

# Town of Mammoth Lakes

## Homebuyer Acquisition Only/ Acquisition with Rehabilitation Program Guidelines



For:

HOME Investment Partnerships Program

Serving the Town of Mammoth Lakes

HOME Approved (1/23/15)

# **HOMEBUYER PROGRAM GUIDELINES**

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## **HOMEBUYER PROGRAM GUIDELINES**

### **1.0. GENERAL**

The above-named entity, hereinafter referred to as the “Sponsor,” has entered into a contractual relationship with the California Department of Housing and Community Development (“HCD”) to administer one or more HCD-funded homebuyer programs. The homebuyer program described herein (the “Program”) is designed to provide assistance to eligible homebuyers in purchasing homes, also referred to herein as “housing units”, located within the Program’s eligible area, as described in Section 3.1.A. The Program provides this assistance in the form of deferred payment “silent” second priority loans as “Gap” financing toward the purchase price and closing costs of affordable housing units that will be occupied by the homebuyers as their primary residence. The Program will be administered by Mammoth Lakes Housing, Inc. (the “Program Operator”).

### **1.1. PROGRAM OUTREACH AND MARKETING**

All outreach efforts will be done in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach and access to the Program. No person shall, on the grounds of age, ancestry, color, creed, physical or mental disability or handicap, marital or familial status, medical condition, national origin, race, religion, gender or sexual orientation be excluded, denied benefits or subjected to discrimination under the Program. The Sponsor will ensure that all persons, including those qualified individuals with handicaps, have access to the Program.

- A. The Fair Housing Lender and Accessibility logos will be placed on all outreach materials. Fair housing marketing actions will be based upon a characteristic analysis comparison (census data may be used) of the Program’s eligible area compared to the ethnicity of the population served by the Program (includes, separately, all applications given out and those receiving assistance) and an explanation of any underserved segments of the population. This information is used to show that protected classes (age, gender, ethnicity, race, and disability) are not being excluded from the Program. Flyers or other outreach materials, in English and any other language that is the primary language of a significant portion of the area residents, will be widely distributed in the Program-eligible area and will be provided to any local social service agencies. The Program may sponsor homebuyer classes to help educate homebuyers about the home buying process and future responsibilities. Persons who have participated in local homebuyer seminars will be notified about the Program.
- B. The Program Operator will work with local real estate agents and primary lenders to explain the Program requirements for eligible housing units and homebuyers, and to review Program processes. Local real estate agents and primary lenders will also be encouraged to have their customers participate in the Program.
- C. Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion of an otherwise qualified individual, solely by reason of disability, from participation under any program receiving Federal funds. The Program Sponsor will take

appropriate steps to ensure effective communication with disabled housing applicants, residents and members of the public.

## **1.2. APPLICATION PROCESS AND SELECTION**

- A. The Sponsor maintains a waiting list of applicants. Each applicant is asked to complete an application form, which asks for sufficient information concerning income, employment, and credit history to establish preliminary eligibility for Program participation. Preference, excluding the HOME program, will be given to households who have at least one member of the household who has worked the previous six months within the Town of Mammoth Lakes for an average of 30 (thirty) hours per week. Completed applications are processed on a first-come-first-served basis. Applications are deemed complete only if all information is completed, the application is signed and dated, and a primary lender's pre-qualification letter is attached to the application. Incomplete applications are returned to the applicant and will not be date/time stamped until complete.
- B. Once the applicant's name comes to the top of the waiting list, their Program eligibility is confirmed and they are invited to a briefing regarding participation in the Program. At the briefing the application is reviewed and the potential homebuyer is given a "Preliminary Eligibility Letter" for the Program along with the following forms: Program Brochure, Attachment (G) Instructions to Home Buyer, List of Participating Lenders, Attachment (E) Sellers Lead-Based Paint Disclosure and the EPA Booklet (Protect Your Family from Lead in Your Home) and (F) Notice to Seller.

If the Program Operator encounters material discrepancies and/or misrepresentations, and/or there are income, asset, household composition, or other important questions that can't be resolved, the Sponsor reserves the right to deny assistance to the household. In this case, the applicant may re-apply after three months have elapsed from the time of written assistance denial.

- C. Each applicant must participate in individual Homebuyer Counseling and receive a certificate of completion.
- D. The potential homebuyer is given 60 days in order to find a qualified home and begin securing a primary loan for the housing unit. If during the 60-day time frame, the potential homebuyer is unable to purchase a home, an extension may be given. However, if it appears the potential homebuyer cannot participate in the Program, the reservation of funds expires and the next person on the waiting list is given an opportunity to participate in the Program.

## **1.3. THE HOME PURCHASE PROCESS**

- A. The following is a simplified example of how a primary lender would analyze a homebuyer's finances to determine how much the homebuyer could afford to borrow from the primary lender towards homeownership.

**DEBT SERVICE  
FOR A FAMILY OF FOUR EARNING \$3,388 PER MONTH**

<b>HOUSING PAYMENTS</b>		<b>TOTAL OVERALL PAYMENTS</b>
Principal & Interest Payment	\$ 865	\$1,180 Housing
Insurance	82	+200 <u>Other Debt Service</u>
Taxes	<u>233</u>	\$1,380 Total Debt Service
Total Housing Expense (PITI is 35% of \$3,388)	\$1,180	(Overall debt service per month is 41% of \$3,388)

**OTHER HOUSEHOLD DEBT SERVICE**

Car Payment	\$ 150
Credit Card Payment	<u>50</u>
Total Other Debt	\$ 200

A \$865 per month loan payment equates to borrowing \$143,000 at 5.88% for a 30 year term.

**SUBSIDY CALCULATION  
FOR A FAMILY OF FOUR EARNING \$3,388 PER MONTH**

Purchase Price of Property	\$ 280,000
Less Primary loan amount	<b>143,000</b>
Less down payment of 1%	<u>2,800</u>
 Equals “GAP”	 <b>\$ 134,200</b>
 Plus estimated allowable settlement charges	 <u>8,400</u>
 Equals <b>Total Subsidy</b>	 <b>\$ 142,600</b>

B. The housing unit selection process will be conducted by the homebuyers. Prior to making an offer to purchase an eligible housing unit (see Section 3.0), homebuyer shall provide seller with a disclosure containing the following provisions:

- 1) Homebuyer has no power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
- 2) Homebuyer’s offer is an estimate of the fair market value of the housing unit, to be finally determined by a state licensed appraiser;
- 3) The housing unit will be subject to inspection. The housing unit must comply with local codes at the time of construction and local health and safety standards.
- 4) All housing units built prior to January 1, 1978 will require a lead paint

- disclosure to be signed by both the homebuyer and Seller (Attachment E);
- 5) Since the purchase would be voluntary, the seller would not be eligible for relocation payments or other relocation assistance;
  - 6) The seller understands that the housing unit must be either: currently owner-occupied, newly constructed, or vacant for three months prior to submission of the purchase offer.
  - 7) If the seller is not provided with a statement of the above six provisions prior to the purchase offer, the seller may withdraw from the agreement after this information is provided.
- C. Applicant submits executed standard form purchase and sale agreement and primary lender prequalification letter to Program Operator. The purchase and sale agreement will be contingent on the household and housing unit meeting Program eligibility requirements and receiving Program loan approval. Program Operator verifies applicant eligibility, housing unit and loan eligibility and amount of assistance to be provided consistent with these guidelines.
- D. Program Operator, where Program Operator is not the Sponsor, submits recommendation to the Sponsor for approval or denial, including the reasons for the recommendation. Sponsor determines Applicant's approval or denial, and instructs Program Operator to notify Applicant. Program Operator provides written notification to Applicant of approval or denial with reason and, if denied, a copy of the Program's appeal procedures.
- E. When Primary Lender requirements are met, Program funds are deposited into escrow, with required closing instructions and loan documents.
- F. At the time of escrow closing, the Sponsor shall be named as an additional loss payee on fire, flood (if required), and extended coverage insurance for the length of the loan and in an amount sufficient to cover all encumbrances or full replacement cost of the housing unit. A policy of Title Insurance naming the Sponsor as insured is also required.

#### **1.4. HOMEBUYER COSTS**

- A. Eligible households must document that they have the funds necessary for down payment and closing costs as required by the Primary Lender and the Sponsor. The Program's down payment requirement (below) is in place even if the Primary Lender has a lower down payment requirement. If the Primary Lender has a higher down payment requirement, there is no additional down payment requirement required by the Program.
- B. Homebuyer must contribute a minimum down payment of two percent (2%) of the purchase price, but may contribute more if desired.
- C. Sponsor will not provide more than 49% of the total indebtedness. The subsidy will write down the cost of the primary lender's loan so that the payments of PITI are within approximately 25 to 35% of the gross household income. The Program Operator will determine the level of subsidy and affordability during underwriting of

the Program's loan to make sure that it conforms to the requirements of the HCD funding Program.

## **1.5. HOMEBUYER EDUCATION**

Buying a home can be one of the most confusing and complicated transactions anyone can make. Providing the future homebuyer with informative homebuyer education training, can bring success to the Sponsor, Program Operator, the Program and most importantly, the homebuyer. It has been documented that first-time homebuyers that have had homebuyer education have the ability to handle problems that occur with homeownership. All Program participants are required to attend a Sponsor-approved homebuyer education class. The homebuyer education class will cover such topics as the following: preparing for homeownership; available financing; credit analysis; loan closing; homeownership responsibilities; home maintenance; impact of refinancing and loan servicing. Methods of homebuyer counseling and education may include, but are not limited to: one-on-one counseling between homebuyer, counselor and family/individual and/or group workshops and informational sessions. Tools of instruction may include fliers, brochures, power point presentations, worksheets, etc.

## **1.6. CONFLICT OF INTEREST REQUIREMENTS**

When the Sponsor's program contains Federal funds, the applicable Conflict of Interest requirements of 24 CFR Section 570.611 shall be followed for CDBG assistance, and Section 92.356 of the HOME Final Rule shall be followed for HOME assistance.

## **1.7. NON-DISCRIMINATION REQUIREMENTS**

The Program will be implemented in ways consistent with the Sponsor's commitment to non-discrimination. No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with State funds on the basis of his or her religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status (children), physical or mental disability, national origin, or ancestry, or other arbitrary cause.

## **2.0 APPLICANT QUALIFICATIONS**

### **2.1. CURRENT INCOME LIMITS FOR THE AREA, BY HOUSEHOLD SIZE**

All applicants must certify that they meet the household income eligibility requirements for the applicable HCD program(s) and have their household income documented. The income limits in place at the time of loan approval will apply when determining applicant income eligibility. All applicants for HOME and CDBG must have incomes at or below 80% of the County's area median income (AMI), adjusted for household size, as published by HCD. All applicants for BEGIN must have incomes at or below 120% of the County's area median income (AMI), adjusted for household size, as published by HCD. (Attachment C).

**Household:** Means one or more persons who will occupy a housing unit. Unborn children **DO** count in family size determination.

**Annual Income:** Generally, the gross amount of income of all adult household members

that is anticipated to be received during the coming 12-month period.

## 2.2. INCOME QUALIFICATION CRITERIA

Projected annual gross income of the applicant household will be used to determine whether they are above or below the published HCD income limits. Income qualification criteria, as shown in the most recent HCD program-specific guidance at <http://www.hcd.ca.gov/fa/cdbg/GuideFedPrograms.html>, will be followed to independently determine and certify the household's annual gross income. The Program Operator should compare this annual gross income to the income the Primary Lender used when qualifying the household. The Primary Lender is usually underwriting to FHA or conventional guidelines and may not calculate the household income or assets in the same way as required by the Program. Income will be verified by reviewing and documenting tax returns, copies of wage receipts, subsidy checks, bank statements and third-party verification of employment forms sent to employers. All documentation shall be dated within six months prior to loan closing and kept in the applicant file and held in strict confidence.

### A. HOUSEHOLD INCOME DEFINITION:

Household income is the annual gross income of all adult household members that is projected to be received during the coming 12-month period, and will be used to determine program eligibility. Refer to Income Inclusions and Exclusions for further guidance to the types of incomes to be included or excluded when calculating gross annual income. For those types of income counted, gross amounts (before any deductions have been taken) are used. Two types of income that are not considered would be income of minors and live-in aides. Certain other household members living apart from the household also require special consideration. The household's projected ability to pay must be used, rather than past earnings, when calculating income.

The link to Annual Income Inclusions and Exclusions is:

[http://www.hcd.ca.gov/fa/cdbg/FedProgGuideDocs/AppendixB\\_AnnualIncomeInclusionsExclusions.doc](http://www.hcd.ca.gov/fa/cdbg/FedProgGuideDocs/AppendixB_AnnualIncomeInclusionsExclusions.doc)

**See Attachment A: 24 CFR Part 5 Annual Income Inclusions and Exclusions**

### B. ASSETS:

There is no asset limitation for participation in the Program. Income from assets, however, is recognized as part of annual income under the Part 5 definition. An asset is a cash or non-cash item that can be converted to cash. The value of necessary items such as furniture and automobiles are not included. (*Note: it is the income earned – e.g. interest on a savings account – not the asset value, which is counted in annual income.*)

An asset's cash value is the market value less reasonable expenses required to convert the asset to cash, including, for example, penalties or fees for converting financial holdings, and costs for selling real property. The cash value (rather than the market value) of an item is counted as an asset.

The Link to Asset Inclusions and Exclusions is:

[http://www.hcd.ca.gov/fa/cdbq/FedProgGuideDocs/AppendixC\\_AnnualIncomeAssetInclusionsExclusions.doc](http://www.hcd.ca.gov/fa/cdbq/FedProgGuideDocs/AppendixC_AnnualIncomeAssetInclusionsExclusions.doc)

**See Attachment B: Part 5 Annual Income Net Family Asset Inclusions and Exclusions**

### **2.3. DEFINITION OF AN ELIGIBLE HOMEBUYER**

For CDBG, an eligible homebuyer means an individual or individuals or an individual and his or her spouse who meets the income eligibility requirements and is/are not currently on title to real property. Persons may be on title of a manufactured home unit, who are planning to sell the unit as part of buying a home located on real property. Documentation of homebuyer status will be required for all homebuyers. CDBG-funded programs may assist eligible homebuyers who are not “first-time” homebuyers.

HOME and CalHome-funded Programs are required to use the following definition of an eligible homebuyer, which is a “first-time homebuyer” from 8201(1) Title 25 California Code of Regulations:

“First-time homebuyer” means an individual or individuals or an individual and his or her spouse who have not owned a home during the three-year period before the purchase of a home with subsidy assistance, except that the following individual or individuals may not be excluded from consideration as a first-time homebuyer under this definition:

1. a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;
2. a single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
3. an individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with assistance, a dwelling unit whose structure is:
  - a. not permanently affixed to a permanent foundation in accordance with local or state regulations; or
  - b. not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

### **3.0. HOUSING UNIT ELIGIBILITY**

#### **3.1. LOCATION AND CHARACTERISTICS**

- A. Housing units to be purchased must be located within the eligible area. The eligible area is described as follows: “Within the Town of Mammoth Lakes.”
- B. Housing unit types eligible for the homebuyer Program are new or previously owned single-family residences; condominiums; or manufactured homes in mobilehome parks, in common-interest developments or on a single-family lot and placed on a permanent foundation system. HOME **does not** allow manufactured homes unless on a permanent foundation system.
- C. All housing units must be in compliance with State and local codes and ordinances.
- D. Housing units located within a 100 year flood zone will be required to provide proof of flood insurance with an endorsement naming the Town of Mammoth Lakes as loss payee in order to close escrow.
- E. Housing must be “modest”, so it may not exceed three bedrooms and two bathrooms unless there are documented extenuating circumstances (e.g. it would create an overcrowding situation, there is not a reasonable inventory of homes of this size, etc.) and the Loan Committee approves the exception request.

#### **3.2. CONDITIONS**

- A. Construction Inspection and Determining Need for Repairs.

Once the participating homebuyer has executed a purchase agreement for a housing unit, and prior to a commitment of Program funds, the following steps must be taken for the housing unit to be eligible for purchase under the Program:

- 1) When the Sponsor’s Program utilizes Federal funds and if the housing unit was constructed prior to 1978 then the lead-based paint requirements of Section 3.2.C will apply.
- 2) The Program Operator, a certified housing inspector, or a Sponsor representative will walk through the housing unit, determine if it is structurally sound, and identify any code related and health and safety deficiencies that need to be corrected. A list of code related repair items will be given to the homebuyers and their Realtor to be negotiated with the seller.

If there are one or more health and safety deficiencies, and/or violations of applicable building codes noted in the written report, the Sponsor will approve the subsidy only if:

- a. Repair prior to close of escrow. The buyer and seller agree to make necessary repairs to the dwelling unit prior to transfer of property ownership at their own expense; or

b. HOME acquisition and rehabilitation loan. If HOME funds are available, the buyer may use up to \$10,000 of the Sponsor’s First-Time Homebuyer loan to make necessary repairs. All health and safety hazards and code violations must be addressed under this option. Examples of allowable expenses include, but are not limited to: foundation repair, electrical repair or rewiring, plumbing or sewer repair, roof repair or replacement, heating system installation or repair, and repair of structurally-significant damaged wood. General property improvements are not eligible unless required to bring the dwelling unit into compliance with local health and safety standards or applicable building codes. For example, sidewalk repair would not be an eligible use of funds. However, if a sidewalk must be removed to correct a sewer problem, funds may be used to replace the portion of the sidewalk removed for the work. Buyers should note that the use of any Program funds for rehabilitation on a home built before 1978 may incur additional lead-based paint testing. Hiring of a contractor and completion of repairs will be conducted in accordance with the section entitled “Acquisition with Rehabilitation Process” below.

3) With the exception of 1)b. above, upon completion of all work required by the Program Operator, Sponsor, appraiser, pest inspector and/or certified housing inspector, a final inspection will be conducted prior to close of escrow. The inspector will sign off on all required construction work assuring that each housing unit receiving Program assistance is in compliance with local codes and health and safety requirements at the time of purchase and prior to occupancy.

B. Per Section 8208 of the State HOME regulations, no additional HOME assistance, including rehabilitation funds, may be provided during the period starting one year following the filing of the Project Completion Report through the end of the Affordability Period.

The HOME Affordability Period is as follows (amount does not include Activity Delivery Costs paid to the State Recipient by HCD):

<b>Amount of HOME Assistance</b>	<b>Period of Affordability in Years</b>
Under \$15,000	5 years
\$15,000 to \$40,000	10 years
Over \$40,000	15 years

C. Lead-Based Paint Hazards: All housing units built prior to 1978 for which HOME or CDBG funding is anticipated are subject to the requirements of this section 3.2.C. Such homes must undergo a visual assessment by a person who has taken HUD’s online Visual Assessment course. Deteriorated paint must be stabilized using work safe methods. Clearance must be obtained after paint stabilization by a DHS certified LBP Risk Assessor/Inspector. HOME and CDBG general administrative and activity delivery funds may be used to pay for lead-based paint visual assessments, and if lead mitigation and clearance costs are incurred, these programs may incorporate the costs into the calculation of Program assistance.

The following requirements must be met:

- 1) **Notification:** a) Prior to homebuyer's obligation to purchase a pre-1978 home, the Buyer will be given the most recent copy of and asked to read the EPA pamphlet "*Protect Your Family From Lead in Your Home*". (EPA 747-K-94-001). A signed receipt of the pamphlet will be kept in the Sponsor's homebuyer file; b) A notice to residents is required following a risk assessment/inspection using form DHS 8552, which is provided by the DHS-certified Risk Assessor/Inspector; c) a notice to residents is required following lead-based paint mitigation work using Visual Assessment and Lead-based Paint Notice of Presumption and Hazard Reduction form, LBP – 1 (Attachment H).
  - 2) **Disclosure:** Prior to the homebuyer's obligation to purchase a pre-1978 housing unit, the HUD disclosure (Attachment E), "Seller's Lead-based Paint Disclosure" notice must be provided by the seller to the homebuyer.
  - 3) **Inspections:** The Inspector shall conduct a "Visual Assessment" of all the dwelling unit's painted surfaces in order to identify deteriorated paint. All deteriorated paint will be stabilized in accordance with CFR 35.1330 (a) and (b); and a Clearance shall be made in accordance with CFR 35.1340.
  - 4) **Mitigation:** If stabilization is required, the contractor performing the mitigation work must use appropriately trained workers. Prior to the contractor starting mitigation work the Program Operator shall obtain copies of the contractor's and workers' appropriate proof of LBP training, as applicable to the job in order to assure that only qualified contractors and workers are allowed to perform the mitigation.
- D. The Program Operator will: 1) confirm that the housing unit is within the eligible area, 2) will review each proposed housing unit to ensure that it meets all eligibility criteria before funding, and 3) ensure a completed Lead Compliance Document Checklist is placed in each purchaser's file (see Attachment I).

### 3.3. ACQUISITION WITH REHABILITATION PROCESS

As noted above, when HOME funding is available for First-Time Homebuyer assistance, up to \$10,000 (from all sources) may be used to bring the unit into compliance with health and safety standards and/or to correct code violations. If such repairs are required, a portion of this money may be used to make accessibility modifications for a household member with a disability. Additionally, weatherization improvements are permitted; however, general property improvements are not allowed.

**IMPORTANT:** No later than six (6) months following close of escrow, repairs to the housing unit must address ALL health and safety and code issues, to be in compliance with HOME regulations; otherwise, the loan becomes due and payable.

If a portion of the Program loan is used for acquisition with rehabilitation, the following process will be followed:

- The buyer will be responsible for obtaining three (3) bids from qualified licensed contractors. The Sponsor's Program Operator has a list of qualified contractors, or the applicant may solicit bids from other licensed contractors if they meet the standards described below.
- Any funds used for rehabilitation on homes built prior to 1978 will require testing for lead based paint. If the total rehabilitation funds are equal to or less than \$5,000, all surfaces disturbed during rehabilitation and lead hazard reduction must be repaired using safe work practices. If total rehabilitation is between \$5,000 and \$10,000, lead based paint must either be presumed to be present or testing and risk assessment are required. Lead hazard reduction activities must be conducted using safe work practices. The Sponsor will provide a grant to cover all expenses incurred as a result of lead based paint as noted in the section entitled *Lead Based Paint Standards* below, **but total rehabilitation, including this grant, may not exceed \$10,000.**
- Contractors must hold a current and valid State of California General Contractor's license if the work consists of correction of health and safety issues or code violations. For accessibility modifications, the Sponsor may exercise discretion regarding contractors' requirements. The contractor may not be on the State or Federal debarred contractor lists. The contractor must have current and valid general liability and workmen's compensation insurance if applicable. The contractor must provide a one-year warranty for the work per State regulations.
- The buyer will review the bids with the Program Operator and the Sponsor to ensure that the scope of work will correct any deficiencies, that it only includes allowable expenses and that the bids are reasonable, competitive and complete.
- The applicant will select a contractor from one of the Sponsor's/Program Operator's approved bids. All bidding contractors will be notified of the status of their proposals.
- The applicant will enter into a contract with the contractor (see Attachment J).
- The contractor will be responsible for securing all required permits for the scope of work.
- Work may not commence until the close of the acquisition loan.
- As work progresses, the contractor shall provide the buyer with a completed Payment and Construction Approval form (Attachment K) to request progress payments as outlined in the contract terms. The form must be signed by the contractor, the buyer, the inspector, and the Program Operator before a payment may be issued to the contractor.
- Final payment of a 10% retention will be released to contractor once the contractor submits the following to the Program Operator: (1) lien releases from any subcontractors, material suppliers, and laborers; (2) final or signed off Building Inspection card for contracted work (if applicable); (3) Notice of Completion.

### 3.4. ANTI-DISPLACEMENT POLICY AND RELOCATION ASSISTANCE

Eligible homes will be those that are currently owner-occupied or have been vacant for three months prior to the acceptance of a contract to purchase. A unit is ineligible if its

purchase would result in the displacement of a tenant. It is not anticipated that the implementation of the Program will result in the displacement of any persons, households, or families. However, if tenant-occupied homes are included in the Program and relocation becomes necessary, the activity will be carried out in compliance with Sponsor's relocation plan, which describes how those permanently displaced will be relocated and paid benefits in accordance with the following Federal laws.

**A. Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act of 1970**

The federal URA and Real Property Acquisition Policies, as amended by the URA Amendments of 1987, contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program for which HUD financial assistance (including CDBG and HOME) is provided. Requirements governing real property acquisition are described in Chapter VIII. The implementing regulations, 49 CFR Part 24, require developers and owners to take certain steps in regard to tenants of housing to be acquired, rehabbed or demolished, including tenants who will not be relocated even temporarily.

**B. Section 104(d) of the Housing and Community Development Act of 1974**

Section 104(d) requires each contractor (CHDO or State Recipient), as a condition of receiving assistance under HOME or CDBG, to certify that it is following a residential anti-displacement plan and relocation assistance plan. Section 104(d) also requires relocation benefits to be provided to low-income persons who are physically displaced or economically displaced as the result of a HOME or CDBG assisted project, and requires the replacement of low-income housing, which is demolished or converted. The implementing regulations for Section 104(d) can be found in 24 CFR Part 570(a).

**3.5. PROPER NOTIFICATION AND DISCLOSURES**

- A. Upon selection of a housing unit, a qualified seller and homebuyer will be given the necessary disclosures for the Program. The homebuyer must have read and signed all Program disclosure forms. Any and all property disclosures must be reviewed and signed by the homebuyer and seller.
- B. All owners who wish to sell their housing units must receive an acquisition notice (Attachment F) prior to submission of the homebuyer's original offer. This notice will be included in the contract and must be signed by all owners on title. The disclosure must contain the items listed in 1.3.B. (required for federally-funded programs).

**4.0. PURCHASE PRICE LIMITS**

The purchase price limits and appraised post-rehabilitation value for this Program shall not exceed the Maximum HOME Program Purchase Price/After-Rehab Value Limit for Sponsor's County as updated by HCD or HUD.

*Note: For HOME- and CalHome-funded Programs the home purchase price of owner-occupied and homebuyer properties must be limited as follows: For CalHome-funded Programs, the purchase price cannot exceed 100% of the area median purchase price as established by comparable sales or information provided by the California Real Estate Association; for HOME-funded Programs the value (with or without rehabilitation) cannot exceed 95 percent of the area median purchase price as established by HCD and HUD.*

**Attachment C: MAXIMUM PURCHASE PRICE/AFTER-REHAB VALUE LIMITS**

\*Sponsor will update these limits annually as HCD provides new information.

**5.0. THE PRIMARY LOAN**

Prior to obtaining a loan from the Sponsor, a homebuyer must provide evidence of financing for the maximum amount the Primary Lender is willing to loan (the “primary loan”).

**A. QUALIFYING RATIOS**

The front-end (housing) debt-to-income ratio shall be between 25% and 35% and is the percentage of a borrower’s gross monthly income (before deductions) that would cover the cost of the loan principal and interest payment, property taxes, property insurance, mortgage insurance, and HOA dues, if any.

The back-end (total) debt-to-income ratio shall be between 25% and 45% and is the percentage of a borrower’s gross monthly income that would cover the cost of housing as described in the paragraph above, plus any other monthly debt payments like car or personal loans and credit card debt, as well as child support and alimony payments. A back-end ratio of 45% will only be accepted when certain individual compensating factors exist such as a large down payment, accumulated savings, strong credit history, or potential for increased earnings, etc.

**B. INTEREST RATE**

The primary loan must have a fixed interest rate that does not exceed the current market rate, as established by an index identified in the most recent NOFA. No temporary interest rate buy-downs are permitted.

**C. LOAN TYPE AND TERM**

The primary loan shall be fully amortized and have a term “all due and payable” in no fewer than 30 years. There shall not be a balloon payment due before the maturity date of the Program loan.

**D. IMPOUND ACCOUNT**

All households will be required to have impound accounts for the payment of taxes and insurance to ensure they remain current.

## **6.0. THE PROGRAM LOAN**

### **A. MAXIMUM AMOUNT OF PROGRAM ASSISTANCE**

The amount of Program assistance to a homebuyer toward purchase of a home shall not exceed the maximum HOME subsidy limit for Sponsor's County per bedroom as designated by Section 221(d)(3) and shall never exceed more than 49% of the total indebtedness. The maximum amount of Homebuyer Program assistance to a homebuyer toward the purchase of a home shall not exceed \$200,000.

**See Attachment C.** Any approved "grant" amount for lead-based paint evaluation and reduction activities or for relocation assistance shall be included in this amount.

### **B. NON-RECURRING CLOSING COSTS**

Non-recurring costs such as credit report, escrow, closing and recording fees, and title report and title insurance, title updates and/or related costs may be included in the Program loan.

### **C. AFFORDABILITY PARAMETERS FOR HOMEBUYERS**

The actual amount of a buyer's Program subsidy shall be computed according to the housing ratio parameters specified in Section 5.0.A.. Each borrower shall receive only the subsidy needed to allow them to become homeowners ("the Gap") while keeping their housing costs affordable. The Program Operator will use the "front-end ratio" of housing-expense-to-income to determine if the amount of the proposed primary loan is acceptable and, ultimately, the Program subsidy amount required, bridging the gap between the acquisition cost (purchase price plus closing costs) less down payment, and the amount of the primary loan.

### **D. RATE AND TERMS FOR PROGRAM LOAN**

All Program assistance to individual households shall be made in the form of deferred payment (interest and principal) loan (DPL).

The Program loan's term shall be for a minimum of 30 years

The Program loan's interest rate shall be 0% simple interest.

All Program loan payments shall be deferred because the borrowers will have their repayment ability fully utilized under the primary loan. Loan principal shall not be forgiven, and the loan period cannot be extended.

### **E. COMBINED LOAN-TO-VALUE RATIO**

The loan-to-value ratio for a Program loan, when combined with all other indebtedness to be secured by the property, shall not exceed 100 percent of the sales price plus a maximum of up to 5 percent of the sales price to cover actual closing costs.

## **7.0. PROGRAM LOAN REPAYMENT**

### **7.1. PAYMENTS ARE VOLUNTARY**

Borrowers may begin making voluntary payments at any time.

### **7.2. RECEIVING LOAN PAYMENTS**

A. Program loan payments will be made to:

Town of Mammoth Lakes  
c/o Mammoth Lakes Housing, Inc.  
P.O. Box 260  
587 Old Mammoth Road Suite # 5  
Mammoth Lakes, CA 93546

B. The Sponsor will be the receiver of loan payments or recaptured funds and will maintain a financial record-keeping system to record payments and file statements on payment status. Payments shall be deposited and accounted for in the Sponsor's Program Income Account, as required by HCD programs. The Program lender will accept loan payments from borrowers prepaying deferred loans, and from borrowers making payments in full upon sale or transfer of the property. All loan payments are payable to the Sponsor. The Sponsor may at its discretion, enter into an agreement with a third party to collect and distribute payments and/or complete all loan servicing aspects of the Program.

### **7.3. DUE UPON SALE OR TRANSFER**

In the event that an owner sells, transfers title, or discontinues residence in the purchased property for any reason, the principal balance of the DPL is due and payable, except:

A. The owner shall be assured a fair return on investment including the owner's investment and any capital improvement. If the Net proceeds are insufficient for the Sponsor to recapture the balance of Program Loan owed, the Sponsor shall share the Net proceeds with the owner in proportion to each party's investment in the property. The Net proceeds are the sales price less repayment of the primary loan, and closing costs.

The owner shall be assured a fair return on investment including the owner's investment and any capital improvement. If the Net proceeds are insufficient for the Sponsor to recapture the balance of Program Loan owed, the Sponsor shall share the Net proceeds with the owner in proportion to each party's investment in the property expect for HOME loans. The Net proceeds are the sales price less repayment of the primary loan, and closing costs.

B. If the owner of the property dies, and the heir to the property meets income requirements, the First-Time Homebuyer definition, and intends to occupy the home as a principal residence, the heir may be permitted, upon approval of the Sponsor, to assume the loan at the rate and terms the heir qualifies for under the current

participation guidelines. If the property owner dies and the heir does not meet eligibility requirements, the loan is due and payable.

- C. If an owner wants to convert the property to a rental unit, or any commercial or non-residential use, the loan is due and payable.
- D. The loan will be in default if the borrower fails to maintain required fire or flood insurance or fails to pay property taxes. See Attachment D on loan defaults for further information on property restrictions.

#### **7.4. LOAN SERVICING POLICIES AND PROCEDURES**

See Attachment D for local loan servicing policies and procedures. While the attached policy outlines a system that can accommodate a crisis that restricts borrower repayment ability, it should in no way be misunderstood: The loan must be repaid. All legal means to ensure the repayment of a delinquent loan as outlined in the Loan Servicing Policies and Procedures will be pursued.

#### **7.5. LOAN MONITORING PROCEDURES**

Sponsor will monitor Borrowers and their housing units to ensure adherence to Program requirements including, but not limited to, the following:

- A. Owner-occupancy
- B. Property tax payment
- C. Hazard insurance coverage
- D. Good standing on Primary loans
- E. General upkeep of housing units

#### **8.0. PROGRAM LOAN PROCESSING AND APPROVAL**

- A. Loan Processing

All homebuyers or their representatives will be sent out an eligibility packet with all the necessary forms, disclosures, information, and application. They should submit a complete application packet with all the Sponsor's Program loan documents executed as well as all the information from the Primary Lender. The Primary Lender should submit: 1) accepted property sales contract with proper seller notification; 2) mortgage application with good faith estimates and first mortgage disclosures; 3) full mortgage credit report and rent verification; 4) current third party income verifications and verifications of assets; 5) homeownership education certificate, if applicable; and 6) signed underwriting transmittal summary and final signed loan application, both from primary lender. Staff will work with local lenders to ensure qualified participants receive only the benefit from the Sponsor's Program needed to purchase the housing unit and that leveraged funds will be used when possible.

- B. Creditworthiness

Qualifying ratios are only a rough guideline in determining a potential borrower's creditworthiness. Many factors such as excellent or poor credit history, amount of down payment, and size of loan will influence the decision to approve or disapprove a particular loan. The borrower's credit history will be reviewed by the Sponsor and documentation of such maintained in the loan file. The Sponsor may elect to obtain a credit report or rely on a current copy obtained by the primary lender.

C. Documents from Primary Lender

After initial review of the qualified homebuyer's application packet, the Program Operator will request any additional documents needed. Documents may be faxed, but originals shall be received through the mail before Program funds are committed to escrow. Based on receipt and review of the final documents, the Program Operator will do an income certification (using most recent HCD program's guidance on income calculation and determination), and homebuyer certification (review of credit report and income taxes). Documentation of affordability will then be verified and subsidy requirement determined.

D. Disclosure of Program and Loan Information to Homebuyers

The Program's application and disclosure forms will contain a summary of the loan qualifications of the borrower with and without Program assistance. Housing ratios with and without Program assistance are also outlined in these guidelines. Information on the Program's application will be documented with third party verifications in the file. For example, the sales contract will provide the final purchase price and outline how much of the closing costs are to be paid by the seller, etc. The appraisal, termite and title report will provide information to substantiate the information in the sales contract and guide the construction inspection. The Program loan application will provide current debt and housing information and will be documented by the credit report and income/asset verifications. The Primary Lender's approval letter and estimated closing cost statement should reflect all the information in the loan package and show any contingencies of loan funding. Reviewing the Primary Lender's loan underwriting documentation will provide basic information about the qualification of the applicant and substantiate the affordability provided by the Program loan. By reviewing and crosschecking all the Primary Lender information, the final Program loan amount approved will fall within the affordability parameters of the Program.

## **8.1. COMPLETION OF UNDERWRITING AND APPROVAL OF PROGRAM LOAN**

Once the loan approval package has been completed the Program Operator will submit it to the Sponsor for approval. Sponsor will review the request and may approve it with or without conditions. Upon approval, a final closing date for escrow is set and Program funds are accessed for the homebuyer.

## **8.2. PRIMARY AND PROGRAM LOAN DOCUMENT SIGNING**

The homebuyer(s) sign promissory notes, loan agreements, deeds of trust, and statutory lending notices (Truth In Lending (TIL), etc.); the Deeds of Trust are recorded with the

County Clerk/Recorder at the same time, and the request(s) for copy of Notice of Default are also recorded with the County Clerk/Recorder.

### **8.3. ESCROW PROCEDURES**

The escrow/title company shall review the escrow instruction provided by the Program lender and shall issue a California Land Title Association (CLTA) and the American Land Title Association (ALTA) after closing. The CLTA policy is issued to the homebuyer and protects them against failure of title based on public records and against such unrecorded risks as forgery of a deed. The ALTA is issued to each lender providing additional coverage for the physical aspects of the property as well as the homebuyer's title failure. These aspects include anything which can be determined by only physical inspection, such as correct survey lines; encroachments; mechanics liens; mining claims and water rights. The Program lender instructs the escrow/title company in the escrow instructions as to what may show on the policy; the amount of insurance on the policy (all liens should be covered) and the loss payee (each lender should be listed as a loss payee and receive an original ALTA).

### **9.0. SUBORDINATE FINANCING**

With today's high costs, in order for a low-income household to obtain a home, several funding sources might be required. Subordinate loans may be used to cover mortgage subsidy costs that exceed the Program maximum loan amount. All subordinate liens must have the payments deferred and the term must be for at least as long as the term of the Program loan.

### **10.0. EXCEPTIONS AND SPECIAL CIRCUMSTANCES**

The Sponsor may make amendments to these Participation Guidelines. Any changes shall be made in accordance with regulations and approved by the Sponsor's Loan Committee and/or governing body. Changes shall then be sent to HCD for approval.

#### **10.1. DEFINITION OF EXCEPTION**

Any case to which a standard policy or procedure, as stated in the guidelines, does not apply or an applicant treated differently from others of the same class would be an exception.

#### **10.2. PROCEDURES FOR EXCEPTIONAL CIRCUMSTANCES**

- A. The Sponsor or its agent may initiate consideration of an exception and prepare a report. This report shall contain a narrative, including the Sponsor's recommended course of action and any written or verbal information supplied by the applicant.
- B. The Sponsor shall make a determination of the exception based on the recommendation of the Program Operator. The request can be presented to the Sponsor's loan committee and/or governing body for a decision.

### **11.0. DISPUTE RESOLUTION AND APPEALS PROCEDURE**

Any applicant denied assistance from the Program has the right to appeal. Complaints concerning the Program should be made to the Program Operator first. If unresolved in this manner, the complaint or appeal must be made in writing and filed with the Sponsor. The Sponsor will then schedule a meeting with the Loan Review Committee. Their written response will be made within thirty (30) working days. If the applicant is not satisfied with the Committee's decision, a request for an appeal may be filed with the Sponsor's governing body. Final appeal must be filed in writing with HCD within one year after denial.

## ATTACHMENT A

### 24 CFR Part 5 ANNUAL INCOME INCLUSIONS AND EXCLUSIONS

#### Part 5 Inclusions

This table presents the Part 5 income inclusions as stated in the HUD Technical Guide for Determining Income and Allowances for HOME Program (Third Edition; January 2005).

General Category	(Last Modified: January 2005)
1. Income from wages, salaries, tips, etc.	The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. Business Income	The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest & Dividend Income	Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. Retirement & Insurance Income	The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment (except for certain exclusions, listed in Income Exclusions, number 14).
5. Unemployment & Disability Income	Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except for certain exclusions, listed in Income Exclusions, number 3).
6. Welfare Assistance	Welfare Assistance. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income: <ul style="list-style-type: none"> <li>• Qualify as assistance under the TANF program definition at 45 CFR 260.31; and</li> <li>• Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c).</li> </ul> If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of: <ul style="list-style-type: none"> <li>• the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; <b>plus:</b></li> <li>• the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.</li> </ul>
7. Alimony, Child Support, & Gift Income	Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. Armed Forces Income	All regular pay, special pay, and allowances of a member of the Armed Forces (except as provided in number 8 of Income Exclusions).

#### Part 5 exclusions

This table presents the Part 5 income exclusions as stated in the HUD Technical Guide for Determining Income and Allowances for HOME Program (Third Edition; January 2005).

General Category	(Last Modified: January 2005)
1. Income of Children	Income from employment of children (including foster children) under the age of 18 years.
2. Foster Care Payments	Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
3. Inheritance and Insurance Income	Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses (except for certain exclusions, listed in Income Inclusions, number 5).
4. Medical Expense Reimbursements	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of Live-in	Income of a live-in aide (as defined in 24 CFR 5.403).

Aides	
6. Income from a Disabled Member	Certain increase in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671 (a)).
7. Student Financial Aid	The full amount of student financial assistance paid directly to the student or to the educational institution.
8. "Hostile Fire" Pay	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
9. Self-Sufficiency Program Income	<ol style="list-style-type: none"> <li>a. Amounts received under training programs funded by HUD.</li> <li>b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).</li> <li>c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.</li> <li>d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.</li> <li>e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment-training program.</li> </ol>
10. Gifts	Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparation Payments	Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
12. Income from Full-time Students	Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household or spouse).
13. Adoption Assistance Payments	Adoption assistance payments in excess of \$480 per adopted child.
14. Social Security & SSI Income	Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Property Tax Refunds	Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
16. Home Care Assistance	Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.
17. Other Federal Exclusions	<p>Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. The following is a list of income sources that qualify for that exclusion:</p> <ul style="list-style-type: none"> <li>▶ The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;</li> <li>▶ Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through AmeriCorps, VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);</li> <li>▶ Payments received under the Alaskan Native Claims Settlement Act;</li> <li>▶ Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;</li> <li>▶ Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;</li> <li>▶ Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program.</li> <li>▶ Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);</li> <li>▶ The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;</li> <li>▶ Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs;</li> <li>▶ Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program);</li> <li>▶ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other</li> </ul>

fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

- ▶ Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
- ▶ The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- ▶ Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs and career intern programs, AmeriCorps).
- ▶ Payments by the Indians Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- ▶ Allowances, earnings, and payments to AmeriCorps participants under the National and Community Services Act of 1990;
- ▶ Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
- ▶ Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act; and
- ▶ Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.

## **ATTACHMENT B**

### **PART 5 ANNUAL INCOME NET FAMILY ASSET INCLUSIONS AND EXCLUSIONS**

This table presents the Part 5 asset inclusions and exclusions as stated in the HUD Technical Guide for Determining Income and Allowances for HOME Program (Third Edition; January 2005).

Statements from 24 CFR Part 5 – Last Modified: January 2005

#### **Inclusions**

1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6-month balance. Assets held in foreign countries are considered assets.
2. Cash value of revocable trusts available to the applicant.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
5. Individual retirement, 401(K), and Keogh accounts (even though withdrawal would result in a penalty).
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by an applicant.

#### **Exclusions**

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
2. Interest in Indian trust lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated by the asset.
4. Equity in cooperatives in which the family lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e., where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

**ATTACHMENT C**

**MAXIMUM PURCHASE PRICE/AFTER-REHAB VALUE LIMIT FOR MONO COUNTY  
(HOME Value Limits as of 3/1/17)**

COUNTY NAME	One-Family
MONO	\$380,000

**HOME SUBSIDY LIMITS PER UNIT – SECTION 221(d)(3) FOR MONO COUNTY  
(Limits are effective 5/24/17)**

COUNTY NAME	O-BDR	1-BDR	2-BDR	3-BDR	4-BDR
MONO	\$141,089	\$161,738	\$196,673	\$254,431*	\$279,286*
<i>*Per the TOML Homebuyer Guidelines, the maximum subsidy amount is \$200,000.</i>					

**INCOME LIMITS FOR MONO COUNTY\*  
(Limits are effective 6/15/17)**

<i>Number of Persons in Household</i>								
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
<b>80% of AMI</b>	\$42,500	\$48,550	\$54,600	\$60,650	\$65,550	\$70,400	\$75,250	\$80,100
<i>*Sponsor will insert the limits for the county in which the Program is located, and will update the income limits annually as HCD provides new information. The link to the official, HCD-maintained, income limits is: <a href="http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html">http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html</a>.</i>								

## ATTACHMENT D

### LOAN SERVICING POLICIES AND PROCEDURES FOR Town of Mammoth Lakes

The Town of Mammoth Lakes, hereafter called “Lender,” has adopted these policies and procedures in order to preserve its financial interest in properties whose “Borrowers” have been assisted with public funds. The Lender will to the greatest extent possible follow these policies and procedures, but each loan will be evaluated and handled on a case-by-case basis. The Lender has formulated this document to comply with state and federal regulations regarding the use of these public funds and any property restrictions, which are associated with them.

The policies and procedures are broken down into the following areas: 1) making required monthly payments or voluntary payments on a loan’s principal and interest; 2) required payment of property taxes and insurance; 3) required Request for Notice of Default on all second mortgages; 4) loans with annual occupancy restrictions and certifications 5) required noticing and limitations on any changes in title or use of property; 6) required noticing and process for requesting a subordination during a refinance; 7) processing of foreclosure in case of default on the loan.

#### 1. Loan Repayments:

The Lender will collect monthly payments from those borrowers who are obligated to do so under Notes which are amortized promissory notes (or Lender will use \_\_\_\_\_ loan collection Company to collect payments). Late fees will be charged for payments received after the assigned monthly due date.

For Notes which are deferred payment loans, the Lender must accept voluntary payments on the loan. Loan payments will be credited to principal. The borrower may repay the loan balance at any time with no penalty.

#### 2. Payment of Property Taxes and Insurance:

As part of keeping the loan from going into default, borrower must maintain property insurance coverage naming the Lender as loss payee in first position or additional insured if the loan is a junior lien. If borrower fails to maintain the necessary insurance, the Lender may take out force placed insurance to cover the property while the Borrower puts a new insurance policy in place. All costs for installing the necessary insurance will be added to the loan balance at time of installation of Borrower’s new insurance.

When a property is located in a 100-year flood plain, the Borrower will be required to carry the necessary flood insurance. A certificate of insurance for flood and for standard property insurance with an endorsement naming the Town as additional insured will be required at close of escrow. The lender will verify the insurance on an annual basis.

Property taxes must be kept current during the term of the loan. If the Borrower fails to maintain payment of property taxes then the lender may pay the taxes current and add the balance of the tax payment plus any penalties to the balance of the loan. Wherever possible, the Lender encourages Borrower to have impound accounts set up with their first mortgagee wherein they pay their taxes

and insurance as part of their monthly mortgage payment.

3. Required Request for Notice of Default:

When the Borrower's loan is in second position behind an existing first mortgage, it is the Lender's policy to prepare and record a "Request for Notice of Default" for each senior lien in front of Lender's loan. This document requires any senior lien holder listed in the notice to notify the lender of initiation of a foreclosure action. The Lender will then have time to contact the Borrower and assist them in bringing the first loan current, if possible. The Lender can also monitor the foreclosure process and go through the necessary analysis to determine if the loan can be made whole or preserved. When the Lender is in a third position and receives notification of foreclosure from only one senior lien holder, it is in their best interest to contact any other senior lien holders regarding the status of their loans.

4. Annual Occupancy Restrictions and Certifications:

On owner-occupant loans, the Lender will require that Borrowers submit utility bills and/or other documentation annually to prove occupancy during the term of the loan. Some loans may have income and housing cost evaluations, which require a household to document that they are not able to make amortized loan payments, typically every five years. These loan terms are incorporated in the original Note and Deed of Trust.

5. Required Noticing and Restrictions on Any Changes of Title or Occupancy:

In all cases where there is a change in title or occupancy or use, the Borrower must notify the Lender in writing of any change. Lender and borrower will work together to ensure the property is kept in compliance with the original Program terms and conditions such that it remains available as an affordable home for low-income families. These types of changes are typical when Borrowers do estate planning (adding a relative to title) or if a Borrower dies and property is transferred to heirs or when the property is sold or transferred as part of a business transaction. In some cases the Borrower may move and turn the property into a rental unit without notifying the Lender. Changes in title or occupancy must be in keeping with the objective of benefit to low-income households (below 80 percent of AMI).

Change from owner-occupant to owner-occupant occurs at a sale. When a new owner-occupant is not low-income, the loan is not assumable and the loan balance is immediately due and payable. If the new owner-occupant qualifies as low-income, the purchaser may either pay the loan in full or assume all loan repayment obligations of the original owner-occupant, subject to the approval of the Lender's Loan Committee (depends on the HCD program).

If a transfer of the property occurs through inheritance, the heir (as owner-occupant) may be provided the opportunity to assume the loan at an interest rate based on household size and household income, provided the heir is income eligible. If the heir intends to occupy the property and is not low-income, the balance of the loan is due and payable. If the heir intends to act as an owner-investor, the balance of the loan may be converted to an owner/investor interest rate and loan term and a rent limitation agreement is signed and recorded on title. All such changes are subject to the review and approval of the Lender's Loan Committee.

Change from owner-occupant to owner-investor occurs when an owner-occupant decides to move out and rent the assisted property, or if the property is sold to an investor. If the owner converts any assisted unit from owner-occupied to rental, the loan is due in full.

Conversion to use other than residential use is not allowable where the full use of the property is changed from residential to commercial or other. In some cases, Borrowers may request that the Lender allow for a partial conversion where some of the residence is used for a business but the household still resides in the property. Partial conversions can be allowed if it is reviewed and approved by any and all agencies required by local statute. If the use of the property is converted to a fully non-residential use, the loan balance is due and payable.

#### 6. Requests for Subordinations:

When a Borrower wishes to refinance the property, they must request a subordination request to the Lender. The Lender will subordinate their loan only when there is no “cash out” as part of the refinance. No cash out means that there are no additional charges on the transaction above loan and escrow closing fees. There can be no third-party debt payoffs or additional encumbrance on the property above traditional refinance transaction costs. Furthermore, the refinance should lower the housing cost of the household with a lower interest rate, and the total indebtedness on the property should not exceed the current market value.

Also, provisions of Section 5.0.B and 5.0.C of these guidelines still apply, which state that the loan must:

- a) be fully amortized and have a fixed interest rate that does not exceed the current market rate, as established by an index identified in the most recent NOFA;
- b) not have a temporary interest rate buy-down;
- c) have a term “all due and payable” in no fewer than 30 years; and;
- d) not have a balloon payment due before the maturity date of the Program loan.

Upon receiving the proper documentation from the refinance lender, the request will be considered by the loan committee for review and approval. Upon approval, the escrow company will provide the proper subordination document for execution and recordation by the Lender.

#### 7. Process for Loan Foreclosure:

Upon any condition of loan default: 1) non-payment; 2) lack of insurance or property tax payment; 3) change in title or use without approval; 4) default on senior loans, the Lender will send out a letter to the Borrower notifying them of the default situation. If the default situation continues then the Lender may start a formal process of foreclosure.

When a senior lien holder starts a foreclosure process and the Lender is notified via a Request for Notice of Default, the Lender, who is the junior lien holder, may cancel the foreclosure proceedings by "reinstating" the senior lien holder. The reinstatement amount or payoff amount must be obtained by contacting the senior lien holder. This amount will include all delinquent payments, late charges and fees to date. Lender must confer with Borrower to determine if, upon paying the senior lien holder current, the Borrower can provide future payments. If this is the case then the Lender may cure the foreclosure and add the costs to the balance of the loan with a Notice of Additional Advance on the existing note.

If the Lender determines, based on information on the reinstatement amount and status of borrower, that bringing the loan current will not preserve the loan, then staff must determine if it is cost effective to protect their position by paying off the senior lien holder in total and restructure the debt such that the unit is made affordable to the Borrower. If the Lender does not have sufficient funds to pay the senior lien holder in full, then they may choose to cure the senior lien holder and foreclose on the property themselves. As long as there is sufficient value in the property, the Lender can afford to pay for the foreclosure process and pay off the senior lien holder and retain some or all of their investment.

If the Lender decides to reinstate, the senior lien holder will accept the amount to reinstate the loan up until five (5) days prior to the set "foreclosure sale date." This "foreclosure sale date" usually occurs about four (4) to six (6) months from the date of recording of the "Notice of Default." If the Lender fails to reinstate the senior lien holder before five (5) days prior to the foreclosure sale date, the senior lien holder would then require a full pay off of the balance, plus costs, to cancel foreclosure. If the Lender determines the reinstatement and maintenance of the property not to be cost effective and allows the senior lien holder to complete foreclosure, the Lender's lien may be eliminated due to insufficient sales proceeds.

#### Lender as Senior Lien holder

When the Lender is first position as a senior lien holder, active collection efforts will begin on any loan that is 31 or more days in arrears. Attempts will be made to assist the homeowner in bringing and keeping the loan current. These attempts will be conveyed in an increasingly urgent manner until loan payments have reached 90 days in arrears, at which time the Lender may consider foreclosure. Lender's staff will consider the following factors before initiating foreclosure:

- 1) Can the loan be cured and can the rates and terms be adjusted to allow for affordable payments such that foreclosure is not necessary?
- 2) Can the Borrower refinance with a private lender and pay off the Lender?
- 3) Can the Borrower sell the property and pay off the Lender?
- 4) Does the balance warrant foreclosure? (If the balance is under \$5,000, the expense to foreclose may not be worth pursuing.)
- 5) Will the sales price of home "as is" cover the principal balance owing, necessary advances, (maintain fire insurance, maintain or bring current delinquent property taxes, monthly yard maintenance, periodic inspections of property to prevent vandalism, etc.) foreclosure, and marketing costs?

If the balance is substantial and all of the above factors have been considered, the Lender may opt to initiate foreclosure. The Borrower must receive, by certified mail, a thirty-day notification of foreclosure initiation. This notification must include the exact amount of funds to be remitted to the Lender to prevent foreclosure (such as, funds to bring a delinquent BMIR current or pay off a DPL).

At the end of thirty days, the Lender should contact a reputable foreclosure service or local title company to prepare and record foreclosure documents and make all necessary notifications to the owner and junior lien holders. The service will advise the Lender of all required documentation to initiate foreclosure (Note and Deed of Trust usually) and funds required from the owner to cancel foreclosure proceedings. The service will keep the Lender informed of the progress of the foreclosure proceedings.

When the process is completed, and the property has "reverted to the beneficiary" at the foreclosure sale, the Lender could sell the home themselves under a homebuyer program or use it for an affordable rental property managed by a local housing authority or use it for transitional housing facility or other eligible use. The Lender could contract with a local real estate broker to list and sell the home and use those funds for program income eligible uses.

# ATTACHMENT E

## SELLERS LEAD-BASED PAINT DISCLOSURE

### Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

#### **Seller's Disclosure**

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) \_\_\_ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

\_\_\_\_\_  
(ii) \_\_\_ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i) \_\_\_ Seller has provided the purchaser with all available records and reports pertaining to Lead-based paint and/or lead-based paint hazards in the housing (list documents below).

\_\_\_\_\_  
(ii) \_\_\_ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

#### **Purchaser's Acknowledgment (initial)**

(c) \_\_\_ Purchaser has received copies of all information listed above.

(d) \_\_\_ Purchaser has received the pamphlet Protect Your Family from Lead in Your Home.

(e) \_\_\_ Purchaser has (check (i) or (ii) below):

(i) \_\_\_ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii) \_\_\_ waived the opportunity to conduct a risk assessment or inspection for the presence of Lead-based paint and/or lead-based paint hazards (NOT PERMISSIBLE FOR HOME AND CDBG).

#### **Agent's Acknowledgment (initial)**

(f) \_\_\_ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

#### **Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____ Seller	_____ Date	_____ Seller	_____ Date
_____ Purchaser	_____ Date	_____ Purchaser	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date

**ATTACHMENT F**

**Disclosure to Seller with Voluntary, Arm's Length Purchase Offer**

**DECLARATION**

This is to inform you that \_\_\_\_\_ would like to purchase the property, located at \_\_\_\_\_, if a satisfactory agreement can be reached. We are prepared to pay \$\_\_\_\_\_ for a clear title to the property under conditions described in the attached proposed contract of sale.

Because Federal funds may be used in the purchase, however, we are required to disclose to you the following information:

1. The sale is voluntary. If you do not wish to sell, the buyer, \_\_\_\_\_, thru the agency, \_\_\_\_\_ will not acquire your property. The buyer does not have the power of eminent domain to acquire your property by condemnation (i.e. eminent domain) and the agency/Sponsor \_\_\_\_\_ will not use the power of eminent domain to acquire the property.
2. The estimated fair market value of the property is \$\_\_\_\_\_ and was estimated by \_\_\_\_\_, to be finally determined by a professional appraiser prior to close of escrow.

Since the purchase would be a voluntary, arm's length, transaction you would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation. Also, as indicated in the contract of sale, this offer is made on the condition that no tenant will be permitted to occupy the property before the sale is completed.

Again, please understand that if you do not wish to sell your property, we will take no further action to acquire it. If you are willing to sell the property under the conditions described in the attached contract of sale, please sign the contract and return it to us at: \_\_\_\_\_ . If you have any questions about this matter, please contact \_\_\_\_\_ at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
Title

\_\_\_\_\_  
*Buyer*

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Buyer*

\_\_\_\_\_  
Date

Form continues on next page with Seller's Acknowledgment

**Disclosure to Seller with Voluntary, Arm's Length Purchase Offer (Page 2)**

**Acknowledgement**

As the Seller I/we understand that the \_\_\_\_\_ will inspect the property for health and safety deficiencies. I/we also understand that public funds may be involved in this transaction and, as such, if the property was built before 1978, a lead-based paint disclosure must be signed by both the buyer and seller, and that a Visual Assessment will be conducted to determine the presence of deteriorated paint.

As the Seller, I/we understand that under the Town's program, the property must be currently owner-occupied, vacant for three months at the time of submission of purchase offer, new (never occupied), or renter purchasing the unit. I/we hereby certify that the property is:

Vacant at least 3 months;  Owner-occupied;  New; or  Being Purchased by Occupant

*I/we hereby certify that I have read and understand this "Declaration" and  a copy of said Notice was given to me prior to the offer to purchase. If received after presentation of the purchase offer, I/We choose  to withdraw or  not to withdraw, from the Purchase Agreement.*

\_\_\_\_\_  
*Seller*

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Seller*

\_\_\_\_\_  
Date

## **ATTACHMENT G**

### Town of Mammoth Lakes

#### INSTRUCTIONS TO HOMEBUYER

- A. Participant works with lender of choice to obtain the primary lender's pre-qualification letter.
- B. After consultation with Program Operator regarding approved bedroom and bathroom maximums (always 3 bedrooms and 2 bathrooms unless extenuating circumstances justify more to be approved), participant works with real estate agent to select home. Program disclosures are reviewed with agent for presentation to seller. The HOME Program allows only homes vacant for three months or more prior to the date of the purchase contract, unless the current tenant is purchasing the home.
- C. Participant selects home and enters into a purchase contract (contingent upon receiving Program loan approval). Lender provides the Program Operator with a copy of:
  - real estate sales contract
  - residential loan application and credit report
  - verified income documentation
  - disclosure statement
  - proof of personal funds for participation in program
  - breakdown of closing costs
  - structural pest control clearance
  - appraisal with photos and preliminary title report
- D. Program Operator reviews paperwork to determine program eligibility and financing affordability for participant.
- E. Program Operator staff meets with qualified applicant to provide information relative to the program requirements, the lending process, and homeownership responsibilities.
- F. Program Operator has home inspected to document health & safety and code compliance. Notice of any deficiencies or needed corrections are given to participant's real estate agent, with recommended course of action.
- G. Program Operator requests loan approval from Sponsor's Loan Review Committee. Following loan approval, Program Operator prepares Deed of Trust, Promissory Note, Request for Notice of Default, Grant Agreement, Owner-Occupant Agreement with Town, and Escrow Instructions, and requests check and deposits same into escrow.
- H. Escrow company furnishes Program Operator with proof of documents to be recorded, and any escrow closeout information. After receipt of recorded loan documents, Final HUD-1, Insurance Loss Payee Certification and Final Title Insurance Policy (Program Operator) closes out the loan file.

## ATTACHMENT H

### LEAD-BASED PAINT

#### VISUAL ASSESSMENT, NOTICE OF PRESUMPTION, AND HAZARD REDUCTION FORM

<b>Section 1: Background Information</b>			
Property Address:			No LBP found or LBP exempt <input type="checkbox"/>
Select one:	Visual Assessment <input type="checkbox"/>	Presumption <input type="checkbox"/>	Hazard Reduction <input type="checkbox"/>

<b>Section 2: Visual Assessment.</b> Fill out Sections 1, 2, and 6. If paint stabilization is performed, also fill out Sections 4 and 5 after the work is completed.	
Visual Assessment Date:	Report Date:
Check if no deteriorated paint found <input type="checkbox"/>	
Attachment A: Summary where deteriorated paint was found.	

<b>Section 3: Notice of Presumption.</b> Fill out Sections 1, 3, 5, and 6. Provide to occupant w/in 15 days of presumption.	
Date of Presumption Notice:	
Lead-based paint is presumed to be present <input type="checkbox"/> and/or Lead-based paint <i>hazards</i> are presumed to be present <input type="checkbox"/>	
Attachment B: Summary of Presumption:	

<b>Section 4: Notice of Lead-Based Paint Hazard Reduction Activity.</b> Fill out Sections 1, 4, 5, and 6. Provide to occupant w/in 15 days of after work completed.	
Date of Hazard Reduction Notice:	
Initial Hazard Reduction Notice? Yes <input type="checkbox"/> No <input type="checkbox"/>	Start & Completion Dates:
If "No", dates of previous Hazard Reduction Activity Notices:	
Attachment C: Activity locations and types.	
Attachment D: Location of building components with <u>lead-based paint remaining</u> in the rooms, spaces or areas where activities were conducted.	
Attachment E: Attach clearance report(s), using DHS form 8552 (and 8551 for abatement activities)	

<b>Section 5: Resident Receipt of Notice for Presumption or Lead-Based Paint Hazard Reduction Activity</b>		
Printed Name:	Signature:	Date:

<b>Section 6: Contact Information</b>	Organization:	
Contact Name:	Contact Signature:	
Date:	Address:	Phone:

## ATTACHMENT I

### Homebuyer Program Lead Compliance Document Checklist

The following documents should be in each Homebuyer unit file to document compliance with the lead requirements:

<b>Document Name</b>	<b>Purpose</b>	✓
Lead Safe Housing Rule Screening Sheet	Documents exemptions	
Physical inspection form (HQS or equivalent)	Documents visual assessment results	
Seller Certification	Seller certifies that paint was stabilized by qualified workers and that safe work practices were followed during paint stabilization	
Clearance Report and Clearance Review Worksheet	Documents that unit passed clearance	
Disclosure Form	Documents that buyer received disclosure and pamphlet.	
Lead Hazard Reduction Notice	Documents that buyer received required lead hazard reduction notification.	

This was taken from the HUD Website at:

<http://www.hud.gov/offices/cpd/affordablehousing/training/leadsafe/usefulforms/index.cfm#crosscutting>

## ATTACHMENT J

### ACQUISITION WITH REHABILITATION CONSTRUCTION CONTRACT

#### Home Improvement Construction Contract

This Home Improvement Construction Contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the following parties: (Owner(s) Name): \_\_\_\_\_ and (Contractor's Name and Address): \_\_\_\_\_

**(Notice of Cancellation, see paragraph 28, may be sent to Contractor at the above address).**

The parties agree as follows:

1. Work to be Performed: Contractor agrees to provide a Schedule of Work, in accordance with the Work Write-up (Attachment 1) and furnish all supervision, technical personnel, labor, materials, tools and equipment necessary to complete the work described in the work write-up attached hereto at the real property commonly described as: \_\_\_\_\_. Contractor will be responsible for all construction means, methods, techniques, sequences and procedures and for the coordination of all portions of the work under the Contract. All materials shall be new, unless otherwise specified, and of good quality. Owner has a right to require the Contractor to have a performance and payment bond; the expense of the bond may be borne by the Owner.
2. Contract Price: Owner agrees to pay Contractor the sum of \$\_\_\_\_\_ for the work to be performed.
3. Completion Time:
  - a. Approximate Start Date: The Contractor agrees to file a complete permit application within ten (10) days after receipt of written Notice to Proceed from the Owner. Owner and Contractor agree that the Start Date of construction shall be the date the permits are issued by the Town of Mammoth Lakes. In no event shall the Contractor commence work or place any materials on the site thereof prior to receipt of Notice to Proceed from the Owner.
  - b. Approximate Completion Date: Contractor shall prosecute the work diligently and continuously to completion. The work shall be completed within \_\_\_\_\_ days after the Start Date, subject to such delays as are permissible under paragraph 7 herein below.
4. Payment:
  - a. Price will be paid to Contractor in installments based on completion of work tasks and individual item prices on the Work Write-up attached, and any Change Orders.
  - b. Contractor shall submit all required payment forms to Owner for approval of payment. Prior to authorization of payment, the Contractor shall provide lien releases for claims by subcontractors, laborers, and material suppliers involved in the work and/or represented by Contractor's invoices. Owner may also request written guarantees and warranties.
  - c. After approval by Owner, Contractor shall submit payment request forms to Mammoth Lakes Housing, hereinafter referred to as "MLH." MLH shall then make payment to the Contractor. MLH may, at its option, inspect the work to ensure that it has been satisfactorily completed in accordance with the Contract requirements. Should MLH determine that work has not been performed in accordance with the Contract, MLH may, in its sole discretion,

withhold or reduce payment in accordance with the terms of the agreement between Owner and MLH.

- d. At the time the work is completed, the Contractor shall submit the final pay request along with the recorded Notice of Completion, final building inspection report, insulation certificate, any warranties and guarantees, conditional lien releases, and Section 3 report (for contracts over \$100,000).
  - e. An amount equal to ten percent of the total Contract price, including any Change Orders, will be withheld by Owner and shall be paid to Contractor 35 days after notice of completion has been recorded, final inspection by the jurisdiction's building official and approval by Owner, provided that Contractor is not in default under this Contract. Final payment will be subject to withholding any amounts due to Owner for actual costs due to unexcused delays.
  - f. The payment of any progress payment shall not constitute acceptance of defective work or improper material, nor is it a waiver of the warranties or any other remedies to which the Owner may be entitled under the terms of this Contract
5. Relationship of the Parties to MLH: Work to be performed under this Contract is financed by funds from the Town of Mammoth Lakes and administered by MLH. Owner is solely responsible for monitoring all work performed under this Contract and enforcing the terms of this Contract. MLH shall inspect all work for the purposes of monitoring loan disbursements in accordance with terms of this Contract and enforcing the terms of the loan agreement. Inspections performed by MLH are solely for the protection of the lender and solely for the purpose of assuring that the construction is progressing reasonably and that the lender's collateral interest is adequately protected. Owner acknowledges that MLH's inspections are not for the purpose of assuring Contractor's compliance with applicable building codes. MLH shall not be liable under any circumstances for its failure to discover or require correction by Contractor of work that fails to comply with applicable building codes or for its failure to discover or require correction of any dangerous condition or defective work by contractor or by any subcontractor.

MLH shall not, under any circumstances, have any liability either to the Owner or to the Contractor for any disbursement or refusal to approve of any disbursement requested by Contractor.

6. Failure to Commence Work: Failure by the Contractor without lawful excuse to substantially commence work within 20 days from the date specified in the Notice to Proceed is a violation of the Contractors' License Law.
7. Excusable Delays: Contractor shall not be charged with delay in the completion of the work due to: any acts of Owner which cause delay; general strikes; acts of God or the public enemy; unavailability of materials, or casualty beyond Contractor's control, provided, however, that Contractor promptly (within 14 days) notifies Owner, in writing, of the cause of the delay. If the facts show the delays to be excusable under the terms of the Contract, the time for completion shall be extended for a period equal to the amount of time due to such delay.
8. Unexcused Delays: The parties agree that the Owner would incur additional expenses as a result of Contractor's unexcused delays in the completion of the work. "Additional expenses" shall include but not be limited to housing and storage costs incurred by the owner due to the inability to fully occupy the property.
9. Provisions for the Owner: While this Contract is in force, Owner shall permit Contractor the use of existing utilities including light, heat, power, and water, without charge, in order to carry out and complete the work. Owner may continue to occupy the premises during the rehabilitation but

shall cooperate with Contractor to facilitate the performance of the work including the abandonment of limited areas as may be essential to the conduct of the work.

10. **Compliance with the Law:** By signing this contract, the Contractor certifies that it is licensed and in good standing in California, and not listed on the Federal Consolidated List of Debarred, Suspended and Ineligible Contractors. Contractors are regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826. All work shall be completed in strict compliance with the laws, ordinances, rules, regulations and Codes of the State, County, and local governments, whether such applicable laws, ordinances, rules, regulations and codes are mentioned in this Contract or not. Contractor shall obtain, pay for, and provide permits and licenses, as required to complete all work outlined under this Contract. Where applicable, Contractor agrees to the following provisions:

- a) Standard Contract Language, All Contracts and Subcontracts, pertaining to civil rights, HCD, age discrimination, rehabilitation acts assurance, etc. (see Attachment 2).
- b) By the statement below, Contractor hereby furnishes Owner with Contractor Notice in compliance with California Business and Professions Code Section 7159:

**INFORMATION ABOUT THE CONTRACTORS' STATE LICENSE BOARD  
(CSLB)**

**CSLB is the state consumer protection agency that licenses and regulates construction contractors.**

**Contact CSLB for information about the licensed contractor you are considering including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.**

**Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.**

**For more information:**

Visit CSLB's Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P. O. Box 26000, Sacramento, CA 95826

- c) The contractor hereby agrees to abide by the requirements of Executive Order 11246 and all implementing regulations of the Department of Labor.

11. Notice to Owner (see Attachment 3).
12. Required Insurance: Contractor shall obtain and keep in effect during the life of this contract, insurance in the following minimum amounts:

Worker's Compensation and Employer's Liability Insurance meeting the statutory requirements of the State of California.

Comprehensive General Liability and Property Damage Insurance with Combined Single Limits of at least \$1,000,000. This insurance shall be on an occurrence basis and shall protect the Contractor against liability arising from: Contractor's operations, operations by subcontractors, products, completed operations or professional liability where applicable and contractual liability assumed under the indemnity provisions above insured. Any Excavation, Collapse and Underground exclusions must be deleted when applicable to operations performed by the Contractor or his subcontractors.

An original certificate of such insurance shall be filed with MLH. Said certificate shall evidence coverage through the life of this Contract.

13. Safety to Public and Property: Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. In such, Contractor shall provide reasonable protection to prevent damage, injury, and loss to: all employees on the work, all work and materials and equipment to be incorporated therein and other property at the site or adjacent thereto, including trees, shrubs, lawns, pavements, structures, and utilities not designated for removal or replacement under the terms of this Contract.
14. Hold Harmless: With the exception that this Section shall in no event be construed to require indemnification by Contractor to a greater extent than permitted under the public policy of the State of California, Contractor shall indemnify and save harmless Owner and MLH, including their officers, agents, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys fees, losses or liability, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Contractor's operations to be performed under this Agreement for, but not limited to:
  - (a) Personal injury, including, but not limited to, bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to any employees or agents of Owner, MLH, or any other subcontractor and/or damage to property of anyone (including loss of use thereof), caused or alleged to be caused in whole or in part by any negligent act or omission of Contractor or anyone directly or indirectly employed by Contractor or anyone for whose act Contractor may be liable regardless of whether such injury or damage is caused by a party indemnified hereunder.
  - (b) Penalties imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance, or statute, caused by the action or inaction of Contractor.
  - (c) Infringement of any patent rights which may be brought against MLH or Owner arising out of Contractor's work.
  - (d) Claims and liens for labor performed or materials used or furnished to be used on the job, including all incidental or consequential damages resulting to MLH or Owner from such claims or liens.
  - (e) Contractor's failure to fulfill the covenants set forth in collective bargaining agreement, wage order or any other agreement or regulation concerning labor relations.
  - (f) Failure of Contractor to provide Casualty Insurance.

- (g) Any violation or infraction by Contractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of MLH's or other's equipment, hoist, elevators, or scaffolds. The indemnification provisions of (a) through (g) above shall extend to Claims occurring after this Agreement is terminated as well as while it is in force. Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of Owner or MLH or their agents or employees. Contractor, however, shall not be obligated under this Agreement to indemnify Owner or MLH for Claims arising from the sole negligence or willful misconduct of Owner or MLH or their agents, employees or independent contractors who are directly responsible to Owner or MLH, or for defects in design furnished by such persons.
  - (h) Contractor shall:
    - i. At Contractor's own costs, expense and risk, defend any claims that may be brought or instituted by third persons, including but not limited to, governmental agencies or employees of Contractor, against MLH or Owner or their agents or employees or any of them;
    - ii. Pay and satisfy any judgment or decree that may be rendered against MLH or Owner or their agents or employees, or by any of them, arising out of any such Claim; and/or
    - iii. Reimburse MLH or Owner or their agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section.
  - (i) All work covered by this Agreement done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Contractor exclusively until the completed work is accepted by MLH.
  - (j) The indemnities set forth in this Section shall not be limited by any insurance requirements set forth elsewhere within this agreement.
15. Assignment: Contractor shall not assign or transfer any right or obligation under this Contract without first obtaining the written consent of Owner. Any attempted assignment by Contractor shall be void.
16. Changes in Work to be Performed: No changes shall be made in the work, Contract price or Contract time for completion of work, except by written change order. The change order shall bear the signatures of the parties to this Contract and approved (by signature) as to propriety with funding requirements by MLH. No claim for an adjustment of Contract work, price or time will be valid unless so ordered. Payment for change orders that bear additional cost shall be made in accordance with paragraph 4, above.
17. Guarantees and Material Warranties: All labor, materials and installation shall be guaranteed for a period of one year from the date of final acceptance by Owner, when subjected to normal use and care, and provided Owner has complied, in full, with the terms and payments and other conditions of this Contract. Upon written notice from Owner, Contractor shall repair or remedy any defect in materials and workmanship within the one-year period specified. Contractor shall furnish Owner with and assign to Owner all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under this Contract.
18. Surplus Materials and Clean-up of Premises: All materials and equipment removed and not reused as a condition of this Contract shall remain or become the property of Owner, unless otherwise so stated in writing. All surplus materials as well as all rubbish and construction debris resulting from construction activities shall be removed promptly from the job site by Contractor. Upon

completion of the work, Contractor shall leave the building and premises in a "broom-clean" condition.

19. Divisibility: It is intended that each paragraph of this agreement shall be viewed as separate and divisible, and in the event that any paragraph shall be held to be invalid, the remaining paragraphs shall continue to be in full force and effect.
20. Materials Restriction: Lead base paint hazards specified in the work write-up shall be mitigated in accordance with Federal Lead Based Paint regulations listed at 24 CFR 35. All new paint used must be a non-lead based paint.
21. Arbitration:
  - a. Should any controversy arise out of or related to this Contract or the breach thereof, that falls within the provisions of 7085 et seq. of the California Business and Professions Code, other than a controversy based upon your failure to comply with a notice to return to the project under paragraph 23, the parties shall agree to submit the issue to Contractors State License Board (CSLB) arbitration. The decision of the arbitrator is final and binding on both parties. CSLB will pay for the hearing, the arbitrator, and the services of one Board-appointed expert witness per complaint. The parties are responsible for their own attorney fees, if any, and additional expert witnesses, if any.
  - b. Any controversy arising out of or relating to this Contract, or the breach thereof, that does not qualify for CSLB arbitration, or the parties do not agree to CSLB arbitration, shall be submitted to binding arbitration in accordance with the provisions of the California Arbitration Law, Code of Civil Procedure 1280 et seq., and the Rules of the American Arbitration Association. The arbitrator shall have the final authority to order work performed, to order the payment from one party to another, and to order whom shall bear the costs of arbitration. Costs to initiate arbitration shall be paid by the party seeking arbitration. Notwithstanding, the party prevailing in any arbitration proceeding and in any litigation arising out of or relating to this contract shall be entitled to recover from the other all attorneys' fees and costs of arbitration.
22. Mechanics Liens: Contractor shall pay promptly all valid bills and charges for materials, labor or otherwise, in connection with or arising out of the rehabilitation of said property and will hold Owner free and harmless against all of them, filed against the property or any part thereof, and from and against all expense and liability in connection therewith, including but not limited to, court costs and attorneys' fees resulting or arising there from. Should any liens or claim of liens be filed for record against the property, or should Owner receive notice of any unpaid bill or charge in connection with the Contract, Contractor shall forthwith pay and discharge the same and cause the same to be released of record. Contractor authorizes MLH to issue joint checks as part of any disbursement otherwise payable to Contractor whenever MLH, in its sole discretion, determines that payment in this fashion is necessary in order to protect the interests of the Lender or the Owner. (See also, Notice to Owner, Attachment 3).
23. Termination of Contract: Should Contractor commit any of the acts specified in this paragraph, the Owner may, give 72 hours' notice in writing thereof to Contractor, to commence and continue thereafter to diligently prosecute the correction thereof, and if contractor fails to do so, then without prejudice to any other rights or remedies given Owner by law or by this contract, Owner may terminate the services of Contractor under this contract; take possession of said project and the premises on which it is located; take possession of all materials, located on such premises; and, complete said project by whatever method Owner may deem expedient.

Contractor shall be deemed to have committed an act specified in this paragraph if contractor shall:

- a. refuse or fail to supply enough properly skilled workers or proper materials to complete said project in the time specified in this contract and in the approved time schedule.
- b. fail to make prompt payment to subcontractors, laborers, or material men for labor performed on or materials furnished to said project;
- c. fail to comply with the time schedule for completion of the project;

The preceding notwithstanding, the following actions by the Contractor shall be deemed to be material breaches of the contract which are not subject to cure. Should Contractor commit any of the acts specified in this paragraph, the Owner may, by giving 72 hours' notice in writing thereof to Contractor, without prejudice to any other rights or remedies given Owner by law or by this contract, terminate the services of Contractor under this contract; take possession of said project and the premises on which it is located; take possession of all materials, located on such premises; and complete said project by whatever method owner may deem expedient:

- d. Commence with any proceedings of bankruptcy;
  - e. make a general assignment for the benefit of contractors;
  - f. persist in disregarding any law or ordinance relating to said project or the completion thereof;
  - g. suffer the revocation or suspension of its contractor's license.
24. Rights on Termination by Owner: Should Owner terminate the service of Contractor under this contract and complete said project pursuant to Paragraph 10 of this contract, the Contractor shall not be entitled to receive any further payment under this contract until said project is fully completed. On completion of said project by Owner, if the unpaid balance of the contract price exceeds the expenses incurred by Owner in completing said project, including any compensation paid by Owner for managerial, administrative, or supervisory services in completing said project, such excess shall be paid by Owner to Contractor. If the expense incurred by Owner in completion of said project exceeds the unpaid balance of the purchase price, Contractor shall pay such excess to Owner with thirty days following written demand by Owner.
25. Force Majeure: Neither Owner nor Contractor shall be deemed to be in default if performance of the improvements required by this contract is delayed or becomes impossible because of any act of God, war, earthquake, fire, civil commotion, epidemic, act of government, its agencies or officers, court order, or any other legitimate cause beyond the control of the party and not caused by the negligent, unreasonable or intentional acts of the party.
26. Availability of Funds: In the event the loan or grant of funds upon which this Contract is contingent is not approved, this Contract shall be considered null and void, and shall not create any liability to either Owner or Contractor.
27. Contract Nullity: This entire Contract shall be considered null and void if either of the following shall occur:
- a. Owner is not approved for funding to finance the Contract Price;
  - b. Owner chooses not to proceed with the project before construction begins.
28. **Three-Day Right to Cancel**: **“You, the Owner, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the Contractor at the Contractor’s place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this**

notice. Include your name, your address, and the date you received the signed copy of this contract including this notice.

If you cancel, the Contractor must return any moneys paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the Contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the Contractor's instructions on how to return the goods at the Contractor's expense and risk. If you do make the goods available to the Contractor, and the Contractor does not pick them up within 20 days of the date of your notice of cancellation, you make keep them without any further obligation. If you fail to make the goods available to the Contractor, or if you agree to return the goods to the Contractor and fail to do so, then you remain liable for performance of all obligations under this Contract."

29. "You, the Owner, are entitled to a completely filled in copy of this Contract, signed by both you and the Contractor, before any work may be started."

THE OWNER AND THE CONTRACTOR ACKNOWLEDGE THAT THEY HAVE READ, UNDERSTAND AND AGREE TO ALL PROVISIONS OF THIS CONTRACT INCLUDING ALL ADDITIONAL CONTRACT DOCUMENTS.

**OWNER(S):** \_\_\_\_\_

\_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_

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

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

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

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

License Number: \_\_\_\_\_

Tax ID or Soc. Sec. #: \_\_\_\_\_

**Attachments:**

- 1 – Work Write-up
- 2 – Standard Contract Language
- 3 – Notice to Owner

STANDARD CONTRACT LANGUAGE:{PRIVATE }  
ALL CONTRACTS AND SUBCONTRACTS

1. The Civil Rights, HCD, and Age Discrimination Acts Assurances:  
During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or handicap, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all implementing regulations.
2. Rehabilitation Act of 1973 and the “504 Coordinator”  
The Grantee further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR Part 8, including, but not limited to, for Grantees with 15 or more permanent full or part time employees, the local designation of a specific person charged with local enforcement of this Act, as the “504 Coordinator”.
3. The Training, Employment and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:
  - a) The grant activity to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C 1701u. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority provided in 24 CFR 135.34(a)(2).
  - b) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
  - c) The Grantee will include these Section 3 clauses in every contract and subcontract for Work in connection with the grant activity and will, at the direction of the State, take appropriate action pursuant to the contract or subcontract upon a finding that the Grantee or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
  - d) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the federal financial assistance provided to the project, binding upon the Grantee, its successors and assigns. Failure to fulfill these requirements shall subject the Grantee, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

4. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or more

The Grantee hereby agrees to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246), the Standard Equal Employment Opportunity, and the Construction Contract Specifications. The Grantee furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts.

5. State Nondiscrimination Clause:

- a) During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40) marital status, and denial of family care leave. Contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Contractors and subcontractors shall comply with the provisions of the Housing Act (Government Code, Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7258 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Regulations, are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

6. Labor Standards –Federal Labor Standards Provisions

The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of:

Davis-Bacon Act (40 USC 276a-276a-5) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of Federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.

Copeland “Anti-Kickback” Act (47 USC 276(c)) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions.

Contract Work Hours and Safety Standards Act – CWHSSA (40USC 327-333) requires that workers receive “overtime” compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week.

Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

## NOTICE TO OWNER

"Under the California Mechanics' Lien Law, any contractor, subcontractor, laborer, supplier, or other person or entity who helps to improve your property, but is not paid for his or her work or supplies, has a right to place a lien on your home, land, or property where the work was performed and to sue you in court to obtain payment.

This means that after a court hearing, your home, land, and property could be sold by a court officer and the proceeds of the sale used to satisfy what you owe. This can happen even if you have paid your contractor in full if the contractor's subcontractors, laborers, or suppliers remain unpaid.

To preserve their rights to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are each required to provide you with a document called a "Preliminary Notice." Contractors and laborers who contract with owners directly do not have to provide such notice since you are aware of their existence as an owner. A preliminary notice is not a lien against your property. Its purpose is to notify you of persons or entities that may have a right to file a lien against your property if they are not paid. In order to perfect their lien rights, a contractor, subcontractor, supplier, or laborer must file a mechanics' lien with the county recorder which then becomes a recorded lien against your property. Generally, the maximum time allowed for filing a mechanics' lien against your property is 90 days after substantial completion of your project.

**TO INSURE EXTRA PROTECTION FOR YOURSELF AND YOUR PROPERTY, YOU MAY WISH TO TAKE ONE OR MORE OF THE FOLLOWING STEPS:**

- (1) Require that your contractor supply you with a payment and performance bond (not a license bond), which provides that the bonding company will either complete the project or pay damages up to the amount of the bond. This payment and performance bond as well as a copy of the construction contract should be filed with the county recorder for your further protection. The payment and performance bond will usually cost from 1 to 5 percent of the contract amount depending on the contractor's bonding ability. If a contractor cannot obtain such bonding, it may indicate his or her financial incapacity.
- (2) Require that payments be made directly to subcontractors and material suppliers through a joint control. Funding services may be available, for a fee, in your area which will establish voucher or other means of payment to your contractor. These services may also provide you with lien waivers and other forms of protection. Any joint control agreement should include the addendum approved by the registrar.
- (3) Issue joint checks for payment, made out to both your contractor and subcontractors or material suppliers involved in the project. The joint checks should be made payable to the persons or entities which send preliminary notices to you. Those persons or entities have indicated that they may have lien rights on your property; therefore, you need to protect yourself. This will help to insure that all person due are actually paid.
- (4) Upon making payment on any completed phase of the project, and before making any further payments, require your contractor to provide you with unconditional "Waiver and Release" forms signed by each material supplier, subcontractor, and laborer involved in that portion of the work for which payment was made. The statutory lien releases are set forth in exact language in Section 3262 of the Civil Code. Most stationery stores will sell the "Waiver and Release" forms if your contractor does not have them. The material suppliers, subcontractors, and laborers that you obtain releases from are those persons or entities who have filed preliminary notices with you.

If you are not certain of the material suppliers, subcontractors, and laborers working on your project, you may obtain a list from your contractor. On projects involving improvements to a single-family residence or a duplex owned by the individuals, the person signing these releases lose the right to file a mechanics' lien claim against your property. In other types of construction, this protection may still be important, but may not be as complete.

To protect yourself under this option, you must be certain that all material suppliers, subcontractors, and laborers have signed the "Waiver and Release" form. If a mechanics' lien has been filed against your property, it can only be voluntarily released by a recorded "Release of Mechanics' Lien" signed by the person or entity that filed the mechanics' lien against your property unless the lawsuit to enforce the lien was not timely filed. You should not make any final payments until any and all such liens are removed. You should consult an attorney if a lien is filed against your property."

**Read and acknowledged:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Dated

