



**MAMMOTH COMMUNITY WATER DISTRICT**  
Post Office Box 597  
Mammoth Lakes, California 93546-0597

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**NOTICE OF SPECIAL WORKSHOP**

NOTICE IS HEREBY GIVEN that the Board of Directors of the Mammoth Community Water District has called a **SPECIAL WORKSHOP FOR THE EMPLOYEE HOUSING PURCHASE ASSISTANCE PROGRAM** to be held **TUESDAY, FEBRUARY 2, 2021** at **5:00 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.*

***In accordance with the California Department of Public Health's and Governor Newsom's Executive Orders N-29-20 and N-33-20, the District boardroom is closed and this meeting will be conducted solely by video/teleconference with members of the Board attending from separate remote locations in response to the threat of COVID-19. The public is invited to listen, observe, and provide comments during the meeting by either method provided for below. The Board President will call for public comment on each agenda item at the appropriate time and all votes will be taken by roll call.***

***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. Directors, staff, and members of the public who wish to participate in the meeting may do so by joining the following 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#***

**AGENDA**

**5:00 P.M.**

**Roll Call**

Directors Cage, Creasy, Domaille, Smith, and Thompson

**Employee Housing Purchase Assistance Program Workshop**

**1** Discussion and Direction to Staff regarding a Possible Change in the Method of Calculating the Distribution of Proceeds upon Sale of Home under the Shared Value Version of the Employee Housing Purchase Assistance Program

**2** Discussion and Direction to Staff Regarding Employees Currently in the Employee Housing Purchase Assistance Program that Requested the Option of Switching to a Different Version of the Program

**3** Discussion and Possible Approval of or Direction to Staff and Legal Counsel to Revise the Employee Housing Purchase and Assistance Policy and Associated Agreements as Presented to Reflect Workshop Discussion

## Adjournment

*NOTE: Items listed on the agenda may be reviewed or acted upon by the Board in any order or sequence. The items are listed for identification purposes only.*

*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: Thursday, January 28, 2021

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:** Discussion and Direction to Staff regarding a Possible Change in the Method of Calculating the Distribution of Proceeds upon Sale of Home under the Shared Value Version of the Employee Housing Purchase Assistance Program

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

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### Background

The Employee Housing Board Committee met in December for their annual review of the District's employee housing programs. During discussions of the Employee Home Purchase Assistance Program (EHPAP) the General Manager proposed a revision to the Shared Value option. The proposal was to eliminate the provision that includes the value of capital improvements in the calculation of shared value upon sale or buyout of the property, and offset that change by limiting the share of the gain in value received by the District.

The proposed change was discussed at length at the January 21 regular Board meeting. It was determined that further discussion would be required; therefore a special Board workshop has been scheduled for February 2, 2021.

Additionally, due to the intricacies of the suggested change in the Shared Value Program, a separate discussion item has been agendaized to simply vet the method of calculating the distribution of proceeds.

### Discussion

Currently, the Shared Value agreement provides for the value of a capital improvement (as defined in the agreement) to be added to the contribution of the employee to the original purchase price with a corresponding decrease in the percentage of the gain in value of the home shared by the District. When the agreement is terminated by the sale of the home or the employee purchasing the District's share, the employee is reimbursed for the value of the capital improvement and receives a higher share of the gain in value of the home.

The understanding of a "capital improvement" is subject to significant variations in interpretation with a built-in divergence of interest between the employee and the District. Calculation of the value of a capital improvement is a complex process involving a before-and-after appraisal.

The proposed change to the shared value program is to eliminate the credit given to the employee for improvements made to the home. This change is offset by capping the District's share in the gain in value to the return on the 10-Year Treasury note plus one percent in each year of the agreement. These changes are targeted to reduce the subjectivity of the current version of the policy while still providing the employee an incentive to make any improvements to the home they desire.

Staff and the Board Housing Committee agree that the proposal appropriately balances the interests of the District and the employee and appropriately balances the risk and potential return to the District and has recommended that the Board accept the change. However, at the January 21 board meeting, Directors not on the committee expressed concerns with the proposed change to the shared value program. This workshop will

provide the Board an opportunity to vet the change in more detail and work toward a consensus on accepting, modifying, or rejecting the proposed change.

### **Requested Action**

Discuss and provide direction to staff regarding making any changes to the method of calculating the distribution of proceeds upon sale of the home.

## 2021 EHPAP Shared Value Program

### What-if scenarios

Purchase	\$	700,000		
District	\$	350,000		
Primary Loan	\$	315,000		
Employee	\$	35,000		
Sale after 10 years				
If home gains 5%/year for 10 years	\$		1,140,226	
If home loses 5%/year for 3 years, gains 3%/year for 7 years	\$		738,124	
If home loses 5%/year for 2 years, gains 4%/year for 8 years	\$		864,593	
Transaction cost @6%				
If home gains 5%/year for 10 years	\$		68,414	
If home loses 5%/year for 3 years, gains 3%/year for 7 years	\$		44,287	
If home loses 5%/year for 2 years, gains 4%/year for 8 years	\$		51,876	
Primary loan principal balance (assuming 3% mortgage rate)	\$	239,700		
Reimburse to District	\$	350,000		
Reimburse to Employee	\$	110,300		

<b>Gain to share at 10-year Treasury + 1%</b>		<b>Employee</b>	<b>MCWD</b>
If home value gains 5%/year for 10 years	\$ 371,813		
If 10-yr Treasury averages 2%		\$ 251,442	\$ 120,371
If 10-yr Treasury averages 3%		\$ 203,727	\$ 168,085
If home value loses 5%/year for 3 years, gains 3%/year for 7 years	\$ (6,163)		
If 10-yr Treasury averages 2%		\$ (6,163)	\$ -
If 10-yr Treasury averages 3%		\$ (6,163)	\$ -
If home value loses 5%/year for 2 years, gains 4%/year for 8 years	\$ 112,718		
If 10-yr Treasury averages 2%		\$ 56,359	\$ 56,359
If 10-yr Treasury averages 3%		\$ 56,359	\$ 56,359

<b>Gain to share at 10-year Treasury + 2%</b>		<b>Employee</b>	<b>MCWD</b>
If home value gains 5%/year for 10 years	\$ 371,813		
If 10-yr Treasury averages 2%		\$ 203,727	\$ 168,085
If 10-yr Treasury averages 3%		\$ 185,906	\$ 185,906
If home value loses 5%/year for 3 years, gains 3%/year for 7 years	\$ (6,163)		
If 10-yr Treasury averages 2%		\$ (6,163)	\$ -
If 10-yr Treasury averages 3%		\$ (6,163)	\$ -
If home value loses 5%/year for 2 years, gains 4%/year for 8 years	\$ 112,718		
If 10-yr Treasury averages 2%		\$ 56,359	\$ 56,359
If 10-yr Treasury averages 3%		\$ 56,359	\$ 56,359

**What-if scenarios**

Purchase	\$	700,000		
District	\$	350,000		
Primary Loan	\$	315,000		
Employee	\$	35,000		
Sale after 5 years				
If home gains 5%/year for 5 years			\$	893,397
If home loses 5%/year for 3 years, gains 3%/year for 2 years			\$	636,712
If home loses 5%/year for 2 years, gains 4%/year for 3 years			\$	710,633
Transaction cost @6%				
If home gains 5%/year for 5 years			\$	53,604
If home loses 5%/year for 3 years, gains 3%/year for 2 years			\$	38,203
If home loses 5%/year for 2 years, gains 4%/year for 3 years			\$	42,638
Primary loan principal balance (assuming 3% mortgage rate)	\$	280,145		
Reimburse to District	\$	350,000		
Reimburse to Employee	\$	69,855		

<b>Gain to share at 10-year Treasury + 1%</b>		<b>Employee</b>	<b>MCWD</b>
If home value gains 5%/year for 5 years	\$	139,793	
If 10-yr Treasury averages 2%		\$	69,897 \$ 69,897
If 10-yr Treasury averages 3%		\$	69,897 \$ 69,897
If home value loses 5%/year for 3 years, gains 3%/year for 2years	\$	(101,490)	
If 10-yr Treasury averages 2%		\$	(101,490) \$ -
If 10-yr Treasury averages 3%		\$	(101,490) \$ -
If home value loses 5%/year for 2 years, gains 4%/year for 3 years	\$	(32,005)	
If 10-yr Treasury averages 2%		\$	(32,005) \$ -
If 10-yr Treasury averages 3%		\$	(32,005) \$ -

## Comments from Tom Cage

Test of numbers on Jeff's example #1 5%/year 10 years

<u>Purchase Price</u>	<u>700,000</u>	<u>1,140,226</u>	<u>Sale Price</u>
MCWD Participation	350,000	350,000	MCWD Recoup Participation
Staff Down	35,000	35,000	Staff Down back to them
1 <sup>st</sup> Trust Deed	315,000	239,700	1 <sup>st</sup> Trust Deed Balance at time of sale
		75,300	1 <sup>st</sup> TD principle paid and now reimbursed to staff
		68,414	Closing Costs
		371,812	Net proceeds from sale of property
		185,906	Staff share
		185,906	MCWD share

If we consider a 10yr + 1% treasury at 2% +1% = 3% simple interest the split would be: 266,812 (staff) 105,000 (MCWD)

If we consider a 10yr + 1% treasury @ 2% + 1% = 3% compounded interest the split: 251,442 (staff) 120,370 (MCWD)  
 (Our subordinate program requires staff to pay interest annually I would think this must/should be on a compounded bases)

As you can see the difference is 185,906 vs 105,000 or 120,370 which is sizeable in both cases especially on a % bases. Meaning 185,906/120,370 is a 35% difference and windfall to staff of 65,536. Which may be considered a gift of funds if the house is sold within a year of such a transaction and or an immediate inflation of the equity in the property that the homeowner would enjoy and or our changing of the terms of the agreement. As you can see I have used the compounded interest figure here as I really don't see how we could do a simple interest calculation. Each year that the district earns interest, that interest is re invested in securities and continues to compound upon itself.

I understand that you want to get away from the issue of improvements that the staff member makes in their property but to me that is the sole issue in what has caused issues at the district. Instead this formula eliminates potential profit for the district in such a shared purchase agreement. The District takes on the risk of putting ½ down on the property in the hopes that the property appreciates, there are no guarantees that this will happen; therefore it is only fair that the District shares in that appreciation because there will be some property transactions that don't appreciate and the District could not earn any return on their investment and in fact could lose money if the purchase and sale are close together and the staff member could not afford to make up the difference and the District chose not to purchase their half of the property.

Example: purchase 700,000 sell in 3 years to leave the district, values go down 5% per year leaving the value of the property at 595,000. If staff put 35,000 down and the loan balance is 294,664 the totals would look like:

<u>Purchase Price</u>	<u>700,000</u>	<u>595,000</u>	<u>Sale Price</u>
MCWD Participation	350,000	350,000	MCWD Recoup Participation
Staff Down	35,000	0	Staff Down back to them
1 <sup>st</sup> Trust Deed	315,000	294,664	1 <sup>st</sup> Trust Deed Balance at time of sale
		0	1 <sup>st</sup> TD principle paid and now reimbursed to staff
		35,700	Closing Costs
		-85,364	Net proceeds from sale of property
		0	Staff share
		-85,364	MCWD share

As you can see there would not be enough money out of escrow to make the District whole and the amount would be most likely to large (-85,364) for the staff member to make up. This leaves the District 2 options, either take the loss or buy the property and hope the valuation rebounds in future years. This is why sharing in the property purchase and appreciation is fair to the District, it is true there is a risk and when possible the District needs to benefit from that risk in order to handle the potential loss in future transactions. In this scenario it is unlikely that the District would earn the interest as laid out in this revision as well.

Finally in our last revision we offered staff the opportunity to change to the interest method based on the 10yr and paid annually. I believe some did and I believe some did not, therefore giving them a new bite at the apple in an even more attractive offer leaves the District at an even greater disadvantage.

Back to the original issue of home improvements and how to deal with those:

Premise #1 They don't have to do the improvements

Premise #2 We may want to consider a formula of the cost of improvements that ties into an appraisal at the time of completion of those improvements and offer an interest rate on those costs to be paid at closing, much like what this looks like to the district. What is good for one should be good for the other, I doubt they will like this.

Premise #3 If improvements are made at a documented and verified cost of \$30,000 and the new appraisal after improvements is now \$50,000 higher; then that amount could be added to and counted as the staff down payment and reimbursed at time of close. Yes, the District would benefit from the long term appreciation of such an improvement but the staff member would enjoy those improvements on a daily bases and received the increase in value in full at the time of close plus their share of the appreciation. If you consider this on a long term bases the improvements could be worn out by the time of a future sale and have little value to the property but were enjoyed by staff over time of use.

Premise #4 Yes, this means an appraisal before and after however I would think that to be a small price to pay as a % of the improvements and once again a cost of this arrangement which is a great benefit to the staff member.



## **AGENDA ITEM**

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**Subject:** Discussion and Direction to Staff Regarding Employees Currently in the Employee Housing Purchase Assistance Program that Requested the Option of Switching to a Different Version of the Program

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

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### **Background**

When the Employee Housing Board Committee met in December for their annual review of the District's employee housing programs, it was determined that the Employee Home Purchase Assistance Program (EHPAP) Policy and accompanying agreements needed some minor amendments. The amendments cover changes in both the policy and agreements and also ensure consistent language between all documents.

The notable suggested change was to the Shared Value Program and the method of calculating the distribution of proceeds. During this committee meeting two current participants in the shared value program asked if there might be an option to switch programs if the Board approved the change in the Shared Value Program and asked that a switch be permitted by cancelling and replacing the agreement without having to close out the existing shared value agreement. Management recommends that any switch require a close out of the existing agreement.

The recommended amendments as well as the request from program participants were discussed at length at the January 21 regular Board meeting and decided that further discussion would be required.

### **Requested Action**

Discuss the concept of and basis for permitting switches from the existing shared value program agreements to an updated shared value program, and provide direction to staff regarding employees who are currently participating in the EHPAP and may be interested in switching to the updated Shared Value program.

## AGENDA ITEM

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**Subject:** Discussion and Possible Approval of or Direction to Staff and Legal Counsel to Revise the Employee Housing Purchase and Assistance Policy and Associated Agreements as Presented to Reflect Workshop Discussion

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

**Recommendation's Provided By:** Directors Robert Creasy and Gary Thompson (Employee Housing Committee)

**Legal Review Provided By:** Joshua Horowitz, Attorney

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### Background

The Employee Housing Board Committee met in December for their annual review of the District's employee housing programs. During discussions of the Employee Home Purchase Assistance Program (EHPAP) the General Manager proposed a revision to the Shared Value option. The proposal was to eliminate the provision that includes the value of capital improvements in the calculation of shared value upon sale or buyout of the property, and offset that change by limiting the share of the gain in value received by the District.

As a result of the review process, the committee suggested a few other minor amendments to the policy and agreements and then directed legal counsel to incorporate the proposed changes and review the EHPAP policy and agreements for conformity.

The item was agendized for discussion at the January 21, 2021 regular Board meeting. Following a lengthy discussion at the meeting, it was determined that further discussion would be required; therefore a special Board workshop is now scheduled for February 2, 2021.

### Discussion

The bulk of the recommended amendments pertain to the method of calculating the distribution of proceeds in the Shared Value Program; therefore this component has been agendized as a separate discussion item for the February 2 workshop.

Other notable amendments suggested by the committee:

- Language added to the policy allowing the General Manager to approve requests for refinance if no equity is being pulled from the home
- A provision be added to the agreements requiring the employee to obtain and maintain a home warranty type of insurance plan during the first two years of home ownership
- A "current appraisal" as required in the policy, be valid for up to 90 days
- Language added to the policy and agreements to more clearly define the responsibility of an employee's spouse or partner as it relates to the purchase and sale of the property
- Language added to the policy to broaden the scope regarding In-Service Changes in Title including should the owner desire to place the home into a trust

All recommended amendments are reflected in the attached redline versions of the EHPAP Policy, Shared Value Program Agreement, and the Subordinated Loan Agreement.

## **Requested Action**

Discussion and Possible Approval of or Direction to staff and Legal Counsel to Revise the Policy and Agreements as presented to Reflect Workshop Discussion

# MAMMOTH COMMUNITY WATER DISTRICT

## EMPLOYEE HOME PURCHASE ASSISTANCE PROGRAM POLICY

Adopted: January 17, 2008

Amended: July 21, 2016

Amended: June 20, 2019

Amended: xx xx, 2021

### 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 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.

### 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 and Inyo Counties. The purchased home must be the principal 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”).

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

#### **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 a home inspector or other 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 All-Program assistance generally shall be given on a first-come, first-served basis to full-time permanent Employees who have been employed by the District for at least 12 months, 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 12-month minimum employment requirement not apply in a particular case, subject to Board approval.

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

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 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.

Upon determination of eligibility for the Program, the Employee will receive a letter from the District stating the approximate amount of down payment assistance for which the Employee is

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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](#)) performed by a certified professional appraiser, which appraisal establishes 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.

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 according to the Employee's choice of program. Agreements for both 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 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 the Housing Unit's appreciation.

- Flood Insurance policy; If the Housing Unit is located within a FEMA-designated flood zone, ~~requiring the purchase of a flood insurance policy is required,~~ ~~the Employee also shall obtain~~ a flood insurance policy ~~for the Housing Unit. In addition, the Employee shall obtain an~~
- eEarthquake insurance policy for the Housing Unit.
- ~~The Employee also shall secure a~~ At least a standard form full coverage CLTA title insurance policy ~~on the Housing Unit.~~
- 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 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**

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.

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 Employee shall contribute at least 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 \$400,000 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.

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 \$400,000 cap, and will be in the form of a loan with interest payable annually as further provided in Section 10 of this Policy.

## **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~~ The District's share of the Appreciation Proceeds shall be capped for each year of the agreement at a return on the District's contribution no greater than the yield of the 10-year Treasury Note measured on the first business day of each calendar year plus one percent. ~~It~~ In no event may the District earn an annualized rate of (over the term of the entire ~~down payment assistance~~ loan) greater than the maximum rate authorized by Section 1 of Article XV of the California Constitution. ~~Such 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

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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 both the Shared Value and Subordinate 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 or refinances 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 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. 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. ~~CONSENT OF SPOUSE~~ 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 ~~under this Policy~~ 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.

(a)(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.

~~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.~~

### **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. Such improvements will not affect the calculation or allocation of Appreciation Proceeds as provided in Section 10 of this Policy. For the Employee to receive credit in the distribution of proceeds under the Shared Value Program a capital improvement is limited to one which: (1) adds additional square footage to the Housing Unit (2) is performed with a building permit which is subsequently signed off by the governing authority, (3) 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.

~~At the completion of the capital improvement, an appraisal by a 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 lesser of: (1) the value added to the Housing Unit as determined by the appraisal or (2) the total expenses incurred by the Employee related to the capital improvement. The Employee shall provide to the District documentation that supports all expenses of the capital improvement and verifies the Employee's actual payment of all 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.~~

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~~This section does not apply to Employees who obtain District loans under the Subordinated Loan Program.~~

#### **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 as determined by an appraisal prepared by a 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; ~~(23)~~ pay-off of the District's loan and all accrued interest; ~~(3) payment of costs of sale and escrow~~; (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 ~~(45)~~ payment of all remaining proceeds to the Employee.

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

Employees in the 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 as determined by an appraisal prepared by a 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. ~~All requests to refinance a Primary Loan shall be considered by the Board of~~

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Directors.—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 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 reserves 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. 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 January 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)**

This Employee Home Down Payment Assistance Agreement – 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 [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; (2) making an offer to purchase the Housing Unit at a price not greater than 10% above the ~~fair market~~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] 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 secured deferred interest loan, as that term 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 certified appraisal and certified 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] 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 Assistance Loan,” the “Employee Contribution” and the “Primary Loan” as provided herein:

a. District’s Assistance Loan.

i. District shall contribute up to \$\_\_\_\_\_ to Employee toward Employee’s purchase of the Housing Unit (the “District Assistance Loan”), provided the amount of the District Assistance Loan ~~does not exceed~~is the lesser of: (1) the Eligibility Amount; (2) 50% of the Purchase Price; or (3) \$400,000. If the purchase of the Housing Unit by Employee fails for any reason, the District Assistance Loan shall be returned to District.

ii. The District Assistance 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 recordable document with the Mono or Inyo County Recorder, which may be a deed of trust, securing the obligations created hereunder.

iv. The District Assistance Loan must be paid in full upon the occurrence earliest 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/her principal place of residence; (4) upon Employee’s filing for protection under the United States Bankruptcy CodeAct; (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 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 shall provide a first loan of \$\_\_\_\_\_ for purchase of the Housing Unit (“Primary Loan”). Employee’s primary lender is [name of primary lender]. The Primary Loan must be a fully amortized fixed rate loan for a term not to exceed 30 years.



c. Employee Contribution.

Employee shall contribute a down payment of at least \$\_\_\_\_\_, which is the balance of the Purchase Price of the Housing Unit (“Employee Contribution”), which shall be at least 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 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 ~~a~~Additional ~~m~~Mortgages or ~~L~~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 District’s Board of Directors. 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 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/she] 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~~~~provided~~ 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/her] 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 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] sole discretion and expense, make such reasonably necessary capital improvements to the Housing Unit as Employee deems beneficial to it. The District will not contribute any funds to such improvements. Such improvements also will not affect the calculation or allocation of Appreciation Proceeds as provided in Section 11 of this Agreement. If Employee desires to receive credit for a capital improvement in the distribution of Gross Sale Proceeds under Section 10 below, a capital improvement must qualify for credit according to these criteria: (1) adds additional square footage to the Housing Unit; (2) is performed with a building permit that is subsequently signed off by the governing authority; and (3) 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. 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 lesser of: (1) the value added to the Housing Unit as determined by the appraisal or (2) the total expenses incurred by Employee related to the capital improvement. Employee shall provide to District documentation that supports all

~~expenses of the 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 from the Gross Sale Proceeds. 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.

c. To the extent Gross Sale Proceeds remain, District shall be distributed an amount equal to the amount District contributed to Employee's purchase of the Housing Unit. 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 Loan divided by the purchase price ~~increased by the amount credited for any approved capital improvements.~~ The District's

share of the Appreciation Proceeds shall be capped for each year of the agreement at a return on the District's contribution no greater than the yield of the 10-year Treasury Note measured on the first business day of each calendar year plus one percent. 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; and 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 Loan Upon Other Than a Sale Event.

a. Events Triggering Repayment of District Assistance Loan. Upon any of the following events, Employee ~~immediately promptly~~ shall repay the District Assistance Loan 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 CodeAct; (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 Loan 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 amount that District paid toward the Purchase Price, 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/her] 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] 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 ~~3020~~ 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 ~~3045~~ 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. If District desires to pursue the purchase of the Housing Unit based on the appraisal, District shall submit the amount of the appraised value 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 ~~3045~~ 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 ~~3045~~ days from District's written notice of such desire, District and Employee and/or [his/her] 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 based on the appraisal, District shall submit the amount of the appraised value 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] Understands That [He/She] 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, and interest on the District subordinated loan. By December 1 of each year, Employee shall submit documentation that confirms [his/her] compliance with these requirements. If, at any time, Employee is in default of any financial obligation and cannot promptly cure the default, [he/she] shall notify the General Manager as soon as possible.

15. 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.

~~16~~16. 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.

~~17~~17. 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.

~~18~~18. Assignment. The Parties acknowledge and agree that this Agreement is not assignable by any Party, unless approved in writing by each of the Parties.

19. 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.

20. Binding Effect. Subject to the provisions of Section 17, this Agreement shall inure to the benefit of and be binding upon the heirs, assigns and successors in interest of the Parties.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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

28. 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 PURCHASE ASSISTANCE AGREEMENT**  
**(Subordinate Loan Program)**

This Employee Home Purchase Assistance Agreement – Subordinate Loan 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 [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; (2) making an offer to purchase the Housing Unit at a price not greater than 10% above the ~~fair market~~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] 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 secured variable interest rate loan, as that term 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 certified appraisal and certified 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] 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 Assistance Loan,” the “Employee Contribution” and the “Primary Loan” as provided herein:

a. District’s Assistance Loan.

i. District shall contribute up to \$\_\_\_\_\_ to Employee toward Employee’s purchase of the Housing Unit (the “District Assistance Loan”), provided the amount of the District Assistance Loan ~~does not exceed~~ is the lesser of: (1) the Eligibility Amount; (2) 35% of the Purchase Price; or (3) \$400,000. If the purchase of the Housing Unit by Employee fails for any reason, the District Assistance Loan shall be returned to District.

ii. The District Assistance Loan shall be made in the form of a “secured variable interest rate loan,” with a term ending [date 15 years from date of agreement], 15 years from the date of this Agreement. 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 Employee on or before the first business day of each following year, such that the loan balance is kept to the original loan amount. No compounding of the loan is permitted. Employee may pay any portion of the principal balance of the loan at any time with no prepayment penalty.

iii. Upon expiration of the 15-year term, this Agreement shall terminate and Employee shall be required to pay off the principal amount of the District Assistance Loan and all 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.

iv. Employee shall execute a recordable document with the Mono or Inyo County Recorder, which may be a deed of trust, securing the obligations created hereunder.

v. The District Assistance Loan must be paid in full upon the occurrence of any earliest 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/her] principal place of residence; (4) upon Employee’s filing for protection under the United States Bankruptcy CodeAct; (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.

vi. The District Assistance Loan is not assumable or transferable.

vii. 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.

viii. 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 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 be a fully amortized fixed rate loan for a term not to exceed 30 years.

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 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 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 District's Board of Directors. 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 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/she] 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 provided 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/her] 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 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] sole discretion and expense, make such reasonably necessary capital improvements to the Housing Unit as Employee deems beneficial to it. The District will not contribute any funds to such improvements.

9. Sale of Housing Unit. Subject to the provisions of Section 11, the Employee may sell the Housing Unit at any time.

10. Refinancing of Primary Loan. At any time during the term of this Agreement, Employee 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. 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] 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 ~~3020~~ 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 ~~3045~~ 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. If District desires to pursue the purchase of the Housing Unit based on the appraisal, District shall submit the amount of the appraised value 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.

In the event that the Housing Unit is required to be sold under paragraph 1.a.v. of this Agreement and any such sale is not otherwise controlled by a court or other legal process, District, within ~~3045~~ 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 ~~3045~~ days from District's written notice of such desire, District and Employee and/or [his/her] 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 based on the appraisal, District shall submit the amount of the appraised value 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.

If District so elects, the Parties shall execute, and District shall record, a memorandum reflecting District's rights under this Section ~~1113~~.

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

12. 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, and interest on the District subordinated loan. By December 1 of each year, Employee shall submit documentation that confirms [his/her] compliance with these requirements. If, at any time, Employee is in default of any financial obligation and cannot promptly cure the default, [he/she] shall notify the General Manager as soon as possible.

13. 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.

~~13~~14. 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.

~~14~~15. 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.

~~15~~16. Assignment. The Parties acknowledge and agree that this Agreement is not assignable by any Party, unless approved in writing by each of the Parties.

17. 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.

18. Binding Effect. Subject to the provisions of Section 17, this Agreement shall inure to the benefit of and be binding upon the heirs, assigns and successors in interest of the Parties.

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

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 1.a.v.

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

26. 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.]**