



## **Mammoth Lakes Housing Board Meeting Agenda**

**Monday, December 5, 2022, 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 Agnes Vianzon, Board Member Tony Perkins, Board Member Heidi Steenstra, Board Member Brian D'Andrea, Board Member Sarah Nuttall

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/98707718059>

You can watch this meeting live through the online Granicus system here:

[http://mammothlakes.granicus.com/ViewPublisher.php?view\\_id=4](http://mammothlakes.granicus.com/ViewPublisher.php?view_id=4) or on the local government cable channel 18. Public comments can be submitted to the Executive Director at [patricia@mammothlakeshousing.org](mailto:patricia@mammothlakeshousing.org) or [clerk@townofmammothlakes.ca.gov](mailto:clerk@townofmammothlakes.ca.gov) or 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 2022-26 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](mailto:patricia@mammothlakeshousing.org) or [clerk@townofmammothlakes.ca.gov](mailto: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 November 7, 2022 Board meeting**

**5. POLICY ITEMS**

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

**5.2 Review and approve the MLH and Sierra Housing Advocates, LLC Fiscal Year 2021-22 Fourth Quarter Draft Financial Statements**

**5.3 Adopt Resolution 2022-27 to apply for funding through the Portfolio Reinvestment Program in an amount not to exceed \$5,000,000 for the Valley Apartments preservation project in Bishop, CA**

**5.4 Adopt Resolution 2022-28 to allow the Valley Apartments Affordable Housing, LLC to participate in an application for funding through the Portfolio Reinvestment Program in an amount not to exceed \$5,000,000 for the Valley Apartments preservation project in Bishop, CA**

**5.5 Adopt Resolution 2022-29 authorizing a loan extension for Loan No. 19-PDLP-14481 (CA Housing & Community Development), a predevelopment loan for Silver Peaks**

**5.6 Adopt Resolution 2022-30 authorizing a loan extension for Loan No. 6316-SP-01 (Rural Community Assistance Corporation), a predevelopment loan for Silver Peaks**

- 5.7 The Board will receive an update regarding the Project Homekey, Innsbruck Lodge Affordable Housing project**
- 5.8 The Board will consider the merits of an application to the CA Coalition for Rural Housing Rural West Internship Program for Diversity in Nonprofit Housing and Community Development**
- 5.9 The Board will receive a presentation on the 20<sup>th</sup> Anniversary Rebranding**
- 5.10 MLH Programs Update**
- 5.11 Reschedule regularly scheduled January Board meeting**
- 5.12 Consider approval of demolition contract for 913 Forest Trail, Project Homekey site with Christian Hansen in the amount of \$62,312.**
- 6. Committee Reports**
- 7. Board Member Reports**
- 8. Adjourn**



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

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## **STAFF REPORT**

Subject: The Board will discuss AB 361 and consider adoption of Resolution 22-26, 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

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## **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.

**In September the Governor signed AB 361 which extends public meeting teleconferencing until January 1, 2024. This allows for the continued use of teleconferencing without the need to publicly notice the address of every teleconference location.**

### Brief summary of AB 361 Changes:

For as long as a Brown Act body uses the modified Brown Act rules authorized by AB 361, it must:

1. Give notice of the meeting and post agendas as otherwise required by the Brown Act.
2. Allow members of the public to access the meeting and address the legislative body directly (this doesn't mean in-person).
3. Give notice explaining how members of the public may access the meeting and offer public comment.
4. Identify and include an opportunity for all persons to attend via phone or internet on the agenda.
5. Conduct meetings in a manner that protects the statutory and constitutional rights of the parties and the public.
6. Take no action on items on the agenda in the event there is an interruption which prevents remote members of the public from commenting, until connection is restored [THIS IS NEW].
7. Provide an opportunity for the public to address the board and offer comment in real time from their location.

8. Even though public agencies cannot require the public to “register” prior to providing comment, if they use a website or other platform that requires registration and it is not under the agency’s control, that is acceptable.

New requirements for public comment:

1. If the agency provides a timed public comment period for each agenda item, it may not close the public comment period for the agenda item (or the opportunity to register, pursuant to paragraph 8 above) to provide public comment until that timed public comment period has elapsed.
2. An agency that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register, or otherwise be recognized for the purpose of providing public comment.
3. An agency that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, until the timed general public comment period has elapsed.

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).

Because the Mammoth Lakes Housing Board of Directors meets monthly (or less frequently), the Board will need to make the required findings at the beginning of every Board meeting.

The California Department of Public Health (CDPH) has updated information on their website here: <https://www.cdph.ca.gov/>.

Mono County Public Health issued an order on August 6, 2021 requiring masking in all public indoor spaces. In a letter dated September 20, 2021, Mono County Public Health Director recommended that the Board of Supervisors continue virtual meetings (Attachment 1). The Mono County Public Health Order requiring masks is provided as Attachment 2.

**RECCOMENDATION**

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

**ATTACHMENTS**

1. Letter from Bryan Wheeler, Director of Public Health, to the Mono County Board of Supervisors, dated September 20, 2021
2. The Mono County Public Health Order requiring masks, August 6, 2021
3. Resolution 22-25



# MONO COUNTY HEALTH DEPARTMENT

## Public Health

P.O. BOX 476, BRIDGEPORT, CA 93517 PHONE (760) 932-5580 • FAX (760) 932-5284

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

To: Board of Supervisors

From: Bryan Wheeler, Director of Public Health

Date: September 20, 2021

Re: Continued Recommendation regarding Social Distancing and Remote Meetings

Both Mono County “covering” Health Officer Dr. Rick Johnson and I strongly recommend that physical/social distancing measures continue to be practiced throughout our Mono County communities, including at meetings of the Board of Supervisors, to minimize the spread of COVID-19.

Whether vaccinated or not, positive individuals are contracting the Delta variant and infecting others in our communities. Social distancing and masking are crucial mitigation measure to prevent the disease’s spread. Virtual board meetings allow for the participation of the community, county staff, presenters, and board members in a safe environment, with no risk of contagion. It is recommended that the board implement 100% remote meetings.

As a secondary alternative, the board could implement hybrid meetings (i.e., meetings that are both in-person and virtual), combined with adequate social distancing measures and masking requirements that are actively enforced, in order to minimize risk of contagion. However, as noted above, the safest path would be to implement meetings that are solely remote.

If you have any questions regarding this recommendation, please do not hesitate to contact me. I will be present at the September 21, 2021, meeting to answer any questions.

# MONO COUNTY HEALTH DEPARTMENT

## Public Health Officer Order:

### Face Coverings For All While in Public

P.O. BOX 3329, MAMMOTH LAKES, CA 93546 PHONE (760) 924-1830 • FAX (760) 924-1831  
EMAIL RJOHNSON@ALPINECOUNTY.CA.GOV

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**August 6, 2021**

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine of up to \$1,000, imprisonment for up to 90 days, or both. (California Health and Safety Code § 120295.) **This Order supersedes and replaces all previous Mono County Public Health Officer Orders regarding Face Coverings.**

WHEREAS, a state of emergency has been declared by the State of California, and a local emergency has been declared in Mono County in response to the virus COVID-19 (Coronavirus); and

WHEREAS, on June 15, 2021, California fully reopened the economy, and the State terminated the restrictions on businesses and activities in its Blueprint for a Safer Economy. Epidemiologic evidence demonstrates that the rate of community transmission of COVID-19 and positivity rates have all substantially increased since the June 15, 2021 reopening; and

WHEREAS, since the state reopening, increased interactions among members of the public have resulted in an increased number of daily new COVID-19 cases in Mono County; daily cases have more than quadrupled since June 15, 2021. In addition, as of July 24, 2021, Mono County is reporting a 7-day daily average case rate of 15.3 cases per 100,000 people with a 7-day lag. Based upon Federal Centers for Disease Control and Prevention (CDC) indicators and thresholds, this means that community transmission of COVID-19 within Mono County is now considered Substantial, and highly likely to increase during the coming days and weeks; and

WHEREAS, while a significant number of Mono County residents are fully vaccinated (i.e., two weeks or more have passed after the receipt of a second dose in a 2-dose series or 2 weeks or more after receipt of a single-dose vaccine) as of the date of this Order in Mono County, COVID-19 remains a concern to public health and safety and there are still a large number of individuals in the County who are not yet fully vaccinated, including children under 12 years old, who are not currently eligible to be vaccinated. Furthermore, variants of the virus that may spread more easily and/or cause more severe illness, including the Delta variant, are present in Mono County, impacting local residents and visitors, based on positive case reporting; and

WHEREAS, throughout the COVID-19 pandemic, in Mono County, as well as throughout California and the nation, there have been insufficient quantities of critical healthcare infrastructure, including hospital beds, ventilators and workers, capable of adequately treating mass numbers of patients at a single time as the virus spread unchecked; and



WHEREAS, in order to continue to protect the community from COVID-19, in particular for those who are not fully vaccinated, this Order mainly aligns with the State Public Health Officer Order, dated June 11, 2021, as well as the July 28, 2021, Guidance on the Use of Face Coverings issued by the California Department of Public Health. The primary intent of this Order is to help slow and improve the Substantial level of community transmission here in Mono County, to align with recent State recommendations and to help mitigate and reduce the impact on Mono County, and its critical healthcare infrastructure; and

WHEREAS, throughout the COVID-19 pandemic, face coverings have been recommended by the U.S. Centers for Disease Control and Prevention (CDC) to decrease COVID-19 transmission. Face coverings are believed to decrease shedding of COVID-19 by people who are infected. Many people with COVID-19 infection have mild or even no symptoms. Such cases may unknowingly spread the virus to others and face coverings are intended to decrease the chance of such transmission.

**NOW, THEREFORE**, effective beginning August 6, 2021, under the authority of California Health and Safety Code sections 101040, 101085 and 120175 and Title 17 California Code of Regulations, Section 2501, the Mono County Acting Health Officer **HEREBY ORDERS** as follows:

1. All persons within Mono County and the Town of Mammoth Lakes, regardless of vaccination status, shall wear face coverings<sup>1</sup> **while in indoor public settings, venues, gatherings, and businesses** (examples include offices, retail, restaurants, theaters, family entertainment centers and meetings, among others).
2. Individuals, businesses, venue operators, or hosts of public indoor settings must require all patrons to wear masks, for all indoor settings, regardless of their vaccination status, and post clearly visible and easy to read signage at all entry points to communicate the masking requirements for patrons.
3. Recommendation: It is *recommended* that all persons wear face coverings while attending large outdoor public events.
4. The following individuals are exempt from wearing masks:
  - a. Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.

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<sup>1</sup> The following list, informed by the California Department of Public Health <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Get-the-Most-out-of-Masking.aspx> and the Center for Disease Control <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html> are attributes of face coverings, or masks, needed to fulfill the requirements of this Order:

- A properly worn mask that completely covers the nose and mouth.
- Cloth masks should be made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source).
- Mask should be secured to the head with ties, ear loops, or elastic bands that go behind the head.
- Mask should fit snugly but comfortably against the side and bottom of the face.
- Mask should be a solid piece of material without slits, exhalation valves, or punctures.

- b. Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- c. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- d. Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

This Order shall take effect beginning on Friday, August 6, 2021 and will remain in effect until rescinded, in writing, by the Mono County Health Officer based on three consecutive weeks of adjusted case of below 6.9 per 100,000.

### **General Provisions**

1. This Order is issued as a result of the worldwide pandemic of COVID-19 disease, also known as “novel coronavirus,” which has infected at least 197 million individuals worldwide in 220 countries and is implicated in over 4.2 million worldwide deaths, including 1065 cases and five deaths in Mono County.

2. This Order is issued based on evidence of increasing transmission of COVID-19 both within the County of Mono and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19.

3. This Order is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in Mono County as well as, on a larger scale, to communities worldwide. As the presence of individuals increases, the difficulty and magnitude of tracing individuals who may have been exposed to a case rises exponentially.

4. This Order is issued in accordance with, and incorporates by reference, the: March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 15, 2020 Declaration of Local Health Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in Mono County; the March 17, 2020 Resolution of the Board of Supervisors of the County of Mono proclaiming the existence of a Local Emergency in the County of Mono regarding COVID-19 and ratifying and extending the Declaration of Local Health Emergency due to COVID-19; all current applicable guidance issued by the California Department of Public Health, including but not limited to the June 11, 2021 California Public Health Officer Order and the July 28, 2021 California Department of Public Health Guidance for the Use of Face Coverings, and the Center for Disease Control recommendations on masking protocol.

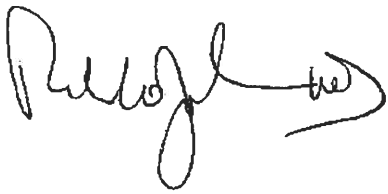
5. This Order is made in accordance with all applicable State and Federal laws, &

including but not limited to: Health and Safety Code sections 101030, et seq.; Health and Safety Code sections 120100, et seq.; and Title 17 of the California Code of Regulations section 2501.

6. To the extent necessary, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all Chiefs of Police in the County ensure compliance with and enforcement of this Order.

7. This Order is made because of the propensity of the virus to spread person-to-person.

8. Copies of this Order shall promptly be posted on the County of Mono's Public Health Department's website (monohealth.com) and provided to any member of the public requesting a copy of this Order.

A handwritten signature in black ink, appearing to read 'Richard Johnson', with a stylized flourish at the end.

\_\_\_\_\_ Date: August 2, 2021

Richard Johnson, MD  
Acting Local Health Officer  
For Mono County and the Town of Mammoth Lakes

## **RESOLUTION NO. 22-26**

### **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) January 5, 2022, 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 5<sup>th</sup> day of December 2022.**

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_ ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Kirk Stapp, President

ATTEST:

\_\_\_\_\_  
Patricia Robertson, Secretary



## **Mammoth Lakes Housing Board**

### **Regular Meeting Minutes**

**November 7, 2022, 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

Members Absent: Board Member Agnes Vianzon

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#### **1. Call to Order**

President Kirk Stapp called the meeting to order at 6:07 p.m. in the Council Chambers at 437 Old Mammoth Road, Mammoth Lakes, CA. President Stapp, Vice President Jennifer Kreitz, and Board Members Lindsay Barksdale and Tom Hodges attended the meeting in person, the rest of the Board attended the meeting via videoconference.

#### **2. Assembly Bill 361 (AB 361) Findings**

##### **2.1 Adopt Resolution 2022-25 to allow virtual Board meetings to continue during the Covid-19 pandemic declared emergency**

Vice President Jennifer Kreitz reported that Assembly Bill (AB) 361 would end in February 2023, due to Governor Gavin Newsom's plan to end the COVID-19 State of Emergency on February 28, 2023.

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

Moved by Board Member Lindsay Barksdale

Seconded by President Kirk Stapp

Adopt Resolution 2022-25 to allow virtual Board meetings to continue during the Covid-19 pandemic declared emergency.

For (7): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, and Board Member Brian D'Andrea

Absent (2): Board Member Agnes Vianzon, and Board Member Sarah Nuttall

Carried (7 to 0)

### **3. Public Comments**

There were no comments given at this time.

### **4. Consent Agenda**

Moved by Vice President Jennifer Kreitz

Seconded by Board Member Tom Hodges

Approve the Consent Agenda.

For (7): President Kirk Stapp, Vice President Jennifer Kreitz, Board Member Lindsay Barksdale, Board Member Tom Hodges, Board Member Tony Perkins, Board Member Heidi Steenstra, and Board Member Brian D'Andrea

Absent (2): Board Member Agnes Vianzon, and Board Member Sarah Nuttall

Carried (7 to 0)

#### **4.1 Approve the Minutes from the Regular October 3, 2022 Board Meeting**

#### **4.2 Approve the Minutes from the Special October 26, 2022 Board Meeting**

## 5. **Policy Matters**

### 5.1 **The Board will consider a proposal from Inyo County to partner on a CalEPA grant for Environmental Assessment consulting at a potential housing site in Lone Pine**

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

Board Member Sarah Nuttall joined the meeting at 6:16 p.m.

#### PUBLIC COMMENT:

Inyo County Assistant County Administrator Meaghan McCamman said that she recognized the amount of work MLH had taken on with the transition of the Continuum of Care (CoC), and with the new developments in Mono County and said that Inyo County's goal was to minimize the amount of time that MLH would spend on this grant and that they planned to take on the bulk of the work themselves and were mostly looking to add MLH's name on the grant to pass it through.

Inyo County Planning Director Cathreen Richards spoke about a similar situation in which Inyo County had partnered with and was the applicant for a grant with the California Department of Fish and Wildlife (CDFW) and CDFW did all the work after she submitted the application. Ms. Richards said that with regard to the grant being discussed today, MLH would need to do very little other than to submit the application, and that she would be happy to assist with that process.

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

Staff was given direction to support the partnership between Inyo County and MLH on the CalEPA grant for Environmental Assessment consulting at a potential housing site in Lone Pine with potential for MLH to charge a fee for their services dependent upon the number of hours they spent on the grant.

### 5.2 **Discussion of Fire Development Impact Fees for Access Apartments and Innsbruck Lodge**

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



#### SPEAKING FROM THE FLOOR:

Mammoth Lakes Fire Protection District (MLFPD) Fire Chief Ales Tomaier spoke about his Board's past reluctance to waive fees. Chief Tomaier discussed the difficulties MLFPD had with housing for their staff and spoke about how their employee and volunteer crew were structured. He proposed a one year agreement as a pilot program to see if there was a way to leverage the knowledge and expertise that MLH staff had to assist MLFPD with their housing needs in exchange for waiving the Fire Development Impact Fees on the Access Apartments and the Innsbruck Lodge and said that he would discuss options with his Board at their meeting on November 15th.

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

#### **5.3 Workshop: The Board will participate in a workshop regarding the 20th Anniversary Rebranding and the logo design for Eastern Sierra Community Housing**

Executive Director Patricia Robertson outlined the information in the Rebranding Presentation.

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

Staff and members of the Marketing and Communications Committee were given direction to make changes as discussed and bring a revised logo back to the Board for approval at a future meeting.

#### **5.4 Discussion and possible approval of the Fiscal Year ending June 30, 2022 draft audited financial statements**

Executive Director Patricia Robertson outlined the information in the Fiscal Year ending June 30, 2022 Draft Audited Financial Statements.

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

Moved by Vice President Jennifer Kreitz  
Seconded by Board Member Tony Perkins

Approve Fiscal Year ending June 30, 2022 Draft Audited Financial Statements.

For (8): 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, and Board Member Sarah Nuttall

Absent (1): Board Member Agnes Vianzon

Carried (8 to 0)

### **5.5 MLH Programs Update**

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

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

### **6. Committee Reports**

There were no Committee Reports given.

### **7. Board Member Reports**

There were no Board Member Reports given.

### **8. CLOSED SESSION**

The Board went into closed session at 7:48 p.m.

**8.1 Pursuant to Government Code Section 54957, the Board will hold a closed session to consider the evaluation of performance of an employee, title: Executive Director.**

**8.2 Pursuant to Government Code Section 54956(b) and 54957.6 the Board shall hold a closed session with the Board's designated representative(s), regarding the discussion of the local agency's budget with regards to salaries, salary schedules, or compensation paid in the form of fringe benefits of its unrepresented employees (Executive Director) and may include discussion of MLH's budget and available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative(s). The purpose of this is to review MLH's position and instructing MLH's designated representative(s). No action is to be taken at the closed session.**

The Board returned from Closed Session at 8:46 p.m.

Vice President Jennifer Kreitz Stapp reported that there was no action taken in Closed Session.

9. **Consideration of merit pay increase for the Executive Director based on the Performance Evaluation conducted by the Board of Directors in accordance with organization's policy, as well as consideration of a cost-of-living increase.**

President Kirk Stapp reported that the Board had gone into Closed Session and made the two following proposals: a base salary increase of \$13,652 and a bonus of \$5,000.

There was discussion among members of the Board.

Moved by Vice President Jennifer Kreitz

Seconded by Board Member Lindsay Barksdale

Approve a base salary increase in the amount of \$13,652 per year and a bonus in the amount of \$5,000.

For (8): 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, and Board Member Sarah Nuttall

Absent (1): Board Member Agnes Vianzon

Carried (8 to 0)

10. **Adjourn**

The meeting was adjourned at 8:48 p.m.

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Angela Plaisted, Assistant Clerk  
Town of Mammoth Lakes

---

Patricia Robertson, Secretary  
Mammoth Lakes Housing, Inc.

M David Kroot

Lynn Hutchins

Karen M. Tiedemann

Thomas H. Webber

Dianne Jackson McLean

Robert C. Mills

Isabel L. Brown

James T. Diamond, Jr.

Margaret F. Jung

Heather J. Gould

William F. DiCamillo

Amy DeVaudreuil

Barbara E. Kautz

Rafael Yaquián

Celia W. Lee

Dolores Bastian Dalton

Joshua J. Mason

Jeffrey A. Streiffer

Elizabeth R. Klueck

Jhaila R. Brown

Gabrielle B. Janssens

Rye P. Murphy

Marc A. Bentzen

Benjamin Funk

Aileen T. Nguyen

Katie Dahlinghaus

Matthew S. Heaton

Nazanin Salehi

Erin C. Lapeyrolerie

Minda Bautista Hickey

Connor T. Kratz

Los Angeles

213 627-6336

San Diego

619 239-6336

Goldfarb & Lipman LLP

December 5, 2022

memorandum

To

Board of Directors of Mammoth Lakes Housing, Inc.

From

Rafael Yaquian

Nazanin Salehi

RE

Remote Appearances Pursuant to Brown Act

I. Question Presented

Mammoth Lakes Housing, Inc. (the "MLH") asked for a memorandum detailing how recent changes to the Ralph M. Brown Act, Government Code Section 54950 *et seq* (the "Brown Act") would impact remote participation by members of MLH's governing body (the "Board of Directors").

As detailed in this Memorandum, the flexibility to conduct remote meetings under AB 361 is anticipated to expire February 28, 2023. Under recently adopted legislation, AB 2449, members of the Board of Directors will have the ability to participate remotely under very limited circumstances. Nonetheless, remote participation in Board of Directors meetings in compliance with pre-existing authority under the Brown Act is still available so long as MLH adheres to the remote participation noticing rules described below.

II. Existing Law

*MLH is subject to the Brown Act as a "legislative body" under Gov't Code 54952(c)(1)(B) and under MLH's adopted Bylaws.*

MLH is a private nonprofit public benefit corporation that receives funds from various local agencies, including, among others, the Town of Mammoth Lakes "the Town" and the County of Mono (the "County"). MLH's Board of Directors is required to include one Town and one County elected official, both of whom have full voting rights, and thus MLH is considered a "legislative body" under California Government Code Section 54952(c)(1)(B). In addition, MLH's bylaws require that MLH conduct its governing board meetings in compliance with the requirements under the Brown Act.

All meetings of MLH's Board of Directors must be open and public, and all persons are permitted to attend any meeting of the Board of Directors, subject to the express exceptions provided in the Brown Act. To this end, MLH must establish regular times, and location for its Board meetings and must post an agenda in a location that is freely accessible to members of the public at least seventy-two (72) hours before a regular meeting, which contains the time and place of the meetings along with a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed sessions.

*Prior to the Covid Pandemic Teleconference Participation was allowed subject to strict noticing and accessibility requirements.* Prior to the COVID-19 pandemic, the Brown Act permitted legislative bodies to use any type of teleconferencing in connection with any meeting. Gov. Code § 54953(b)(2). The term "Teleconference" is defined to include a meeting of the legislative body, "the members of which are in different locations, connected by electronic means, through either audio or video, or both." Gov. Code § 54953(b)(4). To utilize teleconferencing under this provision, the legislative body is required to satisfy the following requirements: (1) identify each teleconference location in the agenda; (2) post the meeting agenda at each location where a member will participate from; (3) allow public access to each remote location (ensuring that each location meets accessibility requirements); and (4) a quorum of members must participate from locations within the agency's jurisdiction. Gov. Code § 54953(b)(3) (collectively, the "Teleconferencing Noticing Requirements").

*Conditions for holding remote meetings under AB 361 are set to expire soon.* During the COVID-19 pandemic, the legislature adopted AB 361 expanding the circumstances under which remote meetings could occur and revising the noticing rules related to remote participation under the Brown Act. The provisions of AB 361 apply only during a proclaimed state of emergency. Gov. Code § 54953(e)(1). In addition, state or local officials must have imposed or recommended social distancing measures, or the legislative body must determine, by majority vote, that meeting in-person would present imminent health or safety risks. *Id.* Public meeting postings are required in accordance with Brown Act requirements, and public participation must be provided for via call-in or internet-based service (Gov. Code § 54953(e)(2)) but the Teleconferencing Noticing Requirements under Gov. Code § 54953(b)(4) were waived. AB 361 required findings to be made every thirty (30) days regarding the continued need to use teleconferencing. Gov. Code § 54963(e)(3). The provisions of AB 261 expire on January 31, 2024. Gov. Code § 54953(k). However, the Covid-19 related proclamation of state of emergency is anticipated to expire February 28, 2023, which would have limited legislative bodies from conducting remote meetings, as of the date of its revocation.

### III. Changes Introduced by AB 2449

The legislature recently enacted AB 2449, in anticipation of the upcoming expiration of the proclaimed COVID-19 state of emergency on February 28, 2023. AB 2449 is intended to permit a limited number of individual members of a legislative body to participate in meetings virtually without posting their remote location(s), as would be required under the Teleconferencing Noticing Requirements.

To utilize the provisions of AB 2449, a majority of the members of the legislative body must *participate in-person from the same physical location identified in the agenda* posted for the meeting. Gov. Code § 54953(f)(1). The physical location must be within the boundaries of the agency's jurisdiction and must be open to the public. *Id.* The agency must provide public visual and audio observation of in-person meetings by two-way audiovisual platform or two-way telephonic service and live webcasting. Gov. Code § 54953(f)(1)(A). The agency must also permit public participation via call-in, internet service, and in-person comment. Gov. Code § 54953(f)(1)(C).

Individual members of the legislative body may request to appear remotely where there is either (1) just cause or (2) emergency circumstances. Gov. Code § 54953(f)(2). "Just cause" exists in limited instances requiring remote appearance, including: (1) caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner; (2) contagious illness prevents attendance, (3) a need related to physical or mental disability not otherwise accommodated; or (4) traveling on official business of the legislative body or another state agency. Gov. Code § 54953(j)(2). "Emergency circumstances" are defined as a physical or family medical emergency that prevents a member from attending in person. Gov. Code § 54953(j)(1).

The member must notify the legislative body of either the "just cause" or the "emergency circumstances" and request remote appearance at the earliest opportunity possible, including the start of a regular meeting. Gov. Code § 54953(f)(2)(A). If the member's request is based on the existence of emergency circumstances, the member must include a general description (not to exceed 20 words) of the circumstance relating to the need to appear remotely. Gov. Code § 54953(f)(2)(A)(ii). Where the legislative body meets fewer than ten (10) times annually, a member cannot participate remotely more than twice for "just cause" or "emergency" reasons. Gov. Code § 54953(f)(3). Otherwise, a member cannot participate remotely for more than three (3) consecutive months or twenty percent (20%) of the body's regular meetings within a calendar year. *Id.*

### IV. Conclusion

The ability to hold remote meetings under AB 361 can continue until February 28, 2023, when the proclamation of state of emergency is set to expire. Thereafter, remote meeting participation will be limited under AB 2449 or be subject to the pre-pandemic rules for Teleconferencing Noticing Requirements.

The benefits of AB 2449 include: (1) no requirement of proclaimed state of emergency; (2) no requirement that the legislative body renew its findings every thirty (30) days; (3) no prior notification or approval is required for remote participation; and (4) no requirement to comply with the Teleconferencing Noticing Requirements at all remote locations. On the other hand, the downside of these provisions is that, unlike the traditional Brown Act teleconferencing rules authorized by Government Code Section 54953(b)(2), these provisions may only be utilized a limited number of times by member of the governing board.

AB 2449 was adopted as an alternative to and did not repeal or replace the existing teleconferencing rules under the Brown Act. MLH's Governing Board may continue to allow for teleconference participation under Gov't Gov. Code § 54953(b)(2) so long as the Teleconferencing Notice Requirements are satisfied including: (1) identifying each teleconference location in the meeting notice; (2) posting a meeting agenda at each location where a member will participate from; (3) allowing public access to each remote location; and (4) so long as a quorum of members of MLH's Board of Directors is participating from locations within the agency's jurisdiction. There are no statutory limits on the number of times a governing board member may participate via teleconference so long as the Teleconferencing Notice Requirements are satisfied for each meeting.

**Mammoth Lakes Housing, Inc.**  
**Statement of Financial Position**  
For the Quarter Ending Jun 30, 2022

	<u>12/31/2021</u>	<u>3/31/2022</u>	<u>6/30/2022</u>	<u>9/30/2023</u>	<u>Change from Prior Quarter</u>
Cash	720,149	699,353	755,160	795,726	40,566
A/R	(20,367)	85,973	6,298	4,501	(1,797)
Prepaid Insurance	9,630	21,770	13,805	10,335	(3,471)
Fixed Assets	359,980	359,980	359,980	359,980	-
Accum Depr & Amort.	(412,579)	(414,301)	(459,453)	(461,175)	(1,722)
HBA-CalHome Loans	40,248	39,816	39,380	38,940	(439)
<u>Rental Property</u>					
238 Sierra Manor Road	1,253,036	1,253,036	1,253,036	1,253,036	-
238 Sierra Manor Road-CIP	261,455	261,455	275,212	283,716	8,504
Meridian Court	150,000	150,000	150,000	150,000	-
Star Apartments	872,867	872,867	872,867	872,867	-
Total Rental Property	2,537,357	2,537,357	2,551,114	2,559,618	8,504
<u>Investments in LLCs</u>					
Valley Apts LLC	-	-	10,025	22,260	12,235
SHA	45,127	33,709	35,109	37,444	2,336
Innsbruck Lodge LLC	-	7,850	74,525	61,837	(12,688)
Total Investments in LLCs	45,127	41,559	119,659	121,541	1,883
<b>Total Assets</b>	<b>3,279,546</b>	<b>3,371,507</b>	<b>3,385,943</b>	<b>3,429,466</b>	<b>43,523</b>
<u>Current Liabilities</u>					
Rent Deposits	11,389	11,389	9,639	8,989	(650)
Compensated Absenses	6,409	6,409	6,409	6,409	(0)
PR Taxes & Retirement Liabilities	1,447	(8,555)	(1)	(1)	-
Deferred Emergency Rent Assistance	-	-	-	-	-
Total Current Liabilities	19,246	9,244	16,047	15,397	(650)
<u>LT Liabilities</u>					
Alper Enterprises L.P.	464,716	456,020	447,236	438,364	(8,872)
TOML Note Pay. 1829 OMR	853,600	853,600	853,600	853,600	-
Oak Valley Loan - #4	92,977	90,766	88,552	86,316	(2,236)
Total LT Liabilities	1,411,292	1,400,385	1,389,388	1,378,280	(11,108)
Total Liabilities	1,430,538	1,409,629	1,405,435	1,393,677	(11,758)
<u>Net Assets</u>					
Net assets - MLH risk reserve	160,000	160,000	160,000	160,000	-
Reserve for STAR Apartments	66,615	66,615	74,177	74,177	-
Reserve for 238 Sierra Manor Rd	128,301	193,358	181,128	174,237	(6,891)
Reserve for 238 Sierra Manor Rd - Operating Reserve	-	-	60,000	60,000	-
Reserve for CalHome Program Reuse	54,030	54,030	55,500	56,235	735
Unrestricted	1,440,062	1,487,875	1,449,703	1,511,140	61,437
Total Net Assets	1,849,008	1,961,878	1,980,508	2,035,789	55,281
<b>Total Liabilities &amp; Net Assets</b>	<b>3,279,546</b>	<b>3,371,507</b>	<b>3,385,944</b>	<b>3,429,466</b>	<b>43,523</b>



**Mammoth Lakes Housing, Inc.**  
**Statement of Activities**  
For the Quarter Ending Jun 30, 2022

	Q1 <u>Jul - Sep 22</u>	Q2 <u>Oct - Dec 22</u>	Q3 <u>Jan - Mar 23</u>	Q4 <u>Apr - Jun 23</u>	Total <u>FY 2023</u>	Total Budget <u>FY 2023</u>	Act \$ vs. Budget	Act as % of Budget
<b>Operations Income (non HBA)</b>								
<b>Revenue</b>								
Application Revenue	175	-	-	-	175	550	(375)	32%
BRIDGE Reimbursement	-	-	-	-	-	-	-	0%
Broker Commissions	-	-	-	-	-	-	-	0%
Contributions-Unrestricted	30	-	-	-	30	-	30	0%
Contributions-Restricted	-	-	-	-	-	-	-	
Contributions- In Kind	-	-	-	-	-	-	-	
County Contract Income	-	-	-	-	-	-	-	0%
Contract Income - Other	650	-	-	-	650	14,700	-	
Developer Fee	-	-	-	-	-	117,200	(117,200)	0%
Emergency Rent Assistance	50,000	-	-	-	50,000	-	50,000	0%
Fundraising	-	-	-	-	-	1,000	(1,000)	0%
Grants - Administration	-	-	-	-	-	-	-	0%
HBA Loan Payoff Pass Through	-	-	-	-	-	-	-	0%
Misc. Revenue	200	-	-	-	200	-	200	0%
Navigator Svcs - Alpine Co.	-	-	-	-	-	100,000	(100,000)	0%
Navigator Svcs - Mono Co.	-	-	-	-	-	100,000	(100,000)	0%
Town-Contract Services	84,000	-	-	-	84,000	336,000	(252,000)	25%
Operating Subsidy	-	-	-	-	-	20,000	(20,000)	0%
Refunds/Reimbursements	2,356	-	-	-	2,356	-	2,356	0%
Property Mgmt Income	6,898	-	-	-	6,898	27,591	(20,694)	25%
Stipend	-	-	-	-	-	-	-	0%
<b>Total Revenue</b>	<b>144,309</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>144,309</b>	<b>717,041</b>	<b>(572,733)</b>	<b>20%</b>
<b>Expenses</b>								
Bank Service Charges	9	-	-	-	9	-	9	0%
Board Development	-	-	-	-	-	5,000	(5,000)	0%
Deed Restriction Retention	3,386	-	-	-	3,386	28,000	(24,614)	12%
Deed Restriction-Property Selling	-	-	-	-	-	-	-	
Expenses	1,126	-	-	-	1,126	-	1,126	0%
Dues and Subscriptions	575	-	-	-	575	4,400	(3,825)	13%
Emergency Rent Relief	500	-	-	-	500	-	500	0%
HBA Loan Repayment Pass Thru	-	-	-	-	-	-	-	
HOA Fees	1,362	-	-	-	1,362	5,446	(4,084)	25%
Insurance	1,736	-	-	-	1,736	11,500	(9,764)	15%
Interest Expense	906	-	-	-	906	3,845	(2,939)	24%
Licenses and Permits	310	-	-	-	310	600	(290)	52%
Marketing	1,128	-	-	-	1,128	4,500	(3,372)	25%
Meeting Expenses	-	-	-	-	-	1,800	-	
Office Supplies & Equipment	1,779	-	-	-	1,779	10,200	(8,421)	17%
Payroll Expense	57,564	-	-	-	57,564	473,592	(416,028)	12%
Printing and Reproduction	183	-	-	-	183	1,000	(817)	18%
Professional Fees	10,634	-	-	-	10,634	67,600	(56,966)	16%
Project Costs:	4,232	-	-	-	4,232	-	4,232	0%
Property Taxes	-	-	-	-	-	545	(545)	0%
Publication	-	-	-	-	-	-	-	0%
Repairs	-	-	-	-	-	1,000	(1,000)	0%
Travel & Training	25	-	-	-	25	18,502	(18,477)	0%
Utilities	1,402	-	-	-	1,402	9,000	(7,598)	16%
<b>Total Expenses</b>	<b>86,856</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>86,856</b>	<b>646,530</b>	<b>(559,674)</b>	<b>13%</b>
<b>Net Operations Income</b>	<b>57,453</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>57,453</b>	<b>70,511</b>	<b>(13,058)</b>	

*The information contained and presented in this report is intended only for internal use by Mammoth Lakes Housing, Inc.*

**Mammoth Lakes Housing, Inc.**  
**Statement of Activities**  
For the Quarter Ending Jun 30, 2022

	Q1 <u>Jul - Sep 22</u>	Q2 <u>Oct - Dec 22</u>	Q3 <u>Jan - Mar 23</u>	Q4 <u>Apr - Jun 23</u>	Total <u>FY 2023</u>	Total Budget <u>FY 2023</u>	Act \$ vs. Budget	Act as % of Budget
Other Income								
CallHome Restricted Interest	296	-	-	-	296	-	296	0%
Rental Income					-			
238 Sierra Manor Rd	7,246	-	-	-	7,246	-	7,246	0%
Meridian Court	2,400	-	-	-	2,400	-	2,400	0%
Star Apartmtns	11,495	-	-	-	11,495	-	11,495	0%
Total Rental Income	<u>21,141</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>21,141</u>	<u>-</u>	<u>21,141</u>	<u>0%</u>
Total Other Revenue	<u>21,437</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>21,437</u>	<u>-</u>	<u>21,437</u>	<u>0%</u>
Other Expenses								
Depreciation	1,722	-	-	-	1,722	<b>6,621</b>	(4,899)	26%
Rental Expenses								
238 Sierra Manor Rd								
Rental Expenses	10,523	-	-	-	10,523	-	10,523	0%
LT Reserve	-	-	-	-	-	-	-	
238 Mgmt Fee	3,834	-	-	-	3,834	-	3,834	0%
Total 238 Sierra Manor Rd	<u>14,357</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>14,357</u>	<u>-</u>	<u>14,357</u>	<u>0%</u>
Meridian Court	1,121	-	-	-	1,121	-	1,121	0%
Star Apartments								
Rental Expenses	3,344	-	-	-	3,344	-	3,344	0%
LT Maint. Reserve	-	-	-	-	-	-	-	
STAR Asset Mgmt Fee	1,250	-	-	-	1,250	-	1,250	0%
STAR Mgmt Fee	1,814	-	-	-	1,814	-	1,814	0%
Total Star Apartments	<u>6,408</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>6,408</u>	<u>-</u>	<u>6,408</u>	<u>0%</u>
Total Rental Expenses	21,886	-	-	-	21,886	-	29,836	0%
Total Other Expenses	<u>23,608</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>23,608</u>	<b>6,621</b>	<b>(4,899)</b>	26%
Total Other Income	(2,171)	-	-	-	(2,171)	<b>(6,621)</b>	4,450	
Increase/(Decrease) in Net Assets	55,281	-	-	-	55,281	<b>63,890</b>	(8,609)	
Net Assets at Beginning of Period	<u>1,980,508</u>	<u>-</u>	<u>-</u>	<u>-</u>				
Net Assets at End of Period	<u>\$ 2,035,790</u>	<u>-</u>	<u>-</u>	<u>-</u>				

*The information contained and presented in this report is intended only for internal use by Mammoth Lakes Housing, Inc.*

Mammoth Lakes Housing, Inc.  
FY 2022 Forecast

	Q1 - Actual Jul - Sep 22	Q2 - FCST Oct - Dec 22	Q3 - FSCT Jan - Mar 23	Q4 - FCST Apr - Jun 23	Total Forecast FY 2023	Total Budget FY 2023	Act \$ vs. Budget	Act as % of Budget
<b>Operations Income (non HBA)</b>								
<b>Revenue</b>								
Interest Income	-	-	-	-	-	-	-	0%
Application Revenue	175	-	-	-	175	550	(375)	32%
BRIDGE Reimbursement	-	-	-	-	-	-	-	0%
Broker Commissions	-	-	-	-	-	-	-	0%
Contributions-Unrestricted	30	-	-	2,625	2,655	-	2,655	0%
Contributions-Restricted	-	-	-	-	-	-	-	0%
Contributions- In Kind	-	-	-	-	-	-	-	0%
County Contract Income	-	-	-	-	-	-	-	0%
Contract Income - Other	650	-	-	-	650	14,700	(14,050)	4%
Developer Fee	-	-	-	-	-	-	-	0%
Emergency Rent Assistance	50,000	-	-	-	50,000	117,200	(67,200)	43%
Fundraising	-	-	-	-	-	1,000	-	0%
Grants - Administration	-	-	-	7,854	7,854	-	7,854	0%
Rental Revenue	-	-	-	-	-	-	-	0%
HBA Loan Payoff Pass Through	-	-	-	-	-	-	-	0%
Misc. Revenue	200	-	-	-	200	-	200	0%
Navigator Svcs - Alpine Co.	-	-	-	-	-	100,000	(100,000)	0%
Navigator Svcs - Mono Co.	-	-	-	-	-	100,000	(100,000)	0%
Town-Contract Services	84,000	-	-	84,000	168,000	336,000	(168,000)	50%
Operating Subsidy	-	-	-	-	-	20,000	(20,000)	0%
Refunds/Reimbursements	2,356	-	-	-	2,356	-	2,356	0%
Property Mgmt Income	6,898	-	-	6,898	13,796	27,591	(13,796)	50%
Stipend	-	-	-	-	-	-	-	0%
<b>Total Revenue</b>	<b>144,309</b>	<b>-</b>	<b>-</b>	<b>101,377</b>	<b>245,686</b>	<b>717,041</b>	<b>(471,356)</b>	<b>34%</b>
<b>Expenses</b>								
Bank Service Charges	9	-	-	-	9	-	9	0%
Board Development	-	-	-	2,500	2,500	5,000	(2,500)	50%
Contract Labor	-	-	-	-	-	-	-	0%
Deed Restriction Retention	3,386	-	-	-	3,386	28,000	(24,614)	12%
Deed Restriction-Property Selling	-	-	-	-	-	-	-	0%
Expenses	1,126	-	-	-	1,126	-	1,126	0%
Dues and Subscriptions	575	-	-	-	575	4,400	(3,825)	13%
Emergency Rent Relief	500	-	-	-	500	-	-	0%
HBA Loan Repayment Pass Through	-	-	-	-	-	-	-	0%
HOA Fees	1,362	-	-	1,135	2,497	5,446	(2,949)	46%
Insurance	1,736	-	-	720	2,456	11,500	(9,044)	21%
Interest Expense	906	-	-	992	1,898	3,845	(1,947)	49%
Licenses and Permits	310	-	-	-	310	600	(290)	52%
Marketing	1,128	-	-	1,700	2,828	4,500	(1,672)	63%
Meeting Expenses	-	-	-	500	500	1,800	(1,300)	28%
Office Supplies & Misc.	1,779	-	-	1,584	3,363	10,200	(6,837)	33%
Payroll Expense	57,564	-	-	89,000	146,564	473,592	(327,028)	31%
Printing and Reproduction	183	-	-	100	283	1,000	(717)	28%
Professional Fees	10,634	-	-	24,000	34,634	67,600	(32,966)	51%
Project Costs	4,232	-	-	-	4,232	-	4,232	0%
Property Taxes	-	-	-	-	-	545	(545)	0%
Publication	-	-	-	-	-	-	-	0%
Repairs	-	-	-	-	-	1,000	(1,000)	0%
Travel & Training	25	-	-	4,500	4,525	18,502	(13,977)	24%
Utilities	1,402	-	-	2,000	3,402	9,000	(5,598)	38%
<b>Total Expenses</b>	<b>86,856</b>	<b>-</b>	<b>-</b>	<b>128,731</b>	<b>215,587</b>	<b>646,530</b>	<b>(430,943)</b>	<b>33%</b>
<b>Net Operations Income</b>	<b>57,453</b>	<b>-</b>	<b>-</b>	<b>(27,354)</b>	<b>30,099</b>	<b>70,511</b>	<b>(40,412)</b>	
<b>Other Income</b>								
HBA Grants	-	-	-	-	-	-	-	0%
CalHome Restricted Interest	296	-	-	300	596	-	596	0%
Rental Income	-	-	-	-	-	-	-	0%
238 Sierra Manor Rd	7,246	-	-	13,950	21,196	-	21,196	0%
Meridian Court	2,400	-	-	3,600	6,000	-	6,000	0%
Star Apartments	11,495	-	-	12,090	23,585	-	23,585	0%
<b>Total Rental Income</b>	<b>21,141</b>	<b>-</b>	<b>-</b>	<b>29,640</b>	<b>50,781</b>	<b>-</b>	<b>50,781</b>	<b>0%</b>
<b>Total Other Revenue</b>	<b>21,437</b>	<b>-</b>	<b>-</b>	<b>29,940</b>	<b>51,377</b>	<b>-</b>	<b>51,377</b>	<b>0%</b>
<b>Other Expenses</b>								
Depreciation	1,722	-	-	1,722	3,444	6,621	(3,177)	52%
Risk Reserve - MLH	-	-	-	-	-	-	-	0%
<b>Rental Expenses</b>								
238 Sierra Manor Rd	-	-	-	-	-	-	-	0%
Rental Expenses	10,523	-	-	-	10,523	-	10,523	0%
LT Reserve	-	-	-	-	-	-	-	0%
238 Mgmt Fee	3,834	-	-	3,834	7,668	-	7,668	0%
<b>Total 238 Sierra Manor Rd</b>	<b>14,357</b>	<b>-</b>	<b>-</b>	<b>3,834</b>	<b>18,191</b>	<b>-</b>	<b>18,191</b>	<b>0%</b>
Meridian Court	1,121	-	-	960	2,081	-	2,081	0%
<b>Star Apartments</b>								
Rental Expenses	3,344	-	-	-	3,344	-	3,344	0%
LT Maint. Reserve	-	-	-	-	-	-	-	0%
STAR Asset Mgmt Fee	1,250	-	-	1,814	3,064	-	3,064	0%
STAR Mgmt Fee	1,814	-	-	1,250	3,064	-	3,064	0%
<b>Total Star Apartments</b>	<b>6,408</b>	<b>-</b>	<b>-</b>	<b>3,064</b>	<b>9,472</b>	<b>-</b>	<b>9,472</b>	<b>0%</b>
<b>Total Rental Expenses</b>	<b>21,886</b>	<b>-</b>	<b>-</b>	<b>7,858</b>	<b>29,744</b>	<b>-</b>	<b>29,744</b>	<b>0%</b>
<b>Total Other Expenses</b>	<b>23,608</b>	<b>-</b>	<b>-</b>	<b>9,580</b>	<b>33,188</b>	<b>6,621</b>	<b>(3,177)</b>	<b>52%</b>
<b>Total Other Income</b>	<b>(2,171)</b>	<b>-</b>	<b>-</b>	<b>20,360</b>	<b>18,189</b>	<b>(6,621)</b>	<b>24,810</b>	
<b>Increase/(Decrease) in Net Assets</b>	<b>55,281</b>	<b>-</b>	<b>-</b>	<b>(6,994)</b>	<b>48,287</b>	<b>63,890</b>	<b>(15,603)</b>	
Net Assets at Beginning of Period	1,980,508	-	-	-	-	-	-	-
Net Assets at End of Period	\$ 2,035,790	-	-	(6,994)	-	-	-	-

**Mammoth Lakes Housing, Inc.**

**Statement of Cash flow**

For the Quarter Ending Jun 30, 2022

	<u>September 30, 2022</u>	
<b>Increase/(Decrease) in Net Assets</b>	<b>\$</b>	<b>55,281</b>
<b><u>Non Cash Operating Transactions</u></b>		
Depreciation	\$ 1,722	
A/R	\$ 1,797	
Prepaid Insurance	\$ 3,471	
Rent Deposits	\$ (650)	
Miscellaneous (Rounding)	\$ 1	
<b>Cash flow from Operations</b>	<b>\$</b>	<b>61,622</b>
<b><u>Cash Flow from Investment Activities</u></b>		
HBA CalHome	\$ 439	
238 Sierra Manor Road-CIP	\$ (8,504)	
Investment in Valley Apts LLC	\$ (12,235)	
Investment in SHA LLC	\$ (2,336)	
Investment in Innsbruck Lodge LLC	\$ 12,688	
<b>Cash Flow from Investment Activities</b>	<b>\$</b>	<b>(9,948)</b>
<b><u>Cash Flow from Financing Activities</u></b>		
Alper Enterprises L.P.	\$ (8,872)	
OVCB #4 Loan	\$ (2,236)	
	\$ -	
<b>Cash Flow from Financing Activities</b>	<b>\$</b>	<b>(11,108)</b>
<b>Net change in Cash</b>	<b>\$</b>	<b>40,566</b>
<b>Cash at Jun 30 2022</b>	<b>\$</b>	<b>755,160</b>
<b>Cash at Sep 30 2022</b>	<b>\$</b>	<b>795,726</b>

**Sierra Housing Advocates, LLC.**  
**Statement of Financial Position**  
For the Quarter Ending Sep 30, 2022

	<u>12/31/2021</u>	<u>3/31/2022</u>	<u>6/30/2022</u>	<u>9/30/2022</u>	<u>Change from Prior Quarter</u>
Cash	40,425	40,425	40,425	51,646	11,222
Town Bridge Program Properties					
La Vista Blanc #65	-	491,902	490,485	490,485	-
SJV #C5	493,942	493,942	-	-	-
<b>Total Town Bridge Program Properties</b>	<b>493,942</b>	<b>985,843</b>	<b>490,485</b>	<b>490,485</b>	<b>-</b>
Rental Properties					
550 Mono St, Unit G201	-	-	-	510,495	510,495
40 Willow Ave #5 (Birch Creek)	-	875	156,961	155,896	(1,064)
<b>Total Rental Properties</b>	<b>-</b>	<b>875</b>	<b>156,961</b>	<b>666,391</b>	<b>509,431</b>
Accum Depr	-	-	-	(1,920)	(1,920)
<b>Total Assets</b>	<b>534,367</b>	<b>1,027,143</b>	<b>687,871</b>	<b>1,206,603</b>	<b>518,732</b>
Other Current Liabilities					
Rent Deposit	-	-	400	400	-
Due to MLH for Town Bridge Program	37,538	52,208	32,834	32,834	-
<b>Total Other Current Liabilities</b>	<b>37,538</b>	<b>52,208</b>	<b>33,234</b>	<b>33,234</b>	<b>-</b>
TOML Deeds of Trust					
TOML Deed La Vista Blanc #65	-	489,000	489,000	489,000	-
TOML Deed SJV #C5	464,630	464,630	-	-	-
TOML Deed 550 Mono St G201	-	-	-	509,628	509,628
<b>Total TOML Deeds of Trust</b>	<b>464,630</b>	<b>953,630</b>	<b>489,000</b>	<b>998,628</b>	<b>509,628</b>
<u>Net Assets</u>					
Members Equity	(7,081)	(17,083)	1,211	(11,346)	(12,556)
Unrestricted Net Assets	39,280	38,388	164,426	186,087	21,661
<b>Total Net Assets</b>	<b>32,199</b>	<b>21,305</b>	<b>165,637</b>	<b>174,741</b>	<b>9,104</b>
<b>Total Liabilities &amp; Net Assets</b>	<b>534,367</b>	<b>1,027,143</b>	<b>687,871</b>	<b>1,206,603</b>	<b>518,732</b>

**Sierra Housing Advocates, LLC.**  
**Statement of Activities**  
For the Quarter Ending Sep 30, 2022

	Q1 <u>Jul - Sep 22</u>	Q2 <u>Oct - Dec 22</u>	Q3 <u>Jan - Mar 23</u>	Q4 <u>Apr - Jun 23</u>	Total <u>FY 2023</u>
<b>Operations Income (non HBA)</b>					
<b>Revenue</b>					
Misc. - Birch Creek LT Reserve Pmt	30,000	-	-	-	30,000
Rental Revenue	2,900	-	-	-	2,900
Sale of Property	-	-	-	-	-
Cost of Unit Sold	-	-	-	-	-
Total Revenue	<u>32,900</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>32,900</u>
<b>Expenses</b>					
238 Sierra Manor Road	-	-	-	-	-
Deed Restriction Retention	-	-	-	-	-
Property Acquisition Expenses	-	-	-	-	-
Property Selling Expenses	-	-	-	-	-
Deed Restriction Retention-Other	-	-	-	-	-
Total Deed Restriction Retention	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
HOA Fees	2,585	-	-	-	2,585
Insurance	2,472	-	-	-	2,472
Interest Expense	-	-	-	-	-
LLC FTB Taxes and Fees	800	-	-	-	800
Professional Fees	3,968	-	-	-	3,968
Property Taxes	(1,006)	-	-	-	(1,006)
Repairs and Maintenance	200	-	-	-	200
Utilities	300	-	-	-	300
Total Expenses	<u>9,320</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>9,020</u>
Net Operations Income	23,580	-	-	-	23,880
<b>Other Expenses</b>					
Depreciation	1,920	-	-	-	1,920
Total Other Expenses	<u>1,920</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,920</u>
Total Other Income	(1,920)	-	-	-	(1,920)
Increase/(Decrease) in Net Assets	21,661	-	-	-	21,961
Net Assets at Beginning of Period	<u>150,845</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Net Assets at End of Period	<u><u>172,506</u></u>	<u><u>-</u></u>	<u><u>-</u></u>	<u><u>-</u></u>	<u><u>-</u></u>

Sierra Housing Advocates, LLC.

Statement of Cash flow

For the Quarter Ending Sep 30, 2022

	<u>September 30, 2022</u>	
<b>Increase/(Decrease) in Net Assets</b>	<b>\$</b>	<b>21,661</b>
<b><u>Non Cash Operating Transactions</u></b>		
Depreciation	\$ 1,920	
Prepaid Expenses	\$ -	
<b>Cash flow from Operations</b>	<b>\$</b>	<b>23,581</b>
<b><u>Cash Flow from Investment Activities</u></b>		
550 Mono St #G201	\$ (510,495)	
Birch Creek	\$ 1,064	
Members Equity	\$ (12,556)	
Unrestricted Net Assets	\$ -	
	<b>\$</b>	<b>(521,987)</b>
<b><u>Cash Flow from Financing Activities</u></b>		
Mono County Revolving Loan	\$ -	
TOML Deed of Trust for 550 Mono St G201	\$ 509,628	
Rounding	\$ (1)	
	<b>\$</b>	<b>509,627</b>
<b>Net change in Cash</b>	<b>\$</b>	<b>11,221</b>
<b>Cash at Jun 30, 2022</b>	<b>\$</b>	<b>40,425</b>
<b>Cash at Sep 30, 2022</b>	<b>\$</b>	<b>51,646</b>

2022-27  
RESOLUTION OF THE BOARD OF DIRECTORS OF  
MAMMOTH LAKES HOUSING, INC.

PORTFOLIO REINVESTMENT PROGRAM

Valley Apartments

All of the directors of Mammoth Lakes Housing, Inc., a California nonprofit public benefit corporation (the "Corporation"), hereby consent to, adopt, and ratify the following resolutions:

WHEREAS, the California Department of Housing and Community Development ("Department"), as authorized by Chapter 5.5 (commencing with Section 50606) of Part 2 of Division 31 of the Health and Safety Code, has issued a Notice of Funding Availability and Guidelines Amendment #1, dated July 28, 2022, under its Portfolio Reinvestment Program ("NOFA");

WHEREAS, the Corporation is authorized to do business in the State of California, and it is in the Corporation's best interests to act as the sole member of Valley Apartments Affordable Housing, LLC, a California limited liability company (the "LLC"), (the "Borrower");

WHEREAS, Corporation is authorized and directed to submit an application in response to the NOFA, as amended July 28, 2022 (the "Application") on its own behalf and as the sole member of the LLC, the Borrower; and

WHEREAS, the Borrower will either receive or be assigned a conditional commitment of funds pursuant to the NOFA (the "Portfolio Reinvestment Program Loan").

NOW, THEREFORE, IT IS RESOLVED, that the Corporation is hereby authorized and directed to act on its own behalf and as the sole member of the LLC, the Borrower, in connection with the Department's award of the Portfolio Reinvestment Program Loan pursuant to the NOFA.

RESOLVED FURTHER: That in connection with the Portfolio Reinvestment Program Loan, the Corporation, on its own behalf and as sole member of the LLC, the Borrower, is authorized and directed to enter into, execute, and deliver an STD 213, Standard Agreement in an amount not to exceed \$ 5,000,000, and any and all other documents required by the Department or deemed necessary or appropriate to evidence the Portfolio Reinvestment Program Loan, the Borrower's obligations related thereto, and the Department's security therefore; including, but not limited to, a promissory note, a deed of trust and security agreement, a regulatory agreement, a development agreement, a capitalized operating subsidy reserve agreement, and any other documents required by the Department as security for, evidence of, or pertaining



to the Portfolio Reinvestment Program Loan, and all amendments thereto (collectively, the "Portfolio Reinvestment Program Loan Documents").

RESOLVED FURTHER: Corporation acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures, uses, and activities identified in the Standard Agreement.

RESOLVED FURTHER: That Patricia Robertson, Executive Director, is hereby authorized to execute the Application and the Portfolio Reinvestment Program Loan Documents on behalf of the Corporation for itself and as sole member of the LLC, the Borrower.

Passed and adopted, effective as of December 5, 2022, by the consent of the Board of Directors of the Corporation by the following vote:

\_\_\_\_\_AYES

\_\_\_\_\_NAYS

\_\_\_\_\_ABSTAIN

\_\_\_\_\_ABSENT

#### CERTIFICATE OF THE SECRETARY

The undersigned, Secretary of the Corporation, does hereby attest and certify that the foregoing is a true, full and correct copy of a resolution of the Corporation's governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, repealed, rescinded, or annulled.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Kirk A. Stapp, President

2022-28  
RESOLUTION OF THE MEMBERS OF  
VALLEY APARTMENTS AFFORDABLE HOUSING, LLC

PORTFOLIO REINVESTMENT PROGRAM

Valley Apartments

All of the members of Valley Apartments Affordable Housing, LLC, a California limited liability company (the "Limited Liability Company"), hereby consent to, adopt, and ratify the following resolutions:

WHEREAS, the California Department of Housing and Community Development ("Department"), as authorized by Chapter 5.5 (commencing with Section 50606) of Part 2 of Division 31 of the Health and Safety Code, has issued a Notice of Funding Availability and Guidelines Amendment #1, dated July 28, 2022, under its Portfolio Reinvestment Program ("NOFA");

WHEREAS, the Limited Liability Company is authorized to do business in the State of California, and it is in the Limited Liability Company's best interests to act as the Borrower; and

WHEREAS, the Borrower will either receive or be assigned a conditional commitment of funds pursuant to the NOFA (the "Portfolio Reinvestment Program Loan").

NOW, THEREFORE, IT IS RESOLVED, that the Limited Liability Company is hereby authorized and directed to act as the Borrower in connection with the Department's award of the Portfolio Reinvestment Program Loan pursuant to the NOFA.

RESOLVED FURTHER: That in connection with the Portfolio Reinvestment Program Loan, the Limited Liability Company, as the Borrower, is authorized and directed to enter into, execute, and deliver an STD 213, Standard Agreement in an amount not to exceed \$ 5,000,000, and any and all other documents required by the Department or deemed necessary or appropriate to evidence the Portfolio Reinvestment Program Loan, the Borrower's obligations related thereto, and the Department's security therefore; including, but not limited to, a promissory note, a deed of trust and security agreement, a regulatory agreement, a development agreement, a capitalized operating subsidy reserve agreement, and any other documents required by the Department as security for, evidence of, or pertaining to the Portfolio Reinvestment Program Loan, and all amendments thereto (collectively, the "Portfolio Reinvestment Program Loan Documents").

RESOLVED FURTHER: That Patricia Robertson, Executive Director, Manager of Limited Liability Company, is hereby authorized to execute the Application and the Portfolio Reinvestment Program Loan Documents on behalf of the Limited Liability Company as the Borrower.

RESOLVED FURTHER: That this resolution shall take effect immediately upon its passage.

Passed and adopted, effective as of December 5, 2022, by the consent of the Board of Directors of the Corporation by the following vote:

\_\_\_\_\_AYES

\_\_\_\_\_NAYS

\_\_\_\_\_ABSTAIN

\_\_\_\_\_ABSENT

#### CERTIFICATE OF THE SECRETARY

The undersigned, Secretary of the Corporation, does hereby attest and certify that the foregoing is a true, full and correct copy of a resolution of the Corporation's governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, repealed, rescinded, or annulled.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Kirk A. Stapp, President



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

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## **STAFF REPORT**

Subject: Adopt Resolution 2022-29 authorizing a loan extension for Loan No. 19-PDLP-14481 (HCD), a predevelopment loan for Silver Peaks, LP

Presented by: Patricia Robertson, Executive Director

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## **BACKGROUND**

MLH has entered into a partnership with Visionary Home Builders for the creation of Silver Peaks Apartments in Bishop, CA.

This project will create 70 low-income rental units and 2 manager's units. The partnership took out two loans for predevelopment purposes including acquiring the land.

1. HCD (PDLP) – Due 12/22/22, \$800,000 @ 3%, current balance \$844,666, extended to 12/31/24
2. RCAC – extended to 7/1/24, 5.25%

## **PROJECT TIMELINE**

<b>MILESTONE</b>	<b>TIMING</b>
MHP Awards Announced (\$19.5M)	Dec/Jan
Tax Credit application	March
HOME Application	Due July
Start Construction	Q1 2024
Full Occupancy	Q4 2025

## **RECOMMENDATION**

The Board should consider adoption of Resolution 22-29 to accept the loan modification of PDLP loan as presented, and authorize the Executive Director to execute any related documents on behalf of Silver Peaks Affordable Housing, LLC (MLH sole member and partner to Silver Peaks LP).

## **ATTACHMENTS**

1. Loan modification terms
2. Resolution 22-29

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
PREDEVELOPMENT LOAN PROGRAM

REPAYMENT AGREEMENT

PDLP LOAN NO. 19-PDLP-14481

This Repayment Agreement ("Agreement") is dated this 9th day of November, 2022, for reference purposes only, by and between Silver Peaks, L.P. (the "Borrower"), and the Department of Housing and Community Development; a public agency of the State of California (the "Department").

RECITALS

- A. Borrower and the Department entered into that certain Standard Agreement dated August 27, 2020 pursuant to which the Department agreed to make a loan to Borrower in the amount of \$800,000.00 from the California Predevelopment Loan Program (the "Loan") for the purpose of developing that certain loan to Borrower in the amount of \$800,000.00 from the California Predevelopment Loan Program (the "Loan") for the purpose of developing that certain affordable housing project in the County of Inyo, California known as Silver Peaks, which Standard Agreement was amended by the parties on February 21, 2021 (such Standard Agreement, as so amended, is referred to herein as the "SA").
- B. The Loan is evidenced by that certain Promissory Note in the amount of \$800,000.00 executed, on December 23, 2020 by Borrower as maker, to the Department, as payee (the "Note").
- C. The Note is secured by that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Permanent Financing) dated December 23, 2020 executed by Borrower as trustor, and Inyo-Mono County Title, as trustee, and the Department, as lender and beneficiary, recorded in the Official Records of Inyo County, California on December 31, 2020 as Instrument No. 2020000362000 (the "Deed of Trust") against that certain real property referenced in Exhibit "A" to the Deed of Trust (the "Property"). The SA, Note, and the Deed of Trust are collectively referred to herein as the "Loan Documents".
- D. Pursuant to the terms of the Note, the Loan will mature and become due and payable on December 22, 2022. Borrower does not anticipate paying the Loan in full on such date so Borrower has requested that the Department accept a modified payment schedule under the Note and temporarily forbear from exercising its rights and remedies during the period that Borrower is timely making payments under such modified payment schedule.
- E. Reserved.

F. The Department agrees to accept a modified payment schedule for the payments due under the Note and to temporarily forbear the exercise of its rights and remedies under the Loan Documents all upon the terms and conditions set forth herein.

**NOW, THEREFORE**, for sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are hereby incorporated herein by this reference.
2. Modified Note Payment Schedule.
  - a. The total principal and interest due on the Loan as of November 9, 2022 is \$844,666.67. Interest will continue to accrue at three percent (3%) annually until the Loan is paid in full. The entire balance due on the Loan, together with unpaid interest and costs, shall be due and payable on the earliest to occur of the following: (i) any failure of Borrower to timely meet any of the Milestones referenced in Exhibit A, (ii) the close of escrow for any construction financing secured by the Borrower for the project, or (iii) December 31, 2024. Amounts paid shall be in accordance with the terms of the Loan Documents. Payments must be submitted to the following address and referenced as loan number 19-PDLP-14481.

Department of Housing and Community Development  
Accounting Branch Cashier  
Post Office Box 952050, MS 300  
Sacramento, CA 94252-2050

Or for Couriers:  
2020 West El Camino Ave, Suite 300  
Sacramento, CA 95833

Borrower acknowledges that in the event Borrower proceeds with the development of the project and obtains construction financing for all or any portion of the project after the date of this Agreement, then the entire unpaid balance of the Loan shall be immediately due and payable at the closing of such construction financing pursuant to the terms of the Note.

3. Performance Milestones. As a condition of the Department agreeing to accept Borrower's modified repayment schedule set forth herein, Borrower agrees to timely meet all of the performance obligations by the date associated with such obligations set forth in Exhibit "A" hereto, which exhibit is incorporated by this reference (the "Milestones"). Should Borrower fail to satisfactorily and timely perform any of the Milestones by the dates associated with such Milestones, then such failure shall constitute a material default under this Agreement, the entire amount owing on the Loan (with accrued interest and costs) shall be immediately due and payable and the Department may pursue its rights and remedies set forth in section 6 below.

4. Acknowledgments & Agreements of Borrower. Borrower hereby acknowledges and agrees as follows: (j) that the amount due and owing by Borrower under the Loan is \$844,666.67 as of November 9, 2022, with interest accruing at three percent (3%) annually thereafter, and that such amount is due and owing to the Department in full without offset or counterclaim; (ii) by entering into this Agreement, Borrower is hereby fully and forever waiving and releasing any and all rights and claims It may have to contest, dispute, or otherwise challenge the calculation of the amounts it owes under the Loan except in the case of manifest error; (iii) in material consideration of the Department agreeing to accept the modified payment schedule set forth herein Borrower hereby fully and forever waives any and all defenses, potential defenses, Counterclaims, offsets, or challenges to the validity or enforceability of the Loan Documents or the amounts owed to the Department thereunder, including without limitation, any defenses based on any statutes of limitation, (iv) the Loan Documents are valid, binding, and legal obligations of the Borrower, enforceable in accordance with their respective terms, and except as provided for herein, there have been no waivers or modifications of any of the terms thereof, whether express, implied, orally, or by conduct, by the Department; (v) the Department is the lender and beneficiary under the Deed of Trust; and (vi) the Department is not in default under any of the terms or conditions of any of the Loan Documents or any of the regulations governing the Program.

5. Continuing Priority of Deed of Trust. Borrower acknowledges and agrees that the lien of the Deed of Trust is, and shall remain, a first-priority lien against the Property. In connection therewith, Borrower agrees to timely execute and deliver any and all further documentation required by the Department and/or its title insurer in order to ensure that the Deed of Trust remains a continuing, first-priority lien against the Property. Borrower agrees to pay any all fees and costs associated therewith, including without limitation, those of any title. endorsements desired by the Department, title policy updates or rewrites, document preparation fees, escrow costs, recording fees, and similar expenses.

6. Event of Default. Provided that Borrower timely makes all payments and satisfies all obligations owed to the Department hereunder, including without limitation, the payment and performance obligations herein, the Department shall forbear from exercising its rights and remedies against Borrower under the Loan Documents. In the event that Borrower fails to timely make any installment payment as and when required hereunder, fails to timely satisfy any of the Milestone obligations set forth in Exhibit "A" hereto, or fails to observe any of the terms or conditions of any of the Loan Documents or this Agreement, Borrower shall be in material default hereunder, the entire amount of the Loan set forth herein shall become immediately due and payable in full, and the Department shall be entitled to exercise all of its rights and remedies at law, in equity, under this Agreement, or otherwise (including, without limitation, proceeding with a foreclosure of the Property or the appointment of a receiver), all without further notice to Borrower. All remedies of the Department hereunder are cumulative, and the exercise of one or more such remedies shall not be deemed an election of remedies and shall not preclude the exercise by the Department of any one or more of its other remedies. Borrower hereby waives all rights to receive further notices under the Loan Documents and this Agreement, including without limitation, future notices of default and of future balloon payments coming due.

7. Waiver and Release of Claims by Borrower. As a condition to the entry into this Agreement and the installment payment plan contained herein, and as a material part of the consideration to the Department in entering into this Agreement, Borrower hereby fully and unconditionally waives, and releases and discharges the Department and its members, directors, officers, employees, agents, attorneys, successors and assigns (collectively, "Released Parties") from, any and all rights, demands, claims, defenses, rights of offset, claims, counterclaims, liabilities, breaches, actions, and causes of action of every kind and nature, whether heretofore or now existing, or that might hereafter be claimed to exist, whether known or unknown, suspected or unsuspected, which Borrower may have against the Released Parties, or any of them, arising from or related to the Loan, the subject matter of the Loan Documents or any other documents or instruments executed in connection therewith and any actions or omissions by the Department in connection therewith (collectively the "Released Matters"). In connection with such release, waiver and discharge, Borrower hereby expressly waives the benefit of the provisions of California Civil Code Section 1542 (and any other statute or common law principles of similar effect), which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR. AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Borrower has read this Section. 7, has had the effect and content thereof explained to it by independent legal counsel, and fully understands and appreciates the same. Borrower understands and acknowledges that the consequence of this waiver of California Civil Code Section 1542 is that even if Borrower should eventually discover any Claims or suffer any losses or damages arising from the Released Matters, Borrower will not be able to make any claim against the Department or the other Released Parties with respect thereto. Borrower acknowledges that these consequences apply even as to claims, losses or damages that may exist as of the date of this Agreement but which the Borrower does not know exist, or does not anticipate, and which, if known or anticipated, would materially affect its decision to execute this Agreement. The waivers and releases contained in this Section 7 are effective immediately and shall survive the repayment of the Loan and the expiration or termination of this Agreement.

8. Waiver of Statute of Limitations-and Repose. As further consideration hereunder, Borrower hereby waives, to the maximum extent allowed by law any and all defenses, claims, counterclaims, or assertions against the enforcement of the Loan or any rights or remedies of the Department under the Loan Documents, based on any statutes of limitation or statutes of repose.



9. Partial Invalidity. If any provision of this Agreement shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof Shall not be in any way affected or impaired thereby.

10. Interpretation. This Agreement has been negotiated by and between the representatives of both parties, and each party has had the opportunity to have this Agreement reviewed and drafted by their respective legal counsel. Therefore, any rule of law (including, without limitations California Civil Code section 1654 or similar statute) or legal decision to the effect that ambiguities are to be construed against the drafting party is hereby waived.

11. No Waiver. No waiver of any right or obligation of either party hereto shall be effective unless in writing, specifying such waiver, executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

12. Attorneys' Fees. The prevailing party in any action to enforce or interpret this Agreement shall be entitled to recover its reasonable attorneys' fees and costs as determined by the court.

13. Authority. Each party hereto represents and warrants that the individual(s) executing this Agreement on behalf of Such party has full- right, power, and authority to execute and deliver this Agreement to the other party, and that such authority is duly evidenced by all requisite resolutions, consents, and similar written authorizations.

14. Multiple Originals: Counterparts. This Agreement may be executed in identical multiple originals, each of which is deemed to be an original, and may be signed in counterpart.

15. Further Assurances. From and after the execution of this Agreement, Borrower and the Department shall execute and deliver to the requesting party such other instruments and documents which may be reasonably required in order to carry out the intent and purpose of this Agreement, including without limitation, any amendments to the Loan Documents which may be requested by the Department.

16. Effectiveness. This Agreement shall become effective upon the date of execution by the Department. In the event that the Borrower fails to provide to the Department a signed original of this Agreement by December 23, 2022, then the modified payment plan and other terms being offered by the Department in this Agreement shall automatically be deemed withdrawn and of no force or effect, in which event the Department shall be entitled to immediately pursue all of its rights and remedies against the Borrower, whether at law, in equity, or under the terms of the Loan Documents, all without further notice to Borrower.

17. Miscellaneous. Except as specifically provided for herein, all terms and conditions of the Loan Documents remain in full force and effect in accordance with their respective terms. This Agreement may not be modified except in writing signed by all of the parties hereto. Nothing contained in this Agreement shall constitute or be deemed or implied to be a commitment or agreement on the part of the Department to restructure, or further restructure, any indebtedness of Borrower, to amend any provisions of the Loan Documents, or to forbear from exercising any of the Department's rights or remedies under the Loan Documents (except to the temporary and limited extent specifically agreed to herein).

**IN WITNESS WHEREOF**, the parties hereby execute and enter in this Agreement as of the date first set forth above and agree to be fully bound hereby.

**BORROWER:**

Silver Peaks, L.P.,  
a California limited partnership

By: VHB Silver Peaks LLC,  
a California limited liability company,  
its managing co-general partner

By: Visionary Home Builders of California, Inc,  
a California nonprofit public benefit corporation  
its sole member/manager

By: \_\_\_\_\_  
Carol J. Ornelas, CEO

By: Silver Peaks Affordable Housing, LLC,  
a California limited liability company,  
its administrative co-general partner

By: Mammoth Lakes Housing, Inc.,  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Kirk Stapp, President

**DEPARTMENT:**

Department of Housing and Community Development,  
a public agency of the state of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT "A"

Performance Milestones

Amount	Source	Lender/Investor	Status
\$19,560,174	HCD SuperNOFA	HCD	Application is under review. Awards expected in January 2023.
\$26,783,842	4% Tax Credits	TCAC/CDLAC	Application to be submitted March 2023
\$392,000	Conventional Perm Loan	TBD	Loan application to be submitted September 2023
\$800,000	Predevelopment construction loan	HCD PDLP	Construction to commence and PDLP loan to be repaid in full no later than 12/31/2024

**2022-29**  
**MAMMOTH LAKES HOUSING, INC.**  
**AUTHORIZING RESOLUTION**  
**RE: AUTHORIZING EXECUTION OF MODIFICATION**  
**AGREEMENT TO EXTEND PREDEVELOPMENT LOAN PROGRAM**  
**LOAN TERM FOR SILVER PEAKS APARTMENTS**

At a duly constituted special meeting of the Board of Directors (the "Board") of Mammoth Lakes Housing, Inc., a California nonprofit public benefit corporation ("MLH") held on December 5, 2022, the following resolutions were adopted:

WHEREAS, Silver Peaks, L.P, a California limited partnership (the "Partnership") was created to own and operate real property generally located at 935 Spruce Street, Bishop, California, (the "Property") on which the Partnership intends to develop a multifamily affordable housing development (the "Project").

WHEREAS, MLH formed a limited liability company with MLH as the sole member and manager (the "LLC") to serve as the general partner of the Partnership.

WHEREAS, the Partnership previously entered into a Standard Agreement (Loan No. 19-PDLP-14481), dated August 27, 2020 by and between the Partnership and the California Department of Community Development, a public agency of the State of California ("Lender") under which the Partnership agreed to borrow \$800,000 (the "PDLP Loan"), repayment of which is secured by a deed of trust on the Property.

WHEREAS, the original term of the PDLP Loan was set to expire on December 22, 2022.

WHEREAS, due to unanticipated delays in obtaining additional state funding for the Project, it is necessary and desirable for the Partnership to modify the Standard Agreement, Note, and Deed of Trust securing the PDLP Loan to extend the maturity date of the RCAC Loan approximately twenty-four (24) months to December 31, 2024 and make other conforming changes.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of MLH on behalf of the LLC, authorize the modification of the PDLP Loan and hereby authorizes and directs the Chief Executive Officer of MLH to take all necessary actions, and execute any and all necessary documents on behalf of MLH, the LLC, and the Partnership, including, but not limited to, the Repayment Agreement, and all the documents necessary to effectuate the terms of this Resolution.

BE IT FURTHER RESOLVED, that to the extent that any actions authorized by this resolution have already been performed, such actions are ratified and approved.

**APPROVED AND ADOPTED THIS 5<sup>th</sup> day of December 2022.**

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_ ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Kirk Stapp, President

ATTEST:

\_\_\_\_\_  
Patricia Robertson, Secretary

SECRETARY'S CERTIFICATE

I, the undersigned, hereby certify that the foregoing is a true copy of the Resolution resolved by the Board of Directors of the above mentioned corporation at a special meeting of said Board of Directors held on the aforementioned date, and that said Resolution is in full force and effect.

Dated: December \_\_\_\_\_, 2022

\_\_\_\_\_  
, Secretary



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

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## **STAFF REPORT**

Subject: Adopt Resolution 2022-30 authorizing a loan extension for Loan No. 6316-SP-01 (RCAC), a predevelopment loan for Silver Peaks

Presented by: Patricia Robertson, Executive Director

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## **BACKGROUND**

MLH has entered into a partnership with Visionary Home Builders for the creation of Silver Peaks Apartments in Bishop, CA.

This project will create 70 low-income rental units and 2 manager's units. The partnership took out two loans for predevelopment purposes including acquiring the land.

1. HCD (PDLP) – Due 12/22/22, \$800,000 @ 3%, current balance \$844,666, extended to 12/31/24
2. RCAC – extended to 7/1/24, 5.25%

## **PROJECT TIMELINE**

<b>MILESTONE</b>	<b>TIMING</b>
MHP Awards Announced (\$19.5M)	Dec/Jan
Tax Credit application	March
HOME Application	Due July
Start Construction	Q1 2024
Full Occupancy	Q4 2025

## **RECOMMENDATION**

The Board should consider adoption of Resolution 22-30 to accept the loan modification of RCAC loan as presented, and authorize the Executive Director to execute any related documents on behalf of Silver Peaks Affordable Housing, LLC (MLH sole member and partner to Silver Peaks LP).

## **ATTACHMENTS**

1. Loan modification terms
2. Resolution 22-30





**Corporate Office:**  
3120 Freeboard Drive, Suite 201  
West Sacramento, CA 95691  
(916) 447-2854 • Fax (916) 447-2878

Modification Agreement #1  
Loan # 6316-SP-01  
11/2/2022  
Page 1 of 4

November 2, 2022

Ms. Carol J. Ornelas  
Silver Peaks, LP  
315 North San Joaquin Street  
Stockton, CA 94513

Ms. Patricia Robertson  
Mammoth Lakes Housing, Inc.  
587 Old Mammoth Road  
Mammoth Lakes, CA 93546

**RE:    *Borrower:*        *Silver Peaks, LP*  
         *Project:*            *Silver Peaks Apartments*  
         *Loan No.:*         *6316-SP-01*  
         *Modification Agreement # 1***

Dear Ms. Ornelas and Ms. Robertson:

We are pleased to inform you that on October 28, 2022, the Rural Community Assistance Corporation (“Lender”) approved a loan modification (“Modification”) to Silver Peaks, LP (“Borrower”) under the following general terms and conditions:

1. The maturity date of the Loan Agreement, and the Note secured by the Deed of Trust is hereby extended Eighteen (18) months to July 1, 2024.
2. The Interest Rate remains the same which is 5.25% per annum. Said Interest Rate will be in effect from January 1, 2023 to July 1, 2024.
3. Borrower to pay a Loan Extension Fee of One Thousand Five Hundred Dollars and No Cents (\$1,500.00) to RCAC either by check or ACH/Wire (see attached ACH and Wire Operating Account Instructions).
4. RCAC approves the substitution of Co-General Partner, IMACA Silver Lakes LLC by Silver Peaks Affordable Housing, LLC (Mammoth Lakes Housing Inc. sole member).
5. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute but one and the same instrument.

Please retain a copy of this fully executed letter for your records.

Modification Agreement #1  
Loan # 6316-SP-01  
11/2/2022  
Page 2 of 4

**This modification letter agreement is open to acceptance by the Borrower until 5:00 P.M. on November 23, 2022. Please email a signed copy of this agreement to our office, it is not necessary to return a signed original. We will accept an emailed copy of this agreement as your acceptance to modify the terms of your loan.**

**NOTE: If the authorized signers listed in the modification agreement have changed, please submit a revised Corporate Resolution to Borrow to RCAC along with this letter.**

If you have any questions, please feel free to contact me at 916-447-9832, ext. 1065. Thank you.

Sincerely,

**LENDER:**

RURAL COMMUNITY ASSISTANCE CORPORATION,  
a California nonprofit public benefit corporation

DocuSigned by:  
By:   
82EF0C6106B9410...  
Juanita Hallstrom  
Loan Fund Director

Modification Agreement #1  
Loan # 6316-SP-01  
11/2/2022  
Page 3 of 4

### ACCEPTANCE OF AGREEMENT


The undersigned hereby acknowledges receipt of the foregoing modification letter on this Nov 7, 2022 day of \_\_\_\_\_, 2022, and hereby accepts all of the terms, conditions and time limitation set forth therein.

#### **BORROWER:**

Silver Peaks, L.P.,  
a California limited partnership

By: VHB Silver Peaks LLC,  
a California limited liability company,  
its managing co-general partner

By: Visionary Home Builders of California, Inc,  
a California nonprofit public benefit corporation  
its sole member/manager

DocuSigned by:  
  
By: \_\_\_\_\_  
7AA411A00B2E421...  
Carol J. Ornelas  
Chief Executive Officer

Modification Agreement #1  
Loan # 6316-SP-01  
11/2/2022  
Page 4 of 4

Silver Peaks Affordable Housing, LLC,  
a California limited liability company,

By: Mammoth Lakes Housing Inc.,  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Patricia Robertson  
Executive Director

**2022-30**  
**MAMMOTH LAKES HOUSING, INC.**  
**AUTHORIZING RESOLUTION**  
**RE: AUTHORIZING EXECUTION OF MODIFICATION**  
**AGREEMENT TO EXTEND RURAL COMMUNITY ASSISTANCE**  
**CORPORATION LOAN TERM FOR SILVER PEAKS**  
**APARTMENTS**

At a duly constituted special meeting of the Board of Directors (the "Board") of Mammoth Lakes Housing, Inc., a California nonprofit public benefit corporation ("MLH") held on December 5, 2022, the following resolutions were adopted:

WHEREAS, Silver Peaks, L.P, a California limited partnership (the "Partnership") was created to own and operate real property generally located at 935 Spruce Street, Bishop, California, (the "Property") on which the Partnership intends to develop a multifamily affordable housing development (the "Project").

WHEREAS, MLH formed a limited liability company with MLH as the sole member and manager (the "LLC") to serve as the general partner of the Partnership.

WHEREAS, the Partnership previously entered into a Loan Agreement (Loan No. 6316-SP-01), by and between the Partnership and Rural Community Assistance Corporation ("Lender") under which the Partnership agreed to borrow funds for a predevelopment loan (the "RCAC Loan"), repayment of which is secured by a deed of trust on the Property.

WHEREAS, the original term of the RCAC Loan was set to expire in advance of this project being ready to repay.

WHEREAS, due to unanticipated delays in obtaining additional state funding for the Project, it is necessary and desirable for the Partnership to modify the Loan Agreement, Note, and Deed of Trust securing the RCAC Loan to extend the maturity date of the RCAC Loan by eighteen (18) months to July 1, 2024 and make other conforming changes.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of MLH on behalf of the LLC, authorize the modification of the RCAC Loan and hereby authorizes and directs the Chief Executive Officer of MLH to take all necessary actions, and execute any and all necessary documents on behalf of MLH, the LLC, and the Partnership, including, but not limited to, the Modification Agreement, and all the documents necessary to effectuate the terms of this Resolution.

BE IT FURTHER RESOLVED, that to the extent that any actions authorized by this resolution have already been performed, such actions are ratified and approved.

**APPROVED AND ADOPTED THIS 5<sup>th</sup> day of December 2022.**

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_ ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Kirk Stapp, President

ATTEST:

\_\_\_\_\_  
Patricia Robertson, Secretary

SECRETARY'S CERTIFICATE

I, the undersigned, hereby certify that the foregoing is a true copy of the Resolution resolved by the Board of Directors of the above mentioned corporation at a special meeting of said Board of Directors held on the aforementioned date, and that said Resolution is in full force and effect.

Dated: December \_\_\_\_\_, 2022

\_\_\_\_\_  
, Secretary



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

**STAFF REPORT**

Subject: The Board will receive an update regarding the Project Homekey, Innsbruck Lodge Affordable Housing project

Presented by: Patricia Robertson, Executive Director

**BACKGROUND**

MLH and the Town of Mammoth Lakes partnered on a Project Homekey Round 2 application in January 2022.

We were awarded \$4.41 million for the acquisition and rehabilitation of the Innsbruck Lodge into 15 studio apartments and 1 manager’s unit.

**PROPOSED PROJECT TIMELINE**

MILESTONE	COMPLETED	EXPECTED
Award	May 17, 2022	
Contract with the State	June 2022	
Architect Contract Approved by MLH	June 2022	
Building Permit Application Submitted	October 4, 2022 <i>Confirmed receipt</i>	
1 <sup>st</sup> Round of Plan Check Comments Received	October 17, 2022	
Meeting with the Town team on Project Homekey Design Guidelines	November 10, 2022	
Alternative Means & Methods submitted	November 21, 2022	
Fundraising? Ask Jurisdictions, other?		December – January
MLH to execute contract with GC with Board approval		January 2023
Pull building permit once all funding is secured		January 2023
Demolition		Late January – early February
Construction Complete	May 17, 2023 – <b>deadline 12 months from date of award</b> <i>*some exterior items may need an extension</i>	
Full occupancy <i>Allowance for 10% vacancy</i>	July 17, 2023 – <b>deadline 60 days after construction complete</b>	



**PROJECT UPDATE**

A. HCD-Related Items

- a. Standard Agreement revision
- b. Rehab draw request form

B. MLH-Town Items

- a. Plans in building permit plan-check process
- b. Received first round of comments. Held a meeting with the Town regarding Building Code conformance. Submitted an Alternative Means & Methods proposal. Waiting for comments and/or approval to move forward.
- c. GC chosen. Working through Value Engineering process, potential savings identified of about \$400,000; depending on outcome of Building Plan Check.

C. FINANCING

- a. Funding gap of approximately \$500,000
- b. Alterra Mountain Company Community Foundation request - **\$200,000 denied**
- c. Eastern Sierra Continuum of Care contribution of HHAP Round 1 & 2 funds - **\$343,338 approved**
- d. Other fundraising opportunities?

Innsbruck Lodge	Application Budget	Awarded Budget	Final Development Budget	Comments
Land and Acquisition	\$3,500,000	\$3,500,000	\$3,503,887	
Rehab Costs	\$1,572,814	\$1,590,365	\$2,364,928	This is after VE; waiting to hear from Town on Building Code conformance
Architecture & Soft Costs	\$736,167	\$288,167	\$736,167	
Insurance & Taxes		\$13,165	\$13,165	*Need to add policy
Permit & DIF		\$45,303	\$45,303	*Potential Waivers?
COC HHAP (Reserves)	\$31,019	\$343,338	\$0	*Ask HCD for a budget amendment
Contingency	\$120,000	\$120,000	\$120,000	
<b>Total Sources</b>	<b>\$5,960,000</b>	<b>\$6,303,338</b>	<b>\$6,783,449</b>	
		<b>FUNDING GAP</b>	<b>\$480,111</b>	

Innsbruck Lodge Funding Sources	Amount	Final Development Budget
Project Homekey	\$4,410,000	
Town of Mammoth Lakes	\$1,000,000	
Mono County	\$550,000	
Continuum of Care	343,338	
<b>TOTAL</b>	<b>\$6,303,338</b>	<b>\$6,783,449</b>
	<b>FUNDING GAP</b>	<b>\$480,111</b>

**RECOMMENDATION**

The Board should receive the update, ask any clarifying questions, and provide staff direction if necessary.



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

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## **STAFF REPORT**

Subject: Consider an application to the CA Coalition for Rural Housing Rural West Internship Program for Diversity in Nonprofit Housing and Community Development

Presented by: Patricia Robertson, Executive Director

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## **BACKGROUND**

The California Coalition for Rural Housing's (CCRH) Rural West Internship Program for Diversity in Nonprofit Housing and Community Development is a one-year paid internship designed to increase the staff diversity within the Affordable Housing and Community Development fields and assist in meeting the diverse needs of communities served throughout rural and emerging urban areas in the West, including California, Oregon and Washington State. The internship program provides support with recruiting, training, and retaining students in these fields. The Program strongly encourages students of color who come from low-income rural backgrounds, and/or people who reflect rural West's diverse cultural and linguistic demographics to apply.

If approved by the Board this will be MLH's 4<sup>th</sup> internship application.

1. 2018 Board Approval  
Intern started in June 2019 and ended in May 2020
2. 2019 Board Approval  
Intern started in September 2020 and resigned in November 2020
3. 2020 Board Approval  
Intern started in July 2021 and is currently employed at MLH full-time
4. 2021 Internship Recruitment not successful
5. 2022 Proposed MLH Application  
Intern would start in June 2023 and end in May 2024

In the past, Mammoth Lakes Housing has had up to five staff members. Due to budgetary constraints, the organization has been able to maintain two full time staff members for more than ten years. Since that time, the operating budget has been consistent; however, rising costs continue to reduce opportunities to expand staff capacity, develop new programs, and create more affordable homes. As illustrated above, MLH has utilized both the CCRH internship program as well as unpaid interns to expand staff capacity.

By expanding our contracts with other jurisdictions, including Mono and Alpine counties, we are currently funded for up to 4 full-time employees. Currently, we only have 3 of those positions filled.

### **PROGRAM DESCRIPTION**

The Rural West Internship Program has been developing new affordable housing experts for 26 years. Since the program's inception, nearly 200 students have graduated with more than 50% staying in the field of Community Development. The program fills a critical void in the ability of rural development organizations to recruit, educate, and retain future professionals. The program serves as a pathway for students to pursue professional positions in the affordable housing field within their communities.

The Program typically recruits entering college seniors of four-year universities, but because of our isolated location the program is willing to work towards recruiting an intern from a community college, a nontraditional student, or a recent college graduate. They have had successful experiences with these types of recruitments in the past.

### **Professional Training Activities**

A description of some of the enrichment opportunities for interns to achieve pre-professional and personal skills follows below.

1. Summer Training Institute: Interns begin the program working at their host agencies and then shortly thereafter attend an intensive one-week training where professionals from the industry teach various affordable housing and community development topics. The Summer Institute occurs in July at the University of California, Davis.
2. CCRH Rural Summit and Statewide Housing Conferences: Interns have the opportunity to attend and participate in CCRH's renowned Annual Rural Housing Summit to learn about emerging issues and solutions from peers in the industry.
3. The Mid-Winter Training/Retreat: In January, interns take two-days to participate in a skills development/retreat where they reflect on their intern experience and gain additional community development tools.
4. Final Project: Interns culminate the program with the presentation of a housing development project they have worked on during the year where they have to convince a mock City Council that their development project is feasible and an asset to the community.

5. **Graduation:** Successful interns participate in a special graduation ceremony in April preceding the annual Housing California Conference in Sacramento. The graduation is attended by the interns' families, intern alumni, nonprofit leaders, and practitioners.

### **PROPOSED INTERN WORK PROGRAM**

An intern through this Program is expected to achieve specific core competencies in one of the following tracks:

1. **Affordable Housing and Real Estate Development:** Learn hands-on what it takes to create affordable healthy living communities, and specifically learn the intricacies of financing and developing single family homes or multifamily housing complexes from concept inception to construction completion for low-income and ethnically diverse communities.
2. **Affordable Housing Asset Management:** Learn what it takes to maintain long-term affordable housing complexes from a physical, financial, compliance and operational perspective.
3. **Housing Rehabilitation for Sale:** Learn hands-on the acquisition process of foreclosed homes, rehabilitation and sale of affordable homes to qualified low-income families.
4. **Lending for Affordable Housing:** Learn the lending and underwriting process undertaken by Community Development Financial Institutions to fund affordable housing projects and other economic/community development projects such as water infrastructure in rural areas.

MLH staff foresee the intern focusing on the Affordable Housing Development track to assist with the following ongoing projects: Access Apartments, Innsbruck Lodge, Valley, and Silver Peaks projects, and other opportunities as they arise.

An intern may also be able to assist with program marketing, general nonprofit management, and potentially new housing program development and implementation.

### **FINANCIAL ANALYSIS**

An intern with MLH will earn between \$17-18 per hour. The CCRH Internship Program contributes 40% of the costs of the intern's wages, while MLH will be responsible for the remaining 60% in addition to payroll taxes and insurance. It is estimated that the payroll cost to MLH of a CCRH Intern for the 2023-2024 Program Year would be approximately \$16,632 including hourly wages and payroll taxes, for the maximum allowed of 1,320 of hours worked. This does not include any travel expenses that are reimbursable and not paid for by CCRH.

<b>Estimated Costs of a CCRH Intern</b>		
\$26,136	Maximum wages eligible to intern	1,320 hours / \$18 per hour
\$2,376	Estimated taxes + insurance	
\$14,256	MLH portion (60% wages)	
\$16,632	Total MLH contribution	Does not include any benefits Does not include travel expenses not paid by CCRH
\$9,504	CCRH Intern Program portion (40% wages)	CCRH also pays for lodging + meals at Program trainings in addition to the 40% of wages

Currently, MLH is already projected to cover 20% of the two Housing Navigator positions, which totals approximately \$47,000 during the next fiscal year, for salaries, benefits, training/travel, and admin/start-up costs.

If directed to submit an application, the new costs associated with the intern position will be included in the 2023-2024 fiscal year budget, to be approved by the Board in May/June of 2023.

There is no financial obligation to submit the application. If MLH is awarded an opportunity to host an intern, CCRH will commence with the recruitment.

**Budget Analysis**

<b>REVENUE</b>	<b>Current FY</b>	<b>FY 23/24</b>
Town Contract Services	336,000	336,000
Mono County Housing Navigator Services	100,000	100,000
Alpine County Housing Navigator Services	100,000	100,000
Developer Fee	117,200	0
Contract Income - Other	14,700	14,700
Property Management Fees	27,591	27,591
Fundraising	1,000	1,000
Application Revenue	550	550
Misc. Revenue	0	0
MLH Prior FY Revenue - Operating Subsidy	20,000	0
Grant Administration / Activity Fees	0	0
<b>Total Revenue</b>	<b>\$717,041</b>	<b>\$579,841</b>
<b>EXPENSES</b>		
<b>Operating Expenses</b>	<b>\$646,530</b>	<b>\$672,666</b>
<b>Depreciation</b>	<b>\$6,621</b>	<b>\$6,621</b>
<b>NET INCOME</b>	<b>\$63,890</b>	<b>-\$99,446 WITH INTERN</b>
		<b>-\$73,310 WITHOUT</b>

**TIMELINE**

<b>TASK</b>	<b>DEADLINE</b>	<b>RESPONSIBLE ENTITY</b>
Application Deadline	December 16, 2022	MLH
Awards Announced	January 2023	CCRH
Intern Recruitment Process	January – May 2023	CCRH
Intern Prescreening Interviews	April 2023	CCRH
Intern On-Site Interviews	May 2023	MLH
Intern Onboarded at Host Agency	June, 1 2023	MLH
Summer Institute @ UC DAVIS	July 2023	CCRH
CCRH Rural Housing Summit	Oct/Nov 2023	CCRH
Winter Retreat-Training	Jan/Feb 2024	CCRH
Graduation @ Housing California	April 2024	CCRH
Internship Ends	May 31, 2024	MLH & CCRH

**RECOMMENDATION**

Staff recommends that the Board discuss and consider an application to the CCRH Rural West Internship Program for Diversity in Nonprofit Housing and Community Development for the 2023-2024 Program Year, on or before the due date of December 16, 2022.

1



EASTERN SIERRA  
**COMMUNITY HOUSING**

2



EASTERN SIERRA  
**COMMUNITY HOUSING**

3



EASTERN SIERRA  
**COMMUNITY HOUSING**



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COLOR LOVE

DESIGNERBLOGS.COM



Window  
Value  
Ideas





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supports workforce housing  
for a viable economy and  
sustainable community.*

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## **STAFF REPORT**

Subject: MLH Programs Update

Presented by: Patricia Robertson, Executive Director

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### Rental Unit Turnover:

- None

### Waitlist Management:

- 154 Households
- 451 individuals (including 210 children under 18)
- 25% are households of 2
- 66% are households of 1, 2, 3
- 45% have income below 50% AMI

### Deed Restriction Retention

- Meridian Court G-201; doing extension clean up; will prepare for sale at 150% AMI
- Processing 5 applications for ownership  
COMPLETE APPLICATIONS FIRST

- Numerous reasons to clients not working out:

- Unit preference (need garage, prefer top floor, need 2 parking spaces, etc.)
- DACA – can't get an FHA loan in a property that allows nightly rentals
- Interest rates nearing 7%
- No down payment assistance available
- Condo insurance policies are rising, and will impact local monthly HOA rates

*Thank you so much for everything.  
We are so grateful for this  
program. Had it not been for this  
program we would not have been  
able to become homeowners in this  
town. I have been with the county  
for 10 years and now being a  
homeowner because of this  
program in this town, I feel as  
though I can actually retire from  
the job that I love and continue to  
serve my community. Thank you  
again.*

## Land Trust Expansion – Town of Mammoth Lakes Bridge Program

### Marketing

MLS

Chamber e-newsletter

MLH website and e-newsletter

Social media

Fliers

Emails to Town/County staff

### UNITS

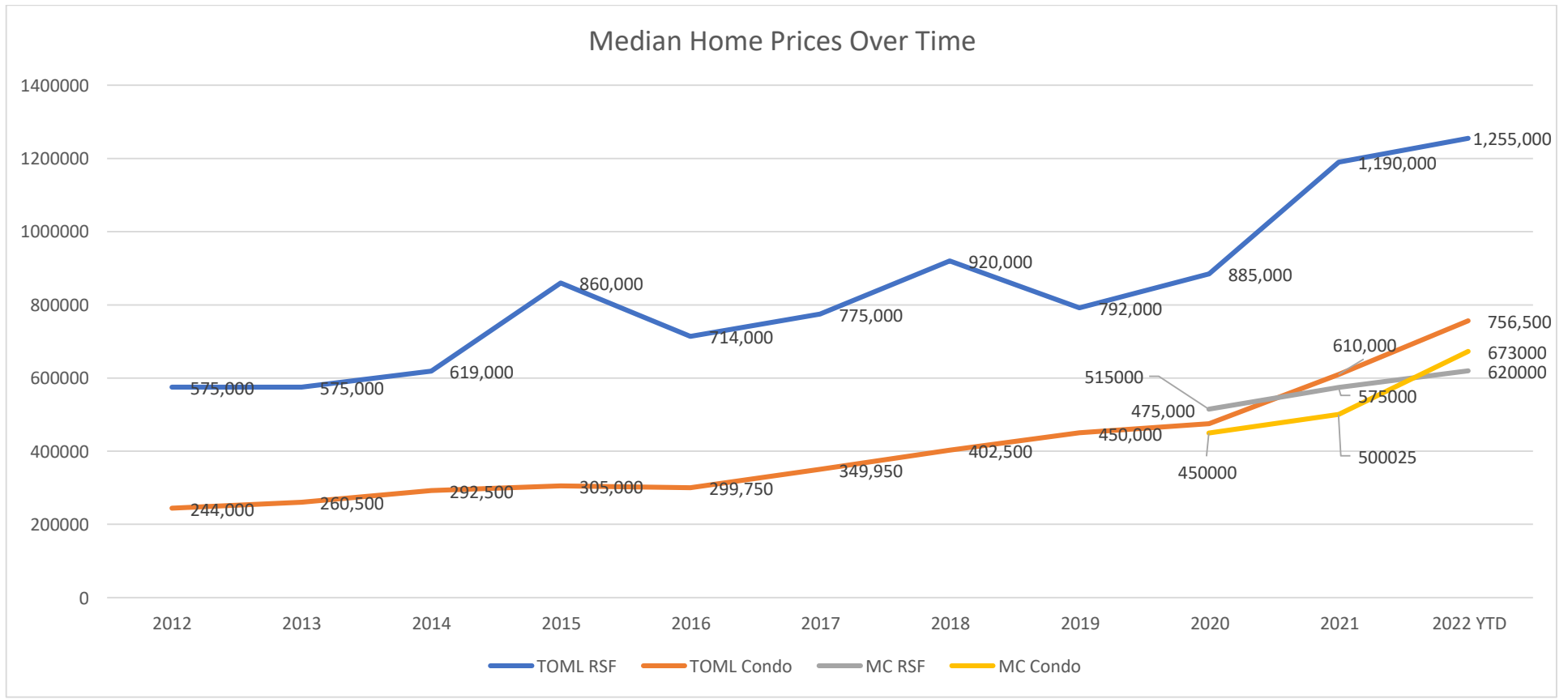
1. Meridian Court G-101
  - a. Town-owned
  - b. 3-bedroom, 2-bath
  - c. Minor repairs coordinated
  - d. Sold to eligible buyer on 5/31**
  
2. SJV C-5 unit
  - a. Closed escrow to MLH 11/8
  - b. Needed repairs
    - i. Sell furniture - complete
    - ii. Paint – complete
    - iii. Carpet – complete
    - iv. Windows – complete
    - v. Minor repairs – complete
  - c. Sold to eligible buyer on 4/14**
  
3. Meridian Court F-203
  - a. Town-owned
  - b. 1-bedroom, 1-bath
  - c. Showed to multiple clients
  - d. Sold to eligible buyer on 11/28**
  
4. La Vista Blanc #65
  - a. 2-bedroom, 1-bath
  - b. Closed to MLH 2/2
  - c. Minor repairs – sliding glass door – pending
  - d. CURRENTLY AVAILABLE – Consider renting?**
  
5. Meridian Court C-201
  - a. Town-owned
  - b. 1-bedroom, 1-bath
  - c. Showed to multiple clients
  - d. CURRENTLY AVAILABLE**

- 6. Meridian Court G-201
  - a. MLH owned
  - b. 3 bedroom, 2 bath
  - c. **Waiting for windows**
  - d. **Market to 150% AMI – pricing is in progress and will list on the MLS**

Mortgage Assistance Programs

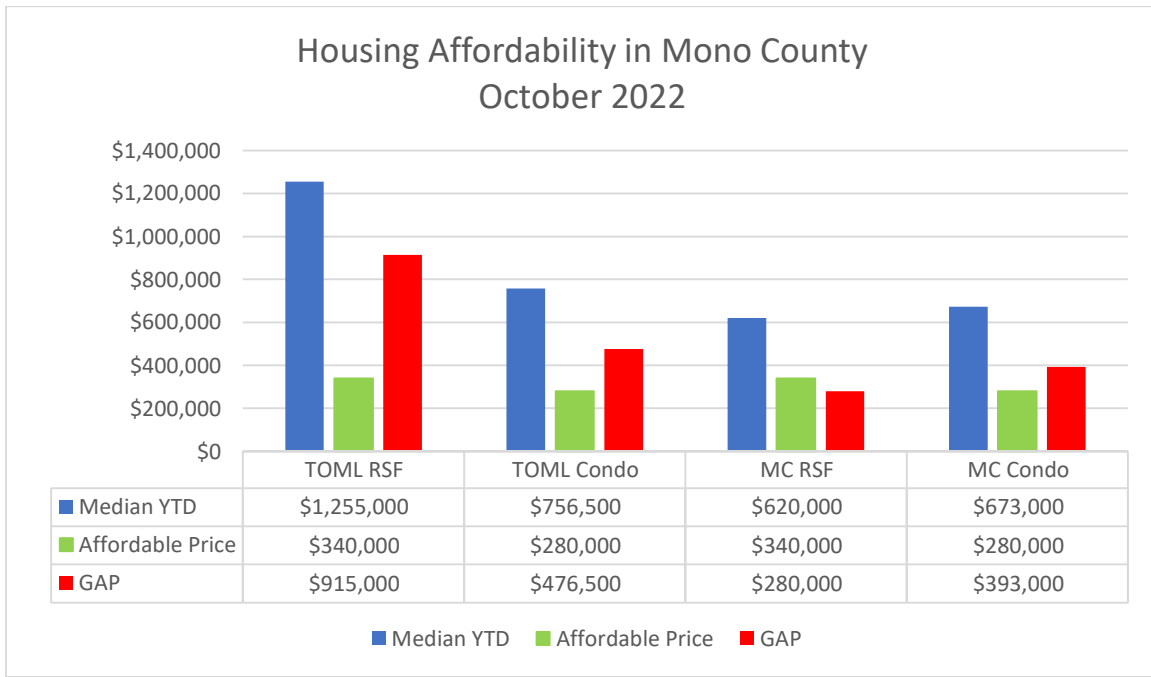
Jurisdiction	Funding Source	AMI	~ Funds Available	Notes
Town	CDBG	80%		<i>Will submit in next round</i>
Town	PHLA	120%		<i>Awards Jan-Feb</i>
Town	HOME Reuse	80%	~\$100,000	<b>FROZEN BY STATE – We have not heard anything from the State about when this will be available</b>
Town	BEGIN Reuse	120%	\$0	Available at specific complexes
Town	Local	120%		<i>Pending funding</i>
Mono County	HOME	80%	\$455,800	<b>FROZEN BY STATE</b> Expires February 2, 2023
MLH – Mono County + Town	CalHome	80%	\$50,000 in ReUse funds available	Set-up in process

MEDIAN HOME PRICES



\*MC RSF numbers do not include manufactured homes. If included, it drops the median price YTD.

% INCREASE OVER 2021			
MC Condo up	35%	Town Condo up	24%
MC RSF up	8%	Town RSF up	5%



\*Assumptions: 6.8% interest, \$400 personal debt, \$500 HOA, 5% down (with PMI);  
120% AMI household of 4

Other Grants

1. Access Apartments
  - a. HOME - \$3.4M
  - b. CDBG - \$3M
  - c. Whole Person Care – Mono County
  - d. Working through financial closing
    - i. Biweekly calls with construction lender – LISC
    - ii. Updated appraisal and updated cost estimates – in process
    - iii. First CLOSING CALL TODAY 12/5!
2. Project Homekey
  - a. \$4.41M AWARDED
  - b. Project update provided under a different item
3. CalHome – Submitted November 2021
  - a. Mono County, \$981,000; AWARDED
  - b. Mortgage Assistance and Rehab (including ADU Loans)
  - c. Staff working to get Program Guidelines delivered to HCD by 12/29

Work Items Completed

- CHDO renewal submitted!
- PRP Application Submitted for Valley!
- Heaters replaced at Birch Creek Condo!
- Coordinated Entry System training in Bishop!
- ED spoke on creative rural housing solutions on the Housing Panel at the California State Association of Counties Annual Conference

Work Items Currently Ongoing

- **Projects (Innsbruck and Access)**
- **Bridge Program – handful of clients and units in various stages of processing/rehab**
- **Advertising for free virtual legal aid in MLH office – Tuesdays 12:00 – 2:00 PM – we had our first client last week!**
- **Fundraising for 238 SMR: \$68,425**
  - Coffee sleeve co-lab with Stellar Brew and MLT LAUNCHED
- 20<sup>th</sup> Anniversary Rebranding/Marketing
  - Board renaming workshop
  - Board logo workshop
  - NEXT – website design
- Mono County Social Services TA on service coordination
- Real Estate Acquisitions (various states of completion):
  - Valley Apartments
    - Escrow is open
    - PRP application submitted!
    - Awards announced before May 2023
    - Now negotiate with HCD on loan terms
  - Birch Creek Condo
    - Escrow closed June
    - **Operating Reserve \$30,000 from CESH funds – pending**
    - Replacement Reserve for rehab \$30,000 – received
    - Heater replacement done!
    - Windows – in queue for service
  - Glass Mountain
    - Pending LOI with IMACA
  - Silver Peaks
    - Partnership Agreement finalized
    - Waiting on MHP award announcement
    - PDLP Loan extensions
    - Next HOME Round, Visionary may ask MLH to apply under their CHDO set-aside depending on ownership requirements
- Coordinated Entry trainings and entering homeless clients
- Hiring 2 full-time positions – Housing Navigators – interviews, etc.
- Home Keeper Database data entry

Upcoming Work Program Items

- Broker's License = 9 courses, 45 hours each
  - 4 courses completed

Upcoming Agenda Items

- 2022 Impact Statement
- Strategic Investments for Developer Fees
- Advocacy goals for MLH and individual Board members
- Home Keeper Deed Restriction Database Software presentation





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supports workforce housing  
for a viable economy and  
sustainable community.*

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Subject: The Board will reschedule the regular monthly Board meeting in January – *action item*

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Staff requests that the Board consider rescheduling the regularly scheduled January Board meeting, which falls on January 2, 2023, close to the New Year holiday.

Resolution 2022-26 approving hybrid meetings will expire on January 5<sup>th</sup>.

If the Board wishes to continue with hybrid meetings after this date, a Special Meeting will need to be scheduled before January 5<sup>th</sup>.

Hybrid meetings will no longer be normally accepted without noticing your location for the public as of February 28, 2023.

Perhaps we could reschedule for later in the month and skip a February meeting, unless needed.

The Board should discuss and provide staff direction.



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## **STAFF REPORT**

Subject: Consider approval of demolition contract for 913 Forest Trail, Project Homekey site with Christian Hansen in the amount of \$62,312.

Presented by: Patricia Robertson, Executive Director

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## **BACKGROUND**

The timing to request additional funding from the Town for this project is January 2023; however, the contractor could start demolition now.

There is risk that if we do not secure the additional gap funding of approximately \$500,000 that we would not be able to fulfill our contractual obligations under our Project Homekey contract with the State. If we cannot secure the funding and move forward, the property will have already undergone some demolition, which could jeopardize future options such as a sale.

## **PROJECT SPECIFICS**

The demolition scope of work is approximately \$62,000.

MLH could start demolition now, with the risk noted above. The demolition permit has already been pulled by the contractor. Otherwise, we need to wait to start demolition once we pull the building permit, which is estimated to be mid- to late January 2023.

## **RECOMMENDATION**

This item provides the Board with the opportunity to discuss the possibility of starting demolition before we pull the building permit. The Board should consider the options and provide staff direction.

The Board may choose to approve the draft contract for demolition pending counsel and contractor comments. The draft contract is a form that provided from our legal counsel so I anticipate limited changes.

## **ATTACHMENTS**

1. Draft Demolition Contract
2. Demolition Scope of Work

# DRAFT AIA® Document A102™ - 2017

## Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the «» day of «» in the year «»  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

Innsbruck Lodge Affordable Housing, LL  
PO BOX 260  
Mammoth Lakes, CA 93546  
«»  
«»  
«»

and the Contractor:  
(Name, legal status, address and other information)

Christian Hansen  
«»  
«»  
«»

for the following Project:  
(Name, location and detailed description)

Innsbruck Lodge Affordable Housing  
913 Forest Trail  
Mammoth Lakes, CA 93546  
«»  
«»

The Architect:  
(Name, legal status, address and other information)

Relativity Architects  
«»  
«»  
«»

[To be used with AIA Document A102™-2017, Exhibit A, Insurance and Bonds]

The Owner and Contractor agree as follows.

The Work consists of the necessary demolition required to complete the Project Homekey affordable housing development located at 913 Forest Trail in Mammoth Lakes, as set forth in the Demolition Scope of Work. The Work is financed with the following funding sources: Project Homekey, HHAP, and local funds. The Project is a \_\_\_\_\_ and is therefore subject to certain [federal requirements]. The Contractor acknowledges that the Owner's funding for the Project depends upon the fulfillment of a Project Homekey Standard Agreement with the State of California Department of Housing and Community Development.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A102™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

**ELECTRONIC COPYING** of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

## TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 RELATIONSHIP OF THE PARTIES
- 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 5 CONTRACT SUM
- 6 CHANGES IN THE WORK
- 7 COSTS TO BE REIMBURSED
- 8 COSTS NOT TO BE REIMBURSED
- 9 DISCOUNTS, REBATES AND REFUNDS
- 10 SUBCONTRACTS AND OTHER AGREEMENTS
- 11 ACCOUNTING RECORDS
- 12 PAYMENTS
- 13 DISPUTE RESOLUTION
- 14 TERMINATION OR SUSPENSION
- 15 MISCELLANEOUS PROVISIONS
- 16 ENUMERATION OF CONTRACT DOCUMENTS

### EXHIBIT A INSURANCE AND BONDS

#### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 16.

#### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents and reasonably inferable by the Contractor as necessary to produce the results intended by the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

#### ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and the Owner, as applicable, and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to

furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

#### ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[  ] The date of this Agreement.

[  ] A date set forth in a notice to proceed issued by the Owner.

[  ] Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

« »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 4.2 The Contract Time shall be measured from the date of commencement of the Work.

#### § 4.3 Substantial Completion

§ 4.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[  ] Not later than « » ( « » ) calendar days from the date of commencement of the Work.

[  ] By the following date: « »

§ 4.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

« »

Substantial Completion Date

§ 4.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 4.3, liquidated damages, if any, shall be assessed as set forth in Section 5.1.6.

#### ARTICLE 5 CONTRACT SUM

§ 5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee. The Contract Sum is based on the Contractor's Schedule of Values attached as an Exhibit to this Agreement and incorporated herein. In no event shall the sum of Contractor's total general conditions (excluding contractor's general liability insurance), overhead and profit exceed 14.00% of the Cost of the Work. If at any point the sum of Contractor's total general conditions (excluding contractor's general liability insurance), overhead and profit exceeds 14.00% of the Cost of the Work (including through Change Orders and/or Savings) the Contractor shall refund to the Owner the difference. The Contractor acknowledges that the 14.00% limit is imposed by the California Tax Credit Allocation Committee and is not subject to negotiation.

§ 5.1.1 The Contractor's Fee: (including overhead and profit): is equal to \_\_\_percent (\_\_\_%) of that portion of the Cost of the Work that is incurred by the Contractor and shall be billed monthly, proportionate to the percentage of Work completed. The cost of insurance and bond premiums shall not be included in the Cost of the Work for the purposes of calculating the Contractor's Fee.

(State a lump sum, percentage of Cost of the Work, or other provision for determining the Contractor's Fee.)

« »

**§ 5.1.2** The method of adjustment of the Contractor's Fee for changes in the Work:

« For changes in the Work, the total amount of overhead and profit claimed shall not exceed \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the documented direct costs of the work to be performed pursuant to the Change Order or Construction Change Directive. When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase if any. The same overhead and profit limits as established for change order additions shall be credited to change order deductions. No other cost, including special damages of any type, arising out of or connected with the performance of extra work, of any nature, may be recovered by the Contractor.

»

**§ 5.1.3** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

« See Section 5.1.2 for the maximum cumulative limit on overhead and profit »

**§ 5.1.4** Rental rates for Contractor-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

**§ 5.1.5** Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$0.00)
« »		

**§ 5.1.6** Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

« Time is of the essence in the performance of the Work. By executing this Agreement, Contractor represents that it can and will complete the Work within the dates set forth in Article 4 above. Contractor acknowledges that Owner's funders and investors require completion of the Work within the time set forth in this Article 3 and such funding sources would be in jeopardy if the Work is delayed. If the Contractor fails to reach Substantial Completion by the date required by Article 4 of this Agreement, the parties agree that the Owner would suffer damages related to the delay, but that such damages would be extremely difficult and impracticable to ascertain. The parties therefore agree that a reasonable estimate of the damages to be suffered by the Owner in the event of such a delay is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) per day. The Contractor shall therefore pay to the Owner that amount for each calendar day during which Substantial Completion is delayed beyond the date Substantial Completion is required and as set forth in Article 4. At the Owner's discretion, Owner shall be entitled to deduct such amount from any payment otherwise due Contractor. Any such amount not deducted shall be immediately payable by Contractor to Owner on Owner's demand. Such payments are as liquidated damages and are not a penalty. Such liquidated damages are not in lieu of Contractor's indemnity obligations set forth separately in the Contract, nor shall these liquidated damages preclude the Owner from recovering its actual damages for any damages claimed by third parties even if arising out of the Contractor's delay. »

**§ 5.1.7** Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

« At the completion of the Contractor's final job cost accounting, the difference between (i) the total aggregate sum of the cost of the Work plus the Contractor's Fee and (ii) the Guaranteed Maximum Price (the "Savings") shall be shared by the Owner and Contractor as follows: \_\_\_\_\_ percent ( \_\_\_\_\_ %) of such Savings shall inure to the benefit of the Owner and the remainder if any, shall be paid to the Contractor as an additional fee (subject to the 14% limit set forth in Section 5.1 above). Insurance and bond amounts, and unused Contractor's contingency if allowed by Owner, shall not be included in calculating Savings. Any savings in allowance categories shall go 100% to Owner

via deductive Change Order. The Contractor shall not be entitled to any portion of Savings if the Owner terminates this Contract for cause or if the Contractor terminates the Contract for any reason prior to Substantial Completion. Any Savings shall not be paid until the date due for Final Payment and is subject to deductions for amounts due Owner under this Agreement.»

## § 5.2 Guaranteed Maximum Price

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed «» (\$ «» ), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

If the Guaranteed Maximum Price includes a contingency line item (the “Contract Contingency”) for use by Contractor, such Contract Contingency and any withdrawal from the Contract Contingency is subject to the approval of the Owner. Contractor shall provide the Owner a written request describing the amount of funds requested and the reason why use of the Contract Contingency is appropriate and necessary for the completion of the Work. The Contract Contingency is not allocated to any particular item of the Cost of the Work and is established for increases in Cost in the Work incurred by Contractor for unforeseen causes or details not capable of reasonable anticipation at the time of the Owner’s approval of the Guaranteed Maximum Price and such other costs, if any, that are expressly authorized by the Contract Documents to be paid from such Contract Contingency and are not included in other line items in the Schedule of Values. In no event shall the Contract Contingency be available for: (i) costs not to be reimbursed in accordance with Article 8; (ii) the Contractor’s Fee; (iii) General Conditions Costs; (iv) the Correction of Work rejected by Owner as not being in conformance with the Contract Documents; (v) costs that could have been avoided by mitigation efforts of the Contractor; and (vi) items arising from the negligence or willful misconduct of the Contractor or its Subcontractors. Any funds remaining in the Contract Contingency category as of the final accounting shall inure 100% to the Owner. Contractor shall provide the Owner with a monthly report indicating the status of the Contract Contingency.

## § 5.2.2 Alternates

§ 5.2.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
« <input type="text"/> »	<input type="text"/>

§ 5.2.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
« <input type="text"/> »	<input type="text"/>	<input type="text"/>

§ 5.2.3 Allowances, if any, included in the Guaranteed Maximum Price: All Allowances shall be expressly identified in the Contractor’s Schedule of Values and shall indicate the scope of coverage of the Allowance. Contractor shall give written notice to the Owner if the estimated costs to perform the work and/or supply the material or equipment by the Allowance will exceed the amount estimated for that Allowance prior to commencing work covered by the Allowance. If the actual cost of any Allowance items is more or less than the Allowance amount set forth in the Schedule of Values, the difference shall be transferred to the Owner as an additive or deductive Change Order as applicable and the amount of the difference shall not be considered in the calculation of Savings. (Identify each allowance.)

Item	Price
« <input type="text"/> »	<input type="text"/>

§ 5.2.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based: (Identify each assumption.)

«»

**§ 5.2.5** By executing this Agreement and furnishing Owner with both a Schedule of Values, attached as an Exhibit to this Agreement, and a construction schedule, attached as an Exhibit to this Agreement, the Contractor represents that the Contract Documents and the materials and information furnished to the Contractor as of the date of this Agreement, have described the scope, construction requirements and design of the Work in sufficient detail to enable the Contractor to firmly establish the Guaranteed Maximum Price. Where the Owner and the Contractor have agreed that there is uncertainty in regards to an item, the Contractor has qualified and/or identified that item in any Qualifications and Exclusions provided by the Contractor.

**§ 5.2.6** The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 5.2.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 5.2.4 and the revised Contract Documents.

## **ARTICLE 6 CHANGES IN THE WORK**

**§ 6.1** Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Article 7 of AIA Document A201™–2017, General Conditions of the Contract for Construction. General conditions/requirements shall not be included in additive Change Orders unless the Owner has approved additional Contract Time and the Owner has approved additional general conditions/requirements pursuant to Article 8 of the A201.

**§ 6.2** Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of this Agreement, unless the Owner has furnished the Contractor with prior written approval of the form and substance of a subcontract, in which case such adjustments shall be calculated in accordance with the terms and conditions of that subcontract.

**§ 6.3** In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Contractor’s Fee as defined in Section 5.1.1 of this Agreement.

**§ 6.4 INTENTIONALLY DELETED.**

## **ARTICLE 7 COSTS TO BE REIMBURSED**

### **§ 7.1 Cost of the Work**

**§ 7.1.1** The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article 7.

**§ 7.1.2** Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Contractor shall obtain such approval in writing prior to incurring the cost.

**§ 7.1.3** Costs shall be at rates not higher than the standard paid at the place of the Project, except with prior approval of the Owner.

**§ 7.1.4** Costs as defined herein shall be actual costs paid by the Contractor, less all discounts, rebates, and salvages that shall be taken by the Contractor, subject to Article 9 of this Agreement. All payments made by the Owner pursuant to this Article 7, whether those payments are actually made before or after the execution of this Agreement, are included within the Guaranteed Maximum Price specified in Section 5.2 above; provided, however, that in no event shall the Owner be required to reimburse the Contractor for any portion of the Cost of the Work incurred prior to the Commencement Date unless the Contractor has received the Owner’s written consent prior to incurring such cost.

**§ 7.1.5** Notwithstanding the breakdown or categorization of any costs to be reimbursed in this Article 7 or elsewhere in the Contract Documents, there shall be no duplication of payment in the event any particular items for which payment is requested can be characterized as falling into more than one of the types of compensable or reimbursable categories.



## § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Contractor's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

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## § 7.2.3 INTENTIONALLY DELETED.

§ 7.2.4 Costs paid or incurred by the Contractor, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments, and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

## § 7.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

## § 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work and shall be properly stored at the site in accordance with the Owner's instructions or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

## § 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Any such items used but not consumed, which are paid for by the Owner, shall become the property of the Owner, and shall be delivered to the Owner upon completion of the Work in accordance with the Owner's instructions. If the Owner elects, however, the Contractor may purchase any such items from the Owner at a price mutually acceptable to the parties.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not owned by construction workers that are provided by the Contractor at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Contractor's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

## § 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 INTENTIONALLY DELETED.

§ 7.6.1.2 INTENTIONALLY DELETED.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Contractor is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Contractor is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Contractor had reason to believe that the required design, process or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements, shall not be included in the Cost of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior written approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior written approval.

§ 7.6.11 That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work with Owner's prior written approval.

## § 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior written approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017 to the extent not (1) caused by the Contractor, a Subcontractor, or anyone for whom either is responsible, or (2) capable of being prevented through timely notice of an unsafe condition to the Owner.

**§ 7.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Contractor, and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, or suppliers, provided that any absence of collectible insurance is not due to the Contractor's breach of a contract for insurance, or breach of its obligation to maintain insurance under the Contract..

## **§ 7.8 Related Party Transactions**

**§ 7.8.1** For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Contractor; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Contractor.

**§ 7.8.2** If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 10. In no event shall such transaction exceed the costs of a transaction with a party that is not a "related party".

## **ARTICLE 8 COSTS NOT TO BE REIMBURSED**

**§ 8.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 15;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Contractor's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Article 7;
- .5 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Contractor, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Rental cost of machinery, except as specifically provided in Section 7.5.2;
- .8 Any cost not specifically and expressly described in Article 7; and
- .9 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

## **ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS**

**§ 9.1** Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

**§ 9.2** Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and Owner with an indication as to which bids the Contractor intends to accept. The Owner then has the right to review the Contractor's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 10.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 10.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount attributable to such subcontract or other agreement in the original Schedule of Values submitted by Contractor and accepted by the Owner.

§ 10.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 11.

## ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. If the Owner's audit reveals an overcharge, the Contractor shall pay the Owner upon demand 100% of such overcharge and the Owner's administrative expenses incurred in determining the overcharge.

## ARTICLE 12 PAYMENTS

### § 12.1 Progress Payments

§ 12.1.1 Provided the Contractor is not in breach of its obligations under the Contract Documents, and based upon Applications for Payment including all necessary supporting documentation submitted to the Architect and the Owner by the Contractor, and Certificates for Payment issued by the Architect, and approved by the Owner, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Contractor's monthly allowable draw of general conditions shall be at a rate roughly equal to the percentage of the Work which has been completed, and shall be in accordance with a schedule of payments to be agreed upon with the Owner (the "General Conditions Payment Schedule"). If at any time the amount of general conditions paid to the Contractor as percentage of the total general conditions due, exceeds the percentage of the Work completed, or the Lender or Owner requires a readjustment in the monthly amount, the Owner and the Contractor shall adjust the General Conditions Payment Schedule as necessary to bring the payment amount more in line with the percentage of Work that has been completed.

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§ 12.1.3 After a complete Application for Payment is received by the Architect and the Owner and a Certificate for Payment has been issued by the Architect and approved by Owner, the Owner shall make payment of the amount certified to the Contractor not later thirty (30) days after receipt of the Application for Payment. .  
(Federal, state or local laws may require payment within a certain period of time.)

§ 12.1.4 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 12.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect or the Owner may require. The schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 12.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 12.1.5.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and the Owner in accordance with the requirements of the Contract Documents.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 12.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 12.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Owner determines to be included; and
- .4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 12.1.7.1.1 and 12.1.7.1.2 at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 12.1.7.1.1 and 12.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 12.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;

- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which payment may be withheld, or a Certificate of Payment nullified in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation;
- .6 Other amounts properly held or deducted by the Owner at the time of each Progress Payment; and
- .7 Retainage withheld pursuant to Section 12.1.8.

**§ 12.1.8 Retainage**

**§ 12.1.8.1** For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

«ten percent (10%) »

**§ 12.1.8.1.1** The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

« »

**§ 12.1.8.2** Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 12.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

« The Owner shall have the option but not the obligation to reduce the retention requirements of the Contract or release any portion of retention prior to the date specified in the Contract. Exercise of this option by the Owner shall not be a waiver of any of the Owner’s rights to retention in connection with other payments to the Contractor and shall be subject to the approval of Lenders to the Work.

»

**§ 12.1.8.3 INTENTIONALLY DELETED.**

*(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation, upon Substantial Completion.)*

« »

**§ 12.1.9 INTENTIONALLY DELETED**

**§ 12.1.10** Except with the Owner’s prior written approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

**§ 12.1.11** The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the Contractor shall execute subcontracts in accordance with those agreements. Except with Owner’s prior written approval, payments to Subcontractors shall be subject to a retainage of not less than ten percent (10%).

**§ 12.1.12** In taking action on the Contractor’s Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 12.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner’s auditors acting in the sole interest of the Owner.

**§ 12.2 Final Payment**

**§ 12.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract, except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment;
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 12.2.2 and approved by the Owner; and
- .4 all conditions set forth in Section 9.10.2. of AIA Document A201-2017, as modified, have been satisfied.

**§ 12.2.2** Contractor acknowledges that the Owner may conduct an audit of the Cost of the Work at any time including at the request of Lenders to the Project pursuant to Article 11. .

**§ 12.2.2.1 INTENTIONALLY DELETED**

**§ 12.2.2.2 INTENTIONALLY DELETED**

**§ 12.2.2.3 INTENTIONALLY DELETED**

**§ 12.2.3** The Owner’s final payment to the Contractor shall be made in accordance with Section 9.10.2 of AIA Document A201 2017 as modified by Owner. « »

**§ 12.2.4 INTENTIONALLY DELETED.**

**§ 12.3 INTENTIONALLY DELETED**

**ARTICLE 13 DISPUTE RESOLUTION**

**§ 13.1 INTENTIONALLY DELETED**



**§ 13.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:  
(Check the appropriate box.)

[  ] Arbitration pursuant to Section 15 of AIA Document A201–2017, and subject to the limitations set forth therein

[  ] Litigation in a court of competent jurisdiction, if not subject to arbitration

[  ] Other (Specify)

« »

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

**ARTICLE 14 TERMINATION OR SUSPENSION**

**§ 14.1 Termination**

**§ 14.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

**§ 14.1.2 Termination by the Owner for Cause**

**§ 14.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Contractor’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner, any accrued but unpaid liquidated damages amount due, an amount equal to 150% of the liens recorded against the Work or the Site, the amount of any payments intended for unfinished work, and any other amount withheld by Owner pursuant to the Contract Documents; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 14.1.2.2** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 14.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

**§ 14.1.3 INTENTIONALLY DELETED**

« »

**§ 14.2 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time may be increased if so provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Contractor’s Fee as described in Article 5 and Section 6.4 of this Agreement.

**ARTICLE 15 MISCELLANEOUS PROVISIONS**

**§ 15.1** Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 15.2** The Owner’s representative:

*(Name, address, email address and other information)*

« »  
« »  
« »  
« »  
« »  
« »

**§ 15.3** The Contractor’s representative:

*(Name, address, email address and other information)*





fairly and accurately represents the financial condition being reported on as of its date. All such information is prepared in accordance with generally accepted accounting principles consistently applied, unless otherwise noted. There has been no material adverse change in the financial condition of any of the persons described above-reported at any time to Owner, except as previously disclosed to Owner in writing in later financial information and found acceptable to Owner in its sole and absolute discretion.

- .8 Neither Contractor nor its principals, as defined at 49 CFR 29.995, and to the best of Contractor's knowledge, nor any of its subcontractors, are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Project by any federal department of agency.

**§ 15.7.2 Contractor Notifications.** Contractor shall notify Owner promptly in writing of any and all of the following:

- .1 Any litigation or claim of any kind affecting or relating to Contractor or its subsidiaries or any material subcontractor where the amount claimed is or maybe one hundred Thousand Dollars (\$100,000) or more whether covered by insurance or not.
- .2 Any termination of a construction contract to which Contractor is a party.
- .3 Any default or potential default of a Subcontractor or material supplier (including without limitation, its inability to maintain its schedule).
- .4 Any material adverse change in Contractor's or any Material Subcontractor's financial condition, any material adverse change in Contractor's or any Material Subcontractor's operations, or any change in the management of Contractor or any Material Subcontractors.
- .5 Any other circumstance, event, or occurrence that results in a material adverse change in Contractor's or any Material Subcontractor's ability to timely perform any of its obligations under any of the Contract Documents.

For the purposes of this Section, "Material Subcontractor" means a subcontractor performing greater than \$150,000 of work on the Project.

**§ 15.7.3 Lender and Investor Requirements.** The Contractor acknowledges that the Owner is financing the Work with funds from public and/or private lenders and equity investors to the Work as described below (the "Lenders") and that such Lenders have imposed and may impose additional requirements on the Owner, the Contractor, and any Subcontractors including but not limited to approval of change orders, approval prior to release of any payments under the Contract including Progress Payments, Final Payments and payment of retention, and insurance requirements. Applicable requirements of the Lenders are set forth in an Exhibit to this Agreement and are also incorporated into the Agreement. The Contractor agrees to use its best efforts to comply with the requirements of the Lenders that bear upon the performance of the Work. The Contractor shall also: (1) make the site of the Work available at reasonable times for inspection by the Lenders or the Lenders' representatives; (2) consent to and execute all documents reasonably requested by the Owner in connection with the assignment of the Contract Documents to the Lenders for collateral purposes; and (3) promptly furnish the Owner with information, documents, and materials that the Owner may reasonably request from time to time in order to comply with the requirements of the Lenders including but not limited to information necessary to process payments and change orders, and information pertaining to subcontractors.

**§ 15.7.4 Prevailing Wages.**

**.1 Davis Bacon Act Requirements.**

This Project shall be constructed in compliance with the prevailing wage requirements of the federal Davis-Bacon Act as Set forth in an Exhibit to this Agreement, and in accordance with the wage rate determination attached as an Exhibit to this Agreement. A copy of the applicable Davis Bacon wage

decision and any additional classifications shall be posted by the Contractor at the work site in a prominent place readily accessible to the workers.

Contractor shall submit to the Owner weekly certified payrolls for each work week from the time work is started until the construction of the Project is completed on Department of Labor Payroll Form WH-347 or equivalent approved by the Owner, and a "Weekly Statement with Respect to the Payment of Wages," using either Department of Labor Form WH-348, or an equivalent form approved by Owner. Weekly payrolls shall be completed and submitted promptly, no later than seven work days following completion of the work week. Monthly progress payments will not be released until all payroll reports are up to date. Contractor shall, and shall require its subcontractors to maintain certified payrolls, and to submit copies of such certified payrolls to Owner, upon request, in order to verify compliance with these requirements.

The Contractor shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the Owner) the Owner against any claim for damages, compensation, fines, penalties or other amounts to the extent arising out of the failure or alleged failure of any person or entity (including the subcontractors) to pay prevailing wages as determined pursuant to the prevailing wage provisions of the federal Davis-Bacon Act and implementing rules and regulations in connection with the construction of the Project or any other work undertaken or in connection with the Project. Contractor's indemnity obligations shall survive the termination or expiration of the Contract.

## **.2 State Prevailing Wages.**

Construction of the Project is subject to state prevailing wages under California Labor Code ("CLC") Section 1720 et seq. and the implementing regulations of the Department of Industrial Relations (the "DIR"). The Contractor shall and shall cause Subcontractors to pay prevailing wages in the construction of the Project as those wages are determined pursuant to CLC Section 1720 et seq., to employ apprentices as required by CLC Sections 1777.5 - 1777.7 and the implementing regulations of DIR, and comply with all other applicable provisions of CLC Section 1720 et seq., and implementing regulations of the DIR. The Contractor shall and shall cause Subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to CLC Section 1720 et seq., and apprentices have been employed as required by CLC Sections 1777.5 - 1777.7. Pursuant to CLC Section 1727 the Owner may withhold from the Contractor all amounts required to satisfy any civil wage and penalty assessment issued by DIR.

All subcontracts shall include the requirements set forth in CLC 1720 et seq. including a copy of the CLC Sections listed in CLC Section 1775(b)(1).

Pursuant to CLC Section 1771.1, the Contractor shall and shall cause all Subcontractors to register with the DIR in accordance with CLC Section 1725.5, and shall maintain such registration until the Owner's release of final payment. Notice of this registration requirement shall be included in all invitations to bid and a bid shall not be accepted or any contract or subcontract entered into without proof of registration pursuant to CLC Section 1725.5. The Contractor shall provide the Owner evidence of its registration and the registration of all Subcontractors including all registration numbers, the name of all Subcontractors, and any other information requested by the Owner in order to comply with CLC Section 1777.3(a) prior to the first day on which the Contractor has workers employed on the site. The Owner may withhold final payment due until at least thirty (30) days after all information required by CLC Section 1777.3(a)(2) has been received by the Owner. Unregistered contractors and subcontractors are subject to penalties and stop orders pursuant to CLC Section 1725.5.

Pursuant to CLC Section 1771.4, construction of the Project is also subject to compliance monitoring and enforcement by the DIR. The Contractor shall and shall cause Subcontractors to keep accurate payrolls and shall submit payroll and other records to the DIR as required by CLC Section 1776 et seq., or in such other format as required by the DIR. The Contractor shall monitor payment of prevailing wages by Subcontractors by periodic review of the certified payroll records of Subcontractors and take corrective action if necessary in accordance with CLC Section 1775(b).

During the construction of the Project, the Contractor shall post at the property the applicable prevailing rates of per diem wages, and shall post job site notices in compliance with Title 8 California Code of Regulations 16451(d), or otherwise as required by the DIR. Copies of the currently applicable current per diem prevailing wages are available from the DIR website, [www.dir.ca.gov](http://www.dir.ca.gov). The Contractor shall also comply with the working hours requirements set forth in CLC Sections 1810-1815.

Contractor shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the Owner) the Owner against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of the Contractor, Subcontractors, or any person they are responsible for, to pay prevailing wages as determined pursuant to CLC Section 1720 et seq., to employ apprentices pursuant to CLC Sections 1777.5 – 1777.7, or comply with all other applicable provisions of CLC Section 1720 et seq., CLC Sections 1810-1815, and implementing regulations of the DIR in connection with construction of the Project. The Contractor's indemnity obligations shall survive the termination or expiration of this Contract.

Contractor, shall, if requested by Owner, provide to Owner or Owner's lenders documentation evidencing the proper payment of prevailing wages and maintenance of labor records as required by the applicable requirements.

Additional Prevailing Wage requirements may be set forth in the Lender Requirements attached to this Agreement as an Exhibit.

#### **§ 15.7.5 Section 3 Requirements.**

The work performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by Department of Housing and Urban Development (HUD) assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low- and very-low income persons, particularly persons who are recipients of HUD assistance for housing.

(1) The Contractor agrees to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by its execution of this contract, the contractor certifies that it is under no contractual or other impediment that would prevent it from complying with the Section 3 regulations.

(2) Pursuant to Section 3, to the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations Contractor shall ensure:

(A) that employment and training opportunities arising in connection with the Project are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the Project is located. Where feasible, priority for opportunities and training described above should be given to: (i) Section 3 workers residing within the service area or the neighborhood of the project, and (ii) participants in YouthBuild programs; and

(B) that contracts for work awarded in connection with the Project are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the Project is located. Where feasible, priority for opportunities and training described above should be given to: (i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the Project, and (ii) participants in YouthBuild programs.

(3) Contractor will be considered to have complied with the Section 3 requirements, in the absence of evidence to the contrary, if it certifies that it has followed the prioritization of effort set forth in subsection (1) above, and meets or exceeds the applicable Section 3 benchmark as described in 24 C.F.R. 75.23(b).

(4) Contractor shall maintain records of its Section 3 activities and cause such records to be accurate and current and in a form that allows the Owner to comply with the reporting requirements of 24 C.F.R. 75.25.

(5) Contractor shall require all subcontractors performing work on the Project to comply with the Section 3 requirements.

(6) Noncompliance with Section 3 requirements may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

**§ 15.7.6 Nondiscrimination.** Contractor shall comply with the following nondiscrimination requirements: 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 Rehabilitation 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. During the performance of the Contract, the Contractor assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or disability, under any work performed pursuant to the Contract, as required by the laws set forth above and all implementing regulations.

**§ 15.7.7 Equal Employment Opportunity.** During the performance of this contract, the contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the labor union or workers representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and with the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the rules, regulations, or orders, the Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imported and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**§ 15.7.8 Lead-based Paint.** Contractor shall comply with the requirements of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35.

**§ 15.7.9 Conditions of Approval/Mitigation Measures.** Contractor shall comply with the Conditions of Approval/Mitigation Requirements set forth in an Exhibit to this Agreement.

**§ 15.7.10 Entire Agreement/Amendment.** This Agreement (which includes any exhibits, riders or schedules attached hereto) constitutes the entire agreement between the parties and there are no other agreements, understandings, representations or warranties, oral or written, relating to the subject matter hereof between the parties. The parties to this Contract have read and reviewed this Contract and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including, but not limited to, Civil Code Section 1654) shall not apply to this Contract. This Agreement may not be amended, changed or modified, in whole or in part, except in writing, signed by both parties.

**§ 15.7.11 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

**§ 15.7.12 California Business and Professions Code Section 7030:**

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CA 95826.

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## ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

**§ 16.1** This Agreement is comprised of the following documents:

- .1 AIA Document A102™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A102™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4

*(Insert the date of the E203-2013 incorporated into this Agreement.)*

« »

- .5 Drawings

Number	Title	Date
« »		

.6 Specifications

Section	Title	Date	Pages
<< >>			

.7 Addenda, if any:

Number	Date	Pages
<< >>		

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 16.

.8 Other Exhibits:

(Check all boxes that apply.)

[ << >> ] (Insert the date of the E204-2017 incorporated into this Agreement.)

<< >>

[ << >> ]

Title	Date	Pages
<< >>		

[ << >> ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
<< >>			

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

- << Exhibit A: AIA Document A102™–2017, Insurance and Bonds
- Exhibit B: Contractor’s Schedule of Values
- Exhibit C: Contractor’s Qualifications and Exclusions
- Exhibit D: Construction Schedule
- Exhibit E: Drawings and Specifications (list)
- Exhibit F: Lender & Investor Requirements
- Exhibit G: Conditions of Approval/Mitigation Requirements
- Exhibit H: Federal Labor Standards [If Applicable]
- Exhibit I: Prevailing Wage Determination [If Applicable]
- Exhibit J: Design-Build Work [If Applicable]
- Exhibit K: OCIP Requirements [May Require initials & execution]

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This Agreement entered into as of the day and year first written above.

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OWNER (Signature)

<< >><>

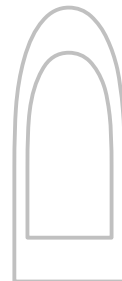
(Printed name and title)

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CONTRACTOR (Signature)

<< >><>

(Printed name and title)





	A	B	C	D	E	F
1	CHRISTIAN HANSEN CONSTRUCTION INC.			#893183		
2						
3	DEMO DRYWALL ON CEILINGS AND FLOOR COVERINGS TO EXPOSE PLUMBING AND WIRING			42886		
4	DEMO KICHENS AND VANITIES TO EXPOSE PLUMBING, STORE VANITIES IN JACUZZI ROOM FOR REUSE			8000		
5	DEMO JACUZZI TO USE ROOM FOR STORAGE OF ITEMS FOR REUSE			3048		
6						
7	DUMP AND DISPOSAL			500		
8	PERMIT FEES			225		
9	SUBTOTAL			54659		
10	PROFIT AND OVERHEAD 14%			7652.26		
11	GRAND TOTAL			62311.26		
12						
13						



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

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**STAFF REPORT**

Subject: Committee Updates from various standing and ad-hoc committees  
– *information item*

Presented by: Committees

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<b><u>Governance Committee</u></b> Standing  Kirk, President Jennifer, Vice-President Agnes	<b><u>Diversity, Equity, &amp; Inclusion</u></b> Standing
<b><u>Programs &amp; Housing Development,</u></b> ad-hoc  Tom Jennifer Brian	<b><u>Marketing &amp; Communications</u></b> ad-hoc  Tony Agnes Lindsay
<b><u>Fundraising Committee</u></b> ad-hoc  Heidi Jennifer Brian Lindsay	<b><u>Workforce Housing Committee</u></b> Chamber  Tom



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

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Subject:

**Board Member Reports**

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

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