporation, or a public entity that is not affiliated with Borrower or any of Borrower's affiliates, other than as a depositor or a lender.

(3) Borrower demonstrates to the County's reasonable satisfaction that subordination of the Deed of Trust is necessary to secure adequate construction and/or permanent financing to ensure the viability of the Development, including the operation of the Development as affordable housing, as required by the Loan Documents. To satisfy this requirement, Borrower must provide to the County, in addition to any other information reasonably required by the County, evidence demonstrating that the proposed amount of any Senior Loan is necessary to provide adequate acquisition, construction, and/or permanent financing to ensure the viability of the Development, and adequate financing for the Development would not be available without the proposed subordination.

(4) The subordination agreement(s) must be structured to minimize the risk that the Deed of Trust would be extinguished as a result of a foreclosure by the Senior Lender or other holder of the Senior Loan. To satisfy this requirement, the subordination agreement(s) must provide the County with adequate rights to cure any defaults by Borrower, including: (i) providing the County or its successor with copies of any notices of default at the same time and in the same manner as provided to Borrower; and (ii) providing the County with a cure period of at least sixty (60) days to cure any default.

(5) Any subordination of the County Loan is effective only during the original term of any Senior Loan and any extension of its term that is approved in writing by the County.

(6) The subordination does not limit the effect of the Deed of Trust before a foreclosure, nor require the consent of the Senior Lender prior to the County exercising any remedies available to the County under the Loan Documents.

(b) Upon a determination by County Counsel that the conditions in this Section have been satisfied, the Director of Behavioral Health or County Administrator will be authorized to execute the approved subordination agreement without the necessity of any further action or approval.

Section 2.6 Conditions Precedent to Construction Closing and Disbursement.

(a) The Construction Closing may not occur unless all of the following conditions have been and continue to be satisfied:

(1) There exists no Default nor any act, failure, omission or condition that would constitute an event of Default under this Agreement, or under any other agreement between the County and Borrower;

(2) Borrower holds fee title to the Property or is acquiring title to the Property simultaneously with the Construction Closing;

(3) Borrower has delivered to the County copies of all of Borrower's organizational documents;

(4) Borrower has executed and delivered to the County the Loan Documents, and has caused all other documents, instruments, and policies required under the Loan Documents to be delivered to the County;

(5) The Deed of Trust and the Regulatory Agreement are recorded against Borrower's fee interest in the Property, or will be simultaneously with the Construction Closing;

(6) Borrower has furnished the County with evidence of the insurance coverage meeting the requirements of Section 4.10 below;

(7) The undisbursed proceeds of the County Loan, together with other funds or firm commitments for funds that the Borrower has obtained in connection with the construction of the Property, are not less than the amount that the County determines is necessary to pay for the Construction Work;

(8) All Applicable Governmental Approvals necessary for the Construction Work have been received;

(9) There exists no material adverse change in the financial condition of Borrower from that shown by the financial statements and other data and information furnished by Borrower to the County prior to the date of this Agreement;

(10) Borrower has delivered to the County an authorizing resolution authorizing Borrower's execution of the Loan Documents and the transaction contemplated by this Agreement and Borrower obtaining the Approved Financing;

(11) The County has approved the Approved Development Budget for the Development, pursuant to Section 3.14;

(12) All environmental review necessary for the Construction Work has been completed, and, if applicable, Borrower has provided the County evidence of planned compliance with all mitigation measures applicable to construction;

(13) Borrower has obtained all permits and approvals necessary for the Construction Work and the County has received a copy of the building permits required to construct the Improvements;

(14) The County has received and approved the final Construction Plans for the Construction Work;

(15) The County has received and approved the general contractor's construction contract that Borrower has entered into for the Construction Work pursuant to Section 3.1 below;

(16) The County has received and approved labor and material (payment) bonds and performance bonds as required pursuant to Section 3.2 below;

(17) The County has received from Borrower any loan closing fees associated with the Construction Closing required by the County;

(18) A title insurer reasonably acceptable to the County is unconditionally and irrevocably committed to issuing an LP-10 2006 ALTA Lender's Policy of title insurance, insuring the priority of the Deed of Trust in the amount of the County Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require. Borrower shall provide whatever documentation (including an indemnification agreement), deposits or surety that is reasonably required by the title company in order for the County's Deed of Trust to be senior in lien priority to any mechanics liens in connection with any early start of construction;

(19) Borrower has closed, or is closing concurrently with the Construction Closing, the Approved Financing (except for the Accelerator Loan, the USDA Loan, and the NPLH Funding) and all other financing to be used for the Construction Work approved by the County in the Approved Development Budget and is eligible to receive the proceeds thereof in accordance with the terms and conditions evidencing such financing;

(b) County is not obligated to disburse any portion of the County Loan, or to take any other action under the Loan Documents, unless all of the following conditions have been and continue to be satisfied:

(1) The condition set forth in Section 2.6(a) continue to be satisfied;

(2) The Construction Work has been completed, the County has received from the Borrower the recorded Notice of Completion, and copies of the Certificate of Occupancy or equivalent permit sign-offs for the Development;

(3) The County has received from Borrower a copy of the final Building Department inspection from the County or the Town of Mammoth Lakes;

(4) The County has received a written draw request from Borrower meeting the requirements in Section 2.11 below;

(5) The County has received and approved the Final Cost Certification from Borrower (or if HCD will close its NPLH Loan based on a draft cost certification, the cost certification approved by HCD in connection with the Permanent Closing);

- (6) The County has received a reissue of its loan policy with mechanic's lien endorsements acceptable to the County and, if requested by the County, unconditional lien releases and final payment certification;
- (7) Permanent Closing has occurred or is occurring concurrently.
- (8) The County has received a completion report from Borrower setting forth (i) the income, household size, and ethnicity of tenants in the County-Assisted Units in the Development, (ii) the unit size, rent amount and utility allowance for all County-Assisted Units in the Development, (iii) a certification that the occupants of the County-Assisted Units are MHSA Eligible Households or NPLH Eligible Households and (iii) designation of the Units in the Development made accessible pursuant to the applicable Accessibility Requirements;
- (9) The County has received from Borrower current evidence of the insurance coverage meeting the requirements of Section 4.10 below;
- (10) The County has received from Borrower a form of tenant lease, a Marketing Plan (as defined in Section 3.7 of the Regulatory Agreement), and a Tenant Selection Plan (as defined in Section 3.8 of the Regulatory Agreement) for the Development;
- (11) The County has received from Borrower evidence of marketing for any vacant units in the Development such as copies of flyers, list of media ads, list of agencies and organizations receiving information on availability of units, as applicable;
- (12) The County has received from Borrower a final management plan for the Development and contact information for the property manager of the Development and the name and phone number of the on-site property management representative;
- (13) In connection with state prevailing wages and/or prevailing wages under the Davis-Bacon Act (40 USC 3141-3148), if applicable, the County has received from Borrower all certified payrolls, and any identified payment issues have been resolved, or Borrower is working diligently to resolve any such issues;
- (14) The County has received from Borrower any loan closing fees associated with the Permanent Closing required by the County;
- (15) The County has received documents showing compliance with any required environmental mitigations, if applicable;
- (16) The County has received a copy of the as-built drawings for the Development;
- (17) The County has received from Borrower a certification from the Development architect that to the best of the architect's knowledge, the Development complies with all federal and state Accessibility Requirements applicable to the Development; and
- (18) The County has received from Borrower the Resident Services Plan and Resident Services Budget (as defined in Section 3.9 of the Regulatory Agreement).

Section 2.7 Early Disbursement. Notwithstanding the forgoing, if any portion of the County Loan funds are at risk of reversion due to any spending deadlines from DMH, the County may require early disbursement of the funds, for portions of the Construction Work. In such event, Borrower shall at the request of the County, certify its ongoing compliance with Section 2.6(a) and submit a draw request meeting the requirements of Section 2.11. The County will have no obligation to disburse any Loan funds at risk of reversion of the conditions if the Borrower is not in compliance with Section 2.6(a) or this paragraph within sufficient time to avoid any such reversion. If all of the modular units being constructed as part of the Development have not been installed on the Property at the time of disbursement, the Borrower will enter into a security agreement in a form acceptable to the County providing the County with a security interest in such modular units and related documents, plans and drawings. In addition, the Borrower will provide the County with evidence of its compliance with the conditions set forth in Section 2.6 and 2.7 as achieved, and in any event at or prior to Permanent Closing.

Section 2.8 Repayment Schedule.

(a) Payment in Full. All principal and accrued interest on the County Loan shall be due in full on the earlier to occur of (i) the date of any Transfer not authorized by the County, (ii) the date of any Default, and (iii) the expiration of the Term.

(b) Prepayment. Borrower shall have the right to prepay the County Loan at any time without premium or penalty. However, the Regulatory Agreement and the Deed of Trust will remain in effect for the entire Term, regardless of any prepayment.

Section 2.9 Reports and Accounting. Borrower shall keep and maintain at the principal place of business of Borrower set forth in Section 7.9 below, or elsewhere with the County's written consent, Borrower's full, complete and appropriate books, records and accounts which shall evidence and substantiate in full detail Annual Operating Expenses, Gross Income, other project sources, uses and distributions.

Section 2.10 Non-Recourse. Except as provided below, neither Borrower nor its partners shall have any direct or indirect personal liability for payment of the principal of, and interest on, the County Loan. Following recordation of the Deed of Trust, the sole recourse of the County with respect to the principal of, and interest on, the Note will be to the property described in the Deed of Trust and Collateral Assignment; provided, however, that nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the Note of all the rights and remedies of the County thereunder, or (ii) be deemed in any way to impair the right of the County to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note. Nothing contained herein is intended to relieve Borrower of its obligation to indemnify the County under the Loan Documents, and Borrower shall be fully and personally liable for: (i) loss or damage of any kind resulting from waste, fraud, gross negligence, or willful misrepresentation; (ii) the failure to pay taxes, assessments or other

charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; (iv) willful or grossly negligent violation of applicable law; and (v) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property.

Section 2.11 Process for Disbursement of County Loan Proceeds.

(a) Borrower shall submit one (1) draw request to the County upon meeting the conditions of Section 2.6 and a second draw request to the County upon meeting the conditions of Section 2.7 (if applicable).

(b) The draw request must be in a form containing sufficient detail and with sufficient supporting documentation to permit the County to confirm that the request is consistent with this Agreement and must also include a certification that the condition set forth in Section 2.6(a) continues to be satisfied.

(c) The draw request must include a statement of the total costs incurred by Borrower in connection with the Development, the amount of those costs paid by Borrower, the proposed uses of funds consistent with the Approved Development Budget, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. Such disbursement will be made only on a cost reimbursement basis and the disbursement request must be accompanied by receipts that show the bill or invoice has already been paid by Borrower.

(d) When a disbursement is requested to pay any contractor in connection with the Construction Work, the written request must be accompanied by (i) certification by Borrower's architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Development and make an independent evaluation); and (ii) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County. Borrower shall apply the disbursement for the purposes requested.

(e) The County will make good faith efforts to approve Borrower's draw request in approximately fifteen (15) days after receipt of a properly completed draw request with all necessary supporting documentation.

(f) Notwithstanding any other provisions of this Agreement, the County shall have no further obligation to approve a draw-down of any portion of the County Loan to Borrower following: (i) termination of this Agreement; or (ii) notification by the County to Borrower of a Default under the terms of this Agreement.

(g) Borrower shall apply the disbursement for the purpose(s) requested.

Section 2.12 Construction Plans.

(a) Borrower shall submit to the County for review, a copy of the Construction Plans for the Development. As used in this Agreement, "Construction Plans" means all construction documentation upon which Borrower and Borrower's contractor shall rely in constructing all the Improvements on the Property (including dwelling units, landscaping, parking, and common areas) and shall include, but not necessarily be limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings"). The Construction Plans must incorporate the Accessibility Requirements.

(b) The County shall, if the Construction Plans submitted conform to the provisions of this Agreement, approve the Construction Plans. The County shall either approve or disapprove the submitted Construction Plans within thirty (30) days of the date such Construction Plans are received by the County. The County in its sole discretion may waive its right to approve the Construction Plans. If the County waives such approval requirement, or the County has not disapproved the Construction Plans for their failure to comply with the foregoing requirements within thirty (30) days after receipt by the County, said Construction Plans shall be deemed approved. Such approval of the Construction Plans by the County shall not relieve Borrower's obligation to obtain any and all approvals required by the local Building Department. If the County disapproves the Construction Plans, the County will give specific reasons in writing for disapproval and the required revisions to the previously submitted Construction Plans. If the Construction Plans are disapproved, Borrower shall resubmit revised Construction Plans within thirty (30) days of notification of disapproval. Only upon County approval of Construction Plans shall the condition of this Section 2.12 be deemed met.

ARTICLE 3 CONSTRUCTION OF THE DEVELOPMENT

Section 3.1 Construction Contract.

Not later than ten (10) days prior to the Construction Closing, Borrower shall submit to the County the construction contract for the Development, which construction contract must provide for construction of the Development as shown in the Construction Plans approved by the County pursuant to Section 2.12. Each contract that Borrower enters for the Construction Work shall provide that at least ten percent (10%) of the costs incurred shall be payable only upon completion of construction, subject to early release of retention or waiver of the retention requirement for specified subcontractors upon approval by the County. Any County's approval of the construction contract shall in no way be deemed to constitute approval of or concurrence with any term or condition of the construction contract except as such term or condition may be required by this Agreement. All Construction Work and professional services shall be performed by persons or entities licensed or otherwise authorized to perform the applicable Construction Work or service in the State of California. Borrower shall ensure that all subcontractors are competitively bid.

Section 3.2 Construction Bonds.

Prior to commencement of the Construction Work, Borrower shall deliver to the County copies of labor and material bonds and performance bonds for the Construction Work in an amount equal to one hundred percent (100%) of the scheduled cost of the Improvements. The County must be named as a co-obligee on the bonds.

Section 3.3 Permits and Approvals.

All permits necessary for the Construction Work on the Property must be received no later than the date of the Construction Closing.

Section 3.4 Commencement of Construction

Borrower shall cause the commencement of the Construction Work no later than thirty (30) days after the date of this Agreement or such later date that the County may approve in writing. For the purposes of this Agreement, "Commencement of Construction" means the date set for the start of construction of the Improvements in the notice to proceed issued by Borrower to Borrower's general contractor.

Section 3.5 Completion of Construction.

(a) Borrower shall diligently prosecute construction of the Improvements to completion, and shall cause Completion Date to occur no later than twenty-four (24) months after the date of this Agreement, or such later date that the County may approve.

(b) Borrower shall record a Notice of Completion within the time set forth in Section 8182 of the California Civil Code and provide the County a copy of the recorded Notice of Completion.

(c) Borrower shall provide the County a copy of the Certificate of Occupancy, or equivalent permit sign-off within ten (10) days of receipt from the City.

Section 3.6 Changes; Construction Pursuant to Plans and Laws.

(a) Changes. Borrower shall construct the Improvements in conformance with the plans and specifications approved by the City Building Department and the County, and the Approved Development Budget. Borrower shall notify the County in a timely manner of any changes in the work required to be performed under this Agreement, including any additions, changes, or deletions to the Construction Plans approved by the County. A written change order authorized by the County must be obtained before any of the following changes, additions, or deletions in work for the Development may be performed: any material change in building materials or equipment, specifications, or the structural or architectural design or appearance of the Development or any material change to any component of the MHAS Capital Facility as provided for in the plans and specifications approved by the City Building Department and the County. The County's consent to any additions, changes, or deletions to the work shall not relieve or release Borrower from any other obligations under this Agreement, or relieve or release Borrower or its surety from any surety bond.

(b) Compliance with Laws. Borrower shall cause all work performed in connection with the Development to be performed in compliance with:

(1) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter;

(2) the requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35; and

(3) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction.

The work shall proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and Borrower shall be responsible to the County for the procurement and maintenance thereof, as may be required of Borrower and all entities engaged in work on the Development.

Section 3.7 Prevailing Wages.

(a) To the extent applicable, Borrower shall:

(1) pay, and shall cause any consultants or contractors to pay, prevailing wages in the construction of the Improvements as those wages are determined pursuant to California Labor Code Section 1720 et seq.;

(2) cause any consultants or contractors to employ apprentices as required by California Labor Code Section 1777.5 et seq., and the implementing regulations of the Department of Industrial Relations (the "DIR"), and to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR;

(3) keep and retain, and shall cause any consultants and contractors to keep and retain, such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq.;

(4) post at the Property, or shall cause the contractor to post at the Property, the applicable prevailing rates of per diem wages. Copies of the currently applicable current per diem prevailing wages are available from DIR;

(5) cause contractors and subcontractors constructing the Improvements to be registered as set forth in California Labor Code Section 1725.5;

(6) cause its contractors and subcontractors, in all calls for bids, bidding materials and the construction contract documents for the construction of the Improvements to specify that:

i. no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the construction of the Improvements unless registered with the DIR pursuant to California Labor Code Section 1725.5; and

ii. the construction of the Improvements is subject to compliance monitoring and enforcement by the DIR.

(7) provide the County all information required by California Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within 2 days of the award of any contract (<https://www.dir.ca.gov/pwc100ext/>);

(8) cause its contractors to post job site notices, as prescribed by regulation by the DIR; and

(9) cause its contractors to furnish payroll records required by California Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(b) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to California Labor Code Section 1777.5 et seq., to meet the conditions of California Labor Code Section 1771.4, and implementing regulations of the DIR, or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and 1771.4, and the implementing regulations of the DIR, in connection with the construction of the Improvements or any other work undertaken or in connection with the Development. This obligation to indemnify survives termination of this Agreement, repayment of the Loan, and the reconveyance of the Deed of Trust.

Section 3.8 Accessibility.

(a) Borrower shall cause the Improvements to be constructed and operated at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, (v) the Americans With Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements").

(b) In compliance with the Accessibility Requirements: (i) a minimum

of nine (9) units in the Development must be constructed to be fully accessible to households with a mobility impaired member and, (ii) an additional four (4) units in the Development must be constructed to be fully accessible to hearing and/or visually impaired persons. In compliance with the Accessibility Requirements Borrower shall provide the County with a certification from the Development architect that to the best of the architect's knowledge, the Development complies with all federal and state Accessibility Requirements applicable to the Development.

(c) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its architect, contractor and subcontractors) to construct the Improvements in accordance with the Accessibility Requirements. This obligation to indemnify survives termination of this Agreement, repayment of the County Loan and the reconveyance of the Deed of Trust.

Section 3.9 Relocation.

(a) If and to the extent that acquisition and development of the Property will result in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then Borrower shall comply with the relocation requirements in the Implementation Policies, and all applicable local, state, and federal statutes and regulations, (including without limitation the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq. if applicable; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Section 6000 et seq.) with respect to preparation of a relocation plan, relocation planning, advisory assistance, and payment of monetary benefits. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws.

(b) Borrower shall indemnify, defend and hold harmless, (with counsel reasonably acceptable to the County), the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns against any claim for damages, compensation, fines, penalties, relocation payments or other amounts and expenses (including reasonable attorneys' fees) arising out of the failure or alleged failure of any person or entity (including Borrower, or the County) to satisfy relocation obligations related to the acquisition and development of the Property. This obligation to indemnify survives termination of this Agreement, repayment of the County Loan and the reconveyance of the Deed of Trust.

Section 3.10 Equal Opportunity.

During the Construction Work, discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, or demoting of any person engaged in the Construction Work is prohibited.

Section 3.11 Progress Reports.

Until such time as Borrower has received a Certificate of Occupancy (or functional equivalent) from the City for the Development, Borrower shall provide the County with quarterly progress reports regarding the status of the performance of the Construction Work, including a certification that the actual construction costs to date conform to the Approved Development Budget, as it may be amended from time to time pursuant to Section 3.15 below.

Section 3.12 Construction Responsibilities.

(a) Borrower is responsible for scheduling and coordinating the work to be performed so that commencement and completion of the Construction Work will take place in accordance with this Agreement.

(b) Borrower is solely responsible for all aspects of Borrower's conduct in connection with the Development, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of Construction Work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the County with reference to the Development is solely for the purpose of determining whether Borrower is properly discharging its obligations to the County, and should not be relied upon by Borrower or by any third parties as a warranty or representation by the County as to the quality of the design or Construction Work.

Section 3.13 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Property or a stop notice affecting the County Loan is served on the County or any other lender or other third party in connection with the Development, then Borrower shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the County a surety bond in sufficient form and amount, or provide the County with other assurance satisfactory to the County that the claim of lien or stop notice will be paid or discharged.

(b) If Borrower fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, the County may (but shall be under no obligation to) discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternately, the County may require Borrower to immediately deposit with the County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The County may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

(c) In addition to the obligation set forth in Section 3.5, Borrower shall

file a valid notice of cessation or Notice of Completion upon cessation of construction on the Development for a continuous period of thirty (30) days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes the County, but the County shall not have any obligation, to record any notices of completion or cessation of labor, or any other notice that the County deems necessary or desirable to protect its interest in the Development and Property.

Section 3.14 Inspections During Construction; Construction Inspector.

(a) Borrower shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Development by the County and by public authorities during reasonable business hours for the purposes of determining compliance with this Agreement.

(b) After the completion of an inspection, the County shall deliver a copy of the inspection report to Borrower. If the County determines as a result of such inspection that there are any life-threatening health and safety related deficiencies, Borrower has the obligation to correct such deficiencies immediately. If the County determines as a result of the inspection that there are any deficiencies for any of the inspectable items in the Development, Borrower shall correct such deficiencies within fifteen (15) days from the delivery of the inspection report or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Borrower must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible. In addition, Borrower acknowledges that the County may reinspect the Development to verify all deficiencies have been corrected or rely on third party documentation submitted by Borrower for non-hazardous deficiencies.

Section 3.15 Approved Development Budget; Revisions to Approved Development Budget.

As of the date of this Agreement, the County has approved the Approved Development Budget set forth in Exhibit B. Borrower shall submit any required amendments to the Approved Development Budget to the County for approval within fifteen (15) days of the date Borrower receives information indicating that actual costs of the Development vary or will vary from the costs shown on the Approved Development Budget. Prior written consent of the County is required for Borrower to amend the Approved Development Budget. If rejected by the County in whole or in part, Borrower shall submit a revised amendment to the Approved Development Budget within ten (10) days after notification of the County's rejection and the reasons therefor. The County shall then have ten (10) days to review and approve Borrower's revised amendment to the Approved Development Budget. The provisions of this Section relating to time periods for approval, rejection, or resubmission of amendments to the Approved Development Budget shall continue to apply until the amended Approved Development Budget has been approved by the County. In the event of a conflict between the terms of the Approved Development Budget and the terms of the Loan Documents, the terms of the Loan Documents control.

Section 3.16 Asset Management Fee.

During the Term, the Asset Management Fee is not to exceed the amount permitted by HCD.

Section 3.17 Developer Fee.

The maximum cumulative developer fee (the "Developer Fee") that may be paid to any entity or entities providing development services to the Development, whether paid up-front or on a deferred basis, shall not exceed the amount approved by HCD. The Developer Fee will be paid not earlier than completion of construction of the Development.

ARTICLE 4 COUNTY LOAN REQUIREMENTS

Section 4.1 Financial Accountings and Post-Completion Audits.

(a) No later than ninety (90) days following the Completion Date, Borrower shall provide to the County a financial accounting of all sources and uses of funds for the Development.

(b) No later than one hundred twenty (120) days following the Completion Date, Borrower shall submit an audited financial report showing the sources and uses of all funds utilized for the Development prepared using generally accepted accounting standards in effect in the United States of America from time to time, consistently applied. This requirement may be satisfied by providing the Final Cost Certification to the County.

Section 4.2 Information.

Borrower shall provide any information reasonably requested by the County in connection with the Development and Borrower's use of the County Loan.

Section 4.3 County Audits.

(a) Each year, Borrower shall provide the County with a copy of Borrower's annual audit, which shall include information on all of Borrower's activities and not just those pertaining to the Development.

(b) In addition, the County or any designated agent or employee of the County at any time is entitled to audit all of Borrower's books, records, and accounts pertaining thereto. Such audit shall be conducted during normal business hours at the principal place of business of Borrower and other places where records are kept. Immediately after the completion of an audit, the County shall deliver a copy of the results of such audit to Borrower. Borrower shall also follow audit requirements of the Single Audit Act and 2 C.F.R. Part 200.

Section 4.4 Hazardous Materials.

(a) Borrower shall keep and maintain the Property (including but not

limited to, soil and ground water conditions) in compliance with all Hazardous Materials Laws and may not cause or permit the Property to be in violation of any Hazardous Materials Law. Borrower may not cause or permit the use, generation, manufacture, storage or disposal of on, under, or about the Property or transportation to or from the Property of any Hazardous Materials, except such of the foregoing as may be customarily used in construction and operation of projects like the Development or kept and used in and about residential property of this type.

(b) Borrower shall immediately advise the County in writing if at any time it receives written notice of any Hazardous Materials Claims, and Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law including but not limited to the provisions of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith.

(c) The County has the right to join and participate in, as a party if it so elects, and be represented by counsel acceptable to the County (or counsel of its own choice if a conflict exists with Borrower) in any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Borrower.

(d) Borrower shall indemnify and hold harmless the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns (collectively, the "Indemnitees" and individually, an "Indemnitee") from and against any loss, damage, cost, fine, penalty, judgment, award, settlement, expense or liability, directly or indirectly arising out of or attributable to: (i) any actual or alleged past or present violation of any Hazardous Materials Law; (ii) any Hazardous Materials Claim; (iii) any actual or alleged past or present use, generation, manufacture, storage, release, threatened release, discharge, disposal, transportation, or presence of Hazardous Materials on, under, or about the Property; (iv) any investigation, cleanup, remediation, removal, or restoration work of site conditions of the Property relating to Hazardous Materials (whether on the Property or any other property); and (v) the breach of any representation of warranty by or covenant of Borrower in this Section 4.4, and Section 5.1(l). Such indemnity shall include, without limitation: (x) all consequential damages; (y) the costs of any required or necessary investigation, repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (z) all reasonable costs and expenses incurred by the County in connection with clauses (x) and (y), including but not limited to reasonable attorneys' fees and consultant fees; provided that Trustor will not be entitled to indemnify an Indemnitee for such Indemnitee's gross negligence or willful misconduct. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property, (2) loss or restriction of use of rentable space on the Property, (3) adverse effect on the marketing of any rental space on the Property, and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing,

remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify survives termination of this Agreement, repayment of the County Loan and the reconveyance of the Deed of Trust, and will not be diminished or affected in any respect as a result of any notice, disclosure, or knowledge, if any, to or by the County of Hazardous Materials.

(e) Without the County's prior written consent, which will not be unreasonably withheld, Borrower may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the County's judgment, impair the value of the County's security hereunder; provided, however, that the County's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the County's consent before taking such action, provided that in such event Borrower shall notify the County as soon as practicable of any action so taken. The County agrees not to withhold its consent, where such consent is required hereunder, if: (i) a particular remedial action is ordered by a court of competent jurisdiction; (ii) Borrower will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Borrower establishes to the satisfaction of the County that there is no reasonable alternative to such remedial action which would result in less impairment of the County's security hereunder; or (iv) the action has been agreed to by the County.

(f) Borrower hereby acknowledges and agrees that: (i) this Section is intended as the County's written request for information (and Borrower's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(g) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the County's or the trustee's rights and remedies under the Deed of Trust, the County may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to: (i) waive its lien on such environmentally impaired or affected portion of the Property; and (ii) exercise, (1) the rights and remedies of an unsecured creditor, including reduction of its claim against Borrower to judgment, and (2) any other rights and remedies permitted by law. For purposes of determining the County's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Borrower will be deemed to have willfully permitted or acquiesced in a release or threatened release of Hazardous Materials, within the meaning of California Code of Civil Procedure Section

726.5(d)(1), if the release or threatened release of Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Borrower knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the County in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the Default Rate, until paid, will be added to the indebtedness secured by the Deed of Trust and is due and payable to the County upon its demand made at any time following the conclusion of such action.

Section 4.5 Maintenance and Damage.

(a) During the course of ownership of the Property, Construction Work, and operation of the Development, Borrower shall maintain the Property and the Development in good repair and in a neat, clean and orderly condition in accordance with the Regulatory Agreement.

(b) Subject to the requirements of Senior Lenders, and if economically feasible in the County's judgment after consultation with Borrower, if any improvement now or in the future on the Property is damaged or destroyed, then Borrower shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by the County with such changes as have been approved by the County. Such work or repair is to be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by the County in writing, after the damage or loss occurs or thirty (30) days following receipt of the insurance or condemnation proceeds, and is to be complete within one (1) year thereafter. Any insurance or condemnation proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance or condemnation proceeds are insufficient for such purpose, then Borrower shall make up the deficiency. If Borrower does not promptly make such repairs then any insurance or condemnation proceeds collected for such damage or destruction are to be promptly delivered by Borrower to the County as a special repayment of the County Loan, subject to the rights of the Senior Lenders.

Section 4.6 Notices.

Borrower shall promptly notify the County in writing of any and all of the following:

(a) Any litigation known to Borrower materially affecting Borrower, or the Property and of any claims or disputes that involve a material risk of litigation;

(b) Any written or oral communication Borrower receives from any governmental, judicial, or legal authority giving notice of any claim or assertion that the Property or Improvements fail in any respect to comply with any applicable governmental law;

(c) Any material adverse change in the physical condition of the

Property (including any damage suffered as a result of fire, earthquakes, or floods);

(d) Any material adverse change in Borrower's financial condition, any material adverse change in Borrower's operations, or any change in the management of Borrower;

(e) That any of the statements in Section 5.1(l) regarding Hazardous Materials are no longer accurate;

(f) Any Default or event which, with the giving of notice or the passage of time or both, would constitute a Default; and

(g) Any other circumstance, event, or occurrence that results in a material adverse change in Borrower's ability to timely perform any of its obligations under any of the Loan Documents.

Section 4.7 Operation of Development as Affordable Housing.

(a) Promptly after completion of the Construction Work, Borrower shall operate the Development (i) in accordance with all applicable laws, codes, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (ii) as an affordable housing development consistent with: (1) the Regulatory Agreement, and (2) any other regulatory requirements imposed on Borrower and rental subsidies provided to the Development.

(b) Without limiting subsection (a), the County-Assisted Units will be operated in accordance with the Regulatory Agreement.

Section 4.8 Nondiscrimination.

(a) Borrower covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, familial status, source of income, ancestry or national origin, Vietnam era veteran's status, political affiliation, HIV/AIDS, or any other arbitrary basis in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development, nor shall Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Development, or in connection with the employment of persons for the construction, operation and management of the Development. Notwithstanding the above, with respect to familial status, the above should not be construed to apply to housing for older persons as defined in Section 12955.9 of the Government Code and other applicable sections of the Civil Code as identified in Health and Safety Code Section 33050(b). The foregoing covenant shall run with the Borrower's interest in the land.

(b) Nothing in this Section shall prohibit the Borrower from requiring the Units in the Development to be available to and occupied by MHSA Eligible Household

or NPLH Eligible Households.

Section 4.9 Transfer.

(a) For purposes of this Agreement, "Transfer" shall mean any sale, assignment, or transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this Agreement, and/or (ii) any interest in the Borrower and/or the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred and Borrower retains title. "Transfer" shall exclude the leasing of any single Unit in the Development to an occupant in compliance with the Regulatory Agreement. [The Director of Behavioral Health] is authorized to execute assignment and assumption agreements on behalf of the County to implement any approved Transfer.

(b) Except as otherwise permitted in this Section 4.9, no Transfer shall be permitted without the prior written consent of the County, which the County may withhold in its sole discretion. The County Loan shall automatically accelerate and be due in full upon any Transfer made without the prior written consent of the County.

(c) The County approves the grant of the security interests required to secure the Approved Financing.

Section 4.10 Insurance Requirements.

Borrower shall maintain the following insurance coverage throughout the Term of the County Loan or for such other period as indicated below:

(a) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the County for all work performed by Contractor, its employees, agents, and subcontractors.

(b) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$5,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(c) Commercial Automobile Liability insurance with limits not less than Five Million Dollars (\$5,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses, as applicable.

(d) Contractors' Pollution Legal Liability and/or Asbestos Legal

Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

(e) Professional Liability (if Design/Build), with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

(f) Builders' risk insurance during the course of the construction, and, upon completion of construction, property insurance covering the Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County, naming the County as a Loss Payee, as its interests may appear. Flood insurance shall be obtained if required by applicable federal regulations.

(g) Commercial crime insurance covering all officers and employees, for loss of County Loan proceeds caused by dishonesty, in an amount approved by the County, naming the County a Loss Payee, as its interests may appear, which insurance shall be maintained only until the entire balance of the County Loan has been disbursed for eligible costs hereunder and utilized by Borrower in compliance with this Agreement.

(h) Borrower shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with Borrower or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (a), (b), and (c) above, except that the limit of liability for comprehensive general liability and auto insurance for subcontractors shall be One Million Dollars (\$1,000,000), and shall require that such insurance shall meet all of the general requirements of subsections (g), (h), (i), and (j) below.

(i) The required insurance must be provided under an occurrence form, and Borrower shall maintain the coverage described in subsections (a) through (d) continuously throughout the Term. Excess or Umbrella coverage may be used to meet the required insurance coverages. Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire Term and until three (3) years following termination and acceptance of all work provided under this Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

(j) Commercial General Liability and Comprehensive Automobile Liability insurance policies shall be endorsed to name as an additional insured the County, and its officers, agents, employees, volunteers, and members of the County Board of Supervisors.

(k) All policies and bonds shall contain: (i) the agreement of the insurer to give the County at least ten (10) days' notice prior to cancellation or material change for non-payment of premium, and thirty (30) days' notice prior to cancellation for

any other change or cancellation in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the County; (iii) a provision that no act or omission of Borrower shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the County and its authorized parties in connection with any loss or damage thereby insured against.

(l) All insurance companies providing coverage pursuant to this Section shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California, and shall have an A. M. Best's rating of not less than "A:VII" or equivalent.

(m) Any design professionals working on the Development in direct contract with Borrower shall maintain errors and omission coverage in a minimum amount of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) in the aggregate.

(n) Acceptance of Borrower's insurance by the County does not relieve or decrease the liability of Borrower under the Loan Documents. The insurance required to be procured by Borrower pursuant to this Section does not reduce or limit Borrower's contractual obligation to indemnify and defend the County as provided in this Agreement.

(o) Deductible amounts under the insurance policies provided by Borrower are subject to the reasonable approval of the County. Any deductible or self-insured retention amount or other similar obligation under the insurance policies provided by Borrower are the sole responsibility of Borrower.

(p) Before commencing operations under this Agreement, Borrower shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form satisfactory to County, evidencing that all required applicable insurance coverage is in effect. The County reserves the rights to require the contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent to the County at County Administrative Office, PO Box 696 Bridgeport, CA 93517, Attention: County Administrative Officer.

Section 4.11 Covenants Regarding Approved Financing.

(a) Borrower shall promptly pay the principal and interest when due on any Approved Financing.

(b) Borrower shall promptly notify the County in writing of the existence of any default under any documents evidencing Approved Financing whether or not a default has been declared by the lender, and provide the County copies of any notice of default.

(c) Borrower may not amend, modify, supplement, cancel or terminate

any documents related to any loan that is part of the Approved Financing without the prior written consent of the County. Borrower shall provide the County copies of all amendments, modifications, and supplements to any document related to any loan that is part of Approved Financing.

(d) Borrower may not incur any indebtedness of any kind (other than Approved Financing) or encumber the Development with any liens (other than liens for Approved Financing approved by the County) without the prior written consent of the County.

Section 4.12 Refinance/Resyndication Transaction. In the event of a Transfer or refinancing, (collectively, the "Sale" or "Refinance"), Borrower desires to withdraw excess proceeds or transfer proceeds from the Refinance ("Excess Proceeds"), the Sale, Refinance or withdrawal of Excess Proceeds is subject to the consent of the County. Borrower must give written notice to the County of the Sale or Refinance and the withdrawal of Excess Proceeds.

Section 4.13 Operation of Development as MHSA and NPLH Housing. Promptly after completion of rehabilitation, Borrower shall operate the County-Assisted Units as affordable housing for MHSA Eligible Households and NPLH Eligible Households consistent with DMH's requirements for use of County Loan, the requirements of the NPLH Funding, and Regulatory Agreement.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BORROWER

Section 5.1 Representations and Warranties.

Borrower hereby represents and warrants to the County as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Article 5 are deemed to be continuing during all times when any or all of the County Loan remains outstanding:

(a) Organization. Borrower is duly organized, validly existing, and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Borrower. Borrower has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by

persons who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and the Loan Documents and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement and the Loan Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Borrower, or conflict with any provision of the organizational documents of Borrower, or conflict with or constitute a breach of or a default under any agreement to which Borrower is a party, or will result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens established pursuant hereto.

(f) Compliance With Laws; Consents and Approvals. The Construction Work will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower or the Property, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to repay the County Loan or impair the security to be given to the County pursuant hereto.

(h) Interest in the Property. At the time of recordation of the Deed of Trust, Borrower will have good and marketable fee title interest in the Property and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and liens in favor of the County or approved in writing by the County including documents associated with the Approved Financing.

(i) Financial Statements. The financial statements of Borrower and other financial data and information furnished by Borrower to the County fairly and

accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Borrower from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Borrower holds sufficient funds and/or binding commitments for sufficient funds to complete the Construction Work in accordance with the Construction Plans approved by the County.

(k) Taxes. Borrower and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the Property otherwise due and payable, except those that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Borrower or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect upon the Property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Borrower and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Borrower to perform under any of the Loan Documents to which it is a party, or a material adverse effect upon the legality, validity, binding effect or enforceability against Borrower of any of the Loan Documents.

(l) Hazardous Materials. To the best of Borrower's knowledge, except as disclosed in writing by Borrower to the County prior to the date of this Agreement: (i) no Hazardous Material has been disposed of, stored on, discharged from, or released to or from, or otherwise now exists in, on, under, or around, the Property; (ii) neither the Property nor Borrower is in violation of any Hazardous Materials Law; and (iii) neither the Property nor Borrower is subject to any existing, pending or threatened Hazardous Materials Claims.

ARTICLE 6 DEFAULT AND REMEDIES

Section 6.1 Events of Default.

Each of the following shall constitute a "Default" by Borrower under this Agreement, subject to the provisions of Section 7.14 regarding Force Majeure:

(a) Failure to Construct. After the Construction Closing, failure of Borrower to commence and complete the Construction Work within the times set forth in this Agreement;

(b) Failure to Make Payment. Failure of Borrower to pay when due any sums payable under the Loan Documents including but not limited to failure to repay the principal and any interest on the County Loan within ten (10) days after receipt of written notice from the County that such payment is due pursuant to the Loan Documents.

(c) Breach of Covenants. Failure by Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Loan

Documents, and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the County to Borrower or, if the breach cannot be cured within thirty (30) days, Borrower shall not be in breach so long as Borrower is diligently undertaking to cure such breach and such breach is cured within sixty (60) days; provided, however, that if a different period or notice requirement is specified under any other section of this Article 6, the specific provisions shall control.

(d) Default Under Other Loans. A default is declared under any other financing for the Development by the grantor or lender of such financing that remains uncured following any applicable notice and cure periods.

(e) Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging Borrower or Borrower's partner or member to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Borrower or Borrower's partner or member, or seeking any arrangement for Borrower or Borrower's partner or member under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower or Borrower's partner or member or Borrower's partner or member in bankruptcy or insolvency or for any of their properties, (iv) directing the winding up or liquidation of Borrower or Borrower's partner or member if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) calendar days; or (v) Borrower or Borrower's partner or member shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the events of Default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(f) Assignment; Attachment. Borrower or Borrower's partner or member shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) calendar days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(g) Suspension; Termination. Borrower or Borrower's partner or member shall have voluntarily suspended its business.

(h) Liens on Property and the Development. There shall be filed any claim of lien (other than liens approved in writing by the County) against the Development or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds of the County Loan and the continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the County.

(i) Condemnation. The condemnation, seizure, or appropriation of all or the substantial part of the Property and the Development.

(j) Unauthorized Transfer. Any Transfer other than as permitted by this Agreement.

(k) Representation or Warranty Incorrect. Any Borrower representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the County in connection with any of the Loan Documents, proving to have been incorrect in any material respect when made.

(l) Failure to Timely Lease. Failure of Borrower to initially lease all of the County-Assisted Units within eighteen (18) months of the completion of the Construction Work, or such later period as may be approved by the County (which approval shall not be unreasonably withheld, conditioned or delayed).

Section 6.2 Remedies.

The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the County or automatically where so specified, relieve the County of any obligation to make or continue the County Loan and shall give the County the right to proceed with any and all remedies set forth in this Agreement and the Loan Documents, including but not limited to the following:

(a) Acceleration of Note. The County shall have the right to cause all indebtedness of Borrower to the County under this Agreement and the Note together with any accrued interest thereon, to become immediately due and payable. Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including rights available under the Uniform Commercial Code, and rights of foreclosure under the Deed of Trust. Borrower shall be liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorneys' fees and expenses) paid or incurred by the County in connection with the collection of the County Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the County Loan.

(b) Specific Performance. The County shall have the right to specific performance, mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things which may be unlawful or in violation of the provisions of the Loan Documents.

(c) Right to Cure at Borrower's Expense. The County shall have the right (but not the obligation) to cure any monetary default by Borrower under a grant or loan other than the County Loan. Borrower agrees to reimburse the County for any funds advanced by the County to cure a monetary default by Borrower upon demand therefor, together with interest thereon at the Default Rate.

Section 6.3 Right of Contest.

Borrower shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County hereunder.

Section 6.4 Remedies Cumulative.

No right, power, or remedy given to the County by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

ARTICLE 7 GENERAL PROVISIONS

Section 7.1 Relationship of Parties.

The relationship of the parties to this Agreement is that of borrower and lender. Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Borrower or its agents, employees or contractors, and Borrower shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Borrower has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the construction and operation of the Development, Borrower shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and shall include requirements in each contract that contractors shall be solely responsible for similar matters relating to their employees. Borrower shall be solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims.

Nothing contained in this Agreement shall create or justify any claim against the County by any person that Borrower may have employed or with whom Borrower may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the purchase of the Property, the construction or operation of the Development, and Borrower shall include similar requirements in any contracts entered into for the construction or operation of the Development.

Section 7.3 Amendments.

No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the Parties. The Director of Behavioral Health or County Administrator is authorized to execute on behalf of the County amendments to the Loan Documents or amended and restated Loan Documents as long as any material change in the amount of the County Loan or terms of this Agreement is approved by the County Board of Supervisors. Any legal fees incurred due to any amendment of the Loan Documents shall be paid for by the Borrower.

Section 7.4 Indemnification.

Borrower shall indemnify, defend and hold the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including, but not limited to, the purchase of the Property, development, construction, marketing and operation of the Development, except to the extent such claim arises from the gross negligence or willful misconduct of the County, its agents, and its employees. This obligation to indemnify survives termination of this Agreement, repayment of the County Loan and the reconveyance of the Deed of Trust.

Section 7.5 Non-Liability of County Officials, Employees and Agents.

No member, official, employee or agent of the County shall be personally liable to Borrower in the event of any default or breach by the County or for any amount which may become due to Borrower or its successor or on any obligation under the terms of this Agreement.

Section 7.6 No Third Party Beneficiaries.

There shall be no third party beneficiaries to this Agreement.

Section 7.7 Discretion Retained By County.

The County's execution of this Agreement in no way limits the discretion of the County in the permit and approval process in connection with development of the Development.

Section 7.8 Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Subsection (b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or financial benefit from the activity, or have a financial interest in any contract, subcontract, or agreement with respect thereto, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during such person's tenure or for one year thereafter. Borrower shall exercise due diligence to ensure that the prohibition in this Section is followed.

(b) The conflict of interest provisions of Subsection (a) above apply to

any person who is an employee, agent, consultant, officer, or any elected or appointed official of the County.

(c) Immediate family ties, as referenced in Subsection (a), include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

(d) In accordance with Government Code Section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee or employee or consultant of Borrower, or immediate family member of any of the preceding, shall make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Borrower. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code Section 87100 *et seq.*, its implementing regulations manual and codes, and Government Code Section 1090.

Section 7.9 Notices, Demands and Communications.

Formal notices, demands, and communications between the County and Borrower shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the County and Borrower as follows:

County:

Mono County
1290 Tavern Road
Mammoth Lakes, CA 93546
Attn: County Counsel

Borrower:

Mammoth Lakes Pacific Associates
430 E. State Street, Ste 100
Eagle, ID 83616
Attn: Executive Director

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.10 Applicable Law.

This Agreement shall be governed by and construed in accordance with California law.

Section 7.11 Parties Bound.

Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and shall bind Borrower and its successors and assigns in the Property and the Development for the entire Term, and the benefit hereof shall inure to the benefit of the County and its successors and assigns.

Section 7.12 Attorneys' Fees.

If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing Party will have the right to recover its reasonable attorneys' fees and costs of suit from the other Party.

Section 7.13 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.14 Force Majeure.

In addition to specific provisions of this Agreement, performance by either Party shall not be deemed to be in Default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, quarantine restrictions, freight embargoes, lack of transportation, or court order. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event shall the County be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 7.15 County Approval.

The County has authorized the County Administrator or his designee to execute the Loan Documents and deliver such approvals or consents as are required by this Agreement, and to execute estoppel certificates concerning the status of the County Loan and the existence of Borrower defaults under the Loan Documents. Any consents or approvals required under this Agreement shall not be unreasonably withheld or made, except where it is specifically provided that a sole discretion standard applies.

Section 7.16 Waivers.

Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any

breach or default of Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

Section 7.17 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 7.18 Entire Understanding of the Parties.

The Loan Documents constitute the entire understanding and agreement of the Parties with respect to the County Loan.

Section 7.19 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 7.20 Recognition of County.

Borrower will publicly recognize the funding provided by the County in all newspaper articles and any other public relations opportunities related to the Development. Borrower will invite County staff and members of the Board of Supervisors to participate in the groundbreaking and grand opening ceremonies, if held.

[Signatures on following page]

WHEREAS, this Agreement has been entered into by the undersigned as of the Effective Date.

COUNTY:

County of Mono, a political subdivision of the State of California

By: _____
Robert Lawton, Director
County Administrator

BORROWER:

Mammoth Lakes Pacific Associates, a California limited partnership

By: TPC Holdings IX, LLC
an Idaho limited liability company, its
general partner

By: Pacific West Communities, Inc.,
an Idaho corporation

Its: Manager

By: _____
Caleb Roope, President

EXHIBIT A

Legal Description of the Property

Real property in the County of Mono, State of California, described as follows:

EXHIBIT B

Approved Development Budget

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Mono County
1290 Tavern Road
Mammoth Lakes, CA 93546
Attn: County Counsel

No fee for recording pursuant to
Government Code Section 27383 and 27388.1

DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND
FIXTURE FILING
(Mono County - MHSA Loan)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is made as of May 1, 2022, by and among Mammoth Lakes Pacific Associates, a California limited partnership ("Trustor"), Commonwealth Land Title Company, a California Corporation, ("Trustee"), and the County of Mono, a political subdivision of the State of California ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's interest in the property located in the County of Mono, State of California, that is described in the attached Exhibit A, incorporated herein by this reference, (the "Property").

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking as provided in Section 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or will be attached to said building or buildings in any manner;

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing; and

TOGETHER WITH all funds in all operating, replacement and transition reserve accounts created in connection with the development and operation of the Property and any improvements thereon.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS (the "Secured Obligations"):

(a) Payment to Beneficiary of all sums at any time owing under or in connection with the Note (defined in Section 1.1(e) below) until paid in full or cancelled and any other amounts owing under the Loan Documents (defined in Section 1.1(d) below). Principal and other

payments are due and payable as provided in the Note or other Loan Documents, as applicable. The Note and all its terms are incorporated herein by reference, and this Deed of Trust secures any and all extensions thereof, however evidenced;

(b) Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein;

(c) Performance of every obligation, covenant or agreement of Trustor contained herein and in the Loan Documents; and

(d) All modifications, extensions and renewals of any of the Secured Obligations (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE 1 DEFINITIONS

Section 1.1 In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

(a) "Default Rate" means the lesser of the maximum rate permitted by law and ten percent (10%) per annum.

(b) "Loan" means the loan made by Beneficiary to Trustor in the amount of up to One Million Eight Hundred Thousand Dollars (\$1,800,000).

(c) "Loan Agreement" means that certain County Development Loan Agreement between Trustor and Beneficiary, dated of even date herewith, as such may be amended from time to time, providing for Beneficiary to loan to Trustor the Loan for the development of eighty-one (81) units of affordable housing (including one (1) manager's unit) with eight (8) units reserved for NPLH Eligible Households and an additional five (5) units reserved for MHSA Eligible Households, subject to and as set forth in the Loan Agreement.

(d) "Loan Documents" means this Deed of Trust, the Note, the Loan Agreement, the Regulatory Agreement, and any other agreements, debt, loan or security instruments between Trustor and Beneficiary relating to the Loan.

(e) "Note" means the promissory note in the principal amount of the One Million Eight Hundred Thousand Dollars (\$1,800,000) of even date herewith, executed by Trustor in favor of Beneficiary, as it may be amended or restated, the payment of which is

secured by this Deed of Trust. A copy of the Note is on file with Beneficiary and terms and provisions of the Note are incorporated herein by reference.

(f) "Principal" means the amount required to be paid under the Note.

(g) "Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith by and between Beneficiary and Trustor and recorded against the Property concurrently herewith.

(h) "Senior Lender" means a lender making a loan to Trustor to which the County has subordinated this Deed of Trust pursuant to Section 2.5 of the Loan Agreement.

ARTICLE 2

MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

Section 2.1 Maintenance and Modification of the Property by Trustor.

Trustor agrees that at all times prior to full payment and performance of the Secured Obligations, Trustor will, at Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition. Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. Beneficiary has no responsibility in any of these matters or for the making of improvements or additions to the Security.

Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more, and to take all other reasonable steps to forestall the assertion of claims of lien against the Security or any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file or record any notices of completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the Loan Documents; provided, however, that Beneficiary exercises its rights as agent of Trustor only in the event that Trustor fails to take, or fails to diligently continue to take, those actions as hereinbefore provided.

Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary specifies upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained requires Trustor to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of Mono County, a surety bond in an amount 1 and 1/2 times the amount of such claim item to protect against a claim of lien.

Section 2.2 Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities, including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those required by law, and as approved, in writing, by Beneficiary.

Section 2.3 Assignment of Rents.

(a) As part of the consideration for the indebtedness evidenced by the Note, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable, subject to the rights of Senior Lenders. Trustor hereby authorizes Beneficiary or Beneficiary's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to written notice given by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the Secured Obligations with the balance, so long as no such breach has occurred and is continuing, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section as the same becomes due and payable, including, but not limited to, rents then due and unpaid, and all such rents will immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor contains a statement that Beneficiary exercises its rights to such rents. Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each tenant of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Trustor.

(b) Trustor hereby covenants that Trustor has not executed any prior assignment of said rents, other than as security to Senior Lenders, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this Section, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property

more than two (2) months prior to the due dates of such rents. Trustor further covenants that, so long as the Secured Obligations are outstanding, Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

(c) Upon Trustor's breach of any covenant or agreement of Trustor in the Loan Documents, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof, including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver will be entitled to receive a reasonable fee for so managing the Property.

(d) All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents are to be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this Deed of Trust. Beneficiary or the receiver is to have access to the books and records used in the operation and maintenance of the Property and will be liable to account only for those rents actually received. Beneficiary is not liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section.

(e) If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes will become part of the Secured Obligations pursuant to Section 3.3 hereof. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts are payable by Trustor to Beneficiary upon notice from Beneficiary to Trustor requesting payment thereof and will bear interest from the date of disbursement at the Default Rate.

(f) Any entering upon and taking and maintaining of control of the Property by Beneficiary or the receiver and any application of rents as provided herein will not cure or waive any default under this Deed of Trust or invalidate any other right or remedy of Beneficiary under applicable law or under this Deed of Trust. This assignment of rents of the Property will terminate at such time as this Deed of Trust ceases to secure the Secured Obligations.

ARTICLE 3
TAXES AND INSURANCE; ADVANCES

Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

Trustor shall pay, or cause to be paid, at least fifteen (15) days prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company that are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor is not required to pay and discharge any such tax, assessment, charge or levy so long as (i) the legality thereof is promptly and actively contested in good faith and by appropriate proceedings, and (ii) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien therefor on any part of the Security; provided, however, if such taxes, assessments or charges may be paid in installments, Trustor may pay in such installments. Except as provided in clause (ii) of the first sentence of this paragraph, the provisions of this Section may not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.

In the event that Trustor fails to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but is under no obligation to) pay the same, after Beneficiary has notified Trustor of such failure to pay and Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, will become part of the Secured Obligations secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2 Provisions Respecting Insurance.

Trustor agrees to provide insurance conforming in all respects to that required under the Loan Documents during the course of construction and following completion, and at all times until all amounts secured by this Deed of Trust have been paid and all Secured Obligations secured hereunder fulfilled, and this Deed of Trust reconveyed.

All such insurance policies and coverages are to be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, are to be delivered to Beneficiary upon demand therefor at any time prior to Trustor's satisfaction of the Secured Obligations.

Section 3.3 Advances.

In the event Trustor fails to maintain the full insurance coverage required by this Deed of Trust or fails to keep the Security in accordance with the Loan Documents, Beneficiary, after at least seven (7) days prior notice to Trustor, may (but is under no obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced by Beneficiary will become part of the Secured Obligations (together with interest as set forth below) and will be secured hereby, which amounts Trustor agrees to pay on the demand of

Beneficiary, and if not so paid, will bear interest from the date of the advance at the Default Rate.

ARTICLE 4
DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1 Awards and Damages.

Subject to the rights of Senior Lenders, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of (i) the taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain, (ii) any damage to or destruction of the Property or in any part thereof by insured casualty, and (iii) any other injury or damage to all or any part of the Property (collectively, the "Funds") are hereby assigned to and are to be paid to Beneficiary by a check made payable to Beneficiary. Beneficiary is authorized and empowered (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as Beneficiary determines at its sole option, subject to the provisions of Section 5.7 of the Loan Agreement regarding restoration of improvements following damage or destruction. Beneficiary is entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. Application of all or any part of the Funds collected and received by Beneficiary or the release thereof will not cure or waive any default under this Deed of Trust.

ARTICLE 5
AGREEMENTS AFFECTING THE PROPERTY; FURTHER
ASSURANCES; PAYMENT OF PRINCIPAL AND INTEREST

Section 5.1 Other Agreements Affecting Property.

Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 5.2 Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Default (as defined in Section 7.1) hereunder, and if Beneficiary employs attorneys or incurs other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of Trustor in this Deed of Trust, Trustor agrees that it will, on demand therefor, pay to Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by Beneficiary (including, but not limited to, other professional service fees and costs); and any such amounts paid by Beneficiary will be added to the Secured Obligations, and shall bear interest at the Default Rate from the date such expenses are incurred.

Section 5.3 Payment of the Principal.

Trustor shall pay to Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

Section 5.4 Personal Property.

To the maximum extent permitted by law, items of personal property subject to this Deed of Trust are deemed to be fixtures and this Deed of Trust constitutes a fixture filing under the California Commercial Code. As to any personal property not deemed or permitted to be a fixture, this Deed of Trust constitutes a security agreement under the California Commercial Code. Trustor hereby grants Beneficiary a security interest in such personal property.

Section 5.5 Perfection of Security Interest.

Trustor shall execute any and all documents or instruments as are required to convey to Beneficiary a valid perfected security interest in the Security. Trustor authorizes Beneficiary to file financing statements and any other such documents in any jurisdiction(s) as may be necessary or desirable to perfect or protect Beneficiary's security interests in the Security. Trustor agrees to perform all acts that Beneficiary may reasonably request so as to enable Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. Trustor shall pay all costs of filing such documents and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for liens and releases thereof, as Beneficiary may reasonably require. Except as otherwise required by a Senior Lender, Trustor shall not create or cause to be created pursuant to the California Commercial Code any other security interest in the Security, including replacements and additions thereto, without the prior written consent of Beneficiary.

Section 5.6 Operation of the Security.

Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the Loan Documents.

Section 5.7 Inspection of the Security.

At any and all reasonable times, Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, have the right, without payment of charges or fees, to inspect the Security, provided, however, that any such inspection shall not unreasonably disturb any tenants or other occupants of the Property.

Section 5.8 Nondiscrimination.

Trustor covenants by and for itself, and its successors and assigns, that there will be no discrimination against or segregation of, a person or of a group of persons on account of race, color, creed, religion, age, disability, sex, sexual orientation, source of income, marital status, familial status, national origin or ancestry, Vietnam era veteran's status, political affiliation,

HIV/AIDS, or any other arbitrary basis in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security. In addition, Trustor itself or any person claiming under or through Trustor shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Security, or in connection with the employment of persons for the construction, operation and management of the Security. Notwithstanding the above, with respect to familial status, the above should not be construed to apply to housing for older persons as defined in Section 12955.9 of the Government Code and other applicable sections of the Civil Code as identified in Health and Safety Code Section 33050(b). The foregoing covenants shall run with the land.

ARTICLE 6 HAZARDOUS WASTE

(a) Trustor shall keep and maintain the Property (including, but not limited to, soil and ground water conditions) in compliance with all Hazardous Materials Laws and shall not cause or permit the Property to be in violation of any Hazardous Materials Law (defined below). Trustor may not cause or permit the use, generation, manufacture, storage or disposal of on, under, or about the Property or transportation to or from the Property of (i) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical, and (ii) any waste, substance or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic materials", "toxic waste", "toxic substances," or words of similar import under any Hazardous Materials Law (collectively referred to hereinafter as "Hazardous Materials"), except such of the foregoing as may be customarily used in construction or operation of a multi-family residential development.

(b) Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments thereto as of this date and to be added in the future and any successor statute or rule or regulation promulgated thereto ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law including but not limited to the provisions of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith.

(c) Beneficiary has the right to join and participate in, as a party if it so elects, and be represented by counsel acceptable to Beneficiary (or counsel of its own choice if a conflict exists with Trustor) in, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims, and to have its reasonable attorneys' fees in connection therewith paid by Trustor.

(d) Trustor shall indemnify and hold harmless Beneficiary and its board members, directors, officers, employees, agents, successors and assigns (collectively, the "Indemnitees" and individually, an "Indemnitee") from and against any loss, damage, cost, fine, penalty, judgment, award, settlement, expense or liability, directly or indirectly arising out of or attributable to the following: (i) any actual or alleged past or present violation of any Hazardous Materials Law; (ii) any Hazardous Materials Claim; (iii) any actual or alleged past or present use, generation, manufacture, storage, release, threatened release, discharge, disposal, transportation, or presence of Hazardous Materials on, under, or about the Property; (iv) any investigation, cleanup, remediation, removal, or restoration work of site conditions of the Property relating to Hazardous Materials (whether on the Property or any other property); and (v) the breach of any representation of warranty by or covenant of Trustor in this Article, and Section 5.1(l) of the Loan Agreement. Such indemnity must include, without limitation: (x) all consequential damages; (y) the costs of any required or necessary investigation, repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (z) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (x) and (y), including but not limited to reasonable attorneys' fees and consultant fees; provided that Trustor will not be entitled to indemnify an Indemnitee for such Indemnitee's gross negligence or willful misconduct. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property; (2) loss or restriction of use of rentable space on the Property; (3) adverse effect on the marketing of any rental space on the Property; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify will survive reconveyance of this Deed of Trust and will not be diminished or affected in any respect as a result of any notice, disclosure, or knowledge, if any, to or by Beneficiary of Hazardous Materials.

(e) Without Beneficiary's prior written consent, which may not be unreasonably withheld, Trustor may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's reasonable judgment, impairs the value of Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain Beneficiary's consent before taking such

action, provided that in such event Trustor notifies Beneficiary as soon as practicable of any action so taken.

(f) Beneficiary agrees not to withhold its consent, where such consent is required hereunder, if (i) a particular remedial action is ordered by a court of competent jurisdiction; (ii) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (iv) the action has been agreed to by Beneficiary.

(g) Trustor hereby acknowledges and agrees that (i) this Article is intended as Beneficiary's written request for information (and Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Deed of Trust or any of the other Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by Beneficiary and Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(h) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1), then, without otherwise limiting or in any way affecting Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against Trustor to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Trustor will be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Trustor knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the Default Rate until paid, will be added to the indebtedness secured by this Deed of Trust and will be due and payable to Beneficiary upon its demand made at any time following the conclusion of such action.

(i) Trustor is aware that California Civil Code Section 2955.5(a) provides as follows: "No lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements

on that real property in an amount exceeding the replacement value of the improvements on the property."

ARTICLE 7 EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default.

The following are events of default following the expiration of any applicable notice and cure periods included in the Loan Agreement (each a "Default"): (i) failure to make any payment to be paid by Trustor under the Loan Documents; (ii) failure to observe or perform any of Trustor's other covenants, agreements or obligations under the Loan Documents, including, without limitation, the provisions concerning discrimination; (iii) failure to make any payment or observe or perform any of Trustor's other covenants, agreements, or obligations under any Secured Obligations, which default is not cured within the times and in the manner provided therein; and (iv) failure to make any payments or observe or perform any of Trustor's covenants, agreements or obligations under any other debt instrument or regulatory agreement secured by the Property, which default is not cured within the time and in the manner provided therein.

Section 7.2 Acceleration of Maturity.

If a Default has occurred and is continuing, then at the option of Beneficiary, the amount of any payment related to the Default and all unpaid Secured Obligations are immediately due and payable, upon written notice by Beneficiary to Trustor (or automatically where so specified in the Loan Documents), and no omission on the part of Beneficiary to exercise such option when entitled to do so will be construed as a waiver of such right.

Section 7.3 Beneficiary's Rights and Remedies.

If a Default has occurred and is continuing, Beneficiary may:

- (a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts that it deems necessary or desirable to preserve the value or marketability of the Security and the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security will not cure or waive any Default or Notice of Sale (as defined below) hereunder or invalidate any act done in response to such Default or pursuant to such Notice of Sale, and, notwithstanding the continuance in possession of the Security, Beneficiary will be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Default, including the right to exercise the power of sale;
- (b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;
- (c) Deliver to Trustee a written declaration of Default and demand for sale,

and a written notice of default and election to cause Trustor's interest in the Security to be sold ("Notice of Sale"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Mono County; or

(d) Exercise any or all rights and remedies provided for by the California Commercial Code or other applicable law against any personal property security; or

(e) Exercise all other rights and remedies provided herein, in the instruments by which Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the Secured Obligations.

Section 7.4 Foreclosure by Power of Sale.

(a) Should Beneficiary elect to foreclose on the Property by exercise of the power of sale herein contained, Beneficiary shall deliver to Trustee the Notice of Sale and will deposit with Trustee this Deed of Trust which is secured hereby (and the deposit of which will be deemed to constitute evidence that the Secured Obligations are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(b) Upon receipt of the Notice of Sale from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Sale as is then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after the lapse of that amount of time as is then required by law and after recordation of such Notice of Sale as required by law, sell the Security, at the time and place of sale set forth in the Notice of Sale, whether as a whole or in separate lots or parcels or items, as Trustee deems expedient and in such order as it determines, unless specified otherwise by the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts will be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale, and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(c) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (i) the unpaid Principal amount of the Note; (ii) all other Secured Obligations owed to Beneficiary under the Loan Documents; (iii) all other sums then secured hereby; and (iv) the remainder, if any, to Trustor, as may be consistent with California Civil Code Section 2924k.

(d) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

Section 7.5 Receiver.

If a Default occurs and is continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, has the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers will have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and will continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy will be cumulative and concurrent and will be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.7 No Waiver.

(a) No delay or omission of Beneficiary to exercise any right, power or remedy accruing upon any Default will exhaust or impair any such right, power or remedy, or will be construed to be a waiver of any such Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to Beneficiary may be exercised from time to time and as often as may be deemed expeditious by Beneficiary. Beneficiary's express or implied consent to breach, or waiver of, any obligation of Trustor hereunder will not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of Trustor hereunder. Failure on the part of Beneficiary to complain of any act or failure to act or to declare a Default, irrespective of how long such failure continues, will not constitute a waiver by Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Default by Trustor.

(b) If Beneficiary (i) grants forbearance or an extension of time for the payment or performance of any Secured Obligations, (ii) takes other or additional security or the payment of any sums secured hereby, (iii) waives or does not exercise any right granted in the Loan Documents, (iv) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Documents, (v) consents to the granting of any easement or other right affecting the Security, or (vi) makes or consents to any agreement subordinating the lien hereof, any such act or omission will not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor will any such act or omission preclude Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Default then made or of any subsequent Default, nor, except as otherwise expressly provided in an instrument or instruments executed by Beneficiary will the lien of this Deed of Trust be altered thereby.

Section 7.8 Suits to Protect the Security.

Beneficiary has the power to (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of Beneficiary as may be unlawful or any violation of this Deed of Trust, (b) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of Beneficiary.

Section 7.9 Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Trustor, its creditors or its property, Trustee or Beneficiary, to the extent permitted by law, will be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

ARTICLE 8
MISCELLANEOUS

Section 8.1 Amendments.

This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2 Reconveyance by Trustee.

Upon written request of Beneficiary stating that all Secured Obligations have been paid or forgiven, and all obligations under the Loan Documents have been performed in full upon expiration of the term of the Regulatory Agreement, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3 Notices.

(a) If at any time after the execution of this Deed of Trust it becomes necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication must be in writing and is to be served personally, by reputable overnight delivery service (which provides a delivery receipt), or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and (1) if intended for Beneficiary is to be addressed to:

Mono County, a political subdivisions
of the State of California
1290 Tavern Road
Mammoth Lakes, CA 93546
Attention: County Counsel

and (2) if intended for Trustor shall be addressed to:

Mammoth Lakes Pacific Associates
430 E State Ste 100
Eagle, ID 83616
Attn: Caleb Roope

(b) Any notice, demand or communication will be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

Section 8.4 Successors and Joint Trustors.

Where an obligation created herein is binding upon Trustor, the obligation will also apply to and bind any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of Trustor and a transferee, such obligation will be deemed to be a joint and several obligation of Trustor and such transferee. Where Trustor is more than one entity or person, all obligations of Trustor will be deemed to be a joint and several obligation of each and every entity and person comprising Trustor.

Section 8.5 Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity will not affect the balance of the terms and provisions hereof, which terms and provisions will remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, will be considered to have been first paid or applied to the full payment of that portion of the debt that is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law.

This Deed of Trust is governed by and construed in accordance with the laws of the State of California.

Section 8.8 Gender and Number.

In this Deed of Trust the singular includes the plural and the masculine includes the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage also refers to a deed of trust and any reference to a deed of trust also refers to a mortgage.

Section 8.10 Actions.

Trustor shall appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee.

Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter will be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution is to be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, will be conclusive proof of proper appointment of the successor trustee.

Section 8.12 Statute of Limitations.

The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is a party unless brought by Trustee.

[Signature on following page.]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

Mammoth Lakes Pacific Associates, a California limited partnership

By: TPC Holdings IX, LLC
an Idaho limited liability company, its
general partner

By: Pacific West Communities, Inc.,
an Idaho corporation

Its: Manager

By: _____
Caleb Roope, President

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

Legal Description of the Property

Real property in the City of Mammoth Lakes, County of Mono, State of California, described as follows:

PROMISSORY NOTE
(Mono County - MHSA Loan)

\$1,800,000

Mono County, California
May 1, 2022

FOR VALUE RECEIVED, the undersigned Mammoth Lakes Pacific Associates, a California limited partnership ("Borrower"), promises to pay to the County of Mono, a political subdivision of the State of California ("Holder") the principal sum of up to One Million Eight Hundred Thousand Dollars (\$1,800,000), plus interest thereon pursuant to Section 2 below.

1. Borrower's Obligation.

(a) Predevelopment Loan Component. On June 8th 2021, Borrower's predecessor in interest and sponsor, Pacific West Communities, Inc. ("Sponsor") executed that certain Promissory Note in favor of the County for a loan in the amount of \$306,021 (the "Predevelopment Note"). A portion of the redevelopment loan evidenced by the Predevelopment Note (the "Predevelopment Loan") in the amount of \$222, 876.57 was disbursed to Sponsor on _____, 2021. The remaining \$83,144.43 will not be disbursed. On April 1, 2022 pursuant to that certain Assignment and Assumption Agreement between Sponsor and Borrower, Sponsor assigned and the Borrower assumed the Predevelopment Note and related documents.

(b) Additional Loan Component. The County is making an additional loan of One Million Five Hundred Fifty-Seven Thousand One Hundred Twenty Three Dollars and Forty-Three Cents (\$1,557,123.43) (the "Additional Loan Amount"), pursuant to that certain County Development Loan Agreement between Borrower and Holder dated the same date as this Note (the "Loan Agreement").

(c) Loan Amount. This Note evidences Borrower's obligation to pay the Holder the principal amount of One Million Eight Hundred Thousand Dollars (\$1,800,000) (the "Loan") (which is the total amount of the Predevelopment Loan and the Additional Loan Amount) with interest for the funds loaned to Borrower by Holder to finance the development of the Improvements pursuant to the Loan Agreement. All capitalized terms used but not defined in this Note have the meanings set forth in the Loan Agreement.

2. Interest. The Loan bears simple interest at the rate of three percent (3%) per annum from the date of disbursement. If a Default occurs, interest on the principal balance will begin to accrue as of the date of Default (following expiration of applicable notice and cure periods) and continuing until such time as the County Loan funds are repaid in full or the Default is cured, at the Default Rate.

3. Term and Repayment Requirements. Principal and interest under this Note are due and payable in accordance with this Note and as set forth in Section 2.8 of the Loan Agreement. In any event, the unpaid principal balance, together with any accrued interest, is due

and payable not later than the date that is the fifty-fifth (55th) anniversary of the Permanent Closing (as defined in the Loan Agreement); provided, however, if a record of the Permanent Closing cannot be located or established, the County Loan is due and payable on the fifty-seventh (57th) anniversary of the date of this Note.

4. No Assumption. This Note is not assumable by the successors and assigns of Borrower without the prior written consent of Holder, except as may be otherwise set forth in the Loan Agreement.

5. Security. This Note is secured by the Deed of Trust wherein Borrower is the trustor and Holder is the beneficiary.

6. Terms of Payment.

(a) Borrower shall make all payments due under this Note in currency of the United States of America to Holder at the 1290 Tavern Road, Mammoth Lakes, CA 93546 Attention: County Counsel, or such other place as Holder may from time to time designate.

(b) All payments on this Note are without expense to Holder. Borrower shall pay all costs and expenses, including reconveyance fees and reasonable attorney's fees of Holder, incurred in connection with the enforcement of this Note and the release of any security hereof.

(c) Notwithstanding any other provision of this Note, or any instrument securing the obligations of Borrower under this Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Note would result in the payment of interest that exceeds the amount that Holder may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate will automatically be deducted from the principal balance owing on this Note, so that in no event is Borrower obligated under the terms of this Note to pay any interest that would exceed the lawful rate.

(d) The obligations of Borrower under this Note are absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

(e) Upon recordation of the Deed of Trust this Note will become nonrecourse to Borrower and its partners, pursuant to and except as provided in Section 2.10 of the Loan Agreement, which Section 2.10 is hereby incorporated into this Note.

7. Default.

(a) Upon the occurrence of a Default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Deed of Trust, will at the option of Holder, become immediately due and payable without further demand.

(b) Holder's failure to exercise the remedy set forth in Subsection 7(a) above or any other remedy provided by law upon the occurrence of a Default does not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other Default. The acceptance by Holder of any payment that is less than the total of all amounts due and payable at the time of such payment does not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.

8. Waivers.

(a) Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.

(b) Any extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note must not operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

9. Miscellaneous Provisions.

(a) All notices to Holder or Borrower are to be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as Holder and Borrower may therein designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Note is governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder are to be strictly construed, time being of the essence.

(f) The Loan Documents, of which this Note is a part, contain the entire agreement between the parties as to the Loan. This Note may not be modified except upon the written consent of the parties.

[Signature on following page.]

IN WITNESS WHEREOF, this Promissory Note is executed by Borrower as of the day and year first written above.

BORROWER

Mammoth Lakes Pacific Associates, a California limited partnership

By: TPC Holdings IX, LLC
an Idaho limited liability company, its general partner

By: Pacific West Communities, Inc.,
an Idaho corporation

Its: Manager

By: _____
Caleb Roope, President

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Mono County
1290 Tavern Road
Mammoth Lakes, CA 93546
Attn: County Counsel

No fee for recording pursuant to
Government Code Section 27383 and 27388.1

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
(The Parcel/Sawyer – MHSA Loan)

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of May 1, 2022, by and between the Mono County, a political subdivision of the State of California ("County"), and Mammoth Lakes Pacific Associates, a California limited partnership (the "Borrower").

RECITALS

1. Pursuant to the Loan Agreement (as defined in Section 1.1) the County will provide to Borrower a loan of One Million Eight Hundred Thousand Dollars (\$1,800,000) in Proposition 63 (2004) Mental Health Services Act ("MHSA" or the "Act") funds (the "County Loan"). Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the Loan Agreement.

2. The County Loan will be used to help finance the development of an eighty-one (81) unit affordable housing development and related improvements (the "Development") The Development will include eight (8) units for households eligible under the State of California's No Place Like Home Program, Round 3 Guidelines (issued by the California Department of Housing and Community Development on October 23, 2020) ("NPLH Eligible Households"). The Development will also include and up to five (5) additional units for households who are eligible for services under the Act (the "MHSA Eligible Households"). The Development will be constructed on the property described in Exhibit A attached hereto (the "Property").

3. The Development also includes the MHSA Capital Facility (as defined in Section 1.1).

4. The County has agreed to make the County Loan to the Borrower on the condition that the Development be maintained and operated in accordance with restrictions concerning affordability, operation, and maintenance of the Development, as specified in this Agreement and the Loan Agreement. In order to ensure that the entire Development will be used and operated in accordance with these conditions and restrictions, the County and the Borrower wish to enter into this Agreement.

THEREFORE, the County and the Borrower hereby agree as follows.

ARTICLE 1
DEFINITIONS

1.1 Definitions

When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) "30% Income Tenant" shall mean a Tenant with an Adjusted Income that does not exceed the income of for the "30% Income Level" as published by the TCAC.

(b) "50% Income Tenant" shall mean a Tenant with an Adjusted Income that does not exceed the income of for the "50% Income Level" as published by the TCAC.

(c) "60% Income Tenant" shall mean a Tenant with an Adjusted Income that does not exceed the income of for the "60% Income Level" as published by the TCAC.

(d) "80% Income Tenant" shall mean a Tenant with an Adjusted Income that does not exceed the income of for the "80% Income Level" as published by the TCAC.

(e) "30% TCAC Rent" shall mean maximum rent published by the TCAC for a "30% Income Household" in Mono County, for the applicable bedroom size.

(f) "50% TCAC Rent" shall mean maximum rent published by the TCAC for a "50% Income Household" in Mono County, for the applicable bedroom size.

(g) "60% TCAC Rent" shall mean maximum rent published by the TCAC for a "60% Income Household" in Mono County, for the applicable bedroom size.

(h) "80% TCAC Rent" shall mean maximum rent published by the TCAC for a "80% Income Household" in Mono County, for the applicable bedroom size.

(i) "30% Unit" is a unit reserved for occupancy by a 30% Income Tenant as set forth in Exhibit C.

(j) "50% Unit" is a unit reserved for occupancy by a 50% Income Tenant as set forth in Exhibit C.

(k) "60% Unit" is a unit reserved for occupancy by a 60% Income Tenant as set forth in Exhibit C.

(l) "80% Unit" is a unit reserved for occupancy by a 80% Income Tenant as set forth in Exhibit C.

(m) "Adjusted Income" shall mean the total anticipated annual income of all persons in a household calculated in accordance with TCAC requirements (26 CFR 1.42-5(b)(1)(vii)). In the event TCAC no longer publishes such requirements, Adjusted Income shall mean the total anticipated annual income of all persons in a household calculated in accordance with 24 CFR 5.611 or such other method reasonably approved by the County.

(n) "Agreement" shall mean this Regulatory Agreement and Declaration of Restrictive Covenants.

(o) "Borrower" shall mean Mammoth Lakes Housing Associates, a California limited partnership and its successors and assigns.

(p) "County-Assisted Units" means the NPLH Units and the MHSA Units.

(q) "County Deed of Trust" shall mean the deed of trust dated of even date with this Agreement among the Borrower, as trustor, Inyo-Mono Title Company, as trustee, and the County, as beneficiary, on the Property which secures repayment of the County Loan and the performance of the Loan Agreement and this Agreement.

(r) "County Loan" shall mean all funds loaned to Borrower by the County pursuant to the Loan Agreement.

(s) "County Note" shall mean the promissory note from the Borrower to the County dated of even date with this Agreement, evidencing all or any part of the County Loan.

(t) "Development" shall have the meaning set forth in Section 1 of the Recitals.

(u) "DMH" shall mean the California Department of Mental Health.

(v) "Loan Agreement" shall mean the MHSA Loan Agreement entered into by and between the County and the Borrower, dated of even date with this Agreement.

(w) "MCBH" shall mean Mono County, Department of Behavioral Health.

(x) "MHSA" or the "Act" shall mean the Mental Health Services Act of 2004.

(y) "MHSA Capital Facility" is the MCBH satellite office and other space to provide services and supports for persons qualifying for services under the Act, located in the Development.

(z) "MHSA Eligible Households" shall mean a Tenant where one or more members of the household qualify for housing services under the Act and the related applicable MBCH programs.

(aa) "MHSA Units" shall mean five (5) units occupied by or to be occupied by an MHSA Eligible Tenants in accordance with Section 2.1 below.

(bb) "MOU" shall mean the First Amended No Place Like Home Memorandum Understanding between Sponsor, Borrower and MCBH regarding the County-Assisted Units.

(cc) "No Place Like Home Program" or "NPLH" means the program authorized by Government Code Section 15463 Part 3.9 of Division 4 (commencing with Section 5849.1) of the of the Welfare and Institutions Code, and Section 5890 of the Welfare and Institutions Code.

(dd) "NPLH Eligible Households" shall mean a Tenant where one or more members of the household qualify for housing services under NPLH.

(ee) "NPLH Unit" means a unit reserved for occupancy by a NPLH Eligible Household in accordance with Section 2.1 (a).

(ff) "Rent" shall mean the total of monthly payments by a Tenant for the following: use and occupancy of the Unit and land and associated facilities, including parking; any separately charged fees or service charges assessed by the Borrower which are required of all Tenants, other than security deposits; an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Borrower, and paid by the Tenant.

(gg) "TCAC" shall mean the California Tax Credit Allocation Committee.

(hh) "Tenant" shall mean the household legally occupying a Unit.

(ii) "Term" shall mean the term of this Agreement, which shall commence on the date of this Agreement and shall continue until the later of (a) repayment of the Loan or (b) Fifty-Five (55) years from the date of the Permanent Closing (as defined in the Loan Agreement), and if the date of the Permanent Closing cannot be determined then until April 1, 2079.

(jj) "Unit(s)" shall mean one (1) or more of the units in the Development.

ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirements. The NPLH Units and the MHSA Units are floating units.

(a) NPLH Units. Eight (8) Units in the Development will be rented to and occupied by or, if vacant, available for occupancy by 30% Income Tenants who are also NPLH Tenants. The NPLH Units will have the following bedroom sizes: _____.

(b) MHSA Units.

(1) In addition to the NPLH Units, the Borrower will provide a preference to MHSA Eligible Households until at least five (5) additional MHSA Eligible Households referred to the Borrower by the County occupy units in the Development.

(2) The process described in this paragraph will continue throughout the Term. Upon any Unit vacancy, Borrower will provide the notice and preference rights set forth in this subsection (b). In connection with such preference, the Borrower will notify the County of available Units in the Development prior to lease up and as Units become available upon turn over.

(3) The County will not be obligated to refer an MHSA Eligible Households to Borrower, but if the County makes such a referral then the Borrower will provide a County referred MHSA Eligible Household, who otherwise meets the applicable income and tenancy criteria, with the first right to occupy the available Unit.

(4) If all five (5) MHSA Units are occupied by MHSA Eligible Households, then the Borrower will not be obligated to notify the County of a vacancy in accordance with this paragraph (unless such vacancy is to occur in an MHSA Unit) until such time as fewer than five (5) MHSA Units are occupied by MHSA Eligible Households. In addition, the requirements of this subsection (b) will not apply to the NPLH Units.

(5) The process for notification and referrals as set forth in this Section will be set forth in the Tenant Selection Plan approved by the County pursuant to Section 3.7, as it may be updated from time to time.

(c) Manager's Unit. One (1) Unit is to be available for designation as the manager's unit and is not income or rent restricted by the County.

(d) Intermingling of Units. Borrower shall cause the County-Assisted Units to be intermingled throughout the Development and be of comparable quality to all other Units. Tenants in all Units shall have equal access to and enjoyment of all common facilities in the Development.

2.2 Allowable Rent

(a) NPLH Units. The monthly Rent charged by the Borrower for the NPLH Units shall not exceed the 30% TCAC Rent.

(b) MHSA Tenants. The unit mix and affordability restrictions for all Units in the Development is set forth in Exhibit C. The monthly Rent charged by Borrower for an MHSA Unit, shall not exceed the 30% TCAC Rent if the Unit is a 30% Unit, a 50% TCAC Rent if the Unit is a 50% Unit, a 60% TCAC Rent if the Unit is a 60% Unit or the 80% TCAC Rent if the Unit is an 80% Unit.

(c) County Approval of Rents. Notwithstanding anything to the contrary in this Agreement, all Rent increases (including those that are made to reflect the most recent applicable TCAC Rent), shall be subject to the prior written approval of the County. No Tenant of a County-Assisted Unit shall be charged any fee for services.

2.3 Eligibility. Each MHSA Eligible Household and NPLH Eligible Household must be certified as eligible by the County prior to occupying a County Assisted Unit. If an MHSA Eligible Household or a NPLH Eligible Household occupying a County-Assisted Unit does not meet the criteria of an MHSA Eligible Household or NPLH Eligible Household, as applicable, due to the vacation of the County Assisted Unit by the eligible household member, the continuing or surviving members of such household shall be permitted continued occupancy for a reasonable period of up to one (1) year from the time of the death or vacation and shall be provided with notice of their grace period and with assistance to obtain information about other available housing assistance programs, offered other Units in the Development or the County-Assisted Unit may be redesignated to another unit in the Development.

2.4 Income and Rent Calculations. In the event the TCAC no longer publishes the income and rent information that this Agreement contemplates that TCAC will publish, the County shall provide the Borrower with other income and rent determinations which are reasonably similar with respect to methods of calculation to those previously published by the TCAC.

2.5 Intentionally Blank.

ARTICLE 3 MHSA AND INCOME CERTIFICATION AND REPORTING

3.1 Income and Eligibility Certification.

(a) Borrower will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the County-Assisted Units. Borrower shall make a good faith effort to verify that the income provided by an applicant or occupying Tenant in an income certification is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a pay stub for the most recent pay period; (b) obtain an income tax return for the most recent tax year; (c) conduct a credit agency or similar search; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Borrower shall also complete and/or have the Tenants of the County-Assisted Units complete and sign the "Income Computation and Certification" and the "Owner's Certification of Household Income" both of which are attached hereto as Exhibit B and/or any other forms related to Tenants' income provided to Borrower by the County or that provide income information that is sufficient to determine an applicant's income as required by this Section. Copies of Tenant income certifications shall be available to the County upon request.

(b) For each County-Assisted, Borrower will obtain, complete and maintain on file, immediately prior to initial occupancy certification from the MCBH as to whether or not the Tenant is an MHSA Eligible Household or NPLH Eligible Household. Annually thereafter, Borrower shall confirm and maintain on file a certification that each County-Assisted Unit is occupied by a Tenant that is a MHSA Eligible Household or a NPLH Eligible Household, as applicable, and resides in such Unit in accordance with Section 2.3 of this Agreement and provide such confirmation to the County.

3.2 Initial Reporting Requirements. Borrower shall submit to the County annual reports in a form approved by the County, no later than ninety (90) days after the end of Borrower's fiscal year. The reports shall contain such information as the County may require, including, but not limited to, the following:

(a) A report evidencing income and rent data for all Units, setting forth the information called for therein.

(b) A statement of the fiscal condition of the Development, including a financial statement indicating surpluses or deficits in operating accounts for the period covered, a detailed itemized listing of income and expenses, and the amounts of any fiscal reserves. The report due after the end of each fiscal year shall contain an audited version of this statement. Such audit shall be prepared in accordance with the requirements of the County and certified at the Development's expense by an independent Certified Public Accountant licensed by the State of California.

(c) The substantial physical defects in the Development, if any, including a description of any major repair or maintenance work undertaken in the reporting period.

(d) The occupancy of the Development indicating:

(1) A listing of current Tenants' names, income levels, and move-in dates; and

(2) The number of clients served to date for each program year;

(3) General management performance, including Tenant relations and other relevant information.

If reports provided by Borrower to another lender include the above information, Borrower may provide the report provided to such lender in lieu of a separate report to the County.

Upon request of the County, Borrower shall furnish, within fifteen (15) days, copies of all tenant agreements for the Assisted Units. Within fifteen (15) days after receipt of a written request from the County, Borrower shall also submit any other information or completed forms requested by the County in order to comply with reporting requirements of DMH (provided, however, that the Borrower shall in no event be obligated to provide any information that it

cannot legally obtain as a housing provider), the State of California, or any other government entity or lender to Borrower.

3.3 Additional Information.

Borrower shall provide any additional information reasonably requested by the County. The County shall have the right to examine and make copies of all books, records or other documents of Borrower which pertain to the Development.

3.4 Records.

Borrower shall maintain complete, accurate and current records pertaining to the Development, and shall permit any duly authorized representative of the County to inspect records, including records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Development shall at all times be kept separate and identifiable from any other business of Borrower and shall be maintained as required by the County, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the County. Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the County-Assisted Units for a period of at least five (5) years.

The County shall notify Borrower of any records it deems insufficient. Borrower shall have twenty-one (21) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than twenty-one (21) days is reasonably necessary to correct the deficiency, then Borrower shall begin to correct the deficiency within twenty-one (21) days and correct the deficiency as soon as reasonably possible.

3.5 On-site Inspection.

The County shall have the right to perform an on-site inspection of the Development when deemed necessary by County and in any event at least one (1) time per year. Borrower agrees to cooperate in such inspections.

3.6 Notice of Operations.

Borrower shall promptly notify the County upon Borrower's discovery that Borrower's rental income and other Development subsidies are insufficient to pay for any or all operating expenses incurred by the Borrower in connection with the operations of the Development.

3.7 Tenant Selection Plan; Minimum Income Requirement.

No later than six (6) months prior to the projected date of the completion of the Development, Borrower shall provide the County, for its review and approval, written tenant selection plan. Borrower shall, prior to updating or modifying such tenant selection plan, obtain the County's approval of such updates or modifications. The tenant selection plan for the Development shall at a minimum, comply with fair housing laws, and indicate the availability of units accessible to disabled households and the units available to MHSA Eligible Households

and NPLH Eligible Households. Throughout the term of this Agreement, Borrower shall not impose a minimum income requirement on MHSA Eligible Households, NPLH Eligible Households or applicants of the County-Assisted Units without approval from the County. The Tenant Selection Plan may be updated from time to time by the Borrower, shall be consistent with the MOU and must be approved by the County prior to the commencement of Borrower's lease up and marketing activities.

3.8 Marketing Plan.

(a) No later than six (6) months prior to the projected date of the completion of the Development, Borrower shall submit to the County for approval its plan for marketing the Development (the "Marketing Plan"), to ensure that target populations, countywide and local residents and workforce populations will be aware of the housing opportunities in the Development. The County must approve the Marketing Plan before the Borrower commences lease up and marketing activities.

(b) Borrower shall comply with the approved Marketing Plan during the Term and may not make material modifications to the Marketing Plan without the prior written approval of the County, which approval shall not be unreasonably withheld.

3.9 Resident Services Plan and Budget.

(a) No later than six (6) months prior to the projected date of the completion of the Development, Borrower shall submit to the County a plan for providing supportive services to the Tenants (the "Resident Services Plan") and a budget for providing those services (the "Resident Services Budget") for the initial year of operation of the Development. The Resident Services Plan must identify service provider(s) and staffing levels, and describe the services provided. The Resident Services Plan must include copies of contracts and/or memoranda of understanding for the provision of services by service providers, along with any annual compliance certifications. The Resident Services Budget must state the dollar value of the services, and the funding source(s) for the services (cash or in-kind). The Resident Services Plan and Resident Services Budget shall incorporate and otherwise be consistent with the MOU. The Resident Services Plan and Resident Services Budget must be approved by the County prior to the commencement of marketing and lease up activities.

(b) Borrower shall thereafter submit to the County annual updates to the Resident Services Plan and Resident Services Budget at the time of submission of the Annual Operating Budget identifying any changes made to the previously approved Resident Services Plan and Resident Services Budget. Any revisions to the Resident Services Plan and Resident Services Budget shall be subject to the County's review and approval and the process for timing and review of such revisions shall be subject to the process identified in subsection (b).

ARTICLE 4
OPERATION OF THE DEVELOPMENT

4.1 Development Use.

(a) The Development shall be operated as residential housing, and the County-Assisted Units will be operated as permanent supportive housing for MHSA Eligible Households and NPLH Eligible Households, as applicable.

(b) The MHSA Capital Facility will be used as offices for MCBH to provide services and supports for persons eligible for services under the Act and the County will be provided with continuous reasonable access and use (twenty-four hours a day, seven days a week) to the MHSA Capital Facility at no cost to the County. The County's access rights will be evidenced in a form of lease or other agreement acceptable to the County, and will ensure that the MHSA Capital Facility Space is ready for use and occupancy, and maintained throughout the term in good condition and repair, with adequate soundproofing to ensure confidentiality and privacy, reasonable waiting areas in other portions of the Development, and utilities. [Parties to clarify the terms of use.]

4.2 Taxes and Assessments.

Borrower shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any line or charge from attaching to the Property; provided, however, that Borrower shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Borrower exercises its right to contest any tax, assessment, or charge against it, Borrower, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

4.3 Reserves; County Approval of Use of Reserve Funds.

(a) Replacement Reserve Account. Borrower shall establish and maintain an account that is available for capital expenditures for repairs and replacement necessary to maintain the Development in the condition required by the Loan Documents (the "Replacement Reserve Account"). Borrower shall deposit in the Replacement Reserve Account Five Hundred Dollars (\$500) per Unit per year.

(b) Operating Reserve Account. Borrower shall establish and maintain an account that is available to fund operating deficits (which is the amount by which Annual Operating Expenses exceed Gross Revenue for any period) (the "Operating Reserve Account"). Borrower shall capitalize the Operating Reserve Account at the Permanent Closing in the amount of three (3) months of Annual Operating Expenses.

(c) Consent to Withdraw Funds. Prior to the use of funds from any reserve account, Borrower must submit a written request to withdraw funds from the reserve account if such withdrawal will exceed Five Thousand Dollars (\$5,000) or if the cumulative of all draws made to date exceed Twenty Thousand (\$20,000). The written request shall specify the amount requested

and state how the funds will be used. The County shall approve such request within thirty (30) days of receipt of the written request for use of reserves; such approval shall not be unreasonably withheld. All unexpended funds in Development reserve accounts must remain with the Development for the use and benefit of the Development and the Tenants.

4.4 Annual Operating Budget; Operating Deficiencies.

(a) Borrower, at least sixty (60) days prior to the end of each of Borrower's fiscal years, shall furnish the County a budget for the operation of the Development (the "Annual Operating Budget"). The County may request additional information to assist the County in evaluating the financial viability of the Development. Upon receipt by the County of the proposed Annual Operating Budget, the County shall promptly review the same and approve or disapprove it within fifteen (15) days, provided that such approval shall not be unreasonably denied. If the Annual Operating Budget is not approved by the County, the County shall set forth in writing and notify Borrower of the County's reasons for withholding such approval. Borrower shall thereafter submit a revised Annual Operating Budget for County approval within thirty (30) days, which approval shall be granted or denied within fifteen (15) days in accordance with the procedures set forth above.

ARTICLE 5

PROPERTY MANAGEMENT, MAINTENANCE, AND SOCIAL SERVICES

5.1 Management Responsibilities.

The Borrower is responsible for all management functions with respect to the Development, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The County shall have no responsibility over management of the Development. The Borrower shall retain a professional property management company approved by the County in its reasonable discretion to perform its management duties hereunder, unless the County approves self management by the Borrower.

5.2 Management Agent; Periodic Reports.

The Development shall at all times be managed by an experienced management agent reasonably acceptable to County, with demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). The Borrower shall submit for County's approval the identity of any proposed Management Agent. The Borrower shall also submit such additional information about the background, experience and financial condition of any proposed management agent as is reasonably necessary for County to determine whether the proposed management agent meets the standard for a qualified management agent set forth above. If the proposed management agent meets the standard for a qualified management agent set forth above, County shall approve the proposed management agent by notifying the Borrower in writing. Unless the proposed management agent is disapproved by County within thirty (30) days, which disapproval shall

state with reasonable specificity the basis for disapproval, it shall be deemed approved. The County pre-approves Buckingham Property Management as the initial Management Agent.

5.3 Periodic Performance Review – Property Management.

The County reserves the right to conduct an annual (or more frequently, if deemed necessary by the County) review of the management practices and financial status of the Development. The purpose of each periodic review will be to enable the County to determine if the Development is being operated and managed in accordance with the requirements and standards of this Agreement. The Borrower shall cooperate with the County in such reviews.

5.4 Replacement of Management Agent.

If, as a result of a periodic review, the County determines in its reasonable judgment that the Development is not being operated and managed in accordance with any of the material requirements and standards of this Agreement, the County shall deliver notice to Borrower of its intention to cause replacement of the Management Agent, or if the Development is being self managed, to cause the Borrower to retain a Management Agent, including the reasons therefore. Within fifteen (15) days of receipt by Borrower of such written notice, County staff and the Borrower shall meet in good faith to consider methods for improving the financial and operating status of the Development, including, without limitation, replacement of the Management Agent.

If, after such meeting, County staff recommends in writing the replacement of the Management Agent, Borrower shall promptly dismiss the current Management Agent or cease self-management if the Development is self-managed, and shall appoint as the Management Agent a person or entity meeting the standards for a management agent set forth in Section 5.2 above and approved by the County pursuant to Section 5.2 above. Any increased costs associated with the replacement management agent shall be borne exclusively by the Borrower.

Any contract for the operation or management of the Development entered into by Borrower shall provide that the contract can be terminated as set forth above. Failure to remove the Management Agent or to appoint a Management Agent instead of self-managing, in accordance with the provisions of this Section shall constitute default under this Agreement, and the County may enforce this provision through legal proceedings as specified in Section 6.7, below.

5.5 Approval of Management Policies.

Prior to the commencement of any lease up or marketing activities, the Borrower shall submit its written management policies with respect to the Development to the County for its review and obtain the County's approval of such policies, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

5.6 Property Maintenance.

The Borrower agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and,

as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions.

County places prime importance on quality maintenance to protect its investment and to ensure that all County-assisted affordable housing projects within the County are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Development will be acceptable to the County assuming Borrower agrees to provide all necessary improvements to assure the Development is maintained in good condition. Borrower shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

In the event that Borrower breaches any of the covenants contained in this section and such default continues for a period of five (5) days after written notice from the County with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the County with respect to landscaping and building improvements, then the County, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the County shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the County and/or costs of such cure, which amount shall be promptly paid by Borrower to the County upon demand.

5.7 Asset Management.

The Borrower is responsible for all asset management functions with respect to the Development, including without limitation the oversight of the Management Agent, maintaining accurate and current books and records for the Development, and promptly paying costs incurred in connection with the Development. The County shall have no responsibility over asset management of the Development.

ARTICLE 6 MISCELLANEOUS

6.1 Lease Provisions.

(a) Borrower shall use a form of Tenant lease approved by the County. The form of lease will comply with all requirements of this Agreement and the Loan Agreement, and shall, among other matters provide for termination of the lease and consent by the Tenant to immediate eviction for failure: (1) to provide any information required under this Agreement or reasonably requested by Borrower to establish or recertify the Tenant's qualification, or the qualification of the Tenant for occupancy in the Development in accordance with the standards set forth in this Agreement, or (2) to

qualify as an eligible household, as a result of any material misrepresentation made by such Tenant with respect to income computation.

(b) Borrower shall use a form of lease which shall provide for an initial term of not less than one (1) year, unless by mutual agreement between the Tenant and Borrower, and provide for no increase in Rent during such year. After the initial year of tenancy, the lease may be month-to-month by mutual agreement of Borrower and the Tenant, however, Rent may not be raised more often than once a year and Rent increases will be subject to preapproval by the County pursuant to Section 2.2(c). Borrower will provide each Tenant with at least sixty (60) days written notice of any increase in Rent applicable to such Tenant, and with such further notice as may be required by Section 2.3 above.

6.2 Nondiscrimination.

(a) All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. In leasing the County-Assisted Units, Borrower will provide a preference to tenants who live or work in Mono County, to the extent permitted by law and the requirements of the Approved Financing. The Borrower shall not give preference to any other particular class or group of persons in renting or selling the Units, except to the extent that the Units are required to be leased to income-eligible households and MHSA Eligible Households or NPLH Eligible pursuant to this Agreement. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall Borrower or any person claiming under or through Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of any Unit.

The Development shall be operated at all times in compliance with the provisions of: (i) the Unruh Act; (ii) the California Fair Employment and Housing Act, (iii) the United States Fair Housing Act, as amended, and (iv) any other applicable law or regulation (including the Americans With Disabilities Act, to the extent applicable to the Development). Borrower agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to County) County, and its boardmembers, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Borrower's failure to comply with applicable legal requirements related to housing for persons with disabilities. Borrower shall include a provision in Borrower's leases with Tenants which shall require a Tenant who is residing in a Unit made accessible pursuant to this Section and who is not in need of an accessible Unit to move to a non-accessible Unit when a non-accessible Unit becomes available and another Tenant or prospective Tenant is in need of an accessible Unit. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

(b) The Borrower will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective Tenants.

6.3 Term.

The provisions of this Agreement shall apply to the Property for the entire Term even if the entire County Loan is paid in full prior to the end of the Term. This Agreement shall bind any successor, heir or assign of Borrower, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by the County. The County makes the County Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

6.4 Compliance with Loan Agreement, MOU and Program Requirements.

Borrower's actions with respect to the Property shall at all times be in full conformity with: (i) all requirements of the Loan Agreement and the MOU; and (ii) all applicable requirements imposed on projects under NPLH, the NPLH Round 2 Guidelines, the Act and the DMH MHSR Regulations located at California Code of Regulations Title 9, Section 3100, et seq.

6.5 Notice of Expiration of Term.

To the extent applicable, prior to the termination of the Term, the Developer shall provide all required notices to Residents of the Restricted Rental Units (and other required parties) in compliance with the requirements of Government Code Section 65863.10, Section 65863.11 and 65863.13, or successor statutes. The Developer shall also file a copy of any notices sent by the Developer pursuant to this Section with the City Manager.

6.6 Covenants to Run With the Land.

The County and Borrower hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the County expressly releases such conveyed portion of the Property from the requirements of this Agreement.

6.7 Enforcement by the County.

If Borrower fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after the County has notified Borrower in writing of the default or, if the default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within ninety (90) days, the County shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Calling the County Loan. The County may declare a default under the County Note, accelerate the indebtedness evidenced by the County Note, and proceed with foreclosure under the County Deed of Trust.

(b) Action to Compel Performance or for Damages. The County may bring an action at law or in equity to compel the Borrower's performance of its obligations under this Agreement, and/or for damages.

(c) Remedies Provided Under Loan Agreement. The County may exercise any other remedy provided under the Loan Agreement.

6.8 Attorneys Fees and Costs.

In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

6.9 Recording and Filing.

The County and the Borrower shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records of the County of Mono.

6.10 Governing Law.

This Agreement shall be governed by the laws of the State of California.

6.11 Waiver of Requirements.

Any of the requirements of this Agreement may be expressly waived by the County in writing, but no waiver by the County of any requirement of this Agreement shall, or shall be deemed to, extend to or affect any other provision of this Agreement.

6.12 Amendments.

This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Mono.

6.13 Notices.

Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

Borrower:

Mammoth Lakes Pacific Associates
430 E. State Street, Ste 100
Eagle, ID 83616
Attn: Executive Director

County:

Mono County
1290 Tavern Road
Mammoth Lakes, CA 93546
Attn: County Counsel

Such addresses may be changed by notice to the other party given in the same manner as provided above.

6.14 Severability.

If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

6.15 Multiple Originals; Counterparts.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

(Remainder of Page Intentionally Left Blank)

WHEREAS, this Agreement has been entered into by the undersigned as of the date first written above.

COUNTY:

County of Mono, a political subdivision of the State of California

By: _____
Robert Lawton, Director
County Administrator

BORROWER:

Mammoth Lakes Pacific Associates, a California limited partnership

By: TPC Holdings IX, LLC
an Idaho limited liability company, its
general partner

By: Pacific West Communities, Inc.,
an Idaho corporation

Its: Manager

By: _____
Caleb Roope, President

[ALL SIGNATURES MUST BE NOTARIZED]

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION

The land is situated in the State of California, Mono County, and is described as follows:

EXHIBIT B

FORM OF INCOME CERTIFICATION

INCOME COMPUTATION AND CERTIFICATION

I, the Undersigned, certify that I have read and answered fully, and truthfully each of the following questions for all persons in the household who are to occupy a room in this house for which application is made.

<u>Occupant 's Name</u>	<u>Social Security #</u>	<u>Age</u>	<u>Place of Employment</u>	<u>Annual Income</u>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
			TOTAL:	

The total anticipated annual household income* for the twelve (12) month period beginning this date (the sum of the final column): \$ _____.

Signed: _____ Date: _____
Head of Household

* The anticipated annual Adjusted Income as determined by Attachment A.

Owner's Certification of Household Income

Household Name _____

I certify, as Owner/Management Agent that I have verified this Household's Adjusted Income by using the following:

- 1. Tax returns _____
- 2. Place of employment verification _____
- 3. Pay stubs _____
- 4. Notarized statement from lessee _____
- 5. Other (please describe) _____

Owner/Management Agent

Date

EXHIBIT C
INCOME AND UNIT MIX

APN: See Exhibit A.

No fee for recording pursuant to
Government Code Section 27383

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

AMERICA FIRST MULTIFAMILY INVESTORS, L.P.
14301 FNB Parkway, Suite 211
Omaha, NE 68154
Attention: Andy Grier

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE COLLATERAL PROPERTY BECOMING SUBJECT TO, AND OF LOWER PRIORITY THAN, THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENTS.

THIS SUBORDINATION AGREEMENT (this “Agreement”) is made and entered into effective as of [April] 1, 2022, by and among **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association organized and existing under and by virtue of the laws of the United States of America, as trustee for the holders of the Bonds (defined below) pursuant to the Indenture (defined below) (“Senior Lender”), **MAMMOTH LAKES PACIFIC ASSOCIATES**, a California limited partnership (“Borrower”), and **MONO COUNTY**, a political subdivision of the State of California (“Subordinated Lender”). All capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Senior Loan Documents and the Indenture (as each is defined herein).

WITNESSETH:

WHEREAS, Subordinated Lender has committed to make a loan to the Borrower on or about the Maturity Date for the Bonds in the anticipated aggregate principal amount of \$[1,800,000] (the “Subordinate Loan”) which Subordinate Loan will be (i) evidenced by that certain Promissory Note (Mono County – MHSA Loan) dated as of [April 1], 2022, made by the Borrower in favor of the Subordinate Lender (the “Subordinate Note”), and (ii) secured by that certain Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing, dated as of [April 1], 2022 (the “Subordinate Deed of Trust”) encumbering the Property to be recorded concurrently herewith in the official records of Mono County, California (the “Official Records”); and

WHEREAS, one of the conditions to the Subordinated Lender making the Subordinate Loan to the Borrower is the execution and delivery by the Borrower of the [County KPLH

Regulatory Agreement], dated as of [April 1,] 2022 (the “County Regulatory Agreement”). The County Regulatory Agreement, collectively with the Subordinate Note and the Subordinate Deed of Trust, together with all amendments and supplements to any or all of the foregoing, being referred to as the “Junior Loan Documents”). The County Regulatory Agreement will be recorded concurrently herewith in the Official Records but will not be subordinated to the Senior Loan and the Junior Loan Documents, with the exception of the County Regulatory Agreement are referred to in this Agreement as the Subordinate Loan Documents; and [Note, the County Loan Documents require a senior regulatory agreement.]

WHEREAS, the California Municipal Finance Authority, a public instrumentality and political subdivision of the State of California, in its capacity as issuer of the hereinafter defined Bonds (in such capacity, “Issuer”), has agreed to make a loan to the Borrower in the aggregate principal amount of \$[] (collectively, “Senior Loan”) pursuant to a Loan Agreement, dated as of [April] 1, 2022 between the Issuer and the Borrower (the “Senior Loan Agreement”); and

WHEREAS, the Bonds will be issued pursuant to that certain Trust Indenture, dated as of [April] 1, 2022 (the “Indenture”), between the Issuer and Senior Lender, as Trustee thereunder on behalf of the holders of the Bonds; and

WHEREAS, the Senior Loan has been capitalized through the issuance by the Issuer of its Multifamily Housing Revenue Bonds (The Parcel Phase I), Series 2022 A, in the aggregate principal amount of \$[] (the “Bonds”); and

WHEREAS, the repayment obligations of the Borrower in respect of the Senior Loan under the Senior Loan Agreement is evidenced by a promissory note, dated as of [April] 1, 2022 (as may be amended and supplemented, collectively, the “Senior Note”) executed and delivered thereby; and

WHEREAS, in connection with the issuance of the Bonds, the Borrower shall at the request of the Issuer also enter into a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [April] 1, 2022, between Borrower and Issuer to be recorded concurrently herewith in the Official Records (“Bond Regulatory Agreement”); and

WHEREAS, the Borrower’s obligations under the Senior Loan Agreement and the other Loan Documents which provide security for the Bonds are secured by (i) a Senior Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing encumbering the Property (the “Senior Deed of Trust”), (ii) a Senior Assignment of Leases and Rents made by the Borrower in favor of the Issuer (the “Senior Assignment of Leases and Rents”), and (iii) an Assignment of Senior Deed of Trust and Related Documents made by the Issuer in favor of the Senior Lender for the benefit of the holders from time to time of the Bonds (the “Senior Assignment of Deed of Trust and Related Documents”), each of which is dated as of [April 1], 2022 (the Senior Deed of Trust, the Senior Assignment of Leases and Rents, the Senior Assignment of Deed of Trust and Related Documents, the Loan Agreement, the Senior Note, the Bond Regulatory Agreement and all other documents, agreements and instruments relating to or securing the Senior Loan, together with all

amendments and supplements to any or all of the foregoing, being referred to as the “Senior Loan Documents”); and

WHEREAS, the conditions of making the Senior Loan include, among other things, the subordination of the Subordinated Liens to the Senior Liens and the subordination of the Subordinated Indebtedness to the Senior Indebtedness, all as more fully described herein; and

WHEREAS, in addition to the Senior Loan and the Subordinate Loan, there are certain other loans that the Borrower will obtain and utilize to finance the Project, as such loans are defined in the Indenture, which will require the recording of certain documents and agreements against the Property, which recordings will be in addition to the recordings of the Bond Regulatory Agreement, the Senior Deed of Trust, the Senior Assignment of Leases and Rents, the Senior Assignment of Deed of Trust and Related Documents, the County Regulatory Agreement and the Subordinate Deed of Trust (all of such recorded documents and agreements shall be referred to herein as the “Recorded Items”); and

WHEREAS, it is the intent of the parties hereto that the order of priority of the Recorded Items as liens on or charges against the Project be as follows:

1. Bond Regulatory Agreement;
2. County Regulatory Agreement;
3. Senior Deed of Trust;
4. Senior Assignment of Leases and Rents;
5. Senior Assignment of Deed of Trust and Related Documents;
- 6.
7. County Deed of Trust;
8. [Town Land Loan Regulatory Agreement];
9. [Town Land Loan Deed of Trust]; and
10. [Others?]

NOW, THEREFORE, in consideration of the mutual covenants and undertakings contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to establish the relative priority of the documents described in the foregoing recitals as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

- (a) “Senior Indebtedness” means all obligations of any type or nature presently or hereafter due from the Borrower, its parents, subsidiaries, affiliates, successors and assigns, to the Senior Lender or its successors, assigns or participants, under the Senior Loan Documents, and all other principal, interest, fees, charges and expenses under or incidental to any indebtedness secured by the Senior Liens.

(b) “Senior Liens” means all liens, mortgages, deeds of trust, security interests, security agreements, regulatory agreements, assignments and collateral assignments of any type or nature, previously given or hereafter granted by the Borrower, its parents, subsidiaries, affiliates, successors or assigns to the Senior Lender in connection with the Senior Loan Documents.

(c) “Subordinated Indebtedness” means all obligations of any type or nature, secured by the Subordinated Liens. [This language is too broad, given that the County is a governmental agency, service provider for the project, and co-sponsor of the NPLH funding. This should be limited solely to the loan.]

(d) “Subordinated Liens” means the Subordinated Deed of Trust. The Subordinated Liens do not include the County Regulatory Agreement and any amendments thereto.

2. Consent of the Subordinated Lender. Notwithstanding any of the terms of the Subordinate Loan Documents or any other documents, agreements and instruments creating the Subordinated Indebtedness or any Subordinated Lien to the contrary, the Subordinated Lender hereby consents to the senior priority status of the Senior Indebtedness and the Senior Liens and to the execution and delivery by the Borrower of any and all documents and instruments in connection therewith and to the full and timely performance by the Borrower of any and all of its obligations under or in connection therewith or resulting therefrom.

3. Subordination of Subordinated Liens and Subrogation Rights.

(a) In consideration of the Issuer making the Senior Loan (among other actions), the Subordinated Liens are hereby fully subordinated to the Senior Liens and the Senior Liens shall at all times be first, prior, and superior to the Subordinated Liens in all respects. The terms and provisions of any document, agreement or instrument creating or relating to a Subordinated Lien are hereby amended to provide that so long as any of the Senior Liens (or any portion of any of the foregoing) remain unreleased, the Subordinated Liens are fully subordinate to the Senior Liens.

(b) The Subordinated Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, in its capacity as Subordinate Lender and not in its governmental or other capacity, or by reason of its exercise of any other right or remedy under the Subordinated Liens or otherwise in respect of the Subordinated Indebtedness, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the Senior Liens, then, in that event, such lien shall be subject and subordinate to the senior lien position of the Senior Liens.

4. Subordination of Subordinated Indebtedness.

(a) In consideration of (among other actions) the Senior Lender making the Senior Loan, the Subordinated Indebtedness is hereby fully subordinated to the Senior Indebtedness and the Senior Indebtedness shall at all times be first, prior, and superior to the Subordinated Indebtedness in all respects. The respective terms and provisions of any document creating or relating to the Subordinated Indebtedness are hereby amended to provide that so long as any of the Senior Indebtedness remains unpaid, the Subordinated Indebtedness is and shall remain fully subordinate to the Senior Indebtedness and that none of the respective terms and provisions of such documents, agreements or instruments evidencing or creating the Subordinated Indebtedness shall effect or limit in any way the rights or remedies provided to the Senior Lender in respect of the Senior Indebtedness.

(b) For the avoidance of doubt, during the term of this Agreement no payments shall be made under or in respect of the Subordinated Indebtedness pursuant to the Subordinate Loan Documents except as otherwise provided in the terms of the Junior Loan Documents. [payments are deferred, but we will require indemnification, late charges, default interest, attorneys fees etc if there is an issue.]

5. Insolvency Proceedings Against the Borrower. The insolvency or bankruptcy of the Borrower shall not affect this Agreement, and the same shall remain in full force and effect. In any insolvency or bankruptcy proceeding for the complete liquidation of the Borrower, the Subordinated Lender shall not receive any distribution from the bankruptcy estate of the Borrower unless and until the Senior Indebtedness has been satisfied in full. The Subordinated Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy, reorganization, arrangement, insolvency, liquidation or similar proceedings with respect to the Borrower, without the Senior Lender's prior, written consent.

6. Assignment; Prohibition on Encumbrances and Transfers. The Subordinated Lender represents and warrants that, as of the date of this Agreement, no part of the Subordinated Indebtedness or the Subordinated Liens has been sold, assigned, encumbered, endorsed or transferred to or for the benefit of others. The Subordinated Lender agrees not to, in whole or in part, sell, assign, encumber, endorse or otherwise transfer the Subordinated Indebtedness, the Subordinated Liens or any portion of either or both of the foregoing, without the Senior Lender's prior, written consent.

7. Cooperation. The Subordinated Lender further agrees to cooperate with the Senior Lender from time to time and execute and deliver such documents, agreements and instruments and to take such other actions as may reasonably be requested by the Senior Lender in order to enable the Senior Lender to enforce its rights under this Agreement and to confirm the senior priority status of the Senior Indebtedness and the Senior Liens.

8. No Liability. The parties hereto agree that the Senior Lender shall not be liable for any action or failure to act under or in connection with any of the documents or instruments creating the Senior Liens or the Senior Indebtedness, it being understood that the decision of whether and when to act and the manner of proceeding under such instruments and documents shall not be affected in any manner by the existence of the Subordinated Indebtedness and/or the

Subordinated Liens. It is further agreed that such obligations as may be imposed under the documents and instruments creating the Senior Liens or under applicable laws shall run exclusively to the benefit of the Senior Lender and may be enforced or waived only by the Senior Lender and not by the Subordinated Lender or the holders of the Subordinated Liens or Subordinated Indebtedness.

9. Insurance and Condemnation. The Subordinated Lender agrees that if it receives any insurance or condemnation proceeds in respect of any of the assets of the Borrower subject to the Senior Liens (including without limitation, the Property), the Subordinated Lender shall immediately so notify the Senior Lender in writing and shall deliver such proceeds to or on the order of the Senior Lender so long as any Senior Indebtedness remains unpaid.

10. Irrevocability of Agreement. The Subordinated Lender agrees that, without notice to or further assent by the Subordinated Lender but subject, in each instance, to the terms and provisions of the agreements creating the Senior Indebtedness and Senior Liens (a) the liability of the Borrower in respect of the Senior Indebtedness may, in whole or in part, be renewed, extended, modified, or released by the Senior Lender and the documents and instruments creating or evidencing the Senior Indebtedness or the Senior Liens may be amended or supplemented, as the Senior Lender may deem advisable (including without limitation, an amendment to add as obligations secured by the Senior Liens); provided that notwithstanding the forgoing, without the prior consent of Subordinated Lender, which will not be unreasonably withheld, Senior Lender will not increase the principal amount of the Senior Loan (excluding any amounts added to the Senior Indebtedness for protective advances), increase the applicable interest rate, or decrease the term, (b) any collateral and/or security interests in respect of the Senior Indebtedness (other than the Property) may, from time to time, in whole or in part, be assigned, transferred, exchanged, sold, encumbered, endorsed or surrendered by the Senior Lender, and (c) any deposit balance or balances to the credit of the Borrower may, from time to time, in whole or in part, be surrendered or released by the Senior Lender to the Borrower, all without impairing or in any way affecting the subordinations contained in this Agreement; nor shall the subordinations herein contained be impaired or affected in any way by any other action, inaction, or omission in respect of the Senior Indebtedness, the Senior Liens or this Agreement. The Subordinated Lender further agrees that it until such time as the Senior Indebtedness is paid in full, it will not take any action in connection with or consent to any amendment, modification of, or supplement to the Subordinated Liens or the Subordinated Indebtedness or any documents executed or delivered in connection therewith (including without limitation, the Junior Loan Documents) without the prior, written consent of the Senior Lender.

11. Default and Remedies.

(a) Upon the occurrence of any event which permits, or with the passage of time or giving of notice, or both, would permit, the Subordinated Lender to exercise remedies in respect of any portion of the Subordinated Indebtedness (including without limitation by way of any cross default provision) or the Subordinated Liens, the Subordinated Lender shall, in all instances, have notified Senior Lender and waited a period of 90 days following the delivery of such notice before pursuing any such remedy,

including without limitation, any acceleration of maturity of any of the Subordinated Indebtedness, whether in whole or in part. The Subordinated Lender shall give the Senior Lender written notice of any such default, and the Senior Lender shall have the right (but not the obligation) to cure any or all defaults specified in said notice. Nothing in this Section limits the Subordinated Lender's right to bring or join in an action of equitable relief seeking a declaratory judgment, specific performance, injunctive relief, or other action against Borrower to enforce the County Regulatory Agreement.

(b) Upon the occurrence of any event which permits, or with the passage of time or giving of notice, would permit the Senior Lender to exercise remedies in respect of all or any portion of the Senior Indebtedness or the Senior Liens, the Senior Lender shall give the Subordinated Lender written notice of any such default, and the Subordinated Lender shall have the right (but not the obligation) to cure any or all defaults specified in said notice during a period of thirty (30) days after the date of said notice; provided, however, the Senior Lender shall be entitled during such thirty (30) day period to pursue any and all of its rights and remedies under or in respect of the documents, agreements and instruments creating the Senior Indebtedness and/or the Senior Liens (including without limitation, the Senior Loan Documents) and/or applicable law, including, but not limited to, acceleration of the Senior Loan, commencement and pursuit of a judicial or non-judicial foreclosure, appointment of a receiver, enforcement of any guaranty, and/or enforcement of any other portion of the Senior Indebtedness. In the event the Senior Lender has accelerated the Senior Loan, and the Subordinated Lender cures all event(s) of default giving rise to such acceleration within the thirty (30) day period described above, such cure shall have the effect of de-accelerating the Senior Loan; provided, however, that such de-acceleration shall not waive or limit any of either the Senior Lender's rights to accelerate the Senior Loan or exercise any other remedies under the Senior Indebtedness or the Senior Liens as to any other events of default.

(c) The Borrower and the Subordinated Lender agree that a default or an event of default under the Subordinated Loan Documents shall constitute an immediate default under the Senior Loan Documents.

(d) The provisions of this paragraph are subject to Section 10. The Subordinated Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, forebears, extends, reduces or modifies any provisions of the Senior Liens or the Senior Indebtedness, including any provision requiring the payment of money.

(e) The Subordinated Lender agrees that, notwithstanding any contrary provision contained in any of the Subordinated Loan Documents, a default under the Senior Loan Documents (however denominated) shall not constitute a default under the Subordinated Loan Documents if no other default shall have occurred under the Subordinated Loan Documents.

12. Miscellaneous.

(a) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without regard to the choice of law provisions thereof.

(b) If any of the provisions or terms of this Agreement shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other of the terms hereof, and this Agreement shall be construed as if such unenforceable term had never been contained herein.

(c) All notices and other communications hereunder shall be deemed to have been duly given, made, or served, if in writing and delivered personally or mailed by first class mail, postage prepaid, to the respective parties to this Agreement as follows:

SENIOR LENDER:

Wilmington Trust, National Association, as Trustee
650 Town Center Drive, Suite 800
Costa Mesa, CA 92626
Attention: Corporate Trust Services

with copies to:

America First Multifamily Investors, L.P.
14301 FNB Parkway, Suite 211
Omaha, NE 68154
Attention: Frank Bravo
Telephone: (619) 613-5527

And

Kutak Rock LLP
8601 N. Scottsdale Road, Suite 300
Scottsdale, Arizona 85253
Attention: Public Finance Department
Telephone: (480) 429-5000
Facsimile: (480) 429-5001

SUBORDINATE LENDER:

Mono County
1290 Tavern Road
Mammoth Lakes, CA 93546
Attn: County Counsel

BORROWER:

Mammoth Lakes Pacific Associates, a California Limited Partnership
430 E State Street, Suite 100
Eagle, ID, 83616
Attention: Caleb J. Roope
Telephone: (208) 461-0022

with copies to:

Katten Muchin Rosenman LLP
2029 Century Park E
Los Angeles, CA 90067
Attention: David Cohen
Facsimile: (312) 902-5284

And

Central Valley Coalition for Affordable Housing
3351 M Street, Suite 100
Merced, California 95348

And

McReynolds & McCormack, PLLC
430 E. State Street, Suite 100
Eagle, ID 83616
Attention: Clayton McReynolds
Facsimile: (208) 461-0033

The designation of the person to be so notified or the address of such person for the purposes of such notice may be changed from time to time by similar notice in writing, except that any communication with respect to a change of address shall be deemed to be given and made when received by the party to whom such communication was sent. No other method of notice is precluded by this Section 12(c).

(d) In the event any action is filed to enforce or construe the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees. Attorneys' fees shall include services rendered at both the trial and appellate levels, as well as services rendered in any bankruptcy proceeding or arbitration proceeding.

(e) This Agreement may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.

(f) This Agreement represents the entire agreement between the parties hereto on the subject matter hereof and, except as expressly provided herein, shall not be affected by reference to any other documents. Neither this Agreement nor any provision hereof may be changed, waived, discharged, or terminated orally, but such may be accomplished only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

(g) To the fullest extent permitted by applicable law, each party to this Agreement hereby expressly waives any right to trial by jury of any claim, demand, action, or cause of action (a) arising under the Senior Loan Documents or the Subordinate Loan Documents, except as otherwise set forth therein with respect to arbitration, including, without limitation, any present or future modification therefor or (b) in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to the Senior Loan Documents or the Subordinate Loan Documents (as now or hereafter modified) or any other instrument, document or agreement executed or delivered in connection herewith, or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any party to this Agreement may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto to the waiver of their right to trial by jury.

(h) The Borrower, the Senior Lender and the Subordinated Lender each agree that, in the event of any conflict or inconsistency between or among the terms of the (1) Senior Liens, the Senior Indebtedness or the Senior Loan Documents on one hand, and (2) the Subordinated Liens, the Subordinated Indebtedness or the Subordinated Loan Documents on the other hand, and the terms of this Agreement, the terms of this Agreement shall govern and control as to: (i) the relative priority of interests between the Senior Lender and the Subordinated Lender; (ii) the timing of the exercise of remedies by the Senior Lender and the Subordinated Lender under the Senior Liens and the Subordinated Liens, respectively; and (iii) solely as between the Senior Lender and the Subordinated Lender, the notice requirements, and the other rights and obligations which the Senior Lender and the Subordinated Lender have agreed to as expressly provided in this Agreement. The Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend or otherwise modify the Borrower's time to cure any default in respect of the Senior Indebtedness or Subordinated Indebtedness, as the case may be; give the Borrower the right to notice of any default in respect of the Senior Indebtedness or the Subordinated Indebtedness, as the case may be other than that, if any, provided respectively under the Senior Loan Documents or the Subordinated Loan Documents, as applicable; or create any other right or benefit for the Borrower as against the Senior Lender or the Subordinated Lender or either of them.

[Remainder of page left blank intentionally.]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed by its authorized representative identified below as of the date and year first above written.

BORROWER:

MAMMOTH LAKES PACIFIC ASSOCIATES,
a California limited partnership

By: TPC HOLDINGS IX, LLC,
an Idaho limited liability company

Its: Administrative General Partner

By: Pacific West Communities, Inc.,
an Idaho corporation

Its: Manager

By: _____

Name: Caleb Roope

Its: President and CEO

By: CENTRAL VALLEY COALITION FOR
AFFORDABLE HOUSING
a California Nonprofit Public Benefit Corporation

Its: Managing General Partner

By: _____

Name: Christina Alley

Its: Chief Executive Officer

*[Borrower signature page to **The Parcel Phase I Subordination Agreement**]*

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(affix seal in above space)

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(affix seal in above space)

SUBORDINATED LENDER:

County of Mono, a political subdivision of the State
of California

By: _____
Robert Lawton, Director
County Administrator

*[Subordinate Lender signature page to **The Parcel Phase I** Subordination Agreement]*

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(affix seal in above space)

SENIOR LENDER:

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, AS TRUSTEE**

By: _____
Name: _____
Title: _____

*[Senior Lender signature page to **The Parcel Phase I Subordination Agreement**]*

UNDER NEGOTIATION

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(affix seal in above space)

EXHIBIT A

DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWN OF MAMMOTH LAKES,
COUNTY OF MONO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

UNDER NEGOTIATION

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

Pursuant to the Government Code Section 15463, Part 3.9 of division 5 (commencing with section 5849.1) of the Welfare and Institutions Code, and Section 5890 of the Welfare and Institutions Code all as amended and in effect from time to time, the State of California (the "State") has established the No Place Like Home Program (the "Program"). Pursuant to Section 5849.5 of the Welfare and Institutions Code, the State has issued Guidelines governing the Program, as amended from time to time (the "Guidelines").

This Standard Agreement, STD 213, (the "Agreement" or "Contract") is the result of the Sponsor's application (the "Application") for funding under the Program pursuant to:

- A. Section 5849.8 of the Welfare and Institutions Code
- B. The Program Guidelines dated October 23, 2020; and,
- C. The Notice of Funding Availability (the "NOFA") for (as applicable):
 - a. Noncompetitive Allocation funds dated August 15, 2018 and as amended October 30, 2018, and on October 23, 2020, as may be further amended from time to time
 - b. Competitive Allocation funds dated October 23, 2020 for Competitive Allocation funds, as may be further amended from time to time

2. Purpose

In accordance with the authority cited above, Sponsor's Application was made to the State for financial assistance from the Program (the "Loan" or "Award"), for the purpose of assisting in the development, operation and maintenance of a Rental Housing Development (as defined in section 3 hereof) (the "Development") on certain real property (the "Property") as described in the Application and the Project Report. The Application, including all representations made therein, and the Project Report (as defined in section 3 hereof) are hereby incorporated in this Agreement by this reference.

The financial assistance from the Program shall be in the form of a permanent loan to the County, Sponsor, or its approved affiliate (the "Borrower" as defined in section 3 hereof),

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as owner of the Development for the capital portion of the award, and (if applicable) in the form of a grant to the County, Sponsor, or its HCD approved affiliate under the direct control of the Sponsor (as set forth in Paragraph 8 below) for the portion of the award that is the Capitalized Operating Subsidy Reserve.

The purpose of the Award is to ensure that the Development is constructed, owned, managed, maintained and operated in accordance with the requirements of the Program, the requirements of the Guidelines, and the representations of the Application, and to ensure that certain residential units therein shall be occupied by eligible households at affordable rents as defined in the Guidelines for the full term of the Loan, regardless of sale or transfer of the Property or prepayment of the Loan. To further effect this purpose, if Sponsor or Borrower is an entity other than the Sponsor identified in the Application, HCD (as defined in section 3 hereof) may require the Sponsor to enter into a sponsor operating guaranty (the "Sponsor Operating Guaranty") as a condition of closing the Loan.

By entering into this Agreement and thereby accepting the Award of Program funds, the Sponsor agrees to comply with the terms and conditions of the Guidelines, the NOFA, this Agreement, the representations contained in the Application, the Project Report and the requirements of the authorities cited above.

3. Definitions

Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines, the UMR's and in this Exhibit A as follows:

- A. "Agreement" refers to this Standard Agreement.
- B. "Borrower", or "Ultimate Borrower" refers to the borrowing entity and owner of the Development. The Sponsor, or Development Sponsor, determined by HCD as having sufficient capacity and experience to develop, own and operate the Development, or its wholly controlled affiliate shall have continuing control of the Development. The Borrower structure shall not have more levels of organization than are allowed in accordance with UMR Section 8313.2.
- C. "COSRA" refers to the COSR (as defined below) agreement governing the terms and conditions of the disbursement of the COSR.
- D. "Capitalized Operating Subsidy Reserve" or "COSR" refers to the capitalized operating reserve provided under Section 209 of the Guidelines.

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- E. “Sponsor” or “Development Sponsor” refers to the entity or entities that made the Application to the Department for the Award for the Development (as defined below) and identified as “Contractor” on page 1 to this Agreement (STD 213). “Sponsor” also includes any affiliate or assignee of the Sponsor approved by the Department and undertaking all the obligations of the Sponsor hereunder (e.g., the Borrower). In the case of joint applicants, “Sponsor” shall refer to each applicant or the approved assignee of such applicant. Each joint applicant shall be jointly and severally liable for all obligations of a Sponsor as set forth herein.

Mammoth Lakes Pacific Associates, a CA Limited Partnership (“LP”) is an affiliate of Pacific West Communities, Inc (“Corp”). Corp was awarded the NPLH Loan funds pursuant to the award letter, dated June 23, 2021. The Department acknowledges that the LP will be considered the Ultimate Borrower of the NPLH Loan funds and as such will execute the NPLH Loan documents as described in section 39 of Exhibit D. For the purposes of this Standard Agreement, LP and Corp will be collectively referred to herein as “Sponsor”. As such, the LP and Corp shall be jointly and severally liable for all the obligations of a Sponsor as set forth herein. Performance satisfactory to the Department by the LP of any duties and obligations under this Standard Agreement, and any other agreements as required by the Department, by either the LP or Corp will be deemed as performance by the Sponsor.

At a minimum, the sponsor-controlled general partner must solely perform the substantial management duties identified in Board of Equalization Rule 140.1(a)(10) as items (A), (H), (I) and (K).

- F. “Department” or “HCD” refers to the Department of Housing and Community Development.
- G. “Guidelines” refers to the NPLH Guidelines dated October 23, 2020.
- H. “Project Report” refers to the HCD staff report presented to and approved by the Department’s Internal Loan Committee. The Project Report sets forth the project criteria as approved by the Department at the time of the award of Program Loan funds. The information set forth in the project report may be amended only upon HCD’s written approval.
- I. “Performance Milestones” refers to the development schedule and/or milestones proposed by the Sponsor at time of application and as set forth in the Project Report.

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- J. “Program” refers to the No Place Like Home Program (NPLH).
- K. “Rental Housing Development” (the “Development”) refers to the residential rental “Affordable Housing Development” described in the Application and meeting the criteria set forth in the Project Report providing the affordable housing units, as described therein, in consideration of the No Place Like Home Loan (the “NPLH Loan”). The Rental Housing Development shall meet all criteria as set forth in the Guidelines.
- L. “TCAC” refers to the California Tax Credit Allocation Committee.
- M. Any reference to a specific “Section” or “section” of the Guidelines shall initially refer to that specific numbered section of the Guidelines adopted on and dated October 23, 2020. Notwithstanding, if and when the Department amends any portion of the Guidelines, all references herein to any such portion of the Guidelines shall be deemed to refer to the updated version of the Guidelines, either in whole or in part, as may be applicable. To the extent that any Guidelines section or sections (Section or Sections) provision is or are amended, and thereafter receive(s) a new Guidelines section number(s), any reference herein to the old Guidelines section(s) number(s) shall be interpreted to refer instead to the Guidelines section(s) that is (or are) intended to replace the content and substance of the former Guidelines section(s).

4. Scope of Work

The Scope of Work (“Work”) for this Agreement shall consist of the development and construction of the Development identified in the Award Letter. The Development is to be developed and constructed by the Sponsor, or by a developer on behalf of the Sponsor, as provided in the Application and shall meet the criteria set forth in the Project Report.

Further, the Sponsor shall take such actions, pay such expenses and do all things necessary to complete the Development as identified in the Award Letter and described in the Project Report in accordance with the schedule for completion set forth therein and the terms and conditions of this Agreement.

All written materials or alterations submitted as addenda to the original Application and the Project Report and which are approved in writing by a Division of Financial

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Assistance Program Manager or higher Department official, as appropriate, are part of the Application and are hereby incorporated as part of the Agreement. HCD reserves the right to review and approve all Work to be performed by the Sponsor in relation to this Agreement. Any proposed revision of the Work must be submitted in writing for review and approval by HCD. Any approval shall not be presumed unless such approval is made by HCD in writing.

5. Evidence of Point Generating Activities

Based on the points awarded to its Application, Sponsor assures the Department of the existence or planned aspects of all point generating activities as detailed in the Project Report.

At the request of the Department, Sponsor shall provide further and additional evidence sufficient to demonstrate the existence and/or completion of the items for which the Sponsor's Application received points. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reduction or cancellation of the award, require repayments of any disbursed Program funds, and result in the disencumbrance of Program funds awarded.

6. Special Conditions

Sponsor shall ensure the completion of the special conditions (if any) set forth in the Project Report and in Exhibit E of this Agreement (if any), by the designated dates. Sponsor may apply to the Department for an extension on any timelines based on good cause shown and best efforts and assurances from the Sponsor for timely completion of the remaining any such special conditions.

7. State Coordinator

The coordinator of this Agreement for the state is the Program Manager for the No Place Like Home, Division of Financial Assistance. Any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the State Program Manager at the following address:

Department of Housing and Community Development
Division of Financial Assistance – NOFA Unit
P.O. Box 952054
Sacramento, California 94252-2054

EXHIBIT A

8. Contract Coordinator(s)

The Sponsor(s) Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class or emailed to the contact at the following address:

Ultimate Borrower:	Mammoth Lakes Pacific Associates, a CA Limited Partnership
Name:	Caleb Roope
Address:	430 East State Street, Suite 100 Eagle, ID 83616
Phone No.:	(208) 461-0022
Email Address:	calebr@tpchousing.com

Sponsor:	Pacific West Communities, Inc.
Name:	Caleb Roope
Address:	430 East State Street, Suite 100 Eagle, ID 83616
Phone No.:	(208) 461-0022
Email Address:	calebr@tpchousing.com

County Applicant:	County of Mono
Name:	Robert Lawton
Address:	P.O. Box 696 Bridgeport, CA 93517
Phone No.:	(760) 932-5415
Email Address:	rlawton@mono.ca.gov

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Terms of Award

A. Principal Amount

The principal amount of the Award shall be the lesser of:

- 1) the principal amount as stated in the Application; or,
- 2) the amount later approved by the Department as consistent with the requirements of the Guidelines.

B. Interest and Payment

The portion of the Award provided as a Loan shall bear interest at the rate and be payable as provided in section 200 of the Guidelines and under the terms of the Department's promissory note to be executed at loan closing. The Loan may not be prepaid without the prior written consent of the Department.

2. Invoicing and Payment

- A. All loan proceeds used to finance capital costs of Assisted Units in the Development (the "Permanent Loan Proceeds") shall be disbursed through an independent escrow/title company. The Department shall prepare and submit instructions to the escrow holder, detailing the requirements for the release of Loan proceeds to the Borrower. The Permanent Loan Proceeds do not include funds awarded for a Capital Operating Subsidy Reserve (COSR) pursuant to Guidelines section 209.
- B. The Permanent Loan Proceeds shall be released through escrow upon the Sponsor's, or its assignee's, submittal of the Request for Funds form and the satisfaction of the terms of the award letter and this Agreement. HCD reserves the right to retain 10 percent of the approved loan proceeds pending receipt and acceptance of the cost audit and any remaining loan closing checklist items.
- C. COSR proceeds, if awarded, will be held by the Department and disbursed annually pursuant to Guidelines section 209.

No Place Like Home (NPLH) – Round 3

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Approved Date: 3/9/2021

Prep. Date: 7/22/2021

EXHIBIT D

NPLH PROGRAM GENERAL TERMS AND CONDITIONS

1. Effective Date, Commencement of Work and Completion Dates

This Agreement is effective upon approval by all parties and the Department, which is evidenced by the date signed by the Department on page one, Standard Agreement, STD 213 (the "Effective Date"). The Sponsor agrees that the Work shall be completed as specified in this Agreement, the Project Report, incorporated herein by reference, and subject to the Agreement expiration date specified on page 1, number 2, of this Agreement (STD 213), unless a written request for an extension is submitted and written approval by the Department, is provided within 90 days prior to the termination date of the Agreement. Any extension to the termination date shall require an amendment to this Agreement executed by all parties.

Construction Loan Closing Deadline: Per Section 200(h) of the Guidelines, the construction loan closing shall occur no later than thirty-six (36) months from the date of the Department's award letter June 23, 2021.

Permanent Loan Closing Deadline: Per Section 200(i), the permanent loan closing shall occur no later than seventy-two (72) months from the date of the Department's award letter June 23, 2021.

The Department may extend the deadlines above a total of up to twenty-four (24) months in the aggregate where it is clear to the Department, that granting an extension will enable the Project to start construction or achieve ninety (90) percent occupancy of the Assisted Units.

2. Termination

The Department may terminate this Agreement at any time for cause by giving at least 14 days' notice in writing to the Sponsor. Cause shall consist of violations by the Sponsor of any terms and/or special conditions of this Agreement, including but not limited to:

- A. Failure of the Loan to close on or before the Loan closing deadline as stated under "Timing" in these General Conditions.

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- B. Failure of the Sponsor to satisfy in a timely manner each of the conditions set forth in these General Conditions, Special Conditions set forth in Exhibit E of this Agreement and the award letter.
- C. Determination by the Department that: (a) any material fact or representation made or furnished to the Department by the Sponsor in connection with the Application, or the award letter have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue, or (b) the Sponsor shall have concealed any material fact from the Department related to the Application or the Development.
- D. Filing a petition by Sponsor, or any affiliate or general partner of Sponsor, for relief under the Bankruptcy Code; the filing of any pleading or an answer by Sponsor, or any general partner of Sponsor, in any involuntary proceeding under the Bankruptcy Code; a general assignment by Sponsor, or any affiliate or general partner of Sponsor, for the benefit of creditors; or the filing of an application for the appointment of a receiver, trustee, custodian or liquidator of Sponsor or any of its property, or any affiliate or general partner of Sponsor or any of its property.
- E. Failure of Sponsor, or any general partner of Sponsor, to effect a full dismissal of any involuntary petition under the Bankruptcy Code that is filed against Sponsor, or any general partner of Sponsor, or in any way restrains or limits Sponsor, or any general partner of Sponsor, or the Department regarding the Loan or the Development, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or 30 days after the date of filing of such involuntary petition.
- F. Attachment, levy, execution, or other judicial seizure of any portion of the Development, or any substantial portion of the other assets of Sponsor, or any general partner of Sponsor, that is not released, expunged, bonded, discharged, or dismissed within 30 days after the attachment, levy, execution, or seizure.
- G. Pendency of any proceeding challenging the legal existence or authority of Sponsor, or any general partner of Sponsor, or any proceeding challenging the legality of the Development.
- H. Failure of Sponsor to close the Department approved construction financing on or before the date indicated under "Timing" in these General Conditions. Any

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reference in this Agreement to "construction" shall include rehabilitation construction, if applicable.

3. Timing

- A. The Sponsor shall close the construction financing approved by the Department and commence construction of the Development in accordance with the development schedule set forth in the Project Report. Upon the Department's request, the Sponsor shall promptly provide evidence of recorded deeds of trust for all construction financing, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement) and notice to proceed delivered to the contractor. If no construction lender is involved, and the project is receiving low-income housing tax credits, evidence must be submitted that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred.
- B. This Agreement shall expire on date specified on page 1, number 2, of this Agreement (STD 213).

4. Disputes

Applicable law, including the Department's and the Program's statutes, rules, regulations, and Guidelines shall apply and be enforced in the event of any conflict that becomes apparent to the Department at any time, notwithstanding the Department's preliminary prior review of Project documentation at the time of construction loan closing.

5. Consent

The parties agree that wherever the consent or approval of the Department or the Sponsor is required under this Agreement, such consent or approval will not be unreasonably withheld or delayed, unless the same is specified as being in that party's sole discretion or other words of similar import.

PRE-CONSTRUCTION LOAN REQUIREMENTS

Unless otherwise approved in writing by the Department, the following conditions require compliance prior to the close of the construction loan(s) for the Development (construction loan includes a rehabilitation loan):

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6. Site Control

The Sponsor shall have 100% control of the land at time of application and through permanent loan closing, and such control shall not be contingent on the approval of any other party. The status and nature of the Sponsor's title and interest in the property shall be subject to the Department's approval. Site control may be evidenced by one of the following:

- A. Fee title;
- B. A leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance, prior to loan closing, with all Program requirements;
- C. An enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;
- D. An executed disposition and development agreement right of way, or irrevocable offer of dedication to a Public Agency;
- E. An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
- F. An executed agreement with a public agency that gives the Sponsor exclusive rights to negotiate with that agency for acquisition of the site, provided that the major terms of the acquisition have been agreed to by both parties; or
- G. A land sales contract or other enforceable agreement for the acquisition of the property.
- H. Other forms of site control that give the Department assurance (equivalent to A-G above) that the applicant or developer will be able to complete the Project and all housing designated in the application in a timely manner and in accordance with all the requirements of the Program.
- I. If the Sponsor's interest in the property is a leasehold, the lease must provide adequate security for the Program Loan and comply with the requirements of the

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Uniform Multifamily Regulations (“UMR”), Section 8316. The Sponsor shall provide a copy of the ground lease for the Department’s approval and review of its compliance with UMR Section 8316. The lessor and lessee will be required to sign the Department's standard form Lease Rider and Estoppel Agreement, unless the lessor agrees to sign the Program Loan documents as required by the Department and encumber all its interest in the Development. Where the lessee and the lessor are affiliated or related private parties, both the lessee and the lessor must execute the Program Loan documents so as to encumber both the leasehold and fee interests in the Development.

7. Title Report

The Sponsor shall provide a current title report for the real property on which the Development is located. If the Sponsor’s interest in the property is leasehold, then the Sponsor shall provide a current title report for the leasehold interest and the fee interest.

8. Site Inspection

The Department reserves the right, upon reasonable notice, to inspect the Development site and any structures or other improvements thereon to determine whether the Development site meets the requirements of the Program Guidelines and the criteria set forth in the Project Report. If the Department reasonably determines that the site is not acceptable for the proposed Development in accordance with the Guidelines, the Department reserves the right to rescind the Award and the Loan.

9. Adaptability and Accessibility

The Sponsor and the Development shall comply with all applicable federal, state and local laws regarding adaptability and accessibility in the design, construction and rehabilitation of residential projects for persons with disabilities. In addition, NPLH projects shall comply with the accessibility requirements referenced in Section 213 (b) of the Program Guidelines.

10. Physical Needs Assessment

If the Development involves rehabilitation of existing units, the Sponsor shall provide a post-rehabilitation physical needs assessment acceptable to the Department, in accordance with instructions provided by the Department.

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11. Reserve Study

Upon request by the Department, Sponsor shall provide an independent, third-party replacement reserve study acceptable to the Department.

12. Development Budget

Unless otherwise approved in writing by the Department, prior to the close of any construction financing, the Sponsor shall provide to the Department for its review and approval, a copy of the construction lender(s)' approved development budget.

13. Reasonable Development Costs

Sponsor shall provide to the Department evidence that total development costs are reasonable and necessary for the proposed improvements. To verify cost reasonableness, the Department may require qualified third-party verification of costs, evidence of the competitive bidding of major trades and real estate appraisals. Where the Development is a component of a larger development, the Sponsor shall submit to the Department for its approval, a development cost sharing breakdown for the entire development which covers all development costs for each of the individual components of the entire development and includes a discrete development budget for the Development consistent with the budget in the Application and Project Report. Eligible costs for Developments are limited to costs as specified in Guideline Section 200(a) and (b).

14. Cost Savings

If, upon completion of the Development, the total development funding sources exceed the total development costs, the Department will share costs in accordance with UMR Section 8313.1.

15. Sponsor Control of Development

Sponsor shall provide evidence satisfactory to the Department that the Sponsor identified in the Application and who demonstrated the requisite experience, pursuant to Section 202 of the Guidelines, in the application process, has and will retain full control over the development, construction, ownership and management of the Development through control of the borrowing entity by the Sponsor either directly as Borrower, or as a managing general partner of Borrower, or as the member/manager of the general

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partner of the Borrower. At a minimum, the sponsor-controlled general partner must solely perform the substantial management duties identified in Board of Equalization Rule 140.1(a)(10) as items (A), (H), (I) and (K).

The same control requirement applies to any Borrower organized as a limited liability company. The failure to demonstrate the requisite control of the borrowing entity by the Sponsor may result in significant delay in the processing, or potentially the cancellation, of the Program Loan. The Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, shall execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Development. The organizational structure of the Borrower, including the control and ownership by the Sponsor or Sponsors, and any changes thereto, must be reviewed and approved by the Department and must comply with all Program requirements.

16. Limited Partnership Agreement (LPA)

If the Borrower is a limited partnership, the Department neither approves nor disapproves the LPA, but may require changes, if necessary to ensure, among other Program requirements, appropriate sponsor control, and that the term of the LPA is equal to or greater than the term of the Department's loan documents. In the event of any conflict between the LPA and the Department's loan documents and regulations, the Department's loan documents, Guidelines, and applicable statutes and regulations shall control.

17. Relocation Plan

If there is or will be any residential or commercial displacement directly or indirectly caused by the Development, the Sponsor shall provide a relocation plan conforming to the requirements of State laws and the regulations adopted by the Department in California Code of Regulations, Title 25, Section 6000 et seq prior to the beginning of construction or any displacement (whichever is sooner). The Development budget shall contain sufficient funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan approved by the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.

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18. Architect Contract

The Sponsor shall enter into a contract with an architect to provide professional services for the Development. The contract shall require an architect to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor's payment requests, prepare or review change orders, and, upon completion of construction, provide the certification described in paragraph 31 of these General Conditions.

19. Appraisals

If the property for the Development is being purchased, the Sponsor shall provide an appraisal acceptable to the Department of the as-is value of the property, prepared by a qualified, licensed appraiser who is approved by or otherwise acceptable to the Department.

20. Non-Department Financing

The Sponsor shall qualify for and obtain the financial assistance, loans and grants described in the Application for both the construction and permanent periods. Final terms and conditions of the non-Department financing must substantially conform to the terms and conditions of the Sponsor's Program Loan Application. The terms and conditions of all financing shall be subject to the Department's review and approval.

21. Senior Loan Terms and Disclosures

The terms of loan(s) in a lien position senior to the Program Loan must comply with all the underwriting standards of UMR Sections 8310 and 8315, as may be modified by the Program Guidelines.

No subordination may limit the Department's remedies and must comply with UMR Section 8315.

Balloon payments are not allowed on senior debt, except as provided pursuant to UMR section 8310. Senior loans are prohibited from including call option language in the terms of the loan other than is reasonable in case of default, nor may Sponsor be required to remarket Bonds prior to expiration of the senior loan. Financial instruments on senior loans (including but not limited to swaps, collars, and interest rate hedges)

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must extend for the full term of the senior loan and cannot be required to be renewed or extended prior to the end of the full term.

Sponsors must obtain an interest rate cap on any interest rate that is not fixed for the full term of the senior loan. The interest rate at the cap must not jeopardize project feasibility. Interest rate resets, renewals, extensions of letters of credit, or other senior loan provisions, must not require the Sponsor to re-qualify.

All payments, lender fees, bond fees, issuer fees, trustee fees, letter of credit fees, swaps fees, hedge fees, enhancement fees, credit facility and liquidity fees, and other fees, charges and costs, in addition to principal and interest payments, must be fully disclosed to the Department in the loan closing transaction summary and in the operating budget.

The Department's lien shall not be subordinated to the liens of a lender affiliated with an entity that has an ownership interest in the Project unless a covenant, regulatory agreement, or similar instrument is recorded senior to the lender's documents that includes the provisions of UMR Section 8310(f), as may be modified by the Program Guidelines.

22. Environmental Conditions

The Sponsor shall provide a Phase I Environmental Site Assessment ("ESA") for the Development, in conformance with ASTM Standard Practice E 1527, evaluating whether the Development is affected by any recognized environmental conditions. In the event the Phase I ESA indicates evidence of recognized environmental conditions and the Sponsor desires to proceed with the Development, the Sponsor shall provide the Department with a Phase II report and such further reports as required by the Department in a form acceptable to the Department. Any remediation work to be performed shall be subject to Department approval. The Sponsor shall also provide an asbestos assessment and a lead-based paint report for the Department's approval if the Development involves rehabilitation or demolition of existing improvements.

23. Article XXXIV

All Projects shall comply with Article XXXIV, Section 1 of the California Constitution ("Article XXXIV"), as clarified by the Public Housing Election Implementation Law (Health & Safety Code, §§ 37000 – 37002). Prior to the award of funds by the

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Department, the Sponsor shall submit documentation which shows, to the Department's satisfaction, that the Project complies with or is exempt from Article XXXIV.

CONSTRUCTION PHASE REQUIREMENTS

24. Construction Phase Information

If requested by the Department, the Sponsor shall provide the Department information during the construction period including but not limited to all change orders and modifications to the construction documents, all inspection reports prepared by the Development architect and other consultants, and information relative to Development income, expenses, occupancy, relocation benefits and expenses, contracts, operations and conditions of the Development. Upon written notice to Sponsor, Department may require its advance written approval of all future change orders and modifications. Deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they shall be deemed accepted if not rejected in writing within 10 business days of receipt by the Department. Sponsor shall not authorize or approve any change orders rejected by the Department.

25. Inspection

The Department and any authorized representative of the Department shall have the right, during construction and thereafter, to enter upon and inspect the construction of the Development. Such right to inspect shall include, but shall not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection shall be exercised in a reasonable manner. The Department shall have no affirmative duty to inspect the Development and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Sponsor, the contractor, the construction lender, the architect, the structural engineer, the locality, or anyone else of any obligation to inspect the Development.

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26. Updated Information

Sponsor shall provide the Department updated documentation for any change in the information previously provided relating to the Program Award, including updated sources and uses and income information. All changes shall be subject to Department approval. However, if the Development is changed in any way as to make it ineligible under the Guidelines, then the Program Award commitment will be cancelled, and all Program funds awarded to the Sponsor shall be disencumbered.

27. Evidence of Existence of Application Selection Criteria

Upon request, Sponsor shall provide to the Department evidence of the existence of the amenities, services, improvements, features and characteristics of the Development which were included in the Application and as set forth in the Project Report and awarded points under Section 205 of the Guidelines in the Department's rating of the Application.

28. Signage

Sponsor shall place signs on the construction site for the Work stating that the Department is providing financing through the NPLH Program in an appropriate location(s), typeface and size containing the following message:

THE PARCEL PHASE I

**THIS PROJECT HAS BEEN MADE POSSIBLE
BY FINANCING FROM**

NO PLACE LIKE HOME PROGRAM

**THROUGH THE
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

The sign shall be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders, the Department acknowledgment and logo shall also be displayed in a similar size and layout. Copies of the Department logo can be obtained by contacting the Department Contract Manager.

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Upon installation of the sign, the Sponsor shall submit a digital photograph thereof to the Department to verify compliance with these signage requirements.

29. Photographs

The Sponsor will provide the Department, upon request, with copies of any photographs that may be taken of the Development by or on behalf of the Sponsor or the Development's architect. The Sponsor will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

COMPLETION OF CONSTRUCTION

30. Relocation Plan Implementation Report

90 days prior to construction loan close or prior to any displacement, whichever is sooner, the Sponsor must comply with applicable local, state and federal relocation requirements of Government Code section 7260 et seq. and California Code of Regulations, title 25, section 6000 et seq. including a relocation plan (if necessary) approved by the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements 90 days prior to construction loan close or prior to any displacement, whichever is sooner. The Sponsor shall provide a report, in a form acceptable to the Department, summarizing the actions taken and identifying all Sponsors of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each Sponsor.

31. Architect Certification

Where required by the Department, the Sponsor shall cause the Development architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the "as-built" plans and specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

32. Cost Certification

At the request of the Department, the Sponsor shall submit a Development cost certification audited by an independent certified public accountant in accordance with

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the requirements of the Department and TCAC, if applicable. The Sponsor (and the developer or builder if there is an identity of interest with the Sponsor) shall keep and maintain records of all construction costs not representing work done under the construction contract and to make such records available for review by the Department.

33. Recorded Notice of Completion

The Sponsor shall provide to the Department a certified copy of any Notice of Completion for the Development recorded in the county in which the Development is located.

PROGRAM LOAN CLOSING REQUIREMENTS

The Department shall not be obligated to close or fund the Program Loan unless the Sponsor has complied with and satisfied all the terms and conditions of the Guidelines, the NOFA, this Agreement, representations made in the Application and the criteria set forth in the Project Report, all in a manner satisfactory to the Department in its sole discretion, on or before the earlier of the Program Loan Closing, the Program Loan closing deadline or such earlier time, all as indicated herein.

34. Development Construction

The Development shall be constructed in compliance with the plans and specifications, subject to any change order(s) accepted by the Department where such acceptance is required.

35. Title Insurance

The Sponsor shall provide an updated title report and an ALTA As-Built Survey acceptable to the Department. The Sponsor shall provide a pro forma ALTA lender's policy of title insurance if requested by Department. The Sponsor shall ensure the issuance to the Department of an ALTA lender's policy of title insurance. The condition of title, insurer, liability amount, form of policy and endorsements shall be subject to the approval of the Department. Such endorsements shall include, but not be limited to a CLTA endorsement 100, and may include, but shall not be limited to, CLTA endorsements 105, 110.9 and 116 (modified for apartments). The policy shall insure that the Sponsor holds good and marketable fee simple title (or leasehold, if approved by Department) and that the Department holds a fee mortgage (or leasehold) lien on the Development, free and clear of all encumbrances, encroachments, other interests and

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exceptions to title other than as shall have been previously approved in writing by the Department. The Department's Deed of Trust and Regulatory Agreement and the other loans indicated under "Permanent Funding" in the Application shall have the lien priority as indicated in the Application.

36. Sponsor's Status

The Sponsor shall provide the Department with copies of all organizational documents, including but not limited to, partnership agreements, operating agreements, corporate documents, and related documents and agreements, as required by the Department. As of the date of the Program Loan closing, the Sponsor and Borrower shall be a duly organized and validly existing limited or general partnership, corporation, limited liability company, nonprofit public benefit corporation, or other valid legal entity under California law. The Sponsor or Sponsor-controlled Borrower has and shall have the authority to enter into the Program Loan and related loan documents.

37. Prevailing Wage Compliance

Where applicable, prevailing wage rates shall be paid with respect to the construction work, as the term is defined in the Standard Agreement, performed in connection with the Development. Prior to closing the Program Loan, a certificate signed by the general contractor(s) and the Sponsor is required, certifying that prevailing wages have been, or will be, paid in conformance with Labor Code Section 1720 et seq., and that labor records shall be maintained and made available to any enforcement agency upon request.

38. Insurance

The Sponsor shall obtain and maintain for the term of the Program Loan hazard and liability insurance for the Development in accordance with the Department's requirements, including flood insurance if applicable. The Department shall be named as a loss payee or an additional insured on all such policies. Such policies also shall provide for notice to the Department in the event of any lapse of coverage and in the event of any claim thereunder. The Sponsor shall provide evidence satisfactory to the Department of compliance with these insurance requirements.

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39. Program Loan and Grant Documents

The Sponsor shall enter into this Standard Agreement with the Department, which shall govern the encumbrance by the Department of the funds to be used to fund the Program Award. In addition, the Sponsor shall enter into a Regulatory Agreement(s) with the Department, governing certain matters related to the use, operation and occupancy of the Development, including, but not limited to, the imposition of certain low income occupancy requirements, regulation of rents on the low income units, audits and other financial controls and reserve requirements, management oversight by the Department, compliance with federal and state laws, and other Department requirements. In addition to the Regulatory Agreement(s), the loan shall be evidenced by a Promissory Note and secured by a Deed of Trust. The Regulatory Agreement shall be recorded prior to the Department's Deed of Trust. Finally, any award of the COSR shall be evidenced by a COSRA, which performance of the covenants and conditions thereof shall be secured by the Deed of Trust. The Sponsor shall execute and enter into additional agreements and documents, as the Department may deem reasonable and necessary to meet the NPLH requirements and the terms and conditions of this Agreement. The Sponsor and any affiliate of the Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, shall execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Development.

40. Restrictions on Transfer and Change of Ownership

The Sponsor shall not, without the prior written approval of the Department: a) sell, transfer, convey, encumber, hypothecate or pledge any of the Development or the Development property, or any portion or interest in either of them; b) discharge or replace any general or managing partner if Sponsor is a partnership, or amend, modify or add to its partnership agreement except that the Sponsor may sell or transfer limited partnership interests without the Department's approval; c) if Sponsor is a limited liability company: change the manager(s), amend, modify or add to its operating agreement or management structure; d) wind up, liquidate or dissolve its affairs or enter into any transaction of merger or consolidation; or e) change the organizational structure of the Sponsor. Other requirements governing sales, transfers, and encumbrances in Section 216 of the Program Guidelines must also be satisfied.

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41. Rental Subsidy Contract

The Sponsor shall provide the Department with complete copies of all contracts and amendments thereto, regarding rental subsidies to be provided to tenants residing in the Development.

42. Substitution of Rent or Social Service Subsidy

Sponsor may substitute a source of funding equivalent to the original rent or social service subsidy. The amount, terms and conditions of the new source of funding must provide an equivalent or greater level of subsidy to the project, acceptable to the Department.

43. Final Certificate of Occupancy

The Sponsor shall provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

44. Environmental Conditions Remedial Work

All remedial work on recognized environmental conditions shall be completed prior to loan closing. The Sponsor shall provide the Department with an environmental update/operations and maintenance plan if remedial work was required with evidence of lead-based paint and/or asbestos-containing materials remediation if applicable.

45. Reserve Accounts

The Sponsor shall establish and maintain reserve accounts as required by the Department and as further described in the Regulatory Agreement. All withdrawals shall require prior written approval from the Department, as provided in the Regulatory Agreement.

46. Operating Reserve Account

The Sponsor shall fund an operating reserve account in accordance with Section 8308 of the UMRs and subject to the requirements thereof. The specific amount of the Operating Reserve Account shall be set forth in the Regulatory Agreement.

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47. Replacement Reserve Account

The Sponsor shall establish a replacement reserve account in accordance with Section 8309 of the UMRs. The replacement reserve account shall be funded by monthly deposits from operating income or a combination of operating income and development sources as indicated in the Regulatory Agreement. The amount of the monthly deposits may be adjusted, as determined by the Department, in its sole discretion, based on reserve studies performed by an independent third party at the Sponsor's expense as requested by the Department or as based on other reliable indicators of future reserve needs.

48. Capitalized Reserve Accounts

If Program funds are used to fund a reserve account, the Department shall disburse such funds in a manner to ensure the proper funding of the reserve. The proceeds of the Program Award may be used to capitalize only the operating reserve accounts and in an amount required by UMRs Sections 8308 and Section 209 of the Guidelines. Proceeds of the Program Award may not be used to capitalize rental subsidy reserves, except as authorized in accordance with the above-mentioned sections.

All reserves capitalized under Section 209 of the Guidelines shall be provided by the Department in the form of a grant shall be evidenced by a COSRA, which shall be secured by a deed of trust recorded against the real property of the housing development in favor of the Department, for the purpose of securing performance of the covenants and conditions of the COSRA. The lien shall endure for the duration of the grant agreement and shall be subject to the provisions of Section 209 and other applicable provisions of the Guidelines. The security for the grant agreement shall be recorded junior only to such liens, encumbrances, and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of the Applicant's Program obligations.

49. CalHFA and HUD Funded Projects

Projects subject to the HUD Section 811 and 202 programs or receiving a permanent loan from CalHFA shall not be subject to Program reserve requirements during the time such projects are regulated by HUD or CalHFA and the Sponsor complies with the applicable CalHFA or HUD reserve requirements.

No Place Like Home (NPLH) – Round 3

NOFA Dates: August 15, 2018, as amended October 30, 2018, and on October 23, 2020 (Noncompetitive Allocation) and/or October 23, 2020 (Competitive Allocation)

Approved Date: 3/9/2021

Prep. Date: 7/22/2021

EXHIBIT D

50. Asset Management and Compliance Requirements

The Sponsor shall obtain the Loan Closing Checklist in the course of closing the NPLH loan, and must submit all documents required, for the Department's approval, including but not limited to the following (in a format provided or approved by the Department): a) a proposal for management agent with management agent's qualifications attached; b) a management contract; c) a management plan; d) a template residential tenant lease; e) an initial-year operating budget and Schedule of Rental Income (SRI); and f) property hazard and liability insurance in accordance with the then-current HCD Insurance Guidelines. Prior to close of the Program Loan, the Sponsor shall obtain the Department's review and approval of the above-mentioned items a) through f) and any additional documents required by the Department.

Furthermore, the Sponsor shall be provided links to HCD's Asset Management and Compliance webpage, which, in conjunction with the Regulatory Agreement, sets forth the obligations and requirements for the use, operation and occupancy of the Development, including but not limited to: annual reporting requirements which include but are not limited to budgets, SRIs, and supportive housing services plans; audit requirements; and other obligations as determined (and may be amended from time to time) by the Department and noted on the webpage.

51. Supportive Services

The County shall ensure that the supportive service requirements of Section 203 of the Program Guidelines are met. The County must provide mental health services and coordinate the provision of or referral to other supportive services, including but not limited to substance use treatment services, to NPLH tenants for a minimum of 20 years. The County's obligations pursuant to this requirement shall begin when a Project receives its certificate of occupancy, or other evidence of Project completion for Projects already occupied.

52. Tenant Referrals, Affirmative Fair Housing Marketing Plan, and Fair Housing Compliance

Sponsor shall be required to use their local homeless Coordinated Entry System, or other similar referral system for persons At-Risk of Chronic Homelessness, as set forth in Section 211 of the NPLH Guidelines and their Application. Sponsor shall develop and implement an affirmative fair housing marketing plan satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing

No Place Like Home (NPLH) – Round 3

NOFA Dates: August 15, 2018, as amended October 30, 2018, and on October 23, 2020 (Noncompetitive Allocation) and/or October 23, 2020 (Competitive Allocation)

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Prep. Date: 7/22/2021

EXHIBIT D

management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for assisted units in the Development. Sponsor is encouraged to refer to HUD's guidelines and other guidance for Affirmative Fair Housing Marketing Plans done with use of a Coordinated Entry System. Sponsor shall comply with all state and federal fair housing laws. At the Department's election, Sponsor must submit an attorney's opinion acceptable to the Department describing the intended occupancy restrictions and how they comply with the Unruh Civil Rights Act in the California Civil Code and the Fair Employment and Housing Act in the California Government Code. Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws. Any additional subpopulation targeting or occupancy preference for an NPLH Project beyond what is permitted under Section 206 of the Program Guidelines must be approved by the Department in writing prior to construction loan closing and must be consistent with federal and state fair housing requirements. The project integration requirements of Section 202 (e) of the Program Guidelines must also be satisfied.

Pursuant to Welfare and Institutions Code Section 5849.9 and Guidelines Section 211, Projects utilizing funds from a County's Noncompetitive Allocation shall prioritize persons with mental health supportive service needs who are Homeless or At-Risk of Chronic Homelessness.

53. Identification of Elderly and Veteran Units

If applicable, Sponsor must submit a report that specifically identifies the number of units rented to the elderly. The report must also specifically identify the number of units rented to military veterans.

54. TCAC and Other Regulatory Agreements

The Sponsor shall provide the Department with a copy of the TCAC Regulatory Agreement if the Development budget includes tax credits and any other regulatory agreements pertaining to the Development.

55. Property Tax Exemption

Unless expressly waived in writing by the Department, Sponsor shall provide evidence of eligibility for property tax exemption for the Development and a copy of the tax exemption application to the local tax assessor(s).

No Place Like Home (NPLH) – Round 3

NOFA Dates: August 15, 2018, as amended October 30, 2018, and on October 23, 2020 (Noncompetitive Allocation) and/or October 23, 2020 (Competitive Allocation)

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Prep. Date: 7/22/2021

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56. Compliance with State and Federal Laws, Rules, Guidelines and Regulations

The Sponsor agrees to comply with all State and Federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Sponsor, its Contractors or Subcontractors, and any loan activity.

57. Change of Conditions

The Department reserves the right to re-underwrite the Development based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Development and the maintenance of the security position of the Program Loan. If the new information demonstrates a reduction or elimination of financing gap being addressed by the Program loan or grant, the Department will reduce the amount of the Award accordingly. If the Department has underwritten the Program Loan using CalHFA or HUD requirements and the Development subsequently does not utilize the CalHFA or HUD financing, the Program Loan will be re-underwritten by the Department using Program requirements. In the event the Department determines the Development is no longer financially feasible, the Award and any loan or grant commitment issued by the Department may be revoked.

58. Investor Commitments

If the Development will be receiving an allocation of tax credits from TCAC, the Sponsor shall provide the Department with a copy of all tax credit investor commitments, including referenced financial projections and any amendments.

59. Restricted Units

All units designated in the Application approved by the Department as restricted units that are not also assisted units, shall be restricted on a long-term basis by a public agency at the income and rent levels shown in the Application. Similarly, all units designated in the Application as restricted units and that are not also assisted units, shall be restricted on a long-term basis by a public agency to the designated target population.

EXHIBIT D

60. Asset Management Fees

Asset management, partnership management, and similar fees shall be in compliance with UMR Section 8314(a)(1)(B).

61. Sponsor Representations

- A. Sponsor represents and warrants that as of the date of this Agreement, the Sponsor is a duly organized and validly existing entity under California law and the person signing this Agreement on behalf of Sponsor has the authority to act on behalf of and bind the Sponsor in accordance with the terms of this Agreement.
- B. Sponsor represents and warrants that as of the date of the Program Loan closing, the Sponsor is a duly organized and validly existing limited partnership under California law and that such limited partnership will have the authority to enter into the Program Loan and related loan documents.
- C. Sponsor further represents and warrants that as of the date of the Program Loan closing, the person(s) executing the Program Loan documents will have full authority to act on behalf of and bind the Sponsor in accordance with the terms of those documents.

62. Survival of Obligations

The obligations of the Sponsor and any other entity designated to receive any COSR disbursements as set forth in this Agreement shall survive the Program Loan permanent closing, and these parties shall continue to cooperate with the Department and perform acts and provide documents as provided herein.

63. Litigation

If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable. The Sponsor shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department and shall take such action with respect to the claim or

No Place Like Home (NPLH) – Round 3

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EXHIBIT D

action as is consistent with the terms of this Agreement and the interests of the Department.

64. Obligations of Sponsor with Respect to Certain Third-Party Relationships

The Sponsor shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Development with respect to which assistance is being provided under this Agreement. The Sponsor shall comply with all lawful requirements of the Department necessary to ensure the completion, occupancy and use of the Development in accordance with this Agreement.

65. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Sponsor of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

66. Audit/Retention and Inspection

- A. The Department, its representatives or employees, or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Sponsor and any other entity designated to receive COSR disbursements shall provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Sponsor and any other entity designated to receive COSR disbursements further agrees to maintain such records for a minimum period of four years after final payment under the Agreement, unless a longer period of records retention is stipulated.
- B. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Development. At the Department's request, the Sponsor and any other entity designated to receive COSR disbursements shall provide, at its own expense, a financial audit prepared by a certified public accountant.

No Place Like Home (NPLH) – Round 3

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- C. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- D. If there are audit findings, the audited party(ies) shall submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends, and the Department will notify the audited party(ies) in writing. If the Department is not in agreement, the audited party(ies) will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.
- E. If so, directed by the Department upon termination of this Agreement, the Sponsor and any other entity designated to receive COSR disbursements shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

67. Reporting Requirements

The County must satisfy the reporting requirements of Section 214 of the Program Guidelines as specified on forms provided by the Department. In addition, upon the Department's request, the Sponsor shall provide to the Department any and all necessary data that it is legally and factually able to provide that is required to be reported pursuant to the most recently adopted Program Guidelines.

68. Governing Law

This Agreement shall be construed with and be governed by the laws of the State of California. All references to codes refer to the California Codes.

EXHIBIT E

SPECIAL CONDITIONS

The following Special Conditions are applicable to this Standard Agreement:

1. Payee(s)

The authorized Payee(s) is/are as specified below:

Capital Funds (Loans):

Noncompetitive Amount: \$500,000.00

Payee Name: Mammoth Lakes Pacific Associates, a CA Limited Partnership

2. The Sponsor who garnered the experience points at the application stage must be the Sponsor who controls the borrowing entity at construction, through permanent close of escrow, and into management and operation of the project. Organizational documents demonstrating that the experienced Sponsor has the authority to exercise control of the borrowing entity in compliance with Section 8301(s) of the Uniform Multifamily Regulations (UMR) must be submitted to the Department for review and approved by the Department prior to execution of the Standard Agreement.
3. Not less than 60 days prior to construction loan closing, the Applicant shall provide updated financial documents including, but not limited to the development budget, development sources and uses, schedule of rents and unit mix, operating budget and 15-year cash-flow analysis, which are acceptable to the Department and demonstrate compliance with all applicable Program regulations or guidelines and the Uniform Multifamily Regulations (UMR).
4. All proposed changes to the project, including but not limited to project financing, rents and unit mix, scope of work to be performed or Borrower's organizational structure must be submitted to and approved by the Department in writing.
5. The Project has not fully satisfied all the NPLH Supportive Housing Project requirements specified in the NOFA and application. Prior to occupancy, the Sponsor shall submit for Department approval documentation, including, but not limited to, tenant selection procedures demonstrating compliance with UMR § 8305 and Housing First

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Prep. Date: 7/22/2021

EXHIBIT E

requirements as set forth in Welfare and Institutions Code § 8255(b) and documentation supporting a supportive services plan sufficient to meet the needs of the target population.

6. Relocation. Prior to construction loan close, the Sponsor must comply with applicable local, state and federal relocation requirements of Government Code section 7260 et seq. and California Code of Regulations, title 25, section 6000 et seq. including a relocation plan which shall be subject to the approval of the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.
7. Article XXXIV. The sponsor must demonstrate compliance with Article XXXIV prior to construction closing.
8. Environmental. Prior to permanent loan conversion and before funding the NPLH Loan, the Sponsor must demonstrate to the satisfaction of the Department, that the environmental conditions described in NPLH Guidelines Section 202(j), have been satisfied.
9. Per Section 200 of the Guidelines, all projects have 36 months from the date of the NPLH award to close their construction loan. This timeframe may be extended by up to 24 months. Projects with uncommitted or proposed funding sources must abide by these time frames.
10. Capacity to Contract. Contractor has the capacity and authority to fulfill the obligations required of it hereunder and nothing prohibits or restricts the right or ability of Contractor to carry out the terms hereof.
11. Authority to Execute. Each Party executing this Agreement represents that it is authorized to execute this Agreement. Each person executing this Agreement on behalf of an entity, other than an individual executing this Agreement on his or her own behalf, represents that he or she is authorized to execute this Agreement on behalf of said entity.
12. HCD Programs. The project is governed by the requirements of the No Place Like Home Program. To the extent that the requirements of the No Place Like Home Program conflicts with other HCD programs also awarded to this project, the Department will apply and monitor the most restrictive requirements. Any uncommitted or proposed HCD funding sources listed in this project report does not imply nor

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Approved Date: 3/9/2021

Prep. Date: 7/22/2021

EXHIBIT E

guarantee an award from the Department. Any uncommitted or proposed HCD funding sources are subject to the relevant program's regulations and guidelines under which the Sponsor applies for funds.

DRAFT

Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement

The Parcel Phase 1

Certification Regarding Non-Application of Relocation Benefits

This document is used by the Sponsor(s) of a housing project to show and certify that no relocation plan was necessary for the project. The certification is regarding a certain project known as The Parcel Phase 1 on real property located at Tavern Road and Center Street, Mammoth Lakes, CA 93546, and described in Exhibit A attached hereto (the "Project").

This Certification is made by County of Mono, a public entity; Town of Mammoth Lakes, a municipal corporation; and Pacific West Communities, Inc., an Idaho corporation (collectively the "Sponsor"), for the benefit of the Department of Housing and Community Development, a public agency of the State of California, its successors and assigns (the "Department"), and is dated as of April 13, 2022, for reference purposes. The Sponsor, through its organizational structure, controls Mammoth Lakes Pacific Associates, L.P., a California limited partnership (the "Borrower"), which owns the aforementioned Project.

In conducting its due diligence, the Department requested that the Sponsor provide any and all information relating to potential project relocation issues, under applicable relocation law, as defined herein. In response, Sponsor provided the Department the following information and documents supporting its position that a relocation plan is not required pursuant to relocation law. The documents listed below are incorporated by reference as **Exhibit B**:

1. Appraisal Of The Parcel Phase I Site dated January 20, 2021, prepared by Kinetic Valuation Group, Inc.
 - "The Subject site area is 2.50 acres and is currently vacant." (Page 1 of Report)
 - Aerial photograph (Page 31 of Report).
 - Site photographs (Addendum B – Subject Photographs and Information of Report).
2. A letter from Pacific West Communities (the Sponsor) dated February 10, 2021.
 - "This letter confirms the 2.50 acre site being proposed for development of the affordable housing development to be called the Parcel Phase I located at Tavern Road and Center Street in Mammoth Lakes is vacant and therefore does not trigger a relocation plan."

The Parcel Phase I is an 81 unit new construction project with 21 studio, 18 one-bedroom, 21 two-bedroom, and 21 three-bedroom units. 64 units will serve households with incomes ranging from 30-80 percent of Area Median Income (AMI), 16 will be market rate units, and 1 manager's unit. Of the total units, 4 zero bedroom, 2 one-bedroom, 1 two-bedroom, and 1 three-bedroom units will be reserved for No Place Like Home (NPLH) qualified households with incomes at or below 30 percent AMI. The project will consist of two (2) four-story residential podium buildings. Each building will consist of three residential floors over one level of podium parking with centrally located stairways and elevators. Project amenities include community center, community office / leasing center, lobby, lounges, laundry facilities, podium parking, elevators, bicycle parking, outdoor children's playground, and covered picnic area. Unit amenities include refrigerators, exhaust fans, dishwashers, garbage disposals, and ranges with ovens. Off-site amenities, located within two miles of the project include major shopping, schools, and recreational amenities located within a short distance of the Subject. Access to groceries, pharmacy and shopping is convenient, and within reasonable walking distance.

The Sponsor was awarded \$38,656,617.00 California Housing Accelerator (Accelerator) Tier 1 funds, \$500,000.00 No Place Like Home (NPLH) funds and \$20,601,216.00 Infill Infrastructure Grant (IIG) Program funds. All Department funding, including but not limited to those funds that are described above and any and all other HCD funding (loans or grants) that may not have been awarded or identified at the time of the execution of this document is collectively referred to as "Department Funding." The Sponsor fully warrants and represents, as detailed here, that the Project is not subject to Relocation Law as described below.

Sponsor acknowledges the following:

Relocation as a body of law is detailed under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Federal Relocation Law"); California Government Code 7260 et seq, and the Relocation Regulations (Title 25 of the California Code of Regulations Section 6000 et seq) ("State Relocation Law"). Collectively "Federal Relocation Law" and "State Relocation Law" are referred to hereinafter as "Relocation Law".

Sponsor acknowledges that Federal and State Relocation Assistance laws provide uniform, fair and equitable treatment for persons whose real property is acquired or who are displaced as a result of government or government-assisted programs or projects. Tenant occupants who are displaced as a result of the acquisition may be eligible for all applicable relocation benefits. A tenant-occupant who moves as a result of a voluntary acquisition for a government-assisted project may be eligible for relocation assistance as a displaced person. Such displaced persons may include not only current lawful occupants, but also former tenants required to move for any reason other than an eviction for cause in accordance with applicable Relocation Law.

Sponsor has not used the services of a recognized relocation specialist in determining that relocation assistance is not applicable.

Representations

The Sponsor has represented to the Department the following: (a) that the new construction of the Project will not result in temporary or permanent relocation of any tenant or owner-occupant; (b) the Project construction work will be done on vacant land and therefore no relocation will be required.

The Sponsor has also represented to the Department the following: (a) the vacant land was not intentionally created to be vacant so as to circumvent relocation law; (b) there was no owner-occupant or tenant or mobile home or business (which at minimum includes a parking business, billboards and other forms of outdoor advertising displays) or, farm previously on the vacant land; (c) no person or entity was required to move personal property from vacant land; (d) no advertising signs were lost in creation of the vacant land and (e) there was no 'displaced person' pursuant to Government Code 7260(b), (c) and (d); whereby a "displaced person" is a person who is entitled to relocation assistance when he or she must move from real property, or move personal property from real property, as a direct result of a notice of intent to acquire, or acquisition of real property for a program or project by a public entity, or acquisition by any person having an agreement with or acting on behalf of a public entity; (f) no prior lease (on the vacant land) was intentionally not renewed to create the vacant land; (g) no person's property was acquired in connection with a state or federally funded project; and (h) no person's property was displaced in connection with a state or federally funded project.

The Sponsor fully warrants and represents, and the Department relies upon Sponsor's representation as detailed herein, that the Project is not subject to Relocation Law. This **Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement** encumbers all Department Funding.

Certification

Sponsor certifies the vacant land contains only vacant land which was not vacated for the Project (i.e. previous tenants were not displaced for the Project).

Sponsor certifies no previous occupants were displaced from their homes, businesses, or farms for the Department's Project as a result of an owner refusing to renew a lease, i.e. the property was not vacated for the Project.

Sponsor certifies that as a result of construction of the Project, no housing, business nor farm will be affected, no personal property was required to be moved, and no households will have to be displaced.

The undersigned, the Sponsor, do hereby certify as follows:

1. The foregoing is true and correct;
2. The Sponsor is duly authorized to execute, in its name, all documents and certifications required by the Department in order for it to carry out any construction of the Project and Sponsor will comply with Relocation Law requirements;
3. That the Department would not approve the construction of the Development without this certification; and
4. It is understood that if relocation benefits are found to be applicable then the Sponsor shall prepare a relocation plan and shall be solely responsible for providing the assistance and benefits as applicable and required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (California Government Code 7260 et seq), and the Relocation Guidelines (Title 25 of the California Code of Regulations Section 6000 et seq); and Sponsor shall indemnify and hold harmless the Department from any liabilities or claims for relocation-related costs; (see below Indemnity Agreement.).

[Remainder of the page left blank. Signatures follows on the next page of this Certification.]

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SPONSOR:
County of Mono,
a public entity

By: _____

Robert Lawton
County Administrative Officer

Date: _____

AND

Town of Mammoth Lakes,
a municipal corporation

By: _____

Daniel C. Holler
Town Manager

Date: _____

AND

Pacific West Communities, Inc.,
an Idaho corporation

By: _____

Caleb Roope
President and CEO

Date: _____

[Remainder of the page left blank. Indemnification Agreement follows on the next page of this Certification.]

Indemnification Agreement

The purpose of the Indemnification Agreement is to allow the Department to be held harmless in connection with any and all potential legal costs and liabilities in conjunction with accepting certification from the Sponsor that permanent or temporary relocation was not necessary under Relocation Law. As part of the construction of the Project, Sponsor agrees to defend, indemnify, release and hold harmless the Department, its agents, officers, attorneys, employees, committees, successors and assignees from any and all claims, liabilities, damages, losses, attorney fees, expenses, costs, actions, or proceedings threatened, asserted, or brought against any of the foregoing individuals or entities related to or arising from the Project. This indemnification shall include, but not be limited to, all damages, liabilities, claims, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the Sponsor, except loss or liability suffered by the Department caused solely by the Department's sole negligence or willful misconduct. If, for any reason any portion of this Indemnification Agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect. The obligations of the Sponsor under this Indemnification Agreement shall be absolute and unconditional and shall survive the construction of the Project and all Department funding.

NOTE: The purpose of the Indemnification Agreement is to allow the Department to be held harmless in connection with any and all potential legal costs and liabilities in conjunction with accepting certification from Sponsor that no relocation plan was necessary.

[Remainder of the page left blank. Signatures follows on the next page of this Indemnification Agreement.]

SPONSOR:
County of Mono,
a public entity

By: _____
Robert Lawton
County Administrative Officer

Date: _____

AND

Town of Mammoth Lakes,
a municipal corporation

By: _____
Daniel C. Holler
Town Manager

Date: _____

AND

Pacific West Communities, Inc.,
an Idaho corporation

By: _____
Caleb Roope
President and CEO

Date: _____

[Remainder of the page left blank. Exhibit A follows on the next page of this Indemnification Agreement.]

Exhibit A

Legal Description of the Property

THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

PARCEL 1:

NORTH HALF NORTHEAST QUARTER SOUTHEAST QUARTER SOUTHWEST QUARTER NORTHWEST QUARTER; NORTHWEST QUARTER SOUTHEAST QUARTER SOUTHWEST QUARTER NORTHWEST QUARTER; WEST HALF SOUTHWEST QUARTER SOUTHEAST QUARTER SOUTHWEST QUARTER NORTHWEST QUARTER; SOUTH HALF NORTHEAST QUARTER SOUTHWEST QUARTER NORTHWEST QUARTER; SOUTH HALF NORTHWEST QUARTER SOUTHWEST QUARTER NORTHWEST QUARTER; SOUTHWEST QUARTER SOUTHWEST QUARTER NORTHWEST QUARTER SECTION 35, TOWNSHIP 3 SOUTH, RANGE 27 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL 2:

LOT 18 OF MAMMOTH CENTER SUBDIVISION, IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3, PAGES 26, 27 AND 28 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

Exhibit B

Consists of the following pages:

1. Appraisal Of The Parcel Phase I Site dated January 20, 2021, prepared by Kinetic Valuation Group, Inc.
 - “The Subject site area is 2.50 acres and is currently vacant.” (Page 1 of Report)
 - Aerial photograph (Page 31 of Report).
 - Site photographs (Addendum B – Subject Photographs and Information of Report).

2. A letter from Pacific West Communities (the Sponsor) dated February 10, 2021.
 - “This letter confirms the 2.50 acre site being proposed for development of the affordable housing development to be called the Parcel Phase I located at Tavern Road and Center Street in Mammoth Lakes is vacant and therefore does not trigger a relocation plan.”



R22-__

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
SUPERSEDING AND REPLACING RESOLUTION NO. R20-99
AUTHORIZING THE COUNTY'S PARTICIPATION IN THE NO PLACE LIKE HOME
PROGRAM (NON-COMPETITIVE) TO CORRECT MINOR ERRORS THEREIN**

WHEREAS, the State of California, Department of Housing and Community Development ("Department") issued a Notice of Funding Availability, dated August 15, 2018 as amended on October 30, 2018, and in October 23, 2020, and as may be further amended from time, (collectively, the "NOFA") under the No Place Like Home Program ("NPLH" or "Program") authorized by Government Code section 15463, Part 3.9 of Division 5 (commencing with Section 5849.1) of the Welfare and Institutions Code, and Welfare and Institutions Code section 5890;

WHEREAS, the NOFA relates to the availability of approximately \$190 million in Noncompetitive Allocation funds under the NPLH Program; and

WHEREAS, the County of Mono ("County") is an Applicant within the meaning of Section 101(c) of the current NPLH Program Guidelines, dated October 23, 2020 ("Guidelines").

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for County does hereby determine and declare as follows:

SECTION 1. That County is hereby authorized and directed to apply for and accept the NPLH Program funds, as detailed in the NOFA up to the amount authorized by Section 102 of the Guidelines and applicable state law.

SECTION 2. That the County Administrative Officer or his or her designee, is hereby authorized and directed to act on behalf of County in connection with the NPLH Noncompetitive Allocation award, and to enter into, execute, and deliver a State of California Standard Agreement ("Standard Agreement"), a regulatory agreement, a promissory note, a deed of trust and security agreement, and any and all other documents required or deemed necessary or appropriate as security for, evidence of, or pertaining to the NPLH Program funds, and all amendments thereto (collectively, the "NPLH Program Documents").

SECTION 3. That County shall be subject to the terms and conditions that are specified in the Standard Agreement; that the application in full is incorporated as part of the Standard Agreement; that any and all activities funded, information provided, and timelines represented in

1 the application are enforceable through the Standard Agreement; and that County will use the
2 NPLH Program funds in accordance with the Guidelines, other applicable rules and laws, the
3 NPLH Program Documents, and any and all NPLH Program requirements.

4 SECTION 4. That County will make mental health supportive services available to a
5 project's NPLH tenants for at least 20 years, and will coordinate the provision of or referral to
6 other services (including, but not limited to, substance use services) in accordance with the
7 County's relevant supportive services plan in accordance with Welfare and Institutions Code
8 section 5849.9(a).

9 SECTION 5. This Resolution shall supersede and replace, in its entirety, Resolution
10 R20-99 of the same topic, making minor alterations and corrections thereto.

11 **PASSED, APPROVED and ADOPTED** this 19th day of April, 2022, by the following
12 vote, to wit:

13 **AYES:**

14 **NOES:**

15 **ABSENT:**

16 **ABSTAIN:**

17
18
19
20 _____
21 Bob Gardner, Chair
22 Mono County Board of Supervisors

23 **ATTEST:**

24 **APPROVED AS TO FORM:**

25
26 _____
27 Clerk of the Board

28
29 _____
30 County Counsel



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

Departments: CAO, Finance

TIME REQUIRED 20 minutes

SUBJECT Mono County Budget Policy

**PERSONS
APPEARING
BEFORE THE
BOARD**

Robert C. Lawton, CAO; John Craig,
ACAO; Megan Mahaffey, Accountant
III

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Review and discuss changes to current policy for 2022-2023 Budget development.

RECOMMENDED ACTION:

Adopt revisions to Budget Policy for 2022-2023.

FISCAL IMPACT:

None.

CONTACT NAME: Megan Mahaffey

PHONE/EMAIL: 760-924-1836 / mmahaffey@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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Staff Report
Budget Policy with Track Changes

History

Time	Who	Approval
4/13/2022 9:10 AM	County Counsel	Yes
4/13/2022 4:29 PM	Finance	Yes
4/15/2022 4:25 PM	County Administrative Office	Yes



**COUNTY ADMINISTRATIVE OFFICER
COUNTY OF MONO**

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Bryan Wheeler

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Tony Dublino

SOCIAL SERVICES

Kathy Peterson

Date: April 12, 2022

To: Honorable Board of Supervisors

From: Robert C. Lawton, CAO

Subject: Mono County Budget Policy

Recommended Action:

Adopt Mono County Budget Policy with revisions.

Fiscal Impact:

None.

Discussion:

The Mono County Board of Supervisors adopted the Budget Policy on April 13th 2021. This policy incorporated the Budget Policy from 2011 with the General Fund Contingency Policy. As part of the process of moving the Budget functions into the CAO's office, we have updated the policy to reflect new leadership in the CAO's office for budget development.

Robert C. Lawton
County Administrative Officer

MONO COUNTY

BUDGET POLICY

(adopted May 2011, revised April 2021, revisited April 2022)

INTRODUCTION

The most crucial policy setting action the Mono County Board of Supervisors performs every year is the adoption of a balanced budget. The budget development process takes months and requires collaboration from all its operating departments as well as the Board of Supervisors to propose an integrated spending plan that delivers public services for twelve months. The process includes an estimate of taxpayer resources available for appropriation. These revenues set the limit for required and discretionary spending that support public service delivery efforts. The budget communicates to our citizens their government's priorities for meeting community needs. Yet, budgetary decision-making must support only those efforts that are sustainable and fiscally responsible. The budget focuses all County efforts and ultimately drives employee behavior and decision making.

A budget policy is a shared understanding establishing goals aimed at allocating public resources that efficiently and effectively provide services to citizens and visitors within the County. While not all our shared goals are achievable every fiscal year, the existence of such goals serve to guide the Board of Supervisors in its decision-making. One of Mono County's Strategic Goals is to be fiscally resilient. This demonstrates the importance of financial sustainability beyond adopting a balanced budget as required by law in the County Budget Act. Instead, Mono County aims to adopt a structurally balanced budget where recurring revenues are equal to recurring spending. Once achieved, annual budget surpluses will fund reserves and one-time expenditures. Mono County's objective is to achieve and maintain explicit reserve balances equal to 25% of average General Fund spending.

The County of Mono developed its budget policy out of the experiences of the last three decades. We recognize that maintaining a conservative budget approach and prudently addressing unfunded liabilities while also ensuring the fiscal sustainability of the County's workforce and rebuilding adequate reserves are vital to sound fiscal management and achieving the Mono County Mission: to support all our communities by providing superior services while protecting our unique rural environment.

I. BALANCED BUDGET

- A. The County is required by state law to adopt a budget that is balanced. This means that total appropriations (or annual spending) cannot be more than estimated resources, which includes beginning fund balance plus anticipated revenues). This is the minimum criteria for budget adoption.
- B. The County's goal is to adopt a structurally balanced budget which means that ongoing revenues are at least equal to ongoing spending. This ensures continuation of current services despite cyclical downturns in revenue streams. The elimination of reliance on

MONO COUNTY

BUDGET POLICY

(adopted May 2011, revised April 2021, revisited April 2022)

fund balance to legally balance the budget is a key step towards achieving fiscal resilience.

II. RESERVE BALANCES

Establishing and maintaining adequate reserve balances ensures the County retains the fiscal ability to maintain essential public services when events such as cyclical economic downturns cause temporary revenue losses. Given Mono County's tourism-based economy, the recommended minimum level of reserve balances is 25% of average annual general fund spending. Additional specific reserve accounts should be established as the need for future resources arises to pay for long-term capital, facility, and infrastructure projects.

- A. Establish and maintain a general reserve balance of at least 10% of the average annual general fund expenditures. The purpose of the general reserve balance is to provide spending resources in case of emergencies, as enumerated in Government Code Section 29127 of the County Budget Act. The general reserve is to be carried forward in the budget from year to year. Except in cases of legally declared emergencies, the general reserve is established, cancelled, increased or decreased only at the time the budget is adopted.
- B. Establish and maintain an economic stabilization balance of at least 15% of the average annual general fund expenditures. The purpose of the economic stabilization balance is to provide resources to support the workforce and the delivery of essential public services during an economic downturn having a negative effect on the County's revenues.
- C. When the fiscal year budget permits, the Board will consider placing prior year unspent expenditure contingencies and any portion of the prior year fund balance in the economic stabilization reserve.
- D. As resources become available, the Board of Supervisors will establish additional reserve accounts for the purpose of accumulating funds for specific long-term purposes such as retirement of long-term debt, paying down unfunded liabilities, paying for facility improvements, and funding infrastructure replacement or expansion projects.

III. EXPENDITURE CONTINGENCY ACCOUNT

Each budget shall establish an appropriation for expenditure contingencies at a minimum level of 1% of the budgeted general fund expenditures (but not to exceed 10% of total appropriations) in each fiscal year for unanticipated expenditures. All expenditures from the contingency account are at the discretion of the CAO and Board of Supervisors. As required by State law, any transfer of contingency to another budget unit within the General Fund requires a 4/5ths vote of the Board of Supervisors. For more detail on the

MONO COUNTY

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(adopted May 2011, revised April 2021, revisited April 2022)

expenditure contingency appropriation, please see the General Fund Contingency Appropriation Policy.

IV. GENERAL FUND CONTINGENCY APPROPRIATION POLICY

It is observed that the absence of a specific General Fund (GF) Contingency Appropriation policy contributes to over-estimating of budgeted expenditure amounts and leads to a widening gap between fiscal year budgeted appropriations and actual expenditures where budgeted appropriations at the account level exceed actual expenditures by more than five percent. It is also believed this situation artificially increases the GF structural budget deficit and impacts the Board of Supervisors (BOS) financing decisions. While the County's past budget policy requires adoption of a GF Contingency Appropriation account at a minimum level of 1% of the budgeted GF expenditures, it provides no guidance about the use of this contingency balance during the fiscal year.

This General Fund Contingency Appropriation policy is designed to provide GF departments with the framework to tighten budgetary cost controls at the account level for the purpose of achieving a structurally balanced budget. The objective is to establish and maintain a GF contingency appropriation in each year's budget to accommodate unexpected increases in expenditures, which could not have reasonably been anticipated at the time the budget was developed. It is to provide a margin of safety and a source of temporary funding to GF departments to encourage an attitude of cost control within each account. It is further intended to promote collaborative teamwork in managing the finances of the County's GF.

This section of the policy has five elements as noted below:

1. Scope
2. Compliance with applicable Government Code (GC) sections
3. Establishing the contingency appropriation
4. Use of the contingency appropriation

1. Scope

This policy applies only to the County's General Fund.

The contingency appropriation is not a contingency reserve. A contingency reserve is a budgetary provision setting aside a portion of the GF fund balance (carryover) for an identified purpose. It is not a financing source in the County's annual budget. This policy directs the creation of a contingency appropriation in the County's annual budget and equals the amount which is set aside each year to be appropriated for that year's unforeseen expenditure requirements.

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2. Compliance with Applicable Government Code Sections

The County shall adhere to the County Budget Act (Act) which is referenced in GC 29000 through GC 29144, and is also included in Appendix B of the County Budget Guide (2010 Edition, Revision #1) issued by the California State Controller's Office. This policy is to be consistent with all provisions of the Act affecting appropriations for contingencies which are restated in this section. This section is provided as a summary only and not meant to be a full recitation of the County Budget Act or laws governing county budgets.

GC 29006: The adopted budget shall include, at a minimum, estimated or actual amounts by fund for ... (d) appropriations for contingencies.

GC 29084: The budget may contain an appropriation(s) for contingencies in such amounts as the BOS deems sufficient.

GC 29125: Transfers and revisions to appropriation for contingencies is made by formal action of the BOS, by a four-fifths vote.

GC 29126: For any appropriation in whole or in part that is not needed, the Board of Supervisors may cancel the unneeded appropriation and transfer the amount to appropriation for contingencies.

3. Establishing the Contingency Appropriation

Subject to BOS approval, the County will establish a GF contingency appropriation with each budget cycle using the guidelines provided in this section.

The amount of the GF contingency appropriation is targeted at a minimum of 1% but no more than 10% of budgeted GF expenditures (not including this GF contingency appropriation).

The GF contingency appropriation will be established and/or adjusted with each budget cycle, will be included as a separate department of the GF budget, and the balance left in the contingency appropriation at the end of each fiscal year will terminate and lapse as a contribution to GF carryover fund balance.

The GF contingency appropriation cannot be more than the following for each budget year:

Total GF funding sources
Less all other GF appropriations
Plus amounts available from GF unassigned fund balance.

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(adopted May 2011, revised April 2021, revisited April 2022)

In times of declining revenues and/or budget deficits, the BOS may temporarily eliminate or reduce the GF contingency appropriation until the fiscal crisis is resolved.

The amount of the contingency appropriation may be adjusted by 4/5ths vote of the BOS at any time during the fiscal year after the adoption of the County's final budget.

4. Use of the Contingency Appropriation

Only GF departments may request use of the contingency appropriation.

The department initiates a request for use of the contingency appropriation in either of two ways:

- By submitting an individual agenda item through the County's agenda software program which must be reviewed by the CAO, County Counsel, and the Finance Department prior to being placed on the Board's agenda. The agenda transmittal must include a statement by the department justifying the use of the contingency appropriation consistent with this policy.
- By requesting the use of the contingency appropriation, as instructed, during the mid-year (or other intra-period) budget review process. The Department must document their justification for the use of the contingency appropriation consistent with this policy.

Transfer from the contingency appropriation must be approved by the BOS with a 4/5ths vote prior to recording the requested transfer.

Use of the contingency appropriation is allowed for the following reasons and circumstances:

- Unforeseen expenditures that could not have been anticipated at the time the annual budget was adopted.
- When the department is impacted by legislative changes not known at the time of budget development and which has a negative impact on the department's expenditures (ie..increases expenditures).
- Increases in expenditures necessary to maintain current service levels.
- Economic events that increase vendor costs such as utility rate increases or an increase in a vendor's rates.
- Unanticipated operational changes.

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Use of contingency should not be used to fund new expenditures of an on-going nature.

Prior to requesting use of the contingency appropriation, the department must have:

- No unanticipated revenue that has not been appropriated.
- No other appropriations within its own budget which can be reallocated to cover the budget shortfall.
- No other appropriation available in another fund that it controls that can be legally applied to cover the budget shortfall.

V. FUND BALANCES

Government Accounting Standards Board (GASB) Statement Number 54 requires the County to segregate fund balances into five basic categories. These categories are:

1. *Nonspendable fund balance* (such as inventories or prepaid expenditures) is used for amounts that are not in spendable form to segregate them in fund balance so that it cannot be appropriated.
2. *Restricted fund balance* (such as creditors, grant providers or contributors) is used for amounts restricted to specific purposes by external parties.
3. *Committed fund balance* (to cover commitments the Board of Supervisors has made) is used for amounts determined by formal action (i.e., resolution) of the Board of Supervisors to be used for a specific purpose.
4. *Assigned fund balance* (such as covering deficit fund balances) is used for amounts intended to for a specific purpose and can be established by the Board or the CAO.
5. *Unassigned fund balance* (everything not included in the other types of fund balance).

Restricted, committed, assigned, and unassigned fund balance amounts together constitute spendable fund balance and these amounts are available for appropriation and use in balancing next year's budget.

The Finance Director is responsible for segregating each fund balance by category and amount and informing the CAO and the Board of Supervisors of the amount of spendable fund balance available for use in balancing the budget for the upcoming year.

VI. STRATEGIC PLANNING

The County uses a strategic planning process for setting priorities and making budgetary decisions. This allows development, initiation, and funding of new or revised programs over a five-year period, in sync with a comprehensive planning process that establishes

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(adopted May 2011, revised April 2021, revisited April 2022)

the Board's priorities for satisfying long-term community needs. All new or revised services are evaluated within the framework of the five-year strategic plan. The strategic plan is updated every year to span a five-year period.

VII. FISCAL MANAGEMENT

Mono County uses fiscal management principles to ensure resiliency by:

1. Maintaining a conservative budgeting approach. This means to limit budget deficits whenever possible. Concerning revenues, it requires forecasting that is not overly optimistically but instead relies on accepted analytical methodologies such as historical trends and economic indicators as the basis for estimating revenues. Concerning expenditures, it requires limiting spending amounts based on work plans to continue delivery of existing public services.
2. Annually consider reduction of long-term debt and unfunded liabilities.
3. Establish an equitable basis for allocating internal costs to all service users.
4. Review fees periodically. Fees should be calculated to include all actual costs of providing the service, including overhead. Only the Board of Supervisors can decide to set a fee at less than its cost to provide the service. Adjust and establish new fees as needed.
5. Incorporate long-term financial planning into the budget cycle to guide financial decision-making.

Budget adjustments are allowed throughout the fiscal year . Interdepartmental budget adjustment requests of net-0-changes are allowed throughout the year with appropriate approvals (see "Appropriation Transfer Request" form).

Budget adjustments requiring Board of Supervisors approval include:

- a.) Transfers and revisions to the adopted appropriations:
 - i. If between funds, by a four fifths vote.
 - ii. If transfers from appropriation for contingencies, by four fifths vote.
 - iii. If between budget units within a fund if overall appropriations are not increased, by a majority vote
- b.) The board may designate the administrative officer or auditor to approve transfers and revisions of appropriations within a budget unit if overall appropriations of the budget unit are not increased

VIII. INFRASTRUCTURE AND FACILITIES

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BUDGET POLICY

(adopted May 2011, revised April 2021, revisited April 2022)

Consider contributions from the general fund, grants and state/federal allocations, annually or whenever available, for the improvement of county infrastructure and facilities. Incorporate plans to improve infrastructure and facilities into long-term plans and prioritize setting aside funds to pay for these projects (but also see the County Debt Policy about borrowing to pay for large projects). Work with regional partners to reduce County costs for maintaining and improving the County infrastructure and facilities which is shared with other jurisdictions.

Plan for new facilities only if operating and maintenance costs for those facilities are fully recognized and accounted for in multi-year financial plans. Provide adequate routine maintenance each year to avoid the higher cost of deferred maintenance.

VIII. NEW SERVICES

Add new services only after identifying a need (see section on strategic planning) and only when adequate resources for staffing and on-going operational funding are available in multi-year financial plans.

IX. GUIDELINES FOR OPERATIONAL EFFICIENCIES

1. Provide County services in the most cost effective and operationally efficient manner.
2. When program funding is cut or eliminated, reduce, or eliminate the program accordingly, unless otherwise mandated.
3. Provide staffing levels that consider multi-year needs, reasonable workload per employee, and minimize the possibility of layoffs or furloughs resulting from inadequate revenues.
4. For special projects or certain expertise in the short-term, utilize temporary employees (not to exceed 1,000 hours) and consultants.
5. Utilize community expertise on a voluntary basis, as appropriate.
6. Ensure that fee-supported services are staffed appropriately to render the services for which customers have paid. Minimize the use of subsidies to support continuation of such services.
7. Work through partnerships, JPA's, and regional relationships to share costs for local programs whenever possible.

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(adopted May 2011, revised April 2021, revisited April 2022)

X. EMPLOYEE DEVELOPMENT

Attract and retain competent employees for the County work force by compensating employees fairly (consistent with smaller rural counties), provide adequate training opportunities, ensure safe working conditions, and maintain a professional work environment. For additional policy direction, see the Compensation Philosophy Statement adopted by the Board of Supervisors.

XI. ECONOMIC DEVELOPMENT

Achieve organized, sustainable community development for the communities and citizens of Mono County through the budget process by providing an expanded and diversified economic base while preserving our scenic beauty, open space, small town charm and historical assets.

XII. BUDGET DEVELOPMENT

A. The County will develop a operating budget with constraints. The budget team estimates resources available, costs out workforce as well as non-discretionary spending. A operating budget with the above fixed costs incorporates the following elements:

1. The same staffing levels and the same allocated classifications as prior year's adopted budget.
2. A-87 charges for applicable departments.
3. Debt Service (Civic Center, Pension Obligation Bond EMS and Pension Rate Stabilization Trust)
4. General Liability Insurance and Workmen's Comp Insurance

B. Internal Service Rates (Motor Pool ISF and Technology Refresh ISF and Insurance ISF) County departments will propose budgets to the CAO's office for review requesting what they need for the following fiscal year.

The CAO will propose a Recommended Budget to the Board of Supervisors considering both resources and Strategic Planning priorities.

C. The role of department heads is to develop a fiscally responsible department budget with consideration of the priorities coming out of the Strategic Plan and consistent with past spending patterns and known revenue sources.

MONO COUNTY

BUDGET POLICY

(adopted May 2011, revised April 2021, revisited April 2022)

- D. .
- E. The role of the CAO, as the County’s chief budget officer, is to recommend a budget to the Board of Supervisors.
- F. The Board will consider the recommended budget during a workshop and provide direction to CAO and staff for changes for the Final Budget.
- G. The general budget development timeline includes:
 - 1. Establish budget calendar – January
 - 2. Develop fixed costs of budget, estimate discretionary revenues, and cost internal services and workforce amounts – February
 - 3. Strategic planning– February
 - 4. Any proposed allocation list changes are submitted for consideration and moratorium is placed on requesting staff changes until budget adoption - March
 - 5. Third quarter evaluation of Budget to Actuals takes place in April
 - 6. Departments submit their proposed budgets and meet one-on-one with the budget development team – April/May
 - 7. Budget workshop with Board to develop recommended budget – May
 - 8. Public hearing and budget adoption – by June 30



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

Departments: Sheriff

TIME REQUIRED 15 minutes

PERSONS APPEARING BEFORE THE BOARD Sheriff Ingrid Braun

SUBJECT Automated License Plate Reader System

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Implementation of an Automated License Plate Reader (ALPR) system by the Sheriff's Office.

RECOMMENDED ACTION:

Review ALPR policy and receive public comment on ALPR as required by California Civil Code 1798.90.55.

FISCAL IMPACT:

This technology is being funded through the Homeland Security Grant Program. There is no impact to the General Fund.

CONTACT NAME: Ingrid Braun

PHONE/EMAIL: 760-932-7549 / ibraun@monosheriff.org

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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Staff Report
ALPR Policy

History

Time	Who	Approval
4/13/2022 9:12 AM	County Counsel	Yes
4/7/2022 10:46 AM	Finance	Yes
4/15/2022 4:23 PM	County Administrative Office	Yes

MONO COUNTY SHERIFF

A Commitment to Community Safety and Service



Ingrid Braun
Sheriff-Coroner

DATE: April 19, 2022
TO: The Honorable Board of Supervisors

Phillip West
Undersheriff

FROM: Ingrid Braun, Sheriff-Coroner

SUBJECT: Automated License Plate Reader (ALPR) System

Recommended Action

Receive a presentation regarding the proposed implementation of an Automated License Plate Reader (ALPR) System by the Mono County Sheriff's Office (MCSO).

Background

California Civil Code 1798.90.55(a) states:

A public agency that operates or intends to operate an ALPR system shall provide an opportunity for public comment at a regularly scheduled public meeting of the governing body of the public agency before implementing the program.

This presentation will afford the Board of Supervisors and the public an opportunity to learn about ALPR technology and to comment on the Sheriff's Office's intent to operate an ALPR system.

Discussion

The use of ALPR technology is a valuable law enforcement tool. This technology assists in identifying stolen or wanted vehicles, vehicles associated with missing or wanted people, and stolen license plates. ALPR systems capture a contextual photo of the vehicle, an image of the license plate, the geographic coordinates of where the image was captured, and the date and time of the recording. The ALPR system does not identify any individual or access any person's personal information through its analysis of license plate characters. The data captured by the ALPR unit itself is entirely anonymous. Law enforcement can only identify the registered owner of a vehicle by querying a separate, secure state government database of vehicle license plate records, which is restricted, controlled, and audited.

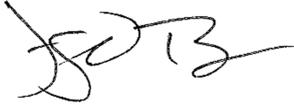
California Civil Code 1798.90.5 delineates how ALPR technology shall be deployed, including strict provisions for administration, access, storage, and data sharing. Data may only be used for official law enforcement purposes, and cannot be shared, transferred, or sold for any other use. Employees are required to attend four hours of training about the system and policy prior to being given access to the system. Annual audits of the system to ensure privacy and security shall be conducted by Sheriff's Office administration. Any agency using or intending to use ALPR technology shall implement a usage and privacy policy in order to ensure that the access, use, sharing, and dissemination of ALPR information is consistent with respect for individuals' privacy and civil liberties. The usage and privacy policy shall be available to the public in writing, and is posted conspicuously on our website, monosheriff.org.

Currently there is no ALPR technology in use in Mono County. The Sheriff's Office intends to install ALPR technology at select fixed and mobile locations in Mono County. We are committed to operating ALPR technology in a measured manner that balances personal privacy concerns and public safety. We will follow strict protocols in the access, storage, and use of ALPR data to ensure its integrity and compliance with applicable laws. ALPR data will be retained for two years and then purged.

Fiscal Impact

The acquisition of ALPR technology is being funded through the Homeland Security Grant Program. There is no impact to the General Fund.

Respectfully submitted,



Ingrid Braun
Sheriff-Coroner

Attachments: Mono County Sheriff's Office ALPR Policy

Automated License Plate Readers (ALPRs)

432.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

432.2 POLICY

The policy of the Mono County Sheriff's Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this office. Because such data may contain confidential information, it is not open to public review.

432.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Mono County Sheriff's Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Division Commander. The Administration Division Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

432.3.1 ALPR ADMINISTRATOR

The Administration Division Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.

Mono County Sheriff's Department

Mono County Sheriff Patrol Policy Manual

Automated License Plate Readers (ALPRs)

- (g) Ensuring this policy and related procedures are conspicuously posted on the office's website.

432.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Office members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this office shall operate ALPR equipment or access ALPR data without first completing office-approved training.
- (e) No ALPR operator may access office, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the deputy should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

432.5 DATA COLLECTION AND RETENTION

The Administration Division Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with office procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

432.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Mono County Sheriff's Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

Mono County Sheriff's Department

Mono County Sheriff Patrol Policy Manual

Automated License Plate Readers (ALPRs)

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or office-related civil or administrative action.
- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

432.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Administration Division Commander or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

432.8 TRAINING

The Training Sergeant should ensure that members receive office-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

Departments: Sheriff

TIME REQUIRED 10 minutes

PERSONS APPEARING BEFORE THE BOARD Ingrid Braun, Sheriff

SUBJECT Policy Regarding Acquisition and Use of Military Equipment

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation regarding Sheriff's Department Policy regarding military equipment pursuant to Assembly Bill 481.

RECOMMENDED ACTION:

Hear report from Sheriff, direct staff to post the proposed policy for thirty days on the County's website and then to agonize it for adoption by ordinance following the thirty-day posting period. Provide any other desired direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: x1704 / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
<input type="checkbox"/> Staff Report
<input type="checkbox"/> Government Code Section 7070
<input type="checkbox"/> Government Code Section 7071
<input type="checkbox"/> Government Code Section 7072
<input type="checkbox"/> Military Equipment Policy

History

Time

Who

Approval

4/14/2022 3:40 PM	County Counsel	Yes
4/15/2022 7:07 AM	Finance	Yes
4/15/2022 4:24 PM	County Administrative Office	Yes

MONO COUNTY
SHERIFF
A Commitment to Community Safety and Service



Ingrid Braun
Sheriff-Coroner

DATE: April 19, 2022
TO: The Honorable Board of Supervisors

Phillip West
Undersheriff

FROM: Ingrid Braun, Sheriff-Coroner

SUBJECT: County Use of "Military Equipment"

Recommended Action

Receive information regarding the requirements of Assembly Bill (AB) 481 as it relates to the use of "military equipment" by the Mono County Sheriff's Office.

Background

The stated goals of AB 481(codified in Government Code §§7070, et seq.) are to provide legally enforceable safeguards to protect the public's welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used. AB 481 requires each law enforcement agency to obtain approval of the applicable governing body, by adoption of a military equipment use policy, by ordinance at a regular meeting held pursuant to specified open meeting laws, for the continued use of military equipment acquired before January 1, 2022. This approval process must begin on or before May 1, 2022.

A law enforcement agency seeking the approval of the governing body must submit a proposed military equipment use policy to the governing body and make those documents available on the agency's website at least 30 days before any public hearing concerning the military equipment at issue. The governing body may only approve a military equipment use policy if the body determines each of the following:

- The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

Discussion

AB 481 identifies a variety of items commonly in use by many California law enforcement agencies as "military equipment." This does not necessarily mean that the items were acquired from the military; in fact, neither the Sheriff's Office nor the District Attorney's Office have any

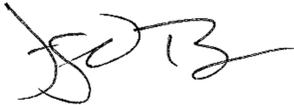
equipment acquired from the military. However, the Mono County Sheriff's Office has several pieces of equipment qualifying as "military equipment" in inventory as detailed in the attached new proposed Mono County Sheriff's Office Policy 705 (see section 705.4). The Sheriff's Office maintains and utilizes the listed equipment as tools necessary to maintain public safety.

The attached Military Equipment policy will be conspicuously posted on the Sheriff's Office website for at least 30 days prior to scheduling a hearing before the Board of Supervisors to consider adopting an ordinance approving the policy.

Fiscal Impact

There is no impact to the General Fund.

Respectfully submitted,



Ingrid Braun
Sheriff-Coroner

- Attachments: Government Code §§7070
 Government Code §§7071
 Government Code §§7072
 Mono County Sheriff's Office Military Equipment Policy

State of California

GOVERNMENT CODE

Section 7070

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception

of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), "military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) "Military equipment use policy" means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) "State agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.
(Added by Stats. 2021, Ch. 406, Sec. 2. (AB 481) Effective January 1, 2022.)

State of California

GOVERNMENT CODE

Section 7071

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

(Added by Stats. 2021, Ch. 406, Sec. 2. (AB 481) Effective January 1, 2022.)

State of California

GOVERNMENT CODE

Section 7072

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

- (1) A summary of how the military equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns received concerning the military equipment.
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- (5) The quantity possessed for each type of military equipment.
- (6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

(Added by Stats. 2021, Ch. 406, Sec. 2. (AB 481) Effective January 1, 2022.)

Military Equipment

705.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

705.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Office.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

Mono County Sheriff's Department

Mono County Sheriff Patrol Policy Manual

Military Equipment

705.2 POLICY

It is the policy of the Mono County Sheriff's Department that members of this office comply with the provisions of Government Code § 7071 with respect to military equipment.

705.3 MILITARY EQUIPMENT COORDINATOR

The Sheriff should designate a member of this office to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying office equipment that qualifies as military equipment in the current possession of the Office, or the equipment the Office intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Mono County Sheriff's Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the office's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Sheriff and ensuring that the report is made available on the office website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Office will respond in a timely manner.

705.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Office:

[See attachment: Military Equipment Inventory Attachment.pdf](#)

705.5 APPROVAL

The Sheriff or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Sheriff or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the office website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military

Mono County Sheriff's Department

Mono County Sheriff Patrol Policy Manual

Military Equipment

equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this office.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

705.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

705.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Sheriff or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Sheriff or the authorized designee should also make each annual military equipment report publicly available on the office website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in office inventory.

705.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Office shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Office should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

Attachments

Military Equipment Inventory Attachment.pdf

Unmanned Aerial Vehicles (drone)

Description, quantity, capabilities, and purchase cost:

DJI Mavic 2 Enterprise (Dual) Unmanned Aerial System (1)

UAS with a secondary camera for either infrared light or 2x Optical Zoom. Capable of attaching an audible loudspeaker and/or spotlight. Weighs 899g with approximately 25-30 minutes of flight time.

Cost: \$3,500

Purpose:

To be deployed when its view would assist with the following situations, which include but are not limited to:

- i. Major collision investigations.
- ii. Search for missing persons.
- iii. Natural disaster management.
- iv. Crime scene photography.
- v. SWAT, tactical or other public safety and life preservation missions.
- vi. In response to specific requests from local, state, or federal fire authorities for other incidents such as, but not limited, fire response and/or prevention.

Authorized Use:

Authorized uses of the UAS include, but not limited to:

- i. Response to a public safety emergency
- ii. Search and Rescue
- iii. Investigating suspicious or explosive devices
- iv. Natural disaster response and management
- v. Crime scene documentation
- vi. Recovery of decedent
- vii. Qualifying law enforcement mutual aid

Expected Lifespan:

3-5 years

Fiscal Impact:

Total ongoing yearly cost for equipment used in the program is estimated to be \$500.

Training:

All Sheriff's Office UAS pilots must obtain a FAA Part 107 (Remote Pilot) license before being allowed to operate a UAS. The Sheriff's Office facilitates approximately 8 hours of ongoing monthly training for UAS pilots.

Legal and Procedural Rules:

Use is established under Sheriff's Office Policy 606 and FAA Regulation 14 CFR Part 107.

It is the policy of this agency to utilize UAS only for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

Ammunition

Description, quantity, capabilities, and purchase cost:

The Sheriff's Office utilizes the following patrol rifle ammunition

- i. Winchester "Ranger" Centerfire Cartridges, .223 55gr (10,340 rounds)
primary duty round
Cost: \$1.13 per round
- ii. Winchester "Ranger" Centerfire Cartridges, 5.56 caliber 62gr (680 rounds)
primary duty round
Cost: \$1.13 per round

Military Equipment Inventory Attachment

Purpose:

To be used as precision weapons to address a threat with more precision and/or greater distances than a handgun, if present and feasible.

Authorized Use:

The procedural rule for ammunition is listed in Sheriff's Office Policy 306.3.7.

Expected Lifespan:

No expiration dates

Fiscal Impact:

No annual cost to maintain

Training

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification annually.

Legal and Procedural Rules

Use is established under Sheriff's Office Policy. It is the policy of this agency to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

Specialized Firearms

Description, quantity, capabilities, and purchase cost:

The Sheriff's Office utilizes the following rifles

- i. Colt M4 CQB Semi-Automatic .223 Rem / 556 NATO (24)
Patrol rifle
Cost: \$1,275 each
- ii. Colt M4 Commando Semi-Automatic .223 Rem / 556 NATO (2)
Patrol rifle
Cost: \$1,200 each
- iii. Colt AR-15 Semi-Automatic .223 Rem / 556 NATO (4)
Patrol rifle
Cost: \$1,000 each
- iv. SOCOM 2 Series Sound Suppressor, Caliber 5.56mm
Sound suppressor
Cost: \$950 each

Purpose:

To be used as a precision weapon to address a threat with more precision and/or greater distance than a handgun or shotgun.

Authorized Use:

The procedural rules for firearms are listed in Sheriff's Office Policy 306.

Expected Lifespan:

15 years

Fiscal Impact:

Annual maintenance cost of approximately \$100 per rifle

Training

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification twice a year.

Legal and Procedural Rules

Use is established under Sheriff's Office Policy 306. It is the policy of this agency to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

Firearms or Firearm Accessory

Description, quantity, capabilities, and purchase cost:

Def-Tech (Defense Technologies) 40 MM Launchers (4)

40MM launchers are a single shot break-open frame launcher with a fixed stock. These launchers are used to launch soft foam projectiles and chemical agent projectiles.

Cost: \$1,000 each

Purpose:

The launcher is used to launch chemical agent projectiles during high-risk incidents to resolve the conflict with less lethal measures. The soft foam projectiles can be further used to port windows after chemical agents have been deployed.

Authorized Use:

Deputies utilizing the 40mm launcher are trained in their use by POST certified chemical agent instructors.

Expected Lifespan:

25 years

Fiscal Impact:

No annual maintenance

Training

Deputies utilizing the 40mm launchers are trained in their use by POST certified chemical agent instructors annually.

Legal and Procedural Rules

Use is established under Sheriff's Office Policy. It is the policy of this agency to utilize 40mm launchers only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

Firearms or Firearm Accessory

Description, quantity, capabilities, and purchase cost:

Tippmann 98 Custom Platinum Series Pepper Ball Launcher (3) and associated ammunition System that uses high pressure air to deliver powder projectiles (similar to a paint ball delivery system). It is a non-lethal option to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter.

Cost: \$170 each

Purpose:

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control
- iii. Circumstances where a tactical advantage can be obtained.

Authorized Use:

Only those who have been trained in the use of Pepper Ball launchers are authorized to use the Pepper Ball launchers.

Expected Lifespan:

20 years

Fiscal Impact:

No annual maintenance

Training

Correctional Officers and deputies utilizing Pepper Ball launchers are trained in their use by POST certified less lethal and/or chemical agent instructors on an annual basis.

Military Equipment Inventory Attachment

Legal and Procedural Rules

Use is established under Sheriff's Office Policy. It is the policy of this agency to utilize Pepper Ball launchers only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

Flashbangs

Description, quantity, capabilities, and purchase cost:

Distraction Device Low Roll Reloadable (10)

A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows deputies to seize a moment of opportunity to take control of high-risk situations.

Cost: \$100 each

Purpose:

To produce atmospheric over-pressure and brilliant white light, which, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give deputies a tactical advantage. To be used as a less lethal measure to gain compliance during high risk operations.

Authorized Use:

Diversionary Devices shall only be used:

- i. By deputies who have been trained in their proper use.
- ii. In hostage and barricaded subject situations.
- iii. In high-risk warrant (search/arrest) services
- iv. During other high-risk situations where their use would enhance officer safety.
- v. During training exercises.

Expected Lifespan:

5 years

Fiscal Impact:

No annual maintenance.

Training

Deputies utilizing the Flashbangs are trained in their use by POST certified instructors.

Legal and Procedural Rules

Use is established under Sheriff's Office Policy. It is the policy of this agency to utilize these devices only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

Tear Gas

Description, quantity, capabilities, and purchase cost:

Chemical agent munitions, which are commonly referred to as "tear gas," are used as a non-lethal tool to disperse rioting suspects and on barricaded suspects. This agency uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile), CN (chloroacetophenone). and OC (Oleoresin Capsicum). CS and CN are irritating agents and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

- i. CS Han Ball Grenade (21)
- ii. OC Rubber Ball Grenade (26)
- iii. CS Rubber Ball Grenade (14)

Military Equipment Inventory Attachment

- iv. CN Rubber Ball Grenade (30)
- v. CS Spede Heat (24)
- vi. CS Red Smoke (2)
- vii. CS Flameless Tri Chamber (2)
- viii. OC Flameless Expulsion (10)
- ix. CS Instantaneous Blast (1)
- x. OC Instantaneous Blast (1)
- xi. OC Direct Impact (orange top) 40MM (60)
- xii. OC Exact Impact (blue top) 40MM (40)
- xiii. OC 40MM Ferret (8)
- xiv. CS Liquid 40MM (22)
- xv. CS Powder 40MM (83)

Purpose:

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

Authorized Use:

Only officers who have received POST certification in the use chemical agents are authorized to use them.

Expected Lifespan:

Each of the described items has a life expectancy of 5 years.

Fiscal Impact:

There are no annual maintenance costs. Items are replaced as they expire. Pricing is dependent on how many units need to be replaced but will average approximately \$1,000 per year.

Training

Deputies utilizing chemical agents are trained in their use by POST certified instructors.

Legal and Procedural Rules

Use is established under Sheriff's Office Policy. It is the policy of this agency to utilize chemical agents only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT Closed Session - Labor Negotiations

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Bob Lawton, Stacey Simon, Janet Dutcher, John Craig, Patty Francisco, and Oliver Yee. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39 - majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Correctional Deputy Sheriffs' Association. Unrepresented employees: All.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
--

History

Time

Who

Approval



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT Closed Session - Initiation of
Litigation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9. Number of potential cases: One.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

[Click to download](#)
No Attachments Available

History

Time	Who	Approval
4/7/2022 5:15 PM	County Counsel	Yes
4/6/2022 3:31 PM	Finance	Yes
4/15/2022 4:24 PM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

TIME REQUIRED

SUBJECT Closed Session - Public Employee
Evaluation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrative Officer.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

[Click to download](#)

No Attachments Available

History

Time

Who

Approval



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 19, 2022

Departments: Community Development

TIME REQUIRED Public Hearing: 1:00 PM (45 minutes) **PERSONS** Bentley Regehr, Planning Analyst

SUBJECT PUBLIC HEARING: Moratorium on
New Short-Term and Transient
Rentals **APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed ordinance to temporarily suspend County permitting of new short-term or transient rental operations of residential units. Options applying the moratorium to a combination of single-family units, multi-family units, and residential and non-residential land use designations are described.

RECOMMENDED ACTION:

Adopt proposed urgency ordinance ORD22-___, an interim ordinance of the Mono County Board of Supervisors Temporarily Suspending the Permitting of New Short-Term and Transient Rentals of Residential Units in All Land Use Designations. The ordinance may be modified per the options described in the staff report, or in some other fashion as the Board may direct. If a moratorium is adopted, provide direction on processing accepted transient rental applications.

FISCAL IMPACT:

No fiscal impact with current revenues. Fiscal impact unknown concern any future revenues.

CONTACT NAME: Bentley Regehr

PHONE/EMAIL: 760-924-4602 / bregehr@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

[staff report](#)

[Proposed ordinance](#)

History

Time	Who	Approval
4/14/2022 3:50 PM	County Counsel	Yes
4/15/2022 7:05 AM	Finance	Yes
4/15/2022 4:22 PM	County Administrative Office	Yes

Mono County Community Development

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1800, fax 924-1801
commdev@mono.ca.gov

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5420, fax 932-5431
www.monocounty.ca.gov

April 19, 2022

To: Mono County Board of Supervisors

From: Bentley Regehr & Wendy Sugimura – Community Development

Re: POTENTIAL SHORT-TERM RENTAL MORATORIUM

RECOMMENDATION

1. Adopt ORD22-___, an interim ordinance of the Mono County Board of Supervisors Temporarily Suspending New Short-Term and Transient Rentals of Residential Units in All Land Use Designations. The ordinance may be modified per the options described in the staff report, or in some other fashion as the Board may direct.
2. If a moratorium is to be adopted, provide direction on processing accepted transient rental applications.

FISCAL IMPACT

Potential loss of revenue from business license fees, transient occupancy taxes, and Housing Mitigation Ordinance fees.

BACKGROUND

On December 7, 2021, staff provided an update to the Board of Supervisors on the progress and status of current programs and potential policy items. During the workshop, the Board directed staff to bring back a discussion on a potential moratorium on short-term rentals (STRs; occupancy for a period of 30 or fewer consecutive calendar days) and consider incentives for long-term rentals (LTRs).

Two types of nightly rentals are permitted in Mono County: short-term rentals and transient rentals. Short-term rentals are defined as occupancy of a single-family residential unit by persons other than the owner for a period of 30 or fewer consecutive calendar days in residential land use designations except Multi-Family Residential (MFR). Area plan policies limit or prohibit short-term rentals in specific parts of the County, such as June Lake (various prohibitions and restrictions by neighborhood), Wheeler Crest (prohibited), Mono City (prohibited), and Long Valley (owner-occupied only). Short-term rentals are subject to a Use Permit, which is heard by the Planning Commission, and a Short-Term Rental Activity Permit under Mono County Code Chapter 5.65, which is heard by the Board of Supervisors, must be renewed annually, and expires if the property is sold.

Transient rentals are defined as occupancy of a residential structure by persons other than the owner for a period of 30 or fewer consecutive calendar days in MFR-High and non-residential land use designations. Transient rentals are subject to a Use Permit or Director Review Permit, depending on the land use designation, and a ministerial Vacation Home Rental (VHR) Permit or business license. The VHR permit is valid until the property is sold. The business license is specific to the applicant and must be renewed annually. Use Permits are heard by the Planning Commission and Director Review Permits are issued at the staff level after public review by the Land Development Technical Advisory Committee (LDTAC). These approvals are not brought before the Board unless the decisions are appealed to that level.

At the March 1 meeting, the Board of Supervisors directed staff to bring back a more detailed summary of all approved nightly rentals, including location (Table 1).

Table 1: Approvals and denials, by permit type and location.

Short-Term Rentals (Not Owner-Occupied)*		
Community	Approvals	Denials
June Lake	6	1
Twin Lakes	0	1
TOTAL	6	2
Short-Term Rentals (Owner-Occupied)		
Community	Approvals	Denials
Crowley Lake	6	2
June Lake	1	0
Swall Meadows	0	1
Bridgeport	1	0
TOTAL	8	3
Transient Rentals*		
Community	Approvals	Denials
June Lake	16	0
Bridgeport	1	0
Crowley Lake	1	0
Topaz	1	0
TOTAL	19	0
Transient Overlay Districts (TRODs)		
Community	Approvals	Denials
June Lake	6	1 (4 parcels), 2 withdrawn
Lundy	1	0
TOTAL	7 (14 parcels)	1 (4 parcels)
TOTAL (ALL)	47	6

*Three applications for transient rentals that would affect a total of six units are currently in process.

PLANNING COMMISSION INPUT

The Planning Commission discussed the moratorium issue at their January 20 and February 17 meetings, and their input was summarized in the March 1 staff report for Board consideration. The Planning Commission's recommendation was not to enact a moratorium on short-term rentals at this time (4-1 vote). The dissenting vote was due to a need for more information before making a decision.

DISCUSSION

Four options are presented for Board consideration:

Option 1: Do not impose a moratorium.

Short-term rentals and transient rentals would continue to be processed. All short-term rentals would continue to require a Use Permit approved by the Planning Commission and a Short-Term Rental Activity Permit approved by the Board (and renewed annually by staff). Transient rentals would continue to be processed through a Use Permit or Director Review, and subject to a Vacation Home Rental (VHR) Permit, or through only a business license. This option is appropriate if the current permitting system and policies are working as originally intended to allow STRs when appropriate and deny them when not, through a discretionary review process.

In lieu of (or in combination with) a moratorium, the Board could explore more options to incentivize long-term rentals and disincentivize short-term rentals. Current incentives include Housing Mitigation Ordinance (HMO) fee waivers for new SFR units that waive STR eligibility, and density bonuses and HMO fee waivers for projects that include deed-restricted long-term housing. Disincentives include a prohibition on short-term rentals in ADUs, HMO fees on new units retaining STR eligibility, HMO fees on existing units converting to short-term or transient rental uses, and an extensive discretionary permitting process for new short-term rental applications in most residential land use designations. At the January 20 Planning Commission meeting, the Commission suggested exploring a possible vacancy tax. A vacancy tax would apply to units that are not occupied for a percentage of the year.

Currently, HMO fees are applied to existing units converting to short-term rental and transient rental uses at a rate of \$4 per square foot. By not imposing a moratorium, the County would continue to collect these fees on all approvals.

Option 2: Impose a moratorium on new (not existing) short-term rentals in single-family residential units located in residential land use designations (except MFR).

If the intent is to preserve residential land use designations for long-term residential use, then a moratorium could be imposed only on short-term rentals in single-family residential units located in residential land use designations except MFR (i.e., those subject to MCGP LUE Chapter 25). Existing approvals would continue to operate, subject to annual renewal. Transient rentals in non-residential land use designations and MFR-H would continue to be processed with the appropriate approvals. This strategy would target limiting new short-term rentals in most residential land use designations but continue to permit transient rentals in land use designations intended for more intensive commercial and visitor support uses.

Option 3: Impose a moratorium on new short-term rentals and transient rentals on all single-family residential units regardless of land use designation.

If the intent is to preserve single-family residential housing stock regardless of the purpose of the underlying land use designation (or zoning), then a moratorium could be imposed on all short-term rentals and transient rentals in any single-family residential unit on all land use designations. Multi-family units would continue to be processed with the appropriate approvals. Existing approvals would continue to operate under annual renewal procedures.

Option 3 would address an intent to preserve single-family units for long-term housing stock regardless of land use designation. The rationale is that if the housing problem is caused by limited availability of single-family residential housing units, then all such units should be preserved for long-term use regardless of their location and primary land use intent.

Option 4: Impose a moratorium on new short-term rentals and transient rentals on all single-family and multi-family residential units regardless of land use designation.

Option 4 would address an intent to preserve all residential unit types, both single-family and multi-family, for long-term housing stock regardless of the purpose of the underlying land use designation, under similar rationale as Option 3.

Lastly, if a moratorium is imposed on transient rental uses, direction on processing the following current applications is requested:

Location	Land Use	Unit Type	Permit Type	# Units	Date
Topaz	Mixed Use	Single family	Director Review	1	2/7/22
Bridgeport	Commercial	Multi-family	Director Review	3 of 3 units	1/19/22
June Lake	Mixed Use	Multi-family	Elevated to Use Permit	2 of 4 units	3/10/22

Options include:

1. Process all applications under existing adopted policies.
2. Process all applications accepted before the Board gave direction to bring a moratorium for a vote (March 1) and discontinue processing applications received after March 1.
3. Direct staff to discontinue processing all applications and either a) bill for staff time or b) return all fees regardless of staff time expenditures.

ATTACHMENTS:

1. Ordinance ORD 22-__ R22-__



ORDINANCE NO. ORD22-__

**AN INTERIM ORDINANCE OF THE MONO COUNTY
BOARD OF SUPERVISORS TEMPORARILY SUSPENDING NEW SHORT-TERM
AND TRANSIENT RENTALS OF RESIDENTIAL UNITS IN ALL LAND USE
DESIGNATIONS**

WHEREAS, Government Code §65858 authorizes the adoption of an interim ordinance as an urgency measure to prohibit any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the Board of Supervisors, planning commission or planning department is considering or studying or intends to study within a reasonable time, when necessary to protect the public safety, health, and welfare; and

WHEREAS, the lack of affordable housing for workforce and full-time residents in Mono County is a current and immediate threat to the public health, safety and welfare, and may be exacerbated by the loss of residential units to nightly rental uses; and

WHEREAS, the Board has identified a need to preserve long-term residential housing stock by limiting nightly rentals; and

WHEREAS, the Board of Supervisors held a public hearing to receive public testimony on the matter on April 19, 2022; and

WHEREAS, in order to preserve residential housing for potential long-term use while staff and decision makers develop a comprehensive housing strategy for the unincorporated county which may also result in changes to the General Plan, including any adjustments to the regulation of nightly rentals, the Board of Supervisors desires to temporarily suspend processing new applications for short-term and transient rentals in all land use designations; and

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO FINDS AND ORDAINS that:

SECTION ONE: There is a current and immediate threat to the public health, safety and welfare as a result of the approval of short-term and transient rentals for single-family and multi-family residential units on all land use designations, as such approvals negatively impact the amount of available long-term housing for residents. Therefore, approvals must be temporarily suspended in order to protect the public safety, health, and welfare.

SECTION TWO: The approval of new short-term and transient rentals in unincorporated areas of Mono County is hereby suspended to allow staff and decision makers to develop a comprehensive housing strategy for the unincorporated county, which may include updates to the General Plan and any adjustments to the regulation of short-term and/or transient rentals, while preserving existing long-term housing stock.

1 **SECTION THREE:** During the suspension, staff shall analyze the role of nightly rentals
2 in a comprehensive housing strategy and whether any modifications should be made to County
3 reguations..

4 **SECTION FOUR:** This ordinance shall become effective upon adoption as an urgency
5 measure pursuant to Government Code sections 65858 and 25123 and shall remain in effect,
6 unless extended as allowed by law, for 45 calendar days. The Clerk of the Board of Supervisors
7 shall post this ordinance and also publish it or a summary thereof in the manner prescribed by
8 Government Code section 25124 no later than 15 days after the date of its adoption.

9 **PASSED, APPROVED** and **ADOPTED** this _____ day of _____, 2022,
10 by the following vote, to wit:

11 **AYES:**

12 **NOES:**

13 **ABSENT:**

14 **ABSTAIN:**

15
16 _____
17 Bob Gardner, Chair
18 Mono County Board of Supervisors

19 **ATTEST:**

20 **APPROVED AS TO FORM:**

21
22 _____
23 Clerk of the Board

24
25 _____
26 County Counsel