



## MAMMOTH COMMUNITY WATER DISTRICT

Post Office Box 597  
Mammoth Lakes, California 93546-0597

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### **NOTICE OF SPECIAL MEETING**

NOTICE IS HEREBY GIVEN that the President of the Board of Directors of the Mammoth Community Water District has called a **SPECIAL MEETING** to be held **THURSDAY, DECEMBER 7, 2023** at **4:00 P.M.**

***Please Note:***

*Members of the public will have the opportunity to directly address the District Board of Directors concerning any item listed on the Agenda below before or during consideration of that item.*

*For members of the public interested in viewing and having the ability to comment at the public meeting via Zoom, an internet enabled computer equipped with a microphone and speaker or a mobile device with a data plan is required. Use of a webcam is optional. You also may call in to the meeting using teleconference without video. Please use the following information to join the Zoom Videoconference Meeting:  
<https://zoom.us/j/7609342596> (meeting ID: 760 934 2596) OR  
Join via teleconference by dialing 1-669-900-9128, 760-934-2596#*

***Please Note:***

*Director Thompson will be participating by video/teleconference from the following location:  
1675 Highway 95, Club House, Bullhead City, AZ 86442*

### **AGENDA**

**4:00 P.M.**

#### **Roll Call**

Directors Cage, Domaille, Hylton, Smith, and Thompson

#### **Current Business**

**1. Discuss and Consider Approving the Revised Employee Housing Purchase Assistance Program Policy and Agreement between the District and Employees Entering into the Program to Provide a Primary Loan Option**

2. Discuss and Consider Approving:
  - a. Approve Amending the Fiscal Year 2024 Budget to Increase Expenditures for Employee Home Purchase Assistance Loans by \$1,600,000
  - b. Direct Staff to Transfer \$1,600,000 from the Reserve Fund to the New Enterprise Fund to Cover Budget Increase;
3. 2024 Director Compensation:
  - a. Consider Approving Variance From Directors Compensation and Expense Reimbursement Policy to Permit Approval of Adjustment in Directors' Compensation Effective January 1, 2024;
  - b. Discuss and Consider Approving Adjustment in Directors' Compensation for Each Day's Service in an Amount Not to Exceed the Lesser of the CPI or Statutory Limit of 5.0%, Effective January 1, 2024

## Adjournment

*The meeting will be held in the conference room at the District facility located one mile east of Old Mammoth Road on Meridian Boulevard, just off Highway 203, Mammoth Lakes, California.*



MARK BUSBY  
General Manager

Date of Issuance: Wednesday, December 6, 2023

Posted: MCWD Office  
MCWD Website: [www.mcwd.dst.ca.us](http://www.mcwd.dst.ca.us)  
cc: Members, Board of Directors  
Town of Mammoth Lakes  
KMMT, KIBS, KSRW Radio

*In compliance with the Americans with Disabilities Act, if you need a disability related modification or accommodation to participate in this meeting please call Stephanie Hake at (760) 934-2596 at least one full day before the meeting.*

*Documents and material relating to an open session agenda item that are provided to the Mammoth Community Water District Board of Directors less than 72 hours prior to a regular meeting will be available for public inspection and copying at the District facility located at 1315 Meridian Boulevard, Mammoth Lakes, California.*

## AGENDA ITEM

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**Subject:** Consider Approving the Revised Employee Housing Purchases Assistance Program Policy and Agreement between the District and Employees Entering into the Program to Provide a Primary Loan Option

**Information Provided By:** Jeff Beatty, Finance Manager

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### Background

Because Mammoth Lakes has a limited availability and high cost of housing, MCWD provides housing assistance in the form of District-owned condominium units available for rent and home purchase assistance loans. These employee housing programs assist the District in attracting and retaining the knowledgeable and skilled staff required to accomplish the mission of the District.

Due to the current economic environment, where home prices have risen substantially and mortgage interest rates have doubled, MCWD Board member Tom Cage expressed concerns that this may be limiting employee's ability to utilize the District's Employee Home Purchase Assistance Program as it currently stands. To resolve this issue Director Cage proposed a new option that could potentially have the District be the first lender on a loan as well as sharing in the home's value.

### Discussion

Director Cage's proposal was initially discussed at an Employee Housing Committee meeting on November 2<sup>nd</sup>, where the committee directed staff to schedule a workshop for potentially developing a new policy option, which could then be discussed and considered by the full Board. The Employee Housing Committee workshop was held on November 15<sup>th</sup> to further discuss the details and consider potential risks and appropriate mitigation. Direction was given to staff for modifications to the Policy and Agreement. The draft documents were reviewed by legal counsel which led to additional language to document the District's compliance with lending regulations.

The key components of the proposed change include:

- A District Shared Value loan for up to 50% of the home purchase price, with a maximum of \$500,000. Interest on this loan would be deferred and paid as a share in the gain in value of the home over the period of ownership.
- A 7.5 % down payment is required to be paid by the employee. This down payment percentage was selected because it represents the potential annual loss in property value at two standard deviations from the mean. 2.2% of the time, the potential loss in value would be greater than 7.5%.
- The District would provide the primary loan for the balance of the purchase. The loan would have a fixed interest rate of 5%, would be fully amortized over 30 years, and due and payable in full at the end of 10 years. The 5% loan interest rate covers the District's opportunity cost with an appropriate liquidity and risk premium.

## **Financial Impact**

Funds used in the employee home purchase assistance program are transferred from the District's reserve funds and are unavailable for capital projects. The District's cash reserves are currently sufficient for both the anticipated capital projects as well as the likely increase in employee participation in the home purchase assistance program.

## **Requested Action**

Consider approving the proposed amendments to the Employee Home Purchases Assistance Program Policy and the Employee Home Purchase Assistance Agreement to incorporate the Shared Value/Primary Loan option.

## MAMMOTH COMMUNITY WATER DISTRICT

## EMPLOYEE HOME PURCHASE ASSISTANCE PROGRAM POLICY

Adopted: January 17, 2008  
Amended: ~~February 23, 2023~~xxx

### 1. PURPOSE

The Mammoth Community Water District values its employees. It is the policy of the Mammoth Community Water District to promote employee recruitment and retention. To that end, the Mammoth Community Water District Employee Home Purchase Assistance Program (“Program”) is designed to facilitate home ownership for District employees (“Employee”) and to provide an incentive for recruiting potential employees to ensure the District maintains the most skilled and professional workforce possible. The Program offers ~~two~~ three options for home loan assistance: (1) a Shared Value Program, under which the District will contribute up to ~~50% percent~~ of the home purchase price and share appreciation in value with the Employee upon sale, ~~and~~ (2) a Subordinate Loan Program, under which the District will lend up to ~~35% percent~~ of the home purchase price in a loan with a maximum term of 15 years and a variable interest rate set each year according to the yield on 10-year Treasury note on the first business day of the year, ~~and~~ (3) a Combined Primary Loan/Shared Value Program, under which the District will provide primary financing of up to 42.5 percent at a favorable at a fixed interest rate of 5% and contribute up to 50% of the purchase price as shared value as a means to assist employees in the current high-interest-rate, high-priced local residential real estate program.

### 2. PROGRAM FUNDING

The Program shall be financed through the “New Enterprise Fund”, which is funded as determined by the Board of Directors from a portion of the District’s share of property tax revenues received from Mono County. Nothing in this Policy precludes a change in funding or termination of the Program as may be determined in the Board’s sole discretion.

### 3. PROGRAM ELIGIBILITY

Homes purchased pursuant to the Program must be located within Mono County as far north as Mono City and ~~or~~ Inyo County as far south as Big Pine. The purchased home must be the principal

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place of residence for the Employee. Housing unit types eligible for assistance shall be new or previously owned single-family detached houses, town homes, condominiums, or manufactured homes in mobile home parks or on a single-family lot and placed on a permanent foundation system (“Housing Unit”).

Employees or their spouses who hold title to a single-family residence outside of the program eligibility area at the time of applying for Program assistance may retain such residences. An Employee applying for Program assistance may not concurrently own improved real property in the program eligibility area.

#### **4. CONDITION OF HOUSING UNIT**

Prior to a final commitment of District funds and prior to close of escrow on the purchase by the Employee, the Housing Unit under consideration shall be inspected by an established professional home inspection service or other reputable professional approved by the District to determine if it is structurally sound, and identify any code-related and health and safety deficiencies that need to be corrected. The cost of the home inspection shall be paid by the Employee, and a copy of the final report provided to the District. All Housing Units to be purchased under the Program must be in compliance with State and local codes and ordinances. The District inspection and its approval of the remediation of any deficiencies shall be made a condition of the close of escrow for the purchase of the Housing Unit.

#### **5. EMPLOYEE SELECTION PROCESS**

The intent of this Policy is that Program assistance generally shall be given on a first-come, first-served basis to regular full-time and regular part-time permanent employees who have successfully completed their initial employment probationary period, in accordance with the rules and procedures of the Program as set forth in this Policy. However, recognizing that the Program could be a valuable tool for recruiting more senior employees in key positions, the General Manager may propose that the minimum employment requirement not apply in a particular case, subject to Board approval.

#### **6. EMPLOYEE HOME PURCHASE ASSISTANCE PROGRAM PROCESS**

[For the Shared Value and Subordinate Loan programs,](#) an Employee must complete an application and return it to the District’s General Manager with all required information, including a pre-qualifying loan statement completed by a lender providing evidence of financing

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for the maximum amount that the primary lender is willing to loan to the Employee (“Primary Loan”). The application must designate which of the two assistance options the Employee is proposing to use.

For the Combined Primary Loan/Shared Value Program, an Employee must complete an application and return it to the District’s General Manager with all required information, including: authorization to use the employee’s credit score and income-to-debt ratio for the lending decision, –evidence of the borrower’s FICO scores, and a list of all household monthly income and debt obligations. The District will comply with all applicable requirements of the Fair Credit Reporting Act and the California Consumer Credit Reporting Agencies Act as a condition of obtaining the Employee’s FICO score.

Upon determination of eligibility for the Program, the Employee will receive a letter from the District stating the approximate amount of down payment and/or loan assistance for which the Employee is eligible. This letter also will provide that the amount of assistance will be available for a period of up to 120 days after the date of the letter. For good cause and subject to the provision of appropriate documentation of the need, the General Manager may extend the time in which the District’s assistance amount will remain available to an Employee.

Once a suitable Housing Unit has been located, the Employee makes an offer to purchase. The offer must be an estimate of the fair market value of the Housing Unit. The offer must provide that the close of escrow shall be conditioned on the District’s approval of the purchase price, District inspection as set forth above, and compliance with all applicable building codes. The Employee will submit a copy of the final purchase contract to the District.

The Employee shall provide the District with a copy of a current appraisal (no more than 90 days old). The appraisal must be performed by an appraiser holding a valid license in good standing issued by the California Bureau of Real Estate Appraisers. The appraiser’s license must be at least a residential appraisal license if the housing unit does not require a complex appraisal, is not part of a development of more than four units, and is valued at up to \$1,000,000. If the property requires a complex appraisal, consists of more than four units, or is valued at more than \$1,000,000, then the appraiser must hold a valid certified residential license or certified general license in good standing. The appraisal must establish that the proposed purchase price is no more than 10% above the appraised value. Upon receipt of the appraisal, the District will provide written notification to the Employee approving or denying the purchase price within 10 days.

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If the District approves the purchase price, it shall prepare a written agreement with the Employee that includes terms for repayment of the District's home purchase assistance and other terms specific to either the Shared Value Program, ~~or the Subordinate Loan Program~~, or the Combined Primary Loan/Shared Value Program according to the Employee's choice of program. Agreements for ~~both all~~ programs will provide the District with a first right of refusal to purchase the Housing Unit upon sale of the unit as provided in Section 14 of this Policy. If married or in a registered domestic partnership, the Employee's spouse or partner shall execute the agreement if title is held jointly, or will acknowledge and agree to comply with all applicable terms if the Employee holds the Housing Unit as his or her sole and separate property. ~~The agreement shall be reviewed by the District's legal counsel prior to submitting to the employee for signature.~~ Once the employee has signed, the General Manager may then execute the agreement provided it complies with this policy.

Once approval has been received from the District, the Employee may proceed with the close of escrow. When the primary lender requirements and District agreement requirements are met, District shall deposit its loan funds into escrow, with required closing instructions, Note, and Deed of Trust to be executed in escrow. As part of closing the purchase, the Employee shall be required to secure and maintain the following insurance coverages on the Housing Unit:

- The most comprehensive, maximum limits homeowner's insurance coverage available, including full code upgrades, in the full amount of the purchase price, which amount the Employee shall increase over time consistent with any appreciation to the Housing Unit's appreciation replacement cost.
- Flood Insurance policy; If the Housing Unit is located within a FEMA-designated flood zone, the purchase of a flood insurance policy is required.
- Earthquake insurance policy.
- At least a standard form full coverage CLTA title insurance policy.
- A home purchase warranty or similar coverage that covers the risks of failure of a Housing Unit's major structural and mechanical systems and appliances for the first two years of ownership.

All insurance policies shall be issued in an amount not less than the purchase price or appraised value of the Property, whichever is greater, or any lesser maximum limits if the type of coverage will not insure for the full purchase price or appraised value of the Housing Unit.

The Employee shall remain current in all financial obligations of ownership of the Housing Unit, including but not limited to payment of principal and interest on the primary loan, all insurance premiums, taxes, HOA fees and special assessments, and interest on the District subordinated

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loan. By December 1 of each year, employees shall submit documentation that confirms compliance with these requirements. If an employee is in default of any financial obligation and cannot promptly cure the default, he or she shall notify the General Manager as soon as possible.

## 7. EMPLOYEE'S PRIMARY HOME LOAN

For the Shared Value and Subordinate Loan programs, the Primary Loan must be a fully amortized fixed rate loan from a financial institution that makes market rate loans on conventional terms. No hard money loans or other unconventional loans will be permitted. The General Manager may, however, approve a Primary Loan that is not made by a financial institution, provided that any such loan is made at a market rate on conventional market terms. For the Combined Primary Loan/Shared Value program, the primary loan shall be fully amortized over 30 years at a fixed rate of 5%, due and payable in full after 10 years.

The Primary Loan and the District agreement shall not be assumable or transferable.

## 8. EMPLOYEE PAYMENT OF HOME PURCHASE COSTS

The Employee shall pay all costs of the appraisal required by the District, and any District Housing Unit inspection costs. Such costs will not be deemed to be part of the Employee's down payment contribution required under this section.

~~The~~ For the Shared Value and Subordinate Loan programs, the Employee shall contribute at least ~~5% percent~~ of the purchase price as a down payment. For the Combined Primary Loan/Shared Value program, the Employee shall contribute at least 7.5% percent of the purchase price as a down payment. The District shall not pay any closing costs for an Employee's purchase of a Housing Unit, except for the cost of a lender's title insurance policy covering the amount of the District's down payment or loan. The District also shall not be liable for any additional costs of purchase, repair or for other reasons before, during or after escrow.

## 9. AMOUNT OF DISTRICT HOME PURCHASE ASSISTANCE

Under the Shared Value Program, the amount of the District's home purchase assistance will be up to ~~50% percent~~ of the purchase price with a \$500,000 cap, and will be in the form of a loan without interest. In lieu of paying interest, the Employee shall share with the District the amount of the Housing Unit's appreciation realized upon sale as further provided in Section 10 of this Policy.

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Under the Subordinate Loan Program, the amount of the District's loan to an Employee will be up to ~~35% percent~~ of the purchase price with a \$500,000 cap, and will be in the form of a loan with interest payable annually as further provided in Section 10 of this Policy.

Under the Combined Primary Loan/Shared Value Program, the Shared Value loan will be up to 50% of the purchase price with a \$500,000 cap and will be in the same form as in the Shared Value Program. The Primary Loan will be an amount equal to the purchase price minus the Employee down payment and the Shared Value Loan. The Primary loan will be fully amortized over 30 years with payments made monthly as further provided in Section 10 of this Policy. The District will confirm that the household debt-to-income ratio is no greater than 45% and the FICO score of the Employee is rated at least "Good".

## **10. DISTRICT HOME PURCHASE ASSISTANCE REPAYMENT**

For the Shared Value option, the District will share with the Employee any gain in value at the time the property is sold. Upon sale of the Housing Unit, the proceeds of sale shall be allocated in the following order:

- (a) The costs of sale, including but not limited to escrow fees, real estate broker's fees, and related expenses, shall first be deducted from the gross sales price.
- (b) The Primary Loan shall be paid in full from the proceeds of the sale via escrow. In the event the gross sale proceeds are insufficient to pay the Primary loan balance, the District shall not be liable for payment of the Primary Loan.
- (c) To the extent gross sale proceeds remain, the District shall be distributed an amount equal to the amount that the District contributed to the Employee's purchase of the Housing Unit (this distribution does not include any apportionment arising from the Appreciation Proceeds discussed below).
- (d) To the extent gross sale proceeds remain, the Employee shall receive the amount of Employee's contribution to the purchase price, plus the total amount that the Employee has then paid towards the principal of the Primary Loan, and the amount that the Employee was credited for approved capital improvements as described in Section 13 below.
- (e) Any remaining gross sale proceeds (the "Appreciation Proceeds") shall be shared between District and Employee as follows:

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1. The District shall receive a percentage of the Appreciation Proceeds equal to the amount of the District's contribution to the purchase price divided by the purchase price increased by the amount credited for any approved capital improvements, although in no event may the District earn an annualized rate (simple interest over the term of the entire assistance loan) greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. That rate is the higher of either ~~10% percent~~ per annum or 5% percent over the rate charged by the Federal Reserve Bank of San Francisco on advances to member banks on the 25<sup>th</sup> day of the month before the down payment loan (if the agreement to loan and the actual lending of the money are in different months, the 25<sup>th</sup> day of the month before the earlier events is used) per annum.
2. The Employee shall receive a percentage of the Appreciation Proceeds equal to the amount of Employee's contribution component and the Primary Loan components and the amount credited for approved capital improvements divided by the purchase price (as increased by the amount of any approved capital improvement), plus any funds, if any, the District is not entitled to receive due to the fact that the District is receiving its maximum permissible rate of return, as set forth above.

For the Subordinated Loan Program, the District's assistance to the Employee is in the form of a loan with a 15-year term and variable interest rate. The interest rate shall be set initially at the yield of the 10-year Treasury note on the first business day of the first year of the loan. The rate will be adjusted thereafter during the term of the loan on each subsequent January 1. The interest rate each year will be set at the yield of the 10-year Treasury note on the first business day of that year. The total amount of interest due for each year must be paid by the Employee on or before the first business day of each following year, such that the loan balance is kept to the original loan amount or less. No compounding of the loan is permissible. Any part of the principal balance of the loan may be paid at any time with no prepayment penalty.

Upon expiration of the 15-year term, the loan agreement between the District and the Employee will terminate and the Employee shall be required to pay off in full the remaining principal amount of the District loan and any accrued interest by payment in cash, refinancing of the Primary Loan to a higher amount, or sale of the Housing Unit and repayment of the District loan from the sale proceeds. The General Manager shall have the discretion to approve another means of payment, provided that the alternative form of payment results in the District obtaining full repayment of the entire loan principal and all accrued interest due.

[For the Combined Primary Loan/Shared Value Program, the Shared Value component will be repaid as described above for the Shared Value Program. The Primary Loan will be a fully amortized 30-year loan, with the entire balance due and payable at the end of 10 years. The](#)

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Employee will make principal and interest payments monthly, along with payments into an impound account for property taxes and property insurance.

For ~~both the Shared Value and Subordinate~~all Loan Programs, except as otherwise provided in this Policy, the District Home Purchase Assistance must be paid in full if: (1) promptly through escrow if- the Employee sells the Housing Unit; (2) within six months after (a) the Employee separates from employment with the District, or (b) the Employee no longer uses the Housing Unit as his or her principal place of residence; (3) within one year after the Employee passes away; or (4) on the catastrophic loss of the Housing Unit as further provided in Section 11 of this Policy.

## **11. REPAYMENT OF DISTRICT HOME PURCHASE ASSISTANCE UPON LOSS OF HOUSING UNIT**

If an Employee in the Subordinated Loan Program or the Combined Primary Loan/Shared Value Program experiences the catastrophic loss of a Housing Unit from fire, earthquake or other cause, the Employee shall repay the amount of the District Loan and any accrued interest and the existing agreement with the District shall terminate or, after a loan is paid off for the eCombined Primary Loan/Shared Value Program, may be converted to the Shared Value Program subject to the terms below and Section 17 of this policy. Such repayment will be made within 10 days after the Employee's receipt of insurance proceeds in payment of the loss, unless otherwise approved by the Board. The Employee shall require that the insurance carrier make the check to pay off the District Loan payable to the District (or to the Employee and the District, in which case the Employee, and if required his or her spouse, shall endorse the check to the District).

If an Employee in the Shared Value Program experiences the catastrophic loss of a Housing Unit from fire, earthquake or other cause, the Employee shall either continue or terminate the agreement with the District in one of the methods described below.

(1) If the Employee chooses to retain the real property on which the Housing Unit stood and to rebuild the Housing Unit, the Employee may request that the District make a new District Loan to assist with construction of the new Housing Unit. The General Manager shall have the discretion to issue such a loan, provided that the loan would initially be provided in the form of a construction loan and that loan complies with the guidelines provided in this Policy. The District loan would be the last funds used by the Employee for construction after the Employee expends all insurance proceeds he or she receives for the loss of the original Housing Unit and all proceeds of any primary construction loan secured by the Employee are used. As conditions of the District providing such a loan: (1)

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the Employee and the District shall enter into a temporary loan agreement for construction funding at the interest rate applicable for that year as further provided in Section 10 of this Policy; (2) the Employee shall agree at the completion of construction to secure a conventional Primary Loan and to convert the District loan to a District down payment assistance shared value or subordinated loan in accordance with the terms of this Policy; and (3) the Employee shall secure all applicable insurance coverages required during the course of construction, including a builder's risk policy covering all perils in the full cost of the completed improvements. The Employee will deliver a copy of all required insurance policies to the General Manager for approval.

(2) If the Employee chooses to retain the property, but not rebuild, within one year of the loss the Employee must buy out the District's share of the agreement according to the provisions of Section 15.

(3) If the Employee chooses to sell the property without rebuilding within one year of the loss, the proceeds of the sale will be shared with the District according to the provisions of Section 10.

## **12. IN-SERVICE CHANGES IN TITLE**

Under no circumstances may an Employee place anyone on title to the Housing Unit after the close of escrow for the purchase of the Housing Unit without prior written agreement of the District or otherwise place a cloud on title or jeopardize the District's interest in the Housing Unit. This includes, but is not limited to, the following:

- (a) If an Employee is single at the time of obtaining a loan from the District and later marries, the Employee shall promptly notify the District of his or her marriage. Upon receipt of such notice from the Employee, the District shall require the Employee and the Employee's spouse to enter into an amendment to the agreement for the purpose of obtaining the Employee's spouse's consent to comply with the terms of that agreement. The District shall require this amendment regardless of whether an Employee desires to place his or her spouse on title to the Housing Unit. Any refusal by an Employee's spouse to execute an amendment to the District agreement as required by the District shall be deemed a breach of that agreement. This provision also shall apply to an Employee who enters into a registered domestic partnership in accordance with Family Code sections 297 and following.

- (b) Employee may not sell, transfer, loan, use as collateral for any form of financing, or otherwise provide an interest in the Housing Unit to any other person or entity without providing advance notice to District and first obtaining District's consent to such transaction. District reserves the right in all case to refuse such consent.
- (c) Employee may not place the Housing Unit into any type of trust without providing advance notice to District of the planned transfer and first obtaining District's consent to the transfer. District consent generally will be given when Employee (and any authorized spouse or partner) retains the sole legal and beneficial interests in the Housing Unit, but the District in all cases reserves the right to refuse consent to such transfers.

### **13. EMPLOYEE PROPERTY IMPROVEMENTS**

The Employee may, at his or her sole discretion and expense, make such reasonably necessary capital improvements to the Housing Unit as he or she deems beneficial to it. For the Employee to receive credit in the distribution of proceeds under the Shared Value Program [or the Combined Primary Loan/Shared Value Program](#), a capital improvement is limited to one which: (1) is performed with a building permit which is subsequently signed off by the governing authority, and (2) which receives prior written approval from the District. No other types of improvements or any maintenance or repair expenses will be considered under this clause.

Before starting construction of and again at the completion of the capital improvement, an appraisal by a licensed or certified appraiser agreed upon by the Employee and the District will be conducted at the expense of the Employee to confirm the actual value added by the capital improvement. The Employee shall be credited the value added to the Housing Unit as determined by the appraisal. The Employee shall provide to the District documentation that supports all expenses for permitting, constructing, and completing of the capital improvement and verifies the Employee's actual payment of all such expenses. Any capital improvements that are gifted or otherwise obtained from funding sources other than the employee's own funds, including insurance reimbursements, will not be considered as qualifying capital improvements for purposes of this Policy.

### **14. DISTRICT'S RIGHT OF FIRST REFUSAL UPON SALE OF HOUSING UNIT**

The agreement between the Employee and District shall provide the District with a first right of refusal to purchase the Housing Unit if the Employee places it for sale during the term of the agreement. In such cases, the District shall be entitled to purchase the Housing Unit at its fair

market value less 5% to reflect avoided transaction cost. The fair market value shall be determined by an appraisal prepared by a licensed or certified appraiser agreed upon between the Employee and the District and paid for by the District. For loans made under the Shared Value Program, the proceeds of a purchase of a Housing Unit by the District shall be allocated as provided in Section 10. For loans made under the Subordinated Loan Program, proceeds will be allocated as follows: (1) payment of costs of sale and escrow; (2) pay-off of the Primary Loan and any accrued interest; (3) pay-off of the District's loan and all accrued interest; (4) payment of any existing liens against the Housing Unit other than the liens of the primary lender's first and the District's second deeds of trust; and (5) payment of all remaining proceeds to the Employee.

## **15. EMPLOYEE PURCHASE OF DISTRICT'S INTEREST**

Employees in the Shared Value Program [or the Combined Primary Loan/Shared Value Program](#) may request to purchase the District's interest in the Housing Unit. The Employee shall be entitled to purchase the Housing Unit at its fair market value less 5% to reflect avoided transaction cost. The fair market value shall be determined by an appraisal prepared by a licensed or certified appraiser agreed upon between the Employee and the District and paid for by the Employee and prepared within 90 days of the Employee's proposed closing date for purchase of the District's interest. The proceeds of a purchase of the District's interest in a Housing Unit by the Employee shall be allocated in the same manner as described in the portion of Section 10 pertaining to pay-off of a shared value loan.

Employees in the Subordinated Loan Program may elect to purchase the District's interest by paying the principal balance of the District's loan and all accrued interest.

## **16. EMPLOYEE REFINANCING OF PRIMARY LOAN**

During the term of a District loan agreement, an Employee may request to refinance his or her Primary Loan. The District shall evaluate each request in accordance with the following criteria: (1) generally, a refinancing of a Housing Unit on which a District loan exists should be for the amount of the Primary Loan's remaining principal balance for purposes such as reducing the interest rate on the Primary Loan, reducing the term of that loan, or obtaining more favorable loan terms; (2) the refinancing of the Primary Loan should not extend the term of the loan beyond its original term; and (3) if an Employee proposes to take cash out of equity, the proposed cash out amount should be for no more than the amount of equity an Employee has built through previous payments on the original loan principal and should not increase the principal balance on the Primary Loan above the original loan amount. This last requirement is imposed to help

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ensure that Employees avoid over-extending their credit and, in cases where the Employee has obtained a shared value loan, to protect the District's original participation interest percentage in the Housing Unit from a material reduction. If an Employee's request for refinancing his or her Primary Loan will not affect the District's position, the General Manager may approve the request and report the approval to the Board at its next regular meeting. In all other cases, the Board must approve an Employee's request to refinance his or her Primary Loan. In all cases, the Board or General Manager reserve the right to approve or reject any Employee request for District consent to a refinancing of the Primary Loan based on the proposed terms of the refinancing and the specific circumstances of each Employee's request. An approval for the refinancing of an Employee's Primary Loan shall remain valid for a period of one year or closing of the refinancing, whichever is sooner.

## **17. CONVERSION OF LOAN PROGRAMS**

One time only during the life of the loan, employees may elect to convert from the Shared Value Program to the Combined Primary Loan/Shared Value Program or vice versa.

If converting from the Shared Value Program to the Combined Primary Loan/Shared Value Program, if the original down payment was less than 7.5% ~~percent~~, the employee must provide sufficient funds to bring the total down payment to 7.5% ~~percent~~ of the original purchase price. ~~The employees~~ District's original shared percentage shall not be increased. The employee must provide documentation confirming a FICO score of "Good" or better and a debt-to-income ~~ratio~~ no greater than 45%. The new District loan shall be no greater than the original loan amount or the current loan payoff amount, whichever is less. ~~Second mortgages, home equity loans or lines of credit, or equity acquired through a refinance which added to the original loan payoff amount are not eligible for conversion to a District loan.~~

If converting from the Combined Primary Loan/Shared Value Program to the Shared Value Program, the employee must pay off the principal and interest due on the District's primary loan by cash payment or by obtaining a fully amortized fixed rate loan from a financial institution that makes market rate loans on conventional terms, as defined in Section 7 of this policy. ~~by obtaining a fully amortized fixed rate loan from a financial institution that makes market rate loans on conventional terms.~~ A replacement loan to pay off the District's primary loan will be limited to the existing principal balance of the primary loan. ~~The District's~~ shared percentage shall not be increased through this process.

## **187. BOARD COMMITTEE REVIEW**

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The President of the Board of Directors shall appoint an Employee Housing Committee of the Board. The Committee shall meet with the Finance Director at least annually in the first quarter of the year to review the compliance of all participants in the Employee Home Purchase Assistance Program in the previous year and to consider any potential revisions to this Policy. Any revisions proposed by the Committee shall be recommended to the Board for consideration and approval.

## MAMMOTH COMMUNITY WATER DISTRICT

**EMPLOYEE HOME PURCHASE ASSISTANCE PROGRAM  
POLICY**

Adopted: January 17, 2008  
Amended: December xx, 2023

**1. PURPOSE**

The Mammoth Community Water District values its employees. It is the policy of the Mammoth Community Water District to promote employee recruitment and retention. To that end, the Mammoth Community Water District Employee Home Purchase Assistance Program (“Program”) is designed to facilitate home ownership for District employees (“Employee”) and to provide an incentive for recruiting potential employees to ensure the District maintains the most skilled and professional workforce possible. The Program offers three options for home loan assistance: (1) a Shared Value Program, under which the District will contribute up to 50% of the home purchase price and share appreciation in value with the Employee upon sale, (2) a Subordinate Loan Program, under which the District will lend up to 35% of the home purchase price in a loan with a maximum term of 15 years and a variable interest rate set each year according to the yield on 10-year Treasury note on the first business day of the year, and (3) a Combined Primary Loan/Shared Value Program, under which the District will provide primary financing at a fixed interest rate of 5% and contribute up to 50% of the purchase price as shared value as a means to assist employees in the current high-interest-rate, high-priced local residential real estate program.

**2. PROGRAM FUNDING**

The Program shall be financed through the “New Enterprise Fund”, which is funded as determined by the Board of Directors from a portion of the District’s share of property tax revenues received from Mono County. Nothing in this Policy precludes a change in funding or termination of the Program as may be determined in the Board’s sole discretion.

**3. PROGRAM ELIGIBILITY**

Homes purchased pursuant to the Program must be located within Mono County as far north as Mono City and Inyo County as far south as Big Pine. The purchased home must be the principal

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place of residence for the Employee. Housing unit types eligible for assistance shall be new or previously owned single-family detached houses, town homes, condominiums, or manufactured homes in mobile home parks or on a single-family lot and placed on a permanent foundation system ("Housing Unit").

Employees or their spouses who hold title to a single-family residence outside of the program eligibility area at the time of applying for Program assistance may retain such residences. An Employee applying for Program assistance may not concurrently own improved real property in the program eligibility area.

#### **4. CONDITION OF HOUSING UNIT**

Prior to a final commitment of District funds and prior to close of escrow on the purchase by the Employee, the Housing Unit under consideration shall be inspected by an established professional home inspection service or other reputable professional approved by the District to determine if it is structurally sound, and identify any code-related and health and safety deficiencies that need to be corrected. The cost of the home inspection shall be paid by the Employee, and a copy of the final report provided to the District. All Housing Units to be purchased under the Program must be in compliance with State and local codes and ordinances. The District inspection and its approval of the remediation of any deficiencies shall be made a condition of the close of escrow for the purchase of the Housing Unit.

#### **5. EMPLOYEE SELECTION PROCESS**

The intent of this Policy is that Program assistance generally shall be given on a first-come, first-served basis to regular full-time and regular part-time permanent employees who have successfully completed their initial employment probationary period, in accordance with the rules and procedures of the Program as set forth in this Policy. However, recognizing that the Program could be a valuable tool for recruiting more senior employees in key positions, the General Manager may propose that the minimum employment requirement not apply in a particular case, subject to Board approval.

#### **6. EMPLOYEE HOME PURCHASE ASSISTANCE PROGRAM PROCESS**

For the Shared Value and Subordinate Loan programs, an Employee must complete an application and return it to the District's General Manager with all required information, including a pre-qualifying loan statement completed by a lender providing evidence of financing {00309089.1}

for the maximum amount that the primary lender is willing to loan to the Employee (“Primary Loan”). The application must designate which of the two assistance options the Employee is proposing to use.

For the Combined Primary Loan/Shared Value Program, an Employee must complete an application and return it to the District’s General Manager with all required information, including: authorization to use the employee’s credit score and income-to-debt ratio for the lending decision, evidence of the borrower’s FICO scores, and a list of all household monthly income and debt obligations. The District will comply with all applicable requirements of the Fair Credit Reporting Act and the California Consumer Credit Reporting Agencies Act as a condition of obtaining the Employee’s FICO score.

Upon determination of eligibility for the Program, the Employee will receive a letter from the District stating the approximate amount of down payment and/or loan assistance for which the Employee is eligible. This letter also will provide that the amount of assistance will be available for a period of up to 120 days after the date of the letter. For good cause and subject to the provision of appropriate documentation of the need, the General Manager may extend the time in which the District’s assistance amount will remain available to an Employee.

Once a suitable Housing Unit has been located, the Employee makes an offer to purchase. The offer must be an estimate of the fair market value of the Housing Unit. The offer must provide that the close of escrow shall be conditioned on the District’s approval of the purchase price, District inspection as set forth above, and compliance with all applicable building codes. The Employee will submit a copy of the final purchase contract to the District.

The Employee shall provide the District with a copy of a current appraisal (no more than 90 days old). The appraisal must be performed by an appraiser holding a valid license in good standing issued by the California Bureau of Real Estate Appraisers. The appraiser’s license must be at least a residential appraisal license if the housing unit does not require a complex appraisal, is not part of a development of more than four units, and is valued at up to \$1,000,000. If the property requires a complex appraisal, consists of more than four units, or is valued at more than \$1,000,000, then the appraiser must hold a valid certified residential license or certified general license in good standing. The appraisal must establish that the proposed purchase price is no more than 10% above the appraised value. Upon receipt of the appraisal, the District will provide written notification to the Employee approving or denying the purchase price within 10 days.

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If the District approves the purchase price, it shall prepare a written agreement with the Employee that includes terms for repayment of the District's home purchase assistance and other terms specific to either the Shared Value Program, the Subordinate Loan Program, or the Combined Primary Loan/Shared Value Program according to the Employee's choice of program. Agreements for all programs will provide the District with a first right of refusal to purchase the Housing Unit upon sale of the unit as provided in Section 14 of this Policy. If married or in a registered domestic partnership, the Employee's spouse or partner shall execute the agreement if title is held jointly, or will acknowledge and agree to comply with all applicable terms if the Employee holds the Housing Unit as his or her sole and separate property.. Once the employee has signed, the General Manager may then execute the agreement provided it complies with this policy.

Once approval has been received from the District, the Employee may proceed with the close of escrow. When the primary lender requirements and District agreement requirements are met, District shall deposit its loan funds into escrow, with required closing instructions, Note, and Deed of Trust to be executed in escrow. As part of closing the purchase, the Employee shall be required to secure and maintain the following insurance coverages on the Housing Unit:

- The most comprehensive, maximum limits homeowner's insurance coverage available, including full code upgrades, in the full amount of the purchase price, which amount the Employee shall increase over time consistent with any appreciation to the Housing Unit's replacement cost.
- Flood Insurance policy; If the Housing Unit is located within a FEMA-designated flood zone, the purchase of a flood insurance policy is required.
- Earthquake insurance policy.
- At least a standard form full coverage CLTA title insurance policy.
- A home purchase warranty or similar coverage that covers the risks of failure of a Housing Unit's major structural and mechanical systems and appliances for the first two years of ownership.

All insurance policies shall be issued in an amount not less than the purchase price or appraised value of the Property, whichever is greater, or any lesser maximum limits if the type of coverage will not insure for the full purchase price or appraised value of the Housing Unit.

The Employee shall remain current in all financial obligations of ownership of the Housing Unit, including but not limited to payment of principal and interest on the primary loan, all insurance premiums, taxes, HOA fees and special assessments, and interest on the District subordinated loan. By December 1 of each year, employees shall submit documentation that confirms

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compliance with these requirements. If an employee is in default of any financial obligation and cannot promptly cure the default, he or she shall notify the General Manager as soon as possible.

## **7. EMPLOYEE'S PRIMARY HOME LOAN**

For the Shared Value and Subordinate Loan programs, the Primary Loan must be a fully amortized fixed rate loan from a financial institution that makes market rate loans on conventional terms. No hard money loans or other unconventional loans will be permitted. The General Manager may, however, approve a Primary Loan that is not made by a financial institution, provided that any such loan is made at a market rate on conventional market terms. For the Combined Primary Loan/Shared Value program, the primary loan shall be fully amortized over 30 years at a fixed rate of 5%, due and payable in full after 10 years.

The Primary Loan and the District agreement shall not be assumable or transferable.

## **8. EMPLOYEE PAYMENT OF HOME PURCHASE COSTS**

The Employee shall pay all costs of the appraisal required by the District, and any District Housing Unit inspection costs. Such costs will not be deemed to be part of the Employee's down payment contribution required under this section.

For the Shared Value and Subordinate Loan programs, the Employee shall contribute at least 5% of the purchase price as a down payment. For the Combined Primary Loan/Shared Value program, the Employee shall contribute at least 7.5% of the purchase price as a down payment. The District shall not pay any closing costs for an Employee's purchase of a Housing Unit, except for the cost of a lender's title insurance policy covering the amount of the District's down payment or loan. The District also shall not be liable for any additional costs of purchase, repair or for other reasons before, during or after escrow.

## **9. AMOUNT OF DISTRICT HOME PURCHASE ASSISTANCE**

Under the Shared Value Program, the amount of the District's home purchase assistance will be up to 50% of the purchase price with a \$500,000 cap, and will be in the form of a loan without interest. In lieu of paying interest, the Employee shall share with the District the amount of the Housing Unit's appreciation realized upon sale as further provided in Section 10 of this Policy.

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Under the Subordinate Loan Program, the amount of the District's loan to an Employee will be up to 35% of the purchase price with a \$500,000 cap, and will be in the form of a loan with interest payable annually as further provided in Section 10 of this Policy.

Under the Combined Primary Loan/Shared Value Program, the Shared Value loan will be up to 50% of the purchase price with a \$500,000 cap and will be in the same form as in the Shared Value Program. The Primary Loan will be an amount equal to the purchase price minus the Employee down payment and the Shared Value Loan. The Primary loan will be fully amortized over 30 years with payments made monthly as further provided in Section 10 of this Policy. The District will confirm that the household debt-to-income ratio is no greater than 45% and the FICO score of the Employee is rated at least "Good".

## **10. DISTRICT HOME PURCHASE ASSISTANCE REPAYMENT**

For the Shared Value option, the District will share with the Employee any gain in value at the time the property is sold. Upon sale of the Housing Unit, the proceeds of sale shall be allocated in the following order:

- (a) The costs of sale, including but not limited to escrow fees, real estate broker's fees, and related expenses, shall first be deducted from the gross sales price.
- (b) The Primary Loan shall be paid in full from the proceeds of the sale via escrow. In the event the gross sale proceeds are insufficient to pay the Primary loan balance, the District shall not be liable for payment of the Primary Loan.
- (c) To the extent gross sale proceeds remain, the District shall be distributed an amount equal to the amount that the District contributed to the Employee's purchase of the Housing Unit (this distribution does not include any apportionment arising from the Appreciation Proceeds discussed below).
- (d) To the extent gross sale proceeds remain, the Employee shall receive the amount of Employee's contribution to the purchase price, plus the total amount that the Employee has then paid towards the principal of the Primary Loan, and the amount that the Employee was credited for approved capital improvements as described in Section 13 below.
- (e) Any remaining gross sale proceeds (the "Appreciation Proceeds") shall be shared between District and Employee as follows:

1. The District shall receive a percentage of the Appreciation Proceeds equal to the amount of the District's contribution to the purchase price divided by the purchase price increased by the amount credited for any approved capital improvements, although in no event may the District earn an annualized rate (simple interest over the term of the entire assistance loan) greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. That rate is the higher of either 10% per annum or 5% over the rate charged by the Federal Reserve Bank of San Francisco on advances to member banks on the 25<sup>th</sup> day of the month before the down payment loan (if the agreement to loan and the actual lending of the money are in different months, the 25<sup>th</sup> day of the month before the earlier events is used) per annum.
2. The Employee shall receive a percentage of the Appreciation Proceeds equal to the amount of Employee's contribution component and the Primary Loan components and the amount credited for approved capital improvements divided by the purchase price (as increased by the amount of any approved capital improvement), plus any funds, if any, the District is not entitled to receive due to the fact that the District is receiving its maximum permissible rate of return, as set forth above.

For the Subordinated Loan Program, the District's assistance to the Employee is in the form of a loan with a 15-year term and variable interest rate. The interest rate shall be set initially at the yield of the 10-year Treasury note on the first business day of the first year of the loan. The rate will be adjusted thereafter during the term of the loan on each subsequent January 1. The interest rate each year will be set at the yield of the 10-year Treasury note on the first business day of that year. The total amount of interest due for each year must be paid by the Employee on or before the first business day of each following year, such that the loan balance is kept to the original loan amount or less. No compounding of the loan is permissible. Any part of the principal balance of the loan may be paid at any time with no prepayment penalty.

Upon expiration of the 15-year term, the loan agreement between the District and the Employee will terminate and the Employee shall be required to pay off in full the remaining principal amount of the District loan and any accrued interest by payment in cash, refinancing of the Primary Loan to a higher amount, or sale of the Housing Unit and repayment of the District loan from the sale proceeds. The General Manager shall have the discretion to approve another means of payment, provided that the alternative form of payment results in the District obtaining full repayment of the entire loan principal and all accrued interest due.

For the Combined Primary Loan/Shared Value Program, the Shared Value component will be repaid as described above for the Shared Value Program. The Primary Loan will be a fully amortized 30-year loan, with the entire balance due and payable at the end of 10 years. The

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Employee will make principal and interest payments monthly, along with payments into an impound account for property taxes and property insurance.

For all Loan Programs, except as otherwise provided in this Policy, the District Home Purchase Assistance must be paid in full if: (1) promptly through escrow if the Employee sells the Housing Unit; (2) within six months after (a) the Employee separates from employment with the District, or (b) the Employee no longer uses the Housing Unit as his or her principal place of residence; (3) within one year after the Employee passes away; or (4) on the catastrophic loss of the Housing Unit as further provided in Section 11 of this Policy.

#### **11. REPAYMENT OF DISTRICT HOME PURCHASE ASSISTANCE UPON LOSS OF HOUSING UNIT**

If an Employee in the Subordinated Loan Program or the Combined Primary Loan/Shared Value Program experiences the catastrophic loss of a Housing Unit from fire, earthquake or other cause, the Employee shall repay the amount of the District Loan and any accrued interest and the existing agreement with the District shall terminate or, after a loan is paid off for the Combined Primary Loan/Shared Value Program, may be converted to the Shared Value Program subject to the terms below and Section 17 of this policy. Such repayment will be made within 10 days after the Employee's receipt of insurance proceeds in payment of the loss, unless otherwise approved by the Board. The Employee shall require that the insurance carrier make the check to pay off the District Loan payable to the District (or to the Employee and the District, in which case the Employee, and if required his or her spouse, shall endorse the check to the District).

If an Employee in the Shared Value Program experiences the catastrophic loss of a Housing Unit from fire, earthquake or other cause, the Employee shall either continue or terminate the agreement with the District in one of the methods described below.

(1) If the Employee chooses to retain the real property on which the Housing Unit stood and to rebuild the Housing Unit, the Employee may request that the District make a new District Loan to assist with construction of the new Housing Unit. The General Manager shall have the discretion to issue such a loan, provided that the loan would initially be provided in the form of a construction loan and that loan complies with the guidelines provided in this Policy. The District loan would be the last funds used by the Employee for construction after the Employee expends all insurance proceeds he or she receives for the loss of the original Housing Unit and all proceeds of any primary construction loan secured by the Employee are used. As conditions of the District providing such a loan: (1) the Employee and the District shall enter into a temporary loan agreement for

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construction funding at the interest rate applicable for that year as further provided in Section 10 of this Policy; (2) the Employee shall agree at the completion of construction to secure a conventional Primary Loan and to convert the District loan to a District down payment assistance shared value or subordinated loan in accordance with the terms of this Policy; and (3) the Employee shall secure all applicable insurance coverages required during the course of construction, including a builder's risk policy covering all perils in the full cost of the completed improvements. The Employee will deliver a copy of all required insurance policies to the General Manager for approval.

(2) If the Employee chooses to retain the property, but not rebuild, within one year of the loss the Employee must buy out the District's share of the agreement according to the provisions of Section 15.

(3) If the Employee chooses to sell the property without rebuilding within one year of the loss, the proceeds of the sale will be shared with the District according to the provisions of Section 10.

## **12. IN-SERVICE CHANGES IN TITLE**

Under no circumstances may an Employee place anyone on title to the Housing Unit after the close of escrow for the purchase of the Housing Unit without prior written agreement of the District or otherwise place a cloud on title or jeopardize the District's interest in the Housing Unit. This includes, but is not limited to, the following:

- (a) If an Employee is single at the time of obtaining a loan from the District and later marries, the Employee shall promptly notify the District of his or her marriage. Upon receipt of such notice from the Employee, the District shall require the Employee and the Employee's spouse to enter into an amendment to the agreement for the purpose of obtaining the Employee's spouse's consent to comply with the terms of that agreement. The District shall require this amendment regardless of whether an Employee desires to place his or her spouse on title to the Housing Unit. Any refusal by an Employee's spouse to execute an amendment to the District agreement as required by the District shall be deemed a breach of that agreement. This provision also shall apply to an Employee who enters into a registered domestic partnership in accordance with Family Code sections 297 and following.

- (b) Employee may not sell, transfer, loan, use as collateral for any form of financing, or otherwise provide an interest in the Housing Unit to any other person or entity without providing advance notice to District and first obtaining District's consent to such transaction. District reserves the right in all case to refuse such consent.
- (c) Employee may not place the Housing Unit into any type of trust without providing advance notice to District of the planned transfer and first obtaining District's consent to the transfer. District consent generally will be given when Employee (and any authorized spouse or partner) retains the sole legal and beneficial interests in the Housing Unit, but the District in all cases reserves the right to refuse consent to such transfers.

### **13. EMPLOYEE PROPERTY IMPROVEMENTS**

The Employee may, at his or her sole discretion and expense, make such reasonably necessary capital improvements to the Housing Unit as he or she deems beneficial to it. For the Employee to receive credit in the distribution of proceeds under the Shared Value Program or the Combined Primary Loan/Shared Value Program, a capital improvement is limited to one which: (1) is performed with a building permit which is subsequently signed off by the governing authority, and (2) which receives prior written approval from the District. No other types of improvements or any maintenance or repair expenses will be considered under this clause.

Before starting construction of and again at the completion of the capital improvement, an appraisal by a licensed or certified appraiser agreed upon by the Employee and the District will be conducted at the expense of the Employee to confirm the actual value added by the capital improvement. The Employee shall be credited the value added to the Housing Unit as determined by the appraisal. The Employee shall provide to the District documentation that supports all expenses for permitting, constructing, and completing of the capital improvement and verifies the Employee's actual payment of all such expenses. Any capital improvements that are gifted or otherwise obtained from funding sources other than the employee's own funds, including insurance reimbursements, will not be considered as qualifying capital improvements for purposes of this Policy.

### **14. DISTRICT'S RIGHT OF FIRST REFUSAL UPON SALE OF HOUSING UNIT**

The agreement between the Employee and District shall provide the District with a first right of refusal to purchase the Housing Unit if the Employee places it for sale during the term of the agreement. In such cases, the District shall be entitled to purchase the Housing Unit at its fair

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market value less 5% to reflect avoided transaction cost. The fair market value shall be determined by an appraisal prepared by a licensed or certified appraiser agreed upon between the Employee and the District and paid for by the District. For loans made under the Shared Value Program, the proceeds of a purchase of a Housing Unit by the District shall be allocated as provided in Section 10. For loans made under the Subordinated Loan Program, proceeds will be allocated as follows: (1) payment of costs of sale and escrow; (2) pay-off of the Primary Loan and any accrued interest; (3) pay-off of the District's loan and all accrued interest; (4) payment of any existing liens against the Housing Unit other than the liens of the primary lender's first and the District's second deeds of trust; and (5) payment of all remaining proceeds to the Employee.

#### **15. EMPLOYEE PURCHASE OF DISTRICT'S INTEREST**

Employees in the Shared Value Program or the Combined Primary Loan/Shared Value Program may request to purchase the District's interest in the Housing Unit. The Employee shall be entitled to purchase the Housing Unit at its fair market value less 5% to reflect avoided transaction cost. The fair market value shall be determined by an appraisal prepared by a licensed or certified appraiser agreed upon between the Employee and the District and paid for by the Employee and prepared within 90 days of the Employee's proposed closing date for purchase of the District's interest. The proceeds of a purchase of the District's interest in a Housing Unit by the Employee shall be allocated in the same manner as described in the portion of Section 10 pertaining to pay-off of a shared value loan.

Employees in the Subordinated Loan Program may elect to purchase the District's interest by paying the principal balance of the District's loan and all accrued interest.

#### **16. EMPLOYEE REFINANCING OF PRIMARY LOAN**

During the term of a District loan agreement, an Employee may request to refinance his or her Primary Loan. The District shall evaluate each request in accordance with the following criteria: (1) generally, a refinancing of a Housing Unit on which a District loan exists should be for the amount of the Primary Loan's remaining principal balance for purposes such as reducing the interest rate on the Primary Loan, reducing the term of that loan, or obtaining more favorable loan terms; (2) the refinancing of the Primary Loan should not extend the term of the loan beyond its original term; and (3) if an Employee proposes to take cash out of equity, the proposed cash out amount should be for no more than the amount of equity an Employee has built through previous payments on the original loan principal and should not increase the principal balance on the Primary Loan above the original loan amount. This last requirement is imposed to help

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ensure that Employees avoid over-extending their credit and, in cases where the Employee has obtained a shared value loan, to protect the District's original participation interest percentage in the Housing Unit from a material reduction. If an Employee's request for refinancing his or her Primary Loan will not affect the District's position, the General Manager may approve the request and report the approval to the Board at its next regular meeting. In all other cases, the Board must approve an Employee's request to refinance his or her Primary Loan. In all cases, the Board or General Manager reserve the right to approve or reject any Employee request for District consent to a refinancing of the Primary Loan based on the proposed terms of the refinancing and the specific circumstances of each Employee's request. An approval for the refinancing of an Employee's Primary Loan shall remain valid for a period of one year or closing of the refinancing, whichever is sooner.

## **17. CONVERSION OF LOAN PROGRAMS**

One time only during the life of the loan, employees may elect to convert from the Shared Value Program to the Combined Primary Loan/Shared Value Program or vice versa.

If converting from the Shared Value Program to the Combined Primary Loan/Shared Value Program, if the original down payment was less than 7.5%, the employee must provide sufficient funds to bring the total down payment to 7.5% of the original purchase price. The District's original shared percentage shall not be increased. The employee must provide documentation confirming a FICO score of "Good" or better and a debt-to-income ratio no greater than 45%. The new District loan shall be no greater than the original loan amount or the current loan payoff amount, whichever is less. Second mortgages, home equity loans or lines of credit, or equity acquired through a refinance which added to the original loan payoff amount are not eligible for conversion to a District loan.

If converting from the Combined Primary Loan/Shared Value Program to the Shared Value Program, the employee must pay off the principal and interest due on the District's primary loan by cash payment or by obtaining a fully amortized fixed rate loan from a financial institution that makes market rate loans on conventional terms, as defined in Section 7 of this policy.. A replacement loan to pay off the District's primary loan will be limited to the existing principal balance of the primary loan. The District's shared percentage shall not be increased through this process.

**18. BOARD COMMITTEE REVIEW**

The President of the Board of Directors shall appoint an Employee Housing Committee of the Board. The Committee shall meet with the Finance Director at least annually in the first quarter of the year to review the compliance of all participants in the Employee Home Purchase Assistance Program in the previous year and to consider any potential revisions to this Policy. Any revisions proposed by the Committee shall be recommended to the Board for consideration and approval.

**MAMMOTH COMMUNITY WATER DISTRICT**  
**EMPLOYEE HOME DOWN PAYMENT ASSISTANCE AGREEMENT**  
**(~~Shared Value Program~~ Combined Primary Loan/Shared Value Program)**

This Employee Home Down Payment Assistance Agreement – Combined Primary Loan/Shared Value Program (“Agreement”) is made and entered into this \_\_\_\_\_, 20\_\_\_\_, at Mammoth Lakes, California, by and between the Mammoth Community Water District, a California special district (“District”), and [name] (“Employee”) (collectively referred to as the “Parties” and individually as a “Party”), and is made with reference to the following facts:

**Recitals:**

A. District has a vested interest in maintaining the most skilled and professional workforce possible, and has established the Employee Home Purchase Assistance Program to address the obstacle of high housing cost in recruiting and retaining excellent employees. The Program is governed by the Employee Home Purchase Assistance Program Policy, as amended by the District’s Board of Directors from time to time (“Policy”).

B. Employee is a permanent [full-time part-time][title of position] and has complied with the requirements of the Employee Home Purchase Assistance Program by (1) submitting a true and complete application which includes evidence ~~of adequate financing from a qualified primary lender~~ confirming qualification for the District primary loan as provided in the Policy; (2) making an offer to purchase the Housing Unit contingent on the price being not greater than 10% above the appraised value of the property, conditioned upon the District’s approval of the purchase price, structural soundness and code compliance of the Housing Unit; and (3) providing the District with a copy of the certified appraisal and certified home inspection report.

C. District has provided a letter to Employee dated \_\_\_\_\_, 20\_\_\_\_ informing [him/her/them] that for up to 120 days from the date of the letter, Employee is eligible to receive a maximum amount of \$\_\_\_\_\_ in financial assistance (“Eligibility Amount”) from District in the form of a 30-year fully amortized Primary loan due and payable in full after 10 years and a Shared Value secured deferred interest loan, as ~~those~~ at ~~terms~~ are ~~is~~ defined below, for the purchase by Employee of a residential unit located at [address] (“Housing Unit”).

D. District has provided to Employee written notification of its approval of Employee’s purchase of the Housing Unit in the amount of \$\_\_\_\_\_ (“Purchase Price”), having concluded that the purchase price is not greater than 10% above the appraised value, and that the structural soundness and code compliance requirements are satisfied after reviewing the appraisal and home inspection report.

E. District and Employee have negotiated this Agreement respecting District’s financial assistance to the Employee for the purchase of the Housing Unit, which Employee intends to use as [his/her/their] primary home, subject to the terms and conditions of this Agreement and the Policy.

## Agreement:

NOW, THEREFORE, the Parties agree as follows:

1. Method of Purchase of Home. Funds used to purchase the Housing Unit shall be comprised of the “District Primary Loan,” “District ~~Assistance-Shared Value~~ Loan,” and the “Employee Contribution” and the “District Primary Loan” as provided herein:

a. District’s ~~Assistance-Shared Value~~ Loan.

i. District shall contribute up to \$\_\_\_\_\_ to Employee toward Employee’s purchase of the Housing Unit (the “District ~~Assistance-Shared Value~~ Loan”), provided the amount of the District Assistance Loan is the lesser of: (1) the Eligibility Amount; (2) 50% of the Purchase Price; or (3) \$500,000. If the purchase of the Housing Unit by Employee fails for any reason, the District ~~Assistance-Shared Value~~ Loan shall be returned to District.

ii. The District ~~Assistance-Shared Value~~ Loan shall be made in the form of a “secured deferred interest loan,” which means that District shall share in the future appreciation of the Housing Unit.

iii. Employee shall execute a deed of trust or other recordable document, which the District will file for recording with the Mono or Inyo County Recorder, which may be a deed of trust, securing the obligations created hereunder.

iv. The District ~~Assistance-Shared Value~~ Loan must be paid in full upon the occurrence of any of the following events: (1) on Employee’s sale or other conveyance of the Housing Unit; (2) one year after Employee passes away; (3) if Employee is then alive, six months after (i) Employee’s separation from employment at District, or (ii) Employee no longer uses the Housing Unit as his/hers/their principal place of residence; (4) upon Employee’s filing for protection under the United States Bankruptcy Code; (5) upon the award of all or any portion of the Housing Unit to Employee’s spouse in a proceeding for legal separation or for dissolution of marriage; or (6) upon condemnation of the Housing Unit.

v. The District ~~Shared Value~~Assistance Loan is not assumable or transferable.

vi. Upon close of escrow for Employee’s purchase, the Housing Unit may have a lien securing the Primary Loan, as defined below, which lien may be superior to the lien of the District Assistance Loan, but shall not be subject to any other mortgage, deed of trust, lien or other adverse encumbrance, except for real property taxes and special assessments and other encumbrances specifically approved by District.

~~vii. Nothing in this Agreement shall be construed as creating a joint venture or other partnership relationship between Employee and District. Employee and District have solely a debtor/creditor relationship arising from this Agreement.~~



b. Primary Loan.

~~Employee's primary lender~~The District shall provide a first loan of \$ [redacted] for purchase of the Housing Unit ("Primary Loan"). ~~Employee's primary lender is [name of primary lender].~~ The Primary Loan ~~must will~~ be a fully amortized ~~fixed rate loan~~ for a term ~~not to exceed of~~ 30 years at a fixed rate of 5.0 percent. ~~This~~ loan will be due and payable in full after 10 years. ~~The employee will make principal and interest payments monthly, as well as monthly payments into an impound account for the payment of property taxes and property insurance. The amount of the impound payments will be recalculated at the beginning of each year and adjusted as needed for changes to the cost of property taxes and property insurance.~~

~~iii. Employee shall execute a deed of trust or other recordable document, which the District will file for recording with the Mono or Inyo County Recorder, which may be a deed of trust, securing the obligations created hereunder.~~

~~iv. The Primary Loan must be paid in full upon the occurrence of any of the following events: (1) at the end of 10 years as provided above in subsection b.; (2) on Employee's sale or other conveyance of the Housing Unit; (32) one year after Employee passes away; (43) if Employee is then alive, six months after (i) Employee's separation from employment at District, or (ii) Employee no longer uses the Housing Unit as his/hers/their principal place of residence; (54) upon Employee's filing for protection under the United States Bankruptcy Code; (65) upon the award of all or any portion of the Housing Unit to Employee's spouse in a proceeding for legal separation or for dissolution of marriage; or (76) upon condemnation of the Housing Unit.~~

~~v. The Primary Loan is not assumable or transferable.~~

~~vii. Nothing in this Agreement shall be construed as creating a joint venture or other partnership relationship between Employee and District. Employee and District have solely a debtor/creditor relationship arising from this Agreement.~~

c. Employee Contribution.

Employee shall contribute a down payment of at least \$ [redacted], which is the balance of the Purchase Price of the Housing Unit ("Employee Contribution"), which shall be at least ~~7.5%~~ 5% of the total Purchase Price. The Employee Contribution shall not include any proceeds from a loan that is secured by the Housing Unit, including the Primary Loan or the District ~~Assistance Shared Value~~ Loan.

2. Execution of Documents. The Parties shall cooperate in the preparation and execution of all documents necessary to conform the purchase of the Housing Unit to the provisions of this Agreement.

3. No Additional Mortgages or Liens. Except for liens for property taxes, assessments, the deed of trust securing the Primary Loan, and the deed of trust or other security for the District Assistance Loan, Employee shall not refinance the Primary Loan or cause any mortgage, deed of trust, lien, encumbrance or other cloud upon title to be recorded

against the Housing Unit or to attach to the real property except as expressly authorized by the General Manager or District's Board of Directors as provided in the Policy. Employee shall not cause any delinquency in property taxes or any special assessment. Any refinancing of the Primary Loan shall not impair the District Assistance-Shared Value Loan and shall conform with the requirements of the Policy. Under no circumstances may Employee place anyone on title after the close of escrow for the purchase of the Housing Unit without District's prior written agreement.

4. Consent of Spouse/Partner. If Employee later marries, he/shethey shall notify District of the marriage as soon as possible. Upon receipt of such notice from Employee, District may request that Employee and Employee's spouse enter into an amendment to this Agreement for the purpose of obtaining Employee's spouse's consent to comply with the terms of this Agreement. Any refusal by Employee's spouse to execute an amendment to this Agreement as requested by District shall be deemed a breach if this Agreement in accordance with the terms of Section 5 below. This provision also shall apply if Employee enters into a registered domestic partnership in accordance with Family Code sections 297 and following.

5. Breach of Agreement. It shall be a breach of this Agreement for Employee to violate any covenant, condition or restriction in this Agreement, or to default in payment or other obligation due to be performed under a promissory note secured by a deed of trust encumbering the Housing Unit, or to breach any of the Employee's duties or obligations under said deed of trust. Employee must notify District, in writing, of any notification received from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a first deed of trust, as described herein, or of any breach of any of Employee's duties or obligations under said deed of trust, within five calendar days after Employee's notification from lender, or its assigns, of said default or past due payments or breach.

Upon receipt of a notice as described in the above paragraph, District shall have the right, in its sole discretion, to cure the default or any portion thereof. In such event, Employee shall be personally liable to District for past due payments made by District, together with interest thereon at a rate specified in the promissory note secured by the first deed of trust, plus one percent (1%) and all actual expenses of District incurred in curing the default. Employee may cure the default and satisfy his/hertheir obligation to District under this Agreement at any time prior to execution of a contract for sale, upon such reasonable terms as specified by District. Otherwise, Employee's indebtedness to District shall be satisfied from Employee's proceeds arising from Subsections 11(d), 11(e)(2) and/or 11(f) at closing or paid by Employee at the time of the repayment of the District Assistance-Shared Value Loan pursuant to Section 13.

6. Taxes, Assessments and Insurance. Employee shall pay when due all property taxes, assessments and homeowner association dues, if applicable, and all premiums for required insurance coverages for the Housing Unit without reimbursement from District. At purchase, Employee shall be required to purchase the most comprehensive, maximum limits homeowner's insurance coverage available, including full code upgrade coverage. If the Housing Unit is located within a FEMA-designated flood zone requiring the purchase of a flood insurance policy, Employee also shall obtain a flood insurance policy for the Housing Unit. In addition, Employee shall obtain an earthquake insurance policy for the Housing Unit. Employee also shall secure at least a standard form full coverage CLTA title insurance

policy on the Housing Unit. All insurance policies shall be issued in an amount not less than the purchase price or appraised value of the Property, whichever is greater, and Employee shall pay all premiums when due. Employee shall be required to continue such insurance for the term of this Agreement; and not less than every two years from the close of escrow on the Housing Unit, Employee shall be required to increase all insurance coverages in amounts consistent with the Housing Unit's estimated appreciation. All policies of insurance shall state the respective interests of the Parties and provide that the proceeds of any such insurance shall be paid to the Parties as their respective interests may appear. Nothing in this Agreement shall be construed to create in District an obligation to pay property taxes, assessments, homeowner association dues, or insurance premiums for the Housing Unit.

7. Maintenance. Employee shall maintain the Housing Unit in good condition and shall be solely responsible for all maintenance and repair costs, including uninsured losses. Employee shall pay all contractor invoices when due and shall not incur any mechanics liens or stop notices on the Housing Unit. Employee also will obtain and maintain for the first two years of ownership a home purchase warranty or similar coverage that covers the risks of failure of a Housing Unit's major structural and mechanical systems and appliances.

8. Capital Improvements. Employee may, at ~~his/her~~ their sole discretion and expense, make such reasonably necessary capital improvements to the Housing Unit as Employee deems beneficial to it. If Employee desires to receive credit for a capital improvement in the distribution of Gross Sale Proceeds under Section 11 below, a capital improvement must qualify for credit according to these criteria: (1) is performed with a building permit that is subsequently signed off by the governing authority; and (2) receives prior written approval from District. Other types of improvements and any maintenance or repair expenses will not be considered as a qualifying capital improvement. Before starting construction of and again at the completion of a qualifying capital improvement, an appraisal by a certified appraiser agreed upon by Employee and District will be conducted at Employee's expense to confirm the actual value added by the capital improvement. Employee shall be credited the value added to the Housing Unit as determined by the appraisal. Employee shall provide to District documentation that supports all expenses for permitting, constructing, and completing a capital improvement and verifies Employee's actual payment of all such expenses. Any capital improvements that are gifted or otherwise obtained from funding sources other than Employee's own funds, including insurance reimbursements, will not be considered as qualifying capital improvements for purposes of this Policy.

9. Sale of Housing Unit. Subject to the provisions of Section 11 and except as provided in Section 13, the Employee may sell the Housing Unit at any time. Any such sale of the Housing Unit shall be for an amount equal or greater than the Housing Unit's fair market value as determined by an appraisal made by a certified appraiser approved by District no sooner than 90 days prior to close of escrow for sale of the Housing Unit, unless District agrees in writing to another price.

10. Employee Purchase of District's Interest; Refinancing of Primary Loan. At any time during the term of this Agreement, Employee may propose to purchase District's interest in the Housing Unit. The proposed purchase shall be subject to the applicable conditions and procedures provided in Section 15 of the Policy. Employee also may request to refinance the Primary Loan. Any request for refinancing of the Primary Loan will be subject to the conditions and procedures provided in Section 16 of the Policy.

11. Distribution of Proceeds from Sale of the Housing Unit. Upon sale of the Housing Unit pursuant to the provisions of Section 9 or pursuant to any other circumstance, the gross proceeds of the sale (the "Gross Sale Proceeds") shall be allocated according to the following order of priority (see also Examples 1-3 attached as Exhibit 1 to this Agreement):

a. The normal and customary costs of sale, including, but not limited to, escrow fees, real estate brokers' fees, and related expenses, shall be deducted from the Gross Sale Proceeds of the Housing Unit.

b. The outstanding balance on the Primary Loan shall be paid in full to the ~~primary lender or its successor in interest~~ District from the Gross Sale Proceeds, if the Primary Loan term has not terminated. If the District Primary Loan has been paid off and Employee has secured a new primary loan, that loan shall be paid in full. In the event the Gross Sale Proceeds are insufficient to pay the Primary Loan balance, ~~District shall not be liable for payment of the Primary Loan. Employee shall pay the remaining balance due and District shall not be liable for payment of any portion of the Primary Loan.~~

c. To the extent Gross Sale Proceeds remain, District shall be distributed an amount equal to the amount ~~of the District's contributed to Employee's purchase of the Housing Unit~~ Shared Value loan. This distribution does not include any apportionment made of the Remaining Gross Sale Proceeds discussed in paragraph e. below.

d. To the extent Gross Sale Proceeds remain, Employee shall receive the amount of the Employee Contribution, plus the total amount that Employee has then paid towards the principal of the Primary Loan, and the amount credited to the Employee for Capital Improvements on the Housing Unit under the provisions of Section 8 above.

e. Any remaining Gross Sale Proceeds (the "Remaining Gross Sale Proceeds") shall be shared between District and Employee as follows:

(1) District shall receive a percentage of the Remaining Gross Sale Proceeds equal to the amount of the District ~~Assistance-Shared Value~~ Loan divided by the purchase price increased by the amount credited for any approved capital improvements. In no event, however, may District earn an annualized rate of return over the term of the entire loan greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. That rate is the higher of either 10 percent per annum or 5 percent over the rate charged by the Federal Reserve Bank of San Francisco on advances to member banks on the 25th day of the month before the home purchase assistance loan (if the agreement to loan and the actual lending of the money are in different months, the 25th day of the month before the earlier events is used) per annum.

(2) Employee shall receive a percentage of the Remaining Gross Sale Proceeds equal to the amount of the Employee Contribution, the Primary Loan, and the amount credited for approved capital improvements, divided by the Purchase Price, as increased by the amount of any approved Capital Improvements, plus any funds, if any, District is not entitled to receive due to the fact that District is receiving its maximum permissible rate of return under Subsection e.(1), above.

f. In the event that any of the Gross Sale Proceeds are needed to pay any liens, taxes (delinquent or otherwise) or other adverse encumbrances, the amount of Gross Sale Proceeds so expended shall be deducted from any amounts due Employee pursuant to paragraphs d. and e.(2).

12. Repayment of District ~~Assistance-Loans~~ Upon Other Than a Sale Event.

a. Events Triggering Repayment of District ~~Assistance-Loans~~. Upon any of the following events, Employee shall repay the District ~~Assistance-Loans~~ in accordance with the provisions of paragraph b. below: (i) upon condemnation of the Housing Unit; (ii) the award of all or any portion of the Housing Unit to Employee's spouse in a proceeding for legal separation or for dissolution of marriage; (iii) upon the Employee filing for protection under the United States Bankruptcy Code; (iv) upon any other event other than a sale event whereby Employee no longer occupies the Housing Unit as [his or her] principal residence; or (v) a breach of this Agreement that is not cured by Employee. The District ~~Assistance Loans~~ shall be repaid in accordance with the provisions of paragraph b. below within: (i) six months of Employee's separation from employment at District; or (ii) within twelve months of the Employee's death.

b. Amount Paid to District. Upon the occurrence of any of the events described in paragraph a. above, District shall be repaid the balance due on the Primary ~~Loan~~ and the amount ~~that District paid toward the Purchase Price of the District Shared Value ~~Loan~~~~, plus a share of the appreciation in the Housing Unit determined as follows: The Parties shall endeavor to agree on an appraiser to determine the fair market value of the Housing Unit. District shall pay for the appraisal. If the Parties are unable to agree on an appraiser within 10 days after the occurrence of one of the above-described events, District shall have an appraisal made by an appraiser of its choice to establish the fair market value. Employee also may, at ~~his/hers~~their expense, have an appraisal made by an appraiser of Employee's choice to establish the fair market value. If Employee secures such an appraisal within 30 days after the event and agreement cannot be reached by the Parties on the fair market value, the average of the two appraisals shall be deemed to be the fair market value. If Employee does not secure an appraisal within the 30-day period, then District's appraisal shall be the fair market value. District's share of appreciation in the Housing Unit shall be determined from the following calculation: fair market value of the Housing Unit minus the Purchase Price of Housing Unit, plus the total amount credited to the Employee for Capital Improvements on the Housing Unit under the provisions of Section 8 above, multiplied by a percentage equal to the ratio of the amount that District contributed to the Purchase Price and the Purchase Price increased by the amount credited for authorized Capital Improvements; provided that in no event may District earn an annualized rate of return over the term of the entire loan greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. Such rate is the higher of either 10% per annum or 5% over the rate charged by the Federal Reserve Bank of San Francisco on advances to member banks on the 25<sup>th</sup> day of the month before the loan (if the agreement to loan and the actual lending of the money are in different months, the 25<sup>th</sup> day of the month before the earlier events is used) per annum.

13. District's Right of First Refusal. In the event the Housing Unit is offered for sale pursuant to Section 9, District shall have the first right to purchase the Housing Unit in accordance with the following provisions. If Employee desires to sell the Housing Unit,

he/she/they shall first offer in writing to sell such Unit to District. If District desires to purchase the Housing Unit, it shall so advise Employee in writing within 30 days from the date of Employee's written offer, unless the Parties agree to an extension in writing. In the event District desires to purchase the Housing Unit, then within 30 days from District's written notice of such desire, District and Employee shall agree on a certified appraiser to perform an appraisal of the Housing Unit. If the Parties cannot agree on a certified appraiser, then District shall have the right to select such appraiser. The appraisal shall be paid for by District. The appraisal shall determine the then fair market value of the Housing Unit. The District's purchase price for the Housing Unit shall be the appraised fair market value minus 5 percent to reflect the Employee's avoided payment of realtor commissions ("District Purchase Price"). If District desires to pursue the purchase of the Housing Unit, District shall submit the amount of the District Purchase Price less the payoff amount of the Employee's District Assistance Loan into an escrow opened for the consummation of the sale within 30 days after receipt of the appraisal report. In order to implement the sale of the Housing Unit to District, the Parties shall open an escrow with a mutually agreed title company within 30 days after District gives written notice of its desire to purchase the Housing Unit. District shall receive good, clear marketable title to the Housing Unit. If District desires to obtain title insurance, the premium for that insurance shall be at its expense. District's payment shall be distributed in accordance with the provisions of Section 11.

In the event that the Housing Unit is required to be sold and any such sale is not otherwise controlled by a court or other legal process, District, within 30 days after the date which commences the requirement to sell the Housing Unit, shall notify Employee and/or Employee's successor in writing whether or not it desires to purchase the Housing Unit. If it desires to purchase the Housing Unit, then within 30 days from District's written notice of such desire, District and Employee and/or his/her/their successor shall agree on a certified appraiser to perform an appraisal of the Housing Unit. If the parties cannot agree on a certified appraiser, then District shall have the right to select such appraiser. The appraisal shall be paid for by District. The appraisal shall determine the then fair market value of the Housing Unit. If District desires to purchase the Housing Unit, District shall submit the amount of the District Purchase Price less the payoff amount of the Employee's District Assistance Loan into an escrow opened for the consummation of the sale within 30 days after receipt of the appraisal report. In order to effect the conveyance of the Housing Unit from Employee or Employee's successor to District, the Parties shall open an escrow with a mutually agreed title company within 30 days after District gives written notice of its desire to purchase the Housing Unit. District shall receive good, clear marketable title to the Housing Unit. If District desires title insurance, the premium for that insurance shall be at its expense. District's payment shall be distributed in accordance with the provisions of Section 11.

If District so elects, the Parties shall execute, and District shall record, a memorandum reflecting District's rights under this Section 13.

\_\_\_\_ **Employee Shall Initial To Acknowledge That He/She/They Understands That He/She/They are/is Conveying to District a Right of First Refusal, As Provided Herein.**

14. Employee Disclosure Obligations. Employee shall remain current in all financial obligations of ownership of the Housing Unit, including but not limited to payment of principal and interest on the primary loan, all insurance premiums, taxes, HOA fees and special assessments. By December 1 of each year, Employee shall submit documentation that confirms his/her/their compliance with these requirements. If, at any time, Employee is in default of any financial obligation and cannot promptly cure the default, he/she/they shall notify the General Manager as soon as possible.

15. No Joint Venture. Nothing in this Agreement shall be construed as creating a joint venture or other partnership relationship between Employee and District. Employee and District have solely a debtor/creditor relationship arising from this Agreement.

~~15.16.~~ Tax Consequences. Each Party shall be solely responsible for its own tax consequences arising out of this Agreement, as well as its own tax consequences arising out of any transaction consummated to which the provisions of this Agreement apply.

176. Warranties and Representations. The Parties warrant and represent that no promise or inducement has been offered or made for this Agreement except as set forth herein, that this Agreement is executed without reliance on any statement or any representations not contained herein, including all exhibits, and that this Agreement reflects the entire agreement between the Parties. The warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, successors and assign of each of the Parties.

187. Entire Agreement. This Agreement is freely and voluntarily entered into by the Parties after having had the opportunity to consult with their respective attorneys. This Agreement represents the entire agreement of the Parties, and may be modified, amended or otherwise altered only upon written consent of the Parties.

198. Assignment. The Parties acknowledge and agree that this Agreement is not assignable by any Party, unless approved in writing by each of the Parties.

20. Attorney's Fees and Costs. If any arbitration, action at law or in equity, or other proceeding is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may otherwise be entitled.

21. Binding Effect. Subject to the provisions of Section 197, this Agreement shall inure to the benefit of and be binding upon the heirs, assigns and successors in interest of the Parties.

22. Counterparts. This Agreement may be executed in multiple counterparts.

23. Additional Documents. The Parties agree to execute such additional documents and do such further things as are reasonably necessary to effectuate the purposes of this Agreement.

24. Waiver of Rights. Any waiver at any time by any Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

25. Remedies Not Exclusive. The use by any Party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the Party using such remedy of, or limit the application of, any other remedy provided by law. In addition, if any Party fails to comply with any of its obligations hereunder, the other Party shall have the right to pursue all rights and remedies which may be available to it at law or in equity, including without limitation the specific performance of any such obligations.

26. Interpretation of this Agreement. The Parties acknowledge that each Party has reviewed, negotiated and revised this Agreement and that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by either Party in connection with the transactions contemplated by this Agreement. The section headings used in this Agreement are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this Agreement.

27. Effective Date and Term. This Agreement shall be effective on the date stated in the preamble and shall terminate upon the happening of any of the following: (i) the cancellation of the purchase of the Housing Unit by Employee; (ii) the sale of the Housing Unit and repayment of the District Assistance Loan; (iii) District's purchase of the Housing Unit; or (iv) repayment of the District Assistance Loan pursuant to Section 13.

28. Recitals. The recitals on pages 1 and 2 of this Agreement are true and are made of this Agreement.

29. Notices. All notices required to be given by any Party shall be made in writing and shall be effectuated (i) by personal delivery, (ii) via reputable overnight courier service, or (iii) by mail, registered or certified, postage prepaid with return receipt requested. Notices sent by overnight courier or mail must be addressed to the Parties at their addresses shown below, but each Party may change its designated address by giving written notice to the other Party in accordance with the provisions of this Section 27. Notices delivered personally shall be deemed communicated as of the date of actual receipt; notices sent via overnight courier shall be deemed communicated as of the date delivered by the courier; and mailed notices shall be deemed communicated as of the date of receipt or the third day after mailing, whichever occurs first. The Parties' addresses are as follows:

Employee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, CA 93\_\_\_\_

District:

Mammoth Community Water District  
Attn: General Manager  
P.O. Box 597



1315 Meridian Blvd.  
Mammoth Lakes, CA 93546

IN WITNESS WHEREOF, this Agreement is made effective as of the date set forth in the preamble as follows:

MAMMOTH COMMUNITY WATER DISTRICT:

By: \_\_\_\_\_  
Mark Busby, General Manager

EMPLOYEE:

\_\_\_\_\_  
[Employee Name]

**[Note: If an Employee is married or is in a registered domestic partnership, the Employee's spouse or partner must be made a signatory to this agreement if they hold title jointly with the Employee. The agreement also should be edited as appropriate to include the name of the spouse/partner and make all obligations joint. If the Employee is taking title as his or her sole and separate property, the spouse/partner or must sign an acknowledgement of the terms of this agreement and agree to be bound by all applicable terms.]**

**MAMMOTH COMMUNITY WATER DISTRICT**  
**EMPLOYEE HOME DOWN PAYMENT ASSISTANCE AGREEMENT**  
**(Combined Primary Loan/Shared Value Program)**

This Employee Home Down Payment Assistance Agreement – Combined Primary Loan/Shared Value Program (“Agreement”) is made and entered into this \_\_\_\_\_, 20\_\_\_\_, at Mammoth Lakes, California, by and between the Mammoth Community Water District, a California special district (“District”), and [name] (“Employee”) (collectively referred to as the “Parties” and individually as a “Party”), and is made with reference to the following facts:

**Recitals:**

A. District has a vested interest in maintaining the most skilled and professional workforce possible, and has established the Employee Home Purchase Assistance Program to address the obstacle of high housing cost in recruiting and retaining excellent employees. The Program is governed by the Employee Home Purchase Assistance Program Policy, as amended by the District’s Board of Directors from time to time (“Policy”).

B. Employee is a permanent [full-time part-time][title of position] and has complied with the requirements of the Employee Home Purchase Assistance Program by (1) submitting a true and complete application which includes evidence confirming qualification for the District primary loan as provided in the Policy; (2) making an offer to purchase the Housing Unit contingent on the price being not greater than 10% above the appraised value of the property, conditioned upon the District’s approval of the purchase price, structural soundness and code compliance of the Housing Unit; and (3) providing the District with a copy of the certified appraisal and certified home inspection report.

C. District has provided a letter to Employee dated \_\_\_\_\_, 20\_\_\_\_ informing them that for up to 120 days from the date of the letter, Employee is eligible to receive a maximum amount of \$\_\_\_\_\_ in financial assistance (“Eligibility Amount”) from District in the form of a 30-year fully amortized Primary loan due and payable in full after 10 years and a Shared Value secured deferred interest loan, as those terms are defined below, for the purchase by Employee of a residential unit located at [address] (“Housing Unit”).

D. District has provided to Employee written notification of its approval of Employee’s purchase of the Housing Unit in the amount of \$\_\_\_\_\_ (“Purchase Price”), having concluded that the purchase price is not greater than 10% above the appraised value, and that the structural soundness and code compliance requirements are satisfied after reviewing the appraisal and home inspection report.

E. District and Employee have negotiated this Agreement respecting District’s financial assistance to the Employee for the purchase of the Housing Unit, which Employee intends to use as their primary home, subject to the terms and conditions of this Agreement and the Policy.

**Agreement:**

NOW, THEREFORE, the Parties agree as follows:

1. Method of Purchase of Home. Funds used to purchase the Housing Unit shall be comprised of the “District Primary Loan,” “District Shared Value Loan,” and the “Employee Contribution” as provided herein:

a. District’s Shared Value Loan.

i. District shall contribute up to \$ [redacted] to Employee toward Employee’s purchase of the Housing Unit (the “District Shared Value Loan”), provided the amount of the District Assistance Loan is the lesser of: (1) the Eligibility Amount; (2) 50% of the Purchase Price; or (3) \$500,000. If the purchase of the Housing Unit by Employee fails for any reason, the District Shared Value Loan shall be returned to District.

ii. The District Shared Value Loan shall be made in the form of a “secured deferred interest loan,” which means that District shall share in the future appreciation of the Housing Unit.

iii. Employee shall execute a deed of trust or other recordable document, which the District will file for recording with the Mono or Inyo County Recorder, securing the obligations created hereunder.

iv. The District Shared Value Loan must be paid in full upon the occurrence of any of the following events: (1) on Employee’s sale or other conveyance of the Housing Unit; (2) one year after Employee passes away; (3) if Employee is then alive, six months after (i) Employee’s separation from employment at District, or (ii) Employee no longer uses the Housing Unit as their principal place of residence; (4) upon Employee’s filing for protection under the United States Bankruptcy Code; (5) upon the award of all or any portion of the Housing Unit to Employee’s spouse in a proceeding for legal separation or for dissolution of marriage; or (6) upon condemnation of the Housing Unit.

v. The District Shared Value Loan is not assumable or transferable.

vi. Upon close of escrow for Employee’s purchase, the Housing Unit may have a lien securing the Primary Loan, as defined below, which lien may be superior to the lien of the District Assistance Loan, but shall not be subject to any other mortgage, deed of trust, lien or other adverse encumbrance, except for real property taxes and special assessments and other encumbrances specifically approved by District.

b. Primary Loan.

i. The District shall provide a first loan of \$ [redacted] for purchase of the Housing Unit (“Primary Loan”). The Primary Loan will be fully amortized for a term of 30 years at a fixed rate of 5.0 percent. This loan will be due and payable in full after 10 years. The employee will make principal and interest payments monthly, as well as monthly payments into an impound account for the payment of property taxes and property insurance.

The amount of the impound payments will be recalculated at the beginning of each year and adjusted as needed for changes to the cost of property taxes and property insurance.

ii. Employee shall execute a deed of trust or other recordable document, which the District will file for recording with the Mono or Inyo County Recorder, securing the obligations created hereunder.

iii. The Primary Loan must be paid in full upon the occurrence of any of the following events: (1) at the end of 10 years as provided above in subsection b.; (2) on Employee's sale or other conveyance of the Housing Unit; (3) one year after Employee passes away; (4) if Employee is then alive, six months after (i) Employee's separation from employment at District, or (ii) Employee no longer uses the Housing Unit as their principal place of residence; (5) upon Employee's filing for protection under the United States Bankruptcy Code; (6) upon the award of all or any portion of the Housing Unit to Employee's spouse in a proceeding for legal separation or for dissolution of marriage; or (7) upon condemnation of the Housing Unit.

iv. The Primary Loan is not assumable or transferable.

c. Employee Contribution.

Employee shall contribute a down payment of at least \$ [REDACTED], which is the balance of the Purchase Price of the Housing Unit ("Employee Contribution"), which shall be at least 7.5% of the total Purchase Price. The Employee Contribution shall not include any proceeds from a loan that is secured by the Housing Unit, including the Primary Loan or the District Shared Value Loan.

2. Execution of Documents. The Parties shall cooperate in the preparation and execution of all documents necessary to conform the purchase of the Housing Unit to the provisions of this Agreement.

3. No Additional Mortgages or Liens. Except for liens for property taxes, assessments, the deed of trust securing the Primary Loan, and the deed of trust or other security for the District Assistance Loan, Employee shall not refinance the Primary Loan or cause any mortgage, deed of trust, lien, encumbrance or other cloud upon title to be recorded against the Housing Unit or to attach to the real property except as expressly authorized by the General Manager or District's Board of Directors as provided in the Policy. Employee shall not cause any delinquency in property taxes or any special assessment. Any refinancing of the Primary Loan shall not impair the District Shared Value Loan and shall conform with the requirements of the Policy. Under no circumstances may Employee place anyone on title after the close of escrow for the purchase of the Housing Unit without District's prior written agreement.

4. Consent of Spouse/Partner. If Employee later marries, they shall notify District of the marriage as soon as possible. Upon receipt of such notice from Employee, District may request that Employee and Employee's spouse enter into an amendment to this Agreement for the purpose of obtaining Employee's spouse's consent to comply with the terms of this Agreement. Any refusal by Employee's spouse to execute an amendment to this Agreement as requested by District shall be deemed a breach if this Agreement in accordance

with the terms of Section 5 below. This provision also shall apply if Employee enters into a registered domestic partnership in accordance with Family Code sections 297 and following.

5. Breach of Agreement. It shall be a breach of this Agreement for Employee to violate any covenant, condition or restriction in this Agreement, or to default in payment or other obligation due to be performed under a promissory note secured by a deed of trust encumbering the Housing Unit, or to breach any of the Employee's duties or obligations under said deed of trust. Employee must notify District, in writing, of any notification received from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a first deed of trust, as described herein, or of any breach of any of Employee's duties or obligations under said deed of trust, within five calendar days after Employee's notification from lender, or its assigns, of said default or past due payments or breach.

Upon receipt of a notice as described in the above paragraph, District shall have the right, in its sole discretion, to cure the default or any portion thereof. In such event, Employee shall be personally liable to District for past due payments made by District, together with interest thereon at a rate specified in the promissory note secured by the first deed of trust, plus one percent (1%) and all actual expenses of District incurred in curing the default. Employee may cure the default and satisfy their obligation to District under this Agreement at any time prior to execution of a contract for sale, upon such reasonable terms as specified by District. Otherwise, Employee's indebtedness to District shall be satisfied from Employee's proceeds arising from Subsections 11(d), 11(e)(2) and/or 11(f) at closing or paid by Employee at the time of the repayment of the District Shared Value Loan pursuant to Section 13.

6. Taxes, Assessments and Insurance. Employee shall pay when due all property taxes, assessments and homeowner association dues, if applicable, and all premiums for required insurance coverages for the Housing Unit without reimbursement from District. At purchase, Employee shall be required to purchase the most comprehensive, maximum limits homeowner's insurance coverage available, including full code upgrade coverage. If the Housing Unit is located within a FEMA-designated flood zone requiring the purchase of a flood insurance policy, Employee also shall obtain a flood insurance policy for the Housing Unit. In addition, Employee shall obtain an earthquake insurance policy for the Housing Unit. Employee also shall secure at least a standard form full coverage CLTA title insurance policy on the Housing Unit. All insurance policies shall be issued in an amount not less than the purchase price or appraised value of the Property, whichever is greater, and Employee shall pay all premiums when due. Employee shall be required to continue such insurance for the term of this Agreement; and not less than every two years from the close of escrow on the Housing Unit, Employee shall be required to increase all insurance coverages in amounts consistent with the Housing Unit's estimated appreciation. All policies of insurance shall state the respective interests of the Parties and provide that the proceeds of any such insurance shall be paid to the Parties as their respective interests may appear. Nothing in this Agreement shall be construed to create in District an obligation to pay property taxes, assessments, homeowner association dues, or insurance premiums for the Housing Unit.

7. Maintenance. Employee shall maintain the Housing Unit in good condition and shall be solely responsible for all maintenance and repair costs, including uninsured losses. Employee shall pay all contractor invoices when due and shall not incur any mechanics liens or stop notices on the Housing Unit. Employee also will obtain and maintain for the first two

years of ownership a home purchase warranty or similar coverage that covers the risks of failure of a Housing Unit's major structural and mechanical systems and appliances.

8. Capital Improvements. Employee may, at their sole discretion and expense, make such reasonably necessary capital improvements to the Housing Unit as Employee deems beneficial to it. If Employee desires to receive credit for a capital improvement in the distribution of Gross Sale Proceeds under Section 11 below, a capital improvement must qualify for credit according to these criteria: (1) is performed with a building permit that is subsequently signed off by the governing authority; and (2) receives prior written approval from District. Other types of improvements and any maintenance or repair expenses will not be considered as a qualifying capital improvement. Before starting construction of and again at the completion of a qualifying capital improvement, an appraisal by a certified appraiser agreed upon by Employee and District will be conducted at Employee's expense to confirm the actual value added by the capital improvement. Employee shall be credited the value added to the Housing Unit as determined by the appraisal. Employee shall provide to District documentation that supports all expenses for permitting, constructing, and completing a capital improvement and verifies Employee's actual payment of all such expenses. Any capital improvements that are gifted or otherwise obtained from funding sources other than Employee's own funds, including insurance reimbursements, will not be considered as qualifying capital improvements for purposes of this Policy.

9. Sale of Housing Unit. Subject to the provisions of Section 11 and except as provided in Section 13, the Employee may sell the Housing Unit at any time. Any such sale of the Housing Unit shall be for an amount equal or greater than the Housing Unit's fair market value as determined by an appraisal made by a certified appraiser approved by District no sooner than 90 days prior to close of escrow for sale of the Housing Unit, unless District agrees in writing to another price.

10. Employee Purchase of District's Interest; Refinancing of Primary Loan. At any time during the term of this Agreement, Employee may propose to purchase District's interest in the Housing Unit. The proposed purchase shall be subject to the applicable conditions and procedures provided in Section 15 of the Policy. Employee also may request to refinance the Primary Loan. Any request for refinancing of the Primary Loan will be subject to the conditions and procedures provided in Section 16 of the Policy.

11. Distribution of Proceeds from Sale of the Housing Unit. Upon sale of the Housing Unit pursuant to the provisions of Section 9 or pursuant to any other circumstance, the gross proceeds of the sale (the "Gross Sale Proceeds") shall be allocated according to the following order of priority (see also Examples 1-3 attached as Exhibit 1 to this Agreement):

a. The normal and customary costs of sale, including, but not limited to, escrow fees, real estate brokers' fees, and related expenses, shall be deducted from the Gross Sale Proceeds of the Housing Unit.

b. The outstanding balance on the Primary Loan shall be paid in full to the District from the Gross Sale Proceeds, if the Primary Loan term has not terminated. If the District Primary Loan has been paid off and Employee has secured a new primary loan, that loan shall be paid in full. In the event the Gross Sale Proceeds are insufficient to pay the

Primary Loan balance, Employee shall pay the remaining balance due and District shall not be liable for payment of any portion of the Primary Loan.

c. To the extent Gross Sale Proceeds remain, District shall be distributed an amount equal to the amount of the District's Shared Value loan. This distribution does not include any apportionment made of the Remaining Gross Sale Proceeds discussed in paragraph e. below.

d. To the extent Gross Sale Proceeds remain, Employee shall receive the amount of the Employee Contribution, plus the total amount that Employee has then paid towards the principal of the Primary Loan, and the amount credited to the Employee for Capital Improvements on the Housing Unit under the provisions of Section 8 above.

e. Any remaining Gross Sale Proceeds (the "Remaining Gross Sale Proceeds") shall be shared between District and Employee as follows:

(1) District shall receive a percentage of the Remaining Gross Sale Proceeds equal to the amount of the District Shared Value Loan divided by the purchase price increased by the amount credited for any approved capital improvements. In no event, however, may District earn an annualized rate of return over the term of the entire loan greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. That rate is the higher of either 10 percent per annum or 5 percent over the rate charged by the Federal Reserve Bank of San Francisco on advances to member banks on the 25th day of the month before the home purchase assistance loan (if the agreement to loan and the actual lending of the money are in different months, the 25th day of the month before the earlier events is used) per annum.

(2) Employee shall receive a percentage of the Remaining Gross Sale Proceeds equal to the amount of the Employee Contribution, the Primary Loan, and the amount credited for approved capital improvements, divided by the Purchase Price, as increased by the amount of any approved Capital Improvements, plus any funds, if any, District is not entitled to receive due to the fact that District is receiving its maximum permissible rate of return under Subsection e.(1), above.

f. In the event that any of the Gross Sale Proceeds are needed to pay any liens, taxes (delinquent or otherwise) or other adverse encumbrances, the amount of Gross Sale Proceeds so expended shall be deducted from any amounts due Employee pursuant to paragraphs d. and e.(2).

12. Repayment of District Loans Upon Other Than a Sale Event.

a. Events Triggering Repayment of District Loans. Upon any of the following events, Employee shall repay the District Loans in accordance with the provisions of paragraph b. below: (i) upon condemnation of the Housing Unit; (ii) the award of all or any portion of the Housing Unit to Employee's spouse in a proceeding for legal separation or for dissolution of marriage; (iii) upon the Employee filing for protection under the United States Bankruptcy Code; (iv) upon any other event other than a sale event whereby Employee no longer occupies the Housing Unit as [his or her] principal residence; or (v) a breach of this Agreement that is not cured by Employee. The District Loans shall be repaid in accordance

with the provisions of paragraph b. below within: (i) six months of Employee's separation from employment at District; or (ii) within twelve months of the Employee's death.

b. Amount Paid to District. Upon the occurrence of any of the events described in paragraph a. above, District shall be repaid the balance due on the Primary Loan and the amount of the District Shared Value Loan, plus a share of the appreciation in the Housing Unit determined as follows: The Parties shall endeavor to agree on an appraiser to determine the fair market value of the Housing Unit. District shall pay for the appraisal. If the Parties are unable to agree on an appraiser within 10 days after the occurrence of one of the above-described events, District shall have an appraisal made by an appraiser of its choice to establish the fair market value. Employee also may, at their expense, have an appraisal made by an appraiser of Employee's choice to establish the fair market value. If Employee secures such an appraisal within 30 days after the event and agreement cannot be reached by the Parties on the fair market value, the average of the two appraisals shall be deemed to be the fair market value. If Employee does not secure an appraisal within the 30-day period, then District's appraisal shall be the fair market value. District's share of appreciation in the Housing Unit shall be determined from the following calculation: fair market value of the Housing Unit minus the Purchase Price of Housing Unit, plus the total amount credited to the Employee for Capital Improvements on the Housing Unit under the provisions of Section 8 above, multiplied by a percentage equal to the ratio of the amount that District contributed to the Purchase Price and the Purchase Price increased by the amount credited for authorized Capital Improvements; provided that in no event may District earn an annualized rate of return over the term of the entire loan greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. Such rate is the higher of either 10% per annum or 5% over the rate charged by the Federal Reserve Bank of San Francisco on advances to member banks on the 25<sup>th</sup> day of the month before the loan (if the agreement to loan and the actual lending of the money are in different months, the 25<sup>th</sup> day of the month before the earlier events is used) per annum.

13. District's Right of First Refusal. In the event the Housing Unit is offered for sale pursuant to Section 9, District shall have the first right to purchase the Housing Unit in accordance with the following provisions. If Employee desires to sell the Housing Unit, they shall first offer in writing to sell such Unit to District. If District desires to purchase the Housing Unit, it shall so advise Employee in writing within 30 days from the date of Employee's written offer, unless the Parties agree to an extension in writing. In the event District desires to purchase the Housing Unit, then within 30 days from District's written notice of such desire, District and Employee shall agree on a certified appraiser to perform an appraisal of the Housing Unit. If the Parties cannot agree on a certified appraiser, then District shall have the right to select such appraiser. The appraisal shall be paid for by District. The appraisal shall determine the then fair market value of the Housing Unit. The District's purchase price for the Housing Unit shall be the appraised fair market value minus 5 percent to reflect the Employee's avoided payment of realtor commissions ("District Purchase Price"). If District desires to pursue the purchase of the Housing Unit, District shall submit the amount of the District Purchase Price less the payoff amount of the Employee's District Assistance Loan into an escrow opened for the consummation of the sale within 30 days after receipt of the appraisal report. In order to implement the sale of the Housing Unit to District, the Parties shall open an escrow with a mutually agreed title company within 30 days after District gives written notice of its desire to purchase the Housing Unit. District shall receive good, clear marketable title to the Housing Unit. If District desires to obtain



title insurance, the premium for that insurance shall be at its expense. District's payment shall be distributed in accordance with the provisions of Section 11.

In the event that the Housing Unit is required to be sold and any such sale is not otherwise controlled by a court or other legal process, District, within 30 days after the date which commences the requirement to sell the Housing Unit, shall notify Employee and/or Employee's successor in writing whether or not it desires to purchase the Housing Unit. If it desires to purchase the Housing Unit, then within 30 days from District's written notice of such desire, District and Employee and/or their successor shall agree on a certified appraiser to perform an appraisal of the Housing Unit. If the parties cannot agree on a certified appraiser, then District shall have the right to select such appraiser. The appraisal shall be paid for by District. The appraisal shall determine the then fair market value of the Housing Unit. If District desires to purchase the Housing Unit, District shall submit the amount of the District Purchase Price less the payoff amount of the Employee's District Assistance Loan into an escrow opened for the consummation of the sale within 30 days after receipt of the appraisal report. In order to effect the conveyance of the Housing Unit from Employee or Employee's successor to District, the Parties shall open an escrow with a mutually agreed title company within 30 days after District gives written notice of its desire to purchase the Housing Unit. District shall receive good, clear marketable title to the Housing Unit. If District desires title insurance, the premium for that insurance shall be at its expense. District's payment shall be distributed in accordance with the provisions of Section 11.

If District so elects, the Parties shall execute, and District shall record, a memorandum reflecting District's rights under this Section 13.

\_\_\_\_\_ **Employee Shall Initial To Acknowledge That They Understand That They are Conveying to District a Right of First Refusal, As Provided Herein.**

14. Employee Disclosure Obligations. Employee shall remain current in all financial obligations of ownership of the Housing Unit, including but not limited to payment of principal and interest on the primary loan, all insurance premiums, taxes, HOA fees and special assessments. By December 1 of each year, Employee shall submit documentation that confirms their compliance with these requirements. If, at any time, Employee is in default of any financial obligation and cannot promptly cure the default, they shall notify the General Manager as soon as possible.

15. No Joint Venture. Nothing in this Agreement shall be construed as creating a joint venture or other partnership relationship between Employee and District. Employee and District have solely a debtor/creditor relationship arising from this Agreement.

16. Tax Consequences. Each Party shall be solely responsible for its own tax consequences arising out of this Agreement, as well as its own tax consequences arising out of any transaction consummated to which the provisions of this Agreement apply.

17. Warranties and Representations. The Parties warrant and represent that no promise or inducement has been offered or made for this Agreement except as set forth herein, that this Agreement is executed without reliance on any statement or any representations not contained herein, including all exhibits, and that this Agreement reflects

the entire agreement between the Parties. The warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, successors and assigns of each of the Parties.

18. Entire Agreement. This Agreement is freely and voluntarily entered into by the Parties after having had the opportunity to consult with their respective attorneys. This Agreement represents the entire agreement of the Parties, and may be modified, amended or otherwise altered only upon written consent of the Parties.

19. Assignment. The Parties acknowledge and agree that this Agreement is not assignable by any Party, unless approved in writing by each of the Parties.

20. Attorney's Fees and Costs. If any arbitration, action at law or in equity, or other proceeding is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may otherwise be entitled.

21. Binding Effect. Subject to the provisions of Section 19, this Agreement shall inure to the benefit of and be binding upon the heirs, assigns and successors in interest of the Parties.

22. Counterparts. This Agreement may be executed in multiple counterparts.

23. Additional Documents. The Parties agree to execute such additional documents and do such further things as are reasonably necessary to effectuate the purposes of this Agreement.

24. Waiver of Rights. Any waiver at any time by any Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

25. Remedies Not Exclusive. The use by any Party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the Party using such remedy of, or limit the application of, any other remedy provided by law. In addition, if any Party fails to comply with any of its obligations hereunder, the other Party shall have the right to pursue all rights and remedies which may be available to it at law or in equity, including without limitation the specific performance of any such obligations.

26. Interpretation of this Agreement. The Parties acknowledge that each Party has reviewed, negotiated and revised this Agreement and that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by either Party in connection with the transactions contemplated by this Agreement. The section headings used in this Agreement are for reference only and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this Agreement.

27. Effective Date and Term. This Agreement shall be effective on the date stated in the preamble and shall terminate upon the happening of any of the following: (i) the cancellation of the purchase of the Housing Unit by Employee; (ii) the sale of the Housing

Unit and repayment of the District Assistance Loan; (iii) District's purchase of the Housing Unit; or (iv) repayment of the District Assistance Loan pursuant to Section 13.

28. Recitals. The recitals on pages 1 and 2 of this Agreement are true and are made of this Agreement.

29. Notices. All notices required to be given by any Party shall be made in writing and shall be effectuated (i) by personal delivery, (ii) via reputable overnight courier service, or (iii) by mail, registered or certified, postage prepaid with return receipt requested. Notices sent by overnight courier or mail must be addressed to the Parties at their addresses shown below, but each Party may change its designated address by giving written notice to the other Party in accordance with the provisions of this Section 27. Notices delivered personally shall be deemed communicated as of the date of actual receipt; notices sent via overnight courier shall be deemed communicated as of the date delivered by the courier; and mailed notices shall be deemed communicated as of the date of receipt or the third day after mailing, whichever occurs first. The Parties' addresses are as follows:

Employee:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, CA 93\_\_\_\_

District:  
Mammoth Community Water District  
Attn: General Manager  
P.O. Box 597  
1315 Meridian Blvd.  
Mammoth Lakes, CA 93546

IN WITNESS WHEREOF, this Agreement is made effective as of the date set forth in the preamble as follows:

MAMMOTH COMMUNITY WATER DISTRICT:

By: \_\_\_\_\_  
Mark Busby, General Manager

EMPLOYEE:

\_\_\_\_\_  
[Employee Name]

**[Note: If an Employee is married or is in a registered domestic partnership, the Employee's spouse or partner must be made a signatory to this agreement if they hold title jointly with the Employee. The agreement also should be edited as appropriate to include the name of the spouse/partner and make all obligations joint. If the Employee is taking title as his or her sole and separate property, the spouse/partner or must sign an acknowledgement of the terms of this agreement and agree to be bound by all applicable terms.]**

## AGENDA ITEM

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**Subject:** Discuss and Consider Approving:

- a. Approve Amending the Fiscal Year 2024 Budget to Increase Expenditures for Employee Home Purchase Assistance Loans by \$1,600,000
- b. Direct Staff to Transfer \$1,600,000 from the Reserve Fund to the New Enterprise Fund to Cover Budget Increase

**Information Provided By:** Jeff Beatty, Finance Manager

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### **Background**

The adopted budget for fiscal year 2024 (FY24) included \$1,500,000 for employee housing, both for the purchase of condominiums for employee rental units and for employee home purchase assistance loans. The District has purchased two 2-bedroom condominiums and provided loans to assist two employees in the purchase of homes. The total spent so far this year is \$1,634,480.

### **Discussion**

If the Board approves the proposed amendment (agenda item no. 1) to add a combined shared value/primary loan option to the Employee Home Purchases Assistance Program, there will be additional opportunities for employees to use the program. One employee is currently in escrow and will use the new program if approved. The two employees who recently purchased and obtained a primary loan at a higher interest rate might exercise the option to convert to the new program to refinance their existing primary loans. \$1,600,000 is approximately what would be needed to meet the anticipated need.

### **Financial Impact**

Any new loans made under the employee home purchase assistance program would reduce the District's reserve fund balances with a corresponding increase to the District's notes receivable. The District reserve funds are set aside for future capital needs. The current reserve balance is approximately \$31,000,000, and the District typically spends between \$4,000,000 and \$6,000,000 per year on capital projects. The provisions of the proposed Shared Value/Primary Loan agreement require the loan be paid in full at the end of 10 years, and the funds would be available for District capital projects or additional employee housing needs.

The 5% loan interest rate covers the District's opportunity cost with an appropriate liquidity and risk premium.

### **Requested Action**

The Board is requested to approve an increase of \$1,600,000 to the adopted FY24 Budget for employee housing and direct staff to transfer the funds from the Reserve Fund to the New Enterprise Fund.

# AGENDA ITEM

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**Subject:** 2024 Director Compensation:

- a. Consider Approving Variance From Directors Compensation and Expense Reimbursement Policy to Permit Approval of Adjustment in Directors' Compensation Effective January 1, 2024;
- b. Discuss and Consider Approving Adjustment in Directors' Compensation for Each Day's Service in an Amount Not to Exceed the Lesser of the CPI or Statutory Limit of 5.0%, Effective January 1, 2024

**Information Provided By:** Mark Busby, General Manager

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## **Background**

California Water Code section 20202 permits the Board to increase its per diem compensation for meeting attendance by up to 5% annually. Historically, the MCWD Board considered a compensation increase each year and voted to take an increase in most years, but not all.

To streamline the annual process and save on staff time, the Board adopted Ordinance No. 04-18-19-07 that allowed for permanent annual increases in Director compensation tied to the rate of inflation as stated in the Consumer Price Index (CPI) for Los Angeles-Long Beach-Anaheim, California. Per the ordinance, on January 1 of each year, Director compensation would automatically increase by the CPI at that time. At the preceding December Board meeting, the Directors would have the opportunity to review the proposed increase and ratify it as proposed, reduce the amount of the increase, or forego the increase entirely.

In 2021, the Board adopted policy PL-BOD-02, Director's Compensation and Expense Reimbursement. This policy compliments the language in Ordinance No. 04-18-19-07 and allows for the Board to review the proposed adjustment at the November Board meeting as opposed to the December meeting, which is frequently cancelled due to schedule conflicts.

## **Discussion**

This year, the compensation adjustment was not discussed at the November meeting, therefore the Board must approve a variance to the policy in order to discuss the topic at a meeting in December.

The current rate of compensation or maximum daily stipend for a MCWD Board member for a day of service is \$244.00. Compensation for a Board member's attendance per committee meeting during a day's service is \$122.00. Per the policy, the annual rate of inflation as stated for the immediately preceding September in the CPI for Los Angeles-Long Beach-Anaheim, California is 3.2%. Because the CPI is lower than the statutory limit of 5.0%, the maximum increase for 2024 is capped at 3.2%. The following table reflects the maximum increase of 3.2% (rounded) , which would be effective January 1, 2024.

<u>Service Definition</u>	<u>Increased Stipend for a Day of Service</u>
Board Meeting (maximum daily stipend)	\$251.50 (rounded)
Committee Meeting	\$125.75 (rounded)

To aid the discussion, the following table reflects compensation adjustments for the past 10 years.

### **Director Compensation History**

<u>Year</u>	<u>Increase %</u>	<u>Board Meeting (Day of Service)</u>	<u>Committee Meeting</u>	<u>Effective Date</u>
2013	5%	\$198.50	\$99.25	
2014	5%	\$208.45	\$104.25	
2015	2.2%	\$213.00	\$106.50	
2016	-			
2017	2.5%	\$218.00	\$109.25	5/1/17
2018	-			
2019	3.5%	\$225.50	\$112.75	7/1/19
2020	-			1/1/21
2021	3.0%	\$232.50	\$116.25	1/1/22
2022	5.0%	\$244.00	\$122.00	1/1/23
2023				

### **Fiscal Impact**

Director compensation was budgeted at \$30,000 for FY 2024. Total expenditure for the fiscal year is on track to be several thousand less than the budgeted amount.

### **Requested Action**

The Board is requested to approve a variance to the Director Compensation and Expense Reimbursement Policy and consider an adjustment of compensation and direct staff accordingly.