



**Mammoth Lakes Housing Board Special Meeting
Agenda**

**Monday, February 27, 2023, 6:00 p.m.
437 Old Mammoth Road, Suite Z, Mammoth Lakes**

Members of the Board

President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, Board Member Amanda Rice

NOTE: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Mammoth Lakes Housing, Inc. at (760) 934-4740. Notification 48 hours prior to the meeting will enable Mammoth Lakes Housing, Inc to make arrangements to ensure accessibility to this meeting (28 CFR 13.102-35.104 ADA Title II).

NOTE: This meeting will be conducted pursuant to the provisions of Assembly Bill 361 (AB361) which amends certain requirements of the Ralph M. Brown Act. You are encouraged to watch this meeting live through the online eSCRIBE system here: <https://pub-townofmammothlakes.escribemeetings.com>, on the local government cable channel 18, or by utilizing the Zoom link below.

ZOOM INFORMATION:

Join from a PC, Mac, iPad, iPhone or Android device: <https://monocounty.zoom.us/j/98707718059>

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 646 876 9923 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 987 0771 8059 - Callers: To Raise your hand Press *9, to Unmute/Mute Press *6

International numbers available: <https://monocounty.zoom.us/j/ad4YSFD3lxlt>

Public comments may be submitted to the Executive Director at patricia@mammothlakeshousing.org or clerk@townofmammothlakes.ca.gov, or they may be made via Zoom or in person in Suite Z.

1. **Call to Order**
Regular meeting of the public benefit corporation, 501(c)3, Mammoth Lakes Housing, Inc. whose mission is to support affordable housing for a viable economy and sustainable community.
2. **Assembly Bill 361 (AB 361) Findings**
 - 2.1 **Adopt Resolution 2023-03 to allow virtual Board meetings to continue during the Covid-19 pandemic declared emergency.**
3. **Public Comments**
This is the established time for any member of the public wishing to address the Mammoth Lakes Housing, Inc. Board of Directors on any matter that does not otherwise appear on the agenda. Members of the public desiring to speak on a matter appearing on the agenda should ask the Chairman for the opportunity to be heard when the item comes up for consideration. Public comments may be submitted to the Executive Director at patricia@mammothlakeshousing.org or clerk@townofmammothlakes.ca.gov before or during the meeting, may be made in person in Suite Z or by "Raising your hand" in Zoom.
4. **CONSENT AGENDA**
 - 4.1 **Approve the minutes from the regular January 23, 2023 Board meeting**
5. **Policy Matters**
 - 5.1 **The Board will consider authorizing the form of Grant Agreement for funds from both the Town of Mammoth Lakes and Mono County at the Innsbruck Lodge Project**
 - 5.2 **Discussion regarding rescheduling the regular March Board meeting from March 6, 2023 to March 23, 2023**
6. **Closed Session**
 - 6.1 **Pursuant to Government Code Section 54956.8, the Board will hold a closed session to discuss property negotiations and possible staff directions and/or action –Assessor’s Parcel Number 0012120500**
Property: 1700 Old Mammoth Road, Aspen Village Townhomes, G-105, Mammoth Lakes, CA 9354

Negotiating Parties: Patricia Robertson representing MLH (prospective buyer); Jamie and Joel Rathje (Owner)

Under Negotiation: Terms of sale
7. **Board Member Reports**
8. **Adjourn**



*Mammoth Lakes Housing, Inc.
supports workforce housing
for a viable economy and
sustainable community.*

STAFF REPORT

Subject: The Board will discuss AB 361 and consider adoption of Resolution 23-03, regarding the continued utilization of teleconferencing for meetings of the Board that are required to follow the Brown Act.

Presented by: Patricia Robertson, Executive Director

BACKGROUND

On June 11, 2021, Governor Gavin Newsom issued Executive Order N-08-21, which among other things rescinded his prior Executive Order N-29-20 and sets a date of October 1, 2021 for public agencies to transition back to public meetings held in full compliance with the Brown Act.

AB 361 expires February 28, 2023.

Required Findings:

No later than 30 days after teleconferencing for the first time under AB 361 (and every 30 days thereafter) the board must make the following findings by majority vote:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.*
- (B) Any of the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.

* “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

RECOMMENDATION

The Board should consider making the required findings to continue with virtual meetings.

ATTACHMENTS

1. Resolution 23-03

RESOLUTION NO. 23-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF MAMMOTH LAKES HOUSING, INC. MAKING FINDINGS TO ALLOW THE BOARD OF DIRECTORS TO MEET VIRUTALLY DURING THE COVID-19 PANDEMIC DECLARED EMERGENCY

WHEREAS, meetings of the Mammoth Lakes Housing, Inc.'s Board of Directors are conducted in compliance with the Brown Act (Government Code Section 54950 et seq), so that members of the public may attend, observe, and participate, in accordance with the organizations' Bylaws (Section 5.2.(c)); and

WHEREAS, Government Code Section 54953(e) is a provision of the Brown Act establishing special rules that apply under specific circumstances to meetings that are conducted remotely via teleconference; and

WHEREAS, using the special rules will facilitate continuing to conduct meetings remotely during the COVID-19 pandemic; and

WHEREAS, the Board of Directors of Mammoth Lakes Housing, Inc. does hereby find that allowing for conducting public meetings virtually will support social distancing and reduce the potential risk to the public, elected officials, and employees to be infected by or to spread COVID-19; and

WHEREAS, a required condition for the use of the Section 54953(e) rules is the existence of a state of emergency declared by the Governor pursuant to Government Code Section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the State caused by conditions as described in Government Code Section 8558; and

WHEREAS, an additional required condition is that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Governor of California declared a Statewide state of emergency due to the COVID-19 virus on Wednesday, March 4, 2020; and

WHEREAS, on March 15, 2020 the Mono County Health Officer declared a local health emergency, including finding "that there is an imminent and proximate threat to public health from the introduction of COVID-19 in Mono County;" and

WHEREAS, the Mono County Director of Public Health has recently issued a memorandum recommending that social distancing be used as one means of reducing the spread of COVID-19; and

WHEREAS, the Board of Directors does hereby find that meetings of the Mammoth Lakes Housing, Inc. Board shall be conducted in compliance with paragraph (3) of subdivision (b) of Government Code Section 54953, as

authorized by subdivision (e) of Section 54953, and that the Board of Directors shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Section 54953.

NOW, THEREFORE, BE IT RESOLVED that the recitals set forth above are true and correct and are incorporated into this resolution by this reference; and

IT IS FURTHER RESOLVED that the Board of Directors hereby declares that a State and County emergency exists due to the existence or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property due to the COVID-19 virus; and

IT IS FURTHER RESOLVED that the Mono County Director of Public Health has issued a memorandum recommending the continued use of social distancing as a means to reduce the spread of COVID-19, and that the COVID-19 state of emergency impacts the ability of the Board of Directors to safely meet in person; and

IT IS FURTHER RESOLVED that the Board of Directors finds the use of virtual meetings, as provided for under AB 361 as approved by the State Legislature and signed by the Governor, is a prudent and safe means to conduct the organization's business respecting the recommendation to use social distancing as a precaution to reduce the spread of COVID-19; and

IT IS FURTHER RESOLVED that the organization's staff and Board of Directors are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act; and

IT IS FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) February 28, 2023, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Board of Directors may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

APPROVED AND ADOPTED THIS 27th day of February 2023.

AYES: _____ NAYS: _____ ABSTAIN: _____ ABSENT: _____

Kirk Stapp, President

ATTEST:

Patricia Robertson, Secretary



Mammoth Lakes Housing Board

Regular Meeting Minutes

January 23, 2023, 6:00 p.m.

437 Old Mammoth Road, Suite Z, Mammoth Lakes

Members Present: President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, Board Member Amanda Rice

1. Call to Order

President Kirk Stapp called the meeting to order at 6:04 p.m. in the Council Chambers at 437 Old Mammoth Road, Mammoth Lakes, CA. President Stapp and Board Members Lindsay Barksdale, Tom Hodges, Heidi Steenstra, Sarah Nuttall and Amanda Rice attended the meeting in person. Vice President Jennifer Kreitz and Board Members Tony Perkins and Brian D'Andrea attended via videoconference.

2. Assembly Bill 361 (AB 361) Findings

2.1 Adopt Resolution 2023-01 to allow virtual Board meetings to continue during the Covid-19 pandemic declared emergency

Moved by Board Member Amanda Rice

Seconded by President Kirk Stapp

Adopt Resolution 2023-01 to allow virtual Board meetings to continue during the Covid-19 pandemic declared emergency.

For (9): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

3. Public Comments

There were no comments given at this time.

4. Consent Agenda

Approve the Consent Agenda.

4.1 Approval of the Minutes from the December 5, 2022 Regular Board Meeting

Moved by Board Member Tom Hodges

Seconded by Board Member Lindsay Barksdale

Approve the minutes of the December 5, 2022 Board Meeting.

For (9): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5. Policy Matters

5.1 Appoint Amanda Rice to the Mammoth Lakes Housing, Inc. Board of Directors as the Town of Mammoth Lakes' Town Council Representative

Moved by Vice President Jennifer Kreitz

Seconded by Board Member Tom Hodges

Appoint Amanda Rice to the Mammoth Lakes Housing, Inc. Board of Directors as the Town of Mammoth Lakes' Town Council Representative.

For (9): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.2 Present Agnes Vianzon with a Certificate of Appreciation for her service on the Mammoth Lakes Housing Board of Directors from 2018–2022

Executive Director Patricia Robertson outlined the information in the staff report and thanked former Board Member Agnes Vianzon for her service and contributions to the MLH Board. Ms. Robertson said that she would present Ms. Vianzon with a Certificate of Appreciation.

There was discussion between Ms. Robertson and members of the Board.

5.3 Present President Kirk Stapp with an award for 20 years of service with Mammoth Lakes Housing, Inc.

Executive Director Patricia Robertson outlined the information in the staff report and thanked President Kirk Stapp for his years of service and contributions to the MLH Board.

PUBLIC COMMENT:

Sandy Hogan spoke about President Stapp's contributions to the Board and thanked him for his years of service.

Ms. Robertson read an email from Rick Wood regarding President Stapp's contributions to the Board and thanked him for his service.

There was discussion between Ms. Robertson and members of the Board.

Moved by Vice President Jennifer Kreitz
Seconded by Board Member Tom Hodges

Approve the award in recognition of President Kirk Stapp.

For (9): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.4 The Board will elect a new President

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

Moved by Board Member Tony Perkins

Seconded by Board Member Sarah Nuttall

Appoint Kirk Stapp to continue on as the President of the Mammoth Lakes Housing Board.

For (9): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.5 The Board will elect a new Vice President

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

Moved by Vice President Jennifer Kreitz

Seconded by Board Member Amanda Rice

Appoint Board Member Tom Hodges as the Vice President of the Mammoth Lakes Housing Board.

For (9): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.6 The Board will elect a new Treasurer

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

Moved by Board Member Jennifer Kreitz
Seconded by Vice President Tom Hodges

Appoint Board Member Lindsay Barksdale as the Treasurer of the Mammoth Lakes Housing Board.

For (9): President Kirk Stapp, Vice President Tom Hodges, Board Member Lindsay Barksdale, Board Member Jennifer Kreitz, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.7 The Board will receive an update on the COVID-19 public health emergency Brown Act amendments (AB 361) ending February 28, 2023

Executive Director Patricia Robertson outlined the information in the memo from Mammoth Lakes Housing's Legal Counsel.

There was discussion between Ms. Robertson, Town of Mammoth Lakes Town Clerk Jamie Gray, and members of the Board.

5.8 The Board will receive an update regarding the Project Homekey, Innsbruck Lodge Affordable Housing project and discuss additional funding options

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

Moved by Vice President Tom Hodges
Seconded by Board Member Amanda Rice

Approve a permanent capital investment in the Innsbruck Lodge Affordable Apartments in the amount of \$141,131, and direct staff to seek the remaining funds from other sources including the Town of Mammoth Lakes and Mono County as soon as possible.

For (9): President Kirk Stapp, Vice President Tom Hodges, Treasurer Lindsay Barksdale, Board Member Jennifer Kreitz, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.9 The Board will consider authorizing the rehabilitation contract for Innsbruck Lodge with Christian Hansen Construction in an amount not to exceed \$2,384,928

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

Moved by Vice President Tom Hodges

Seconded by Board Member Jennifer Kreitz

Direct staff to negotiate the rehabilitation contract with Christian Hansen Construction for the Project Homekey site at Innsbruck Lodge in the amount of \$2,384,928, with the condition that Christian Hansen Construction agrees to complete the project by the Project Homekey deadline of December 30, 2023, and that Mammoth Lakes Housing secures the additional funds in the amount of \$400,000 from alternative sources before executing the contract with Christian Hansen Construction, subject to any negotiations with legal counsel.

For (9): President Kirk Stapp, Vice President Tom Hodges, Treasurer Lindsay Barksdale, Board Member Jennifer Kreitz, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.10 Approval of Mammoth Lakes Housing, Inc. Resolution 23-02 Approving the Creation of an Executive Director Evaluation Process Ad-Hoc Committee to bring recommendations to the Board of Directors

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

Moved by Board Member Heidi Steenstra
Seconded by Treasurer Lindsay Barksdale

Approve Mammoth Lakes Housing, Inc. Resolution 23-02 Approving the Creation of an Executive Director Evaluation Process Ad-Hoc Committee to bring recommendations to the Board of Directors.

For (9): President Kirk Stapp, Vice President Tom Hodges, Treasurer Lindsay Barksdale, Board Member Jennifer Kreitz, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.11 Appointment of the members to the Executive Director Evaluation Process Ad-Hoc Committee

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion among members of the Board.

Moved by Board Member Sarah Nuttall
Seconded by Board Member Amanda Rice

Appoint Board Members Tony Perkins, Sarah Nuttall, Brian D'Andrea, and Heidi Steenstra to the Executive Director Evaluation Process Ad-Hoc Committee.

For (9): President Kirk Stapp, Vice President Tom Hodges, Treasurer Lindsay Barksdale, Board Member Jennifer Kreitz, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall, and Board Member Amanda Rice

Carried (9 to 0)

5.12 MLH Annual Report / Impact Statement 2021-2022

Executive Director Patricia Robertson outlined the information in the staff report.

There was discussion between Ms. Robertson and members of the Board.

5.13 MLH Programs Update

Executive Director Patricia Robertson gave an update regarding MLH Programs and recent activities.

There was discussion between Ms. Robertson and members of the Board.

5.14 5-Year Strategic Plan Update proposed planning process

Executive Director Patricia Robertson outlined the information the 5-Year Strategic Plan.

There was discussion between Ms. Robertson and members of the Board.

6. Committee Reports

Vice President Tom Hodges reported that the Mammoth Lakes Chamber of Commerce Workforce Housing Steering Committee was scheduled to meet on Wednesday.

Treasurer Lindsay Barksdale asked if the Fundraising Committee needed to meet.

There was discussion between Executive Director and members of the Board.

7. Board Member Reports

Vice President Tom Hodges reported that demand at Mammoth Mountain Ski Area was strong, as was visitation this past weekend. Mr. Hodges said that with the snowpack that we have, he expected it would be a long ski season, likely into July 4th or beyond, therefore lodging should remain strong as would Transient Occupancy Tax (TOT) numbers.

Board Member Jennifer Kreitz reported that the Mono, Inyo, and Alpine Continuum of Care (CoC) would perform the "Point in Time" count on Wednesday, the 25th to count homelessness in the region and said that she would volunteer along with others to help with the effort. Ms. Kreitz said that the Mono County Board of Supervisors would hold a pre-housing workshop on February 7th to prepare for the housing workshop on February 21st. She said that Housing California held conferences every year and that she would like other members of the MLH Board to be able to attend those conferences to learn about development opportunities.

There was discussion between Executive Director Patricia Robertson and members of the Board.

8. Adjourn

The meeting was adjourned at 8:29 p.m.

Angela Plaisted, Assistant Clerk
Town of Mammoth Lakes

Patricia Robertson, Secretary
Mammoth Lakes Housing, Inc.



*Mammoth Lakes Housing, Inc.
supports workforce housing
for a viable economy and
sustainable community.*

STAFF REPORT

Subject: The Board will consider authorizing the form of Grant Agreement for funds from both the Town of Mammoth Lakes and Mono County at the Innsbruck Lodge Project

Presented by: Patricia Robertson, Executive Director

BACKGROUND

The Town of Mammoth Lakes previously committed \$1,000,000 towards Innsbruck Lodge, for which the project received a 1:1 match from the State. On February 15, 2023, the Town also committed an additional \$400,000 under the conditions that it be the last source of funds used.

Mon County also committed \$550,000 for which a 1:1 match from the State was received.

IN order today down the funds, MLH will enter into a Grant Agreement with each jurisdiction outlining the purpose of the funds.

Legal counsel for all parties has reviewed the document and provided comments. The document for the Board's review and approval is generally in its final form except for the remaining comments below:

1. Section 2.2
 - a. Whether or not the Agreement is recorded on title and the lien position
 - b. Perhaps a First Right of Refusal
2. Section 4.13(b)(2)
 - a. Commercial Liability escalation
3. Section 7.19
 - a. Town to be able to take items to Town Council

Once legal counsel agrees on these terms, a copy of this document will be executed by the Town and a copy by the County.

NEXT STEPS

1. MLH approve Agreement with possible minor changes by legal.
2. Own Council and Mon County (3/7) approve the Agreement
3. Draw funds from jurisdictions to Innsbruck Lodge bank account.
4. Execute Contract with GC
5. Pull building permit and pay required fees including DIF
6. Start rehab.

RECOMMENDATION

Staff recommends that the Board approve the Agreement with minor modifications by legal, as noted in the staff report.

ATTACHMENTS

1. Draft Grant Agreement

TOWN GRANT AGREEMENT

Between

TOWN OF MAMMOTH LAKES

and

INNSBRUCK LODGE AFFORDABLE HOUSING, LLC

(Innsbruck Lodge - Town Grant)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. DEFINITIONS AND EXHIBITS.....	2
Section 1.1 <u>Definitions</u>	2
Section 1.2 <u>Exhibits</u>	6
ARTICLE 2. GRANT PROVISIONS	6
Section 2.1 <u>Grant</u>	6
Section 2.2 <u>Security</u>	6
Section 2.3 <u>Forgiveness of Revocable Grant</u>	6
Section 2.4 <u>Revocation of Grant Upon Default</u>	6
Section 2.5 <u>Interest on Default</u>	6
Section 2.6 <u>Non-Recourse</u>	7
Section 2.7 <u>Conditions Precedent to Disbursement of Grant Funds</u>	7
ARTICLE 3. GRANTEE OBLIGATIONS	8
Section 3.1 <u>Schedule of Performance</u>	8
Section 3.2 <u>Conversion and Rehabilitation</u>	8
Section 3.3 <u>Prevailing Wages; Accessibility</u>	9
Section 3.4 <u>Inspections</u>	9
Section 3.5 <u>Approved Financing Plan</u>	10
Section 3.6 <u>Services Plan and Budget</u>	10
ARTICLE 4. GRANT REQUIREMENTS	10
Section 4.1 <u>Annual Operating Budget</u>	10
Section 4.2 <u>Information</u>	10
Section 4.3 <u>Records</u>	10
Section 4.4 <u>Town Audits</u>	12
Section 4.5 <u>Town Grant Requirements</u>	12
Section 4.6 <u>Hazardous Materials</u>	13
Section 4.7 <u>Maintenance and Damage</u>	14
Section 4.8 <u>Fees and Taxes</u>	14
Section 4.9 <u>Notice of Litigation</u>	15
Section 4.10 <u>Operation of Development as Affordable Housing</u>	15
Section 4.11 <u>Nondiscrimination</u>	15
Section 4.12 <u>Transfer</u>	15
Section 4.13 <u>Insurance Requirements</u>	16
Section 4.14 <u>Anti-Lobbying Certification</u>	20
Section 4.15 <u>Covenants Regarding Approved Financing</u>	20
Section 4.16 <u>Affordability and Project Monitoring</u>	21
ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF BORROWER.....	21
Section 5.1 <u>Representations and Warranties of Grantee</u>	21

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 6. DEFAULT AND REMEDIES	23
Section 6.1 <u>Events of Default</u>	23
Section 6.2 <u>Remedies</u>	25
Section 6.3 <u>Right of Contest</u>	25
Section 6.4 <u>Remedies Cumulative</u>	26
ARTICLE 7. GENERAL PROVISIONS	26
Section 7.1 <u>Relationship of Parties</u>	26
Section 7.2 <u>No Claims</u>	26
Section 7.3 <u>Indemnification</u>	26
Section 7.4 <u>Non-Liability of Town Officials, Employees and Agents</u>	27
Section 7.5 <u>No Third-Party Beneficiaries</u>	27
Section 7.6 <u>Conflict of Interest</u>	27
Section 7.7 <u>Notices, Demands and Communications</u>	28
Section 7.8 <u>Amendments</u>	28
Section 7.9 <u>Town Approval</u>	28
Section 7.10 <u>Applicable Law and Venue</u>	29
Section 7.11 <u>Parties Bound</u>	29
Section 7.12 <u>Attorneys' Fees</u>	29
Section 7.13 <u>Severability</u>	29
Section 7.14 <u>Force Majeure</u>	29
Section 7.15 <u>Waivers</u>	30
Section 7.16 <u>Title of Parts and Sections</u>	30
Section 7.17 <u>Entire Understanding of the Parties</u>	30
Section 7.18 <u>Multiple Originals; Counterpart</u>	30
Section 7.19 <u>Action by the Town</u>	30
Exhibit A: Legal Description of the Property	
Exhibit B: Approved Financing Plan	
Exhibit C: Schedule of Performance	
Exhibit D: Form of Use Restriction	
Exhibit E: Certification of Continuing Program Compliance	

TOWN GRANT AGREEMENT
(Innsbruck Lodge –Town Grant)

This Town Grant Agreement (the "Agreement") is dated as of _____, 2022 (the "Effective Date"), and is between the Town of Mammoth Lakes, a municipal corporation (the "Town") and Innsbruck Lodge Affordable Housing, LLC, a California limited liability company ("Grantee") and controlled affiliate of Mammoth Lakes Housing, Inc., a California nonprofit public benefit corporation.

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The Department of Housing and Community Development ("HCD") issued a Round 2 Notice of Funding Availability ("NOFA") for the Homekey Program, established by California Health and Safety Code Section 50675.1.1 (the "Homekey Program"), on September 9, 2021. The NOFA incorporates by reference the MHP, as well as the MHP Final Guidelines ("MHP Guidelines"), dated June 19, 2019, both as amended and in effect from time to time. In addition, the NOFA states that Homekey grant funds are derived primarily from the Coronavirus Fiscal Recovery Fund (CSFRF), established by the American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2).

C. The Homekey Program was established during the COVID-19 Pandemic to assist Homeless Households and At Risk of Homelessness Households impacted by COVID-19. Through its September 9, 2021 NOFA, HCD considers Homeless Households and At Risk of Homelessness Households to be inherently impacted by the COVID-19 Pandemic ("Target Population").

D. The Town and the Grantee jointly applied and were awarded Homekey Funds from HCD which shall be disbursed pursuant to the terms of Standard Agreement No. 21-HK-17233, dated May 15, 2022, by and among HCD, the Town and the Grantee, which shall govern the expenditure of the Homekey Funds (the "Standard Agreement").

E. The Grantee owns or is acquiring a fee title interest in certain real property located at 913 Forest Trail, Mammoth Lakes, California (APN-033-041-006-000), as more particularly described in Exhibit A (the "Property"). As of the date of acquisition, the Property is improved with sixteen (16) units of Permanent Housing (the "Improvements"). The Property and Improvements are referred to in this Agreement as the "Development."

F. The Grantee and the Town intend for the Development to be used as Permanent Housing.

G. The Town desires to make a revocable grant to Grantee in an amount not to exceed One Million Dollars (\$1,000,000) from the Town's general fund funds ("Town Funds")(the "Grant").

H. Pursuant to the terms of the Standard Agreement, the Town is required to cause a 55-year use restriction to be recorded against the Property in first lien priority (the "Use Restriction") to secure performance under the Standard Agreement.

I. Mono County desires to make a revocable grant to Grantee in the amount of \$550,000 (Confirm Source).

J. The Grants are being made to finance the construction of the Development to ensure the creation of the affordable units for the Homekey Term. The Development will increase the supply of affordable rental housing in the Town of Mammoth Lakes and Mono County.

K. Pursuant to the California Environmental Quality Act ("CEQA"; California Public Resources Code § 21000 et seq) and its implementing guidelines, the Town prepared, reviewed, and approved the Notice of Exemption under 14 CCR 15301, consisting of the operation and minor alternations of an existing private structure, for the transactions contemplated by this Agreement, following a duly noticed public hearing.

L. HCD announced that the Homekey Funds are not subject to the National Environmental Policy Act ("NEPA"). The Town has not committed and is not using any federal funds to fund the Grant, thus the Town and County have determined that no additional NEPA review is required.

WITH REFERENCE TO THE FACTS RECITED ABOVE, the Town and the Grantee (collectively, the "Parties") agree as follows:

AGREEMENT

ARTICLE 1. DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

The following terms have the following meanings:

(a) "30% AMI Household" means a household whose Adjusted Income does not exceed 30% of Area Median Income.

(b) "Affiliate" means an entity that is controlling or controlled by Grantee. For the purposes of this definition "Control" means (1) direct or indirect management or control of the managing member or members in the case of a limited liability company; (2) direct or indirect management or control of a general partner or general partners in the case of a partnership; and (3) direct or indirect control of a majority of the directors in the case of a corporation.

(c) "Agreement" means this Town Grant Agreement, as such may be amended from time to time.

(d) "Approved Financing" means all of the following loans, grants and equity obtained by Grantee and approved by the Town for the purpose of financing the Development, in addition to the Grant, which include the following, estimated as of the Effective Date:

(1) A grant of approximately Four Million Five Hundred Sixty Thousand Dollars (\$4,560,000) of Homekey program funding from HCD (the "Homekey Acquisition Funds") or such other amount approved by HCD;

(2) A grant of approximately Four Million Four Hundred and Ten Thousand Dollars (\$4,410,000) of Homekey program funding from HCD or such other amount approved by HCD; and

(3) A grant of Five Hundred Fifty Thousand Dollars (\$550,000) from the County of Mono ("County") from the County's general fund for acquisition and rehabilitation.

(e) "Approved Financing Plan" means the Financing Plan approved by the County as of the date of this Agreement, attached to this Agreement as Exhibit B, incorporated herein by this reference, as the same may be amended pursuant to Section 3.5. The Approved Financing Plan shall be updated at the Close of Escrow without need for amendment of this Agreement.

(f) "At Risk of Homelessness Household" means a household that is at risk of homelessness, as defined in Section 578.3 of Title 24 of the Code of Federal Regulations. The definition of At Risk of Homeless Households under 24 CFR 578.3 includes limited requirements that an individual or family also qualify as a 30% AMI Household.

(g) "CEQA" has the meaning set forth in Paragraph J of the Recitals.

(h) "Certificate of Completion" means the final Certificate of Completion issued by the Town of Mammoth Lakes, or comparable Town sign-off on the completion of conversion of the Development.

(i) "Closing Date" means the date that Grantee acquires title to the Property and all deeds of trust associated with Approved Financing as shown on the Approved Financing Plan are recorded against the Grantee's fee interest in the Property.

(j) "Completion Date" means the date that a temporary or final Certificate of Completion, or equivalent document is issued by the Town to certify completion of the rehabilitation and conversion of the Development.

(k) "Default Rate" has the meaning set forth in Section 6.2(a)(D).

(l) "Development" has the meaning set forth in Paragraph E of the Recitals.

(m) "Escrow" means the escrow account established by the Grantee for the closing of Development financing with Inyo-Mono Title Company in its Bishop office, located at 873 North Main Street, Bishop, CA 93514, or another escrow company satisfactory to the Town.

- (n) "Enterprise" means Enterprise Community Partners, a nonprofit public benefit corporation.
- (o) "Event of Default" has the meaning set forth in Section 6.1.
- (p) "Grant" has the meaning set forth in Paragraph G of the Recitals.
- (q) "Grant Documents" means this Agreement, and the Use Restriction.
- (r) "Grantee" has the meaning set forth in the first paragraph of this Agreement.
- (s) "Hazardous Materials" has the meaning set forth in Section 4.6.
- (t) "Hazardous Materials Claims" has the meaning set forth in Section 4.6.
- (u) "Hazardous Materials Law" has the meaning set forth in Section 4.6.
- (v) "HCD" has the meaning set forth in Paragraph B of the Recitals.
- (w) "Homekey" has the meaning set forth in Paragraph B of the Recitals.
- (x) "Homekey Funds" means the Homekey Acquisition Funds provided by HCD under the Standard Agreement.
- (y) "Homekey Term" means the period beginning on the date of this Agreement and ending on the fifteenth (15th) anniversary of the Completion Date.
- (z) "Homekey Regulations" has the meaning set forth in Paragraph B of the Recitals.
- (aa) "Homeless Household" means individuals and families who are experiencing homelessness, as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.
- (bb) "Improvements" has the meaning set forth in Paragraph E of the Recitals.
- (cc) "Low Income Household" means a household with an Adjusted Income that does not exceed the qualifying limits for lower income households, adjusted for Actual Household Size, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by HCD.
- (dd) "Management Plan" has the meaning set forth in Section 3.2 of the Use Restriction.
- (ee) "Notice of Completion" means the Notice of Completion executed by Grantee in the form specified in California Civil Code Section 8182.

(ff) "Operating Agreement" means the Operating Agreement executed by the members of Grantee, as may be amended pursuant to the requirements of Section 7.8 hereof.

(gg) "Permanent Housing" means housing, dwellings, or other living accommodations where the landlord does not limit the tenant's length of stay or restrict the tenant's movements and where the tenant has a lease and is subject to the rights and responsibilities of tenancy under California Civil Code Section 1940 et seq.

(hh) "Permitted Transfer" has the meaning set forth in Section 4.12(c).

(ii) "Program Participant" means a person or household which is a member of the Target Population that occupies a Unit in the Development.

(jj) "Property" has the meaning set forth in Paragraph E of the Recitals.

(kk) "Use Restriction" means the Regulatory Agreement and Declaration of Restrictive Covenants between the Town and Grantee related to the Grant and the Homekey Funds, to be recorded against the Grantee's fee interest in the Property. A copy of the form of Use Restriction is attached as Exhibit D.

(ll) "Risk Management" means the Town of Mammoth Lakes' Department of Risk Management.

(mm) "Schedule of Performance" means the schedule for performance of various tasks and obligations under this Agreement that is attached as Exhibit C, as such may be modified pursuant to Section 3.1.

(nn) "Services Budget" has the meaning set forth in Section 3.6.

(oo) "Services Plan" has the meaning set forth in Section 3.6.

(pp) "Standard Agreement" has the meaning set forth in Recital D.

(qq) "Term" means the period of time that commences on the date of this Agreement, and expires, unless sooner terminated in accordance with this Agreement, on the fifteenth (15th) anniversary of the Completion Date.

(rr) "Town" has the meaning set forth in the first paragraph of this Agreement.

(ss) "Town-Assisted Units" has the meaning set forth in Recital I.

(tt) "Town Council" refers to the town council of the Town of Mammoth Lakes.

(uu) "Town Executive Officer" refers to the Town Manager of the Town of Mammoth Lakes, or an authorized designee.

(vv) "Transfer" has the meaning set forth in Section 4.12.

(ww) "Unit" means one (1) of the approximately sixteen (16) affordable housing units to be constructed at the Development, including one (1) unrestricted manager's unit.

(xx) "Use Restriction" has the meaning set forth in Recital H.

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 Financing Plan
Exhibit C: Schedule of Performance
Exhibit D: Form of Use Restriction

ARTICLE 2.
GRANT PROVISIONS

Section 2.1 Grant.

Subject to the satisfaction of the conditions set forth in this Article, the Town shall provide to Grantee the Grant, which the Grantee may use solely to fund the acquisition, construction, and development of seven (7) Town-Assisted Units at the Development for the Homekey Term, consistent with the terms of the Use Restriction and the Standard Agreement. Except as set forth in Section 2.4, Grantee has no obligation to repay the Grant.

Section 2.2 Security.

Grantee shall also cause or permit the Use Restriction to be recorded against the fee interest in the Property, in first lien position. The Use Restriction shall not be subordinated.

Section 2.3 Forgiveness of Revocable Grant.

Provided that no Default exists under this Agreement or the Use Restriction, without further action of the parties, the Grant shall be forgiven upon expiration of the Homekey Term.

Section 2.4 Revocation of Grant Upon Default.

Notwithstanding any provision herein to the contrary, and in addition to any other rights and remedies available to the Town set forth in Article 6, upon a Default by Grantee, the Town may revoke the outstanding balance of the Grant, and declare the outstanding balance of the Grant (other than any portion of the Grant that has been previously forgiven by the Town as set forth in Section 2.3 above) plus interest thereon to be immediately due and payable, subject to the non-recourse provisions set forth in Section 2.6.

Section 2.5 Interest on Default. In the event of a Default, interest on the Grant shall begin to accrue, as of the date of Default and continuing until such time as the outstanding

balance of the Grant funds are repaid in full (other than any portion of the Grant that has been previously forgiven by the Town as set forth in Section 2.3 above) or the Default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

Section 2.6 Non-Recourse. Neither Grantee nor any member of Grantee (that is not a Guarantor) shall have any direct or indirect personal liability for payment of the principal of, and interest on, the Grant or the performance of the covenants of Grantee under this Agreement. The sole recourse of Town with respect to the principal of, and default interest, if any, on the outstanding balance of the Grant, and defaults by Grantee in its performance of its covenants under the Use Restriction, shall be to enforce the remedies under this Agreement, and in no event shall the Town be entitled to, or seek, a deficiency judgment.

Section 2.7 Conditions Precedent to Disbursement of Grant Funds.

(a) The Town shall disburse the Town Grant in a single installment, but shall have no obligation to make any disbursements or to take any other action under the Grant Documents unless the following conditions precedent are satisfied prior to each such disbursement of the Grant funds.

(1) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement, or any other financing agreements or contracts between the Town and Grantee, or their affiliates relating to the Development;

(2) Grantee has delivered to the Town a copy of Grantee's organizational documents, including an Operating Agreement, and a corporate authorizing resolution authorizing Grantee's execution of this Agreement and the transactions contemplated by this Agreement;

(3) Grantee has caused to be executed and delivered to the Town all of the Grant Documents and any other instruments, and policies required under the Grant Documents;

(4) The Town has received and approved the Approved Financing Plan;

(5) Grantee has executed the Standard Agreement;

(6) Grantee has furnished the Town with evidence of the insurance coverage meeting the requirements of Section 4.13 below;

(7) The Use Restriction has been recorded against the Grantee's fee interest in the Property in the Office of the Recorder of the County of Mono in first lien position, in accordance with the terms of this Agreement, and recorded copies have been arranged to be delivered to the Town;

(8) The Town has received from Grantee a copy of the Management Plan, and a management agreement and contact information for the property manager of the Development and the name and phone number of the on-site property manager, in compliance with the terms of the Use Restriction;

(9) There exists no material adverse change in the financial condition of Grantee from that shown by the financial statements and other data and information furnished by Grantee to the Town prior to the date of this Agreement;

(10) The Town has received a written draw request from the Grantee including certification that the condition set forth in Section 2.7(a)(1) continues to be satisfied, and certifying the proposed uses of funds is consistent with the limitations set forth in Section 2.1, above, and will be used solely for operating costs of Town-Assisted Units occupied by an income eligible household from the Target Population.

(b) Notwithstanding any other provisions of this Agreement, the Town shall have no further obligation to disburse any portion of the Grant to Grantee under this Agreement following: (i) termination of this Agreement; or (ii) notification by the Town to the Grantee of an Event of Default (excluding any Event of Default of the Town) under terms of this Agreement until such time as the Event of Default has been cured.

ARTICLE 3. GRANTEE OBLIGATIONS

Section 3.1 Schedule of Performance.

Subject to Section 7.15 hereof, the Grantee shall perform the tasks described in the Schedule of Performance no later than the dates set forth in the Schedule of Performance, which shall at all times be in substantial conformance with the terms and conditions of the Standard Agreement. The Schedule of Performance may be modified in writing by Grantee and the Town Executive Officer on behalf of the Town without the need for formal amendment of this Agreement or further approval by the Town Council.

Section 3.2 Conversion and Rehabilitation.

(a) Grantee shall be solely responsible to obtain all permits and approvals for the rehabilitation and operation of the Development. Grantee shall convert the Development to Permanent Housing and shall cause the commencement and completion of conversion of the Development to Permanent Housing no later than the dates set forth in the Standard Agreement.

(b) Grantee shall achieve full occupancy of Town-Assisted Units by the Target Population in accordance with the timelines set forth in the Standard Agreement. Grant funds provided to the Grantee may only be used to fund operating subsidies for Units that are occupied by eligible households and which may not be under active rehabilitation while occupied.

(c) The Grantee and the Town agree that the Grantee may as part of any extension seek to negotiate additional commitments of Town funds to support operating subsidies for the Development, which the Town shall provide at its sole and absolute discretion and which shall be subject to approval by the Town Council.

Section 3.3 Prevailing Wages; Accessibility.

(a) Prevailing Wages. If and to the extent required by law, in the rehabilitation of the Development, Grantee shall and shall cause all contractors and subcontractors to pay prevailing wages in performing any construction activities as may be required under federal Davis-Bacon Act (40 USC 3141-3148) and the labor compliance provisions to be provided by the Town (if applicable), and pursuant to Labor Code Sections 1720 et seq. (the "Prevailing Wage Requirements"), and the implementing regulations of the Department of Industrial Relations (the "DIR"), to employ apprentices as required by Labor Code Sections 1777.5 et seq., and the implementing regulations of the DIR and comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., 1810-1815, and implementing regulations of the DIR.

(b) Grantee shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the Town) the Town and its councilmembers, officers and employees 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 Grantee, its contractors and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq. and prevailing wage requirements of the federal Davis-Bacon Act (40 USC 3141-3148), to employ apprentices pursuant to Labor Code Sections 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and the implementing regulations of the DIR in connection with the performance of the development activities or any other work undertaken or in connection with the Property. The requirements in this subsection survive the termination of this Agreement.

(c) Accessibility Requirements. The Development will be 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 the Standard Agreement.

Section 3.4 Inspections.

(a) The Grantee shall permit and facilitate, observation and inspection of the Development by the Town and by public authorities during reasonable business hours upon forty-eight (48) hours' written notice for the purposes of determining compliance with this Agreement, provided, however, that nothing in this Agreement shall entitle the Town to enter an occupied unit in the Development without notice to the program participant thereof, which the Grantee shall deliver on behalf of the Town, and permission from such program participant to the extent such permission is required by law. Such inspections do not relieve the Grantee, or its contractors, from any applicable requirement to obtain other Town or County inspections in connection with the conversion of the Improvements.

(b) After the completion of an inspection the Town shall deliver a copy of the inspection report to the Grantee. If the Town determines as a result of the inspection that there

are any deficiencies for any of the inspectable items in the Development, the Grantee 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 Grantee must begin to correct the deficiency within fifteen (15) days, correct the deficiency as soon as reasonably possible, and allow the Town to reinspect the corrected deficiency.

Section 3.5 Approved Financing Plan.

The Approved Financing Plan is attached as Exhibit B, and is incorporated herein by this reference. Grantee shall submit any proposed or required amendments to the Approved Financing Plan, along with evidence that the changes to the Approved Financing Plan are reasonable and necessary, to the Town for approval within fifteen (15) days of the date Grantee receives information indicating that actual costs of the Development materially vary or will vary from the costs shown on the Approved Financing Plan, which approval shall not be unreasonably withheld or delayed. The Town will make best efforts to respond in writing within fifteen (15) days after receipt of a proposed amendment to the Approved Financing Plan. In addition, the Grantee shall submit an update to the Approved Financing Plan meeting the requirements set forth in Section 3.2(c), which proposed financing plan shall be reviewed in the same manner as other updates or amendments to the Approved Financing Plan under this Section.

Section 3.6 Services Plan and Budget.

Grantee, in collaboration with Mono County Behavioral Health, Mono County Social Services, Mono County Adult Education Program, Mono County Workforce Services and Inyo Mono Advocates for Community Action, plans to provide on-site services to all program participants in the Development which are required under the Homekey Program (the "Social Services"). By the time specified in the Schedule, Grantee shall submit to the Town the proposed services plan which shall include written guidelines or procedures for providing the Social Services (the "Services Plan"), and a proposed budget for the provision of Social Services (the "Services Budget"). The Services Plan shall include the types of Social Services provided, staffing levels, and overall coordination of the Social Services.

ARTICLE 4.
GRANT REQUIREMENTS

Section 4.1 Annual Operating Budget.

At the beginning of each year of the Term, Grantee shall provide to the Town an annual budget for the operation of the Development.

Section 4.2 Information.

Grantee shall provide any information related to the Development reasonably requested by the Town in connection with the Development, including (but not limited to) any information required by HCD in connection with the Standard Agreement, and any information required by the Town in connection with the Grantee's use of the Grant funds.

Section 4.3 Records.

(a) Grantee shall keep and maintain at the Development, or at the corporate offices of the Grantee's managing member, or elsewhere with the Town's written consent, full, complete and appropriate books, records and accounts relating to the Development. Books, records and accounts relating to Grantee's compliance with the terms, provisions, covenants and conditions of this Agreement. All applicable financial documents are to be kept and maintained in accordance with generally accepted accounting principles consistently applied. All such books, records, and accounts shall at reasonable times be open to and available for inspection and copying by the Town, its auditors or other authorized representatives at reasonable intervals during normal business hours and forty-eight (48) hours' prior written notice to Grantee. Grantee shall preserve such records for a period of not less than five (5) years after the creation of such records. Copies of all tax returns and other reports that Grantee may be required to furnish to any governmental agency are to be open for inspection by the Town at all reasonable times at the place that the books, records and accounts of Grantee are kept. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Grant is pending at the end of the record retention period stated herein, then Grantee shall retain the records until such action and all related issues are resolved. The records are to include all invoices, receipts, and other documents related to expenditures from the Grant funds. Such records are to include but are not limited to:

- (1) Records providing a full description of the activities undertaken under the Standard Agreement;
- (2) Records providing a full description of the activities undertaken with the use of the Grant funds;
- (3) Records documenting compliance with the Participant Selection Plan and all applicable fair housing, equal opportunity, and affirmative fair marketing requirements;
- (4) Records demonstrating compliance with the Use Restriction;
- (5) Records demonstrating compliance with all applicable accessibility requirements;
- (6) Records demonstrating compliance with any applicable relocation requirements, which must be retained for at least five (5) years after the date by which persons displaced from the property have received final payments; and
- (7) Records demonstrating compliance with any applicable labor requirements (including certified payrolls from Grantee's general contractor evidencing that applicable prevailing wages have been paid).

(b) The Town shall notify Grantee of any records it deems insufficient. Grantee has thirty (30) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the Town in such notice, or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then Grantee must begin to correct the deficiency within thirty (30) days and correct the deficiency as soon as reasonably possible.

Section 4.4 Town Audits.

Each year, Grantee shall provide the Town with a copy of Grantee's annual audited financial statements, which is to include information on all of Grantee's activities pertaining to the Development as is reasonably requested by the Town. Grantee shall cooperate with any audit undertaken by the Town or a Town contractor of Grantee's compliance with the terms of this Town Grant Agreement.

Section 4.5 Town Grant Requirements.

(a) Grantee shall, at all times during the Term hereof, comply with all applicable laws and regulations governing the use of the Homekey Funds under the Standard Agreement. Grantee shall also comply with the laws and regulations governing the use of the Grant funds including (but not limited to) the following:

(1) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Construction Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608, Executive Order 13672 concerning Gender Identity.

(2) Relocation. The parties agree and acknowledge that the project contemplated under this Agreement is not expected to result in any displacement. From and after the Closing, if and to the extent the rehabilitation of Development results in the permanent or temporary displacement of residential tenants, program participants, homeowners, or businesses, then the Grantee shall comply with 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; 24 C.F.R. 570.606; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 92.353; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq.) with respect to relocation planning, advisory assistance, and payment of monetary benefits. The Grantee 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. The Grantee shall defend, indemnify, and hold harmless the Town, its governing board members, officers, representatives, agents, assigns and employees against any claim for damages, compensation, fines, penalties, relocation payments or other amounts arising out of the failure or alleged failure of any person or entity (including the Grantee or the Town) to satisfy relocation obligations related to the rehabilitation of the Development.

(3) Homekey Regulations. Any other HCD regulations present or as may be amended, added, or waived in the future pertaining to the Homekey Funds.

Section 4.6 Hazardous Materials.

(a) Grantee shall keep and maintain the Property in compliance with, and may not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Grantee may not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily used in rehabilitation of projects like the Development or kept and used in and about residential property of this type.

(b) Grantee shall immediately advise the Town in writing if at any time it receives written notice of: (1) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Grantee or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (2) all claims made or threatened by any third party against Grantee or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (1) and (2) above are hereinafter referred to as "Hazardous Materials Claims"); and (3) Grantee'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 classified as "border-zone property" (as defined in California Health and Safety Code Section 25117.4) under the provisions of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

(c) The Town has the right to join and participate in, as a party if it so elects, 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 Grantee. Grantee shall indemnify and hold harmless the Town and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including without limitation: (1) all foreseeable consequential damages; (2) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans and (3) all reasonable costs and expenses incurred by the Town in connection with clauses (1) and (2), including but not limited to reasonable attorneys' fees and consultant's fees. 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: (A) losses attributable to diminution in the value of the Property;

(B) loss or restriction of use of rentable space on the Property; (C) adverse effect on the marketing of any rental space on the Property; and (D) 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)

Section 4.7 Maintenance and Damage.

(a) During the Term, Grantee shall maintain the Development in good repair and in a neat, clean and orderly condition, consistent with quality affordable housing developments owned or operated by Grantee or its affiliates and in compliance with the Town approved Management Plan. If there arises a condition in contravention of this requirement, and if Grantee has not cured such condition within thirty (30) days after receiving written notice from the Town of such a condition, if Grantee is incapable of curing a default within such thirty (30) day period, the Town will give the Grantee ninety (90) days to cure such default provided Grantee has commenced to cure within such thirty (30) day period and is diligently proceeding to cure such default through the end of such period, then in addition to any other rights available to the Town, the Town may perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property, subject to the provisions provided in subsection (b) below.

(b) Subject to the requirements of Senior Lenders, and if economically feasible in the Town's judgment after consultation with Grantee, if any improvement now or in the future on the Property is damaged or destroyed, then Grantee, at its cost and expense, shall diligently undertake to repair or restore such improvement. Such work or repair is to be commenced no later than the later of: (i) one hundred twenty (120) days, or such longer period approved by the Town in writing, after the damage or loss occurs; or (ii) thirty (30) days following receipt of the insurance proceeds, and is to be completed within one (1) year thereafter. Any insurance proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance proceeds are insufficient for such purpose, then Grantee shall make up the deficiency. If Grantee does not promptly make such repairs then any insurance proceeds collected for such damage or destruction are to be promptly delivered by Grantee to the Town as a special repayment of the Grant, subject to the rights of the Senior Lenders, as applicable.

Section 4.8 Fees and Taxes.

(a) Grantee is solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Development, and shall pay such charges prior to delinquency, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles.

(b) Town acknowledges that the Grantee intends to apply to the State Board of Equalization for a welfare exemption from property taxes under California Revenue and Taxation Code Section 214 for the Development. A denial, or delayed approval, of such application shall not excuse the Grantee's compliance with the terms of this Town Grant Agreement.

Section 4.9 Notice of Litigation.

Grantee shall promptly notify the Town in writing of any litigation related to the Development, and any litigation related to the, for which the amount claimed or at issue is in excess of Two Hundred Fifty Thousand Dollars (\$250,000), and of any claims or disputes that involve a material risk of such litigation. The conditions and obligations set forth in this Section shall apply for the entire Term of this Agreement.

Section 4.10 Operation of Development as Affordable Housing.

(a) Grantee shall operate the Development as an affordable housing development for Low Income Households, consistent with: (1) HCD's requirements for use of the Homekey Funds and the terms and conditions set forth in the Standard Agreement; (2) the Use Restriction; and (3) any other regulatory requirements imposed on Grantee including but not limited to regulatory agreements associated with the Town Grant.

(b) Grantee shall evaluate the income eligibility of each Program Participant in Units. For all Town-Assisted Units, Grantee shall certify or cause the property manager to certify each Program Participant's continued program eligibility on an annual basis, or as otherwise required by HCD.

(c) Grantee shall maintain all documents setting forth the program eligibility, as applicable, household income of each household occupying a Unit, and the total amount for contribution, utilities, and related services charged to each household occupying the Development, as prescribed by the Use Restriction and all other recorded regulatory restrictions.

Section 4.11 Nondiscrimination.

(a) Grantee herein covenants by and for itself, its heirs, executors, administrators, successors and assigns, and all persons claiming under or through Grantee, that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age (except for lawful senior housing in accordance with state and federal law), familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor may Grantee or any person claiming under or through Grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of program participants, tenants, lessees, subtenants, sublessees or vendees in the Property. Grantee shall comply with Executive Orders 11246, 11375, 11625, 12138, 12431, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and local laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted. 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 will run with the land.

Section 4.12 Transfer.

(a) Definition. For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (1) any rights and/or duties under this Agreement; and/or (2) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a fee interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred and Grantee retains title. The term "Transfer" excludes the leasing of a Unit in the Development to an occupant in compliance with the Use Restriction. The Town Executive Officer is authorized to execute assignment and assumption agreements on behalf of the Town to implement any approved Transfer.

(b) Prohibition. Except as expressly permitted in this Agreement, the Grantee represents and agrees that the Grantee shall not make or create, or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the Town.

(1) The limitations on Transfers set forth in this Section shall apply throughout the Term.

(2) Any Transfer made in contravention of this Section shall be void and shall be deemed to be a default under this Agreement whether or not the Grantee knew of or participated in such Transfer.

(c) Permitted Transfers. Notwithstanding the foregoing, the following are permitted Transfers shall be permitted and are hereby approved by the Town (each a "Permitted Transfer"):

(1) Any Transfer creating a Security Financing Interest either: (A) permitted pursuant to the Approved Financing Plan; or (B) created as a result of a loan made to developer that replaces any existing Security Financing Interest (including a Senior Loan), so long as such replacement Security Financing Interest (including the Senior Loan) does not secure an obligation in excess of the then outstanding balance of the original principal amount of the replaced Security Financing Interest (including a Senior Loan). Town will not unreasonably withhold, condition or delay its consent to any refinancing under this Section.

(2) Any Transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest or as otherwise permitted under this Agreement.

(3) Any Transfer to Mammoth Lakes Housing, Inc., any successor in interest and any subsidiary of Grantee or Mammoth Lake Housing Inc.

Section 4.13 Insurance Requirements.

(a) Grantee shall maintain the following insurance coverage throughout the Term of the Grant written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII". If the Grantee uses existing coverage to comply with these requirements and that coverage does not meet the specified

requirements, the Grantee agrees to amend, supplement, or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

(b) Without in any way affecting the indemnity herein provided and in addition thereto, the Grantee shall secure and maintain throughout the term of this Town Grant Agreement the following types of insurance with limits as shown:

(1) Workers' Compensation/Employers Liability.

(A) Workers' Compensation A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Grantee and all risks to such persons under this Agreement.

(B) If Grantee has no employees, Grantee may certify or warrant to the Town, that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the Director of Risk Management.

(C) With respect to borrowers that are non-profit corporations organized under California or federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

(2) Commercial General Liability. General Liability Insurance covering all operations performed by or on behalf of Grantee providing coverage for bodily injury and property damage with a combined single limit of not less than One Million Dollars (\$1,000,000), per occurrence. The policy coverage must include:

- (A) Premises operations and mobile equipment.
- (B) Products and completed operations.
- (C) Broad form property damage (including completed operations).
- (D) Explosion, collapse, and underground hazards.
- (E) Personal injury.
- (F) Contractual liability.
- (G) \$2,000,000 general aggregate limit.

(3) Commercial Automobile Liability.

(A) Primary insurance coverage must be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol I (any auto).

(B) The policy must have a combined single limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

(C) If the Grantee is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy must have a combined single limit of Two Million Dollars (\$2,000,000) for bodily injury and property damage per occurrence.

(D) If the Grantee owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(4) Builders' Risk/Property Insurance. Builders' Risk insurance during the course of rehabilitation, and upon completion of any rehabilitation work to be performed, property insurance covering the Development, in form appropriate for the nature of such property, covering all risks of loss, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the Town, naming the Town as a Loss Payee, as its interests may appear. Earthquake and Flood insurance must be obtained if required by applicable federal regulations in amounts approved by the Town.

(5) Commercial Crime. Commercial crime insurance covering all officers and employees, for loss of Grant proceeds caused by dishonesty, in an amount approved by the Town, naming the Town a Loss Payee, as its interests may appear.

(c) Grantee shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with Grantee or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (1), (2), and (3) above, meeting all of the general requirements of subsections (e) and (f) below and naming the Town as an additional insured. The Grantee agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.

(d) An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy must apply to bodily injury/property damage, personal injury/advertising injury and must include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage must also apply to automobile liability.

(e) The required insurance must be provided under an occurrence form, and Grantee shall maintain the coverage described in subsections (a) continuously throughout the Term. 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 must be three times the occurrence limits specified above.

(f) Comprehensive Commercial General Liability and Commercial Automobile Liability insurance policies must be endorsed to name as an additional insured the Town and its officers, agents, employees and members of the Town Council. The additional insured endorsements must not limit the scope of coverage for the Town to vicarious liability but must allow coverage for the Town to the full extent provided by the policy. Such additional

insured coverage must be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

(g) All policies and bonds are to contain: (1) the agreement of the insurer to give the Town at least thirty (30) days' notice prior to cancellation (including, without limitation, for non-payment of premium) or any material change in said policies; (2) an endorsement or policy term that such policies are primary and non-contributing with any insurance that may be carried by the Town; (3) a provision that no act or omission of Grantee shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (4) a waiver by the insurer of all rights of subrogation against the Town and its authorized parties in connection with any loss or damage thereby insured against.

(h) The Grantee shall require the carriers of required coverages to waive all rights of subrogation against the Town, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Grantee and its employees or agents from waiving the right of subrogation prior to a loss or claim. The Grantee hereby waives all rights of subrogation against the Town.

(i) All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the Town, and shall include an endorsement or policy terms to this effect.

(j) The Grantee shall furnish Certificates of Insurance to the Town Department administering this Town Grant Agreement evidencing the insurance coverage prior to the close of Escrow, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Grantee shall maintain such insurance from the time Grantee commences performance of services hereunder until the completion of such services. Within fifteen (15) days following the close of Escrow, the Grantee shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

(k) The Grantee agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Grantee and the Town or between the Town and any other insured or additional insured under the policy.

(l) Any and all deductibles or self-insured retentions in excess of Twenty Thousand Dollars (\$20,000) shall be declared to and approved by Risk Management, provided that Risk Management may withhold or condition such approval in its sole discretion.

(m) In the event that any policy of insurance required in this Section does not comply with the requirements, is not procured, or is canceled and not replaced, the Town has the right but not the obligation or duty to obtain such insurance it deems necessary and any premiums paid by the Town will be promptly reimbursed by Grantee or Town disbursements to Grantee will be reduced to pay for the Town purchased insurance.

(n) Insurance requirements are subject to periodic review by the Town. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the Town. In addition, if Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced and available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the Town, inflation, or any other item reasonably related to the Town's risk. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement, provided that increases imposed pursuant to subsection (b) of this Section 4.13 shall not require amendments to this Agreement. Grantee agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of the Town to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the Town.

Section 4.14 Anti-Lobbying Certification.

(a) Grantee certifies to the best of Grantee's knowledge or belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of it, to 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 the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, 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, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(b) This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

Section 4.15 Covenants Regarding Approved Financing.

(a) Grantee shall promptly pay the principal and interest when due on any Approved Financing.

(b) Grantee shall promptly notify the Town in writing of the existence of any default under any documents evidencing Approved Financing, including formally declared defaults and defaults that have not been formally declared by the lender but the existence of the potential default has been communicated to the Grantee by the lender in writing or otherwise, and provide the Town copies of any notice of default. The Town shall have the right, but not the obligation, to cure any monetary default by Grantee under a loan secured by the Property.

(c) Grantee may not materially amend, modify, supplement, cancel or terminate any of the documents evidencing Approved Financing without the prior written consent of the Town, which consent shall not be unreasonably withheld, conditioned or delayed, provided that no withholding of consent shall be deemed unreasonable if the proposed action by Grantee would conflict with any of its obligations under this Agreement, applicable law, and/or the Homekey Regulations.

(d) Grantee 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 Town or as otherwise allowed under the Town approved Operating Agreement) without the prior written consent of the Town.

Section 4.16 Affordability and Project Monitoring.

(a) Throughout the Term, the Grantee shall comply with all applicable record keeping and monitoring requirements set forth in the Homekey Regulations.

(b) Representatives of the Town (and HCD or its authorized representatives) shall be entitled to enter the Property upon at least forty-eight (48) hours' notice at reasonable times to monitor compliance with this Agreement, to inspect the records of the Development with respect to the Town-Assisted Units, and to conduct an independent audit of such records. The Grantee agrees to cooperate with the Town in making the Property available for such inspection. If for any reason the Town is unable to obtain the Grantee's consent to such an inspection, the Grantee understands and agrees that the Town may obtain, at the Grantee's expense, an administrative inspection warrant or other appropriate legal order to obtain access to and search the Property. The Grantee agrees to maintain records in a business-like manner and to make such records available to the Town upon forty-eight (48) hours' notice at reasonable times. Unless the Town otherwise approves, such records shall be maintained for the most recent five (5) years until five (5) years after the expiration of the Homekey Term.

(c) Throughout the Term, the Grantee grants the Town inspection rights as set forth in Section 3.4 above, and Grantee shall make best efforts to allow the Town to comply with all applicable physical monitoring requirements.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF GRANTEE

Section 5.1 Representations and Warranties of Grantee.

Grantee hereby represents and warrants to the Town as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Article 5 are

deemed to be continuing during the Term. The Grantee shall immediately advise the Town in writing if there is any material change relating to any matters set forth or referenced in the items set forth below:

(a) Organization. Grantee 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. Copies of the documents evidencing the organization of the Grantee delivered to the Town are true and correct copies of the originals.

(b) Authority of Grantee. Grantee 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 Grant 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 Grant 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 Grantee, and all actions required under Grantee's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Grant 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 Grant 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 Grantee 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 Grant 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 binding on Grantee, or any provision of the organizational documents of Grantee, or will conflict with or constitute a breach of or a default under any agreement to which Grantee is a party, or will result in the creation or imposition of any lien upon any assets or property of Grantee, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. The conversion of the Development 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. Grantee 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 Grantee, threatened against or affecting Grantee or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Grantee, materially affect Grantee's ability to repay the Grant or impair the security to be given to the Town pursuant hereto.

(h) Title to Land. At the time of recordation of the Use Restriction, Grantee will have good and marketable fee title to the Development 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 ancillary to the Approved Financing and liens in favor of the Town or approved in writing by the Town.

(i) Financial Statements. The financial statements of Grantee and other financial data and information furnished by Grantee to the Town 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 Grantee from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Grantee holds or expects to receive firm financial commitments for sufficient funds to complete the acquisition of the Property and the conversion of the Development in accordance with the Standard Agreement.

(k) Taxes. Grantee 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 which 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 Grantee 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 Grantee and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Grantee to perform under any Grant Document to which it is a party, or a material adverse effect upon the legality, validity, binding effect or enforceability against Grantee of any Grant Document.

ARTICLE 6. DEFAULT AND REMEDIES

Section 6.1 Events of Default.

(a) Subject to Section 7.15, each of the following constitutes an "Event of Default" by Grantee under this Agreement:

(1) Failure under Standard Agreement. Failure of Grantee to obtain permits, commence, and prosecute to completion, conversion of the Development within the times set forth and in compliance with the requirements of the Standard Agreement.

(2) Failure to Comply with the Management Plan. Failure to comply with the Management Plan approved by the Town and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the Town to the Grantee, which notice provides reasonable detail of the default and the required cure for such default.

(3) Breach of Covenants. Failure by Grantee to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Grant Documents, and Grantee fails to cure such default within forty-five (45) days after receipt of written notice thereof from the Town to Grantee. If Grantee is incapable of curing a default within such forty-five (45) day period, the Town will give the Grantee one hundred twenty (120) days to cure such default provided Grantee has commenced to cure within such forty-five (45) day period and is diligently proceeding to cure such default through the end of such period; 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.

(4) Default Under Other Loans. A default is declared under any other financing for the Development by the lender of such financing and such default remains uncured following any applicable notice and cure period.

(5) Insolvency. A court having jurisdiction makes or enters any decree or order: (1) adjudging Grantee to be bankrupt or insolvent; (2) approving as properly filed a petition seeking reorganization of Grantee, or seeking any arrangement for Grantee under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (3) appointing a receiver, trustee, liquidator, or assignee of Grantee in bankruptcy or insolvency or for any of their properties; (4) directing the winding up or liquidation of Grantee if any such decree or order described in clauses (1) to (4), inclusive, is unstayed or undischarged for a period of ninety (90) calendar days; or (5) Grantee admits in writing its inability to pay its debts as they fall due or will have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (1) to (4), inclusive.

(6) Assignment; Attachment. Grantee assigns its assets for the benefit of its creditors or suffers a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon is returned or released within ninety (90) calendar days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution.

(7) Suspension; Termination. Grantee, or its sole and managing member, shall have: (1) the operation of their business voluntarily or involuntarily suspended by the State of California, (2) voluntarily stopped or terminated the operation of their business; (3) the Grantee shall have the operation of the limited liability company voluntarily or involuntarily dissolved, suspended or terminated by the State of California.

(8) Liens on Property and the Development. Any claim of lien (other than liens approved in writing by the Town) is filed 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 Grant and the continued maintenance of said claim of lien or notice to withhold for a period of thirty (30) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the Town.

(9) Unauthorized Transfer. Any Transfer other than as permitted pursuant to Section 4.12.

(10) Representation or Warranty Incorrect. Any Grantee representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the Town in connection with any of the Grant Documents, proves to have been incorrect in any material respect when made.

(11) Failure to Timely Occupancy. Failure of Grantee to make the Town-Assisted Units available for occupancy within the time specified in the Standard Agreement.

Section 6.2 Remedies.

(a) The occurrence of an Event of Default, following the expiration of all applicable notice and cure periods, will, either at the option of the Town or automatically where so specified, give the Town the right to proceed with any and all remedies set forth in this Agreement and the Grant Documents, including but not limited to the following:

(A) Revocation of Grant. The Town may demand that any portion of the Grant not forgiven pursuant to Section 2.3 above, together with any accrued interest thereon, to become immediately due and payable. The Town may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the Town as a creditor and secured party under the law including the Uniform Commercial Code. Grantee is liable to pay the Town on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the Town in connection with the collection of the Grant and the preservation, maintenance, protection, sale, or other disposition of the security given for the Grant.

(B) Specific Performance. The Town has the right to mandamus or other suit, action or proceeding at law or in equity to require Grantee to perform its obligations and covenants under the Grant Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Grant Documents.

(C) Termination. The Town has the right to terminate this Agreement and, at its sole option, to seek any remedies at law or equity available hereunder.

(D) Right to Cure. The Town has the right (but not the obligation) to cure any monetary default by Grantee under a loan other than the Grant. However, if the Grantee is in good faith contesting a claim of default under a loan or grant and the Town's interest is not imminently threatened by such default, in the Town's sole judgment, the Town shall not have the right to cure such default. Grantee shall reimburse the Town for any funds advanced by the Town to cure a monetary default by Grantee upon demand therefor, together with interest thereon at the lesser of the maximum rate permitted by law and ten percent (10%) per annum (the "Default Rate") from the date of expenditure until the date of reimbursement.

Section 6.3 Right of Contest.

Grantee may contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute an Event of Default hereunder. Any such contests are to be prosecuted diligently and, other than those contesting claims, demands, levies, or assessments imposed by the Town, are to be prosecuted in a manner unprejudicial to the Town or the rights of the Town hereunder.

Section 6.4 Remedies Cumulative.

No right, power, or remedy given to the Town by the terms of this Agreement or the Grant Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy will be cumulative and in addition to every other right, power, or remedy given to the Town by the terms of any such instrument, or by any statute or otherwise against Grantee and any other person. Neither the failure nor any delay on the part of the Town to exercise any such rights and remedies will operate as a waiver thereof, nor does any single or partial exercise by the Town 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.

Nothing contained in this Agreement is to 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 Town and Grantee, or their agents, employees or contractors, and Grantee will at all times be deemed an independent contractor and to 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. Grantee 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 regard to the rehabilitation and operation of the Development, Grantee is 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 must include requirements in each contract that contractors are solely responsible for similar matters relating to their employees. Grantee is solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the Town by any person that Grantee may have employed or with whom Grantee 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 tenancy of the Property, the rehabilitation or operation of the Development, and Grantee shall include similar requirements in any contracts entered into for the rehabilitation or operation of the Development.

Section 7.3 Indemnification.

The Grantee agrees to indemnify, defend and hold harmless the Town and its authorized officers, employees, agents and volunteers ("Indemnitees") from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Town on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees, except as provided in the following sentence. The indemnification obligations apply to the Town's "active" as well as "passive" negligence but does not apply to the Town's "gross negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. This indemnification provision is not intended to and does not limit, negate, modify, nullify, or change the non-recourse provisions of this Agreement or any other agreement, document, instrument, certificate or covenant executed by Grantee. The provisions of this Section will survive the expiration of the Term.

Section 7.4 Non-Liability of Town Officials, Employees and Agents.

No councilmember, official, employee or agent of the Town is personally liable to Grantee in the event of any default or breach by the Town or for any amount that may become due to Grantee or its successor or on any obligation under the terms of this Agreement.

Section 7.5 No Third-Party Beneficiaries.

There are no third-party beneficiaries to this Agreement.

Section 7.6 Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 7.6(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 an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. Grantee shall exercise due diligence to ensure that the prohibition in this Section is followed.

(b) The conflict of interest provisions of Section 7.6(a) above apply to any person who is an employee, agent, consultant, officer of the Town, or any immediate family member of such person, or any elected or appointed official of the Town, or any person related within the third (3rd) degree of such person.

(c) In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code Section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Grantee, or immediate family member of any of the preceding, may make or participate in a decision, made by the Town or a Town council, 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 Grantee. Interpretation of this Section is governed by the definitions and provisions

used in the Political Reform Act, California Government Code Section 87100 et seq., its implementing regulations manual and codes, and California Government Code Section 1090.

Section 7.7 Notices, Demands and Communications.

All notices required or permitted by any provision of this Agreement must be in writing and sent 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 Parties as follows:

Town:

Town of Mammoth Lakes
437 Old Mammoth Road/P.O. Box 1609
Mammoth Lakes, CA 93546
Attn: Town Manager

Grantee:

Innsbruck Lodge Affordable Housing, LLC
c/o Mammoth Lakes Housing, Inc.
P.O. Box 260
Mammoth Lakes, CA 93546
Attn: Patricia Robertson, Executive Director

with a copy to:

Goldfarb & Lipman, LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Rafael Yaquian

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 will 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 7.8 Amendments.

No alteration or variation of the terms of this Agreement is valid unless made in writing by the Parties. The Town Executive Officer is authorized to execute on behalf of the Town amendments to the Grant Documents or amended and restated Grant Documents as long as any material change in the amount or terms of this Agreement is approved by the Town Council.

Section 7.9 Town Approval.

The Town has authorized the Town Executive Officer to execute the ancillary Grant documents and deliver such approvals or consents as are required by this Agreement, and to

execute estoppel certificates concerning the status of the Grant and the existence of defaults under the Grant Documents.

Section 7.10 Applicable Law and Venue.

This Agreement is governed by the laws of the State of California. Any action brought claiming a breach of this Agreement or interpreting this Agreement shall be brought and venued in Mono County, California

Section 7.11 Parties Bound.

Except as otherwise limited herein, this Agreement binds and inures 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 to bind Grantee and its successors and assigns in the Property and the Development for the entire Term, and the benefit hereof is to inure to the benefit of the Town 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 will 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 any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of god; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation (including suits filed by third parties concerning or arising out of this Agreement); weather or soils conditions which, in the opinion of the Grantee's contractor, will necessitate delays; acts of the other party; acts or failure to act of any public or governmental Town or entity (other than the acts or failure to act of the Town); or any other causes (other than the Grantee's inability to obtain financing for the Improvements or inability to secure labor, materials, or tools) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other party within ten (10) business days from the date the party seeking the extension first discovered the cause and such extension of time is not rejected in writing by the other party within fifteen (15) business days of receipt of the notice. Times of performance under this Agreement may also be extended in writing by the Town and

the Grantee. In no event shall the cumulative delays during the Term of this Agreement exceed one hundred eighty (180) days, unless otherwise agreed to by the Parties in writing.

Section 7.15 Waivers.

Any waiver by the Town of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the Town to take action on any breach or default of Grantee or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Grantee to perform any obligation under this Agreement does not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Town to any act or omission by Grantee may not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the Town's written consent to future waivers.

Section 7.16 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 7.17 Entire Understanding of the Parties.

The Grant Documents constitute the entire agreement of the Parties with respect to the Grant.

Section 7.18 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 7.19 Action by the Town. Except as may be otherwise specifically provided in this Agreement or any other of the Grant Documents, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the Town is required or permitted under this Agreement or any other of the Grant Documents, such action shall be given, made, taken, refused, denied or withheld by the Town Executive Officer, at the Town Executive Officer's reasonable discretion (unless some other standard is expressly stated), or by any person who shall have been designated in writing to the Borrowers by the Town Executive Officer, without further approval by the Town Council. Any such action shall be in writing.

[Signature Pages Follow]

WHEREAS, this Agreement has been entered into by the undersigned as of the Effective Date.

TOWN:

TOWN OF MAMMOTH LAKES, a political subdivision of the State of California

By: _____
Mayor

APPROVED AS TO LEGAL FORM:
ANDREW MORRIS
Town Attorney

By: _____
Andrew Morris, Town Attorney

Date: _____

[Signature Page Continues]

GRANTEE:

INNSBRUCK LODGE AFFORDABLE HOUSING, LLC, a California limited liability company

By: Mammoth Lakes Housing, Inc., a California nonprofit public benefit corporation

By: _____
Patricia Robertson, Executive Director

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land is situated in the State of California, County of Mono, and is described as follows:

PARCEL 1 OF PARCEL MAP NO. 36-51 IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1, PAGE 106 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT B

APPROVED FINANCING PLAN

EXHIBIT C

SCHEDULE OF PERFORMANCE

This Schedule of Performance sets forth the schedule for various activities under the Agreement to which this exhibit is attached. The description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the Agreement to which such items relate. Times for performance are subject to Force Majeure, as further provided in Section 7.15 of the Agreement, and the notice and cure rights as further provided in Section of the Agreement.

As provided in the Agreement, this Schedule of Performance may only be modified in a writing executed by all Parties, in accordance with Section 7.8 of the Agreement.

Milestone	Date
Execute Standard Agreement	
Execute Grant Documents	
Submit Evidence of Insurance	
Close on Acquisition Financing	
Submit and obtain approval of Management Plan	
Submit plans and application(s) for plan check and building permit	
___ Units Occupied	
Close Construction Financing	
Obtain Building Permits	
Begin rehabilitation	
Complete rehabilitation	

EXHIBIT D

FORM OF USE RESTRICTION



*Mammoth Lakes Housing, Inc.
supports workforce housing
for a viable economy and
sustainable community.*

STAFF REPORT

Subject: Discussion regarding rescheduling the regular March Board meeting from March 6, 2023 to March 23, 2023

Presented by: Patricia Robertson, Executive Director

BACKGROUND

The MLH Board typically meets monthly on the first Monday of the month.

MLH has a scheduled Strategic Planning Update on March 23, 2023 from 3-7 PM.

RECOMENDATION

Staff recommends that the Board reschedule the Regular March Board meeting to March 23, 2023.

CLOSED SESSION

(This page intentionally left blank)



*Mammoth Lakes Housing, Inc.
supports workforce housing
for a viable economy and
sustainable community.*

Subject:

Board Member Reports

This is the time set aside during the meeting for reports from individual members of the Board of Directors
