Planning and Economic Development Commission Special Agenda

Tuesday, March 18, 2025, 9:00 a.m.

437 Old Mammoth Road, Suite Z, Mammoth Lakes

Members of the Planning and Economic Development Commission

Commissioner Greg Eckert, Commissioner Cynthia Fleming, Commissioner Lana Grand,
Vice Chair Dawn Vereuck, Chair Michael Vanderhurst

NOTE: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (760) 965-3602. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 13.102-35.104 ADA Title II)

NOTE: Materials related to an item on this agenda submitted after distribution of the agenda packet are available for public inspection in the Town Offices located at 437 Old Mammoth Road, Suite 230 during normal business hours. Such documents are also available on the Town of Mammoth Lakes website at www.townofmammothlakes.ca.gov subject to staff's ability to post the documents before the meeting.

NOTE: You may watch the Planning and Economic Development Commission meetings on the Town of Mammoth Lakes' website at www.townofmammothlakes.ca.gov, on the local government cable channel 18, via Zoom or in person. Public comments can be submitted to the Town Clerk at clerk@townofmammothlakes.ca.gov before and during the meeting, via Zoom or in person.

NOTE: All comments will be limited to a speaking time of five minutes.

ZOOM INFORMATION

Join from a PC, Mac, iPad, iPhone, or Android device:
Please click this URL to join. https://monocounty.zoom.us/s/94467884456
Or join by phone:
Dial (for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 312 626 6799 or +1 646 876 9923 or +1 301 715 8592
*Callers - To Raise your hand press *9, To Unmute/Mute press *6*
Webinar ID: 944 6788 4456
International numbers available: https://monocounty.zoom.us/u/aeHBYOcpOu

1. CALL TO ORDER

   Commissioner Greg Eckert will attend the meeting remotely from the following location: Unit 1-A, 2 Avenida Lorenzo, La Salina, Baja California Norte, Mexico.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS

   The Public Comment portion of the agenda provides the public with an opportunity to address the Planning and Economic Development Commission on matters not otherwise listed on the agenda. Under California law the Planning and Economic Development Commission is prohibited from generally discussing or taking action on items not included in the agenda; however, the Commission may briefly respond to comments or questions from members of the public. Therefore, the Commission will listen to all public comment, but will not generally discuss the matter or take action on it. Requests for service from the Town may also be made at the Town offices during regular business hours. Members of the public desiring to speak on a matter appearing on the agenda should ask the Chair for the opportunity to be heard when the item comes up for Commission consideration.

4. PUBLIC HEARINGS

   Public Hearing Procedure: The Chair will open the public hearing and then: Statement and presentation by staff. Statement and presentation by property owner or appellant. Questions from the Planning and Economic Development Commission. Call for testimony from those persons wishing to speak. Rebuttal to previous testimony by property owner or appellant. Close the public hearing, terminating public testimony. The Commission will deliberate the matter and arrive at a decision.

   4.1 Consideration of the Amended and Restated Snowcreek Development Agreement for property located within the Snowcreek VII and VIII project sites within the Snowcreek Master Plan area. The project was previously analyzed pursuant to the California Environmental Quality Act (CEQA) in the certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report and the Snowcreek VII Mitigated Negative Declaration.

   4.2 Consideration of Unmet Transit Needs within the Town of Mammoth Lakes for FY 25/26.

5. CONSENT AGENDA

   5.1 Approve the minutes of the regular meeting of February 12, 2025.

   5.2 Approve the minutes of the regular meeting of March 12, 2025.

6. COMMISSIONER REPORTS

Informational reports from Commissioner representatives on committees, commissions, and organizations; general reports on Commission activities. Opportunity to add urgency items pursuant to Government Code Section 54954.2(b)2, if necessary; and to remove items from consent for separate discussion.

Design Committee - Dawn Vereuck and Cynthia Fleming

Mobility Committee - To be appointed

7. DIRECTORS REPORT

The Director's Report portion of the agenda provides the Director with an opportunity to address the Planning and Economic Development Commission on Community and Economic Development work items.

8. ADJOURNMENT

The Planning and Economic Development Commission will adjourn to a regular meeting to be held on Wednesday, April 9, 2025 at 9:00 a.m.

Mammoth Lakes Planning and Economic Development Commission
Agenda Action Sheet

Title: Consideration of the Amended and Restated Snowcreek Development Agreement for property located within the Snowcreek VII and VIII project sites within the Snowcreek Master Plan area. The project was previously analyzed pursuant to the California Environmental Quality Act (CEQA) in the certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report and the Snowcreek VII Mitigated Negative Declaration.

Council Meeting Date: 3/18/2025

Prepared by: Nolan Bobroff, Community and Economic Development Director

Recommended Motion: Adopt the Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and recommending to the Town Council approval of the Amended and Restated Snowcreek Development Agreement as recommended by staff.

Summary: The 2010 Snowcreek Development Agreement (SDA) became effective in July 2010 and vests the entitlements granted in the Snowcreek Master Plan Update - 2007 (SMPU) for the Snowcreek VIII development and the entitlements granted under the previous 1981 Snowcreek Master Plan for the Snowcreek VII (Creekhouse) development. The term of the SDA is for 20 years covering the period of July 23, 2010 – July 23, 2030; however, starting in July 2020, the term of the SDA is reduced one day for each day that construction of the hotel and expanded golf course has not commenced. Construction of these elements has not commenced and therefore, the term is currently being reduced and will expire in July 2025, unless construction of the golf course and hotel has commenced or unless an amendment to the 2010 SDA is approved that extends the term.

Due to the impending expiration of the SDA in July 2025, the Developer is requesting an amendment to the SDA. The proposed amendments to the SDA will:

- Extend the term of the SDA for an additional 20-years (from 2025 to 2045), with an option for an additional 5-year extension (to 2050) if the existing 9-hole golf course is continuously operated during the term. [*2010 SDA Section 2.2*]
- Remove the language that shortens the term of the SDA if the golf course and hotel are not constructed during a specified term. [*2010 SDA Section 2.2.1.c.2*]
- Require the operation of the existing 9-hole golf course for the term of the extended SDA and record a Golf Operations and Maintenance Agreement that outlines minimum operating and maintenance standards for the course.
- Require the permanent protection of the existing 9-hole golf course area, less the area identified for residential development (Lots 3, 4, and G of TM 09-002), for recreation and open space purposes.
- Encourage the Developer to work with the Town on interim recreation uses for the 94-acre golf course expansion area.
- Require the Developer to work with the Mammoth Lakes Fire Protection District on the construction of fire breaks through the Snowcreek VIII site.
- Clarify the affordable housing requirements, require the provision of on-site housing units be dispersed throughout the Snowcreek VIII development, and clarify what is required for each phase of development. [*2010 SDA Section(s) 2.2.3 and 4.1*]
- Reset the building permit fees and development impact fees (DIFs) to current rates and vest the fees for the term of the extended SDA at those rates, subject to annual inflationary cost increases. [*2010 SDA Section(s) 5.5.2 and 5.5.4*]
- Require any future assignment of the SDA to be to a Developer that has comparable, or better, financial capability and experience as the current developer. [*2010 SDA Section 8.1*]

- Updated the indemnification language to better protect the Town. [*2010 SDA Section 11.7*]
- Added an additional force majeure circumstance that identifies a decrease in the median home sales value by 10% or more over a one-year period is considered as being an unavoidable event that warrants additional time be added to the term. [*SDA Section 11.15*]
- Minor text clean-up and updates throughout the SDA.

Town of Mammoth Lakes

Planning & Economic Development Commission Staff Report

Meeting Date: March 18, 2025

AGENDA TITLE: Consideration of the Amended and Restated Snowcreek Development Agreement for property located within the Snowcreek VII and VIII project sites within the Snowcreek Master Plan area. The project was previously analyzed pursuant to the California Environmental Quality Act (CEQA) in the certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report and the Snowcreek VII Mitigated Negative Declaration.

Applicant/ Property Owner: Snowcreek Investment Company II, LLC (Snowcreek VIII) and Snowcreek Hilltop Development Co, LLC (Snowcreek VII) (collectively, the "Developer")

REQUESTING DEPARTMENT:

Community & Economic Development
Nolan Bobroff, Director

OBJECTIVE:

1. Hear Staff and Applicant presentations
2. Hold Public Hearing
3. Planning & Economic Development Commission (PEDC) discussion
4. PEDC action to either:
    a. Adopt the Planning and Economic Development Commission Resolution (the Resolution), making the required CEQA and Municipal Code findings, and recommending to the Town Council approval of the Amended and Restated Snowcreek Development Agreement as recommended by staff;
    b. Adopt the Resolution with modifications; or
    c. Recommend to the Town Council denial of the Amended and Restated Snowcreek Development Agreement.

SUMMARY:

The request is for an amendment to the 2010 Snowcreek Development Agreement (SDA)[1] that applies to the Snowcreek VII and Snowcreek VIII project sites. The proposed amendments to the SDA will:

- Extend the term of the SDA for an additional 20-years (from 2025 to 2045), with an option for an additional 5-year extension (to 2050) if the existing 9-hole golf course is continuously operated during the term. [*2010 SDA Section 2.2*]
- Remove the language that shortens the term of the SDA if the golf course and hotel are not constructed during a specified term. [*2010 SDA Section 2.2.1.c.2*]

[1] Snowcreek DA: https://www.townofmammothlakes.ca.gov/DocumentCenter/View/5109

- Require the operation of the existing 9-hole golf course for the term of the extended SDA and record a Golf Operations and Maintenance Agreement that outlines minimum operating and maintenance standards for the course.
- Require the permanent protection of the existing 9-hole golf course area, less the area identified for residential development (Lots 3, 4, and G of TM 09-002), for recreation and open space purposes.
- Encourage the Developer to work with the Town on interim recreation uses for the 94-acre golf course expansion area.
- Require the Developer to work with the Mammoth Lakes Fire Protection District on the construction of fire breaks through the Snowcreek VIII site.
- Clarify the affordable housing requirements, require the provision of on-site housing units be dispersed throughout the Snowcreek VIII development, and clarify what is required for each phase of development. [*2010 SDA Section(s) 2.2.3 and 4.1*]
- Reset the building permit fees and development impact fees (DIFs) to current rates and vest the fees for the term of the extended SDA at those rates, subject to annual inflationary cost increases. [*2010 SDA Section(s) 5.5.2 and 5.5.4*]
- Require any future assignment of the SDA to be to a Developer that has comparable, or better, financial capability and experience as the current developer. [*2010 SDA Section 8.1*]
- Updated the indemnification language to better protect the Town. [*2010 SDA Section 11.7*]
- Added an additional force majeure circumstance that identifies a decrease in the median home sales value by 10% or more over a one-year period is considered as being an unavoidable event that warrants additional time be added to the term. [*SDA Section 11.15*]
- Minor text clean-up and updates throughout the SDA.

Project Name:	Amended and Restated Snowcreek Development Agreement
Location:	Snowcreek VII (TM 36-236 and TM 35-236A) and Snowcreek VIII (Lots 1-18 and A-G of TM 09-002) project sites, located in the southeast portion of town within the Snowcreek Master Plan area
Size of Property:	Approximately 260 acres consisting of the Snowcreek VII and VIII project areas
Zoning:	Resort (R) and Open Space (OS) – Snowcreek Master Plan Update - 2007 (SMPU)
General Plan:	Resort (R) and Open Space (OS)
Environmental Review:	Project was previously analyzed in the certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report (SCH #2006112015) (Snowcreek EIR)

KEY ISSUES:

1. Can the required findings pursuant to Municipal Code (MC) Chapter 17.104 (Development Agreements) for approval of a development agreement be made?
2. Is the proposed project consistent with the California Environmental Quality Act (CEQA)?

I. INTRODUCTION AND BACKGROUND

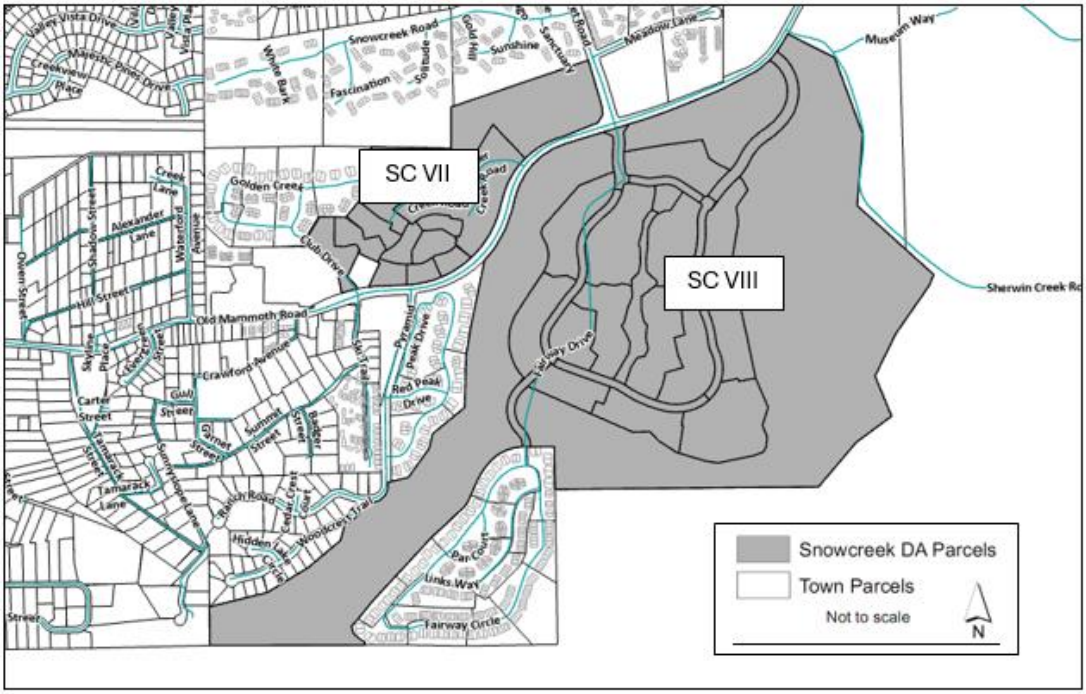
The 2010 Snowcreek Development Agreement (SDA) became effective in July 2010 and vests the entitlements granted in the Snowcreek Master Plan Update - 2007 (SMPU) for the Snowcreek VIII development and the

entitlements granted under the previous 1981 Snowcreek Master Plan for the Snowcreek VII (Creekhouse) development.[2] The SDA applies to the Snowcreek VII and Snowcreek VIII project areas (See Figure 1). The term of the SDA is for 20 years covering the period of July 23, 2010 – July 23, 2030; however, starting in July 2020, the term of the SDA is reduced one day for each day that construction of the hotel and expanded golf course has not commenced. Construction of these elements has not commenced and therefore, the term is currently being reduced and will expire in July 2025, unless construction of the golf course and hotel has commenced or unless an amendment to the 2010 SDA is approved that extends the term.

For a variety of reasons, the development of the Snowcreek VIII project has not progressed at the rate envisioned at the time of adoption of the SDA, and the majority of the 'greater community benefits' identified in the SDA have not been achieved. This is largely attributed to the fact that development of the Snowcreek VIII project has not yet begun, and all of the 'greater community benefits' are tied to the Snowcreek VIII development. As a result of this and the impending expiration of the SDA in July 2025, the Developer is requesting an amendment to the SDA. The requested amendment proposes to: (1) extend the SDA for an additional 20 years through 2045; and (2) to remove the language that shortens the term of the DA if the golf course and hotel are not constructed during a specified term. In exchange for the extension, the Town is asking for: (1) a commitment to operate the existing 9-hole golf course for the life of the extended SDA; (2) the permanent protection of the existing 9-hole golf course area for open space and recreation purposes; (3) the potential for interim recreation uses on the golf course expansion area; (4) a commitment to work with the Fire District on the construction of fire breaks through the Snowcreek VIII site; and (5) all of the 'greater community benefits' identified in the SDA to remain in place. The other proposed amendments are intended to: (1) improve the clarity of what is required under the SDA with regards to affordable housing and fees; and (2) to improve the clarity of the agreement.

Development agreements (DAs) are governed by State Government Code §65864 et seq. and Municipal Code Chapter 17.104 (Development Agreements). The procedure for amending a development agreement is the same as the procedure for entering into a new development agreement and requires a public hearing before both the PEDC and the Town Council. The adoption of the ordinance approving a DA by the Town Council is subject to a referendum in compliance with Government Code § 65867.5 for a period of 30 days. at a later date.

FIGURE 1- PROJECT LOCATION MAP



[2] The Snowcreek VII (Creekhouse) project was completed during the term of the SDA.

BACKGROUND

Development Agreements

Development agreements (DAs) are voluntary contracts negotiated between project proponents and public agencies (e.g. Town of Mammoth Lakes) that govern the allowable land uses in a particular project and establish the conditions to which a development will be subject. Neither an applicant nor a public agency are required to enter into a DA. The purpose of a DA is to provide a degree of certainty in the land use regulatory process and provide mutual benefits to the parties. DAs are intended to provide the developer with assurances that it will have a vested right to develop, use, and operate the project site during the term of the agreement, including the vesting of the uses and densities identified in the regulatory documents (e.g., zoning code, master plan). In return for those assurances, DAs provide the public agency (e.g., the Town) with a variety of community benefits that are negotiated between the parties and are required to be shown to be of greater benefit to the community than development under present zoning. For example, the SDA provides the Town with the following community benefits: an additional financial contribution of up to $10M beyond the fees otherwise required, affordable housing in excess of what is currently required by the MC, 8.9 acres of park area in excess of that required, preservation of the Mammoth Creek open space corridor, and secondary access to the Snowcreek V project.

Municipal Code Chapter 17.104 outlines the requirements for DAs in the Town. A DA is required to be accompanied by a development plan (e.g. the Snowcreek Master Plan Update - 2007), contain a schedule of development, and specify the length of time of the agreement. MC Chapter 17.104.040 identifies the required findings to approve a DA, which are:

A. That the agreement is consistent with the goals, policies, general land uses and programs specified in the general plan;

B. That the agreement and accompanying development plan are compatible with the uses authorized in, and the performance and development standards prescribed for, the zone classification in which the subject property is located;

C. That the agreement is in conformity with and will promote public convenience, the general welfare and good land use and development practices;

D. That the agreement is shown to be of greater benefit to the community than development under present zoning; and

E. That the term or duration of the agreement has a commensurate relationship to the benefits provided.

DAs are subject to annual review, as required by State Law and Municipal Code Chapter 17.104.090, to evaluate compliance with required terms and conditions. Project proponents must demonstrate good faith compliance with the DA. DAs are recorded, which binds future owners to the requirements and obligations contained in the DA.

Review Process for the Amended and Restated SDA

The SDA was adopted by the Town Council on June 23, 2010 by Ordinance 10-08 and became effective on July 23, 2010. Since that time, the Snowcreek VII project has been completed and development of the Snowcreek VIII project has not begun. As such, and with the impending expiration of the SDA in July 2025, the Developer submitted an application requesting an amendment of the SDA in October 2023 and the Town Council accepted the application for the Amended and Restated SDA in December 2023. Following acceptance of the application, the Town and Developer began negotiating the Amended and Restated SDA. The negotiating parties are Chuck Lande, Chad Lande, and attorneys from Allen Matkins Leck Gamble Mallory & Natsis, LLP on behalf of the Developer, and Nolan Bobroff, Haislip Hayes, Rob Patterson, and Nira Doherty with Burke, Williams, Sorensen, LLP on behalf of the Town.

As a part of the review process, the following steps were taken:

- **February 2024 Town Council Workshop:** The goal of this workshop was to provide an opportunity for the Town Council to review and provide comments on the proposed amendments to the SDA.
- **July 2024 Financial Analysis:** To analyze the value of the existing community benefit package and the proposed additional community benefits, the Town contracted with Keyser Marston Associates to provide

a financial analysis of the benefits. The analysis concluded that receipt by the Town of the community benefits package is sufficient to justify approving the SDA amendments being proposed by the Developer. The full financial analysis is included as **Attachment C**.

- **August 2024 PEDC Workshop:** The goal of this workshop was to provide an opportunity for the PEDC to review and provide comments on the proposed amendments to the SDA.
- **September 2024 Town Council Workshop:** The goal of this workshop was to provide a timeline for the review and processing of the amendments to the SDA.
- **October 2024 Town Council and PEDC Workshops:** The goal of these workshops were to provide the Town Council and the PEDC with a comparison of the development that could occur on the Snowcreek VIII site with and without the SDA.
- **October 2024 – February 2025:** Third party review of the proposed amendments to the SDA by the law firm Burke, Williams, Sorensen, LLP.
- **February 2025 Town Council Workshop:** The goal of this workshop was to have the third party consultant provide a summary of their review of the proposed amendments to the SDA.

Snowcreek Master Plan Update – 2007 (SMPU) / Snowcreek VIII Project

As indicated above, the SDA vests the entitlements granted in the Snowcreek Master Plan Update - 2007 (SMPU)[3] for the Snowcreek VIII development. In the event that the SDA expires, the developer can still build the project envisioned in the SMPU, but the Town would not receive any of the outstanding community benefits that have not been provided and the developer would not have a guarantee that the SMPU wouldn't be amended.

The SMPU, which updated the original 1974 and 1981 Snowcreek Master Plans, addressed the proposed buildout of the remaining Snowcreek Master Plan area – Snowcreek VIII. The 2007 update was intended to fulfill the vision of the 1974 and 1981 Snowcreek Master Plans and serves as the zoning for the 222-acre Snowcreek VIII site. The SMPU allows for development of the Snowcreek VIII site with up to 790 residential dwelling units, a resort hotel with up to 250 rooms, 150 private residence club units, up to 75,000 square feet of non-residential uses, an expansion of the existing 9-hole golf course into an 18-hole championship golf course, and various recreational amenities (i.e., multi-use paths, snow play area, and winter trails). The SMPU was approved in August 2009 (Ordinance 09-05); however, to date, no development has occurred on the Snowcreek VIII site.

The initial phase of the Snowcreek VIII project (Snowcreek VIII Phase I) was approved in September 2024 and authorized the following: (1) the subdivision of Lots 1, 2, and 3 authorizing 172 condominium "airspace" units; (2) construction of the road and multi-use path network for Phase I; and (3) completion of all required subdivision improvements (i.e., mass grading, installation of utilities, drainage infrastructure, stormwater management) for Phase I. The residential area will be developed over three sub-phases (Phase(s) 1A, 1B, and 1C). Development of Phase 1C does require the relocation of the golf course infrastructure (parking area and clubhouse) and a re-orientation of Hole 1. This work is required to be completed prior to the start of construction of Phase 1C and is required to not interfere with the seasonal operation of the golf course. The proposed subdivision does not authorize the physical construction of the residential units and a subsequent use permit and design review approval is required prior to the commencement of construction of any of the three sub-phases.

Within the Recreation area (TM 09-002 Lots 17 and 18), the Phase I subdivision is only proposing the installation of stormwater retention basins and recycled water ponds for landscape irrigation purposes. The proposed stormwater retention and recycled water infrastructure does not preclude the future expansion of the golf course on the site.

[3] Snowcreek Master Plan: https://www.townofmammothlakes.ca.gov/DocumentCenter/View/562

PROJECT PROPOSAL – AMENDED AND RESTATED SNOWCREEK DEVELOPMENT AGREEMENT

The following is a summary of the proposed amendment requests. Additional minor revisions to the text to improve the clarity of the SDA are proposed throughout the Amended and Restated SDA. The revisions are shown in track change format in **Attachment B**. For the exact language of the amendments, please refer to **Exhibit A** of the Resolution.

Term

- The term of the SDA is proposed to be extended by 20 years from 2025 to 2045. Additionally, if the Developer continuously operates the 9-hole golf course during the term of the SDA, an automatic five-year extension will be granted, thereby extending the term to 2050.

The SDA has been in place for approximately 15 years and the Town has not received any of the additional community benefits outlined in the agreement since the Snowcreek VIII project has not begun. By extending the term, it will allow for those benefits to remain in place and the Town to receive those benefits over the course of the development. It is anticipated that the development will be developed in multiple phases over an extended period of time. Without the SDA, the Developer can still construct the Snowcreek VIII project as outlined in the SMPU, but the Town would not receive any of the Community Benefits outlined in the SDA.

The additional five-year extension is intended to be a 'carrot' for the Developer to incentivize the continued operation of the 9-hole golf course.

- Removal of the language that shortens the term of SDA if construction of the golf course and hotel is not commenced (SDA Section 2.2.1.c.2)

Since 2020, the Developer has been losing time on the term of the SDA since construction of the hotel and 18-hole golf course has not commenced and the SDA will expire in July 2025. This "shot clock" has proven to be ineffective in forcing the construction of the hotel or golf course expansion since the Developer could still construct the Snowcreek VIII project without the SDA. However, the "shot clock" does have a negative impact for the Town since the Town would not receive any of the outstanding community benefits if the SDA were terminated. The SDA specifies that market forces dictate the phasing of the development (e.g., it has taken 15 years to get to the point that the Developer is ready to begin the project) and terms that shorten the life of the SDA are not enough of a penalty to overcome market forces.

9-hole Golf Course

- Operation of the 9-Hole Golf Course: The Developer will be required to continuously operate the existing 9-hole golf course for the entire term of the SDA and record a Golf Operations and Maintenance Agreement that outlines minimum operating and maintenance standards for the course.

The continued operation of the 9-hole golf course has been a significant concern for the golf community and the residences surrounding the golf course. The Town has limited ability to force a privately owned business to operate, but through the DA negotiation process, the Developer has agreed to operate the course for the term of the Amended and Restated SDA. The operations and maintenance agreement will outline minimum standards that are intended to establish the expected annual operating period of the course and standards to ensure the safety of the community and the public (e.g., wildfire risk, nuisance abatement, and infrastructure maintenance).

- Open Space Protection: The Developer will be required to permanently protect the approximately 61-acre existing 9-hole golf course area, less the area identified for residential development (Lots 3 and 4 of TM 09-002), for recreation and open space purposes.

Similar to the operation of the existing golf course, there has been significant interest in ensuring that the existing golf course area remain as open space for recreation purposes. The Developer has agreed to record a covenant on the property that permanently protects the area for recreation and open space purposes. The covenant will be similar to the covenant that protects the 94-acre golf course expansion area and will allow for the site to be developed with recreational and open spaces uses, such as a golf course and ancillary amenities and other recreational activities.

Recreation Amenities

- Recreation Amenities: Encourage the Developer to work with the Town on interim recreation uses for the 94-acre golf course expansion area.

There is interest from a variety of user groups in developing interim recreation uses on the 94-acre golf course expansion area, and this amendment will encourage the Developer to work with the Town on these efforts. The intent would be that none of the uses are permanent or would otherwise preclude the golf course expansion in order to provide the greatest flexibility for the Developer.

Wildfire Mitigation

- Require the Developer to work with the Mammoth Lakes Fire Protection District on the construction of fire breaks through the Snowcreek VIII site.

With the recent devastating wildfires, it has illustrated the need for the proactive development of fire breaks to protect at-risk communities. The language in the Amended and Restated SDA requires the developer to work with the Fire District to construct a fire break through the Snowcreek VIII development area.

Fees

- The Building Permit Fees and the Development Impact Fees will be set to the current rates in effect on the effective date of the amendment to the SDA. The fees will then be vested at those rates for the term of the SDA and will be subject to annual increases based on the annual percentage change in the CA Construction Cost Index (CCCI).

This resets the fees from the 2010 rates to the 2025 rates. Since the adoption of the SDA in 2010, staff have tracked the SDA fees that were vested at the 2010 rates and increased annually based on the CCCI index, to analyze what savings the vested fees were providing. For the current FY, the delta between the 2010 adjusted rates and the current year rates was approximately $1,200. The reset will establish a new baseline for the fees going forward.

Affordable Housing

- Clarifies the affordable housing requirements and requires the provision of on-site housing units, payment of in-lieu fees, and use of existing credits to be proportionate throughout the development of Snowcreek VIII.

The proposed amendments to the affordable housing requirements are intended to clarify what is required during the course of the development and do not propose any changes to the amount or types of housing mitigation required in the 2010 SDA. Under the proposed changes, the Residential component of the project will be required to construct on-site units and pay in-lieu fees on a proportionate basis for each unit constructed and the Hotel component will be mitigated through the payment of in-lieu fees only.

Assignment and Assumption

- Require any future assignment of the SDA to be to a Developer that has comparable, or better, financial capability and experience as the current developer.

Pursuant to the SDA, the Town has the ability to review the qualifications of any transferee or assignee that will assume control of the Snowcreek project, and provide a reasonable objection if the entity is not qualified. The proposed language goes a step further and requires that any future developer be more qualified than the current developer.

Force Majeure

- An additional force majeure circumstance that identifies a decrease in the median home sales value by 10% or more over a one-year period is considered as being an unavoidable event that warrants additional time be added to the term. [SDA Section 11.15]

The additional unavoidable event language would address any economic downturns and would provide additional time to the term of the SDA in the event of a downturn which results in the median sales value decreasing by 10% or more over a one-year period. The Town Council expressed interest for a higher percentage threshold during the 2-5-2025 workshop.

II. ANALYSIS OF KEY ISSUES

KEY ISSUE #1: Can the required findings pursuant to Municipal Code (MC) Chapter 17.104 (Development Agreements) for approval of a development agreement be made?

Pursuant to the MC Chapter 17.104, the following findings are required to be made to approve a DA.

1. **Is the agreement consistent with the goals, policies, general land uses and programs specified in the Town's general plan?**

   The Amended and Restated SDA is consistent with the goals, policies, general land uses and programs specified in the Town's General Plan because the proposed amendments will further implement the Snowcreek Master Plan Update, which was approved by Ordinance 09-05, incorporated herein by reference, and was found to be in conformance with both the General Plan and Vision. The proposed amendments will also further implement the Snowcreek VIII project, which was approved by Planning Commission Resolution 2006-15, incorporated herein by reference, and was found to be in conformance with the General Plan and the Snowcreek Master Plan.

2. **Is the agreement and accompanying development plan compatible with the uses authorized in, and the performance and development standards prescribed for, the zone classification in which the subject property is located?**

   The Amended and Restated SDA is compatible with the uses authorized in, and the performance and development standards prescribed for, the zone classification in which the subject property is located because the Snowcreek VIII project was found to be consistent with the Resort and Open Space zoning designations that specify development standards for the project area.

3. **Is the agreement in conformity with and will promote public convenience, general welfare, and good land use and development practices?**

   The Amended and Restated SDA is in conformity with and will promote public convenience, the general welfare, and good land use and development practices because the Amended and Restated SDA will further implement and facilitate the development of the Snowcreek Master Plan Update and Snowcreek VIII project, which are consistent with the General Plan, and have been reviewed pursuant to CEQA to reduce potential environmental impacts to the maximum extent feasible.

4. **Is the development agreement of greater benefit to the community than development under present zoning?**

   The Amended and Restated SDA will be of greater benefit to the community than development under the present zoning because it provides greater assurances that the Snowcreek Master Plan Update (Snowcreek VIII) project will be constructed and completed in accordance with Ordinance 09-05 since it provides certain benefits and assurances to the developer to build the project as envisioned. The Snowcreek VII project was previously completed during the term of the SDA and all benefits associated with that project have been provided. In addition, the Town will receive additional community benefits through this development as described in Exhibit B of the Amended and Restated SDA.

5. **Does the term of the agreement provide a commensurate relationship to the benefits provided?**

   The proposed 20-year term of the agreement would allow for the development to be developed in phases over an extended period of time and would provide the Developer with the assurances that they will have a vested right to develop the site during that term. In exchange for those assurances and the 20-year term, the Town would receive the benefits outlined in the SDA, such as the housing mitigation in excess of what the current Town's Housing Ordinance would otherwise require (i.e., 47 units on-site, higher in-lieu), (b) $10M financial contribution, and (c) additional park land. Furthermore, the Developer could still construct the Snowcreek VIII project as outlined in the SMPU without the agreement, but the Town would not receive any of the Community Benefits outlined in the SDA.

KEY ISSUE #2: Is the proposed project consistent with the California Environmental Quality Act (CEQA)?
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the Snowcreek VIII project was analyzed in the previously certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report (SCH #2006112015) ("Snowcreek EIR") certified by the Town Council on July 8, 2009 by Resolution 09-4. The Snowcreek EIR analyzed the impacts of the proposed project and specified that subsequent discretionary actions that were included in the environmental analysis, such as the SDA, are not subject to additional environmental review. The Snowcreek EIR determined that the project could result in significant and unavoidable impacts in the areas of Aesthetics, Air Quality, and Utilities and Service Systems, and a Statement of Overriding Considerations was adopted.

The Amended and Restated SDA will further implement, in part, the SMPU and Snowcreek VIII project; however, no new development is directly associated with the SDA and therefore, pursuant to CEQA Guidelines §15162, no further environmental review is required. Pursuant to CEQA Guidelines §15162, when an EIR has been certified for a project, a subsequent EIR is not required for that project, unless the lead agency determines on the basis of substantial evidence that one or more of the criteria specified in Section 15162 will occur. A detailed analysis of each criteria is provided in the Resolution (**Attachment A**).

III. MISCELLANEOUS

PUBLIC COMMENTS
Notice of the public hearing including a project description was posted in The Sheet newspaper on February 1, 2025 and February 8, 2025.[4] As of the publishing date of the packet, no public comments have been received in response to the public hearing. Seven public comments were previously received for the prior Town Council and PEDC workshops. Those comments are included as **Attachment D**.

FINANCIAL CONSIDERATIONS
All direct costs of processing, reviewing, reporting, hearing, and acting upon the Amended and Restated SDA are borne by the Applicant.

Development of the Snowcreek VIII project under the Amended and Restated SDA will result in the payment of an additional financial contribution to the Town of up to $10 million that can be used for public facilities within the Town. The Amended and Restated SDA would vest development impact, affordable housing in-lieu, application processing, and building permit fees for the entire term of the Amended and Restated SDA at the rates specified in the Amended and Restated SDA.

LEGAL CONSIDERATIONS
The Town's legal counsel and special legal counsel are part of the Town's negotiating team for the Amended and Restated SDA and have participated in drafting the amendment language.

Section 11.7 of the SDA requires the parties to affirmatively cooperate and join in defending against any and all actions brought by any third party or parties; provided, that both the Town and Developer shall retain their respective rights to control their own defense of the litigation. In addition, the Developer shall indemnify and defend the Town with respect to any legal action or proceeding initiated by a third party against the Town's final approval of the Amended and Restated SDA, as described in Section 11.7.2 of the Amended and Restated SDA.

IV. STAFF FINDINGS AND RECOMMENDATION

Staff finds that the proposed project meets the applicable requirements and recommends the Commission adopt the Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code

[4] In accordance with Government Code §65091(a)(4), a one-quarter page advertisement was placed in the newspaper, rather than the standard newspaper posting and mailing to nearby residents, since the number of nearby residents exceeded 1,000 residences.

findings, and recommending to the Town Council approval of the Amended and Restated Snowcreek Development Agreement as recommended by staff.

Attachments

Attachment A: Planning and Economic Development Commission Resolution 2025-03

- Exhibit A – Amended and Restated Snowcreek Development Agreement

Attachment B: Track Changes – Amended and Restated Snowcreek Development Agreement

Attachment C: Keyser Marston Financial Analysis, July 2024

Attachment D: Public Comment Letters

RESOLUTION NO. PEDC 2025-03

A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND ECONOMIC DEVELOPMENT COMMISSION RECOMMENDING APPROVAL TO THE TOWN COUNCIL OF THE AMENDED AND RESTATED SNOWCREEK DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF MAMMOTH LAKES AND THE SNOWCREEK HILLTOP DEVELOPMENT CO, LLC AND THE SNOWCREEK INVESTMENT COMPANY II, LLC FOR PROPERTY LOCATED WITHIN THE SNOWCREEK MASTER PLAN AREA (SNOWCREEK VII AND VIII PROJECT SITES)

WHEREAS, a request for consideration of an Amendment to the Snowcreek Development Agreement was filed by Snowcreek Investment Company II, LLC and Snowcreek Hilltop Development Co, LLC in accordance with Chapter 17.104 (Development Agreements) of the Town of Mammoth Lakes Municipal Code and California Government Code Section 65864 et seq., for property located within the Resort (R) zone and subject to the Snowcreek Master Plan Update – 2007 at the Snowcreek VII and VIII project sites; and

WHEREAS, the Planning and Economic Development Commission conducted a duly noticed public hearing on the application request on February 12, 2025, which was subsequently continued to February 18, 2025, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning and Economic Development Commission considered, without limitation:

1. The staff report to the Planning and Economic Development Commission with exhibits;
2. The 2007 General Plan, 1981 Snowcreek Master Plan and Snowcreek Master Plan Update - 2007, Municipal Code, State Government Code Section 65864 et seq. related to Development Agreements, and associated Land Use Maps;
3. The 2010 Snowcreek Development Agreement, dated July 23, 2010, recorded in the Official Records of Mono County on July 13, 2010 as Document No. 2010003240 ("Development Agreement") together with Town of Mammoth Lakes Ordinance No. 10-08, dated June 23, 2010, approving the Development Agreement;
4. The draft Amended and Restated Snowcreek Development Agreement, attached hereto as Exhibit "A";
5. The Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report (SCH #2006112015) consisting of the Draft EIR dated August 2007, the Final EIR dated January 2008, the Mitigation Monitoring Program (MMP) dated January 2008, and the Final EIR Addition dated May 2009 (collectively the "Snowcreek EIR");
6. Town Council Resolution 09-45, dated July 8, 2009, certifying the Snowcreek EIR and adopting the Statement of Overriding Considerations and the Mitigation Monitoring Program (MMP);
7. The Snowcreek VII Mitigated Negative Declaration (SCH #2006022011) (the "MND");
8. Oral evidence submitted at the hearing;
9. Written evidence submitted at the hearing.

NOW THEREFORE, THE PLANNING AND ECONOMIC DEVELOPMENT COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. FINDINGS.

I. **CEQA.**

Public Resources Code Section 21166;
CEQA Guidelines Section 15162

1. On July 8, 2009, the Town Council certified the Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report (SCH #2006112015) ("Snowcreek EIR") and made the required CEQA findings pursuant to CEQA Guidelines Section 15091. Additionally, the Town Council adopted the Snowcreek VIII Mitigation Monitoring Program (MMP), which includes mitigation measures to reduce the majority of the potentially significant impacts of the Snowcreek VIII project to less than significant levels, and the Statement of Overriding Considerations which outline the benefits of the Snowcreek VIII project that outweigh the potential unavoidable adverse environmental effects of the project with regards to Aesthetics, Air Quality, and Utilities and Service Systems.
2. On May 24, 2006, the Planning Commission adopted the Snowcreek VII Mitigated Negative Declaration (the "MND") which found that the Snowcreek VII project would not have a significant effect on the environment.
3. The Development Agreement was contemplated as a future discretionary action within the Snowcreek EIR.
4. The Commission finds that none of the conditions triggering the need for subsequent environmental review have occurred and finds that no subsequent environmental review is required pursuant to Public Resources Code Section 21166 or State CEQA Guidelines Section 15162 because:
    a. No substantial changes have been proposed in the Project which will require major revisions of the Snowcreek EIR or the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
    b. There are no substantial changes with respect to the circumstances under which the Project is being undertaken that will require major revisions to the previous EIR or MND due to the involvement of new significant, environmental effects or a substantial increase in the severity of previously identified significant effects; or
    c. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Snowcreek EIR was certified or the MND was adopted.

II. **MUNICIPAL CODE FINDINGS.**

A. FINDINGS FOR DEVELOPMENT AGREEMENT (Municipal Code Section 17.104.040)

1. **Is the agreement consistent with the goals, policies, general land uses and programs specified in the Town's general plan?**

    The proposed Amended and Restated SDA is consistent with the goals, policies, general land uses and programs specified in the Town's General Plan because the amendments will further implement the Snowcreek Master Plan Update, which was approved by Ordinance

09-05, incorporated herein by reference, and was found to be in conformance with both the General Plan and Vision. The amendments will also further implement the Snowcreek VIII project, which was approved by Planning Commission Resolution 2006-15, incorporated herein by reference, and was found to be in conformance with the General Plan and the Snowcreek Master Plan.

2. **Is the agreement and accompanying development plan compatible with the uses authorized in, and the performance and development standards prescribed for, the zone classification in which the subject property is located?**

   The proposed Amended and Restated SDA is compatible with the uses authorized in, and the performance and development standards prescribed for, the zone classification in which the subject property is located because the Snowcreek VIII project was found to be consistent with the Resort and Open Space zoning designations that specify development standards for the project area.

3. **Is the agreement in conformity with and will promote public convenience, general welfare, and good land use and development practices?**

   The proposed Amended and Restated SDA is in conformity with and will promote public convenience, the general welfare, and good land use and development practices because the SDA and the proposed amendments will further implement and facilitate the development of the Snowcreek Master Plan Update and Snowcreek VIII project, which are consistent with the General Plan, and have been reviewed pursuant to CEQA to reduce potential environmental impacts to the maximum extent feasible.

4. **Is the development agreement of greater benefit to the community than development under present zoning?**

   The proposed Amended and Restated SDA will be of greater benefit to the community than development under the present zoning because it provides greater assurances that the Snowcreek Master Plan Update (Snowcreek VIII) project will be constructed and completed in accordance with Ordinance 09-05. The Snowcreek VII project was previously completed during the term of the SDA and all benefits associated with that project have been provided. In addition, the Town will receive additional community benefits through this development as described in Exhibit B of the proposed Amended and Restated SDA.

5. **Does the term of the agreement provide a commensurate relationship to the benefits provided?**

   The proposed 20-year term of the proposed Amended and Restated SDA would allow for the development to be developed in phases over an extended period of time and would provide the Developer with the assurances that they will have a vested right to develop the site during that term. In exchange for those assurances and the 20-year term, the Town would receive the benefits outlined in the proposed Amended and Restated SDA, such as the housing mitigation in excess of what the current Town's Housing Ordinance would otherwise require (i.e., 47 units on-site housing), (b) $10M financial contribution, and (c) additional park land). Furthermore, the Developer could still construct the Snowcreek VIII project as outlined in the SMPU without the agreement, but the Town would not receive any of the Community Benefits outlined in the SDA.

SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS.

The Planning and Economic Development Commission hereby takes the following actions:

1. Finds that the previously certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report (SCH #2006112015) ("Snowcreek EIR") and the previously adopted Snowcreek VII Mitigated Negative Declaration (SCH #2006022011) adequately covered all potential environmental impacts of the Project and no new or increased environmental impacts are anticipated as a result of the Project, and therefore, a subsequent EIR is not required pursuant to Public Resources Code Section 21166 or State CEQA Guidelines Section 15162; and

2. Recommends that the Town Council approve the Amended and Restated Snowcreek Development Agreement, attached hereto as Exhibit "A".

PASSED AND ADOPTED this 18th day of February 2025, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

RECUSED:

ATTEST:

_____	_____
Nolan Bobroff, Community and Economic Development Director	Michael Vanderhurst Chair of the Mammoth Lakes Planning and Economic Development Commission

NOTE: This action is subject to Chapter 17.104 of the Municipal Code, which specifies time limits for legal challenges.

EXHIBIT “A”

Amended and Restated Snowcreek Development Agreement

This document is recorded for the
benefit of the Town of Mammoth Lakes
and is entitled to be recorded free
of charge in accordance with
Sections 6103 and 27383 of the
Government Code.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Town of Mammoth Lakes
Attn: Town Clerk
P.O. Box 1609
437 Old Mammoth Road, Suite R
Mammoth Lakes, CA 93546

(Space Above For Recorder' Use)

AMENDED AND RESTATED

DEVELOPMENT AGREEMENT

by and among

TOWN OF MAMMOTH LAKES, a municipal corporation,

SNOWCREEK HILLTOP DEVELOPMENT CO, LLC,
a Delaware limited liability company; and

SNOWCREEK INVESTMENT COMPANY II, LLC,
a Delaware limited liability company

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[Will be Added for Final SDA Consideration]

AMENDED AND RESTATED DEVELOPMENT AGREEMENT
BY AND AMONG
TOWN OF MAMMOTH LAKES, SNOWCREEK HILLTOP DEVELOPMENT CO, LLC
and SNOWCREEK INVESTMENT COMPANY II, LLC

This AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement"), effective as of [date], 2025 ("Effective Date"), is entered into by and among the TOWN OF MAMMOTH LAKES, a municipal corporation (the "Town"), and SNOWCREEK HILLTOP DEVELOPMENT CO, LLC, a Delaware limited liability company ("SHDC LLC") and SNOWCREEK INVESTMENT COMPANY II, LLC, a Delaware limited liability company ("SIC II") (collectively SHDC LLC and SIC II are sometimes referred to as "Developer" or "Snowcreek") with reference to the following facts and intentions:

R E C I T A L S :

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risk of development, the Legislature of the State of California enacted Government Code Section 65864-65869.5, *et seq.* ("Development Agreement Statute"). The Development Agreement Statute authorizes the Town to enter into a binding development agreement with a developer having a legal or equitable interest in real property, establishing certain development rights in such property.

B. Pursuant to the Development Agreement Statute, the Town has adopted the Development Agreement Ordinance (defined below), which sets forth rules and regulations establishing procedures and requirements for processing and approval of development agreements, including a requirement for such agreements to provide greater community benefit to the community than under present zoning, such as needed facilities, improvements or services. This Agreement has been processed and approved in accordance with the Development Agreement Statute and the Development Agreement Ordinance.

C. SHDC LLC owns the following development project, which is affected by the terms of this Agreement: "Snowcreek VII;" and SIC II owns the following development project which is affected by the terms of this Agreement: "Snowcreek VIII" (collectively, sometimes referred to herein as the Snowcreek Projects).

The real property owned by SHDC LLC that is subject to this Agreement is legally described on Exhibit A-1 attached hereto and referred to herein as the "Snowcreek VII Property;" and the real property owned by SIC II that is subject to this Agreement is legally described on Exhibit A-2 attached hereto and referred to herein as the "Snowcreek VIII Property" (collectively, sometimes referred to herein as the "Snowcreek Properties").

D. Since the adoption of the original Master Plan by Mono County in 1974 and the amendment/update thereto by the County in 1981, as the property has been developed by Developer's predecessor-in-interest, many substantial community benefits have been provided to

the community both by Developer's predecessor-in-interest and by Developer. The most significant of those are:

1. Water Rights from Arcularius Land, totaling over 4,500,000 gallons per day. The majority of these rights were conveyed in trust to the Mammoth Community Water District ("MCWD").

2. Mammoth High School land. Approximately twenty-two (22) acres were acquired from United States Forest Service ("USFS") and donated to the Mammoth Unified School District ("MUSD") on November 30, 1983.

3. The Crowley Lake School Site, APN 60-110-14. Twenty (20) acres were acquired from USFS and donated to MUSD.

4. An Elementary School Site. Ten (10) acres were acquired from USFS and donated to MUSD.

5. A Water Treatment Plant site. The Water Treatment Plant site property was sold to MCWD.

6. Fire Station Site. The Fire Station site property was donated to MLFPD.

7. Snowcreek Athletic Club. The Snowcreek Athletic Club was developed as an amenity for residents of the area and the Town as a whole.

8. Golf Course. A 9-hole golf course was built and open to the public.

9. Granted easements to MCWD for Well #4 and Well #6, wells located on private land along with numerous pipeline easements to connect these wells and Well #10. Also granted an easement to the MCWD for Monitoring Well #28M on property acquired in a land exchange with the USFS.

10. As a completely voluntary act of Developer's predecessor-in-interest and without any express or implied encouragement of the Town, two acres of land was provided for the Catholic Church.

11. Road improvements. Constructed Minaret Road offsite (no Snowcreek frontage) between the "bell" parcel and Starwood subdivision. Full road section with drainage improvements constructed for 1,200 feet north of Snowcreek ownership. Constructed additional 1,200 feet of full width improvements between Snowcreek Crest subdivision and Starwood subdivision.

12. Less than maximum density on the site. Snowcreek VI has been designed to have less density in the Project than allowable under the current zoning regulations and Master Plan.

13. Significant landscaping and water features complete with two ponds and a waterfall.

14. Fees, Taxes and Other Positive Fiscal Impact. Snowcreek VI and every prior phase of Snowcreek have generated significant revenues (taxes, including transient occupancy tax, and fees, including development and art fees) for the Town and other taxing agencies.

15. SIC also has provided funds to subsidize The Snowcreek Athletic Club so that it will remain an amenity for Snowcreek residents and the Town as a whole.

E. Benefits associated with the development of the remaining portion of Snowcreek VII include:

1. Bike path/recreational trail public easement. A bike path has been completed and connects a section of trail linking the Old Mammoth area from the Snowcreek Athletic Club to the intersection of Old Mammoth Road and Minaret Road. A 12' wide public easement has been recorded for recreational trail purposes. Trail maintenance will be paid for through a benefit assessment district. The entire bike path/recreational trail was constructed in connection with the first phase of Snowcreek VII.

2. Public access easement for fishing and hiking along Mammoth Creek. A 40' wide public access and drainage easement has been recorded along Mammoth Creek from the Athletic Club to Minaret Road.

3. The historic Wildasinn Cabin and Pelton Wheel (Knight Wheel) will remain on site and the Cabin has been restored. The Pelton wheel was originally used for mining operations in the area. It was salvaged by Charles F. Wildasinn to supply power to the Wildasinn Hotel, Mammoth's first resort.

4. Open space areas. The Project has open space areas throughout for the enjoyment of owners and visitors to the area.

5. Recycling stations. The Project has recycling stations throughout the site that are serviced on a weekly, or as needed basis, by a recycling service.

6. Fees, Taxes and Other Positive Fiscal Impacts. Snowcreek VII has provided and will continue to provide significant revenues (taxes, including property taxes, sales and use taxes and transit occupancy taxes, and fees, including development impact fees) for the Town and other taxing agencies.

F. Benefits associated with the development of Snowcreek VIII include:

1. Increased Town revenues.

a. Transient Occupancy Tax (TOT). It is estimated that Snowcreek VIII will generate approximately $5.3 Million annually in TOT revenue to the Town.

b. Sales Tax. It is estimated that Snowcreek VIII's residents and visitors will make approximately $45.4 Million in taxable purchases per year in the Town for entertainment, food and retail. The total combined estimated sales tax revenue generated by the Snowcreek VIII Project is $477,000 per year.

c. Property Tax. At the Town's current property tax rate, it is anticipated that the Snowcreek VIII Project will generate $733,000 in annual property tax revenue. An additional approximate $9.2 million in total annual property tax revenue will be divided among the Mammoth Lakes Fire Protection District, MUSD, County Library, MCWD and MCWD 2, Southern Mono Hospital and the Mono County general fund.

d. Utility User Tax and Franchise Fees. Estimated added utility tax revenue is $66,000. Estimated annual franchise fee revenue is $33,000.

e. Business License Tax. Total business license tax generated by the project is estimated at $9,000.

f. Intragovernmental revenues and administrative service fees. Approximately $2,000 per year will be generated in each category.

2. A world class destination resort hotel complements the Mammoth Mountain Ski Area experience and provides a year-round tourist draw to the Town.

3. A championship level 18-hole golf course (expanding the existing 9-hole golf course) and a practice facility.

4. A Golf Clubhouse.

5. Restaurant(s), bar(s) and lounge(s).

6. Retail opportunities at the Resort Hotel.

7. Conference facilities.

8. A spa/wellness center.

9. A Commercial/Retail Facility in the Project Entry/Gateway area.

10. An Outfitters Cabin located in or near the Resort Hotel for use by residents and visitors alike, that can act as a rental facility and staging area for year-round outdoor activities.

11. Cooperation in the MCWD expansion and possible improvement and distribution of MCWD tertiary water treatment to the extent available, legally permissible and on a schedule and in volumes agreed to by MCWD and Developer.

12. In accordance with Town regulations and the private land use covenant between the Town and Developer, provision of land for ancillary utility use (propane tank storage) to assist in meeting the Town's predicted future energy needs in the event the site currently under consideration by the Town, Turner Gas and the USFS is determined to be unacceptable by those parties.

13. Well planned multi-use paths to facilitate the use of non-automobile forms of transportation and recreation. Careful placement of multi-use paths, sidewalks, and public plazas are included in the Project. These paths are designed to connect the Resort Hotel with the Town, the Outfitters Cabin, Commercial/Retail Facility, the existing Snowcreek Athletic Club, and Equestrian Center.

14. An internal open space corridor.

15. Transit enhancements, including:

a. A shuttle service for hotel guests to Eagle Lodge and the Village/Gondola areas.

b. Shuttle vans for residents to use, provided by the Snowcreek VIII Homeowners Association, going to major visitor stops.

16. Art Fees. The Project will provide public art on-site pursuant to the Snowcreek Master Plan Update and Section 5.5.3 herein.

17. A snow play area.

18. A mini-park.

19. A Great Lawn at the Resort Hotel, providing a large outdoor entertainment area.

20. Winter cross-country Trails on the Golf Course, for cross-country skiing and snow shoeing.

21. Convenient egress for backcountry skiers and snowshoers. The Golf Course and its cross-country trails will act as a legal, convenient portal from the Sherwins for backcountry skiers and snowshoers.

22. A secondary access road serving both Snowcreek V and Snowcreek VIII and solving a longstanding problem affecting both Snowcreek V residents and the Town.

23. An Emergency Vehicle Access road.

G. The Town acknowledges a number of project features in both Snowcreek Projects as conditioned and approved by Town Council go beyond what may legally be imposed on development projects through an entitlement process. Those greater community benefits include but are not limited to:

1. The Additional Financial Contribution.

2. Fiscal benefits that will accrue to the Town and community through the implementation of the Project as intended that would not occur without this Agreement, including transient occupancy taxes.

3. 8.9 acres of park area provided in excess of that required in conjunction with the buildout of Snowcreek VIII.

4. Preservation of Mammoth Creek open space corridor. This was completed on July 19, 2018 upon Developer recording a conservation easement over and donating to the Town the Mammoth Creek Open Space Corridor to permanently protect it, the legal description of which is attached hereto as Exhibit K and incorporated herein by this reference.

5. Championship 18-hole golf course will be designed by a top course architect.

6. Practice facility to be designed by a top course architect.

7. Secondary access for both Snowcreek V and VIII and the Emergency Vehicle Access Road connecting the Snowcreek VIII Project to Sherwin Creek Road is in addition to Mammoth Lakes Fire Protection District ("MLFPD") requirements.

8. Allowing egress of backcountry skiers, snowboarders, snowshoers from the Sherwin Range immediately upon approval of the Project prior to its construction and completion.

9. Programming of public spaces, including but not limited to the Great Lawn and Outfitters' Cabin, to increase visitation to the project and Town.

10. Establishment of public access across certain points of the project to allow public egress to surrounding public lands prior to Project construction and after completion and which would also provide access to an enhanced network of publicly accessible multi-use paths that is connected to the Town's trail system.

11. If needed by the Town, the Developer will provide the property described on Exhibit F attached hereto and incorporated herein by this reference for propane storage tanks.

H. As a result of the complexity, magnitude, and multi-use nature of the Snowcreek Projects, and the substantial financial investment by both parties associated with development of the Snowcreek Projects and the investment both parties plan for the Snowcreek Projects and

surrounding geographic areas, the Town and the predecessors to the Developer, Snowcreek Hilltop Development Company, L.P., a California Limited partnership ("SHDC") and Snowcreek Investment Company L.P., a California limited partnership ("SIC") entered into a Development Agreement for the Snowcreek Projects, dated July 23, 2010 ("2010 Development Agreement"). The Town Council adopted Ordinance No. 10-08 authorizing the execution of and approving the 2010 Development Agreement on June 23, 2010 ("Approving Ordinance – 2010").

Under the 2010 Development Agreement, the Town provided assurances to the predecessors of the Developer that it will have the right to develop, use and operate the Snowcreek Projects during the term of the 2010 Development Agreement, subject to all the terms and conditions set forth therein, and it was determined that by entering into the 2010 Development Agreement, the community will receive greater benefit from the Snowcreek Projects than would have been provided under present zoning, as set forth in Exhibit B to the 2010 Development Agreement. In addition, it was determined that the 2010 Development Agreement will facilitate orderly growth and quality development of the Snowcreek Projects in conformance with the goals and policies of the Town's General Plan and the Snowcreek Master Plan Update.

I. In 2016, the Town approved the assignment of the 2010 Development Agreement to the Snowcreek VII Developer, SHDC LLC, an affiliate of SHDC, and the Snowcreek VIII Developer, SIC II, an affiliate of SIC.

J. Unless otherwise amended, the 2010 Development Agreement will expire on July 23, 2025, since construction of the Resort Hotel and the 18-hole championship golf course has not commenced as required by Section 2.2.1(c)(2) of the 2010 Development Agreement.

K. Since 2010, the Snowcreek VII project has been completed; however, the development of the Snowcreek VIII project was delayed for a variety of reasons. The Parties wish to ensure that certain development regulations contained in the 2010 Development Agreement that are in effect through July 23, 2025, continue to govern the Property. Therefore, the Parties wish to (1) extend the term of the 2010 Development Agreement by an additional 20 years beyond the current date of expiration to July 23, 2045, and (2) modify certain limited terms of the 2010 Development Agreement ("Amended and Restated Development Agreement").

L. Exhibit B of the 2010 Development Agreement sets forth certain public benefits to be provided by the Developer. The Parties desire to ensure the continuation of certain of those public benefits and to add certain additional requirements. Exhibit B of the 2010 Development Agreement remains unchanged and is attached hereto and incorporated herein by this reference

M. This Amended and Restated Development Agreement is intended to be an amendment pursuant to Government Code Section 65868. This Amended and Restated Development Agreement has been considered and approved in the same manner as the 2010 Development Agreement with public hearings pursuant to Government Code Section 65867.

N. The Town Council has evaluated the potential environmental impacts of this Amended and Restated Development Agreement and has determined that any potential impacts have been adequately analyzed in the Final Environmental Impact Report (EIR) for the

Snowcreek Master Plan Update 2007, certified by the Town Council on July 8, 2009 by Town Council Resolution No. 09-45, in accordance with the California Environmental Quality Act ("CEQA"). There are no circumstances present that would require a new, subsequent or supplemental environmental impact report for this Amended and Restated Development Agreement, under the provisions of CEQA.

O. On [date], 2025, the Town's Planning and Economic Development Commission ("PEDC") held a duly noticed public hearing on this Amended and Restated Development Agreement, made findings and determinations with respect to this Amended and Restated Development Agreement, and recommended to the Town Council that the Town Council approve this Amended and Restated Development Agreement.

P. On [date], 2025, the Town Council held a duly noticed public hearing on this Amended and Restated Development Agreement and considered the PEDC's recommendations and the testimony and information submitted by Town staff, the Developer, and members of the public. On [date], 2025, pursuant to Government Code Section 65864 et seq. and the procedures set forth in the Development Agreement Ordinance, the Town Council adopted Ordinance No. 25-__ ("Approving Ordinance – Amendment") approving this Amended and Restated Development Agreement, authorizing its execution, and making the following specific findings pursuant to Section 17.104.040 of the Development Agreement Ordinance:

1. This Amended and Restated Development Agreement is consistent with the goals, policies, general land uses and programs specified in the Town's General Plan.

2. This Amended and Restated Development Agreement and the development plans for the Property are compatible with the uses authorized in, and the performance and development standards prescribed in the Snowcreek Master Plan Update.

3. This Amended and Restated Development Agreement is in conformity with and will promote public convenience, the general welfare and good land use and development practices.

4. This Amended and Restated Development Agreement provides greater benefit to the community than under present zoning, including the Snowcreek Master Plan Update such as needed facilities, improvements or services.

5. The term of this Amended and Restated Development Agreement has a commensurate relationship to the benefits provided.

Q. This Amended and Restated Development Agreement shall be referred to hereinafter as the "Agreement".

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants set forth herein, the Town and Developer agree as follows:

ARTICLE 1
DEFINITIONS

For purposes of this Agreement, unless defined in this Article 1, capitalized terms shall have the meanings set forth in the Snowcreek Master Plan Update.

1.1 **"Additional Financial Contribution"** means up to the $10 Million amount Developer has agreed to pay to the Town for purposes beneficial to the community, depending on the number of residential units and Resort Hotel Rooms/Suites actually constructed.

1.2 **"Affordable Housing Mitigation Financial Framework"** means the financial parameters that establish the limit for Developer's affordable housing mitigation obligations.

1.3 **"Amended and Restated Development Agreement**" means that certain development agreement amending and restating the 2010 Development Agreement for the Snowcreek Projects, dated [date], 2025, approved by Approving Ordinance – Amendment, and recorded in the Official Records of Mono County on [date], 2025 as Document No. _____.

1.4 **"Approving Ordinance - 2010"** means Ordinance No. 10-08 of the Town Council, adopted on June 23, 2010, approving execution of the 2010 Development Agreement.

1.5 "**Approving Ordinance - Amendment**" means Ordinance No. 25-__ of the Town Council, adopted on [date], 2025, approving execution of this Agreement.

1.6 "**Area of Geographic Nexus**" means the area described as the "Snowcreek District Sphere of Influence" and the "Sherwin Area Recreation Plan" as described in Exhibit J.

1.7 "**Assignment Agreement"** is defined in Section 8.1 and a form is attached as Exhibit G.

1.8 "**Building Permit**" means any building permit including but not limited to permits for grading, excavation, demolition, site preparation, building, superstructure, or any permits required for earth disturbing activities.

1.9 "**Code"** means the Town of Mammoth Lakes Municipal Code, as amended as of the Effective Date.

1.10 **"COLA"** means the cost of living adjustment codified in section 15.16.090 of the Code.

1.11 "**Community Development Director"** means the person so designated by the Town Manager or his designee.

1.12 "**County**" means Mono County, California.

1.13 "**Developer**" means the Party or Parties who sign this Agreement as Developer, and, subject to the restrictions on assignment set forth herein, successor Owners.

1.14 "**2010 Development Agreement**" means that certain Development Agreement for the Snowcreek Projects, dated July 23, 2010, approved by Approving Ordinance – 2010 and recorded in the Official Records of Mono County on July 13, 2010 as Document No. 2010003240.

1.15 "**Development Agreement Ordinance**" means Chapter 17.104 of the Code.

1.16 "**Development Agreement Statute**" means Government Code Section 65864, *et seq.*

1.17 "**Development Impact Fees**" means Development Impact Mitigation Fees as defined in the DIF Resolution, but as applied to the Snowcreek Projects in accordance with this Agreement.

1.18 "**DIF Resolution**" means Resolution 24-41 approved by the Town Council on June 19, 2024.

1.19 "**Effective Date**" means the effective date of the Approving Ordinance – Amendment, which shall mean the thirty-first (31st) day following the adoption of the Approving Ordinance – Amendment by the Town Council.

1.20 "**Existing 9-hole Golf Course**" means a 9-hole golf course located on Lot 16 of TM 09-002, the operation and maintenance of which will be subject to the Golf Course Operations and Maintenance Plan.

1.21 "**Fiscal Year**" means each fiscal year of the Town (July 1 through June 30), beginning with the fiscal year in which the Effective Date of this Agreement occurs.

1.22 "**General Plan**" means the Town of Mammoth Lakes General Plan, approved in 2007, as amended by GPA 2009-01.

1.23 **"Litigation Challenge"** means any court action or proceeding instituted by a third-party or other governmental entity or official challenging the validity of any of the Project Approvals.

1.24 "**Lot**" shall mean any legally subdivided lot or parcel within the Property, from time to time.

1.25 "**Master Developer**" means SNOWCREEK HILLTOP DEVELOPMENT CO, LLC., a Delaware limited liability company, and SNOWCREEK INVESTMENT COMPANY II, LLC, a Delaware limited liability company.

1.26 "**Master Plan**" means the approved development plan pertaining to Snowcreek, approved April 1981, that regulates uses and development standards on all portions of Snowcreek other than Snowcreek VIII.

1.27 "**Mortgagee**" means a mortgagee under any mortgage or a beneficiary under a deed of trust affecting any portion of the Property.

1.28 "**Official Records**" means the official records maintained in the Recorder's Office of Mono County, California.

1.29 "**Operating Memorandum**" is defined in Section 7.1.

1.30 "**Owner**" means each owner of record fee title to all or any portion of the Snowcreek Project, during the time such party holds the requisite ownership interest. As of the Effective Date, each Developer (including Master Developer) is an Owner.

1.31 "**Party**" means, individually, and "**Parties**" means, collectively, the parties to this Agreement, consisting of the Town (and its successors and assigns hereunder) and Developer (including, subject to the restrictions on assignment set forth herein, successor Owners).

1.32 **PEDC**" means the Planning and Economic Development Commission of the Town of Mammoth Lakes

1.33 "**Person**" means any individual or legal entity.

1.34 **"Project Approvals"** is defined in Section 3.2.

1.35 "**Property"** means the property legally described in Exhibits A-1 and A-2.

1.36 "**Public Improvements"** means the public facilities, infrastructure and improvements constructed by Developer in connection with the Snowcreek Projects.

1.37 **"SNOWCREEK HILLTOP DEVELOPMENT CO, LLC Affiliate"** means an entity controlled by, controlling, or under common control with SHDC LLC, Developer herein. For purposes of this definition, "control" means the possession, directly or indirectly, of (a) an ownership in the applicable entity and (b) power to direct or cause the direction of the management and policies of such entity.

1.38 "**SNOWCREEK INVESTMENT COMPANY II, LLC Affiliate"** means an entity controlled by, controlling, or under common control with SIC II, Developer defined herein. For purposes of this definition, "control" means the possession, directly or indirectly, of (a) an ownership in the applicable entity and (b) power to direct or cause the direction of the management and policies of such entity.

1.39 "**Snowcreek Master Plan Update**" or "Master Plan Update" means the Town approved development plan, including Appendix B, Design Guidelines and Appendix C, Landscape Master Plan, governing Snowcreek VIII, submitted in 2007 and approved by the Town Council on August 5, 2009, by Ordinance No. 2009-05, and as may be modified from time to time by Developer in accordance with Town requirements.

1.40 "**Snowcreek Project**" means, individually, and "Snowcreek Projects" means, collectively, the development projects identified in Recital D, which are being developed or are to be developed, on the Snowcreek VII Property or Snowcreek VIII Property as anticipated by the Project Approvals.

1.41 "**Subordination Agreement**" is defined in Section 8.2.1 and a form is attached as Exhibit H.

1.42 "**Subsequent Permits**" is defined in Section 5.1.1.

1.43 "**Term**" means the term of this Agreement, as defined in Section 2.2.

1.44 "**This Agreement**" means this Amended and Restated Development Agreement, which amends and restates the 2010 Development Agreement.

1.45 "**Town Council**" means the Town Council of the Town of Mammoth Lakes, its governing body.

1.46 "**Town Manager**" means the person so designated by the Town pursuant to the Code or his/her designee.

1.47 "**Town Parties**" means the Town and its elected officials, officers, contractors serving as Town officials, agents, and employees.

1.48 "**Unavoidable Delays or Events**" as defined in Section 11.15.

1.49 "**Vested Rules**" are defined in Section 3.1.

ARTICLE 2
GENERAL PROVISIONS

2.1 Property Subject to This Development Agreement. This Agreement shall benefit and encumber the Property to be developed as the Snowcreek Projects (collectively the "Properties").

2.2 Term of Agreement. The Term of this Agreement shall continue in full force and effect until July 23, 2045 with one automatic five (5) year extension provided the Existing 9-hole Golf Course is operated and maintained in accordance with Section 2.2.1.1 and Section 2.2.1.2 for the entirety of the Term, unless (i) earlier terminated as provided herein, or (ii) extended as provided in Section 11.15. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Snowcreek Projects and obtain the public benefit of the Snowcreek Projects.

2.2.1 Subject to section 11.15, Developer shall satisfactorily satisfy and complete the following milestones and obligations:

2.2.1.1 *Existing 9-Hole Golf Course Operations.* As a specific inducement to entering into this Agreement and conferring Developer the Term, the Town wishes to ensure the consistent operation and maintenance of the Existing 9-hole Golf Course for the duration of this Agreement. To that end, Developer will operate and maintain for the duration of the Term of the Agreement, the Existing 9-hole Golf Course subject to the following requirements:

(i) Operating Season. Developer shall operate and ensure that the Existing 9-hole Golf Course remains open and accessible to the public every year from Memorial Day through the final day of September (hereinafter the "Operating Season"). The Operating Season may be reduced and/or changed under the following circumstances:

(A) Developer may, at their election, reduce the Operating Season by opening the Existing 9-hole Golf Course up to three weeks following Memorial Day and closing the Existing 9-hole Golf Course up to three weeks prior to the final day of September.

(B) The Operating Season may be reduced due to floods, snow or ice on the golf course, earthquakes, fires, acts of God, or governmental restrictions imposed or mandated by governmental entities (but only as to closure of businesses such as the Existing 9-hole Golf Course) ("Unexpected Events"). Upon the occurrence of any Unexpected Event, the Operating Season may be reduced for the duration of the Unexpected Event. Additionally, if upon July 1 of any given year, any Unexpected Event, in Developer's judgment, has resulted in the Existing 9-hole Golf Course being in a condition that is unusable for its intended purpose thereby resulting in Developer not being able to open the Existing 9-hole Golf Course until on or after July 1 of any given year, the Developer shall be relieved of its obligation to open the Existing 9-hole Golf Course in said given year.

2.2.1.2 *Operations and Maintenance of Existing 9-Hole Golf Course.* Within 180 days of the recordation of this Development Agreement, Developer and Town shall enter into and record an Operations and Maintenance Agreement for the Existing 9-hole Golf Course (hereinafter the "9-hole Golf Course Operations and Maintenance Plan"), which provides the following minimum provisions and standards: (1) maintenance standards to ensure the safety of the public and the community with regards to wildfire risk, nuisance prevention, and infrastructure improvements; and (2) a commitment to maintaining and operating the Existing 9-hole Golf Course in a comparable manner to the Sierra Star Golf Course located at 2001 Sierra Star Parkway, Mammoth Lakes, CA 93546, including but not limited to the golf course conditions and golf course equipment.

2.2.1.3 *9-Hole Golf Covenant.* Within 180 days of recordation of this Agreement, Developer shall record a covenant that permanently protects the Existing 9-hole Golf Course area ("9-Hole Golf Covenant"), less the area identified in the Master Plan Update that is intended for residential purposes on Lot(s) 3 and 4 of TM 09-002 and the area intended for road

purposes on Lot G in TM 09-002, for recreation and open space purposes. The covenant shall be in a form that is acceptable to the Town.

2.2.1.4 *Backcountry Skier Egress.* Developer has already allowed egress of backcountry skiers, snowboarders and snowshoers from the Sherwin Range prior to the Effective Date of this Agreement and shall continue to allow that egress during the pendency of construction of that portion of the Projects so long as Developer, at its sole election, determines that such egress shall not negatively affect public safety.

2.2.1.5 *Phasing and Performance*. The Vested Rules contemplate the Snowcreek Projects shall be developed in phases. Actual construction, however, will occur in phases and subphases based on what the market will absorb at any given point in time. It is the intention of the parties for each phase or subphase of the Projects to provide all of the facilities, programs (including affordable housing), features, amenities, access and easements described in the Vested Rules as well as payment of all fees at the time set forth in the Vested Rules, related to that phase or subphase. The parties agree to discuss the actual phasing of development and the associated timing for completion of the facilities, programs (including affordable housing), features, amenities, access and easements in connection with the application for each use permit or Subsequent Permit.

2.2.1.6 *Use of Golf Course Expansion Area.* Should Developer wish to allow interim recreation uses by others within the 94-acre golf course expansion area, Parties shall negotiate an agreement in good faith regarding a lease or other property interest from Developer to Town of all, or a portion of, the 94-acre golf course expansion area for recreational uses. Such interim uses shall not prevent or preclude the Expanded Golf Course from being developed.

2.2.1.7 *Wildfire Mitigation.* Within 180 days of the Effective Date of this Agreement, Developer and Mammoth Lakes Fire Protection District ("MLFPD") shall enter into an agreement allowing for development of a fire break through the Snowcreek VIII property that incorporates existing roads and trails into the design. Developer shall have the final approval of the alignment and said fire break shall not prohibit or prevent future development of the site in accordance with the Master Plan.

Developer is encouraged to work with the MLFPD and the Town on the future site design of the Snowcreek VIII project to address wildfire risk to the Snowcreek Projects and the community as a whole and incorporate wildfire mitigation features into the site design.

2.2.2 The Additional Financial Contribution (AFC) shall be calculated and paid in accordance with the following:

a. The AFC shall be divided by the number of residential units and Resort Hotel Rooms/Suites approved by the Town Council to determine a pro rata amount per unit. Assuming all entitled units are constructed, this results in a pro rata contribution of approximately $10,101 per residential unit and $5,050 per ½ hotel unit.

b. For the residential units, the pro rata contribution shall be paid at the time of the issuance of the first Building Permit for each unit. For Resort Hotel Rooms/Suites (which constitute ½ unit as explained in the Snowcreek Master Plan Update), the pro rata contribution shall be paid prior to the issuance of a Certificate of Occupancy for each unit, room or suite.

c. It is intended the AFC will be utilized for public facilities within the Area of Geographic Nexus.

d. The AFC and the off-site affordable housing in-lieu fee shall be subject to the following:

    1. When the average retail sale price of market rate residential and private residence club (PRC) units is greater than $800.00 and less than $1,000.00 per square foot, the AFC and off-site affordable housing in-lieu fee shall be indexed at 50% of the U.S. National CPI.

    2. When the average retail sale price of market rate residential and private residence club units is $1,000.00 or greater per square foot, the AFC and off-site affordable housing in-lieu fee shall be indexed at 100% of the U.S. National CPI.

    3. Publicly available Project sales price activity shall be reviewed during the Annual Review, pursuant to Section 7.2.

2.2.3 The Affordable Housing Mitigation Financial Framework shall be comprised of the following elements:

2.2.3.1 *Project Summary (excluding commercial)*. The Snowcreek Master Plan Update contemplates 790 residential units ("Residential Units") and 400 Resort Hotel Rooms/Suites and Private Residence Club units ("Hotel Units"), each of which constitute ½ unit as set forth in the Snowcreek Master Plan Update, for a total of 990 units. 990 units (assuming full buildout) less the number of on-site deed restricted units (i.e., 47 units) are the "Market Rate Units" (i.e., 943 units total, 743 of which are Residential Units and 400 of which are 1/2 Hotel Units). Affordable housing mitigation shall not be required for any non-residential or commercial land use on the site including ancillary commercial uses within the Resort Hotel.

2.2.3.2 *Ratio of On-Site to Off-Site Mitigation*. The affordable housing requirement for Snowcreek VIII shall be ten percent (10)%) of the total number of Market Rate Units built, which would result in 94 affordable housing units if all entitled units are built ("Affordable Housing Requirement"). Of the 94 affordable housing units under a full buildout scenario, 74 units are required for the full buildout of the Residential Units and 20 units are required for the full buildout of the Hotel Units. Developer shall meet the Affordable Housing Requirement as follows:

(i) At least fifty percent (50%) of the Affordable Housing Requirement (i.e., 47 units) will be met through the provision of on-site deed-restricted affordable housing units as described herein ("Required Affordable Units").

(ii) The remaining Affordable Housing Requirement (i.e., 47 units) shall be met through a combination of payment of Affordable Housing In-Lieu Fees ("In-Lieu Fee") to be used for off-site affordable housing and use of the Developer-owned Full Time Equivalent Employee credits ("FTEE Credits") as described herein.

(iii) Assuming full buildout, the value of the Affordable Housing Requirement shall mean the value of the 47 units of Required Affordable Units and the combined value of the In-Lieu Fee and the Developer-owned FTEE Credits , which combined are equal to 47 units ("Total Affordable Housing Cost").

2.2.3.3 *Features of the Required Affordable Units*.

(i) The Required Affordable Units shall be deed restricted for fifty-five (55) years to households earning up to 175-200% of Mono County Area Median Income (AMI). Fifty percent (50%) of the Required Affordable Units shall be sold to families whose income is no greater than 175% of AMI for Mono County and fifty percent (50%) of the Required Affordable Units shall be sold to families whose income is no greater than 200% of AMI for Mono County.

(ii) The Affordable Housing Requirement for the Hotel Units may be satisfied solely through the provision of In-Lieu Fees and use of FTEE credits.

(iii) The Required Affordable Units shall be dispersed throughout the Project in the Residential Planning Area within each phase of residential development and the conditions of approval for each phase of residential development that requires the provision of Required Affordable Units shall specify the number of Required Affordable Units that will be built within said phase.

(iv) Prior to or concurrently with the issuance of building permits for Market Rate Residential Units, Developer shall obtain building permits for a proportionate number of the Required Affordable Units in accordance with Section 4.1.1 and 4.1.2.1. The Town shall not issue certificates of

occupancy for the next phase of Market Rate Residential Units until a proportionate number of Required Affordable Units for the prior phase are under construction. For purposes of this section, "under construction" shall mean Developer has obtained Town Building Inspector sign-off of rough framing.

(v) Prior to the issuance of the first Building Permit for any Required Affordable Unit, Developer shall record a site-specific affordable housing covenant ("Affordable Housing Covenant") affirming the affordability requirements of each Unit. The covenant shall be in a form acceptable to the Town.

(vi) One, two, three and four bedroom affordable units may be built. The average number of bedrooms per Required Affordable Unit shall be equal to two bedrooms.

(vii) Required Affordable Units cannot be rented/leased as a transient rental (as defined in the Mammoth Lakes Municipal Code). Required Affordable Units may be leased long term to income qualifying households in accordance with the terms of each Affordable Housing Covenant.

2.2.3.4 *Features of the In-Lieu Fee Program*

(i) The In-Lieu Fee shall be $85,000 per unit.

(ii) Developer owns 16.5 FTEE Credits. Any In-Lieu Fee shall be reduced by the number of FTEE Credits prior to Developer's obligation to provide any In-Lieu Fees. FTEE Credits shall not be used to reduce the number of Required Affordable Units.

(iii) Developer may elect to provide additional on-site affordable units instead of paying In-Lieu Fees. Should Developer elect to do so, the provision of said units shall be subject to the same conditions and process for Required Affordable Units detailed in sections 2.2.3.3 and 4.1.

(iv) The conditions of approval for each phase of Market Rate Unit development shall specify the amount of In-Lieu Fees and/or FTEE Credits that will be paid, or used, for said phase. Payment of In-Lieu Fees will become due at time of issuance of the first Building Permit for said phase of development. Use of the FTEE Credits shall be documented in an Assignment of Credits executed by the

Town and Developer prior to the issuance of the first Building Permit for said phase of development.

ARTICLE 3
APPLICABLE RULES, REGULATIONS AND POLICIES

3.1 Vested Rules. "Vested Rules" mean, collectively, the ordinances, resolutions (including, but not limited to, the DIF Resolution), rules, regulations, requirements, Master Plan at Mammoth (with respect to Snowcreek VII approved in 1981), Snowcreek Master Plan Update 2007 (with respect to Snowcreek VIII approved in 2009), and official policies of the Town in effect as of the Effective Date, whether set forth in the General Plan, the Code or otherwise, which govern the following, to the extent applicable to the Snowcreek Properties and Snowcreek Projects: development agreements; permitted uses; density and building intensity; growth control; zoning designations and regulations; subdivision, improvement, grading, landscaping and signage; design, development, improvement and construction standards and specifications; standards and requirements for public reservations and dedications, public improvements and facilities, transit, parking, open space, employee housing and affordable housing; standards and requirements for processing of Subsequent Permits (as defined in Section 5.1.1); and the Project Approvals described in Section 3.2. The Vested Rules do not include (i) uniform building codes or standards, or changes thereto from time to time or (ii) subject to the proviso clause of section 3.8, any other rule, law or policy adopted by the Town Council, after review at one or more public meetings, that applies generally throughout the Town's jurisdiction, but only if, based on substantial evidence, the Town Council finds failure to apply such rule, law or policy would place the residents of the Town in a condition dangerous to their health and safety. A list of the Vested Rules as of the Effective Date is attached hereto as Exhibit C. A compilation of complete copies of the Vested Rules as of the Effective Date has been prepared by the Town and Developer, and they are contained in a binder with the title "Snowcreek VII & VIII Development Agreement—Vested Rules" on file in the offices of the Town Clerk of the Town and in the Master Developer's office in Mammoth Lakes, California. Various Subsequent Permits, such as tentative subdivision maps, grading permits and use permits, are required in order to implement the development of the Snowcreek Projects under the terms of the Vested Rules. In addition, Subsequent Permits, such as a change in zoning standards, may be desirable due to changes in development products or standards or for other reasons during the Term of this Agreement. This Agreement and the vested right to develop are not intended to preclude changes or additions to the Vested Rules which (i) Town reasonably imposes as a result of Developer's request to make a change or addition to one or more of the Vested Rules or (ii) are mutually acceptable. All Subsequent Permits shall be processed in accordance with the procedures, standards and requirements set forth in the Vested Rules, except to the extent changes to the Vested Rules are proposed by the Subsequent Permit, and the Subsequent Permits shall be incorporated into (and amend or supplement, as appropriate) the Vested Rules upon adoption by the Town and approval by the affected Developer(s). If Developer proposes any amendment or addition to the Vested Rules, then the application therefore shall clearly indicate such request, and, if the application is reasonably approved by the Town, then the Town's action shall clearly state that the Vested Rules have been amended or supplemented. If an amendment or supplement to the Vested Rules is adopted by the Town other than pursuant to an application by a Developer, then it shall amend or supplement the Vested Rules only if the affected Developer(s) approved the same in writing.

Nothing contained herein expressly or impliedly requires the Town to approve or conditionally approve any amendment or addition to the Vested Rules.

3.2 Project Approvals. "Project Approvals" means: (a) the existing Town permits, approvals and entitlements for the Projects set forth below in this Section 3.2; plus (b) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 5.1.1) which are subsequently issued by the Town and approved by Developer, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules.

3.2.1 Snowcreek VII. The existing Project Approvals approved by the Town for the Snowcreek VII Project, are the following:

3.2.1.1 Master Plan at Mammoth, approved by Mono County.

3.2.1.2 Final Tract Map 36-236A for Phase 1 recorded 7/10/07, Book 10, Page 105.

3.2.1.3 Final Tract Map 36-236B for Phase 2 recorded 10/9/2019, Book 11, Page 15.

3.2.1.4 Final Tract Map 36-236C for Phase 3 recorded 4/8/2021, Book 12, Page 17.

3.2.1.5 Tentative Tract Map 36-236 for Phases 2 and 3 as modified by Resolution PC2009-01 and as further modified by this Agreement with respect to Special Planning Condition of Approval No. 11 in Resolution 2006-15, which shall read as originally approved (new italicized language is hereby deleted).

3.2.1.6 Use Permit 2005-11 approved by Resolution 2006-15, dated 5/24/06, as modified by Resolution PC 2009-01.

3.2.1.7 Grading Permits: Restricted Permit 2006-15 dated 4/24/07, Full Phase I Permit 2006-15 dated (in error) 4/24/07 (signed May 3, 2007); Amendment 01 to Grading Permit 2006-15 allowing dirt stockpiling on Snowcreek VIII property, dated 8/2/07.

3.2.1.8 Building Permits for Buildings 1 - 39.

3.2.1.9 Encroachment Permit 2006-10 dated 9/21/06 for sewer line and water line work.

3.2.1.10 Improvement Permit 2006-20 dated 6/18/06 for water line work.

3.2.1.11 Permit 2007-164041 dated 4/28/08 allowing Rec Building Remodel.

3.2.1.12 Certificates of Occupancy for Buildings 1 – 39.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for Snowcreek VII are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.2.2 Snowcreek VIII. The existing Project Approvals approved by the Town for the Snowcreek VIII Project, are the following:

3.2.2.1 General Plan Amendment to the Urban Growth Boundary.

3.2.2.2 Zone Code Amendment to effectuate the Snowcreek VIII Master Plan Update 2007, approved on August 5, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

3.2.2.3 Snowcreek VIII Master Plan Update 2007, approved on July 8, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

3.2.2.4 Conditional Use Permit # 88-19 approved 4/12/1989 for the current 9-hole golf course existing on the Snowcreek VIII Property.

3.2.2.5 Tentative Tract Map 09-002 to allow parcelization of approximately 222 acres within the Snowcreek Master Plan Update Area approved by Resolution on December 9, 2009, and recorded on January 14, 2010.

3.2.2.6 Final Tract Map 09-002 for the parcelization of the approximately 222 acres within the Snowcreek Master Plan Update Area, recorded 8/31/2023, Book 12, Page 22A.

3.2.2.7 CDDD 2009-25 for AP 09-004 dated 1/12/10 approving the temporary restaurant at the Golf Course and extending the use permit on the existing temporary clubhouse.

3.2.2.8 Resolution No. PEDC 2024-11 for Tentative Tract Map 23-002 and Use Permit 23-003 approving the Phase I subdivision for Snowcreek VIII, dated 9/11/2024.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Snowcreek Projects are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.3 Vested Right to Develop. During the Term of this Agreement, with regard to the Snowcreek Projects listed in Recital D and the Property legally defined in Exhibit A, Developer is assured, and the Town agrees, the development rights, obligations, terms and conditions specified in the Project Approvals, the other Vested Rules and this Agreement are fully vested in

Developer and may not be changed or modified by the Town, whether by administrative action or legislative action, except as may be expressly permitted by and in accordance with the terms and conditions of this Agreement, or as may be expressly consented to by Developer. Developer shall have the vested right to develop and construct the Snowcreek Projects on the Snowcreek Properties and each portion thereof, in accordance with the Project Approvals, the other Vested Rules and this Agreement.

3.4 No Conflicting Enactments. Except as provided in Section 3.3 of this Agreement, during the Term of this Agreement, the Town shall not, without the prior written consent of Developer, do any of the following:

3.4.1 Apply to the Snowcreek Projects or the Snowcreek Properties, or any portion thereof, any change in the Vested Rules or any new or amended rule, ordinance, resolution, regulation, requirement or official policy which conflicts with or is inconsistent with this Agreement, or which reduces the development rights provided by this Agreement, or which limits or reduces the permitted uses allowed under the Vested Rules, or which prevents, impedes or materially adversely affects development, construction or operation of the Snowcreek Projects or any portion thereof in accordance with the Vested Rules, or which discriminates against Developer or the Snowcreek Projects or any portion thereof, or which applies only to the 2009 Projects or a portion thereof.

3.4.2 Apply to the Snowcreek Projects or the Snowcreek Properties any new rule, ordinance, resolution, regulation, requirement or official policy that requires any additional discretionary review or approval.

3.4.3 Apply to the Snowcreek Projects or the Snowcreek Properties any new or amended rule, ordinance, resolution, regulation, requirement or official policy that materially, adversely affects the timing or phasing of construction or development or that limits the availability of utilities, infrastructure or public services for the Snowcreek Projects or the Snowcreek Properties.

3.5 Term of Project Approvals. To the extent allowed by the Subdivision Map Act, the term of any tentative map approved for any portion of the Property, whether as stated in the existing Project Approvals, or as stated in any subsequent amendment or addition to the Project Approvals, including, but not limited to, any tentative parcel map, tentative tract map, vesting tentative tract map or vesting tentative parcel map, any amendment of any such map, and any subdivision improvement agreement entered into in connection with any of the aforementioned maps, shall be automatically extended for the Term of this Agreement. Similarly, the term of any Project Approvals approved for any portion of the Property, whether now existing or subsequently approved, shall be automatically extended for the Term of this Agreement. In addition, in accordance with Government Code sections 66452.6(b)(1), (2) and (3), the term of any map or other Project Approval shall be extended for a period equal to any period of time during which: (a) a development moratorium exists, including, but not limited to, a water or sewer moratorium or the actions of public agencies (other than the Town) that regulate land use, development or the provision of services to the Property, that prevents, prohibits or delays the construction of the Projects; or (b) a lawsuit involving any development approvals or permits for

the Project is pending. A development moratorium adopted or implemented by the Town shall not apply to the Property, as further described in Section 3.7.

3.6 Initiatives/Referendum. Any law enacted or imposed after the Effective Date by initiative or referendum, or by the Town Council, directly or indirectly, in connection with any proposed initiative or referendum, which law would conflict with the vested rights to develop granted to Developer under this Agreement shall, to the maximum extent permitted by law, not apply to the Snowcreek Projects.

3.7 Moratoria; Growth Control Measures. Developers' rights to develop the Snowcreek Projects on the Snowcreek Properties in conformance with the Vested Rules under this Agreement shall prevail over any growth control measure or development moratorium adopted or implemented by the Town after the Effective Date, whether adopted specifically to prohibit construction of the Snowcreek Projects or any portion thereof, or as an interim measure during the processing of contemplated General Plan, Specific Plan or zoning changes, or as a general growth control management measure.

3.8 Effect of Inconsistent State or Federal Laws. This Agreement may be modified or suspended as may be necessary to comply with State of California or Federal legislation, case law, codes or regulations enacted/issued after the Effective Date, which preempt local jurisdiction and which prevent or preclude compliance with one or more provisions of this Agreement; provided, however, that such modification or suspension shall be made to the minimum extent necessary and only after the Parties have met and conferred in good faith to determine the feasibility of such modification or suspension and to minimize its effect on the rights of the Parties and fulfillment of the purposes and intent of this Agreement. The Parties shall cooperate to process applications for any Town or governmental approvals which may be required as a result of any such modification or suspension of this Agreement.

ARTICLE 4
PROJECT PROCESSING AGREEMENTS

4.1 Affordable Housing Requirements.

4.1.1 Developer and Town agree the affordable housing requirements shall not exceed the parameters set forth in Section 2.2.3 of this Agreement. The affordable housing requirements for each phase of development shall be in accordance with this Section and Section 2.2.3 of this Agreement. Developer and Town agree the Total Affordable Housing Cost reasonably implements Town's affordable housing requirements.

4.1.2 The Affordable Housing Requirements for the Residential and Hotel components of the Project shall be provided in the following manner until the Affordable Housing Requirement is satisfied. Affordable Housing Requirement shall only be provided based on the number of units actually built.

4.1.2.1 *Residential Component.* The Affordable Housing Requirement for development of the Market Rate Residential Units shall be ten percent (10%) of the number of Market Rate Residential Units proposed within each phase. The ten percent (10%) requirement shall be allocated as follows:

(i) The number of Required Affordable Units required within each phase shall be calculated at the rate of 6.33% of the number of Market Rate Residential Units proposed. If the number of Required Affordable Units would result in a fractional number and the fraction or decimal is equal to or greater than 50 percent of a unit, it shall be rounded up to the nearest whole number and when the fraction or decimal is less than 50 percent of a unit, it shall be rounded down to the nearest whole number, provided that in no case shall Developer be required to obtain Building Permits for more than the 47 Required Affordable Units. The Town, in its sole discretion may require Developer to provide more than 6.33% Required Affordable Units in any given phase of development where Developer's overall Required Affordable Unit contribution has dropped below 6.33% due to the rounding down of fractional Required Affordable Units.

(ii) The number of units subject to the provision of In-Lieu Fees within each phase shall be calculated at the rate of 3.67% of the number of Market Rate Residential units proposed. Pursuant to Section 2.2.3.4(ii) of this Agreement, Developer shall not be required to provide payment of In-Lieu Fees until the usage of the FTEE Credits has been exhausted.

4.1.2.2 *Hotel Component.* The Affordable Housing Requirement for development of the Hotel Units shall be ten percent (10%) of the number of Hotel Units proposed within each phase. The ten percent (10%) requirement shall be allocated as follows:

(i) The number of units subject to the provision of In-Lieu Fees shall be calculated at the rate of 5% of the number of Hotel Units proposed since each hotel unit constitutes ½ unit as set forth in the Snowcreek Master Plan Update. Pursuant to Section 2.2.3.4(ii) of this Agreement, Developer shall not be required to provide payment of In-Lieu Fees until the usage of the FTEE Credits has been exhausted.

4.2 Development Schedule; Phasing. The Master Plan Update includes a general phasing plan, a copy of which is attached hereto as Exhibit D. This phasing plan anticipates buildout of the Snowcreek Projects will continue over a substantial period and the timing and phasing of development will be affected by numerous factors, which are not all within the control of Developer, such as market demand, economic conditions, competition and the like. The Parties acknowledge Developer cannot predict with specificity when or at what rate or in what order the future phases of the Snowcreek Projects shown on Exhibit D will be developed on the Property. Because the California Supreme Court held in *Pardee Construction Co. v. City of*

Camarillo (1984) 37 Cal.3d 465, the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties agreement, it is the parties' intent to cure that deficiency by acknowledging Developer shall have the right to develop the Property at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. This Section 4.2 does not apply to the milestones set forth in Section 2.2.1.

4.3 Snowcreek VII Master Plan. Permitted uses and densities for Snowcreek VII are incorporated in the Master Plan approved in 1981. The General Plan and the Master Plan provide for clustering of densities within the area of the Master Plan, as long as the overall Snowcreek Project density, as approved by the Master Plan, is not exceeded. The Master Plan at Mammoth is part of the Vested Rules.

4.4 Snowcreek VIII Master Plan Update 2007. Permitted uses, densities and development standards, among other things, for the Snowcreek VIII Project are incorporated in the Snowcreek VIII Master Plan Update 2007, as it may be modified from time to time, governing Snowcreek VIII.

ARTICLE 5
PROCESSING OF SUBSEQUENT PERMITS AND APPROVALS

5.1 Subsequent Permits.

5.1.1 Defined. "Subsequent Permits" means the land use, development and building approvals that are to be processed for approval by the Town and that are necessary or appropriate in order to develop the Snowcreek Projects in accordance with the Vested Rules, the Project Approvals and this Agreement, including, but not limited to, zone changes, master plans or amendments thereto, any and all permits and/or approvals that are part of development "phases," variances, use permits, development plans, parcel maps, tentative and final subdivision maps, subdivision improvement plans and agreements, design review, site plans, landscape plans, preliminary grading plans, grading plans and permits, building plans and permits, and environmental determinations; provided, that if a Subsequent Permit requires changes to the Snowcreek Master Plan Update , such modification shall be treated as a discretionary permit and Town's review and approval, conditional approval or denial is not restricted by this Agreement. The Subsequent Permits shall include any permits and approvals required to complete the infrastructure and improvements necessary to develop the Property (collectively, the "Improvements"), in accordance with this Agreement and the Vested Rules, including, without limitation, those related to: (a) clearing the Property; (b) preliminary grading or grading of the Property; (c) construction of roads and storm drainage facilities; (d) construction of the golf course, snow play area, trails and bicycle paths, great lawn, open space corridor; (e) importing and stockpiling dirt on the property; and, (f) construction of all commercial and residential structures and all structures and facilities accessory thereto, subject to the limitations set forth in this Agreement. Subsequent Permits may also include, without limitation, the following: grading permits, building permits, sewer and water connection permits, certificates of occupancy, lot line adjustments, site plans, development plans, land use plans, building plans and specifications, final maps, parcel maps and/or subdivision maps, conditional use permits, variances, architectural control plans, demolition permits, improvement agreements, encroachment permits,

tree removal permits and any modifications or amendments to any of the foregoing or any Project Approvals.

5.1.2 The grant of vested rights to Developer pursuant to this Agreement does not waive or remove any requirement to process and obtain Subsequent Permits for the Snowcreek Projects, to the extent required under the Vested Rules and the Project Approvals.

5.1.3 Standard of Review. The Town agrees applications for Subsequent Permits shall be processed in good faith and with reasonable diligence and granted on reasonable terms and conditions, in conformance with this Agreement, the Project Approvals and the Vested Rules. The Town shall have the right to withhold any Subsequent Permit or to conditionally approve the same in order to ensure conformance with the Project Approvals and the Vested Rules set forth in Section 3.1, the vested right to develop set forth in Section 3.3, the requirements of this Agreement, and applicable laws. Except to the extent a conflict is the result of the Town's denial or conditional approval of a Subsequent Permit to ensure conformance with the Project Approvals and the Vested Rules set forth in Section 3.1, in the event any conflict arises between the terms and conditions of a Subsequent Permit and this Agreement, the provisions of this Agreement shall control unless otherwise agreed to in writing by the Town and Developer.

5.2 Timely Processing.

5.2.1 General. Subject to compliance with the Vested Rules and other applicable laws, the Subsequent Permits shall be reviewed, processed and acted upon by the Town in a timely manner, provided that: (a) applications for such approvals are submitted to the Town during the Term of this Agreement; and (b) there is no uncured Event of Default under the terms and conditions of this Agreement with respect to the portion of the Property for which such approval is sought.

5.2.2 Plans and Permits. The Town shall review the application and schedule the application for review by the appropriate authority within the time periods set forth in this Section 5.2.2. The Town shall exercise good faith efforts to process and check all building plans, grading and improvement plans, and other plan submittals and to issue applicable permits and approvals with reasonable diligence, within the time periods set forth on Exhibit I attached to this Agreement and incorporated herein by this reference.

5.3 Term of Approvals. All Subsequent Permits, once granted or issued, shall, like the Project Approvals, continue in full force and effect during the Term, in order to facilitate implementation of Developer's development rights under this Agreement.

5.4 Vesting of Approvals. All Subsequent Permits, once granted or issued, shall become automatically vested under this Agreement, as if granted or issued prior to the adoption of this Agreement, for the duration of the Term of this Agreement.

5.5 Development Fees. Due to the consideration and benefits as described in Exhibit B, the following shall apply to the development fees described below:

5.5.1 Applicable Fees. If a Subsequent Permit requires any significant change to the Snowcreek Master Plan Update, then any additional fees shall be reasonable and meet all applicable nexus and rough proportionality requirements. Notwithstanding Section 3.1 or any other provision of this Agreement and subject to section 5.5.4, all increases in the amount of fees adopted by the Town on a Town-wide basis during the Term shall not apply to Developer and the Snowcreek Projects, with the exception of any automatic fee escalators as of the Effective Date. Fees shall be payable when due; provided, however, that the Town shall reasonably determine, at the time building permits are issued, whether fees then due will be offset by credits that will be available to Developer as a result of subsequent construction; payment of fees that are anticipated to be so offset by credits shall be deferred and a reconciliation of those fees and credits shall be made prior to issuance of such certificates of occupancy. Additionally, if either California State law or the municipal code is modified to defer payment of fees to a time later in the development process than that required on the Effective Date, then Owner or Developer shall be subject to such deferment. In addition, credits to which any portion of the Snowcreek Projects is entitled as a result of construction shall be transferable to any other portion of the Snowcreek Projects and applied to reduce fees payable and not yet paid by Developer in connection with any portion of the Snowcreek Projects. Additionally, if the amount of credits is increased, Owner or Developer shall be subject to the increased credit amount.

5.5.2 DIF Resolution. Developer shall pay Development Impact Fees at the time of building permit issuance in accordance with, and at the rate specified in, the DIF Resolution in effect on the Effective Date. Applicable impact fees include but are not limited to: Police, Vehicle Circulation, Multi-modal Circulation, Storm Drain, General Facilities and Equipment, Parkland and Recreation. The amount of Development Impact Fees shall not be increased as applied to the Snowcreek Projects during the Term, with the exception of any automatic fee escalators, such as Cost of Living Allowance and the periodic Town-wide escalators codified in the Municipal Code as of the Effective Date. The DIF Resolution as applied to the Projects as set forth in this Agreement is included in the Vested Rules; provided, however, if Development Impact Fees applied to all or any other developer or builder of any uses similar to the Project are reduced during the Term, then any future not yet due Development Impact Fees will be at the lower rate. The vesting of the provisions of the DIF Resolution as to the availability and calculation of credits, in particular, is a material inducement to Developer in agreeing to provide the significant community benefits that are a part of these Projects. Development Impact Fees collected by the Town on behalf of another entity shall not be vested.

5.5.3 Public Arts Fund and Fee Program. Public Art meeting the Town's Public Arts Fund and Fee Program will be provided throughout the Snowcreek Projects in accordance with the Snowcreek Master Plan Update. As stated in Section 8.1 of the Snowcreek Master Plan Update, the Town's Municipal Code only applies to the Snowcreek VIII Project where the Master Plan Update is silent. Section 8.1.5 of the Snowcreek Master Plan Update describes the Public Art Program for Snowcreek VIII. Therefore, no fee for participation in the Town's Public Arts Fund and Fee Program shall be due to, required by or paid to the Town. Developer and Town agree to implement Chapter 15.18 of the Municipal Code according to 15.18.070.F and that this Agreement constitutes the alternate provisions of that Chapter. Developer agrees to

implement the goals and intent of Chapter 15.18 through the subsequent review and approvals required by this Agreement. In order to maintain the integrity of the Master Plan and Snowcreek Master Plan Update, and implement the timely Phasing and Performance described in Section 2.2.1 of this Agreement, Public Art will be subject to review and approval by the PEDC in conjunction with each applicable and necessary use permit.

5.5.4 Building Permit and Application Processing Fees. Developer shall pay the Building Permit and Application Processing Fees ("Building Fees") in effect on the Effective Date. The Building Fees shall be subject to the COLA. In the event the Building Fees are reduced during the Term and the reduced fee amount is lower than the vested amount, or in the event that the Building Fees with the inclusion of the COLA increase is higher than the Building Fee amount in effect at that time, then any future not yet due Building Fees will be at the lower rate. Building Fees collected by the Town on behalf of the State or other entity shall not be vested by the DA.

5.6 Other Local, State, Federal Approvals.

5.6.1 General. The Parties contemplate development of the Snowcreek Projects pursuant to this Agreement may be subject to the approval of other governmental agencies. The Parties shall act in good faith and use reasonable effort and diligence to process and obtain such approvals in a manner and on terms and conditions that are consistent with, and implement, the Project Approvals, the Vested Rules and this Agreement. If any revisions or corrections of plans for Project Approvals approved by the Town shall be required by any other governmental agency, then the Parties shall cooperate reasonably and in good faith to develop a mutually acceptable solution.

5.6.2 Waste Discharge Requirements permit, issued by the California Regional Water Quality Control Board, Lahontan Region, may be required for Snowcreek VIII. Developer is currently pursuing this issue and to the extent required shall obtain all the necessary permits. If significant modifications in the Snowcreek Projects are needed to obtain any of those permits, then such modifications shall be processed as a Subsequent Permit in accordance with subsection 5.1.1.

ARTICLE 6
PUBLIC IMPROVEMENTS AND SERVICES

6.1 Community Benefits. In return for the vesting of rights granted by this Agreement, the Town Council has required that the community receive certain special benefits. Those benefits are set forth in Exhibit B to this Agreement. The rights and obligations of Developer and the Town under the terms of Exhibit B are incorporated herein as provisions of this Agreement.

6.2 Applicable Requirements. Development of the Snowcreek Projects is subject to payment of Development Impact Fees pursuant to the DIF Resolution in effect as of the Effective Date. Development of the Snowcreek Projects is also subject to payment of the Community & Economic Development Processing Fees ("Planning Fees") in effect on the Effective Date, shown in Exhibit E to this Agreement which is attached hereto and incorporated

herein by this reference. The Planning Fees shall be subject to the COLA. In the event the Planning Fees are reduced during the Term and the reduced fee amount is lower than the vested amount, or in the event that the Planning Fees with the inclusion of the COLA increase is higher than the Planning Fees in effect at that time, then any future not yet due Planning Fees will be at the lower rate.

6.3 Land for Propane Storage Tank Area. The Town has indicated a need and desire for additional propane storage tank areas in the community. This ancillary utility use is permitted by both Town regulations and the private land use covenant between the Town and Developer. At the time of the execution of this Agreement, the Town and Turner Gas were working to find a suitable location for storage of the propane tanks and have tentatively located an appropriate site. In the event such site is not acceptable or available to the Town, then Developer agrees to allow the use of 16,875 square feet of its property as a Propane Storage Tank area, so long as such determination is made before the issuance of a use permit for the Golf Course. The legal description is attached as Exhibit F.

6.4 Bike Trail North of Old Mammoth Road & Recreational Trail Public Easement. During the construction of the first phase of Snowcreek VII, a bike path was completed connecting a section of trail linking the Old Mammoth area from the Athletic Club to the intersection of Old Mammoth Road and Minaret Road. A 12' wide public easement has been issued for recreational trail purposes along the length of the bike path. A Benefit Assessment district shall be created, largely at the expense of the Snowcreek VII homeowners, to maintain this trail both in the winter and the summer.

6.5 Public Access Easement for Fishing and Hiking Along Mammoth Creek. As part of Snowcreek VII, a 40' wide public access and drainage easement was recorded along Mammoth Creek from the Athletic Club to Minaret Road. This easement grants access to the public for fishing and hiking along the Creek.

6.6 Fairway Drive Realignment. Fairway Drive is currently the only non-exclusive public access to Snowcreek V. During construction of Snowcreek VIII, Developer will realign and improve Fairway Drive.

6.7 Secondary Access Road. Developer will create a secondary access to Old Mammoth Road from the Snowcreek Projects that will benefit Snowcreek V and Snowcreek VIII visitors and residents.

6.8 Emergency Vehicle Access Road. Developer will create an Emergency Vehicle Access Road, crossing the golf course that will connect an internal Snowcreek Projects road to Sherwin Creek Road.

6.9 Expanded Golf Course. Potential expanded 18-hole publicly accessible golf course and practice facility. A nine-hole golf course designed by Ted Robinson exists on the north and west portions of the property. An additional nine holes may be constructed on the north, eastern and southern edges of the Snowcreek VIII site, creating a championship 18-hole golf course and encompassing an estimated 155 acres. If constructed, the course will be designed to conserve water and utilize natural vegetation. Re-grading and contouring of the new

portion of the golf course, and possibly portions of the existing course, will create topographic undulations in character with the surrounding landforms fronting the main range.

6.10 Cooperation with MCWD Expansion. The Master Developer is cooperating with MCWD's expansion, and possible improvement and distribution of MCWD's tertiary water treatment to the extent available, legally permissible and on a schedule and in volumes agreed to by MCWD and the Master Developer. MCWD is in the process of establishing a Recycled Water Project that could provide irrigation for portions of the existing Snowcreek nine-hole golf course as well as the expanded additional nine-hole course. If and when this Recycled Water Project becomes active, it could free up a significant amount of potable water currently being used on the golf course, for other Town uses. Snowcreek VIII is working on an agreement with MCWD related to participating in the Recycled Water Project.

6.11 Other Public Dedications and Improvements. The Town shall not require the grant, reservation, or dedication by Developer of any additional land or easements for open space, park and recreational uses or for public rights-of-way or other public purposes, or require the construction or funding of public improvements or facilities, as a condition to development of the Projects, except as permitted under the Vested Rules, the Project Approvals, and this Agreement.

6.12 Local Economic Opportunity. The Developer and the Town acknowledge that it is in the best interest of both parties that the construction and operation of the Snowcreek Projects create economic and job opportunities for local residents and the Town. In order to meet the objectives of this section in a manner consistent with state and federal laws, Developer agrees to use commercially reasonable efforts to take the following steps to encourage economic and job opportunities for qualified local residents:

6.12.1 Bid Process. Developer will ask its general contractors and major subcontractors to solicit local contractors and subcontractors to participate in the bid process. For example, to further the objectives of this Section as stated above, Developer will ask its general contractors and major subcontractors to coordinate with any local or regional contractors association to solicit bids from qualified local contractors and subcontractors consistent with this subsection. It is the intent of the parties to include qualified local contractors and subcontractors in the bid process but not to limit participation in the process solely to them nor to prohibit others from participating.

6.12.2 Local Labor. Developer will ask its general contractors and major subcontractors to attempt to identify and hire qualified local labor. Local labor shall include, but is not limited to, in the following order of preference, to the maximum extent legally permissible, persons living in Mammoth Lakes, Mono County, and the northern portion of Inyo County. For example, Developer will ask its general contractors and major subcontractors to attempt to coordinate with any local or regional contractors association to utilize qualified local labor consistent with this subsection. It is the intent of the parties to include qualified local labor in the hiring process but not to limit participation solely to them nor to prohibit others from participating.

6.12.3 Local Employment Opportunity. Developer will take steps to inform qualified local contractors, laborers and residents of potential job opportunities with the Project.

6.12.4 Purchase of Equipment and Materials. It has been the practice of Developer to purchase materials and equipment locally when such materials and equipment have been competitively priced and it makes economic sense to do so. Developer and Town acknowledge that it would be desirable to strive to purchase equipment and materials locally again when such materials and equipment are competitively priced. Therefore, it is the intent of the parties that, all other factors being equal, such factors including price, availability and other factors to be determined in the sole business judgment of Developer, that Developer will strive to purchase equipment and material locally; provided, however, that this provision shall not be interpreted as a restriction on Developer nor shall it be used to prohibit Developer from constructing and operating the Snowcreek Projects as Developer sees fit in its sole discretion.

ARTICLE 7
IMPLEMENTATION

7.1 Operating Memorandum. The Town and Developer may implement or clarify provisions of this Agreement through the execution of one or more operating memorandum approved by the Town and Developer, from time to time during the Term (each, an "Operating Memorandum"). An Operating Memorandum shall be automatically deemed a part of this Agreement, but approval, implementation and/or amendment thereof shall not constitute or require an amendment to this Agreement or require public notice or hearing. In the event a provision in an Operating Memorandum conflicts with this Agreement, this Agreement shall control. The Town Manager or his or her designee, after consultation with the Town Attorney to determine whether an Operating Memorandum is appropriate, is authorized to approve an Operating Memorandum, or amendment thereto, on behalf of the Town, but may request Town Council review and approval of any proposed Operating Memorandum, if he or she deems it necessary or desirable.

7.2 Annual Review.

7.2.1 General. The annual review required by Development Agreement Statute Section 65865.1 shall be conducted as provided in this Section 7.2. As part of that review, each Party shall have a reasonable opportunity to assert matters which such Party believes have not been undertaken or performed in conformance with this Agreement, to explain the basis for such assertion, and to receive from the other Party or Parties a justification for such other Party's or Parties' position with respect to such matter.

7.2.2 Commencement of Review. Prior to October 31, of each full calendar year after the effective date of this Agreement, Developer will initiate the annual review by submitting a written statement to the Town Manager describing, Developer's good faith substantial compliance with the terms and conditions of this Agreement for the prior calendar year. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1.

7.2.3 Determination of Substantial Compliance. Within thirty (30) days after the Town Manager's receipt of Developer's complete submittal [or thirty (30) days after the deadline for such submittal if none is submitted], unless said period is extended by mutual consent of the Town Manager and Developer or as the result of circumstances beyond the reasonable control of the Town, the Town Manager shall: (a) determine whether, for the year under review, Developer is in good faith substantial compliance with the terms and conditions of this Agreement; (b) confirm its determination in writing; (c) deliver a copy to Developer and (d) deliver a written report to the Town Council, which the Town Council, at a regular public meeting within thirty (30) days after delivery, shall receive and file that report and may comment on or request further information or public discussion at a future regular public meeting or closed session, as legally permitted. If the Town Manager's report to the Town Council determines, based upon substantial evidence, Developer is not in good faith substantial compliance with the terms of the Agreement, the Town Manager's written determination shall specify the grounds for such determination in reasonable detail, and Developer shall have thirty (30) days from receipt of such determination of non-compliance to respond in writing. After receipt of Developer's response (or expiration of such 30 day period if no response is delivered), the Town Manager shall determine whether Developer is in good faith substantial compliance and deliver a copy of such determination to Developer and the Town Council. If Developer is determined not to be in good faith substantial compliance, the Town Manager may deliver a Notice of Default to Developer pursuant to Section 9.2. A finding by the Town Manager of good faith substantial compliance with the terms of this Agreement shall conclusively determine said issue up to and including the date of said review, and shall complete the annual review. If the annual review is completed pursuant to the procedures set forth above, the Town Manager shall promptly deliver a report to the Town Council confirming the completion of the annual review.

7.2.4 Appeal to Town Council. If Developer disputes the allegation Developer is not in good-faith substantial compliance and believes the Notice of Default has been issued erroneously, then Developer shall have the right to appeal the determination to the Town Council, and the Town Council shall make such determination after Developer has been permitted an opportunity to be heard orally and in writing at a noticed public hearing before the Town Council. Any appeal must be filed with the Town Manager in writing within fourteen (14) days Developer's receipt of the Notice of Default. The Town shall deliver to Developer a copy of any staff reports that are not exempt from the California Public Records Act and any other related information submitted to the Town Council concerning Developer's performance at least seven (7) calendar days prior to the date of the noticed public meeting. If the Town Council, at that noticed public meeting, or any continued public meeting related to the appeal, determines, based upon substantial evidence, Developer is not in good faith substantial compliance with the terms and conditions of the Agreement, the Town Council may terminate or modify the Agreement, subject to compliance with the provisions in Section 9.3.

7.3 Statement of Compliance. Within thirty (30) days after receipt of a written request from a Party ("requesting Party"), a Party shall execute and deliver to the requesting Party a statement certifying: (a) the Agreement is unmodified and in full force and effect (or identifying any modifications); (b) there are no uncured defaults under the Agreement by the certifying Party or, to the certifying Party's knowledge, by any other Party (or specifying any such defaults); and (c) any other information reasonably requested regarding the status of the Agreement and performance by the Parties. The failure by a Party ("non-responding Party") to

deliver such statement within such 30 day period shall be conclusively deemed to constitute a certification by the non responding Party: (a) this Agreement is in full force and effect; and (b) to the knowledge of the non responding Party, there are no uncured defaults on the part of the requesting Party. Such statement or certification may be relied upon by any purchaser, transferee, lender, title company, governmental agency or other person reasonably requesting such statement.

ARTICLE 8
ASSIGNMENTS; MORTGAGEE PROTECTION

8.1 Right to Assign.

8.1.1 Right to Assign. Developer shall have the right to assign or transfer any portion of its interests, rights or obligations ("Rights") under this Agreement and under the Project Approvals and Subsequent Permits to third parties acquiring successor interests in the Snowcreek Projects or Project Site, or any portion thereof, including without limitation purchasers or long-term ground lessees of individual lots, parcels, or facilities located on or within the Project Site. Town cannot unreasonably disapprove of the transfer or assignment, provided that transferee has the experience in the real estate industry and financial capacity that is comparable to or better than transferor to fulfill Developer's obligations under this Agreement.

8.1.2 Assumption of Assigned Obligations and Rights. As a condition to any Assignment under this Agreement, any person or entity accepting such Assignment ("Assignee") shall assume all of the obligations and rights of this Agreement as they pertain to the portion of the Property being transferred to the Assignee. An Assignment and Assumption Agreement, attached as Exhibit F shall be signed by the Assignor and the Assignee.

8.1.3 Release of Developer. Upon the effectiveness of any Assignment and Assumption of Developer's obligations by any Assignee, Developer shall be fully relieved and released of each of its duties and obligations with respect to the portion of the Property transferred to the transferee from and after the date of such transfer, except as to those obligations of Developer under this Agreement that affect more than the portion of the Property being transferred.

8.1.4 Successive Assignment. In the event of any Assignment under the provisions of Article 8, the provisions of this Article 8 shall apply to each successive Assignment and Assignee. Developer's obligations under this Agreement with respect to the portion of the Property transferred which are to be assumed by the Assignee shall be set out in substantially the form of the Assignment and Assumption Agreement, at Exhibit G.

8.1.5 Default. If all or any portion of the Project Site is transferred by Developer ("Transferred Property") to any person or entity (a "Transferee") the Transferee shall succeed to all of Developer's Rights under this Agreement regarding the Transferred Property. Thereafter, a default under this Agreement by Developer regarding that portion of the Project Site other than the Transferred Property (the "Remaining Property") shall not be considered or acted upon by Town as a default by the Transferee regarding the Transferred Property and shall not affect the Transferee's Rights regarding the Transferred Property. Likewise, a default by a

Transferee relating to the Transferred Property shall not be considered or acted upon by Town as a default by Developer regarding the Remaining Property and shall not affect Developer's Rights regarding the Remaining Property.

8.2 Mortgagee Protection.

8.2.1 Right to Mortgage. Developer or Owner may assign, pledge or otherwise encumber its rights and interests under this Agreement for security purposes to a Mortgagee of any Lot(s) without the consent of the Town. Nothing contained in this Agreement shall restrict Developer from encumbering all or any portion of the Property with a Mortgage, deed of trust or other security device (collectively, "Mortgage"); provided, however, that this Agreement shall be superior and senior to the lien of any Mortgage placed upon the Property or any portion thereof after the Effective Date. Prior to recordation of this Agreement, Developer shall obtain a Subordination Agreement in the form of Exhibit H attached hereto, from the holder of any Mortgage in effect as of the Effective Date subordinating the lien of such Mortgage to this Agreement. Notwithstanding the foregoing, no breach of this Agreement shall default, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions of this Agreement shall be binding upon and effective against any Person, including any deed of trust beneficiary or mortgagee, who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise; provided, however, that such transferee shall not be liable for defaults or monetary obligations arising prior to its acquisition of title to the Property or portion thereof.

8.2.2 Notice of Default. If the Town receives written notice from a Mortgagee requesting a copy of any notice of default given to Developer and specifying the address for service thereof, then the Town shall deliver to such Mortgagee, concurrently with the delivery to Developer, any notice given to Developer with respect to any claim by the Town Developer is in default hereunder. If the Town makes a determination of noncompliance hereunder, the Town shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service on Developer. Each Mortgagee shall have the right, but not the obligation, during the same period available to Developer hereunder, to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the Town's notice.

ARTICLE 9
DEFAULT; REMEDIES

9.1 Events of Default. Subject to the provisions of Section 11.15 regarding Unavoidable Delays, Section 8.1 regarding assignment and assumption, and Section 8.2 regarding Mortgagee Protection, the failure by any Party to pay any sum or to perform any obligation required under this Agreement, including, but not limited to, the Town's failure to issue Subsequent Permits for the Snowcreek Projects in conformance with this Agreement, and such Party's failure to cure such default within the specified cure period after receipt of a Notice of Default pursuant to Section 9.2 below, shall constitute an "Event of Default" under this Agreement. Failure by Developer to construct or delay in constructing the 2009 Projects or any portion thereof shall not be a default or Event of Default under this Agreement, and Developer shall not be liable to the Town for damages for failure to construct any portion of the Snowcreek Projects, unless such failure or delay constitutes a default under the terms of any Final Map,

building permit or similar approval, in which event the Town may exercise any of its normal remedies for default under such permit or approval.

9.2 Notice of Default and Cure. Any Party claiming a default under this Agreement shall deliver to the defaulting Party a written notice of default ("Notice of Default"). The Notice of Default shall specify the reasons for the allegation of default with reasonable particularity and the manner in which the default can be cured. The defaulting Party shall have the right to cure the default within thirty (30) days after receipt of the Notice of Default; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within such thirty-day (30-day) period, the thirty-day (30-day) period shall be extended for the time reasonably required to complete the cure, so long as the defaulting Party commences the cure within the thirty-day period and diligently prosecutes the cure to completion thereafter and such cure is complete within one hundred twenty (120) after the cure is commenced; provided, that if a Party has timely commenced and diligently prosecutes the cure to completion thereafter, then the other party shall reasonably provide one or more extensions up to a total of one hundred twenty (120) days.

9.3 Procedure Upon an Event of Default. After the occurrence of an Event of Default, the other Party may give notice of its intent to terminate this Agreement. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review at a public meeting of the Town Council within thirty (30) days after that notice. Following consideration of the evidence presented in the review before the Town, the Party alleging the default by the other Party may institute legal proceedings or may give written notice of termination of this Agreement to the other Party; provided, however, Developer may only terminate this Agreement with respect to such portion of the Property then owned by Developer, and the Town may only terminate this Agreement with respect to the portion of the Property then owned by the defaulting Developer. Evidence of default may also arise in the course of an annual review of this Agreement pursuant to Section 7.2. If Developer is determined by the Town to be in default pursuant to the procedures for annual review, and after giving effect to Developer's right of appeal of such determination to the Town Council as provided in Section 7.2.4, the Town may give a written Notice of Default pursuant to Section 9.2. If the alleged default is not cured within the cure period set forth in Section 9.2 or within such longer period specified in the Town's Notice of Default, or if Developer waives its right to cure such alleged default in writing, then this Agreement may be terminated by the Town with respect to the portion of the Property then owned by the defaulting Developer.

9.4 Remedies for Non-Defaulting Party.

9.4.1 In the event either Party is in default under the terms of this Agreement, subject to any applicable requirements under Section 9.5 of this Agreement, the other Party may elect to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided in this Agreement; (iii) pursue any judicial remedies available under the law; or (iv) terminate this Agreement.

9.4.2 Unless otherwise provided in this Agreement and subject to applicable requirements under Section 9.5 of this Agreement, either Party, in addition to any other rights or

remedies, may institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. However, each Party hereby waives any right to sue or recover monetary damages for any default hereunder, other than the recovery of monetary amounts to which such Party is entitled under express provisions of this Agreement. All remedies available to a Party under this section shall be cumulative and not exclusive of the other, and the exercise of one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

9.5 Dispute Resolution; Legal Action.

9.5.1 Mediation. Before pursuing any administrative or judicial remedies to resolve any dispute or claim under this Agreement, the Parties hereto shall attempt in good faith to resolve any such dispute through mediation conducted by a mediator, or a panel of mediators of a size appropriate to the scope of the dispute (but not exceeding three (3) in any event), in accordance with the Commercial Mediation Rules of the American Arbitration Association.

9.5.2 Judicial Reference. If mediation is not required under the provisions of this Agreement or mediation has not resolved the dispute and any Party to this Agreement commences a lawsuit relating to a dispute arising under this Agreement, all the issues in such action, whether of fact or law, shall be resolved by judicial reference pursuant to the provisions of California Code of Civil Procedure Sections 638.1 and 641 through 645.1. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. Developer shall not be required to participate in the judicial reference proceeding unless it is satisfied that all necessary and appropriate parties will participate.

9.5.2.1 The proceeding shall be brought and held in Mono County, unless Parties agree to an alternative venue.

9.5.2.2 The Parties shall use the procedures adopted by JAMS/ENDISPUTE ("JAMS") for judicial reference and selection of a referee (or any other) entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the Parties).

9.5.2.3 The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters.

9.5.2.4 The Parties to the litigation shall agree upon a single referee who shall have the power to try any and all of the issues raised, whether of fact or of law, which may be pertinent to the matters in dispute, and to issue a statement of decision thereon. Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or if no entity is involved, by the court in accordance with California Code of Civil Procedure Sections 638 and 640.

9.5.2.5 The referee shall be authorized to provide all remedies available in law or equity appropriate under the circumstances of the controversy, other than punitive damages.

9.5.2.6 The referee may require one or more pre-hearing conferences.

9.5.2.7 The Parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

9.5.2.8 A stenographic record of the trial shall be made.

9.5.2.9 The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable.

9.5.2.10 The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

9.5.2.11 The Parties shall promptly and diligently cooperate with each other and the referee and perform such acts, as may be necessary for an expeditious resolution of the dispute.

9.5.2.12 The costs of such proceeding, including the fees of a referee, shall be borne equally by the Parties to the dispute.

9.5.2.13 The statement of decision of the referee upon all of the issues considered by the referee shall be binding upon the Parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the referee shall be appealable as if rendered by the court. This provision shall in no way be construed to limit any valid cause of action which may be brought by any of the Parties. Except for actions for indemnification, the Parties acknowledge and accept that they are waiving their right to a jury trial.

9.6 Extension of Agreement Term. The Term of this Agreement as set forth in Section 2.2 shall automatically be extended for the period of time in which the Parties are engaged in dispute resolution to the degree that such extension of the Term is reasonably required because activities which would have been completed prior to the expiration of the Term are delayed beyond the scheduled expiration of the Term as a direct result of such dispute resolution.

9.7 No Cross-Defaults. The rights and obligations of Developer and any successor Owner are separate from the rights and obligations of all other Developers and Owners and may be assigned separately as provided in Section 8.1 and enforced separately. A default by any one or more Developer or successor Owners under this Agreement shall not constitute a default by any other Developer or successor Owner or result in the termination of this Agreement or the vested development rights provided herein as to any other Developer or successor Owner. Master Developer shall have obligations hereunder only to the extent of its obligations as a Developer and Owner.

ARTICLE 10
AMENDMENTS; TERMINATION

10.1 Amendments. Except as set forth in Section 3.1, this Agreement may be modified, amended and/or extended only by mutual written consent of the Parties and shall be approved in the same manner as adoption of this Agreement, by ordinance as set forth in the Development Agreement Statute.

10.2 Release. Following the transfer or conveyance of any residential Lot on which is located a Residential Unit for which the Town has issued a final certificate of occupancy, this Agreement shall automatically terminate and cease to be an exception to title with respect to such residential Lot, stacked flat, or condominium unit ownership. Notwithstanding the automatic nature of such termination, within thirty (30) days after receipt of a written request from a developer or the residential owner, the Town shall execute and deliver any recordable documents necessary to evidence such termination. Upon the completion of the obligations set forth in this Agreement related to a residential Lot, stacked flat, or condominium unit ownership, upon the Town's receipt of written request, the Town shall execute and deliver any recordable documents necessary to release such residential Lot, stacked flat, or condominium unit ownership from this Agreement. The foregoing only applies if all conditions of the Project Approvals and requirements of this Agreement applicable to the subject residential Lot, stacked flat, or condominium unit ownership have been satisfactorily completed by Developer.

10.3 Effect of Expiration/Termination. Upon expiration or termination of this Agreement: (a) no Party shall have any further rights or obligation hereunder except for matters which accrued prior to such expiration or termination and matters which specifically survive expiration or termination under the express terms of this Agreement; and (b) the underlying Project Approvals shall remain in full force and effect.

ARTICLE 11
MISCELLANEOUS

11.1 Attorney's Fees. If any legal action or mediation or arbitration proceeding is brought by any Party because of a breach of this Agreement or to enforce any provision hereof and against the other party, then the prevailing Party shall be entitled to recover from the losing Party its reasonable attorneys' fees and costs. The "prevailing party" shall be that Party receiving substantially the relief sought in the action or proceeding.

11.2 Construction, Interpretation. This Agreement has been reviewed and revised by legal counsel for Developer and the Town, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

11.3 Cooperation; Further Assurances. Each Party: (a) shall deal fairly and in good faith with the other Parties; (b) shall not impede the other Parties' right to receive the benefits of this Agreement; (c) shall cooperate with and provide reasonable assistance to the other Parties in the performance of this Agreement; and (d) shall execute such documents or take such further

actions as may be reasonably necessary to consummate the performance or to carry out the purpose and intent of this Agreement.

11.4 Counterparts. This Agreement, and any documents implementing this Agreement, may be executed in multiple counterpart originals, each of which is deemed to be an original and all of which when taken together shall constitute one and the same instrument.

11.5 Entire Agreement. The Recitals set forth above in this Agreement and the Exhibits attached hereto are incorporated by references into this Agreement as an integrated portion hereof. This Agreement, including all such Recitals and Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof, and all prior or contemporaneous agreements and understandings, whether written or oral, are superseded.

11.6 Governing Law/Jurisdiction. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California, and the state courts of Mono County shall have jurisdiction.

11.7 Legal Challenges—Defense and Indemnification.

11.7.1 Cooperation in the Event of Legal Challenge. In the event of litigation , the Parties hereby agree to affirmatively cooperate and join in defending against any and all actions brought by any third party or parties in such litigation; provided, however, that both the Town and Developer shall retain their respective rights to control their own defense of the litigation. Except as provided herein, the Town and Developer shall each bear their own respective costs, if any, arising from such defense of litigation.

11.7.2 Defense and Indemnification. Developer shall indemnify, defend, and hold harmless Town Parties from and against any third party claims, demands,, actions, lawsuits or proceedings (collectively the "Claims"), and any related losses, liabilities, damages, liens, obligations, interest, injuries, penalties, fines, judgements, awards, costs and expenses, and attorneys' fee awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5 assessed or awarded against the Town, arising as a result of the Town's approval of this Agreement or any entitlements or permits pertaining to the Snowcreek Projects, or challenging the validity, applicability, or interpretation of any provision of this Agreement or any entitlements or permits pertaining to the Snowcreek Projects or arising directly as a result of Developer's (or Developer's contractors, subcontractors, agents, or employees) work performed in connection with the development of the Property or the Snowcreek Projects, including without limitation, Claims involving bodily injury, death or property damage. Upon request by Developer, Town shall enter into a joint defense agreement in a form reasonably acceptable to the Town Attorney and Developer to facilitate the sharing of materials and strategies related to the defense of such Litigation Challenge without waiver of attorney client privilege. Any proposed settlement of a Litigation Challenge by a Party shall be subject to the approval of the other Party, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that Developer may settle litigation without consent of the Town if the settlement does not require any changes to any project approvals or action by the Town.

11.7.3 Joint Defense and Costs. In the event any litigation is filed pertaining to the matters contemplated by Section 11.7.2 above, Developer shall select and retain legal counsel ("Counsel") to represent both the Town and Developer with respect to the litigation, and Counsel shall cooperate with Developer and the Town in the course of defending the litigation. Town may, in its sole discretion, elect to be separately represented by the legal counsel of its choice and reasonable costs of such representation shall be paid by Developer. Developer shall reimburse Town, within 45 days following Town's written demand therefor, which may be made from time to time during the course of any litigation, all reasonable costs incurred by Town in connection with the litigation, including Town's reasonable administrative, legal and court costs, and Town Attorney oversight expenses. Developer anticipates choosing as Counsel to provide the Town's and Developer's legal defense in any litigation the law firm of Allen Matkins Leck Gamble Mallory & Natsis LLP, subject to either party's right to change counsel if Counsel does not provide adequate and timely professional services. Developer shall also pay all filing fees, court costs and similar out-of-pocket expenses required for the Town and Developer to defend the litigation. The Town shall cooperate with Counsel's defense of the litigation, and shall make its records (other than documents privileged from disclosure) and personnel available to Counsel as may be reasonably requested by Counsel in connection with the litigation.

11.7.4 Effect on Term. The Term of this Agreement shall be tolled until final court action is taken in any litigation.

11.8 Notices. All notices, demands, correspondence and communications ("Notice") shall be in writing and shall be either personally delivered or sent by certified mail, postage prepaid, return receipt requested, or delivered by a nationally recognized overnight courier service (which provides a delivery receipt), at the addresses set forth below. Any such Notice shall be deemed received on the date of personal delivery or on the date of receipt (or refusal to accept delivery) set forth in the certified mail receipt if sent by U.S. mail or in the receipt provided by the overnight courier service if sent by such service.

Town:	Town of Mammoth Lakes P.O. Box 1609 Mammoth Lakes, CA 93546 Attn: Rob Patterson, Town Manager
with a copy to:	Andrew Morris, Town Attorney P.O. Box 1609 Mammoth Lakes, CA 93546
Developer:	Snowcreek Hilltop Development Co, LLC, a Delaware limited liability company; Snowcreek Investment Company II, LLC, a Delaware limited liability company 11100 Santa Monica Blvd., Suite 775 Los Angeles, CA 90025 Attn: Charles R. Lande

with a copy to: Allen Matkins Leck Gamble Mallory & Natsis LLP
1901 Avenue of the Stars, Suite 1800
Los Angeles, CA 90067

Attn: Spencer B. Kallick, Esq.

11.9 Private Undertaking. It is expressly understood and agreed by the Parties the development contemplated by this Agreement is a private development, no Party is acting as the agent of any other Party in any respect hereunder, and Developer shall have full power and exclusive control over its properties subject only to the limitations and obligations of Developer under the Vested Rules and this Agreement. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making the Town and Developer joint venturers or partners.

11.10 Recordation. The Town shall record a Memorandum of this Agreement with the Mono County Recorder within ten (10) days after the Effective Date, pursuant to Development Agreement Statute Section 65868.5. Thereafter, if this Agreement is terminated, modified or amended as provided herein, the Town shall record notice of such action with the Mono County Recorder.

11.11 Section Headings. Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

11.12 Severability. If any provision or term of this Agreement, or the application of any provision or term of this Agreement to any particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of the Agreement shall be unaffected and shall remain in full force and effect unless enforcement of the Agreement, with such invalidation, would be unreasonable or inequitable under the circumstances or would frustrate the purposes of the Agreement or the rights and obligations of the Parties there under.

11.13 Successors and Assigns; Covenants Running with the Land. Subject to the provisions of Section 8.1 governing assignment and the provisions for release set forth in Sections 8.1 and 10.2, the rights and obligations of Developer under this Agreement shall be binding upon and inure to the benefit of successor Owners of all or any portion of the Property and shall be covenants running with the land.

11.14 Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns, including the Owners. No other Person shall have any right of action based upon any provision of this Agreement.

11.15 Unavoidable Delays or Events. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities (but only as to delays or performance by Developer), enactment of conflicting state or federal laws or regulations (but only if the Party claiming delay complies at all times with the provisions of this Agreement pertaining to such conflicting laws), market forces beyond the Parties' control

that result in the decrease of the median home sales value in the Mammoth area by 10 percent or more over one calendar year, as reported through the Mammoth Lakes MLS data, delays caused by the delay or failure by any entity other than the Party claiming such delay to provide financing for or construction of needed public facilities or infrastructure as contemplated or required by this Agreement, delays due to the enforcement of environmental regulations, litigation against this Agreement or any of the Project Approvals, referendum of this Agreement or any of the Project Approvals or similar bases for excused performance ("Unavoidable Delay" or "Unavoidable Event"). Upon the occurrence of an Unavoidable Event, the time for performance shall be extended, for the duration of the Unavoidable Delay.

11.16 Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of the Party against whom enforcement of the waiver is sought. No waiver of any right or remedy shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement to be effective as of the Effective Date first set forth above.

TOWN: THE TOWN OF MAMMOTH LAKES,
a municipal corporation

By: _____
Rob Patterson, Town Manager

Date: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Andrew Morris, Town Attorney

Date: _____

[Signature Page to Development Agreement]

DEVELOPER:

SNOWCREEK HILLTOP DEVELOPMENT CO, LLC, a Delaware limited liability company

By: LLJ Mammoth Ventures, LLC, its Sole Member

By: Snowcreek Manager, LLC, its Manager

By: _____
Name:
Title:

By: Chadmar Mammoth Venture LLC, its Manager

By: _____
Name: Charles R. Lande, President

SNOWCREEK INVESTMENT COMPANY II, LLC, a Delaware limited liability company

By: LLJ Mammoth Ventures, LLC, its Sole Member

By: Snowcreek Manager, LLC, its Manager

By: _____
Name:
Title:

By: Chadmar Mammoth Venture LLC, its Manager

By: _____
Name: Charles R. Lande, President

State of California)
County of Mono)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

State of California)
County of Mono)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

LIST OF EXHIBITS

A-1 Legal Description for Property of Snowcreek VII

A-2 Legal Description for Property of Snowcreek VIII

B Snowcreek Greater Community Benefits

C Vested Rules

D Phasing Plan

E Schedule of Town Fees effective as of the Date of this Agreement

F Legal Description for Propane Tank Farm Easement

G Form of Assignment Agreement

H Form of Subordination Agreement

I Town of Mammoth Lakes Review Times

J Area of Geographic Nexus

K Legal Description for Mammoth Creek Open Space Corridor

EXHIBIT A-1

LEGAL DESCRIPTION
FOR
SNOWCREEK VII

LOT 4 OF TRACT 36-134 IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 9 PAGES 56-56H OF MAPS, IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE BOUNDARIES OF PARCEL 1 OF PARCEL MAP 36-133 IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4 PAGE 7 AND 7A OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT A-2

LEGAL DESCRIPTION
FOR
SNOWCREEK VIII

PARCEL A:

LOTS 3, 4, 5, 6 AND THOSE CERTAIN STRIPS OF LAND DESIGNATED AS "FAIRWAY DRIVE" AND "MINARET ROAD" AS SHOWN AND DEFINED UPON THE MAP OF TRACT NO. 36-166, IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 10 PAGE 21 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

LOT LINE ADJUSTMENT PARCEL 2 OF LOT LINE ADJUSTMENT 1999-08 PER CERTIFICATE OF COMPLIANCE RECORDED IN BOOK 897 OF OFFICIAL RECORDS AT PAGE 80 IN THE OFFICE OF THE COUNTY RECORDER OF MONO COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF SAID LOT LINE ADJUSTMENT PARCEL 2 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT LINE ADJUSTMENT PARCEL 2 OF LOT LINE ADJUSTMENT 2001-05 PER CERTIFICATE OF COMPLIANCE RECORDED AS INSTRUMENT NUMBER 2001009429 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT LINE ADJUSTMENT PARCEL 2 SOUTH 13°52'08" WEST 518.96 FEET; THENCE CONTINUING ALONG SAID BOUNDARY LINE SOUTH 02°08'52" WEST 594.15 FEET TO AN ANGLE POINT IN SAID BOUNDARY LINE; THENCE LEAVING SAID BOUNDARY LINE NORTH 03°44'15" EAST 447.64 FEET; THENCE NORTH 12°12'51" EAST 167.91 FEET; THENCE NORTH 09°33'27" EAST 493.62 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THAT PORTION OF LOT LINE ADJUSTMENT PARCEL 2 OF SAID LOT LINE ADJUSTMENT 1999-08 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT LINE ADJUSTMENT PARCEL 2 OF SAID LOT LINE ADJUSTMENT 2001-05, SAID POINT BEING THE INTERSECTION OF THE SOUTH BOUNDARY LINE OF SAID LOT LINE ADJUSTMENT PARCEL 2 AND THE EAST LINE OF RANCH ROAD AS OFFERED FOR DEDICATION ON TRACT NO. 36-166 PER MAP RECORDED IN BOOK 10 OF TRACT MAPS AT PAGES 21 THROUGH 21D IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH 68°34'41" EAST 152.00 FEET ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT LINE ADJUSTMENT PARCEL 2; THENCE CONTINUING ALONG SAID BOUNDARY LINE NORTH 29°56'24" EST 342.65 FEET; THENCE CONTINUING ALONG

SAID BOUNDARY LINE NORTH 50°44'12" EAST 22.49 FEET; THENCE LEAVING SAID BOUNDARY LINE SOUTH 13°40'02" WEST 116.14 FEET; THENCE SOUTH 35°44'51" WEST 272.10 FEE; THENCE SOUTH 77°03'19" WEST 147.27 FEET TO THE POINT OF BEGINNING.

SAID LAND IS SHOWN AS LOT LINE ADJUSTMENT PARCEL 2 OF LINE ADJUSTMENT 2003-06 AS PER CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 22, 2003 AS INSTRUMENT NO. 2003011728 OF OFFICIAL RECORDS.

PARCEL C:

TRACTS 46 & 47, SECTION 2, TOWNSHIP 4 SOUTH, RANGE 27 EAST, M.D.M., IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXHIBIT B

SNOWCREEK GREATER COMMUNITY BENEFITS

The Town acknowledges a number of project features in both Snowcreek Projects as conditioned and approved by Town Council go beyond what may legally be imposed on development projects through an entitlement process. Those greater community benefits include but are not limited to:

1. The Additional Financial Contribution.

2. Fiscal benefits that will accrue to the Town and community through the implementation of the Project as intended that would not occur without this Agreement, including transient occupancy taxes.

3. 8.9 acres of park area provided in excess of that required in conjunction with the buildout of Snowcreek VIII.

4. Preservation of Mammoth Creek open space corridor.

5. Championship 18-hole golf course will be designed by a top course architect.

6. Practice facility to be designed by a top course architect.

7. Secondary access for both Snowcreek V and VIII and the Emergency Vehicle Access Road connecting the Snowcreek VIII Project to Sherwin Creek Road is in addition to Mammoth Lakes Fire Protection District ("MLFPD") requirements.

8. Allowing egress of backcountry skiers, snowboarders, snowshoers from the Sherwin Range immediately upon approval of the Project prior to its construction and completion.

9. Programming of public spaces, including but not limited to the Great Lawn and Outfitters' Cabin, to increase visitation to the project and Town.

10. Establishment of public access across certain points of the project to allow public egress to surrounding public lands prior to Project construction and after completion and which would also provide access to an enhanced network of publicly accessible multi-use paths that is connected to the Town's trail system.

11. If needed by the Town, the Developer will provide the property described on Exhibit F attached hereto and incorporated herein by this reference for propane storage tanks.

EXHIBIT C

VESTED RULES

[As of the Effective Date]

Project Approvals. "Project Approvals" means: (a) the existing Town permits, approvals and entitlements for the Projects set forth below and in Section 3.2; plus (b) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 5.1.1) which are subsequently issued by the Town and approved by Developer, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules.

1. Snowcreek VII. The existing Project Approvals approved by the Town for the Snowcreek VII Project, are the following:

a. Master Plan at Mammoth, approved by the County of Mammoth Lakes in 1981.

b. Final Tract Map 36-236A for Phase 1 recorded 7/10/07, Book 10, Page 105.

c. Final Tract Map 36-236B for Phase 2 recorded 10/9/2019, Book 11, Page 15.

d. Final Tract Map 36-236C for Phase 3 recorded 4/8/2021, Book 12, Page 17.

e. Tentative Tract Map 36-236 for Phases 2 and 3 as modified by Resolution PC2009-01 and as further modified by this Agreement with respect to Special Planning Condition of Approval No. 11 in Resolution 2006-15, which shall read as originally approved (new italicized language is hereby deleted).

f. Use Permit 2005-11 approved by Resolution 2006-15, dated 5/24/06, as modified by Resolution PC 2009-01.

g. Grading Permits: Restricted Permit 2006-15 dated 4/24/07, Full Phase I Permit 2006-15 dated (in error) 4/24/07 (signed May 3, 2007); Amendment 01 to Grading Permit 2006-15 allowing dirt stockpiling on Snowcreek VIII property, dated 8/2/07.

h. Building Permits for Building 1-39.

i. Encroachment Permit 2006-10 dated 9/21/06 for sewer line and water line work.

j. Improvement Permit 2006-20 dated 6/18/06 for water line work.

k. Permit 2007-164041 dated 4/28/08 allowing Rec Building Remodel.

l. Certificates of Occupancy for Building 1 – 39.

m. The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for Snowcreek VII are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

2. Snowcreek VIII. The existing Project Approvals approved by the Town for the Snowcreek VIII Project, are the following:

a. General Plan Amendment to the Urban Growth Boundary.

b. Zone Code Amendment to effectuate the Snowcreek VIII Master Plan Update 2007, approved on August 5, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

c. Snowcreek VIII Master Plan Update 2007, approved on July 8, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

d. Conditional Use Permit # 88-19 approved 4/12/1989 for the current 9-hole golf course existing on the Snowcreek VIII Property.

e. Tentative Tract Map 09-002 to allow parcelization of approximately 222 acres within the Snowcreek Master Plan Update Area approved by Resolution on December 9, 2009, and recorded on January 14, 2010.

f. Final Tract Map 09-002 for the parcelization of the approximately 222 acres within the Snowcreek Master Plan Update Area, recorded 8/31/2023, Book 12, Page 22A.

g. CDDD 2009-25 for AP 09-004 dated 1/12/10 approving the temporary restaurant at the Golf Course and extending the use permit on the existing temporary clubhouse.

h. Resolution No. PEDC 2024-11 for Tentative Tract Map 23-002 and Use Permit 23-003 approving the Phase I subdivision for Snowcreek VIII, dated 9/11/2024.

3. The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Snowcreek Projects are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

EXHIBIT D

PHASING PLAN

Figure 5.7 of Master Plan Update

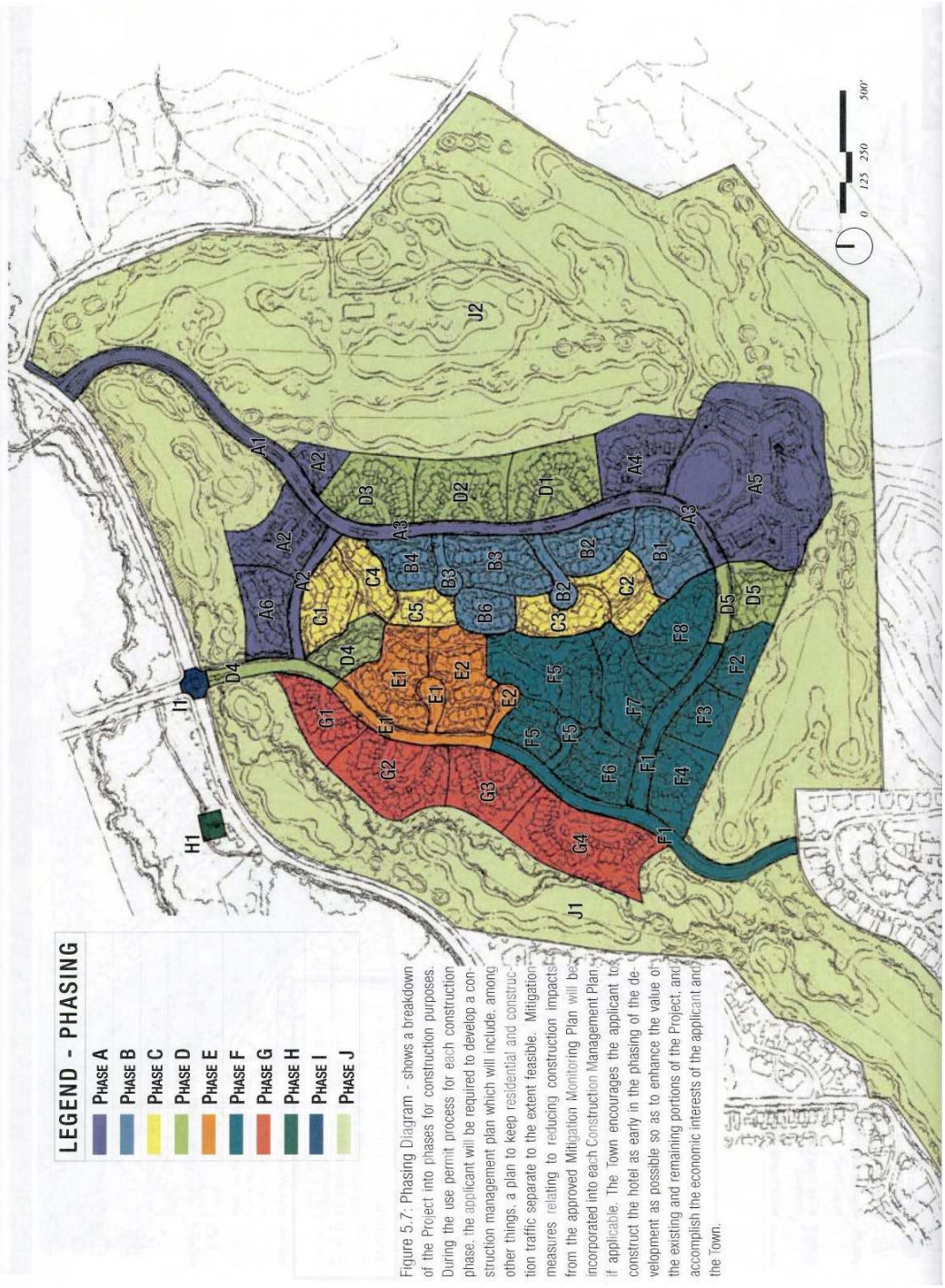


Figure 5.7: Phasing Diagram - shows a breakdown of the Project into phases for construction purposes. During the use permit process for each construction phase, the applicant will be required to develop a construction management plan which will include, among other things, a plan to keep residential and construction traffic separate to the extent feasible. Mitigation measures relating to reducing construction impacts from the approved Mitigation Monitoring Plan will be incorporated into each Construction Management Plan if applicable. The Town encourages the applicant to construct the hotel as early in the phasing of the development as possible so as to enhance the value of the existing and remaining portions of the Project, and accomplish the economic interests of the applicant and the Town.

EXHIBIT E

SCHEDULE OF PLANNING FEES
in effect on the Effective Date of this Agreement

COMMUNITY & ECONOMIC DEVELOPMENT FEE SCHEDULE FY 24-25

Permit/Service Title	Fee[1]
Adjustment (ADJ)	$1,058
Administrative Permit (AP)	$651
Administrative Permit - Mobile Business (AP)	$476
Administrative Permit - Temporary Outdoor Display and Sales (AP)	$98
Administrative Permit - Permanent Outdoor Display (AP)	$150
Administrative Permit - Two-Unit Project	$1,096
Advisory Design Panel (ADP)	Per Advisory Design Panel Rates
Appeal Planning & Economic Development Commission Decision to Town Council	$1,942
Appeal Staff Decision to Planning & Economic Development Commission	$2,310
Certificate of Compliance (COC)	Cost Accounted, $500 Deposit
CEQA - Environmental Impact Report (EIR)	Per Consultant's Cost
CEQA - Negative Declaration / Initial Study (ND / IS)	Per Consultant's Cost or Cost Accounted, $10,000 Deposit
Concept Review (CR)	Cost Accounted, $2,500 Deposit
Design Review - Administrative (New Single Family) (ADR)	$1,071
Design Review - Administrative (Not New Single Family)	$582
Design Review - (Repaint Only) (ADR)	$222
Design Review - Major (DR)	Cost Accounted, $2,500 Deposit
Design Review - Minor (DR)	$1,407
Development Agreement (DA)	Cost Accounted, $10,000 Deposit
District Zoning Amendment - Map Amendment (DZA)	Cost Accounted, $6,000 Deposit
Film Permit (FP)	$50
General Plan Amendment (GPA)	Cost Accounted, $10,000 Deposit
Landscape Document Package (LDP)	$152
Lot Line Adjustment (LLA)	$1,096
New Construction Fee (Collected at Building Permit)	$.20 sq. ft. of Habitable Space
Planning Services Review / Investigation (PSR)	Cost Accounted, $500 Deposit
Sign Permit - Master Sign Program (New) (SP)	Cost Accounted, $1,000 Deposit
Sign Permit - Master Sign Program (Amendment) (SP)	Cost Accounted, $1,000 Deposit
Sign Permit - Permanent Sign (SP)	$334
Sign Permit - Temporary Sign (SP)[2]	$77
Tentative Parcel Map (Includes TPM amendments) (TPM)	Cost Accounted, $6,000 Deposit
Tentative Tract Map (Includes TTM amendments) (TTM)	Cost Accounted, $6,000 Deposit
Parcel Map - Urban Lot Split	$1,096
Time Extension Request - Major (TER)	$1,053
Time Extension Request - Minor (TER)	$200
Tree Removal Permit (TRP)	$10
Tree Management Plan (TRP)	$100
Use Permit Application (Includes UPA amendments) (UPA)	Cost Accounted, $2,500 Deposit
Variance (VAR)	Cost Accounted, $6,000 Deposit
Zone Code Amendment - Text Amendment (ZCA)	Cost Accounted, $6,000 Deposit

[1] Flat fees are applicable when a project does not have a cost accounted component. If any portion of a project is cost accounted, the entire project is billed as a cost accounted project. Only the largest deposit is required for a project with multiple cost accounted

[2] No fees are required for community event signs per Municipal Code §17.48.090.N.2.a.

EXHIBIT F

LEGAL DESCRIPTION
FOR
PROPANE TANK FARM EASEMENT

That Portion of Tract 47 of Section 2, Township 4 South, Range 27 East, Mount Diablo Base and Meridian, in the Town of Mammoth Lakes, Mono County, State of California, according to the official government plat thereof, described as follows:

> Beginning at that bronze capped monument marking Angle Point 16 of said Tract 47 as set per the Bureau of Land Management dependent resurvey of Tracts 45, 46 and the survey of Tract 47 completed on November 20, 2003; thence along the easterly boundary of said Tract 47 N47º56'38"W 117.00 feet; thence S42º03'22"W 100.00 feet; thence S47º56'38"E 148.94 feet more or less to a point on the easterly boundary of said Tract 47; thence along said boundary N34º42'09"E 14.85 feet to a bronze capped monument marking Angle Point 15 per said survey; thence continuing along said easterly boundary N22º39'06"E 90.41 feet to the point of beginning.

Containing approximately 12,330 square feet, or .283 acres, more or less

EXHIBIT G

ASSIGNMENT AGREEMENT [FORM]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

_____
_____
_____
_____

Attention: _____

(Space Above For Recorder's Use)

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT ("Assignment"), effective as of _____, 20__, ("Effective Date"), is executed by _____ ("Assignor"), and _____ ("Assignee"), with reference to the following:

R E C I T A L S :

A. Assignor is a "Developer" or "Owner" under the terms of the Development Agreement by and among The Town of Mammoth Lakes ("Town") and SNOWCREEK HILLTOP DEVELOPMENT CO, LLC, a Delaware limited liability company ("SHDC LLC") and SNOWCREEK INVESTMENT COMPANY II, LLC, a Delaware limited liability company ("SIC II"), effective on _____, 20__ and recorded in the Official Records of Mono County, California, on _____, 20__ as File No. _____.

B. Pursuant to Section 8.1 of the Development Agreement, a Developer or an Owner of property subject to the Development Agreement, has the ability to assign or transfer ("assign") its development rights, duties and obligations under the Development Agreement, with respect to the property conveyed, to the new owner, who shall assume such obligations pursuant to a written assignment agreement and approval by the Town, which approval shall not be unreasonably withheld.

C. Assignor will convey to Assignee, concurrently with the Effective Date of this Assignment, a portion of the real property covered by the Development Agreement, which portion is legally described as:

[insert legal description of property being conveyed]

("Conveyed Property").

D. This Assignment is intended to implement Section 8.1 of the Development Agreement and to evidence the assignment of the rights, duties and obligations of Assignor under the Development Agreement related to the Conveyed Property to Assignee.

E. Pursuant to section 8.1 of the Development Agreement, the Assignor obtained approval of the Town for this Assignment to be effective or such approval was granted and is attached hereto as Exhibit 1.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants set forth herein, Assignee and Assignor agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee all of the rights, duties and obligations of Assignor as "Developer" or "Owner" under the Development Agreement, with respect to the Conveyed Property. Assignee hereby accepts such assignment and assumes all of the rights, duties and obligations of the Assignor as "Developer" or "Owner" under the Development Agreement with respect to the Conveyed Property.

2. Release. As of the Effective Date, the Assignor will be released from any duties and obligations assigned pursuant to Section 1 arising on or after the Effective Date.

3. Effective Date. This Assignment shall be effective upon the date of recordation of a grant deed conveying the Conveyed Property from Assignor to Assignee.

4. Notices. Within thirty (30) days after the Effective Date, Assignor shall deliver a copy of this fully executed Assignment to the Town. Notices to the Assignee pursuant to the Development Agreement shall be directed to:

_____
_____
_____
_____
_____

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the Effective Date first set forth above.

"ASSIGNOR"

_____,
a _____

By: _____
Title: _____

By: _____
Title: _____

"ASSIGNEE"

_____,
a _____

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT H

FORM OF SUBORDINATION AGREEMENT

CONSENT OF LIEN HOLDER AND SUBORDINATION AGREEMENT [FORM]

Tax Assessor's Parcel No. _____

Owner: _____

The undersigned is the beneficiary under that certain deed of trust ("Deed of Trust") recorded on _____, 20___ as File No. _____ of the Official Records of Mono County, California, which affects the real property identified above. Such real property is a portion of the property subject to the Development Agreement by and among The Town of Mammoth Lakes and Snowcreek Hilltop Development Co, LLC, a Delaware limited liability company and Snowcreek Investment Company II, LLC, a Delaware limited liability company, recorded in the Official Records of Mono County on _____, 20___ as File No. _____ ("Development Agreement").

The undersigned hereby acknowledges and agrees that the lien of the Deed of Trust shall be junior and subordinate and subject to the Development Agreement.

DATED: _____, 20___.

_____

_____

By:_____

Title:_____

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

EXHIBIT I

TOWN OF MAMMOTH LAKES REVIEW TIMES

A. Planning Division

1. Completeness Review: 30 calendar days
2. Administrative Permit: 40 working days
3. Use Permit: 50 working days + CEQA
4. Tentative Map: 80 working days (4 months)
5. Lot Line Adjustment: 30 working days
6. Sign Permit: 15 working days
7. Zoning Code/Master Plan Amendment: 100 working days + CEQA

B. CEQA

1. Categorical Exemption: 5 working days
2. Negative Declaration: 30 working days
3. EIR: 180 working days

C. Engineering Division

1. Development Review: 20 working days
2. Grading/Improvement Plan Review
   i. 1st Submittal: 20 working days
   ii. 2nd Submittal: 10 working days
   iii. 3rd Submittal: 5 working days

D. Building Division

1. Plan Check
   i. 1st Submittal: 20 total working days
   ii. 2nd Submittal: 10 total working days
2. Inspection: within 24 hours of request (providing all information is given by 7am cut-off time)

EXHIBIT J

AREA OF GEOGRAPHIC NEXUS

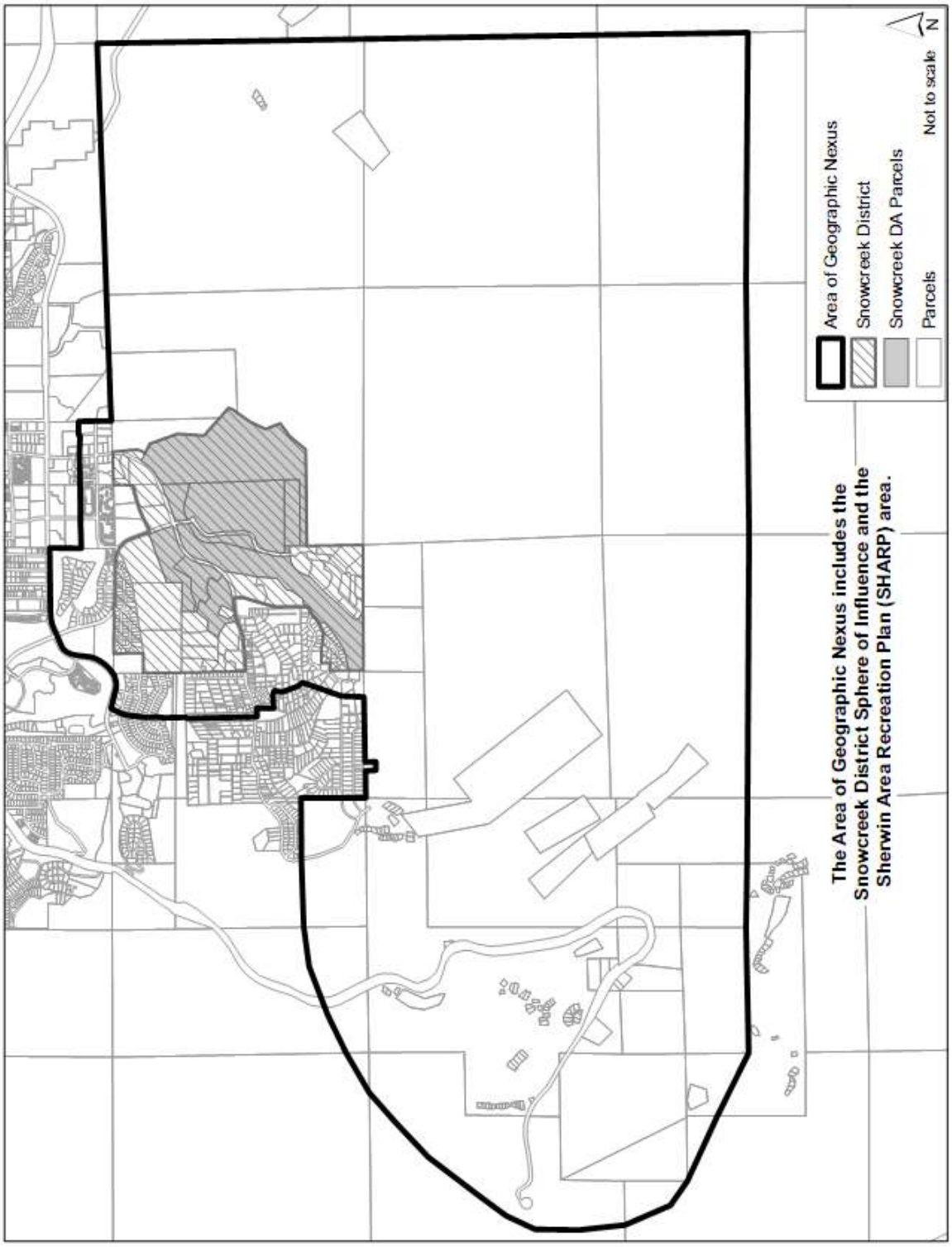


EXHIBIT K

LEGAL DESCRIPTION FOR MAMMOTH CREEK OPEN SPACE CORRIDOR

Lot 2 of Tract No. 36-236A in the Town on Mammoth Lakes, Mono County, State of California per map recorded in Book 10 of Tract Maps at Page 105 through 105F on file in the office of the County Recorder of said County.

This document is recorded for the
benefit of the Town of Mammoth Lakes
and is entitled to be recorded free
of charge in accordance with
Sections 6103 and 27383 of the
Government Code.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

~~ALLEN MATKINS LECK GAMBLE~~
~~MALLORY & NATSIS LLP~~
~~3 Embarcadero Center, 12th Floor~~
~~San Francisco, California 94111-4074~~
~~Attention: Sonia Ransom, Esq.~~

Town of Mammoth Lakes
Attn: Town Clerk
P.O. Box 1609
437 Old Mammoth Road, Suite R
Mammoth Lakes, CA 93546

(Space Above For Recorder' Use)

AMENDED AND RESTATED

DEVELOPMENT AGREEMENT

by and among

TOWN OF MAMMOTH LAKES, a municipal corporation,

SNOWCREEK HILLTOP DEVELOPMENT ~~COMPANY L.P.,~~CO, LLC,
a ~~California~~Delaware limited ~~partnership;~~liability company; and

SNOWCREEK INVESTMENT COMPANY ~~L.P.,~~II, LLC,
a ~~California~~Delaware limited ~~partnership~~liability company

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[Will be Added for Final SDA Consideration]

AMENDED AND RESTATED DEVELOPMENT AGREEMENT
BY AND AMONG
TOWN OF MAMMOTH LAKES, SNOWCREEK HILLTOP DEVELOPMENT COMPANY LPCO, LLC and SNOWCREEK INVESTMENT COMPANY L.P., a California Limited PartnershipII, LLC

This AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement"), effective as of July 23, 2010[date], 2025 ("Effective Date"), is entered into by and among the TOWN OF MAMMOTH LAKES, a municipal corporation (the "Town"), and SNOWCREEK HILLTOP DEVELOPMENT COMPANY L.P.CO, LLC, a CaliforniaDelaware limited partnershipliability company ("SHDC LLC") and SNOWCREEK INVESTMENT COMPANY L.P.,II, LLC, a CaliforniaDelaware limited partnershipliability company ("SIC II") (collectively SHDC LLC and SIC II are sometimes referred to as "Developer" or "Snowcreek") with reference to the following facts and intentions:

R E C I T A L S :

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risk of development, the Legislature of the State of California enacted Government Code Section 65864-65869.5, *et seq.* ("Development Agreement Statute"). The Development Agreement Statute authorizes the Town to enter into a binding development agreement with a developer having a legal or equitable interest in real property, establishing certain development rights in such property.

B. The parties are negotiating this Development Agreement at a time of great economic crisis in the United States, the State of California and the Town of Mammoth Lakes. Many development projects have been put on hold or the properties on which such projects were to have been developed have been foreclosed upon or conveyed to the projects' lenders. There has probably never been a more appropriate time for a government agency to enter into a development agreement and carry out the legislative intent behind the Development Agreement Statute.

C.B. Pursuant to the Development Agreement Statute, the Town has adopted the Development Agreement Ordinance (defined below), which sets forth rules and regulations establishing procedures and requirements for processing and approval of development agreements, including a requirement for such agreements to provide greater community benefit to the community than under present zoning, such as needed facilities, improvements or services. This Agreement has been processed and approved in accordance with the Development Agreement Statute and the Development Agreement Ordinance.

D.C. SHDC LLC owns the following development project, which is affected by the terms of this Agreement: "Snowcreek VII;" and SIC II owns the following development project which is affected by the terms of this Agreement:- "Snowcreek VIII" (collectively, sometimes referred to herein as the Snowcreek Projects).

The real property owned by SHDC ~~and included in each Project~~LLC that is subject to this Agreement is legally described on Exhibit A-1 attached hereto and referred to herein as the "Snowcreek VII Property;" and the real property owned by SIC ~~and included in Snowcreek VIII~~II that is subject to this Agreement is legally described on Exhibit A-2 attached hereto and referred to herein as the "Snowcreek VIII Property" (collectively, sometimes referred to herein as the "Snowcreek Properties").

~~E.~~D. Since the adoption of the original Master Plan by Mono County in 1974 and the amendment/update thereto by the County in 1981, as the property has been developed by Developer's predecessor-in-interest, many substantial community benefits have been provided to the community both by Developer's predecessor-in-interest and by Developer. The most significant of those are:

1. Water Rights from Arcularius Land, totaling over 4,500,000 gallons per day. The majority of these rights were conveyed in trust to the Mammoth Community Water District ("MCWD").

2. Mammoth High School land. Approximately twenty-two (22) acres were acquired from United States Forest Service ("USFS") and donated to the Mammoth Unified School District ("MUSD") on November 30, 1983.

3. The Crowley Lake School Site, APN 60-110-14. Twenty (20) acres were acquired from USFS and donated to MUSD.

4. An Elementary School Site. Ten (10) acres were acquired from USFS and donated to MUSD.

5. A Water Treatment Plant site. The Water Treatment Plant site property was sold to MCWD.

6. Fire Station Site. The Fire Station site property was donated to MLFPD.

7. Snowcreek Athletic Club. The Snowcreek Athletic Club was developed as an amenity for residents of the area and the Town as a whole.

8. Golf Course. A 9-hole golf course was built and open to the public.

9. Granted easements to MCWD for Well #4 and Well #6, wells located on private land along with numerous pipeline easements to connect these wells and Well #10. Also granted an easement to the MCWD for Monitoring Well #28M on property acquired in a land exchange with the USFS.

10. As a completely voluntary act of Developer's predecessor-in-interest and without any express or implied encouragement of the Town, two acres of land was provided for the Catholic Church.

11. Road improvements. Constructed Minaret Road offsite (no Snowcreek frontage) between the "bell" parcel and Starwood subdivision. Full road section with

drainage improvements constructed for 1,200 feet north of Snowcreek ownership. Constructed additional 1,200 feet of full width improvements between Snowcreek Crest subdivision and Starwood subdivision.

12. Less than maximum density on the site. Snowcreek VI has been designed to have less density in the Project than allowable under the current zoning regulations and Master Plan.

13. Significant landscaping and water features complete with two ponds and a waterfall.

14. Fees, Taxes and Other Positive Fiscal Impact. Snowcreek VI and every prior phase of Snowcreek have generated significant revenues (taxes, including transient occupancy tax, and fees, including development and art fees) for the Town and other taxing agencies.

15. SIC also has provided funds to subsidize The Snowcreek Athletic Club so that it will remain an amenity for Snowcreek residents and the Town as a whole.

~~F.~~E. Benefits associated with the development of the remaining portion of Snowcreek VII include:

1. Bike path/recreational trail public easement. A bike path has been completed and connects a section of trail linking the Old Mammoth area from the Snowcreek Athletic Club to the intersection of Old Mammoth Road and Minaret Road. A 12' wide public easement has been recorded for recreational trail purposes. Trail maintenance will be paid for through a benefit assessment district. The entire bike path/recreational trail was constructed in connection with the first phase of Snowcreek VII.

2. Public access easement for fishing and hiking along Mammoth Creek. A 40' wide public access and drainage easement has been recorded along Mammoth Creek from the Athletic Club to Minaret Road.

3. The historic Wildasinn Cabin and Pelton Wheel (Knight Wheel) will remain on site and the Cabin has been restored. The Pelton wheel was originally used for mining operations in the area. It was salvaged by Charles F. Wildasinn to supply power to the Wildasinn Hotel, Mammoth's first resort.

4. Open space areas. The Project ~~will have~~has open space areas throughout for the enjoyment of owners and visitors to the area.

5. Recycling stations. ~~Recycling~~The Project has recycling stations ~~will be placed on~~throughout the site ~~and~~that are serviced on a weekly, or as needed basis, by a recycling service.

6. Fees, Taxes and Other Positive Fiscal Impacts. Snowcreek VII has provided and will continue to provide significant revenues (taxes, including property

taxes, sales and use taxes and transit occupancy taxes, and fees, including development impact fees) for the Town and other taxing agencies.

~~G.~~F. Benefits associated with the development of Snowcreek VIII include:

1. Increased Town revenues.

   a. Transient Occupancy Tax (TOT). It is estimated that Snowcreek VIII will generate approximately $5.3 Million annually in TOT revenue to the Town.

   b. Sales Tax. It is estimated that Snowcreek VIII's residents and visitors will make approximately $45.4 Million in taxable purchases per year in the Town for entertainment, food and retail. The total combined estimated sales tax revenue generated by the Snowcreek VIII Project is $477,000 per year.

   c. Property Tax. At the Town's current property tax rate, it is anticipated that the Snowcreek VIII Project will generate $733,000 in annual property tax revenue. An additional approximate $9.2 million in total annual property tax revenue will be divided among the Mammoth Lakes Fire Protection District, MUSD, County Library, MCWD and MCWD 2, Southern Mono Hospital and the Mono County general fund.

   d. Utility User Tax and Franchise Fees. Estimated added utility tax revenue is $66,000. Estimated annual franchise fee revenue is $33,000.

   e. Business License Tax. Total business license tax generated by the project is estimated at $9,000.

   f. Intragovernmental revenues and administrative service fees. Approximately $2,000 per year will be generated in each category.

2. A world class destination resort hotel complements the Mammoth Mountain Ski Area experience and provides a year-round tourist draw to the Town.

3. A championship level 18-hole golf course (expanding the existing 9-hole golf course) and a practice facility.

4. A Golf Clubhouse.

5. Restaurant(s), bar(s) and lounge(s).

6. Retail opportunities at the Resort Hotel.

7. Conference facilities.

8. A spa/wellness center.

9. A Commercial/Retail Facility in the Project Entry/Gateway area.

~~10. A Natural Resources Interpretive Area to provide residents and visitors with information and exhibits regarding the history of Mammoth and the qualities of the natural characteristics of the region.~~

~~11.~~10. An Outfitters Cabin located in or near the Resort Hotel for use by residents and visitors alike, that can act as a rental facility and staging area for year-round outdoor activities.

~~12.~~11. Cooperation in the MCWD expansion and possible improvement and distribution of MCWD tertiary water treatment to the extent available, legally permissible and on a schedule and in volumes agreed to by MCWD and Developer.

~~13.~~12. In accordance with Town regulations and the private land use covenant between the Town and Developer, provision of land for ancillary utility use (propane tank storage) to assist in meeting the Town's predicted future energy needs in the event the site currently under consideration by the Town, Turner Gas and the USFS is determined to be unacceptable by those parties.

~~14.~~13. Well planned multi-use paths to facilitate the use of non-automobile forms of transportation and recreation. Careful placement of multi-use paths, sidewalks, and public plazas are included in the Project. These paths are designed to connect the Resort Hotel with the Town, the Outfitters Cabin, Commercial/Retail Facility, the existing Snowcreek Athletic Club, and Equestrian Center.

~~15.~~14. An internal open space corridor.

~~16.~~15. Transit enhancements, including:

a. A shuttle service for hotel guests to Eagle Lodge and the Village/Gondola areas.

b. Shuttle vans for residents to use, provided by the Snowcreek VIII Homeowners Association, going to major visitor stops.

~~17.~~16. Art Fees. The Project will provide public art on-site pursuant to the Snowcreek Master Plan Update and Section 5.5.3 herein.

~~18.~~17. A snow play area.

~~19.~~18. A mini-park.

~~20.~~19. A Great Lawn at the Resort Hotel, providing a large outdoor entertainment area.

~~21.~~20. Winter cross-country Trails on the Golf Course, for cross-country skiing and snow shoeing.

~~22.~~21. Convenient egress for backcountry skiers and snowshoers. The Golf Course and its cross-country trails will act as a legal, convenient portal from the Sherwins for backcountry skiers and snowshoers.

~~23.~~22. A secondary access road serving both Snowcreek V and Snowcreek VIII and solving a longstanding problem affecting both Snowcreek V residents and the Town.

~~24.~~23. An Emergency Vehicle Access road.

~~H.~~G. The Town acknowledges a number of project features in both Snowcreek Projects as conditioned and approved by Town Council go beyond what may legally be imposed on development projects through an entitlement process. Those greater community benefits include but are not limited to:

1. The Additional Financial Contribution.

2. Fiscal benefits that will accrue to the Town and community through the implementation of the Project as intended that would not occur without this Agreement, including transient occupancy taxes.

3. 8.9 acres of park area provided in excess of that required in conjunction with the buildout of Snowcreek VIII.

4. Preservation of Mammoth Creek open space corridor. This was completed on July 19, 2018 upon Developer recording a conservation easement over and donating to the Town the Mammoth Creek Open Space Corridor to permanently protect it, the legal description of which is attached hereto as Exhibit K and incorporated herein by this reference.

5. Championship 18-hole golf course will be designed by a top course architect.

6. Practice facility to be designed by a top course architect.

7. Secondary access for both Snowcreek V and VIII and the Emergency Vehicle Access Road connecting the Snowcreek VIII Project to Sherwin Creek Road is in addition to Mammoth Lakes Fire Protection District ("MLFPD") requirements.

8. Allowing egress of backcountry skiers, snowboarders, snowshoers from the Sherwin Range immediately upon approval of the Project prior to its construction and completion.

9. Programming of public spaces, including but not limited to the Great Lawn and Outfitters' Cabin, to increase visitation to the project and Town.

10. Establishment of public access across certain points of the project to allow public egress to surrounding public lands prior to Project construction and after completion and which would also provide access to an enhanced network of publicly accessible multi-use paths that is connected to the Town's trail system.

11. If needed by the Town, the Developer will provide the property described on Exhibit F attached hereto and incorporated herein by this reference for propane storage tanks.

~~I.~~H. ~~The Town and Developer have determined a development agreement is appropriate for the Snowcreek Projects. The~~As a result of the complexity, magnitude, and multi-use nature of the Snowcreek Projects, and the substantial financial investment by both parties associated with development of the Snowcreek Projects and the investment both parties plan for the Snowcreek Projects and surrounding geographic areas, ~~as well as the economic recession currently affecting the country, the State and the Town, justify the Town's agreement to provide a degree of certainty in the land use regulatory process. Pursuant to this Agreement, the Town provides assurances to Developer it will have the right to develop, use and operate the Snowcreek Projects during the term of this Agreement, subject to all the terms and conditions set forth herein.~~the Town and the predecessors to the Developer, Snowcreek Hilltop Development Company, L.P., a California Limited partnership ("SHDC") and Snowcreek Investment Company L.P., a California limited partnership ("SIC") entered into a Development Agreement for the Snowcreek Projects, dated July 23, 2010 ("2010 Development Agreement"). The Town Council adopted Ordinance No. 10-08 authorizing the execution of and approving the 2010 Development Agreement on June 23, 2010 ("Approving Ordinance – 2010").

~~J.The~~ Under the 2010 Development Agreement, the Town ~~Council has~~provided assurances to the predecessors of the Developer that it will have the right to develop, use and operate the Snowcreek Projects during the term of the 2010 Development Agreement, subject to all the terms and conditions set forth therein, and it was determined that by entering into ~~this~~the 2010 Development Agreement, the community will receive greater benefit from the Snowcreek Projects than would ~~be~~have been provided under present zoning~~. Those benefits are~~, as set forth in Exhibit B to ~~this~~the 2010 Development Agreement. In addition, ~~this~~it was determined that the 2010 Development Agreement will facilitate orderly growth and quality development of the Snowcreek Projects in conformance with the goals and policies of the Town's General Plan and the Snowcreek Master Plan Update.

I. ~~Developer would not proceed with~~ In 2016, the Town approved the assignment of the 2010 Development Agreement to the Snowcreek ~~Projects without the Town's assurances set forth in this Agreement.~~ VII Developer, SHDC LLC, an affiliate of SHDC, and the Snowcreek VIII Developer ~~has and~~, SIC II, an affiliate of SIC.

J. Unless otherwise amended, the 2010 Development Agreement will ~~continue to invest substantial money~~expire on July 23, 2025, since construction of the Resort Hotel and ~~effort in reliance upon the Town's assurances~~the 18-hole championship golf course has not commenced as ~~set forth in this Agreement. Developer acknowledges the Town would not enter into this~~required by Section 2.2.1(c)(2) of the 2010 Development Agreement ~~without~~

~~Developer's assurances set forth in this Agreement and the anticipated benefits, as described in Exhibit B, to be provided in connection with~~.

~~K.~~ Since 2010, the Snowcreek VII project has been completed; however, the development of the Snowcreek ~~Projects.~~

~~L. On July 8, 2009, in Town Council Resolution No. 09-45, the Town certified the Environmental Impact Report (EIR) for the Snowcreek Master Plan Update 2007.~~

K. VIII project was delayed for a variety of reasons. The ~~Town Council has given the required notice of its consideration of this Agreement and has conducted public hearings thereon~~Parties wish to ensure that certain development regulations contained in the 2010 Development Agreement that are in effect through July 23, 2025, continue to govern the Property. Therefore, the Parties wish to (1) extend the term of the 2010 Development Agreement by an additional 20 years beyond the current date of expiration to July 23, 2045, and (2) modify certain limited terms of the 2010 Development Agreement ("Amended and Restated Development Agreement").

L. Exhibit B of the 2010 Development Agreement sets forth certain public benefits to be provided by the Developer. The Parties desire to ensure the continuation of certain of those public benefits and to add certain additional requirements. Exhibit B of the 2010 Development Agreement remains unchanged and is attached hereto and incorporated herein by this reference

M. This Amended and Restated Development Agreement is intended to be an amendment pursuant to Government Code Section ~~65867. As required by~~ 65868. This Amended and Restated Development Agreement has been considered and approved in the same manner as the 2010 Development Agreement with public hearings pursuant to Government Code Section 65867.~~5, the~~

~~M.~~N. The Town Council has ~~found~~evaluated the ~~provisions~~potential environmental impacts of this Amended and Restated Development Agreement and ~~its purposes are consistent with the goals, policies, standards and land use designations specified~~has determined that any potential impacts have been adequately analyzed in the ~~Town's General Plan (and the~~ Final Environmental Impact Report (EIR) for the Snowcreek Master Plan~~) and will provide for an orderly development of the Snowcreek Projects~~ Update 2007, certified by the Town Council on July 8, 2009 by Town Council Resolution No. 09-45, in accordance with the ~~objectives set forth in the General Plan and the Master Plan Update, as amended as of the Effective Date~~California Environmental Quality Act ("CEQA"). There are no circumstances present that would require a new, subsequent or supplemental environmental impact report for this Amended and Restated Development Agreement, under the provisions of CEQA.

~~N. The terms and conditions of this Agreement have undergone extensive review by the Town staff, the Planning Commission and the Town Council at publicly noticed meetings and have been found to be fair, just, reasonable and in conformance with the Town's General Plan and the Snowcreek Master Plan Update. Further, the Town Council finds the interests of the Town and the public health, safety and welfare of the Mammoth Lakes community will be served by entering into this Agreement.~~

O. On [date], 2025, the Town's Planning and Economic Development Commission ("PEDC") held a duly noticed public hearing on this Amended and Restated Development Agreement, made findings and determinations with respect to this Amended and Restated Development Agreement, and recommended to the Town Council that the Town Council approve this Amended and Restated Development Agreement.

~~O.~~P. On ~~June 23, 2010~~[date], 2025, the Town Council held a duly noticed public hearing on this Amended and Restated Development Agreement and considered the PEDC's recommendations and the testimony and information submitted by Town staff, the Developer, and members of the public. On [date], 2025, pursuant to Government Code Section 65864 et seq. and the procedures set forth in the Development Agreement Ordinance, the Town Council adopted ~~the~~ Ordinance No. 25-__ ("Approving Ordinance ~~(defined below)~~ Amendment") approving this Amended and Restated Development Agreement ~~and~~, authorizing its execution, and ~~that Ordinance became effective on July 23, 2010. Prior to approval of this Agreement, the Town Council has made certain findings, as set forth in the Approving Ordinance, including~~making the following specific findings pursuant to Section 17.~~48.070~~104.040 of the Development Agreement Ordinance:

1. ~~This~~This Amended and Restated Development Agreement is consistent with the goals, policies, general land uses and programs specified in the Town's General Plan.

2. ~~This~~This Amended and Restated Development Agreement and the development plans for the Property are compatible with the uses authorized in, and the performance and development standards prescribed in the Snowcreek Master Plan Update.

3. ~~This~~This Amended and Restated Development Agreement is in conformity with and will promote public convenience, the general welfare and good land use and development practices.

4. ~~This~~This Amended and Restated Development Agreement provides greater benefit to the community than under present zoning, including the Snowcreek Master Plan Update such as needed facilities, improvements or services.

5. The term of this Amended and Restated Development Agreement has a commensurate relationship to the benefits provided.

Q. This Amended and Restated Development Agreement shall be referred to hereinafter as the "Agreement".

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants set forth herein, the Town and Developer agree as follows:

ARTICLE 1
DEFINITIONS

For purposes of this Agreement, unless defined in this Article 1, capitalized terms shall have the meanings set forth in the Snowcreek Master Plan Update.

1.1 **"Additional Financial Contribution"** means up to the $10 Million amount Developer has agreed to pay to the Town for ~~use for~~ purposes beneficial to the community, depending on the number of residential units and Resort Hotel Rooms/Suites actually constructed ~~and the cumulative cost of other impact fees, including fees paid pursuant to the Affordable Housing Mitigation Financial Framework, as well as the other variables delineated in the Affordable Housing Mitigation Financial Framework which is explained in Section 2.2.3 herein.~~.

1.2 **"Affordable Housing Mitigation Financial Framework"** means the financial parameters that establish the limit for Developer's affordable housing mitigation obligations.

1.3 "**Amended and Restated Development Agreement**" means that certain development agreement amending and restating the 2010 Development Agreement for the Snowcreek Projects, dated [date], 2025, approved by Approving Ordinance~~" means~~ – Amendment, and recorded in the Official Records of Mono County on [date], 2025 as Document No. _____.

1.4 **"Approving Ordinance ~~No.~~ 2010"** means Ordinance No. 10-08 of the Town Council, adopted on June 23, 2010, approving execution of the 2010 Development Agreement.

~~1.3~~1.5 "**Approving Ordinance - Amendment**" means Ordinance No. 25-__ of the Town Council, adopted on [date], 2025, approving execution of this Agreement.

~~1.4~~1.6 "**Area of Geographic Nexus**" means the area described as the "Snowcreek District Sphere of Influence" and the "Sherwin Area Recreation Plan" as described in Exhibit J.

~~1.5~~1.7 "**Assignment Agreement"** is defined in Section 8.1 and a form is attached as Exhibit G.

1.8 "**Building Permit**" means any building permit including but not limited to permits for grading, excavation, demolition, site preparation, building, superstructure, or any permits required for earth disturbing activities.

~~1.6~~1.9 "**Code"** means the Town of Mammoth Lakes Municipal Code, as amended as of the Effective Date.

~~1.7~~1.10**"COLA"** means the cost of living adjustment codified in section 15.16.~~083~~090 of the Code.

~~1.8~~1.11"**Community Development Director"** means the person so designated by the Town Manager or his designee.

~~1.9~~1.12"**County**" means Mono County, California.

~~1.10~~1.13 "**Developer**" means the Party or Parties who sign this Agreement as Developer, and, subject to the restrictions on assignment set forth herein, successor Owners.

1.14 "**2010 Development Agreement**" means that certain Development Agreement for the Snowcreek Projects, dated July 23, 2010, approved by Approving Ordinance – 2010 and

recorded in the Official Records of Mono County on July 13, 2010 as Document No. 2010003240.

~~1.11~~1.15 "**Development Agreement Ordinance**" means Chapter 17.~~48~~104 of the Code.

~~1.12~~1.16 "**Development Agreement Statute**" means Government Code Section 65864, *et seq.*

~~1.13~~1.17 "**Development Impact Fees**" means Development Impact Mitigation Fees as defined in the DIF Resolution, but as applied to the Snowcreek Projects in accordance with this Agreement.

~~1.14~~1.18 "**DIF Resolution**" means Resolution ~~10-14~~24-41 approved by the Town Council on ~~May 5, 2010~~June 19, 2024.

1.19 "**Effective Date**" means the effective date of ~~this Agreement and commencement of the Term, which is the date the~~ the Approving Ordinance ~~becomes effective~~ – Amendment, which shall mean the thirty-first (31st) day following the adoption of the Approving Ordinance – Amendment by the Town Council.

~~1.15~~1.20 "**Existing 9-hole Golf Course**" means a 9-hole golf course located on Lot 16 of TM 09-002, the operation and maintenance of which will be subject to the Golf Course Operations and Maintenance Plan.

~~1.16~~1.21 "**Fiscal Year**" means each fiscal year of the Town (July 1 through June 30), beginning with the fiscal year in which the Effective Date of this Agreement occurs.

~~1.17~~1.22 "**General Plan**" means the Town of Mammoth Lakes General Plan, approved in 2007, as amended by GPA 2009-01.

1.23 **"Litigation Challenge"** means any court action or proceeding instituted by a third-party or other governmental entity or official challenging the validity of any of the Project Approvals.

~~1.18~~1.24 "**Lot**" shall mean any legally subdivided lot or parcel within the Property, from time to time.

~~1.19~~1.25 "**Master Developer**" means SNOWCREEK HILLTOP DEVELOPMENT ~~COMPANY L.P~~CO, LLC., a ~~California~~Delaware limited ~~partnership~~liability company, and SNOWCREEK INVESTMENT COMPANY ~~L.P.,~~II, LLC, a ~~California~~Delaware limited ~~partnership~~liability company.

~~1.20~~1.26 "**Master Plan**" means the approved development plan pertaining to Snowcreek, approved April 1981, that regulates uses and development standards on all portions of Snowcreek other than Snowcreek VIII.

~~1.21~~1.27 "**Mortgagee**" means a mortgagee under any mortgage or a beneficiary under a deed of trust affecting any portion of the Property.

~~1.22~~1.28 "**Official Records**" means the official records maintained in the Recorder's Office of Mono County, California.

~~1.23~~1.29 "**Operating Memorandum**" is defined in Section 7.1.

~~1.24~~1.30 "**Owner**" means each owner of record fee title to all or any portion of the Snowcreek Project, during the time such party holds the requisite ownership interest. As of the Effective Date, each Developer (including Master Developer) is an Owner.

~~1.25~~1.31 "**Party**" means, individually, and "**Parties**" means, collectively, the parties to this Agreement, consisting of the Town (and its successors and assigns hereunder) and Developer (including, subject to the restrictions on assignment set forth herein, successor Owners).

1.32 **PEDC**" means the Planning and Economic Development Commission of the Town of Mammoth Lakes

~~1.26~~1.33 "**Person**" means any individual or legal entity.

~~1.27 **"Project Approvals"** means the Town approvals (including the conditions to such approvals) governing development of each of the Snowcreek Projects described in Section 3.2, any Subsequent Permits granted for one or more of the Snowcreek Projects during the Term in conformance with the Development Agreement Ordinance, and all environmental approvals, determinations and certifications relating to the foregoing.~~

1.34 **"Project Approvals"** is defined in Section 3.2.

~~1.28~~1.35 "**Property"** means the property legally described in Exhibits A-1 and A-2.

~~1.29~~1.36 "**Public Improvements"** means the public facilities, infrastructure and improvements constructed by Developer in connection with the Snowcreek Projects.

~~1.30~~1.37 **"SNOWCREEK HILLTOP DEVELOPMENT ~~COMPANY L.P.~~CO, LLC Affiliate"** means an entity controlled by, controlling, or under common control with SHDC LLC, Developer herein. For purposes of this definition, "control" means the possession, directly or indirectly, of (a) an ownership in the applicable entity and (b) power to direct or cause the direction of the management and policies of such entity.

~~1.31~~1.38 "**SNOWCREEK INVESTMENT COMPANY ~~L.P.~~II, LLC Affiliate"** means an entity controlled by, controlling, or under common control with SIC II, Developer defined herein. For purposes of this definition, "control" means the possession, directly or indirectly, of (a) an ownership in the applicable entity and (b) power to direct or cause the direction of the management and policies of such entity.

~~1.32~~1.39 "**Snowcreek Master Plan Update**" or "Master Plan Update" means the Town approved development plan, including Appendix B, Design Guidelines and Appendix C, Landscape Master Plan, governing Snowcreek VIII, submitted in 2007 and approved by the Town Council on August 5, 2009, by Ordinance No. ~~200905~~2009-05, and as may be modified from time to time by Developer in accordance with Town requirements.

~~1.33~~1.40 "**Snowcreek Project**" means, individually, and "Snowcreek Projects" means, collectively, the development projects identified in Recital D, which are being developed or are to be developed, on the Snowcreek VII Property or Snowcreek VIII Property as anticipated by the Project Approvals.

~~1.34~~1.41 "**Subordination Agreement**" is defined in Section 8.2.1 and a form is attached as Exhibit H.

~~1.35~~1.42 "**Subsequent Permits**" is defined in Section 5.1.1.

~~1.36~~1.43 "**Term**" means the term of this Agreement, as defined in Section 2.2.

~~1.37~~1.44 "**This Agreement**" means this Amended and Restated Development Agreement, which amends and restates the 2010 Development Agreement.

~~1.38~~1.45 "**Town Council**" means the Town Council of the Town of Mammoth Lakes, its governing body.

~~1.39~~1.46 "**Town Manager**" means the person so designated by the Town pursuant to the Code or his/her designee.

1.47 "**Town Parties**" means the Town and its elected officials, officers, contractors serving as Town officials, agents, and employees.

~~1.40~~1.48 "**Unavoidable Delays or Events**" as defined in Section 11.15.

~~1.41~~1.49 "**Vested Rules**" are defined in Section 3.1.

ARTICLE 2
GENERAL PROVISIONS

2.1 Property Subject to This Development Agreement. This Agreement shall benefit and encumber the Property to be developed as the Snowcreek Projects (collectively the "~~2009~~ Properties").

2.2 Term of Agreement. ~~Subject to compliance with Sections 2.2.1 and 2.2.2, the Term~~ The Term of this Agreement shall ~~commence upon the Effective Date and shall~~ continue in full force and effect ~~for twenty (20) years thereafter~~until July 23, 2045 with one automatic five (5) year extension provided the Existing 9-hole Golf Course is operated and maintained in accordance with Section 2.2.1.1 and Section 2.2.1.2 for the entirety of the Term, unless (i) earlier terminated as provided herein, or (ii) extended as provided in ~~section~~Section 11.15. The Term has been established by the Parties as a reasonable estimate of the time required to develop the

Snowcreek Projects and obtain the public benefit of the Snowcreek Projects. ~~Pursuant to Section 17.48.060 of the Development Agreement Ordinance, the Town Council has made specific findings, incorporated in the Approving Ordinance, that exceptional circumstances exist to justify this Term, including but not limited to the economic crisis described in Recital B, the greater community benefits described in the items enumerated in Recital H and the importance of the Snowcreek Projects to the economic development of the Town. Because of those factors, particularly the worldwide economic crisis, it is not practical to set forth rigid phasing of residential units or the Resort Hotel. In establishing and agreeing to such Term, the Town has determined the Vested Rules, the Project Approvals, the vested right to develop, and the other terms of this Agreement incorporate sufficient provisions to permit the Town to adequately monitor and respond to changed circumstances and conditions in granting permits and approvals and undertaking actions to carry out the Projects.~~

2.2.1 Subject to section 11.15, Developer shall satisfactorily satisfy and complete the following ~~the~~ milestones and obligations:

2.2.1.1 *Existing 9-Hole Golf Course Operations.* As a specific inducement to entering into this Agreement and conferring Developer the Term, the Town wishes to ensure the consistent operation and maintenance of the Existing 9-hole Golf Course for the duration of this Agreement. To that end, Developer will operate and maintain for the duration of the Term of the Agreement, the Existing 9-hole Golf Course subject to the following requirements:

(i) Operating Season. Developer shall operate and ensure that the Existing 9-hole Golf Course remains open and accessible to the public every year from Memorial Day through the final day of September (hereinafter the "Operating Season"). The Operating Season may be reduced and/or changed under the following circumstances:

(A) Developer may, at their election, reduce the Operating Season by opening the Existing 9-hole Golf Course up to three weeks following Memorial Day and closing the Existing 9-hole Golf Course up to three weeks prior to the final day of September.

(B) The Operating Season may be reduced due to floods, snow or ice on the golf course, earthquakes, fires, acts of God, or governmental restrictions imposed or mandated by governmental entities (but only as to closure of businesses such as the Existing 9-hole Golf Course) ("Unexpected Events"). Upon the occurrence of any Unexpected Event, the Operating Season may be reduced for the duration of the Unexpected Event. Additionally, if upon July 1 of any given year, any Unexpected Event, in Developer's judgment, has resulted in the Existing

9-hole Golf Course being in a condition that is unusable for its intended purpose thereby resulting in Developer not being able to open the Existing 9-hole Golf Course until on or after July 1 of any given year, the Developer shall be relieved of its obligation to open the Existing 9-hole Golf Course in said given year.

2.2.1.2 *Operations and Maintenance of Existing 9-Hole Golf Course.* Within 180 days of the recordation of this Development Agreement, Developer and Town shall enter into and record an Operations and Maintenance Agreement for the Existing 9-hole Golf Course (hereinafter the "9-hole Golf Course Operations and Maintenance Plan"), which provides the following minimum provisions and standards: (1) maintenance standards to ensure the safety of the public and the community with regards to wildfire risk, nuisance prevention, and infrastructure improvements; and (2) a commitment to maintaining and operating the Existing 9-hole Golf Course in a comparable manner to the Sierra Star Golf Course located at 2001 Sierra Star Parkway, Mammoth Lakes, CA 93546, including but not limited to the golf course conditions and golf course equipment.

2.2.1.3 *9-Hole Golf Covenant.* Within 180 days of recordation of this Agreement, Developer shall record a covenant that permanently protects the Existing 9-hole Golf Course area ("9-Hole Golf Covenant"), less the area identified in the Master Plan Update that is intended for residential purposes on Lot(s) 3 and 4 of TM 09-002 and the area intended for road purposes on Lot G in TM 09-002, for recreation and open space purposes. The covenant shall be in a form that is acceptable to the Town.

~~a.~~2.2.1.4 *Backcountry Skier Egress.* Developer has already allowed egress of backcountry skiers, snowboarders and snowshoers from the Sherwin Range prior to the ~~effective date~~Effective Date of this Agreement and shall continue to allow that egress during the pendency of construction of that portion of the Projects so long as Developer, at its sole election, determines that such egress shall not negatively affect public safety.

~~b. No later than two years after the ordinance approving this Agreement becomes effective, Developer shall have recorded a real estate conveyance document, whether a grant deed, a conservation easement or another legal mechanism reasonably approved by the Town Attorney, to permanently protect the Mammoth Creek Open Space Corridor, the legal description of which is attached hereto as Exhibit K and incorporated herein by this reference.~~

~~c.~~ *Phasing and Performance*

~~1.~~2.2.1.5 . The Vested Rules contemplate the Snowcreek Projects shall be developed in phases. Actual construction, however, will occur in phases and subphases based on what the market will absorb at any given point in time. It is the intention of the parties for each phase or subphase of the Projects to provide all of the facilities, programs (including

affordable housing), features, amenities, access and easements described in the Vested Rules as well as payment of all fees at the time set forth in the Vested Rules, related to that phase or subphase. The parties agree to discuss the actual phasing of development and the associated timing for completion of the facilities, programs (including affordable housing), features, amenities, access and easements in connection with the application for each use permit or Subsequent ~~Approval~~Permit.

~~2. In order to assure the Town receives the benefits and amenities that result from the implementation of the Resort Hotel and the 18-hole championship golf course, specific added performance measures are established and recognizing the timing of development of the Snowcreek Projects will be subject to future market and economic conditions and no specific dates can be set for completing various phases of the Snowcreek Projects, it is the Town's position that if good faith efforts to develop the Resort Hotel and the 18-hole championship golf course are not undertaken by Developer in some reasonable fashion, the term of this Agreement should be reduced. Therefore, the parties agree, subject to Section 11.15, if development of the Resort Hotel and 18-hole championship golf course has not commenced within ten (10) years after the effective date of this Agreement (the "10-Year Milestone"), then the remaining 10-year term of this Agreement shall be reduced one day for each day, or portion thereof, the 10-Year Milestone has not been met.~~

2.2.1.6 ~~The Additional Financial Contribution~~ *Use of Golf Course Expansion Area.* Should Developer wish to allow interim recreation uses by others within the 94-acre golf course expansion area, Parties shall negotiate an agreement in good faith regarding a lease or other property interest from Developer to Town of all, or a portion of, the 94-acre golf course expansion area for recreational uses. Such interim uses shall not prevent or preclude the Expanded Golf Course from being developed.

2.2.1.7 *Wildfire Mitigation.* Within 180 days of the Effective Date of this Agreement, Developer and Mammoth Lakes Fire Protection District ("MLFPD") shall enter into an agreement allowing for development of a fire break through the Snowcreek VIII property that incorporates existing roads and trails into the design. Developer shall have the final approval of the alignment and said fire break shall not prohibit or prevent future development of the site in accordance with the Master Plan.

Developer is encouraged to work with the MLFPD and the Town on the future site design of the Snowcreek VIII project to address wildfire risk to the Snowcreek Projects and the community as a whole and incorporate wildfire mitigation features into the site design.

2.2.2 The Additional Financial Contribution (AFC) shall be calculated and paid in accordance with the following:

a. ~~The Additional Financial Contribution~~The AFC shall be divided by the number of residential units and Resort Hotel Rooms/Suites approved by the Town Council to determine a pro rata amount per unit~~, which, for residential units, to be paid at the time of the issuance of the building permit for each~~. Assuming all entitled units are constructed, this results in a pro rata contribution of approximately $10,101 per residential unit and $5,050 per ½ hotel unit.

b. ~~The~~For the residential units, the pro rata contribution ~~per residential~~ shall be paid at the time of the issuance of the first Building Permit for each unit ~~will be approximately $10,000 per unit, assuming all entitled units are constructed~~. For Resort Hotel Rooms/Suites (which constitute ½ unit as explained in the Snowcreek Master Plan Update), the pro rata contribution ~~of approximately $5,000 per ½ unit, assuming all entitled units are constructed,~~ shall be paid prior to the issuance of a Certificate of Occupancy for each unit, room or suite.

~~c. At Developer's sole election, Developer may allocate the Additional Financial Contribution amount solely or mainly to residential units to facilitate the economic viability of the Resort Hotel.~~

~~d. The Additional Financial Contribution shall be reduced in three possible ways:~~

~~1. First, in the event that not all of the entitled units are constructed, the actual pro-rata allocation of the up to $10 Million contribution for each unit not constructed shall be deducted from $10 million,~~

~~2. Second, in the event that not all of the entitled Resort Hotel Rooms/Suites are constructed, the actual pro-rata allocation of the up to $10 Million contribution for each Resort Hotel Room/Suite not constructed shall be deducted from $10 million; and~~

~~3. Third, as set forth below in Section 2.2.3 which establishes the elements of the Affordable Housing Mitigation Financial Framework, any and all amounts calculated due to a change in one or more of the variables set forth in Section 2.2.3 below shall be deducted from the Additional Financial Contribution.~~

~~e.~~c. It is intended the ~~Additional Financial Contribution~~AFC will be utilized for public facilities within the Area of Geographic Nexus.

~~f.~~d. The ~~Additional Financial Contribution (~~AFC~~)~~ and the off-site affordable housing in-lieu fee shall be subject to the following:

1. When the average retail sale price of market rate residential and private residence club (PRC) units is greater than $800.00 and less than $1,000.00 per square foot, the AFC and off-site affordable

housing in-lieu fee shall be indexed at 50% of the U.S. National CPI.

2. When the average retail sale price of market rate residential and private residence club units is $1,000.00 or greater per square foot, the AFC and off-site affordable housing in-lieu fee shall be indexed at 100% of the U.S. National CPI.

3. Publicly available Project sales price activity shall be reviewed during the Annual Review, pursuant to Section 7.2.

2.2.3 The Affordable Housing Mitigation Financial Framework shall be comprised of the following elements:

2.2.3.1 *Project Summary (excluding commercial)*. The Snowcreek Master Plan Update contemplates 790 residential units ("Residential Units") and ~~200~~400 Resort Hotel Rooms/Suites and Private Residence Club units ~~(250 Resort~~ ("Hotel ~~Rooms/Suites, assuming units~~Units"), each of ~~850 sq.ft. or less and 150 Private Residence Club units, assuming units of 850 sq.ft. or less)~~which constitute ½ unit as set forth in the Snowcreek Master Plan Update, for a total of 990 units. 990 units (assuming full buildout) less the number of ~~onsite~~on-site deed restricted units (i.e., 47 units) are the "Market Rate Units" ~~Mitigation shall only be provided for units actually built.~~(i.e., 943 units total, 743 of which are Residential Units and 400 of which are 1/2 Hotel Units). Affordable housing mitigation shall not be required for any non-residential or commercial land use on the site including ancillary commercial uses within the Resort Hotel.

2.2.3.2 *Ratio of On-Site to Off-Site Mitigation*. ~~Developer proposes that the~~The affordable housing requirement for Snowcreek VIII shall be ten percent (10)%) of the total number of Market Rate Units~~. Developer proposes 50% of the ten percent requirement will be~~ built~~ on site, assuming~~ , which would result in 94 affordable housing units if all entitled units are built ("Affordable Housing Requirement"). Of the 94 affordable housing units under a full buildout ~~(47 deed restricted units) and the other 50% shall be mitigated~~scenario, 74 units are required for ~~through a combination~~the full buildout of ~~payment~~the Residential Units and 20 units are required for the full buildout of ~~in-lieu fees and FTEE credits already owned by Developer.~~the Hotel Units. Developer shall meet the Affordable Housing Requirement as follows:

(i) At least fifty percent (50%) of the Affordable Housing Requirement (i.e., 47 units) will be met through the provision of on-site deed-restricted affordable housing units as described herein ("Required Affordable Units").

(ii) The remaining Affordable Housing Requirement (i.e., 47 units) shall be met through a combination of payment of Affordable Housing In-Lieu Fees ("In-Lieu Fee") to be used for off-site affordable housing and use of the

Developer-owned Full Time Equivalent Employee credits ("FTEE Credits") as described herein.

(iii) Assuming full buildout, the value of the Affordable Housing Requirement shall mean the value of the 47 units of Required Affordable Units and the combined value of the In-Lieu Fee and the Developer-owned FTEE Credits , which combined are equal to 47 units ("Total Affordable Housing Cost").

2.2.3.3 *Features of the ~~On-Site Mitigation~~Required Affordable Units*.

~~(i) Dispersed throughout the project in the High Density Residential Product buildings.~~

(i) The Required Affordable Units shall be deed restricted for fifty-five (55) years to households earning up to 175-200% of Mono County Area Median Income (AMI). Fifty percent (50%) of the Required Affordable Units shall be sold to families whose income is no greater than 175% of AMI for Mono County and fifty percent (50%) of the Required Affordable Units shall be sold to families whose income is no greater than 200% of AMI for Mono County.

(ii) The Affordable Housing Requirement for the Hotel Units may be satisfied solely through the provision of In-Lieu Fees and use of FTEE credits.

(iii) The Required Affordable Units shall be dispersed throughout the Project in the Residential Planning Area within each phase of residential development and the conditions of approval for each phase of residential development that requires the provision of Required Affordable Units shall specify the number of Required Affordable Units that will be built within said phase.

(iv) Prior to or concurrently with the issuance of building permits for Market Rate Residential Units, Developer shall obtain building permits for a proportionate number of the Required Affordable Units in accordance with Section 4.1.1 and 4.1.2.1. The Town shall not issue certificates of occupancy for the next phase of Market Rate Residential Units until a proportionate number of Required Affordable Units for the prior phase are under construction. For purposes of this section, "under construction" shall mean Developer has obtained Town Building Inspector sign-off of rough framing.

(v) Prior to the issuance of the first Building Permit for any Required Affordable Unit, Developer shall record a site-specific affordable housing covenant ("Affordable Housing Covenant") affirming the affordability requirements of each Unit. The covenant shall be in a form acceptable to the Town.

~~(ii)~~(vi) One, two, three and four bedroom affordable units may be built. The average number of bedrooms per ~~on-site affordable unit~~Required Affordable Unit shall be equal to two bedrooms.

~~(iii) Deed restricted units must be owner-occupied and cannot be leased in whole or in part at any time.~~

(vii) Required Affordable Units cannot be rented/leased as a transient rental (as defined in the Mammoth Lakes Municipal Code). Required Affordable Units may be leased long term to income qualifying households in accordance with the terms of each Affordable Housing Covenant.

2.2.3.4 *Features of the In-~~lieu~~Lieu Fee Program~~.~~*

~~(i) Developer owns 16.5 FTEEs credits.~~

~~(ii) The residential unit in lieu fee shall be $85,000/unit for 30.5 units or $2,592,500 assuming full buildout. This amount shall be allocated to all market rate units so assuming full build-out the fee will be $3,489.23 per residential unit. The in-lieu fee shall be paid on a per unit basis prior to the issuance of a building permit for each residential unit.~~

~~2.2.3.5 *Variables that Require Adjustment to Additional Financial Contribution*. As stated earlier in Section 2.2.2 above, the Additional Financial Contribution may be reduced in the event that the aggregate cost of the on-site deed restricted units or off-site in-lieu fee increases. The Additional Financial Contribution shall be decreased if costs increase due to a change in one or more of the following variables:~~

~~(i) AMI level. For the purpose of calculating an impact to the Additional Financial Contribution, the assumption shall be that 50% of the deed restricted units shall be sold to families whose income is 175% of AMI for Mono County and 50% of the deed restricted units shall be sold to families whose income is 200% of AMI for Mono County. AMI shall be calculated at the time of issuance of Certificate of Occupancy;~~

~~(ii) Percentage of household income that can be used for a mortgage payment which for the purpose of the calculations in this Section 2.2.3 shall be assumed to be 35%;~~

~~(iii) Affordable housing requirement increases in excess of ten percent (10%) of market rate units;~~

~~(iv) Percentage of affordable housing mitigation required on-site increases in excess of fifty percent (50%) of the ten percent (10%) of market rate units;~~

~~(v) In lieu fee;~~

~~(vi) Value of the 16.5 FTEE credits Snowcreek Investment Company currently owns;~~

~~(vii) Type of on-site unit required (low, medium or high density);~~

~~(viii) Size of the on-site units (number of bedrooms).~~

~~In no event shall the aggregate adjustment in value due to changes in one or more of the eight variables listed in 2.2.3.5 exceed $10 Million Dollars.~~

(i) The In-Lieu Fee shall be $85,000 per unit.

(ii) Developer owns 16.5 FTEE Credits. Any In-Lieu Fee shall be reduced by the number of FTEE Credits prior to Developer's obligation to provide any In-Lieu Fees. FTEE Credits shall not be used to reduce the number of Required Affordable Units.

(iii) Developer may elect to provide additional on-site affordable units instead of paying In-Lieu Fees. Should Developer elect to do so, the provision of said units shall be subject to the same conditions and process for Required Affordable Units detailed in sections 2.2.3.3 and 4.1.

(iv) The conditions of approval for each phase of Market Rate Unit development shall specify the amount of In-Lieu Fees and/or FTEE Credits that will be paid, or used, for said phase. Payment of In-Lieu Fees will become due at time of issuance of the first Building Permit for said phase of development. Use of the FTEE Credits shall be documented in an Assignment of Credits executed by the Town and Developer prior to the issuance of the first Building Permit for said phase of development.

ARTICLE 3
APPLICABLE RULES, REGULATIONS AND POLICIES

3.1 Vested Rules. "Vested Rules" mean, collectively, the ordinances, resolutions (including, but not limited to, the DIF Resolution), rules, regulations, requirements, Master Plan at Mammoth (with respect to Snowcreek VII approved in 1981), Snowcreek Master Plan Update 2007 (with respect to Snowcreek VIII approved in 2009), and official policies of the Town in effect as of the Effective Date, whether set forth in the General Plan, the Code or otherwise, which govern the following, to the extent applicable to the Snowcreek Properties and Snowcreek Projects: development agreements; permitted uses; density and building intensity; growth control; zoning designations and regulations; subdivision, improvement, grading, landscaping and signage; design, development, improvement and construction standards and specifications; standards and requirements for public reservations and dedications, public improvements and facilities, transit, parking, open space, employee housing and affordable housing; standards and requirements for processing of Subsequent Permits (as defined in Section 5.1.1); and the Project Approvals described in Section 3.2. The Vested Rules do not include (i) uniform building codes or standards, or changes thereto from time to time or (ii) subject to the proviso clause of section 3.8, any other rule, law or policy adopted by the Town Council, after review at one or more public meetings, that applies generally throughout the Town's jurisdiction, but only if, based on substantial evidence, the Town Council finds failure to apply such rule, law or policy would place the residents of the Town in a condition dangerous to their health and safety. A list of the Vested Rules as of the Effective Date is attached hereto as Exhibit C. A compilation of complete copies of the Vested Rules as of the Effective Date has been prepared by the Town and Developer, and they are contained in a binder with the title "Snowcreek VII & VIII Development Agreement—Vested Rules" on file in the offices of the Town Clerk of the Town and in the Master Developer's office in Mammoth Lakes, California. Various Subsequent Permits, such as tentative subdivision maps, grading permits and use permits, are required in order to implement the development of the Snowcreek Projects under the terms of the Vested Rules. In addition, Subsequent Permits, such as a change in zoning standards, may be desirable due to changes in development products or standards or for other reasons during the Term of this Agreement. This Agreement and the vested right to develop are not intended to preclude changes or additions to the Vested Rules which (i) Town reasonably imposes as a result of Developer's request to make a change or addition to one or more of the Vested Rules or (ii) are mutually acceptable. All Subsequent Permits shall be processed in accordance with the procedures, standards and requirements set forth in the Vested Rules, except to the extent changes to the Vested Rules are proposed by the Subsequent Permit, and the Subsequent Permits shall be incorporated into (and amend or supplement, as appropriate) the Vested Rules upon adoption by the Town and approval by the affected Developer(s). If Developer proposes any amendment or addition to the Vested Rules, then the application therefore shall clearly indicate such request, and, if the application is reasonably approved by the Town, then the Town's action shall clearly state that the Vested Rules have been amended or supplemented. If an amendment or supplement to the Vested Rules is adopted by the Town other than pursuant to an application by a Developer, then it shall amend or supplement the Vested Rules only if the affected Developer(s) approved the same in writing. Nothing contained herein expressly or impliedly requires the Town to approve or conditionally approve any amendment or addition to the Vested Rules.

3.2 Project Approvals. "Project Approvals" means: (a) the existing Town permits, approvals and entitlements for the Projects set forth below in this Section 3.2; plus (b) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 5.1.1) which are subsequently issued by the Town and approved by Developer, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules.

3.2.1 Snowcreek VII. The existing Project Approvals approved by the Town for the Snowcreek VII Project, are the following:

3.2.1.1 Master Plan at Mammoth, approved by Mono County.

3.2.1.2 Final Tract Map 36-~~236~~236A for Phase 1 recorded 7/10/07, Book 10, Page 105.

3.2.1.3 Final Tract Map 36-236B for Phase 2 recorded 10/9/2019, Book 11, Page 15.

3.2.1.4 Final Tract Map 36-236C for Phase 3 recorded 4/8/2021, Book 12, Page 17.

~~3.2.1.3~~3.2.1.5 Tentative Tract Map 36-236 for Phases 2 and 3 as modified by Resolution PC2009-01 and as further modified by this Agreement with respect to Special Planning Condition of Approval No. 11 in Resolution 2006-15, which shall read as originally approved (new italicized language is hereby deleted).

~~3.2.1.4~~3.2.1.6 Use Permit 2005-11 approved by Resolution 2006-15, dated 5/24/06, as modified by Resolution PC 2009-01.

~~3.2.1.5~~3.2.1.7 Grading Permits: Restricted Permit 2006-15 dated 4/24/07, Full Phase I Permit 2006-15 dated (in error) 4/24/07 (signed May 3, 2007); Amendment 01 to Grading Permit 2006-15 allowing dirt stockpiling on Snowcreek VIII property, dated 8/2/07.

~~3.2.1.6 Building Permits for Bldg 11, permit #181551 and 12, permit #181552, issued on 6/13/07, Bldg. 10, permit #183968, issued on 7/26/07; Bldg. 9, permit # 183970, issued on 8/29/07; and Bldg. 8, permit #183967, issued on 9/28/07.~~

3.2.1.8 Building Permits for Buildings 1 - 39.

~~3.2.1.7~~3.2.1.9 Encroachment Permit 2006-10 dated 9/21/06 for sewer line and water line work.

~~3.2.1.8~~3.2.1.10 Improvement Permit 2006-20 dated 6/18/06 for water line work.

~~3.2.1.9~~3.2.1.11 Permit 2007-164041 dated 4/28/08 allowing Rec Building Remodel.

~~3.2.1.10~~3.2.1.12 Certificates of Occupancy for ~~the following buildings and addresses:~~Buildings 1 – 39.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for Snowcreek VII are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.2.2 Snowcreek VIII. The existing Project Approvals approved by the Town for the Snowcreek VIII Project, are the following:

3.2.2.1 General Plan Amendment to the Urban Growth Boundary.

3.2.2.2 Zone Code Amendment to effectuate the Snowcreek VIII Master Plan Update 2007, approved on August 5, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

3.2.2.3 Snowcreek VIII Master Plan Update 2007, approved on July 8, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

3.2.2.4 Conditional Use Permit # 88-19 approved 4/12/1989 for the current 9-hole golf course existing on the Snowcreek VIII Property.

3.2.2.5 Tentative Tract Map 09-002 to allow parcelization of approximately 222 acres within the Snowcreek Master Plan Update Area approved by Resolution on December 9, 2009, and recorded on January 14, 2010.

~~Building 10~~
~~1501~~
~~1503~~
~~1505~~
~~Clear Creek Road~~

~~Building 11~~
~~1300~~
~~1302~~
~~1304~~
~~Timber Creek Place~~

~~Building 12~~
~~1310~~
~~1312~~
~~1314~~
~~1316~~
~~Timber Creek Court~~

~~The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for Snowcreek VII are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.~~

~~3.2.2 Snowcreek VIII. The existing Project Approvals approved by the Town for the Snowcreek VIII Project, are the following:~~

~~3.2.2.1 General Plan Amendment to the Urban Growth Boundary.~~

~~3.2.2.2 Zone Code Amendment to effectuate the Snowcreek VIII Master Plan Update 2007, approved on August 5, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.~~

~~3.2.2.3 Snowcreek VIII Master Plan Update 2007, approved on July 8, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.~~

~~3.2.2.4 Conditional Use Permit # 88-19 approved 4/12/1989 for the current 9-hole golf course existing on the Snowcreek VIII Property.~~

~~3.2.2.5 Tentative Tract Map 09-002 to allow parcelization of approximately 222 acres within the Snowcreek Master Plan Update Area approved by Resolution on December 9, 2009, and recorded on January 14, 2010.~~

3.2.2.6 Final Tract Map 09-002 for the parcelization of the approximately 222 acres within the Snowcreek Master Plan Update Area, recorded 8/31/2023, Book 12, Page 22A.

~~3.2.2.6~~3.2.2.7 CDDD 2009-25 for AP 09-004 dated 1/12/10 approving the temporary restaurant at the Golf Course and extending the use permit on the existing temporary clubhouse.

3.2.2.8 Resolution No. PEDC 2024-11 for Tentative Tract Map 23-002 and Use Permit 23-003 approving the Phase I subdivision for Snowcreek VIII, dated 9/11/2024.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Snowcreek Projects are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

Vested Right to Develop. During the Term of this Agreement, with regard to the Snowcreek Projects listed in Recital D and the Property legally defined in Exhibit A, Developer is assured, and the Town agrees, the development rights, obligations, terms and conditions specified in the Project Approvals, the other Vested Rules and this Agreement are fully vested in

Developer and may not be changed or modified by the Town, whether by administrative actionThe permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Snowcreek Projects are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.3 Vested Right to Develop. During the Term of this Agreement, with regard to the Snowcreek Projects listed in Recital D and the Property legally defined in Exhibit A, Developer is assured, and the Town agrees, the development rights, obligations, terms and conditions specified in the Project Approvals, the other Vested Rules and this Agreement are fully vested in Developer and may not be changed or modified by the Town, whether by administrative action, or legislative action, or vote of the electorate, except as may be expressly permitted by and in accordance with the terms and conditions of this Agreement, or as may be expressly consented to by Developer. Developer shall have the vested right to develop and construct the Snowcreek Projects on the Snowcreek Properties and each portion thereof, in accordance with the Project Approvals, the other Vested Rules and this Agreement.

3.4 No Conflicting Enactments. Except as provided in Section 3.3 of this Agreement, during the Term of this Agreement, the Town shall not, without the prior written consent of Developer, do any of the following:

3.4.1 Apply to the Snowcreek Projects or the Snowcreek Properties, or any portion thereof, any change in the Vested Rules or any new or amended rule, ordinance, resolution, regulation, requirement or official policy which conflicts with or is inconsistent with this Agreement, or which reduces the development rights provided by this Agreement, or which limits or reduces the permitted uses allowed under the Vested Rules, or which prevents, impedes or materially adversely affects development, construction or operation of the Snowcreek Projects or any portion thereof in accordance with the Vested Rules, or which discriminates against Developer or the Snowcreek Projects or any portion thereof, or which applies only to the 2009 Projects or a portion thereof.

3.4.2 Apply to the Snowcreek Projects or the Snowcreek Properties any new rule, ordinance, resolution, regulation, requirement or official policy that requires any additional discretionary review or approval.

3.4.3 Apply to the Snowcreek Projects or the Snowcreek Properties any new or amended rule, ordinance, resolution, regulation, requirement or official policy that materially, adversely affects the timing or phasing of construction or development or that limits the availability of utilities, infrastructure or public services for the Snowcreek Projects or the Snowcreek Properties.

3.5 Term of Project Approvals. To the extent allowed by the Subdivision Map Act, the term of any tentative map approved for any portion of the Property, whether as stated in the existing Project Approvals, or as stated in any subsequent amendment or addition to the Project Approvals, including, but not limited to, any tentative parcel map, tentative tract map, vesting tentative tract map or vesting tentative parcel map, any amendment of any such map, and any

subdivision improvement agreement entered into in connection with any of the aforementioned maps, shall be automatically extended for the Term of this Agreement. Similarly, the term of any Project Approvals approved for any portion of the Property, whether now existing or subsequently approved, shall be automatically extended for the Term of this Agreement. In addition, in accordance with Government Code sections 66452.6(b)(1), (2) and (3), the term of any map or other Project Approval shall be extended for a period equal to any period of time during which: (a) a development moratorium exists, including, but not limited to, a water or sewer moratorium or the actions of public agencies (other than the Town) that regulate land use, development or the provision of services to the Property, that prevents, prohibits or delays the construction of the Projects; or (b) a lawsuit involving any development approvals or permits for the Project is pending. A development moratorium adopted or implemented by the Town shall not apply to the Property, as further described in Section 3.7.

3.6 Initiatives/Referendum. Any law enacted or imposed after the Effective Date by initiative or referendum, or by the Town Council, directly or indirectly, in connection with any proposed initiative or referendum, which law would conflict with the vested rights to develop granted to Developer under this Agreement shall, to the maximum extent permitted by law, not apply to the Snowcreek Projects.

3.7 Moratoria; Growth Control Measures. Developers' rights to develop the Snowcreek Projects on the Snowcreek Properties in conformance with the Vested Rules under this Agreement shall prevail over any growth control measure or development moratorium adopted or implemented by the Town after the Effective Date, whether adopted specifically to prohibit construction of the Snowcreek Projects or any portion thereof, or as an interim measure during the processing of contemplated General Plan, Specific Plan or zoning changes, or as a general growth control management measure.

3.8 Effect of Inconsistent State or Federal Laws. This Agreement may be modified or suspended as may be necessary to comply with State of California or Federal legislation, case law, codes or regulations enacted/issued after the Effective Date, which preempt local jurisdiction and which prevent or preclude compliance with one or more provisions of this Agreement; provided, however, that such modification or suspension shall be made to the minimum extent necessary and only after the Parties have met and conferred in good faith to determine the feasibility of such modification or suspension and to minimize its effect on the rights of the Parties and fulfillment of the purposes and intent of this Agreement. The Parties shall cooperate to process applications for any Town or governmental approvals which may be required as a result of any such modification or suspension of this Agreement.

ARTICLE 4
~~2010~~ PROJECT PROCESSING AGREEMENTS

4.1 Affordable Housing Requirements.

4.1.1 Developer and Town agree the affordable housing requirements shall not exceed the parameters set forth in Section 2.2.3 of this Agreement. The ~~Total Affordable Housing Cost is defined to mean the value of the 47 units of on-site~~ affordable housing~~, as specified~~ requirements for each phase of development shall be in accordance with this Section

~~2.2.3, an in-lieu of fee payment for 47 units of off-site affordable housing, as specified in~~ and Section 2.2.3~~, and the application of existing housing credits (16.5 FTEE).~~ of this Agreement. Developer and Town agree the Total Affordable Housing Cost reasonably implements Town's affordable housing requirements~~, which will be further implemented through subsequent submittals of Affordable Housing Implementation Plans (each an "AHIP"). Notwithstanding Section 2.2.3.5, the parties further acknowledge each AHIP may meet affordable housing requirements in a variety of ways. Measures may include, but are not limited to, on- or off-site construction, purchase, rehabilitation, payment of an in-lieu fee and other forms of financial assistance to prospective qualified homebuyers or qualified renters. On-site measures may result in different numbers of actual units secured, different percentages of income attributed to mortgage payments, different unit types and different levels of affordability as percentages of Mono County Area Median Income other that those described in Section 2.2.3~~.

~~4.1.2 Each AHIP shall be prepared by Developer and submitted to Town with each applicable subsequent use permit. Town acknowledges the 47 on-site affordable housing units are intended to be dispersed throughout the Project in the High Density Residential Product buildings and, therefore, certain subsequent use permits may not include an on-site affordable hosing component (for example, the hotel). Therefore, some use permits may include an AHIP that specifies in-lieu fees would be paid or existing housing credits or any other measure described in Section 4.1.1 would constitute the submitted AHIP.~~

~~4.1.3~~ The ~~Total~~ Affordable Housing ~~Cost~~Requirements for the Residential and Hotel components of the Project shall be ~~reduced~~provided in ~~two possible ways:~~

~~4.1.3.1 First, in the event not all the entitled market-rate units are constructed,~~ the ~~actual pro-rata allocation of the Total~~ following manner until the Affordable Housing ~~Cost for each market-rate unit not constructed shall be deducted from the Total~~Requirement is satisfied. Affordable Housing ~~Cost; and~~

~~4.1.3.2~~4.1.2 ~~Second, in the event not all the entitled Resort Hotel Rooms/Suites are constructed, the actual pro-rata allocation~~Requirement shall only be provided based on the number of ~~the Total Affordable Housing Cost for each Resort Hotel Rooms/Suite not constructed shall be deducted from the Total Affordable Housing Cost~~units actually built.

~~4.1.4 The Parties agree each AHIP should meet the current needs and circumstances of Town at the time of submittal.~~

~~4.1.5 In order to maintain the integrity of the Master Plan and the Snowcreek Master Plan Update and implement the timely Phasing and Performance described in Section 2.2.1 of this Agreement, each AHIP will be subject to review and approval by the Planning Commission in conjunction with each applicable necessary use permit.~~

4.1.2.1 *Residential Component.* The Affordable Housing Requirement for development of the Market Rate Residential Units shall be ten percent (10%) of the number of Market Rate Residential Units proposed within each phase. The ten percent (10%) requirement shall be allocated as follows:

(i) The number of Required Affordable Units required within each phase shall be calculated at the rate of 6.33% of the number of Market Rate Residential Units proposed. If the number of Required Affordable Units would result in a fractional number and the fraction or decimal is equal to or greater than 50 percent of a unit, it shall be rounded up to the nearest whole number and when the fraction or decimal is less than 50 percent of a unit, it shall be rounded down to the nearest whole number, provided that in no case shall Developer be required to obtain Building Permits for more than the 47 Required Affordable Units. The Town, in its sole discretion may require Developer to provide more than 6.33% Required Affordable Units in any given phase of development where Developer's overall Required Affordable Unit contribution has dropped below 6.33% due to the rounding down of fractional Required Affordable Units.

(ii) The number of units subject to the provision of In-Lieu Fees within each phase shall be calculated at the rate of 3.67% of the number of Market Rate Residential units proposed. Pursuant to Section 2.2.3.4(ii) of this Agreement, Developer shall not be required to provide payment of In-Lieu Fees until the usage of the FTEE Credits has been exhausted.

4.1.2.2 *Hotel Component.* The Affordable Housing Requirement for development of the Hotel Units shall be ten percent (10%) of the number of Hotel Units proposed within each phase. The ten percent (10%) requirement shall be allocated as follows:

(i) The number of units subject to the provision of In-Lieu Fees shall be calculated at the rate of 5% of the number of Hotel Units proposed since each hotel unit constitutes ½ unit as set forth in the Snowcreek Master Plan Update. Pursuant to Section 2.2.3.4(ii) of this Agreement, Developer shall not be required to provide payment of In-Lieu Fees until the usage of the FTEE Credits has been exhausted.

4.2 Development Schedule; Phasing. The Master Plan Update includes a general phasing plan, a copy of which is attached hereto as Exhibit D. This phasing plan anticipates ~~build-out~~buildout of the Snowcreek Projects will continue over a substantial period and the timing and phasing of development will be affected by numerous factors, which are not all within the control of Developer, such as market demand, economic conditions, competition and the like. The Parties acknowledge Developer cannot~~, at this time of great economic crisis,~~ predict with specificity when or at what rate or in what order the future phases of the Snowcreek Projects shown on Exhibit D will be developed on the Property. Because the California Supreme

Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties agreement, it is the parties' intent to cure that deficiency by acknowledging Developer shall have the right to develop the Property at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. This Section 4.2 does not apply to the milestones set forth in ~~Sections~~ Section 2.2.1~~.a and b~~.

4.3 Snowcreek VII Master Plan. Permitted uses and densities for Snowcreek VII are incorporated in the Master Plan approved in 1981. The General Plan and the Master Plan provide for clustering of densities within the area of the Master Plan, as long as the overall Snowcreek Project density, as approved by the Master Plan, is not exceeded. The Master Plan at Mammoth is part of the Vested Rules.

4.4 Snowcreek VIII Master Plan Update 2007. Permitted uses, densities and development standards, among other things, for the Snowcreek VIII Project are incorporated in the Snowcreek VIII Master Plan Update 2007, as it may be modified from time to time, governing Snowcreek VIII.

ARTICLE 5
PROCESSING OF SUBSEQUENT PERMITS AND APPROVALS

5.1 Subsequent Permits.

5.1.1 Defined. "Subsequent Permits" means the land use, development and building approvals that are to be processed for approval by the Town and that are necessary or appropriate in order to develop the Snowcreek Projects in accordance with the Vested Rules, the Project Approvals and this Agreement, including, but not limited to, zone changes, master plans or amendments thereto, any and all permits and/or approvals that are part of development "phases," variances, use permits, development plans, parcel maps, tentative and final subdivision maps, subdivision improvement plans and agreements, design review, site plans, landscape plans, preliminary grading plans, grading plans and permits, building plans and permits, and environmental determinations; provided, that if a Subsequent Permit requires ~~a significant change~~changes to the Snowcreek Master Plan Update ~~and the environmental impact of that change has not been studied under CEQA~~, such modification shall be treated as a discretionary permit and Town's review and approval, conditional approval or denial is not restricted by this Agreement. The Subsequent Permits shall include any permits and approvals required to complete the infrastructure and improvements necessary to develop the Property (collectively, the "Improvements"), in accordance with this Agreement and the Vested Rules, including, without limitation, those related to: (a) clearing the Property; (b) preliminary grading or grading of the Property; (c) construction of roads and storm drainage facilities; (d) construction of the golf course, snow play area, trails and bicycle paths, great lawn, open space corridor; (e) importing and stockpiling dirt on the property; and, (f) construction of all commercial and residential structures and all structures and facilities accessory thereto, subject to the limitations set forth in this Agreement. Subsequent Permits may also include, without limitation, the following: grading permits, building permits, sewer and water connection permits, certificates of occupancy, lot line adjustments, site plans, development plans, land use plans, building plans and

specifications, final maps, parcel maps and/or subdivision maps, conditional use permits, variances, architectural control plans, demolition permits, improvement agreements, encroachment permits, tree removal permits and any modifications or amendments to any of the foregoing or any Project Approvals.

~~5.1.1~~5.1.2 The grant of vested rights to Developer pursuant to this Agreement does not waive or remove any requirement to process and obtain Subsequent Permits for the Snowcreek Projects, to the extent required under the Vested Rules and the Project Approvals.

~~5.1.2~~5.1.3 Standard of Review. The Town agrees applications for Subsequent Permits shall be processed in good faith and with reasonable diligence and granted on reasonable terms and conditions, in conformance with this Agreement, the Project Approvals and the Vested Rules. The Town shall have the right to withhold any Subsequent Permit or to conditionally approve the same in order to ensure conformance with the Project Approvals and the Vested Rules set forth in Section 3.1, the vested right to develop set forth in Section 3.3, ~~and/or~~ the requirements of this Agreement, and applicable laws. Except to the extent a conflict is the result of the Town's denial or conditional approval of a Subsequent Permit to ensure conformance with the Project Approvals and the Vested Rules set forth in Section 3.1, in the event any conflict arises between the terms and conditions of a Subsequent Permit and this Agreement, the provisions of this Agreement shall control unless otherwise agreed to in writing by the Town and Developer.

5.2 Timely Processing.

5.2.1 General. Subject to compliance with the Vested Rules and other applicable laws, the Subsequent Permits shall be reviewed, processed and acted upon by the Town in a timely manner, provided that: (a) applications for such approvals are submitted to the Town during the Term of this Agreement; ~~(b) the applications are deemed complete pursuant to the Vested Rules; and (c~~and (b) there is no uncured Event of Default under the terms and conditions of this Agreement with respect to the portion of the Property for which such approval is sought.

5.2.2 Plans and Permits. The Town shall review the application and schedule the application for review by the appropriate authority within the time periods set forth in this Section 5.2.2. The Town shall exercise good faith efforts to process and check all building plans, grading and improvement plans, and other plan submittals and to issue applicable permits and approvals with reasonable diligence, within the time periods set forth on Exhibit I attached to this Agreement and incorporated herein by this reference. ~~Therefore, the parties agree, subject to Section 11.15, if plans and submittals for the Resort Hotel and the 18-hole championship golf course are not reviewed, processed and checked within the time periods listed on Exhibit I, the term of this Agreement with respect to the commencement of development of the Resort Hotel and the 18-hole championship golf course shall be extended one day for each day or portion thereof that the processing has not been completed. In no event shall the Term exceed twenty (20) years.~~

5.3 Term of Approvals. All Subsequent Permits, once granted or issued, shall, like the Project Approvals, continue in full force and effect during the Term, in order to facilitate implementation of Developer's development rights under this Agreement.

5.4 Vesting of Approvals. All Subsequent Permits, once granted or issued, shall become automatically vested under this Agreement, as if granted or issued prior to the adoption of this Agreement, for the duration of the Term of this Agreement.

5.5 Development Fees. Due to the consideration and benefits as described in Exhibit B, the following shall apply to the development fees described below:

5.5.1 Applicable Fees. If a Subsequent Permit requires any significant change to the Snowcreek Master Plan Update, then any additional ~~Fees~~fees shall be reasonable and meet all applicable nexus and rough proportionality requirements. Notwithstanding Section 3.1 or any other provision of this Agreement and subject to section 5.5.4, all increases in the amount of ~~Fees~~fees adopted by the Town on a Town-wide basis during the Term shall not apply to Developer and the Snowcreek Projects~~.~~, with the exception of any automatic fee escalators as of the Effective Date. Fees shall be payable when due; provided, however, that the Town shall reasonably determine, at the time building permits are issued, whether ~~Fees~~fees then due will be offset by credits that will be available to Developer as a result of subsequent construction; payment of ~~Fees~~fees that are anticipated to be so offset by credits shall be deferred and a reconciliation of those ~~Fees~~fees and credits shall be made prior to issuance of such certificates of occupancy. Additionally, if either California State law or the municipal code is modified to defer payment of ~~Fees~~fees to a time later in the development process than that required on the Effective Date, then Owner or Developer shall be subject to such deferment. In addition, credits to which any portion of the Snowcreek Projects is entitled as a result of construction shall be transferable to any other portion of the Snowcreek Projects and applied to reduce fees payable and not yet paid by Developer in connection with any portion of the Snowcreek Projects. Additionally, if the amount of credits is increased, Owner or Developer shall be subject to the increased credit amount.

5.5.2 DIF Resolution. Developer shall pay Development Impact Fees at the time of building permit issuance in accordance with, and at the rate specified in, the DIF Resolution~~.~~ in effect on the Effective Date. Applicable impact fees include but are not limited to: Police, Vehicle Circulation, Multi-modal Circulation, Storm Drain, General Facilities and Equipment, Parkland and Recreation. The amount of Development Impact Fees shall not be increased as applied to the Snowcreek Projects during the Term~~.~~, with the exception of any automatic fee escalators, such as Cost of Living Allowance and the periodic Town-wide escalators codified in the Municipal Code as of the Effective Date. The DIF Resolution as applied to the Projects as set forth in this Agreement is included in the Vested Rules; provided, however, if Development Impact Fees applied to all or any other developer or builder of any uses similar to the Project are reduced during the Term, then any future not yet due Development Impact Fees will be at the lower rate. The vesting of the provisions of the DIF Resolution as to the availability and calculation of credits, in particular, is a material inducement to Developer in agreeing to provide the significant community benefits that are a part of these Projects~~.~~. Development Impact Fees collected by the Town on behalf of another entity shall not be vested.

5.5.3 Public Arts Fund and Fee Program. Public Art meeting the Town's Public Arts Fund and Fee Program will be provided throughout the Snowcreek Projects in accordance with the Snowcreek Master Plan Update. As stated in Section 8.1 of the Snowcreek Master Plan Update, the Town's Municipal Code only applies to the Snowcreek VIII Project where the Master Plan Update is silent. Section 8.1.5 of the Snowcreek Master Plan Update describes the Public Art Program for Snowcreek VIII. Therefore, no fee for participation in the Town's Public Arts Fund and Fee Program shall be due to, required by or paid to the Town. Developer and Town agree to implement Chapter 15.18 of the Municipal Code according to 15.18.070.F and that this Agreement constitutes the alternate provisions of that Chapter. Developer agrees to implement the goals and intent of Chapter 15.18 through the subsequent review and approvals required by this Agreement. In order to maintain the integrity of the Master Plan and Snowcreek Master Plan Update, and implement the timely Phasing and Performance described in Section 2.2.1 of this Agreement, Public Art will be subject to review and approval by the ~~Planning Commission~~PEDC in conjunction with each applicable and necessary use permit.

5.5.4 Building Permit and Application Processing Fees. Developer shall pay the Building Permit and Application Processing Fees ~~in effect on the date the Town Council approves this Development Agreement. The Building Permit and Application Processing Fees shall be subject to the COLA~~("Building Fees") in effect on the Effective Date. The Building Fees shall be subject to the COLA. In the event the Building Fees are reduced during the Term and the reduced fee amount is lower than the vested amount, or in the event that the Building Fees with the inclusion of the COLA increase is higher than the Building Fee amount in effect at that time, then any future not yet due Building Fees will be at the lower rate. Building Fees collected by the Town on behalf of the State or other entity shall not be vested by the DA.

5.6 Other Local, State, Federal Approvals.

5.6.1 General. The Parties contemplate development of the Snowcreek Projects pursuant to this Agreement may be subject to the approval of other governmental agencies. The Parties shall act in good faith and use reasonable effort and diligence to process and obtain such approvals in a manner and on terms and conditions that are consistent with, and implement, the Project Approvals, the Vested Rules and this Agreement. If any revisions or corrections of plans for Project Approvals approved by the Town shall be required by any other governmental agency, then the Parties shall cooperate reasonably and in good faith to develop a mutually acceptable solution.

5.6.2 Waste Discharge Requirements permit, issued by the California Regional Water Quality Control Board, Lahontan Region, may be required for Snowcreek VIII. Developer is currently pursuing this issue and to the extent required shall obtain all the necessary permits. If significant modifications in the Snowcreek Projects are needed to obtain any of those permits, then such modifications shall be processed as a Subsequent Permit in accordance with subsection 5.1.1.

ARTICLE 6
PUBLIC IMPROVEMENTS AND SERVICES

6.1 Community Benefits. In return for the vesting of rights granted by this Agreement, the Town Council has required that the community receive certain special benefits. Those benefits are set forth in Exhibit B to this Agreement. The rights and obligations of Developer and the Town under the terms of Exhibit B are incorporated herein as provisions of this Agreement.

6.2 Applicable Requirements. Development of the Snowcreek Projects is subject to payment of Development Impact Fees pursuant to the DIF Resolution~~.~~ in effect as of the Effective Date. Development of the Snowcreek Projects is also subject to payment of the Community & Economic Development Processing Fees ~~listed on~~("Planning Fees") in effect on the Effective Date, shown in Exhibit E to this Agreement which is attached hereto and incorporated herein by this reference~~, which may~~. The Planning Fees shall be ~~increased per~~subject to the COLA ~~as provided in Section 5.5.4 herein~~. In the event the Planning Fees are reduced during the Term and the reduced fee amount is lower than the vested amount, or in the event that the Planning Fees with the inclusion of the COLA increase is higher than the Planning Fees in effect at that time, then any future not yet due Planning Fees will be at the lower rate.

6.3 Land for Propane Storage Tank Area. The Town has indicated a need and desire for additional propane storage tank areas in the community. This ancillary utility use is permitted by both Town regulations and the private land use covenant between the Town and Developer. At the time of the execution of this Agreement, the Town and Turner Gas were working to find a suitable location for storage of the propane tanks and have tentatively located an appropriate site. In the event such site is not acceptable or available to the Town, then Developer agrees to allow the use of 16,875 square feet of its property as a Propane Storage Tank area, so long as such determination is made before the issuance of a use permit for the Golf Course. The legal description is attached as Exhibit F.

6.4 Bike Trail North of Old Mammoth Road & Recreational Trail Public Easement. During the construction of the first phase of Snowcreek VII, a bike path was completed connecting a section of trail linking the Old Mammoth area from the Athletic Club to the intersection of Old Mammoth Road and Minaret Road. A 12' wide public easement has been issued for recreational trail purposes along the length of the bike path. A Benefit Assessment district shall be created, largely at the expense of the Snowcreek VII homeowners, to maintain this trail both in the winter and the summer.

6.5 Public Access Easement for Fishing and Hiking Along Mammoth Creek. As part of Snowcreek VII, a 40' wide public access and drainage easement was recorded along Mammoth Creek from the Athletic Club to Minaret Road. This easement grants access to the public for fishing and hiking along the Creek.

6.6 Fairway Drive Realignment. Fairway Drive is currently the only non-exclusive public access to Snowcreek V. During construction of Snowcreek VIII, Developer will realign and improve Fairway Drive.

6.7 Secondary Access Road. Developer will create a secondary access to Old Mammoth Road from the Snowcreek Projects that will benefit Snowcreek V and Snowcreek VIII visitors and residents.

6.8 Emergency Vehicle Access Road. Developer will create an Emergency Vehicle Access Road, crossing the golf course that will connect an internal Snowcreek Projects road to Sherwin Creek Road.

6.9 Expanded Golf Course. ~~Expanded~~Potential expanded 18-hole publicly accessible golf course and practice facility. A nine-hole golf course designed by Ted Robinson exists on the north and west portions of the property. An additional nine holes ~~will~~may be constructed on the north, eastern and southern edges of the Snowcreek VIII site, creating a championship 18-hole golf course and encompassing an estimated 155 acres. ~~The~~If constructed, the course will be designed to conserve water and utilize natural vegetation. Re-grading and contouring of the new portion of the golf course, and possibly portions of the existing course, will create topographic undulations in character with the surrounding landforms fronting the main range.

6.10 Cooperation with MCWD Expansion. The Master Developer is cooperating with MCWD's expansion, and possible improvement and distribution of MCWD's tertiary water treatment to the extent available, legally permissible and on a schedule and in volumes agreed to by MCWD and the Master Developer. MCWD is in the process of establishing a Recycled Water Project that could provide irrigation for portions of the existing Snowcreek nine-hole golf course as well as the expanded additional nine-hole course. If and when this Recycled Water Project becomes active, it could free up a significant amount of potable water currently being used on the golf course, for other Town uses. Snowcreek VIII is working on an agreement with MCWD related to participating in the Recycled Water Project.

6.11 Other Public Dedications and Improvements. The Town shall not require the grant, reservation, or dedication by Developer of any additional land or easements for open space, park and recreational uses or for public rights-of-way or other public purposes, or require the construction or funding of public improvements or facilities, as a condition to development of the Projects, except as permitted under the Vested Rules, the Project Approvals, and this Agreement.

6.12 Local Economic Opportunity. The Developer and the Town acknowledge that it is in the best interest of both parties that the construction and operation of the Snowcreek Projects create economic and job opportunities for local residents and the Town. In order to meet the objectives of this section in a manner consistent with state and federal laws, Developer agrees to use commercially reasonable efforts to take the following steps to encourage economic and job opportunities for qualified local residents:

6.12.1 Bid Process. Developer will ask its general contractors and major subcontractors to solicit local contractors and subcontractors to participate in the bid process. For example, to further the objectives of this Section as stated above, Developer will ask its general contractors and major subcontractors to coordinate with any local or regional contractors association to solicit bids from qualified local contractors and subcontractors consistent with this subsection. It is the intent of the parties to include qualified local contractors and subcontractors

in the bid process but not to limit participation in the process solely to them nor to prohibit others from participating.

6.12.2 Local Labor. Developer will ask its general contractors and major subcontractors to attempt to identify and hire qualified local labor. Local labor shall include, but is not limited to, in the following order of preference, to the maximum extent legally permissible, persons living in Mammoth Lakes, Mono County, and the northern portion of Inyo County. For example, Developer will ask its general contractors and major subcontractors to attempt to coordinate with any local or regional contractors association to utilize qualified local labor consistent with this subsection. It is the intent of the parties to include qualified local labor in the hiring process but not to limit participation solely to them nor to prohibit others from participating.

6.12.3 Local Employment Opportunity. Developer will take steps to inform qualified local contractors, laborers and residents of potential job opportunities with the Project.

6.12.4 Purchase of Equipment and Materials. It has been the practice of Developer to purchase materials and equipment locally when such materials and equipment have been competitively priced and it makes economic sense to do so. Developer and Town acknowledge that it would be desirable to strive to purchase equipment and materials locally again when such materials and equipment are competitively priced. Therefore, it is the intent of the parties that, all other factors being equal, such factors including price, availability and other factors to be determined in the sole business judgment of Developer, that Developer will strive to purchase equipment and material locally; provided, however, that this provision shall not be interpreted as a restriction on Developer nor shall it be used to prohibit Developer from constructing and operating the Snowcreek Projects as Developer sees fit in its sole discretion.

ARTICLE 7
IMPLEMENTATION

7.1 Operating Memorandum. The Town and Developer may implement or clarify provisions of this Agreement through the execution of one or more operating memorandum approved by the Town and Developer, from time to time during the Term (each, an "Operating Memorandum"). An Operating Memorandum shall be automatically deemed a part of this Agreement, but approval, implementation and/or amendment thereof shall not constitute or require an amendment to this Agreement or require public notice or hearing. In the event a provision in an Operating Memorandum conflicts with this Agreement, this Agreement shall control. The Town Manager or his or her designee, after consultation with the Town Attorney to determine whether an Operating Memorandum is appropriate, is authorized to approve an Operating Memorandum, or amendment thereto, on behalf of the Town, but may request Town Council review and approval of any proposed Operating Memorandum, if he or she deems it necessary or desirable.

7.2 Annual Review.

7.2.1 General. The annual review required by Development Agreement Statute Section 65865.1 shall be conducted as provided in this Section 7.2. As part of that review, each

Party shall have a reasonable opportunity to assert matters which such Party believes have not been undertaken or performed in conformance with this Agreement, to explain the basis for such assertion, and to receive from the other Party or Parties a justification for such other Party's or Parties' position with respect to such matter.

7.2.2 Commencement of Review. Prior to October 31, of each full calendar year after the effective date of this Agreement, Developer will initiate the annual review by submitting a written statement to the Town Manager describing, Developer's good faith substantial compliance with the terms and conditions of this Agreement for the prior calendar year. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1.

7.2.3 Determination of Substantial Compliance. Within thirty (30) days after the Town Manager's receipt of Developer's complete submittal [or thirty (30) days after the deadline for such submittal if none is submitted], unless said period is extended by mutual consent of the Town Manager and Developer or as the result of circumstances beyond the reasonable control of the Town, the Town Manager shall: (a) determine whether, for the year under review, Developer is in good faith substantial compliance with the terms and conditions of this Agreement; (b) confirm its determination in writing; (c) deliver a copy to Developer and (d) deliver a written report to the Town Council, which the Town Council, at a regular public meeting within thirty (30) days after delivery, shall receive and file that report and may comment on or request further information or public discussion at a future regular public meeting or closed session, as legally permitted. If the Town Manager's report to the Town Council determines, based upon substantial evidence, Developer is not in good faith substantial compliance with the terms of the Agreement, the Town Manager's written determination shall specify the grounds for such determination in reasonable detail, and Developer shall have thirty (30) days from receipt of such determination of non-compliance to respond in writing. After receipt of Developer's response (or expiration of such 30 day period if no response is delivered), the Town Manager shall determine whether Developer is in good faith substantial compliance and deliver a copy of such determination to Developer and the Town Council. If Developer is determined not to be in good faith substantial compliance, the Town Manager may deliver a Notice of Default to Developer pursuant to Section 9.2. A finding by the Town Manager of good faith substantial compliance with the terms of this Agreement shall conclusively determine said issue up to and including the date of said review, and shall complete the annual review. If the annual review is completed pursuant to the procedures set forth above, the Town Manager shall promptly deliver a report to the Town Council confirming the completion of the annual review.

7.2.4 Appeal to Town Council. If Developer disputes the allegation Developer is not in good-faith substantial compliance and believes the Notice of Default has been issued erroneously, then Developer shall have the right to appeal the determination to the Town Council, and the Town Council shall make such determination after Developer has been permitted an opportunity to be heard orally and in writing at a noticed public hearing before the Town Council. Any appeal must be filed with the Town Manager in writing within fourteen (14) days Developer's receipt of the Notice of Default. The Town shall deliver to Developer a copy of any staff reports that are not exempt from the California Public Records Act and any other related information submitted to the Town Council concerning Developer's performance at least seven (7) calendar days prior to the date of the noticed public meeting. If the Town Council, at

that noticed public meeting, or any continued public meeting related to the appeal, determines, based upon substantial evidence, Developer is not in good faith substantial compliance with the terms and conditions of the Agreement, the Town Council may terminate or modify the Agreement, subject to compliance with the provisions in Section 9.3.

7.3 Statement of Compliance. Within thirty (30) days after receipt of a written request from a Party ("requesting Party"), a Party shall execute and deliver to the requesting Party a statement certifying: (a) the Agreement is unmodified and in full force and effect (or identifying any modifications); (b) there are no uncured defaults under the Agreement by the certifying Party or, to the certifying Party's knowledge, by any other Party (or specifying any such defaults); and (c) any other information reasonably requested regarding the status of the Agreement and performance by the Parties. The failure by a Party ("non-responding Party") to deliver such statement within such 30 day period shall be conclusively deemed to constitute a certification by the non responding Party: (a) this Agreement is in full force and effect; and (b) to the knowledge of the non responding Party, there are no uncured defaults on the part of the requesting Party. Such statement or certification may be relied upon by any purchaser, transferee, lender, title company, governmental agency or other person reasonably requesting such statement.

ARTICLE 8
ASSIGNMENTS; MORTGAGEE PROTECTION

8.1 Right to Assign.

8.1.1 Right to Assign. Developer shall have the right to assign or transfer any portion of its interests, rights or obligations ("Rights") under this Agreement and under the Project Approvals and Subsequent ~~Approvals~~Permits to third parties acquiring successor interests in the Snowcreek Projects or Project Site, or any portion thereof, including without limitation purchasers or long-term ground lessees of individual lots, parcels, or facilities located on or within the Project Site. ~~If Developer decides to transfer the entire Snowcreek VIII Project (a "Transfer") (other than to an affiliate or subsidiary of Developer that is controlled by SIC), then such assignee or transferee shall have significant experience in the real estate industry and sufficient financial capacity to fulfill Developer's obligations under this Agreement. Within a reasonable time period prior to a Transfer, Developer and Town shall meet and confer regarding the proposed transferee or assignee's qualifications, as stated herein. Town shall then have fifteen (15) days after receipt of a notice of a Transfer to submit a written, reasonable objection to the Transfer to Developer if Town believes, in good faith, the transferee/assignee does not have sufficient financial capacity and development expertise to carry out Developer's obligations under this Agreement. If Town timely submits a written objection, then the parties shall meet and confer within five (5) days to try to resolve those objections. If the parties cannot resolve the objections, then the parties will either follow the dispute resolution process established by Section 9.5 of this Agreement or agree to some other more expedited process to resolve the objections.~~Town cannot unreasonably disapprove of the transfer or assignment, provided that transferee has the experience in the real estate industry and financial capacity that is comparable to or better than transferor to fulfill Developer's obligations under this Agreement.

8.1.2 Assumption of Assigned Obligations and Rights. As a condition to any Assignment under this Agreement, any person or entity accepting such Assignment ("Assignee") shall assume all of the obligations and rights of this Agreement as they pertain to the portion of the Property being transferred to the Assignee. An Assignment and Assumption Agreement, attached as Exhibit F shall be signed by the Assignor and the Assignee.

8.1.3 Release of Developer. Upon the effectiveness of any Assignment and Assumption of Developer's obligations by any Assignee, Developer shall be fully relieved and released of each of its duties and obligations with respect to the portion of the Property transferred to the transferee from and after the date of such transfer, except as to those obligations of Developer under this Agreement that affect more than the portion of the Property being transferred.

8.1.4 Successive Assignment. In the event of any Assignment under the provisions of Article 8, the provisions of this Article 8 shall apply to each successive Assignment and Assignee. Developer's obligations under this Agreement with respect to the portion of the Property transferred which are to be assumed by the Assignee shall be set out in substantially the form of the Assignment and Assumption Agreement, at Exhibit G.

8.1.5 Default. If all or any portion of the Project Site is transferred by Developer ("Transferred Property") to any person or entity (a "Transferee") the Transferee shall succeed to all of Developer's Rights under this Agreement regarding the Transferred Property. Thereafter, a default under this Agreement by Developer regarding that portion of the Project Site other than the Transferred Property (the "Remaining Property") shall not be considered or acted upon by Town as a default by the Transferee regarding the Transferred Property and shall not affect the Transferee's Rights regarding the Transferred Property. Likewise, a default by a Transferee relating to the Transferred Property shall not be considered or acted upon by Town as a default by Developer regarding the Remaining Property and shall not affect Developer's Rights regarding the Remaining Property.

8.2 Mortgagee Protection.

8.2.1 Right to Mortgage. Developer or Owner may assign, pledge or otherwise encumber its rights and interests under this Agreement for security purposes to a Mortgagee of any Lot(s) without the consent of the Town. Nothing contained in this Agreement shall restrict Developer from encumbering all or any portion of the Property with a Mortgage, deed of trust or other security device (collectively, "Mortgage"); provided, however, that this Agreement shall be superior and senior to the lien of any Mortgage placed upon the Property or any portion thereof after the Effective Date. Prior to recordation of this Agreement, Developer shall obtain a Subordination Agreement in the form of Exhibit H attached hereto, from the holder of any Mortgage in effect as of the Effective Date subordinating the lien of such Mortgage to this Agreement. Notwithstanding the foregoing, no breach of this Agreement shall default, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions of this Agreement shall be binding upon and effective against any Person, including any deed of trust beneficiary or mortgagee, who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise;

provided, however, that such transferee shall not be liable for defaults or monetary obligations arising prior to its acquisition of title to the Property or portion thereof.

8.2.2 Notice of Default. If the Town receives written notice from a Mortgagee requesting a copy of any notice of default given to Developer and specifying the address for service thereof, then the Town shall deliver to such Mortgagee, concurrently with the delivery to Developer, any notice given to Developer with respect to any claim by the Town Developer is in default hereunder. If the Town makes a determination of noncompliance hereunder, the Town shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service on Developer. Each Mortgagee shall have the right, but not the obligation, during the same period available to Developer hereunder, to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the Town's notice.

ARTICLE 9
DEFAULT; REMEDIES

9.1 Events of Default. Subject to the provisions of Section 11.15 regarding Unavoidable Delays, Section 8.1 regarding assignment and assumption, and Section 8.2 regarding Mortgagee Protection, the failure by any Party to pay any sum or to perform any obligation required under this Agreement, including, but not limited to, the Town's failure to issue Subsequent Permits for the Snowcreek Projects in conformance with this Agreement, and such Party's failure to cure such default within the specified cure period after receipt of a Notice of Default pursuant to Section 9.2 below, shall constitute an "Event of Default" under this Agreement. Failure by Developer to construct or delay in constructing the 2009 Projects or any portion thereof shall not be a default or Event of Default under this Agreement, and Developer shall not be liable to the Town for damages for failure to construct any portion of the Snowcreek Projects, unless such failure or delay constitutes a default under the terms of any Final Map, building permit or similar approval, in which event the Town may exercise any of its normal remedies for default under such permit or approval.

9.2 Notice of Default and Cure. Any Party claiming a default under this Agreement shall deliver to the defaulting Party a written notice of default ("Notice of Default"). The Notice of Default shall specify the reasons for the allegation of default with reasonable particularity and the manner in which the default can be cured. The defaulting Party shall have the right to cure the default within thirty (30) days after receipt of the Notice of Default; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within such thirty-day (30-day) period, the thirty-day (30-day) period shall be extended for the time reasonably required to complete the cure, so long as the defaulting Party commences the cure within the thirty-day period and diligently prosecutes the cure to completion thereafter and such cure is complete within one hundred twenty (120) after the cure is commenced; provided, that if a Party has timely commenced and diligently prosecutes the cure to completion thereafter, then the other party shall reasonably provide one or more extensions up to a total of one hundred twenty (120) days.

9.3 Procedure Upon an Event of Default. After the occurrence of an Event of Default, the other Party may give notice of its intent to terminate this Agreement. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be

scheduled for consideration and review at a public meeting of the Town Council within thirty (30) days after that notice. Following consideration of the evidence presented in the review before the Town, the Party alleging the default by the other Party may institute legal proceedings or may give written notice of termination of this Agreement to the other Party; provided, however, Developer may only terminate this Agreement with respect to such portion of the Property then owned by Developer, and the Town may only terminate this Agreement with respect to the portion of the Property then owned by the defaulting Developer. Evidence of default may also arise in the course of an annual review of this Agreement pursuant to Section 7.2. If Developer is determined by the Town to be in default pursuant to the procedures for annual review, and after giving effect to Developer's right of appeal of such determination to the Town Council as provided in Section 7.2.4, the Town may give a written Notice of Default pursuant to Section 9.2. If the alleged default is not cured within the cure period set forth in Section 9.2 or within such longer period specified in the Town's Notice of Default, or if Developer waives its right to cure such alleged default in writing, then this Agreement may be terminated by the Town with respect to the portion of the Property then owned by the defaulting Developer.

9.4 Remedies for Non-Defaulting Party.

9.4.1 In the event either Party is in default under the terms of this Agreement, subject to any applicable requirements under Section 9.5 of this Agreement, the other Party may elect to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided in this Agreement; (iii) pursue any judicial remedies available under the law; or (iv) terminate this Agreement.

9.4.2 Unless otherwise provided in this Agreement and subject to applicable requirements under Section 9.5 of this Agreement, either Party, in addition to any other rights or remedies, may institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. However, each Party hereby waives any right to sue or recover monetary damages for any default hereunder, other than the recovery of monetary amounts to which such Party is entitled under express provisions of this Agreement. All remedies available to a Party under this section shall be cumulative and not exclusive of the other, and the exercise of one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

9.5 Dispute Resolution; Legal Action.

9.5.1 Mediation. Before pursuing any administrative or judicial remedies to resolve any dispute or claim under this Agreement, the Parties hereto shall attempt in good faith to resolve any such dispute through mediation conducted by a mediator, or a panel of mediators of a size appropriate to the scope of the dispute (but not exceeding three (3) in any event), in accordance with the Commercial Mediation Rules of the American Arbitration Association.

9.5.2 Judicial Reference. If mediation is not required under the provisions of this Agreement or mediation has not resolved the dispute and any Party to this Agreement commences a lawsuit relating to a dispute arising under this Agreement, all the issues in such

action, whether of fact or law, shall be resolved by judicial reference pursuant to the provisions of California Code of Civil Procedure Sections 638.1 and 641 through 645.1. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. Developer shall not be required to participate in the judicial reference proceeding unless it is satisfied that all necessary and appropriate parties will participate.

9.5.2.1 The proceeding shall be brought and held in Mono County, unless Parties agree to an alternative venue.

9.5.2.2 The Parties shall use the procedures adopted by JAMS/ENDISPUTE ("JAMS") for judicial reference and selection of a referee (or any other) entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the Parties).

9.5.2.3 The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters.

9.5.2.4 The Parties to the litigation shall agree upon a single referee who shall have the power to try any and all of the issues raised, whether of fact or of law, which may be pertinent to the matters in dispute, and to issue a statement of decision thereon. Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or if no entity is involved, by the court in accordance with California Code of Civil Procedure Sections 638 and 640.

9.5.2.5 The referee shall be authorized to provide all remedies available in law or equity appropriate under the circumstances of the controversy, other than punitive damages.

9.5.2.6 The referee may require one or more pre-hearing conferences.

9.5.2.7 The Parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

9.5.2.8 A stenographic record of the trial shall be made.

9.5.2.9 The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable.

9.5.2.10 The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

9.5.2.11 The Parties shall promptly and diligently cooperate with each other and the referee and perform such acts, as may be necessary for an expeditious resolution of the dispute.

9.5.2.12 The costs of such proceeding, including the fees of a referee, shall be borne equally by the Parties to the dispute.

9.5.2.13 The statement of decision of the referee upon all of the issues considered by the referee shall be binding upon the Parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the referee shall be appealable as if rendered by the court. This provision shall in no way be construed to limit any valid cause of action which may be brought by any of the Parties. Except for actions for indemnification, the Parties acknowledge and accept that they are waiving their right to a jury trial.

9.6 Extension of Agreement Term. The Term of this Agreement as set forth in Section 2.2 shall automatically be extended for the period of time in which the Parties are engaged in dispute resolution to the degree that such extension of the Term is reasonably required because activities which would have been completed prior to the expiration of the Term are delayed beyond the scheduled expiration of the Term as a direct result of such dispute resolution.

9.7 No Cross-Defaults. The rights and obligations of Developer and any successor Owner are separate from the rights and obligations of all other Developers and Owners and may be assigned separately as provided in Section 8.1 and enforced separately. A default by any one or more Developer or successor Owners under this Agreement shall not constitute a default by any other Developer or successor Owner or result in the termination of this Agreement or the vested development rights provided herein as to any other Developer or successor Owner. Master Developer shall have obligations hereunder only to the extent of its obligations as a Developer and Owner.

ARTICLE 10
AMENDMENTS; TERMINATION

10.1 Amendments. Except as set forth in Section 3.1, this Agreement may be modified, amended and/or extended only by mutual written consent of the Parties and shall be approved in the same manner as adoption of this Agreement, by ordinance as set forth in the Development Agreement Statute.

10.2 Release. ~~Upon~~Following the transfer or conveyance of any residential Lot~~, stacked flat, or condominium unit ownership, to~~ on which is located a ~~residential owner~~Residential Unit for which the Town has issued a final certificate of occupancy, this Agreement shall automatically terminate and cease to be an exception to title with respect to such residential Lot, stacked flat, or condominium unit ownership. Notwithstanding the automatic nature of such termination, within ~~ten (10~~thirty (30) days after receipt of a written request from a developer or the residential owner, the Town shall execute and deliver any recordable documents necessary to evidence such termination. Upon the completion of the obligations set forth in this Agreement related to a residential Lot, stacked flat, or condominium unit ownership, upon the Town's receipt of written request, the Town shall execute and deliver any recordable documents necessary to release such residential Lot, stacked flat, or condominium unit ownership from this Agreement. The foregoing only applies if all conditions

of the Project Approvals and requirements of this Agreement applicable to the subject residential Lot, stacked flat, or condominium unit ownership have been satisfactorily completed by Developer.

10.3 Effect of Expiration/Termination. Upon expiration or termination of this Agreement: (a) no Party shall have any further rights or obligation hereunder except for matters which accrued prior to such expiration or termination and matters which specifically survive expiration or termination under the express terms of this Agreement; and (b) the underlying Project Approvals shall remain in full force and effect.

ARTICLE 11
MISCELLANEOUS

11.1 Attorney's Fees. If any legal action or mediation or arbitration proceeding is brought by any Party because of a breach of this Agreement or to enforce any provision hereof and against the other party, then the prevailing Party shall be entitled to recover from the losing Party its reasonable attorneys' fees and costs. The "prevailing party" shall be that Party receiving substantially the relief sought in the action or proceeding.

11.2 Construction, Interpretation. This Agreement has been reviewed and revised by legal counsel for Developer and the Town, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

11.3 Cooperation; Further Assurances. Each Party: (a) shall deal fairly and in good faith with the other Parties; (b) shall not impede the other Parties' right to receive the benefits of this Agreement; (c) shall cooperate with and provide reasonable assistance to the other Parties in the performance of this Agreement; and (d) shall execute such documents or take such further actions as may be reasonably necessary to consummate the performance or to carry out the purpose and intent of this Agreement.

11.4 Counterparts. This Agreement, and any documents implementing this Agreement, may be executed in multiple counterpart originals, each of which is deemed to be an original and all of which when taken together shall constitute one and the same instrument.

11.5 Entire Agreement. The Recitals set forth above in this Agreement and the Exhibits attached hereto are incorporated by references into this Agreement as an integrated portion hereof. This Agreement, including all such Recitals and Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof, and all prior or contemporaneous agreements and understandings, whether written or oral, are superseded.

11.6 Governing Law/Jurisdiction. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California, and the state courts of Mono County shall have jurisdiction.

11.7 Legal Challenges—Defense and Indemnification.

11.7.1 Cooperation in the Event of Legal Challenge. In the event of ~~Litigation (as defined below in Section 11.7.2),~~litigation , the Parties hereby agree to affirmatively cooperate and join in defending against any and all actions brought by any third party or parties in such ~~Litigation~~litigation; provided, however, that both the Town and Developer shall retain their respective rights to control their own defense of the ~~Litigation~~litigation. Except as provided herein, the Town and Developer shall each bear their own respective costs, if any, arising from such defense of ~~Litigation~~litigation.

~~11.7.2 Defense and Indemnification. Developer shall indemnify and defend the Town, its officials, employees and representatives (the "Town Indemnitees") with respect to any legal action or proceeding, including any involving CEQA (the "Litigation") initiated by a third party against the Town's final approval or final conditional approval of the Project Approvals or this Agreement; provided, however, that if any Town Indemnitee is involved in bringing the Litigation, this indemnification shall not be applicable to him or her personally. Developer's obligation to defend and indemnify, as set forth in this condition, shall expire once the applicable statute of limitations for the discretionary and ministerial approvals associated with the Project Approvals and this Agreement has run.~~

11.7.2 Defense and Indemnification. Developer shall indemnify, defend, and hold harmless Town Parties from and against any third party claims, demands,, actions, lawsuits or proceedings (collectively the "Claims"), and any related losses, liabilities, damages, liens, obligations, interest, injuries, penalties, fines, judgements, awards, costs and expenses, and attorneys' fee awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5 assessed or awarded against the Town, arising as a result of the Town's approval of this Agreement or any entitlements or permits pertaining to the Snowcreek Projects, or challenging the validity, applicability, or interpretation of any provision of this Agreement or any entitlements or permits pertaining to the Snowcreek Projects or arising directly as a result of Developer's (or Developer's contractors, subcontractors, agents, or employees) work performed in connection with the development of the Property or the Snowcreek Projects, including without limitation, Claims involving bodily injury, death or property damage. Upon request by Developer, Town shall enter into a joint defense agreement in a form reasonably acceptable to the Town Attorney and Developer to facilitate the sharing of materials and strategies related to the defense of such Litigation Challenge without waiver of attorney client privilege. Any proposed settlement of a Litigation Challenge by a Party shall be subject to the approval of the other Party, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that Developer may settle litigation without consent of the Town if the settlement does not require any changes to any project approvals or action by the Town.

11.7.3 Joint Defense and Costs. In the event any ~~Litigation~~litigation is filed pertaining to the matters contemplated by Section 11.7.2 above, Developer shall select and retain legal counsel ("Counsel") to represent both the Town and Developer with respect to the ~~Litigation, and Counsel shall cooperate with Developer and the Town in the course of defending the Litigation.~~litigation, and Counsel shall cooperate with Developer and the Town in the course of defending the litigation. Town may, in its sole discretion, elect to be separately represented by the legal counsel of its choice and reasonable costs of such representation shall be paid by Developer. Developer shall reimburse Town, within 45 days following Town's written demand therefor, which may be made from time to time during the course of any litigation, all reasonable

costs incurred by Town in connection with the litigation, including Town's reasonable administrative, legal and court costs, and Town Attorney oversight expenses. Developer anticipates choosing as Counsel to provide the Town's and Developer's legal defense in any ~~Litigation~~litigation the law firm of Allen Matkins Leck Gamble Mallory & Natsis LLP, subject to either party's right to change counsel if Counsel does not provide adequate and timely professional services. Developer shall also pay all filing fees, court costs and similar out-of-pocket expenses required for the Town and Developer to defend the ~~Litigation. However, if the Town Attorney elects to appear (either in person or by his designee) in any Litigation, Developer shall not be responsible for paying any fees, costs, attorneys' fees or expenses resulting from unreasonable actions taken by the Town against the written advice of Counsel.~~litigation. The Town shall cooperate with Counsel's defense of the ~~Litigation~~litigation, and shall make its records (other than documents privileged from disclosure) and personnel available to Counsel as may be reasonably requested by Counsel in connection with the ~~Litigation~~litigation.

~~11.7.4 Legal Conflicts. If a legally recognizable conflict of interest arises, which requires that each Party be represented by separate counsel, Developer shall retain a law firm reasonably acceptable to the Town to represent and defend the Town in Litigation. If another firm is retained, then Developer shall pay the reasonable and actual attorneys' fees and other costs required for the Town to defend the Litigation.~~

~~11.7.5~~11.7.4 Effect on Term. The Term of this Agreement shall be tolled until final court action is taken in any ~~Litigation~~litigation.

11.8 Notices. All notices, demands, correspondence and communications ("Notice") shall be in writing and shall be either personally delivered or sent by certified mail, postage prepaid, return receipt requested, or delivered by a nationally recognized overnight courier service (which provides a delivery receipt), at the addresses set forth below. Any such Notice shall be deemed received on the date of personal delivery or on the date of receipt (or refusal to accept delivery) set forth in the certified mail receipt if sent by U.S. mail or in the receipt provided by the overnight courier service if sent by such service.

Town: Town of Mammoth Lakes
P.O. Box 1609
~~437 Old Mammoth Road, Suite R~~
Mammoth Lakes, CA 93546

Attn: ~~Robert F. Clark~~Rob Patterson, Town Manager

with a copy to: ~~Peter E. Tracy~~Andrew Morris, Town Attorney
P~~-~~.O. Box ~~485~~
~~Bishop,~~ 1609
Mammoth Lakes, CA ~~93515-0485~~

~~Note, if using Fedex or UPS mail to:~~
~~106 South Main St. #200~~
~~Bishop, CA 93514~~ 93546

~~with a copy to:~~ ~~Aleshire & Wynder LLP~~
~~1515 W. 190th Street, Suite 565~~
~~Gardena CA 90248~~

~~Attn: Joseph W. Pannone, Esq.~~

Developer: Snowcreek Hilltop Development ~~Company L.P.,~~ ~~a California~~Co, LLC,
a Delaware limited ~~partnership~~liability company;
Snowcreek Investment Company ~~L.P.,~~ ~~a California~~II, LLC,
a Delaware limited ~~partnership~~

~~P.O. Box 100, PMB #605~~
~~1 Fairway Drive~~
~~Mammoth Lakes, CA 93546~~

~~and~~

~~2716 Ocean Park Boulevard, Suite 1064~~
liability company
11100 Santa Monica Blvd., Suite 775
Los Angeles, CA ~~90405~~

90025

Attn: Charles R. Lande

with a copy to: Allen Matkins Leck Gamble Mallory & Natsis LLP
~~3 Embarcadero Center, 12th Floor~~
~~San Francisco, CA 94111-4047~~

~~Attn: Sonia J. Ransom~~1901 Avenue of the Stars, Suite 1800
Los Angeles, CA 90067

Attn: Spencer B. Kallick, Esq.

11.9 Private Undertaking. It is expressly understood and agreed by the Parties the development contemplated by this Agreement is a private development, no Party is acting as the agent of any other Party in any respect hereunder, and Developer shall have full power and exclusive control over its properties subject only to the limitations and obligations of Developer under the Vested Rules and this Agreement. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making the Town and Developer joint venturers or partners.

11.10 Recordation. The Town shall record a Memorandum of this Agreement with the Mono County Recorder within ten (10) days after the Effective Date, pursuant to Development Agreement Statute Section 65868.5. Thereafter, if this Agreement is terminated, modified or

amended as provided herein, the Town shall record notice of such action with the Mono County Recorder.

11.11 Section Headings. Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

11.12 Severability. If any provision or term of this Agreement, or the application of any provision or term of this Agreement to any particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of the Agreement shall be unaffected and shall remain in full force and effect unless enforcement of the Agreement, with such invalidation, would be unreasonable or inequitable under the circumstances or would frustrate the purposes of the Agreement or the rights and obligations of the Parties there under.

11.13 Successors and Assigns; Covenants Running with the Land. Subject to the provisions of Section 8.1 governing assignment and the provisions for release set forth in Sections 8.1 and 10.2, the rights and obligations of Developer under this Agreement shall be binding upon and inure to the benefit of successor Owners of all or any portion of the Property and shall be covenants running with the land.

11.14 Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns, including the Owners. No other Person shall have any right of action based upon any provision of this Agreement.

11.15 Unavoidable Delays or Events. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities (but only as to delays or performance by Developer), enactment of conflicting state or federal laws or regulations (but only if the Party claiming delay complies at all times with the provisions of this Agreement pertaining to such conflicting laws), market forces beyond the Parties' control that result in the decrease of the median home sales value in the Mammoth area by 10 percent or more over one calendar year, as reported through the Mammoth Lakes MLS data, delays caused by the delay or failure by any entity other than the Party claiming such delay to provide financing for or construction of needed public facilities or infrastructure as contemplated or required by this Agreement, delays due to the enforcement of environmental regulations, litigation against this Agreement or any of the Project Approvals, referendum of this Agreement or any of the Project Approvals or similar bases for excused performance ("Unavoidable Delay" or "Unavoidable Event"). Upon the occurrence of an Unavoidable Event, the time for performance shall be extended, for the duration of the Unavoidable Delay.

11.16 Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of the Party against whom enforcement of the waiver is sought. No waiver of any right or remedy shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement to be effective as of the Effective Date first set forth above.

TOWN:

THE TOWN OF MAMMOTH LAKES,
a municipal corporation

By: _____
~~Robert F. Clark~~Rob Patterson, Town Manager

Date: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
~~Peter Tracy~~Andrew Morris, Town Attorney

Date: _____

[Signature Page to Development Agreement]

DEVELOPER: SNOWCREEK HILLTOP DEVELOPMENT CO, LLC, a Delaware limited liability company

By: LLJ Mammoth Ventures, LLC, its Sole Member

By: Snowcreek Manager, LLC, its Manager

By: _____
Name:
Title:

By: Chadmar Mammoth Venture LLC, its Manager

By: _____
Name: Charles R. Lande, President

SNOWCREEK INVESTMENT COMPANY II, LLC, a Delaware limited liability company

By: LLJ Mammoth Ventures, LLC, its Sole Member

By: Snowcreek Manager, LLC, its Manager

By: _____
Name:
Title:

By: Chadmar Mammoth Venture LLC, its Manager

By: _____
Name: Charles R. Lande, President

State of California)
County of Mono)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
County of Mono)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

State of California)
County of ~~Mono~~Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

[Signature Page to Development Agreement]

DEVELOPER: SNOWCREEK HILLTOP DEVELOPMENT COMPANY L.P., a California limited partnership

By: Chadmar SIC Partners LLC, its general partner

By: Chadmar, Inc., its manager

By: _____
Charles R. Lande, President

_____ SNOWCREEK INVESTMENT COMPANY L.P., a California limited partnership

By: Chadmar SIC Partners LLC, its general partner

By: Chadmar, Inc., its manager

By: _____
Charles R. Lande, President

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

LIST OF EXHIBITS

A-1	Legal Description for Property of Snowcreek VII
A-2	Legal Description for Property of Snowcreek VIII
B	Snowcreek Greater Community Benefits
C	Vested Rules
D	Phasing Plan
E	Schedule of Town Fees effective as of the Date of this Agreement
F	Legal Description for Propane Tank Farm Easement
G	Form of Assignment Agreement
H	Form of Subordination Agreement
I	Town of Mammoth Lakes Review Times
J	Area of Geographic Nexus
K	Legal Description for Mammoth Creek Open Space Corridor

EXHIBIT A-1

LEGAL DESCRIPTION
FOR
SNOWCREEK VII

LOT 4 OF TRACT 36-134 IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 9 PAGES 56-56H OF MAPS, IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE BOUNDARIES OF PARCEL 1 OF PARCEL MAP 36-133 IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4 PAGE 7 AND 7A OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT A-2

LEGAL DESCRIPTION
FOR
SNOWCREEK VIII

PARCEL A:

LOTS 3, 4, 5, 6 AND THOSE CERTAIN STRIPS OF LAND DESIGNATED AS "FAIRWAY DRIVE" AND "MINARET ROAD" AS SHOWN AND DEFINED UPON THE MAP OF TRACT NO. 36-166, IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 10 PAGE 21 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

LOT LINE ADJUSTMENT PARCEL 2 OF LOT LINE ADJUSTMENT 1999-08 PER CERTIFICATE OF COMPLIANCE RECORDED IN BOOK 897 OF OFFICIAL RECORDS AT PAGE 80 IN THE OFFICE OF THE COUNTY RECORDER OF MONO COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF SAID LOT LINE ADJUSTMENT PARCEL 2 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT LINE ADJUSTMENT PARCEL 2 OF LOT LINE ADJUSTMENT 2001-05 PER CERTIFICATE OF COMPLIANCE RECORDED AS INSTRUMENT NUMBER 2001009429 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT LINE ADJUSTMENT PARCEL 2 SOUTH 13°52'08" WEST 518.96 FEET; THENCE CONTINUING ALONG SAID BOUNDARY LINE SOUTH 02°08'52" WEST 594.15 FEET TO AN ANGLE POINT IN SAID BOUNDARY LINE; THENCE LEAVING SAID BOUNDARY LINE NORTH 03°44'15" EAST 447.64 FEET; THENCE NORTH 12°12'51" EAST 167.91 FEET; THENCE NORTH 09°33'27" EAST 493.62 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THAT PORTION OF LOT LINE ADJUSTMENT PARCEL 2 OF SAID LOT LINE ADJUSTMENT 1999-08 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT LINE ADJUSTMENT PARCEL 2 OF SAID LOT LINE ADJUSTMENT 2001-05, SAID POINT BEING THE INTERSECTION OF THE SOUTH BOUNDARY LINE OF SAID LOT LINE ADJUSTMENT PARCEL 2 AND THE EAST LINE OF RANCH ROAD AS OFFERED FOR DEDICATION ON TRACT NO. 36-166 PER MAP RECORDED IN BOOK 10 OF TRACT MAPS AT PAGES 21 THROUGH 21D IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH 68°34'41" EAST 152.00 FEET ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT LINE ADJUSTMENT PARCEL 2; THENCE CONTINUING ALONG SAID BOUNDARY LINE NORTH 29°56'24" EST 342.65 FEET; THENCE CONTINUING ALONG

SAID BOUNDARY LINE NORTH 50°44'12" EAST 22.49 FEET; THENCE LEAVING SAID BOUNDARY LINE SOUTH 13°40'02" WEST 116.14 FEET; THENCE SOUTH 35°44'51" WEST 272.10 FEE; THENCE SOUTH 77°03'19" WEST 147.27 FEET TO THE POINT OF BEGINNING.

SAID LAND IS SHOWN AS LOT LINE ADJUSTMENT PARCEL 2 OF LINE ADJUSTMENT 2003-06 AS PER CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 22, 2003 AS INSTRUMENT NO. 2003011728 OF OFFICIAL RECORDS.

PARCEL C:

TRACTS 46 & 47, SECTION 2, TOWNSHIP 4 SOUTH, RANGE 27 EAST, M.D.M., IN THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXHIBIT B

SNOWCREEK GREATER COMMUNITY BENEFITS

The Town acknowledges a number of project features in both Snowcreek Projects as conditioned and approved by Town Council go beyond what may legally be imposed on development projects through an entitlement process. Those greater community benefits include but are not limited to:

1. The Additional Financial Contribution.

2. Fiscal benefits that will accrue to the Town and community through the implementation of the Project as intended that would not occur without this Agreement, including transient occupancy taxes.

3. 8.9 acres of park area provided in excess of that required in conjunction with the buildout of Snowcreek VIII.

4. Preservation of Mammoth Creek open space corridor.

5. Championship 18-hole golf course will be designed by a top course architect.

6. Practice facility to be designed by a top course architect.

7. Secondary access for both Snowcreek V and VIII and the Emergency Vehicle Access Road connecting the Snowcreek VIII Project to Sherwin Creek Road is in addition to Mammoth Lakes Fire Protection District ("MLFPD") requirements.

8. Allowing egress of backcountry skiers, snowboarders, snowshoers from the Sherwin Range immediately upon approval of the Project prior to its construction and completion.

9. Programming of public spaces, including but not limited to the Great Lawn and Outfitters' Cabin, to increase visitation to the project and Town.

10. Establishment of public access across certain points of the project to allow public egress to surrounding public lands prior to Project construction and after completion and which would also provide access to an enhanced network of publicly accessible multi-use paths that is connected to the Town's trail system.

11. If needed by the Town, the Developer will provide the property described on Exhibit F attached hereto and incorporated herein by this reference for propane storage tanks.

EXHIBIT C

VESTED RULES

[As of the Effective Date]

Project Approvals. "Project Approvals" means: (a) the existing Town permits, approvals and entitlements for the Projects set forth below and in Section 3.2; plus (b) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 5.1.1) which are subsequently issued by the Town and approved by Developer, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules.

Snowcreek VII. The existing Project Approvals approved by the Town for the Snowcreek VII Project, are the following:

Master Plan at Mammoth, approved by the County of Mammoth Lakes in 1981.

Final Tract Map 36-~~236~~236A for Phase 1 recorded 7/10/07, Book 10, Page 105.

Final Tract Map 36-236B for Phase 2 recorded 10/9/2019, Book 11, Page 15.

Final Tract Map 36-236C for Phase 3 recorded 4/8/2021, Book 12, Page 17.

Tentative Tract Map 36-236 for Phases 2 and 3 as modified by Resolution PC2009-01 and as further modified by this Agreement with respect to Special Planning Condition of Approval No. 11 in Resolution 2006-15, which shall read as originally approved (new italicized language is hereby deleted).

Use Permit 2005-11 approved by Resolution 2006-15, dated 5/24/06, as modified by Resolution PC 2009-01.

Grading Permits: Restricted Permit 2006-15 dated 4/24/07, Full Phase I Permit 2006-15 dated (in error) 4/24/07 (signed May 3, 2007); Amendment 01 to Grading Permit 2006-15 allowing dirt stockpiling on Snowcreek VIII property, dated 8/2/07.

~~f. Building Permits for Bldg 11, permit #181551 and 12, permit #181552, issued on 6/13/07, Bldg. 10, permit #183968, issued on 7/26/07; Bldg. 9, permit # 183970, issued on 8/29/07; and Bldg. 8, permit #183967, issued on 9/28/07.~~

Building Permits for Building 1-39.

Encroachment Permit 2006-10 dated 9/21/06 for sewer line and water line work.

Improvement Permit 2006-20 dated 6/18/06 for water line work.

Permit 2007-164041 dated 4/28/08 allowing Rec Building Remodel.

~~j.~~ Certificates of Occupancy for ~~the following buildings and addresses:~~

Building ~~10~~

~~1501~~
~~1503~~
~~1505~~
~~Clear Creek Road~~1 – 39.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for Snowcreek VII are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

Snowcreek VIII. The existing Project Approvals approved by the Town for the Snowcreek VIII Project, are the following:

General Plan Amendment to the Urban Growth Boundary.

Zone Code Amendment to effectuate the Snowcreek VIII Master Plan Update 2007, approved on August 5, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

Snowcreek VIII Master Plan Update 2007, approved on July 8, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.

Conditional Use Permit # 88-19 approved 4/12/1989 for the current 9-hole golf course existing on the Snowcreek VIII Property.

Tentative Tract Map 09-002 to allow parcelization of approximately 222 acres within the Snowcreek Master Plan Update Area approved by Resolution on December 9, 2009, and recorded on January 14, 2010.

~~Building 11~~
~~1300~~
~~1302~~
~~1304~~
~~Timber Creek Place~~

~~Building 12~~
~~1310~~
~~1312~~
~~1314~~
~~1316~~
~~Timber Creek Court~~

~~The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for Snowcreek VII are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.~~

~~2.1.1.1 Snowcreek VIII. The existing Project Approvals approved by the Town for the Snowcreek VIII Project, are the following:~~

~~a.1.1.1.1 General Plan Amendment to the Urban Growth Boundary.~~

~~b.1.1.1.1 Zone Code Amendment to effectuate the Snowcreek VIII Master Plan Update 2007, approved on August 5, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.~~

~~c.1.1.1.1 Snowcreek VIII Master Plan Update 2007, approved on July 8, 2009 ("Snowcreek Master Plan Update 2007"). Permitted uses for the Snowcreek VIII portion of the Snowcreek Projects are set forth in the Snowcreek Master Plan Update 2007.~~

~~d.1.1.1.1 Conditional Use Permit # 88-19 approved 4/12/1989 for the current 9-hole golf course existing on the Snowcreek VIII Property.~~

~~e.1.1.1.1 Tentative Tract Map 09-002 to allow parcelization of approximately 222 acres within the Snowcreek Master Plan Update Area approved by Resolution on December 9, 2009, and recorded on January 14, 2010.~~

Final Tract Map 09-002 for the parcelization of the approximately 222 acres within the Snowcreek Master Plan Update Area, recorded 8/31/2023, Book 12, Page 22A.

CDDD 2009-25 for AP 09-004 dated 1/12/10 approving the temporary restaurant at the Golf Course and extending the use permit on the existing temporary clubhouse.

Resolution No. PEDC 2024-11 for Tentative Tract Map 23-002 and Use Permit 23-003 approving the Phase I subdivision for Snowcreek VIII, dated 9/11/2024.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Snowcreek Projects are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

EXHIBIT D

PHASING PLAN

Figure 5.7 of Master Plan Update

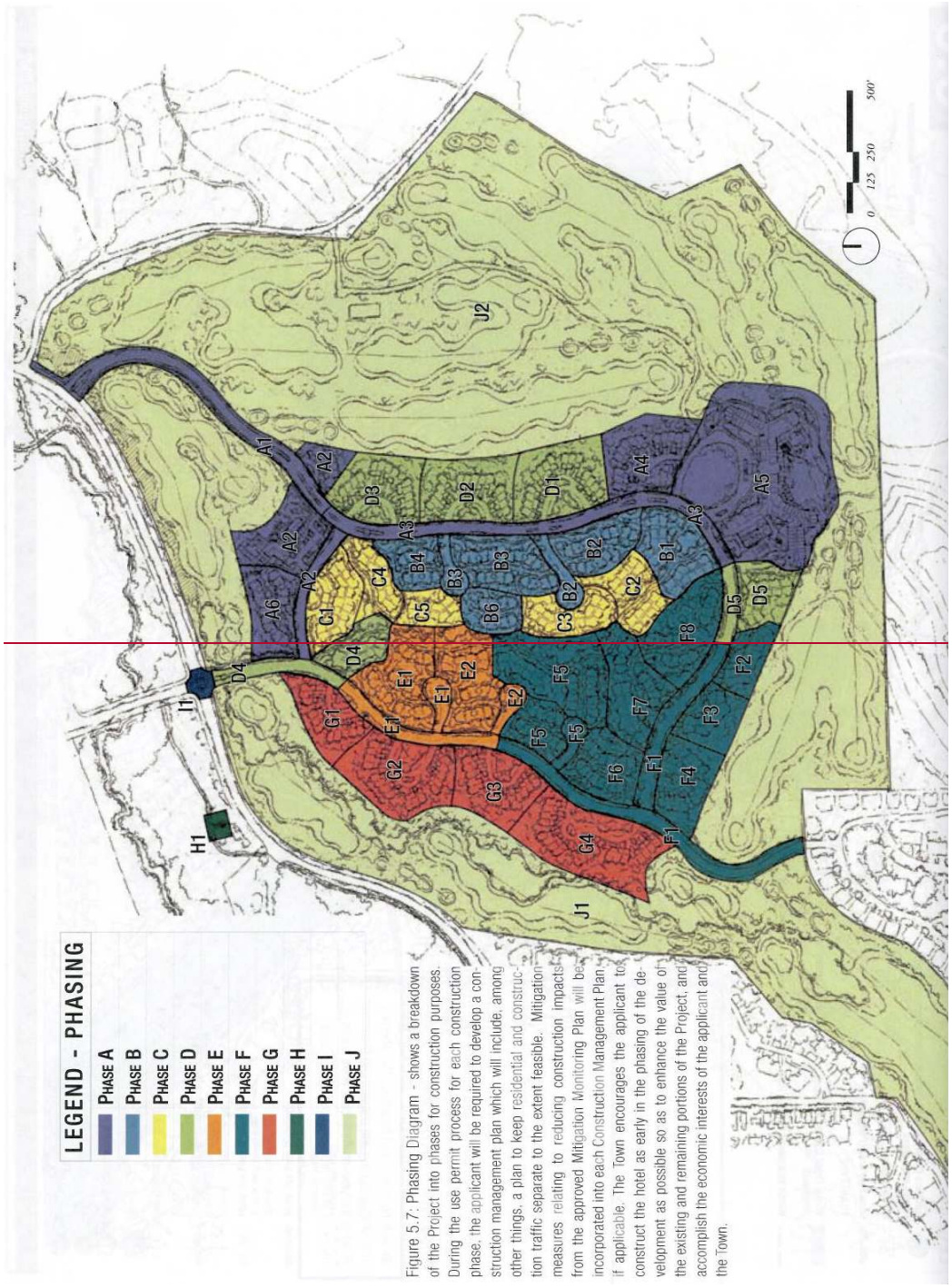


Figure 5.7: Phasing Diagram - shows a breakdown of the Project into phases for construction purposes. During the use permit process for each construction phase, the applicant will be required to develop a construction management plan which will include, among other things, a plan to keep residential and construction traffic separate to the extent feasible. Mitigation measures relating to reducing construction impacts from the approved Mitigation Monitoring Plan will be incorporated into each Construction Management Plan if applicable. The Town encourages the applicant to construct the hotel as early in the phasing of the development as possible so as to enhance the value of the existing and remaining portions of the Project, and accomplish the economic interests of the applicant and the Town.

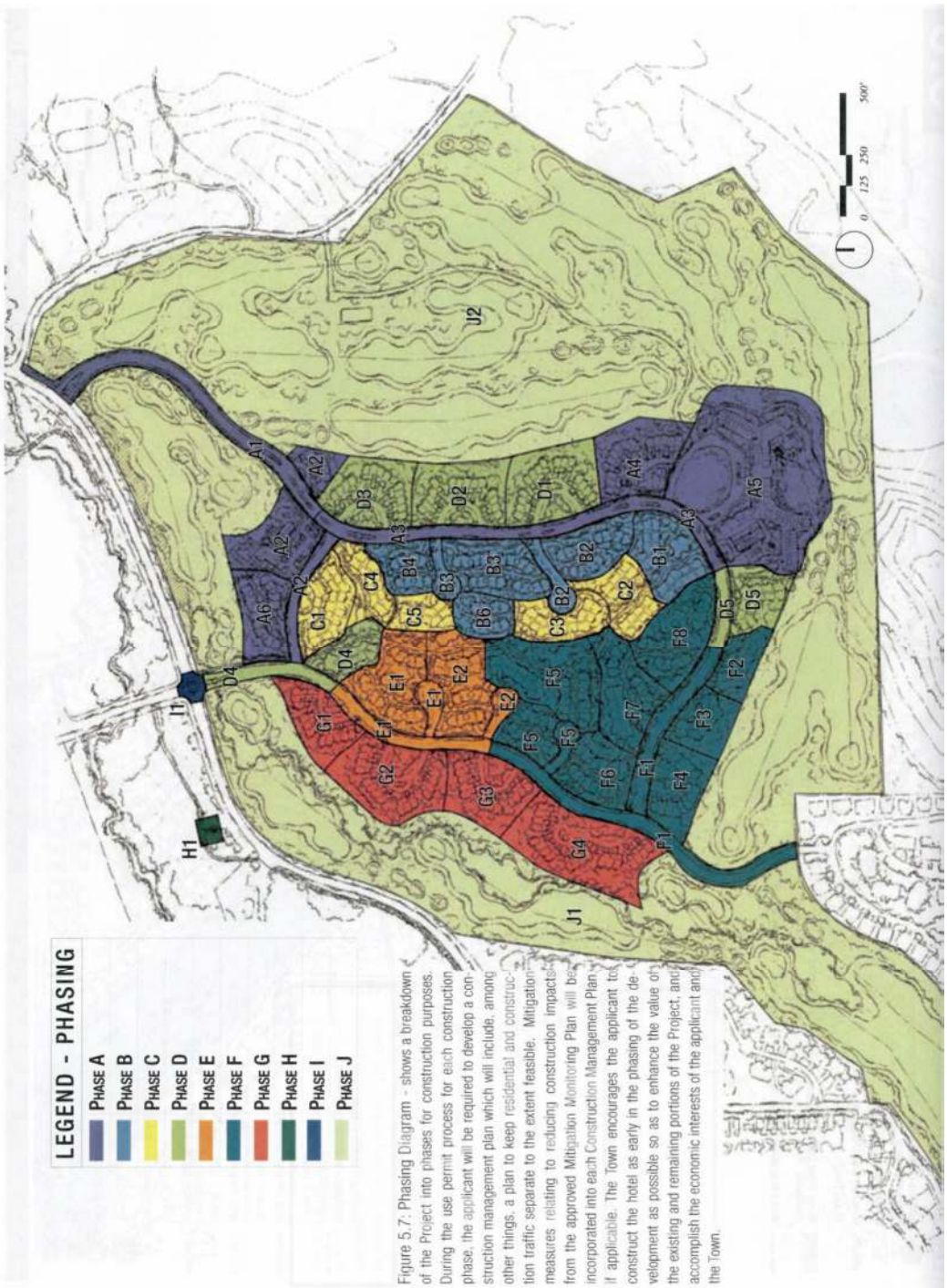


Figure 5.7: Phasing Diagram - shows a breakdown of the Project into phases for construction purposes. During the use permit process for each construction phase, the applicant will be required to develop a construction management plan which will include, among other things, a plan to keep residential and construction traffic separate to the extent feasible. Mitigation measures relating to reducing construction impacts from the approved Mitigation Monitoring Plan will be incorporated into each Construction Management Plan if applicable. The Town encourages the applicant to construct the hotel as early in the phasing of the development as possible so as to enhance the value of the existing and remaining portions of the Project, and accomplish the economic interests of the applicant and the Town.

EXHIBIT E

SCHEDULE OF ~~TOWN~~PLANNING FEES ~~effective as of~~ in effect on the Effective Date of this Agreement

TOWN OF MAMMOTH LAKES

Community Development Department

2009 - 2010 Fee Schedule

Service Title	Fee Amount
Administrative Design Review	$743
Administrative Permit Land Use	$1,348
Advisory Design Panel	$2,787
Appeal PC Decision to TC or Planning Division	$2,072
Appeal Staff Decision to Planning Commission	$2,599
Categorical Exemption	$369
Certificate of Compliance	Cost Accounted $500 Deposit
Concept Review Application	Cost Accounted $6,000 Deposit
Continuance Request	$419
Design Review - Major	$7,033
Design Review - Minor	$2,695
Environmental Impact Report / Review	Cost Accounted $10,000 Deposit
Film Permit	$807
~~General Plan Amendment~~	~~Cost Accounted $10,000 Deposit~~
Lot Line Adjustment	$1,965
Negative Declaration / Initial Study	Cost Accounted $10,000 Deposit
New Construction Fee (collected at final map)	$550 Per Unit
New Development Fee (collected at building permit)	.36 sf / Habitable Space
Outside Sales Permit - Administrative Permit	$702
Planning Services Review / Investigation	Cost Accounted $500 Deposit
Sign Permit - Master Plan	$2,133
Sign Permit - Master Plan Review	$1,017
Sign Permit - PC or TC Approval	$2,913
Sign Permit Staff Approval	$341
Tentative Parcel Map	$6,243
Tentative Tract Map	Cost Accounted $6,000 Deposit
Time Extension Request for Entitlement	$1,061
Tree Removal Permit	$10
Use Permit	Cost Accounted $2,500 Deposit
Variance Fee	$7,197

Page 1 of 2

Service Title	Fee Amount
Zone Code Adjustment (ADJ)	$2,630
Zone Code Amendment - (ZCA)	Cost Accounted $6,000 Deposit
Zoning Amendment -(DZA) District, Specific, Master Plans	Cost Accounted $6,000 Deposit

COMMUNITY & ECONOMIC DEVELOPMENT FEE SCHEDULE FY 24-25

Permit/Service Title	Fee[1]
Adjustment (ADJ)	$1,058
Administrative Permit (AP)	$651
Administrative Permit - Mobile Business (AP)	$476
Administrative Permit - Temporary Outdoor Display and Sales (AP)	$98
Administrative Permit - Permanent Outdoor Display (AP)	$150
Administrative Permit - Two-Unit Project	$1,096
Advisory Design Panel (ADP)	Per Advisory Design Panel Rates
Appeal Planning & Economic Development Commission Decision to Town Council	$1,942
Appeal Staff Decision to Planning & Economic Development Commission	$2,310
Certificate of Compliance (COC)	Cost Accounted, $500 Deposit
CEQA - Environmental Impact Report (EIR)	Per Consultant's Cost
CEQA - Negative Declaration / Initial Study (ND / IS)	Per Consultant's Cost or Cost Accounted, $10,000 Deposit
Concept Review (CR)	Cost Accounted, $2,500 Deposit
Design Review - Administrative (New Single Family) (ADR)	$1,071
Design Review - Administrative (Not New Single Family)	$582
Design Review - (Repaint Only) (ADR)	$222
Design Review - Major (DR)	Cost Accounted, $2,500 Deposit
Design Review - Minor (DR)	$1,407
Development Agreement (DA)	Cost Accounted, $10,000 Deposit
District Zoning Amendment - Map Amendment (DZA)	Cost Accounted, $6,000 Deposit
Film Permit (FP)	$50
General Plan Amendment (GPA)	Cost Accounted, $10,000 Deposit
Landscape Document Package (LDP)	$152
Lot Line Adjustment (LLA)	$1,096
New Construction Fee (Collected at Building Permit)	$.20 sq. ft. of Habitable Space
Planning Services Review / Investigation (PSR)	Cost Accounted, $500 Deposit
Sign Permit - Master Sign Program (New) (SP)	Cost Accounted, $1,000 Deposit
Sign Permit - Master Sign Program (Amendment) (SP)	Cost Accounted, $1,000 Deposit
Sign Permit - Permanent Sign (SP)	$334
Sign Permit - Temporary Sign (SP)[2]	$77
Tentative Parcel Map (Includes TPM amendments) (TPM)	Cost Accounted, $6,000 Deposit
Tentative Tract Map (Includes TTM amendments) (TTM)	Cost Accounted, $6,000 Deposit
Parcel Map - Urban Lot Split	$1,096
Time Extension Request - Major (TER)	$1,053
Time Extension Request - Minor (TER)	$200
Tree Removal Permit (TRP)	$10
Tree Management Plan (TRP)	$100
Use Permit Application (Includes UPA amendments) (UPA)	Cost Accounted, $2,500 Deposit
Variance (VAR)	Cost Accounted, $6,000 Deposit
Zone Code Amendment - Text Amendment (ZCA)	Cost Accounted, $6,000 Deposit

[1] Flat fees are applicable when a project does not have a cost accounted component. If any portion of a project is cost accounted, the entire project is billed as a cost accounted project. Only the largest deposit is required for a project with multiple cost accounted

[2] No fees are required for community event signs per Municipal Code §17.48.090.N.2.a.

EXHIBIT F

LEGAL DESCRIPTION
FOR
PROPANE TANK FARM EASEMENT

That Portion of Tract 47 of Section 2, Township 4 South, Range 27 East, Mount Diablo Base and Meridian, in the Town of Mammoth Lakes, Mono County, State of California, according to the official government plat thereof, described as follows:

> Beginning at that bronze capped monument marking Angle Point 16 of said Tract 47 as set per the Bureau of Land Management dependent resurvey of Tracts 45, 46 and the survey of Tract 47 completed on November 20, 2003; thence along the easterly boundary of said Tract 47 N47º56'38"W 117.00 feet; thence S42º03'22"W 100.00 feet; thence S47º56'38"E 148.94 feet more or less to a point on the easterly boundary of said Tract 47; thence along said boundary N34º42'09"E 14.85 feet to a bronze capped monument marking Angle Point 15 per said survey; thence continuing along said easterly boundary N22º39'06"E 90.41 feet to the point of beginning.

Containing approximately 12,330 square feet, or .283 acres, more or less

EXHIBIT G

ASSIGNMENT AGREEMENT [FORM]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

_____
_____
_____
_____

Attention: _____

(Space Above For Recorder's Use)

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT ("Assignment"), effective as of _____, ~~200_,~~20__, ("Effective Date"), is executed by _____ ("Assignor"), and _____ ("Assignee"), with reference to the following:

R E C I T A L S :

A. Assignor is a "Developer" or "Owner" under the terms of the Development Agreement by and among The Town of Mammoth Lakes ("Town") and ~~SNOWCREEK HILLTOP DEVELOPMENT COMPANY L.P.~~SNOWCREEK HILLTOP DEVELOPMENT CO, LLC, a ~~California~~Delaware limited ~~partnership;~~liability company ("SHDC LLC") and SNOWCREEK INVESTMENT COMPANY ~~L.P.,~~II, LLC, a ~~California~~Delaware limited ~~partnership,~~liability company ("SIC II"), effective on _____, 20__ and recorded in the Official Records of Mono County, California, on _____, 20__ as File No. _____.

B. Pursuant to Section 8.1 of the Development Agreement, a Developer or an Owner of property subject to the Development Agreement, has the ~~right~~ability to assign or transfer ("assign") its development rights, duties and obligations under the Development Agreement, with respect to the property conveyed, to the new owner, who shall assume such obligations pursuant to a written assignment agreement and approval by the Town, which approval shall not be unreasonably withheld.

C. Assignor will convey to Assignee, concurrently with the Effective Date of this Assignment, a portion of the real property covered by the Development Agreement, which portion is legally described as:

[insert legal description of property being conveyed]

("Conveyed Property").

D. This Assignment is intended to implement Section 8.1 of the Development Agreement and to evidence the assignment of the rights, duties and obligations of Assignor under the Development Agreement related to the Conveyed Property to Assignee.

E. Pursuant to section 8.1 of the Development Agreement, the Assignor ~~did not require~~obtained approval of the Town for this Assignment to be effective or such approval was granted and is attached hereto as Exhibit 1.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants set forth herein, Assignee and Assignor agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee all of the rights, duties and obligations of Assignor as "Developer" or "Owner" under the Development Agreement, with respect to the Conveyed Property. Assignee hereby accepts such assignment and assumes all of the rights, duties and obligations of the Assignor as "Developer" or "Owner" under the Development Agreement with respect to the Conveyed Property.

2. Release. As of the Effective Date, the Assignor will be released from any duties and obligations assigned pursuant to Section 1 arising on or after the Effective Date.

3. Effective Date. This Assignment shall be effective upon the date of recordation of a grant deed conveying the Conveyed Property from Assignor to Assignee.

4. Notices. Within thirty (30) days after the Effective Date, Assignor shall deliver a copy of this fully executed Assignment to the Town. Notices to the Assignee pursuant to the Development Agreement shall be directed to:

_____

_____

_____

_____

_____

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the Effective Date first set forth above.

"ASSIGNOR"

_____

,
a _____

By: _____
Title: _____

By: _____
Title: _____

"ASSIGNEE"

_____

,
a _____

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT H

FORM OF SUBORDINATION AGREEMENT

CONSENT OF LIEN HOLDER AND SUBORDINATION AGREEMENT [FORM]

Tax Assessor's Parcel No. _____

Owner: _____

The undersigned is the beneficiary under that certain deed of trust ("Deed of Trust") recorded on _____, 20___ as File No. _____ of the Official Records of Mono County, California, which affects the real property identified above. Such real property is a portion of the property subject to the Development Agreement by and among The Town of Mammoth Lakes and Snowcreek Hilltop Development ~~COMPANY L.P.~~Co, LLC, a ~~California~~Delaware limited ~~partnership; SNOWCREEK INVESTMENT COMPANY L.P.,~~liability company and Snowcreek Investment Company II, LLC, a ~~California~~Delaware limited ~~partnership~~liability company, recorded in the Official Records of Mono County on _____, 20___ as File No. _____ ("Development Agreement").

The undersigned hereby acknowledges and agrees that the lien of the Deed of Trust shall be junior and subordinate and subject to the Development Agreement.

DATED: _____, 20___.

_____

_____

By:_____

Title:_____

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

EXHIBIT I

TOWN OF MAMMOTH LAKES REVIEW TIMES

A. Planning Division

1. Completeness Review: 30 calendar days
2. Administrative Permit: 40 working days
3. Use Permit: 50 working days + CEQA
4. Tentative Map: 80 working days (4 months)
5. Lot Line Adjustment: 30 working days
6. Sign Permit: 15 working days
7. Zoning Code/Master Plan Amendment: 100 working days + CEQA

B. CEQA

1. Categorical Exemption: 5 working days
2. Negative Declaration: 30 working days
3. EIR: 180 working days

C. Engineering Division

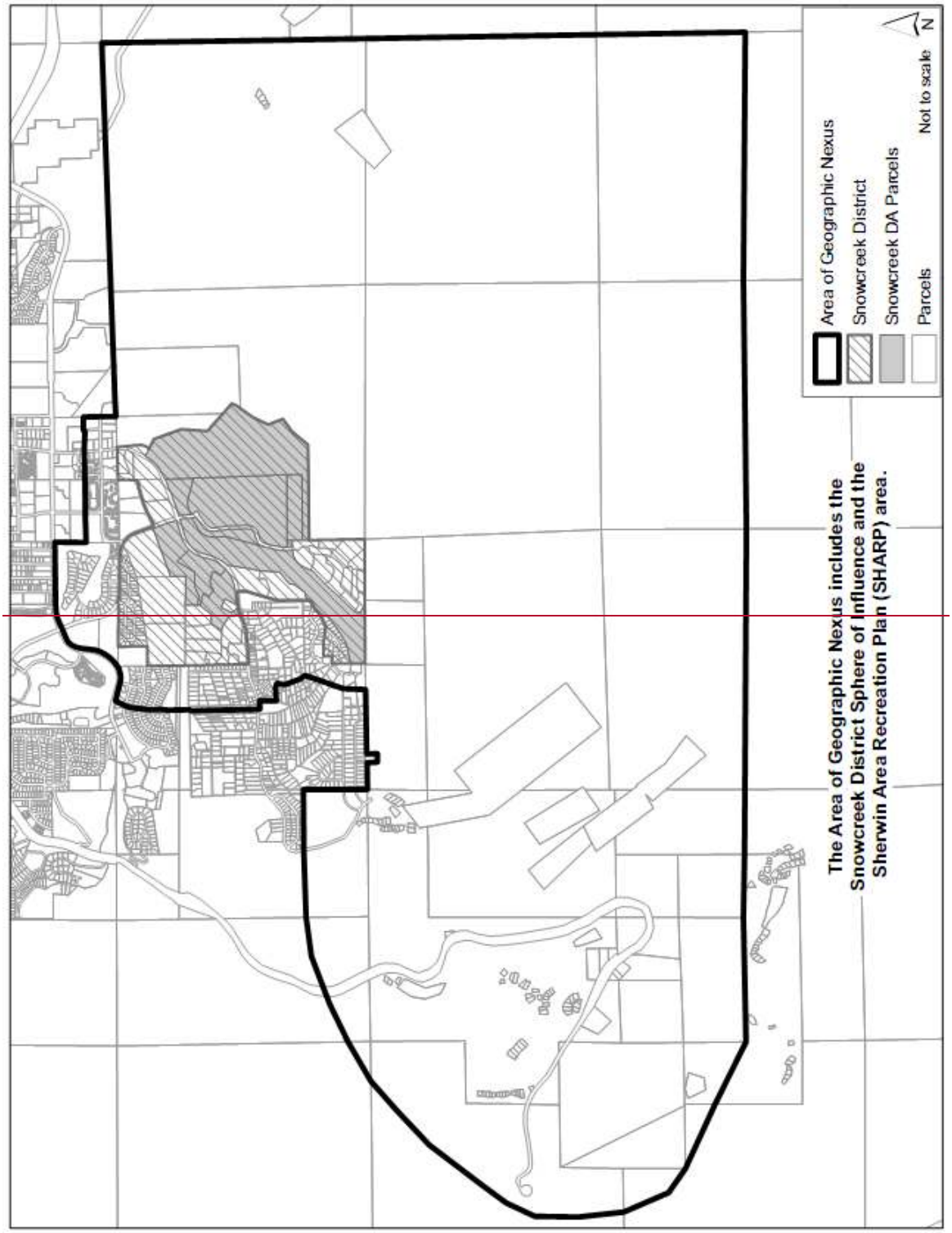
1. Development Review: 20 working days
2. Grading/Improvement Plan Review
   i. 1st Submittal: 20 working days
   ii. 2nd Submittal: 10 working days
   iii. 3rd Submittal: 5 working days

D. Building Division

1. Plan Check
   i. 1st Submittal: 20 total working days
   ii. 2nd Submittal: 10 total working days
2. Inspection: within 24 hours of request (providing all information is given by 7am cut-off time)

EXHIBIT J

AREA OF GEOGRAPHIC NEXUS



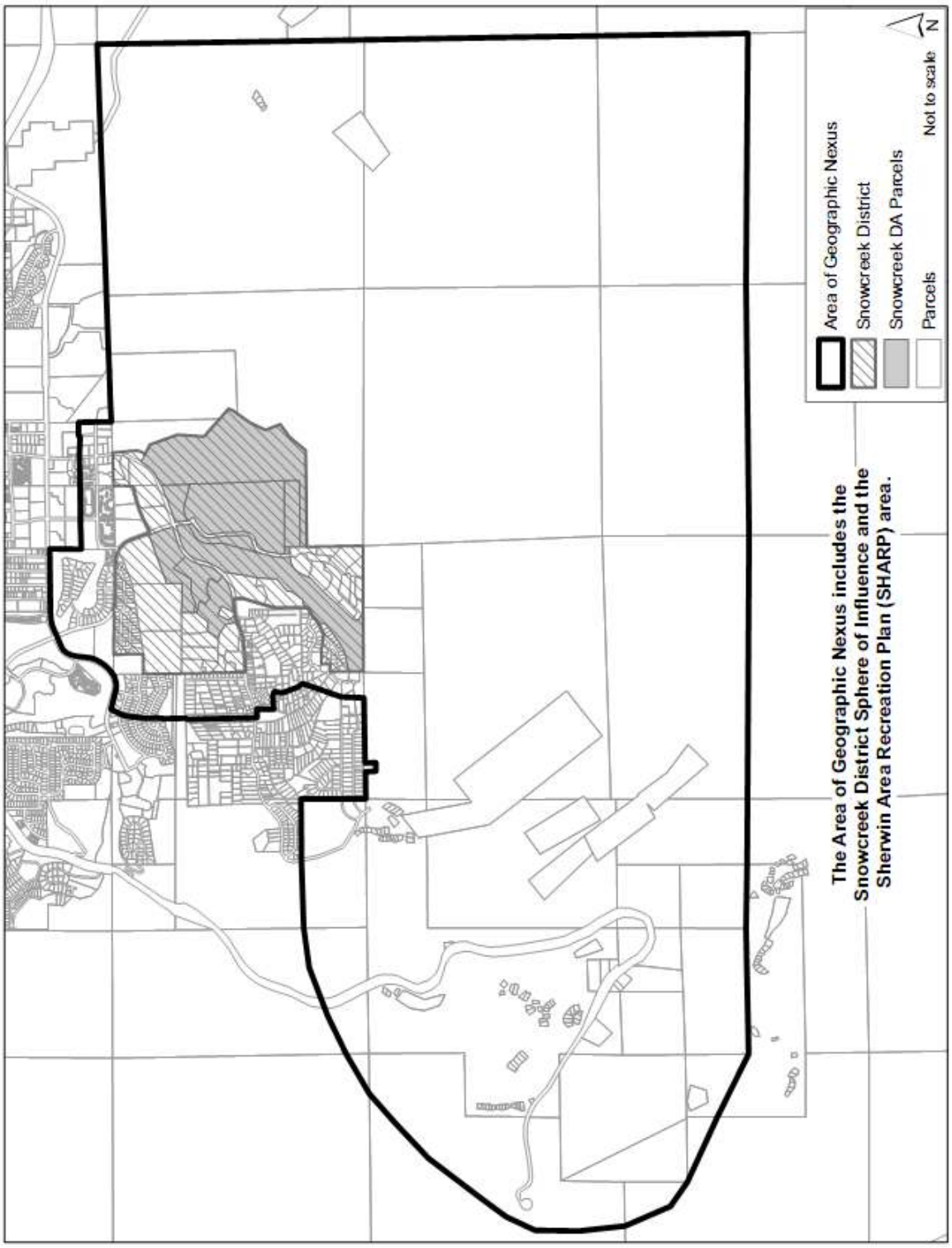

Area of Geographic Nexus
Snowcreek District
Snowcreek DA Parcels
Parcels
Not to scale
N
The Area of Geographic Nexus includes the Snowcreek District Sphere of Influence and the Sherwin Area Recreation Plan (SHARP) area.

EXHIBIT K

LEGAL DESCRIPTION FOR MAMMOTH CREEK OPEN SPACE CORRIDOR

Lot 2 of Tract No. 36-236A in the Town on Mammoth Lakes, Mono County, State of California per map recorded in Book 10 of Tract Maps at Page 105 through 105F on file in the office of the County Recorder of said County.

KEYSER MARSTON ASSOCIATES

MEMORANDUM

ADVISORS IN:
Real Estate
Affordable Housing
Economic Development

BERKELEY
Debbie M. Kern
David Doezema

LOS ANGELES
Kathleen H. Head
Kevin E. Engstrom
Julie L. Romey
Tim R. Bretz

SAN DIEGO
Paul C. Marra
Linnie A. Gavino

EMERITUS
A. Jerry Keyser
Timothy C. Kelly

To: Nolan Bobroff, Community & Economic Development Director
Town of Mammoth Lakes

From: Kathleen Head

Date: July 10, 2024

Subject: Snowcreek VIII Development: Community Benefits Analysis

At your request, Keyser Marston Associates, Inc. (KMA) evaluated the community benefits that could potentially be generated by the proposed construction of the Snowcreek VIII development scope. The development is subject to the requirements imposed by the following documents:

1. The Snowcreek Master Plan, which was originally approved by Mono County in 1974, updated in 1981 and then updated again in 2009 (2009 Master Plan); and

2. The 2010 Snowcreek Development Agreement (SDA).

EXECUTIVE SUMMARY

The results of the following analysis that guided KMA's conclusions are:

1. The value of the community benefit package is estimated at $51 million.

2. The Developer's agreement to allow public access through the project to reach adjacent public open space, and the potential creation of recreational amenities provide intrinsic value to the Town of Mammoth Lakes (Town).

It Is KMA conclusion that the receipt of the community benefits package is sufficient to justify approving the SDA amendments being proposed by the Developer.

In addition to the community benefits package, KMA estimates that the project will provide the Town with approximately $6.25 million in annual transient occupancy tax (TOT) and property tax revenues, measured in 2024 dollars:

Estimated Annual TOT and Property Tax Revenues	
TOT Revenue	$5,777,000
Property Tax Revenue	477,000
Total	$6,254,000

BACKGROUND STATEMENT

The 2009 Master Plan provides development rights for the "Snowcreek VIII" development. The Town subsequently adopted the SDA in 2010. The SDA codifies the rights embodied in the 2009 Master Plan for a period of 20 years, through 2030.

The Snowcreek VII development was recently completed, and the Snowcreek Investment Company II, LLC (Developer) anticipates that Snowcreek VIII construction will commence within the next 12 months. At this time, the Developer is requesting that the Town approve the following amendments to the SDA:

1. The SDA would be extended for an additional 20 years through 2050; and

2. The existing provision that shortens the SDA terms based on delays in the construction of the golf course and hotel would be removed.

It is important to consider that the scope of development being proposed by the Developer complies with the 2009 Master Plan. The SDA serves the following functions:

1. The Developer is provided with certainty that the approved entitlements cannot be modified by Town actions as long as the SDA remains in force; and

2. It provides the Town with the previously agreed upon community benefits package and it will potentially provide additional benefits being requested by the Town.

COMMUNITY BENEFITS PACKAGE

SDA Community Benefits

The community benefits identified in the SDA, and remaining to be provided by the Developer, can be described as follows:

1. An "Additional Financial Contribution" must be provided to the Town.
2. A championship 18-hole golf course, and golf practice facility.
3. Secondary access for Snowcreek V and Snowcreek VIII, and emergency vehicle access to Sherwin Creek Road must be provided.
4. Access through the Snowcreek VIII project must be allowed for the general public to access to the adjacent public lands.
5. Public spaces must be programmed.

Additional Community Benefits Proposed by the Town

The Town staff is proposing to add the following requirements related to the use of the existing nine-hole golf course area in the event the 18-hole golf course is not developed:

1. The Developer must continue to operate the existing nine-hole golf course, which occupies approximately 61 acres of land, over the life of the extended SDA term;
2. The approximately 61 acres of land area must permanently be maintained as open space with the allowed land uses limited to recreation, open space, and appropriate ancillary uses; and
3. An option for additional summer and winter recreational amenities to be provided on an interim basis in the approximately 94-acre area that is earmarked for the proposed golf course expansion.

General Fund Revenue Production

The Town will receive General Fund revenues from the scope of development allowed by the 2009 Master Plan. The revenues estimated by KMA in this analysis are:

1. The TOT revenue generated ty the proposed 250 room resort hotel;

2. The TOT revenue generated by short-term rental of units in the residential component of the project; and

3. The property tax generated by the proposed development.

KMA does not have sufficient information to estimate the General Fund revenues that will potentially be generated by the following proposed uses:

1. The 150-unit private residence club; and

2. The championship 18-hole golf course, and golf practice facility.

ANALYSIS

One-Time Monetary Benefits

KMA estimates that amending the SDA will generate the following one-time community benefits:

1. Based on information provided by the Town staff, the Additional Financial Contribution is estimated at up to $10 million.

2. KMA estimates that the creation of 61 acres of open space has a current value of nearly $40 million. This estimate is based on the recent land sales data that KMA compiled and that is presented in Table 1.

General Fund Revenues

TOT Revenues

The KMA TOT revenue estimates are provided in Tables 2A and 2B. The fundamental assumptions are:

1. The TOT revenue estimates are presented in 2024 dollars, and they are based on the project's performance at stabilized occupancy levels.

2. The TOT rate is set at 13% of room sale revenues.

3. The average daily rates are estimated as follows:

    a. $210 for the hotel component; and

    b. $431 for the short-term rental component.

4. The overall average occupancy rates are estimated as follows:

    a. The overall average occupancy rate for the hotel component is set at 62%.

    b. The overall average occupancy rate for the short-term rental component is estimated based on the following assumptions:

        i. 601 of the 790 proposed residential units are estimated to be available for vacation rentals.

        ii. Approximately 274 days per year will be available for use by short-term renters. The remaining 91 days are assumed to be used by the homeowners.

        iii. The average occupancy rate for the available short-term renter days is estimated at 46%.

Based on the preceding assumptions the annual TOT revenues at stabilized occupancy are estimated as follows:

Estimated Annual TOT Revenue - Stabilized Occupancy	
Hotel Component	$1,542,100
Short-Term Rental Component	4,234,900
Total	$5,777,000

Property Tax Revenues

KMA estimated the annual property tax revenues for the residential and hotel components of the proposed project based on the following assumptions.

1. The property tax estimates are presented in 2024 dollars.

2. The Town receives 4% of the 1% property tax levy.

3. Based on home sales information presented in Table 3, the average home value is estimated at $1.28 million.

4. Based on KMA's recent experience with hotel development, the value of the 250 room hotel is estimated at $725,000 per room.

The resulting annual property tax revenues are estimated as follows:

Estimated Annual Property Tax Revenue			
	Number of Homes/Rooms	Value Per Home/Room	Total Value
Residential Component	790	$1,280,000	$1,011,200,000
Hotel Component	250	$725,000	181,250,000
Total Value			$1,192,450,000
Property Tax Levy			1%
Total Annual Property Tax Revenue			$11,924,500
City Share			4%
City Share of Annual Property Tax Revenue			$477,000

Additional Benefits

In addition to the community benefits discussed in this section of the analysis, approving the proposed amendment to the SDA will provide the Town with a number of intrinsic benefits for which KMA cannot quantify the values. These community benefits are:

1. Secondary access for Snowcreek V and Snowcreek VIII, and emergency vehicle access to Sherwin Creek Road.

2. The provision of access to the public through the project to reach the adjacent public lands.

3. The potential for summer and winter recreational amenities to be provided on an interim basis in the approximately 94-acre golf course expansion area.

FINDINGS

A fundamental consideration in the decision making process is that the proposed scope of development complies with the 2009 Master Plan. Amending the SDA achieves the following functions:

1. The Developer is provided with certainty that the approved entitlements cannot be modified by Town actions as long as the SDA remains in force; and

2. It provides the Town with the previously agreed upon community benefits package, and it will potentially provide additional benefits being requested by the Town.

KMA estimates that amending the SDA will provide the Town with one-time benefits with a value of approximately $51 million. In addition, the proposed amendment provides intrinsic benefits to the Town associated with the provision of public access through the project and the creation of recreational amenities that will be available until the golf course is expanded.

It is KMA's opinion that these community benefits are sufficient to justify the amendments being proposed by the Developer. In addition, the project is anticipated to generate annual TOT and property tax revenues in the range of $6.25 million, as shown in the following table:

Estimated Annual TOT and Property Tax Revenue (2024 Dollars)	
TOT Revenue	$5,777,000
Property Tax Revenue	477,000
Total	$6,254,000

TABLE 1

LAND SALES DATA
SNOWCREEK VIII DEVELOPMENT
COMMUNITY BENEFITS ANALYSIS
TOWN OF MAMMOTH LAKES

						Sales Price	
Address			Sale Date	Site Size (AC)	Zoning	Total	Per SF
6060 Minaret Rd	Mammoth Lakes	93546	11/1/22	1.53	Residential	$967,440	$14.52
31 Alderman St	June Lake	93529	8/1/22	2.20	Commercial	$995,000	$10.38
100 Callahan Way	Mammoth Lakes	93546	7/1/21	4.07	Commercial	$4,065,000	$22.93
120-164 Industrial Cir	Mammoth Lakes	93546	6/1/21	3.88	Industrial	$1,700,000	$10.06
Averages				2.92		$1,931,860	$15.19

Source: CoStar; June 2024. Land sold within the past three years.

TABLE 2A

HOTEL PERFORMANCE [1]
SNOWCREEK VIII DEVELOPMENT
COMMUNITY BENEFITS ANALYSIS
TOWN OF MAMMOTH LAKES

	Occupancy		Average Daily Rate		Revenue Per Available Room (RevPAR)	
Year	Rate	% Change	Rate	% Change	Rate	% Change
2013	58.3%		$154.06		$89.82	
2014	59.6%	2.2%	$155.07	0.7%	$92.42	2.9%
2015	63.7%	6.9%	$161.20	4.0%	$102.68	11.1%
2016	67.3%	5.7%	$164.79	2.2%	$110.90	8.0%
2017	67.8%	0.7%	$169.06	2.6%	$114.62	3.4%
2018	65.5%	-3.4%	$169.25	0.1%	$110.86	-3.3%
2019	67.9%	3.7%	$182.38	7.8%	$123.84	11.7%
2020	48.3%	-28.9%	$165.13	-9.5%	$79.76	-35.6%
2021	59.1%	22.4%	$196.30	18.9%	$116.01	45.5%
2022	63.5%	7.4%	$214.06	9.0%	$135.93	17.2%
2023	62.5%	-1.6%	$220.31	2.9%	$137.69	1.3%

I. **Average Rates**	Occupancy	Average Daily Rate	RevPAR
2013 - 2023	62.1%	$177.42	$110.41
2021 - 2023	61.7%	$210.22	$129.88

II. **Average Annual Percentage Change**			
2013 - 2023	1.5%	3.9%	6.2%
2021 - 2023	9.4%	10.3%	21.3%

III. Estimated Annual Room Sales Revenue

A. Hotel Room Days Available

Total Number of Hotel Rooms	250	
Total Number of Days in a Year	365	
Estimated Hotel Room Days Available		91,250

B. Estimated RevPAR

Average Daily Rate	$210.00	
Average Occupancy Rate	62.0%	
Estimated RevPAR		$130

C. Estimated Annual Room Sales Revenue $11,862,500

IV. Estimated TOT Revenue at Stabilized Occupancy

Estimated Annual Room Sales Revenue		$11,862,500
TOT Rate		13%
Estimated TOT Revenue at Stabilized Occupancy		$1,542,100

[1] Historical hotel performance data provided by CoStar in June 2024.

[2] The Average Daily Rate is presented in 2024 dollars.

TABLE 2B

SHORT-TERM RENTAL PERFORMANCE
SNOWCREEK VIII DEVELOPMENT
COMMUNITY BENEFITS ANALYSIS
TOWN OF MAMMOTH LAKES

I.	**Vacation Rental Inventory**			
	Total Number of Units		790	
	Units Reserved for Workforce Housing	[1]	47	
	Units Occupied Full Time by Owners	[2]	142	
	Estimated Vacation Rental Inventory			601
II.	**Short-Term Rental Days Available**			
	Estimated Vacation Rental Inventory		601	
	Total Number of Days in a Year		365	
	Percentage of Days Occupied by Renters	[3]	75%	
	Estimated Short-Term Rental Days Available			164,524
III.	**Estimated RevPAR**	[4]		
	Average Daily Rate		$431	
	Average Occupancy Rate		46%	
	Estimated RevPAR			$198
IV.	**Estimated Annual Room Sales Revenue**			$32,575,800
V.	**Estimated TOT Revenue at Stabilized Occupancy**			
	Estimated Annual Room Sales Revenue			$32,575,800
	TOT Rate			13%
	Estimated TOT Revenue at Stabilized Occupancy			$4,234,900

[1] The Development Agreement requires 47 on-site units to be allocated to households earning between 150% and 200% of the area median income (AMI).

[2] Equal to 18% of the total number of units. Based on the June 2007 Snowcreek Phase VIII Fiscal Impact Analysis prepared by CBRE (2007 CBRE Fiscal Impact Report).

[3] Based on the 2007 CBRE Fiscal Impact Report.

[4] Based on data derived from an AirDNA report prepared in 2023.

[5] The Average Daily Rate is presented in 2024 dollars.

TABLE 3

HOME RESALE DATA [1]
SNOWCREEK VIII DEVELOPMENT
COMMUNITY BENEFITS ANALYSIS
TOWN OF MAMMOTH LAKES

Address			Unit Size (SF)	Sales Price		Year Built
				Total	Per SF	
One-Bedroom Units						
248 Snowcreek Rd #248	Mammoth Lakes	93546	851	$629,000	$739	1980
33 Sunshine #33	Mammoth Lakes	93546	855	$565,000	$661	1980
5 Cornice #5	Mammoth Lakes	93546	855	$659,000	$771	1980
443 Snowcreek Rd #443	Mammoth Lakes	93546	865	$577,000	$667	1980
36 Sunshine #36	Mammoth Lakes	93546	941	$625,000	$664	1980
270 Snowcreek Rd #270	Mammoth Lakes	93546	1,100	$795,000	$723	1980
Minimum			851	$565,000	$661	1980
Maximum			1,100	$795,000	$771	1980
Average			911	$641,700	$704	1980
Two-Bedroom Units						
577 Golden Creek Rd #577	Mammoth Lakes	93546	1,181	$762,500	$646	1989
1002 Fairway Cir #1002	Mammoth Lakes	93546	1,395	$989,000	$709	2000
958 Fairway Cir #958	Mammoth Lakes	93546	1,395	$1,070,000	$767	1998
874 Links Way #874	Mammoth Lakes	93546	1,474	$915,000	$621	1991
840 Links Way #840	Mammoth Lakes	93546	1,474	$990,000	$672	1991
860 Par Ct #860	Mammoth Lakes	93546	1,474	$1,040,000	$706	1990
538 Golden Creek Rd #538	Mammoth Lakes	93546	1,485	$899,000	$605	1989
55 Goldhill #55	Mammoth Lakes	93546	1,511	$865,000	$572	1979
25 Santiago #25	Mammoth Lakes	93546	1,511	$910,000	$602	1979
77 Sunshine #77	Mammoth Lakes	93546	1,511	$950,000	$629	1979
322 Fascination #322	Mammoth Lakes	93546	1,554	$870,000	$560	1980
989 Fairway Cir #989	Mammoth Lakes	93546	1,556	$1,125,000	$723	1999
1191 Pyramid Peak Rd #1191	Mammoth Lakes	93546	1,867	$1,120,000	$600	2006
1122 Pyramid Dr #1122	Mammoth Lakes	93546	2,705	$1,420,000	$525	2007
1192 Pyramid Peak Dr #1192	Mammoth Lakes	93546	2,705	$1,490,000	$551	2006
Minimum			1,181	$762,500	$525	1979
Maximum			2,705	$1,490,000	$767	2007
Average			1,653	$1,027,700	$622	1992
Three-Bedroom Units						
967 Fairway Cr #967	Mammoth Lakes	93546	1,457	$1,255,000	$861	1999
971 Fairway Cir #1314	Mammoth Lakes	93546	1,674	$1,200,000	$717	1999
425 White Bard #425	Mammoth Lakes	93546	1,685	$970,000	$576	1982
452 Snowcreek Rd#452	Mammoth Lakes	93546	1,685	$979,000	$581	1982
1452 Boulder Creek #1452	Mammoth Lakes	93546	1,690	$1,450,000	$858	2019
1392 Timbercreek Rd #1392	Mammoth Lakes	93546	1,696	$1,335,000	$787	2023
1603 Clear Creek #1603	Mammoth Lakes	93546	1,696	$1,356,612	$800	2023
1592 Clear Creek #1592	Mammoth Lakes	93546	1,696	$1,360,000	$802	2023
1382 Clear Creek #1382	Mammoth Lakes	93546	1,696	1,364,890	$805	2023

TABLE 3

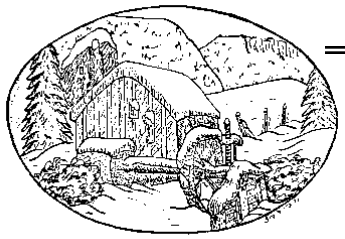
HOME RESALE DATA [1]
SNOWCREEK VIII DEVELOPMENT
COMMUNITY BENEFITS ANALYSIS
TOWN OF MAMMOTH LAKES

Address			Unit Size (SF)	Sales Price		Year Built
				Total	Per SF	
1353 Timber Creek Rd #1353	Mammoth Lakes	93546	1,696	$1,415,000	$834	2018
52 Gold Hill #52	Mammoth Lakes	93546	1,819	$960,000	$528	1979
1394 Timbercreek Rd #1394	Mammoth Lakes	93546	1,901	$1,450,000	$763	2023
1602 Clear Creek #1602	Mammoth Lakes	93546	1,901	$1,450,000	$763	2023
1594 Clear Creek #1594	Mammoth Lakes	93546	1,901	$1,475,000	$776	2023
1605 Clear Creek #1605	Mammoth Lakes	93546	1,901	$1,515,000	$797	2023
1380 Timbercreek Rd #1380	Mammoth Lakes	93546	1,901	$1,525,000	$802	2022
1595 Clear Creek #1595	Mammoth Lakes	93546	1,901	$1,550,000	$815	2023
1159 Red Peak Dr #1159	Mammoth Lakes	93546	2,059	$1,385,000	$673	2006
1152 Red Peak Dr #1152	Mammoth Lakes	93546	2,059	$1,425,000	$692	2006
1390 Timbercreek Rd #1390	Mammoth Lakes	93546	2,152	$1,650,000	$767	2023
1601 Clear Creek #1601	Mammoth Lakes	93546	2,152	$1,675,000	$778	2023
1571 Clear Creek #1571	Mammoth Lakes	93546	2,152	$1,747,000	$812	2023
1384 Timbercreek Rd #1384	Mammoth Lakes	93546	2,152	$1,765,000	$820	2022
1314 Timber Creek Rd #1314	Mammoth Lakes	93546	2,184	$1,635,000	$749	2008
1433 Boulder Creek Rd #1433	Mammoth Lakes	93546	2,184	$1,670,000	$765	2018
1362 Timbercreek Rd #1362	Mammoth Lakes	93546	2,184	$1,679,263	$769	2023
1372 Timbercreek Rd #1372	Mammoth Lakes	93546	2,184	$1,680,000	$769	2023
1330 Timber Creek Rd #1330	Mammoth Lakes	93546	2,244	$1,810,000	$807	2018
1360 Timbercreek Rd #1360	Mammoth Lakes	93546	2,244	$1,850,000	$824	2023
1370 Timbercreek Rd #1370	Mammoth Lakes	93546	2,244	$1,850,000	$824	2023
1112 Pyramid Peak Dr #1112	Mammoth Lakes	93546	2,427	$1,550,000	$639	2008
512 Golden Creek Rd #512	Mammoth Lakes	93546	2,475	$1,650,000	$667	1986
547 Golden Creek #547	Mammoth Lakes	93546	2,475	$1,700,000	$687	1989
1198 Pyramid Peak Dr #1198	Mammoth Lakes	93546	2,762	$1,885,000	$682	2007
Minimum			1,457	$960,000	$528	1979
Maximum			2,762	$1,885,000	$861	2023
Average			2,007	$1,506,400	$751	2013

Source: Redfin; June 2024

[1] Based on a search of the Redfin data base for sales occurring between June 2023 and June 2024.

Greg Newbry P. O. Box 8105 Mammoth Lakes, CA 93546
(760) 937-5391 gregnewbry@gmail.com



Date: 1-30-2025
To: John Eastman and Town Council

Pursuant to our brief discussion, I am sending you the Council agenda (received today) along with some thoughts regarding the DA. The item does not include their consultant's report, only the marching orders. The Marching orders really only requested a spell-check and confirmation that the DA states what it states. Therefore, the report will likely add little value.

Given this context, it seems to reflect poorly on our Town Government. The update would benefit from including the draft report instead of providing no information whatsoever. Waiting to provide such at the Council hearing would be irresponsible and unfair to the public resulting in no way to comment or realistically participate.

Due to my negligence in tracking important dates and meetings, I will be out of town. No excuse. Not that anyone knew this was on the agenda. It would be greatly appreciated to get copies of all draft/final copies as well as all correspondence from staff to consultant and consultant to staff.

Below the marching orders (the entire staff report)

No formal action or decision is needed. Summary: During previous updates to the Town Council on the potential amendment to the Snowcreek Development Agreement (SDA)1 , there was direction given to staff to hire a consultant to analyze and review the proposed SDA amendment deal points. **The goal of the consultant analysis and review was to have a qualified firm that specializes in development agreements review each of the deal points, confirm that the deal points are clear and have enough detail to ensure the end results are achieved,** identify any gaps or loopholes that could be failure points, and provide recommended language updates on the more complicated portions of the agreement. Based on that direction, the Town hired the law firm Burke, Williams & Sorensen, LLP to provide the requested review. An attorney from that firm will provide an update to the Town Council on the analysis and review of the SDA, and the proposed amendments to the SDA, that was conducted.

- We recommended providing a list of good consultants (from prior Town Directors) that could truly provide a good analysis and direction. But, when you only want someone to only tell you what you want to hear, then it doesn't matter who you use.
- Read carefully; review the current DA, ***confirm it's clear*** (geez, really!)
- ***Ensure end results***, of course the end is says what it says, (again, really, geez!)
- The marching orders say nothing, nothing whatsoever.

When I was a planner there was joke: A consultant is someone you hire to tell you how much money is in your wallet and then keeps half. It appears the Town just did that.

Sincerely,

Please contact me by phone or email if you have any questions.

Fwd: Snowcreek VIII

Steve Chaudet <schaudet@me.com>
Thu 9/5/2024 9:26 PM
To:Nolan Bobroff <nbobroff@townofmammothlakes.ca.gov>

You don't often get email from schaudet@me.com. Learn why this is important

[EXTERNAL EMAIL]

Sent from my iPhone

Begin forwarded message:

From: Steve Chaudet <schaudet@me.com>
Date: September 6, 2024 at 12:10:45 AM EDT
To: nbobroff@townofmothlakes.ca.gov
Subject: Snowcreek VIII

Nolan: I attended the August 14 information hearing on the Snowcreek VIII proposed development. Your presentation was excellent. However while generally supportive of the development I have several concerns.
1) For a development of this size, & the length of time it will take to develop I am concerned the City isn't asking enough of the developer that will benefit the community. The time to get meaningful financial commitment to the City is now, not when they start building. The general feeling I get from talking to residents is the City isn't tough enough in asking more from the developer.
2) The City's building department needs to be stronger requiring the developer to meet Mammoth building codes with their inspections.
Case in point is the two pictures below. The first is from wood taken from Snowcreek VI. This wood is rotted because the City inspectors didn't required the wood to be treated, & water proofed. The second picture is of a covered rock fireplace wall that is pulling away from the building. No footings were installed that would have prevented this. Again lack of inspections.
Snowcreek VI had to take the developer to meditation in order to gain financial relief for shoddy work, & lack of inspection.
Have been informed that Creek Side has had numerous issues including frozen pipes. Again lack of inspections.
3) With a development of this magnitude I would hope the City would consider an outside firm to analyze the proposed development that would consider all elements of the development. Consider how much better off we would be if the City had done this with the airport situation that Mammoth will be paying for years.
4) The City does need to improve its building inspection department to insure all codes are enforced.
5) By way of background I am a part-time resident of Mammoth that has owned three different condos including the current one in Snowcreek VI.
For a number of years I was in City Management, & have a Master's of Public

Administration from USC.
If you would like to discuss further I can be reached at
703-401-9343 or at schaudet@mac.com.
Thanks for taking the time to review my comments.
Steve Chaudet





Sent from my iPhone

Clerk

From: Jody Cohan-French <jocoh2@gmail.com>
Sent: Saturday, August 10, 2024 6:04 PM
To: Clerk
Subject: Proposed Amendments to the 2010 Snowcreek Development Ageement

[EXTERNAL EMAIL]

Dear Commissioners,

The Town's Proposed Amendments are:

> In exchange for the extended term, the Town has proposed the following additional community benefits be added to the SDA:
>
> 1. Continued operation of the existing 9-hole golf course for the life of the SDA.
>
> 2. The permanent protection of the land occupied by the existing 9-hole golf course as open space (i.e., not developed with residential or commercial structures).
>
> 3. Inclusion of the option for additional summer and winter recreational amenities (e.g., hiking trails, mountain bike trails and/or features, cross-country ski trails, show shoeing, fat bike trails, etc) in the area of the proposed golf course expansion. These amenities would be considered interim and would not preclude the development of an 18-hole golf course.

I am in favor of the Town's Proposed Amendments and **permanent** protection of the existing open space (the 9-hole golf course) as well as the proposed golf course expansion, whether it/they are a golf course and/or park-like space for walking, biking, etc. as mentioned above. Bottom line, keep the open space open so that the homeowners surrounding the existing golf course can maintain the value of the properties they invested in under the 2010 Snowcreek Development Agreement, and the greater community--and nature--can enjoy and benefit from as much natural space as possible.

Thank you.

Best regards,

JODY COHAN-FRENCH
Vice President, Snowcreek Fairway Homeowners Association

February 20, 2024

By Email to:
Clerk: jgray@townofmammothlakes.ca.gov
Community Development Director: nbobroff@townofmammothlakes.ca.gov
Town Manager: rpatterson@townofmammothlakes.ca.gov

Mammoth Lakes Town Council
P.O. Box 1609
Mammoth Lakes, CA 93546

Eighteen months ago my wife and I became the occupants of 1182 Pyramid Peak, a Snow Creek VI condo unit that borders the 9-hole Snow Creek golf course. The golf course was a major factor in the purchase. Much to our surprise, we have since learned that the developer who had not only pitched a golf course in his sales literature, but had promised expansion of the course to 18 holes was walking away from maintaining the golf course.

We have now learned that this same developer has applied for an extension to the Snow Creek development agreement so that he can build many more Snow Creek condos. Under the terms of this development agreement, there is no legally binding condition that the developer be required to complete the 18-hole course and maintain the course for a sufficient number of years to establish a working and viable golf course.

In the past, this developer has used the promise of an 18-hole course to lure buyers and probably to gain favorable consideration from government officials. The developer made a lot of money building and selling the existing Snow Creek developments, and there is little doubt about profit from future developments. The promised golf course is an integral feature of Snow Creek and should be made a legally binding part of any future development. Otherwise, present condo owners and future buyers will have been deceived by the representation that there would be an 18-hole golf course. Moreover, the Town of Mammoth Lakes will have lost an important recreational feature to add to other over-subscribed golf courses.

Because the development agreement that the developer wishes to extend lacks the necessary legal “teeth” to insure completion and maintenance, a use permit or a new development agreement should be required. The terms should include details of the course design, and details on quantity and quality of maintenance

for a period of years. A secured fund for the expected cost of maintenance for the required number of years should be a term of the new development agreement or use permit.

I believe I speak for many if not all Snow Creek owners in urging you to look carefully at this matter and to require the necessary permitting to insure that the promise of an 18-hole golf course does not remain a hollow sales pitch. Your hard work and diligence will be hugely appreciated.

Very truly yours,

_____

Joel A. Ungar
1182 Pyramid Peak
Mammoth Lakes, CA 93546

jaungar2@gmail.com
805-886-4151

Nolan Bobroff

From: Mary Smith <msmith@smithnyc.com>
Sent: Tuesday, February 20, 2024 10:20 AM
To: Jamie Gray; Rob Patterson; Nolan Bobroff
Subject: SNOWCREEK DEVELOPMENT AGREEMENT

Some people who received this message don't often get email from msmith@smithnyc.com. Learn why this is important

[EXTERNAL EMAIL]

GREETINGS:

As a local resident (1182 Pyramid Peak Drive, Mammoth Lakes), I write to express vehement opposition to any extension of the current Snowcreek Development Agreement. As I and my neighbors in Snowcreek VI are fully aware, many of the developer's obligations in the existing agreement were not fulfilled and we feel that an extension is not at all warranted, particularly one of 20 years. Instead, a new Development Agreement or better yet a Use Permit that runs with the land should be created….after extensive economic and environmental analysis and sufficient time and opportunity for public input.

Of particular concern in the existing Development Agreement is the lack of detail for maintenance of the golf course. As we've all sadly learned, the developer was under no obligation to operate the golf course consistently or maintain the waterways in the current agreement. Any extension or new development agreement should specify very precise requirements for maintenance, as secured by a performance bond, with an additional measure allowing the town recourse should the performance be inadequate.

Furthermore, there should be an iron-clad requirement for the developer, totally at his expense, to return the golf course back to its original open space state with dedicated trails and waterways, should it be determined as some future time that a golf course is no longer needed.

Additionally, there needs to be a mechanism wherein all such obligations transfer to any subsequent developer should the current developer sell, depart or abandon the property.

It seems extremely important that the town, representing the public's interests, be in control here, not manipulated by the developer, whose interests are strictly for monetary gain. The town now has a wonderful opportunity to create a worthwhile plan for the next 20 years. I appreciate the hard work town officials do and it is in that spirit that I offer my comments.

Sincerely,

Mary H. Smith

Snowcreek VI, Lodges, Condominium Owners Association. INC.
P. O. Box 5038
Mammoth Lakes, Ca. 93546
snowcreeklodges@gmail.com

Date: February 19,2024

Mammoth Lakes Town Council
P.O. Box 1609
Mammoth Lakes, CA 93546
Emailed;
Clerk: jgray@townofmammothlakes.ca.gov
Community Development Director: nbobroff@townofmammothlakes.ca.gov
Town Manager: rpatterson@townofmammothlakes.ca.gov

Town Council,
Sitting on Town Council or a Commission is low to no pay and hard work. It is also often heart breaking with sleepless nights worrying about doing the right thing. We wish to deeply express appreciation for stepping up to make Mammoth a better place to live, work and visit. Thank You!

The speed and haste in which this presentation, February 21th, 2023, regarding the Snowcreek Development Agreement was put on the agenda is troubling. There is clearly insufficient time to circulate and dig into the details. We feel this is unfair to the Council and the public. It almost appears like a fait accompli.

These few comments are therefore quickly constructed and not necessarily complete. We assume there will be other comment periods and round table presentations aimed at constructive and well-thought-out input. Do not let yourself be pushed into a fast process because the developer has waited longer that he should have.

We recommend an altogether new Development Agreement, not a 20 year extension. As the "staff" report indicates, much was not completed in the current DA. The reasons are irrelevant. What matters is the next 20 years and nearly 980 new condominiums.

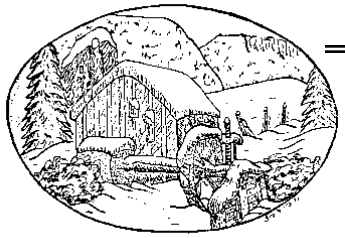
1. Require the original 18 hole course as identified in the current Development Agreement.
2. Require a Use Permits. Use Permits run with the land for the life of the property and do not expire like a Development Agreement. They also include mitigations and recourse.
3. Include details. The current "plan" does require the 9 hole course to remain for 20 years. This means nothing without the details of maintaining the waterways, integrity of the course, operation details etc. As worded, he could operate one day week and run into the ground and the Town would have no recourse. Is this the image we want?
4. Add performance measures, funded by the developer.

5. Times change, perhaps the golf course will not be needed at some point. Add conversion and requirement to return it back to its original open space state with trails etc, bonded and funded by the Developer.
6. Include a new economic and environmental analysis. As indicated in the staff report, things didn't happen because economic reality changed. Change is the operative word, it didn't happen because of change, therefore, new studies are prudent and wise. Staff suggests Council direction. If not require a new DA altogether, either way, hire a consultant to assist in the new DA (or extension thereof).
7. Require the plan to show said trails (if it's not to be the second 9) and amenities in the new open space with maintenance and performance requirements. Fund/bond accordingly. Do not allow an open ended "do whatever you want and maintain only if you want" plan.
8. Make sure the Town is the decision maker regarding future changes and funded by the developer accordingly.
9. It's not clear what the actual differences in zoning, housing and permit fees would be versus the frozen fees suggested by the developer. Please elaborate in detail
10. Consider requiring all onsite workforce housing instead of in lieu payments.
11. Of course, assure no development or encroachment, in the open space areas, deed and zoning restricted in perpetuity (golf course, open space etc.)
12. Please send all relevant documents and correspondence to each HOA and single-family home in the Snowcreek area. (Snowcreek 1,2,3,4,5,6,7)

Sincerely,

George Lavallee, President, The Lodges
1 (805) 573-5657
twol2e@me.com

Greg Newbry P. O. Box 8105 Mammoth Lakes, CA 93546
(760) 937-5391 gregnewbry@gmail.com



February 20, 2023

Mammoth Lakes Town Council
P.O. Box 1609
Mammoth Lakes, CA 93546

Honorable Town Council,

A few years back the Town decided not to use a Development Agreement Consulting firm , well, because it was only regarding a simple airport DA. That was a 50-million-dollar mistake. I asked a Town staff person months ago why did the Town not do a Use Permit for the golf course? Reply, "no one thought he'd do anything other than operate a golf course".

Hire a Development Agreement Consulting firm (as is done by most all municipalities). This is a 20-year, 1000 condominium project, take the time to get it right. Development Agreements are complex; it's easy to miss something that a professional might not (i.e., Town's staff failing to address the permanence of the existing 9-hole course or when and how to convert it to something else in the 2007 DA revision.)

The current recommendation is to require the developer to operate the 9-hole course for the length of the DA (20 years). What then? For that matter, there is no requirement to operate in a "championship condition", or for any hours or for any days. He could open it 4 hours a week and do-little maintenance; that would comply with the draft DA. For the last 10 years weekly color adds selling Creek House all had a picture of golfer associated with the development. Have you noticed adds have changed, no golf course; I wonder why? Have you noticed the Developer stating, in public, the golf course will be open <u>next</u> year. No comment opening beyond that. I wonder why?

Several months back, I suggested the Town do an analysis/study regarding golf and destination resorts. If that were done today, it might be very helpful. What is in the best public interest is what matters, it is all that matters. However, having an idea of what that is often takes time and a good analysis.

Notwithstanding maintenance and details, I suppose the current plan as proposed might be fair and appropriate. I don't know. That is the reason to hire good firm; to assure the public that the best 20 year, 1000 condo project is OK. Much resentment, accusations, frustration and possible referendum could be avoided. Do not let yourself be bullied into haste.

This agenda item was rushed, no one knew it to be before the Council until the agenda came out. An otherwise busy agenda at that. Accordingly, no one has the time to dig into the report. My comments lack the study and review normally deserved.

1. Consider requiring a new, not extended, Development Agreement. At the least, treat it like a new DA. Maximize public involvement.
2. I think even if just a 20 year extension/renewal, that it's referendable. Please confirm. **If not, require a new DA.**
3. Hire a DA consulting firm to assure the DA is fair to both the public and developer. (note, developer pays for the consultant and any studies thereof)
4. Require the original 18-hole course as identified in the original Development Agreement, or consider requiring a study to show the best public use thereof.
5. If the Council finds (as recommended by developer/staff) that only the nine-hole course remain; then no revisions, alterations, or changes, except improvements, as approved by the town and clearly operated in the condition of championship course (and with town making the performance determination with funding requirement to correct).
6. Require a deed fee for each unit in the amount needed to maintain the course and open space area/trails etc. into perpetuity.
7. Some have recommended the town take on the golf course as a public course. **Strongly recommended!**
8. Require Use Permits.
9. Include details. The new DA requires the 9-hole course to remain for 20 years. This means nothing without the details of maintaining the waterways, integrity of the course, operation details and what happens in 20 years etc. As worded, he could operate one day week and run into the ground and the Town would have no recourse (no pun intended). Is this the image we want?
10. Add more performance measures, funded by the developer.
11. Please explain why there are 400 units each considered to be ½ density unit versus a whole unit? It would seem Impacts would be the same, yet, fees to offset would appear to be ½?
12. Times change, perhaps the golf course will not be needed at some point. Add conversion and requirement to return it back to its original open space state with trails etc, (or as otherwise approved for public use by the Town) bonded and funded by the Developer.
13. Require a new economic and environmental analysis.
14. Avoid open ended "do whatever you want and maintain only if you want" in any part of the plan.
15. Make sure the Town is the decision maker regarding future changes and funded by the developer accordingly.
16. Create public access through the project and a public parking area (tie into existing and create new public trails). Has the trails commission considered this?

17. It's not clear what the actual differences in zoning, housing and permit fees would be versus the frozen fees/zoning suggested by the developer and staff. Please elaborate in detail from start to present to end.
18. Consider requiring all onsite workforce housing instead of in lieu payments.
19. Of course, assure no development or encroachment, in the open space areas; deed and zoning restricted in perpetuity vs just the DA (golf course, open space etc.)
20. Please send all relevant documents and correspondence to each HOA and single-family home in the Snowcreek area. (Snowcreek 1,2,3,4,5,6,7)

It is understandable that this email may not get read or the time to consider prior to the Council agenda item tomorrow. However, because the matter only showed up late last week there was insufficient time to run by chatGPT or vet and reconsider comments.

Sincerely,



Please contact me by phone or email if you have any questions
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March 18, 2025

Sent via email

Mammoth Lakes Planning Commission
Council Chambers, Suite Z
437 Old Mammoth Road
Mammoth Lakes, CA 93546
clerk@townofmammothlakes.ca.gov

Re: Comments on the Amended and Restated Snowcreek Development Agreement

Dear Commissioners:

This letter is submitted regarding the Amended and Restated Snowcreek Development Agreement. I have reviewed the 2007 Final Environmental Impact Report (EIR) closely and consider the 2007 EIR's analysis of and mitigation for Snowcreek VIII's impacts to biological resources, greenhouse gas emissions, wildfire risks, air quality, and public resources inadequate due to changed circumstances and significant new information that has emerged in the last two decades. I urge the Town of Mammoth Lakes, at a minimum, to correct the deficiencies identified below to ensure adequate and informed public review of Snowcreek VIII (the Project).

The revised DA proposes to extend the 2010 DA's term by 20 years from 2025 to 2045 and possibly five more years if the Developer continuously operates the 9-hole golf course during the term of the SDA (even *longer* if a decrease in the median home sales value by 10% or more occurs over a one-year period). This cannot stand under the California Environmental Quality Act (CEQA), which makes plain that even when a certified EIR is in effect, an agency must revise its analysis to consider significant new information and changed circumstances. (Pub. Res. Code § 21166; Guidelines, § 15162(a)(2), (a)(3)(A), (B).) The Snowcreek VIII Project is a textbook example of this requirement: a massive 220-acre development of up to 790 residential dwelling units and 400 resort/hotel rooms and private residential club units on undeveloped sensitive habitat, which has already not been assessed in nearly *two decades* and now seeks a DA extending its term by more than 25 years. The Town must take into account changed circumstances and significant new information, including information provided below, that could greatly impact the 2007 EIR's conclusions and require further mitigation before agreeing to any revised DA that would extend the term even further.

Additionally, it is critical to note that the Commission's findings regarding the 2010 DA's community benefits no longer remain relevant. Not only is Snowcreek VIII seeking to move forward under very different economic circumstances, but the Project no longer includes

the 18-hole golf course the Town once considered an "important element" of Snowcreek VIII's community benefits. The Planning Commission should thus either (1) recommend denial of the revised DA, and/or (2) revise the Snowcreek Master Plan Update and complete a revised EIR alongside this update to ensure Snowcreek VIII will not significantly adversely impact our community or environment.

COMMENTS

The Planning and Economic Development Commission should recommend to the Town Council denial of the Amended and Restated Snowcreek Development Agreement for a myriad of reasons. First, the Project no longer provides "community benefits" as required under Municipal Code (MC) Chapter 17.104, considering that the economic crisis during which the 2010 DA was finalized no longer exists. Second, no "unavoidable delay" occurred requiring the Town to extend the 2010 DA. And third, even if the Project were to still provide community benefits, the Town must complete subsequent CEQA review before approving the revised DA due to changed circumstances and new information regarding significant adverse environmental impacts. Failure to complete CEQA review could result in this massive 220-acre development on sensitive habitat moving forward more than 25 years from now, without CEQA review having been completed for nearly a *century*.

I. The Revised Development Agreement Lacks the Community Benefits that Formed the Basis for the 2010 Development Agreement's Approval.

The Commission should recommend denial of the revised DA because the revised DA significantly reduces community benefits, and some 2010 benefits no longer remain relevant in 2025. This violates Municipal Code 17.104.040, which requires this Commission to make findings that "the agreement [or revised agreement][1] is in conformity with and will promote public convenience, general welfare, and good land use and development practices" and will provide community benefits beyond development under present Resort and Open Space zoning. Furthermore, the Staff Report's assertion that Snowcreek VIII can move forward without this revised DA and thus without *any* community benefits overlooks provisions in the 2010 prohibiting this from happening.

A. Community Benefits That Existed in 2010 No Longer Exist Today.

Fifteen years ago, the Town repeatedly explained that the 2010 DA's primary community benefits did not come from Snowcreek VIII itself, but from the hotel and golf course's timely construction during the recession. Specifically, the Town reasoned that reducing the term by one day for each day that construction of the hotel and expanded golf course has not commenced by 2020 would benefit the community by incentivizing prompt construction, faster than construction

[1] Municipal Code 17.104.080.

without the 2010 DA.[2] Meeting packets, notes, and agendas from fifteen years ago leave no doubt that the Town viewed prompt action as necessary to attract visitors to Mammoth Lakes during the recession fifteen years ago.[3]

The initial 2010 DA memorialized this reasoning. Its Recitals explained that "[t]he parties are negotiating this Development Agreement at a time of great economic crisis in the United States, the State of California and the Town of Mammoth Lakes. Many development projects have been put on hold or the properties on which such projects were to have been developed have been foreclosed upon or conveyed to the projects' lenders. There has probably never been a more appropriate time for a government agency to enter into a development agreement and carry out the legislative intent behind the Development Agreement Statute." And regarding the timing for Snowcreek VIII's golf course and hotel, the 2010 DA stated: [E]xceptional circumstances exist to justify this Term, including but not limited to the economic crisis[.]"

As a result, considering that the Project's most significant community benefits of a new hotel and golf course *during an economic recession* no longer exist, the Commission must make revised findings and support these findings. Much of the support for this Commission's 2010 findings regarding community benefits from prompt hotel and golf course construction lies in the outdated 2009 economic analysis, which no longer applies.[4] At the time, the analysis explained that "a high quality 18-hole golf course is considered an *important element* when repositioning Mammoth Lakes as a world-class resort destination attracting visitors, especially groups, to the area."[5] And further, the 2009 economic analysis determined that "[t]he provision of 15,000 square feet of flexible meeting, banquet and conference space within the proposed Snowcreek resort hotel would represent a significant addition of meeting space in a market that *currently lacks it*. Again, this is considered an *important component* of the Town repositioning effort."[6]

These two statements no longer remain relevant. Regarding meeting space, for example, the nearly completed Limelight development has thousands of square feet of meeting space, cutting against the Snowcreek Hotel's community benefit. And the revised DA no longer requires the 18-hole golf course the Town previously considered "an important element," of benefits to the community, as the revised DA states: "Use of Golf Course Expansion Area. Should Developer wish to allow interim recreation uses by others within the 94-acre golf course expansion area, Parties shall negotiate an agreement in good faith regarding a lease or other property interest from Developer to Town of all, or a portion of, the 94-acre golf course

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[2] See, e.g., https://pub-townofmammothlakes.escribemeetings.com/filestream.ashx?documentid=5485

[3] E.g. https://mammothlakes.granicus.com/player/clip/35?view_id=4&meta_id=3212&redirect=true

[4] https://pub-townofmammothlakes.escribemeetings.com/filestream.ashx?documentid=5482

[5] https://pub-townofmammothlakes.escribemeetings.com/filestream.ashx?documentid=5482 at 14 (emphasis added).

[6] *Id*. (emphasis added).

expansion area for recreational uses. Such interim uses shall not prevent or preclude the Expanded Golf Course from being developed." Even more broadly, the hotel itself provides less of a community benefit, considering that numerous hotels have been constructed over the past fifteen years, including but not limited to Outbound Mammoth and the Mammoth Creek Inn Expansion.

As a result, this Commission must make revised findings with support from today's economic situation before recommending the revised DA's approval. As in 2010, these findings must take into account the Town of Mammoth Lakes *currently* and what would benefit our community in 2025, not in 2010 during economic crisis.

B. The Revised Development Agreement Only Reduces Community Benefits.

Even if the same economic crisis of 2010 prevailed today, the revised DA provides fewer community benefits now than in 2010. The revised DA Exhibit B lists the following:

- The Additional Financial Contribution.
- Fiscal benefits that will accrue to the Town and community through the implementation of the Project as intended that would not occur without this Agreement, including transient occupancy taxes.
- 8.9 acres of park area provided in excess of that required in conjunction with the buildout of Snowcreek VIII.
- Preservation of Mammoth Creek open space corridor.
- Championship 18-hole golf course will be designed by a top course architect.
- Practice facility to be designed by a top course architect.
- Secondary access for both Snowcreek V and VIII and the Emergency Vehicle Access Road connecting the Snowcreek VIII Project to Sherwin Creek Road is in addition to Mammoth Lakes Fire Protection District ("MLFPD") requirements.
- Allowing egress of backcountry skiers, snowboarders, snowshoers from the Sherwin Range immediately upon approval of the Project prior to its construction and completion.
- Programming of public spaces, including but not limited to the Great Lawn and Outfitters' Cabin, to increase visitation to the project and Town.
- Establishment of public access across certain points of the project to allow public egress to surrounding public lands prior to Project construction and after completion and which would also provide access to an enhanced network of publicly accessible multi-use paths that is connected to the Town's trail system.
- If needed by the Town, the Developer will provide the property described on Exhibit F attached hereto and incorporated herein by this reference for propane storage tanks. (Exhibit B.)

This list provides the *very same* benefits the 2010 DA claimed, minus (1) preservation of Mammoth Creek open space corridor, which already happened seven years ago, and (2) minus

the 18-hole golf course, which the 2009 economic analysis referred to as an "important element" of the 2010 DA's community benefits. Furthermore, as described above, the benefits that remain have become less beneficial due to the different economic circumstances of today. The Planning Commission must explain to the community if and how it concludes that the revised DA still provides community benefits in 2025 and why losing several benefits and weakening others still supports the revised DA's approval.

C. Snowcreek VIII Cannot Move Forward Without the Revised DA.

The Staff Report states several times that, because Snowcreek VIII can move forward without this Commission's recommendation to approve the revised DA, this Commission would reduce community benefits by refusing to recommend approval. This is incorrect for several reasons. First, the 2010 Development Agreement provides that development cannot move forward *without* the 2010 DA. The 2010 DA explains that "Developer *would not proceed* with the Snowcreek Projects without the Town's assurances set forth in [the 2010] Agreement," and "[t]he Town would not enter into this Agreement without Developer's assurances set forth in [the 2010] Agreement and the anticipated benefits[.]" As a result, the developer is bound by the 2010 DA to proceed and cannot move forward without following the 2010 DA's terms.

And second, even without this term, this Commission can ensure maximum community benefits through updating the 2007 Snowcreek Master Plan. Municipal Code provides that "[t]he Director may administratively approve minor changes, alterations, or amendments to an *approved master plan*, subject to appeal pursuant to Chapter 17.100" after making the findings listed under Section 17.116.070 (b). (Code 17.116.070 (b).) In other words, this Commission has the authority to amend the 2007 Snowcreek Master Plan Update if it so chooses, and in doing so can require CEQA review with maximum mitigation to benefit the community and environment.

II. No Unavoidable Delay Justifies Extending the Term.

Prior to approving the 2010 DA, this Commission assured concerned residents that it would only extend the term due to "unavoidable delay."[7] However, despite these assurances, nowhere in the Staff Report is there a description of this "unavoidable delay" in constructing the hotel and golf course. These assurances, further memorialized in the 2010 DA, warrant CEQA review now fifteen years later and the chance at public participation through the CEQA public comment process, as discussed *infra*.

[7] See https://mammothlakes.granicus.com/player/clip/35?view_id=4&meta_id=3212&redirect=true and https://pub-townofmammothlakes.escribemeetings.com/filestream.ashx?documentid=5485

III. Authorizing the Revised Development Agreement Without Subsequent Environmental Review Violates CEQA.

The Staff Report claims that because no new development is directly associated with the SDA, no further environmental review is required. This is incorrect: CEQA makes plain that even when a certified EIR is in effect, an agency must revise its analysis to consider significant new information and changed circumstances. (Pub. Res. Code § 21166; Guidelines, § 15162(a)(2), (a)(3)(A), (B).) Here, considering nearly two decades have already passed, the Town must take into account changed circumstances and significant new information provided below that could greatly impact the 2007 EIR's conclusions and require further mitigation.

A. Significant New Information Requires the Town to Revise and Recirculate Numerous Sections of the 2007 EIR.

Where an agency's actions violate CEQA, "it must do the environmental review process over if it wants to approve the project." (*Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 690.) Accordingly, before approving the revised DA, the Town must prepare and circulate for public review a revised EIR that complies with CEQA. (*See, e.g., King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 901 [where EIR inadequate, County must revise EIR, circulate it for public review and comment, and prepare responses to the comments before reapproving same or modified project].). Any revised draft EIR must comply with CEQA's mandatory requirements for public review, including completing and filing with the State Clearinghouse, providing a 45-day comment period, and consulting with public agencies. (Guidelines §§ 15082-88, 15105.) The Town must also consider and respond in detail to the public's comments. (*See* § 21091(d) [requiring agency responses to comments on draft EIRs]; Guidelines § 15088(c) [requiring "good faith, reasoned analysis" in responses]); (*Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 266-67 ["recirculation and consideration of public comments" necessary before revised project approval].)

Significant new information and changed circumstances further require a subsequent EIR after certification. (Pub. Res. Code § 21166; CEQA Guidelines § 15088.5(a); CEQA Guidelines, § 15162(a)(2), (a)(3)(A), (B).) CEQA specifically provides that "[w]hen an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required . . . [unless] [n]ew information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available." (Pub. Res. Code § 21166(c).) CEQA defines significant new information as information showing: (1) "[a] new significant environmental impact would result from the project . . ."; or (2) "[a] substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance." (CEQA Guidelines § 15088.5(a).) Additionally, CEQA requires a revised EIR when "substantial changes occur with respect to the circumstances

under which the project is being undertaken which will require major revisions in the environmental impact report." (Pub. Res. Code § 21166(b).)

B. New Scientific Knowledge on Climate Change Increases the Urgency of Addressing Climate Change.

Substantial new information on the severity of the Project's contributions to climate change has become available in the past 18 years. Not only has California set new GHG reduction targets, but groundbreaking climate change research sheds light on the critical need to reduce GHG emissions. The Town must take this significant information into account and require further mitigation measures aligned with statewide goals.

i. Substantial New Information on Climate Change Impacts Requires Revision.

First, since the Town certified the original 2020 FEIR, the Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, concluded in its 2023 Sixth Assessment Report that: "[u]nsustainable and unequal energy and land use as well as more than a century of burning fossil fuels have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850-1900 in 2011-2020." (IPCC 2023.) The increase in global surface temperature has resulted in sea level rise, more frequent extreme weather events, and "irreversible losses" at the species and ecosystem levels. (IPCC 2023.) The United States' own 2023 Fifth National Climate Assessment, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies, echoed these findings. The 2023 Assessment concluded that "[t]he global warming observed over the industrial era is unequivocally caused by greenhouse gas emissions from human activities–primarily burning fossil fuels," and long-term responses include "sea level rise, ice sheet losses, and associated disruptions to human health, social systems, and ecosystems." (Jay 2023.)

This significant new information requires immediate and aggressive greenhouse gas emissions reductions to keep warming well below 2°C above pre-industrial levels. The IPCC Sixth Assessment Report and other expert assessments have established global carbon budgets, or the total amount of carbon that can be burned while maintaining some probability of staying below a given temperature target. According to the IPCC, "[t]he best estimates of the remaining carbon budgets from the beginning of 2020 are 500 GtCO2 for a 50% likelihood of limiting global warming to 1.5°C and 1150 GtCO2 for a 67% likelihood of limiting warming to 2°C." (IPCC 2023 at 19.) Additionally, "[i]f the annual CO2 emissions between 2020-2030 stayed, on average, at the same level as 2019, the resulting cumulative emissions would almost exhaust the remaining carbon budget for 1.5°C (50%), and deplete more than a third of the remaining carbon budget for 2°C (67%)." (IPCC 2023.) As of 2023, climate policies by countries across the world would lead to an estimated 2.7°C of warming, and possibly up to 3.4°C of warming, well above

the level needed to avoid the worst dangers of climate change. (Climate Action Tracker, The CAT Thermometer 2023.)

ii. The 2007 EIR's GHG Analysis Is Outdated.

The significant new information described *supra* leaves no doubt that climate change will transform California, resulting in increased temperature and frequency of wildfires, and a reduction in snowpack, precipitation levels, and water availability. (Turco 2023.) But the 2007 EIR fails to fully take into account significant new information regarding climate change impacts, which should be assessed under the newest version of CalEEMod, intended to incorporate the latest science on GHG emissions (CAPCOA 2021; CAPCOA 2022). The 2007 EIR's GHG analysis is therefore not supported by sufficient evidence and must be revised and recirculated.

iii. The 2007 EIR Fails to Adopt All Feasible GHG Mitigation.

Further, in light of these new assessments and substantial new information, the Town must further mitigate the Project's GHG emissions. In fact, any revised EIR must show how a project will conform to current statewide GHG reduction targets and adopt enforceable mitigation to achieve these goals. (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 225-26; *League to Save Lake Tahoe v. County of Placer* (2022) 75 Cal.App.5th 63, 121-22.)

Since 2020, the State has released several new GHG reduction targets. For example, in November 2022, CARB released a new Scoping Plan, requiring "aggressive reduction of fossil fuels" and "rapidly moving to zero emission transportation," identifying "a technologically feasible and cost-effective path to achieve carbon neutrality by 2045." Additionally, under AB 1279, the California Climate Crisis Act, California must achieve net zero GHG emissions by no later than 2045 and achieve and maintain net negative GHG emissions thereafter. (AB 1279 2022.) Newsom has continued to issue climate-related executive orders, such as a 2020 order requiring that, by 2035, all passenger vehicles will be zero-emission, in addition to other motor vehicle emission goals. (Executive Order N-79-20 (2020).) Enforcement of and compliance with these steps are essential to stabilize the climate and avoid catastrophic impacts to our environment.

Appendix D of CARB's 2022 Scoping Plan includes on-site GHG-reducing design features and mitigation measures, as well as offsite measures the Town should consider to conform to these new targets. Other feasible measures can be found in the California Air Pollution Control Officers Association 2022 Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity. (CAPCOA, December 2021.) The Town should take all feasible steps to reduce GHG emissions in light of the recent climate change research outlined *supra*.

C. The 2007 EIR Lacks Significant New Information Relating to the Project's Wildfire Risks.

The 2007 EIR also leaves out significant new information and changed circumstances regarding the Project's increased wildfire risks. In fact, the 2007 EIR does not even mention increased wildfire risks from the Project. However, not only is the Project site near a Very High Risk Fire Hazard Safety Zone,[8] but significant new information reveals heightened wildfire risks for sensitive habitats, species, and the local community from development, requiring the 2007 EIR's revision. CEQA requires assessment of "any potentially significant direct, indirect, or cumulative environmental impacts of locating development in areas susceptible to hazardous conditions (e.g., . . . wildfire risk areas)." (CEQA Guidelines § 15126.2(a); *see also Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 193 [recognizing potential for significant environmental effects when project brings new development to a wildfire-prone area]; CEQA Guidelines Appendix G, §§ IX(g), XX.) In light of these changed circumstances and significant new information regarding wildfire risks from development, the Town should update its assessment and mitigation measures to protect from the Project's wildfire risks.

i. Abundant and mounting evidence indicates that locating homes in high or very high wildfire areas demonstrably increases the risk of wildfire ignition.

A 2019 study from Governor Gavin Newsom's Office determined that construction of more homes in the wildland-urban interface is one of the main factors that "magnify the wildfire threat and place substantially more people and property at risk than ever before" (Governor Newsom's Strike Force, 2019). Another 2019 study found that housing and human infrastructure in fire-prone wildlands are the main drivers of fire ignitions and structure loss (Syphard et al., 2019). Sprawl developments extending into habitats that are prone to fire have led to more frequent wildfires caused by human ignitions, like power lines, arson, improperly disposed cigarette butts, debris burning, fireworks, campfires, or sparks from cars or equipment (Alexandre, Stewart, Keuler, et al., 2016; Alexandre, Stewart, Mockrin, et al., 2016; Balch et al., 2017; Bistinas et al., 2013; Keeley et al., 1999; Keeley & Fotheringham, 2003; Keeley & Syphard, 2018; Radeloff et al., 2018; Syphard et al., 2007, 2012, 2019). This has led California's Natural Resources Agency, which promulgates the CEQA Guidelines, to state unambiguously that "the evidence is clear that bringing more people to areas of higher wildfire risk exacerbates those risks." (AA 4:1663.)

Almost all (95-97%) contemporary wildfires in California have been unintentionally caused by people and human infrastructure (Balch et al., 2017; Keeley & Syphard, 2018). For example, the 2017 Thomas Fire, 2017 Tubbs Fire, 2018 Camp Fire, 2018 Woolsey Fire, 2019 Kincade Fire, 2020 Bobcat Fire, 2020 Silverado Fire, and the 2020 Zogg Fire were found to have been caused by electrical transmission lines and electrical equipment. And although many of the

[8] https://experience.arcgis.com/experience/03beab8511814e79a0e4eabf0d3e7247/

2020 fires were sparked by a lightning storm, the 2020 Apple Fire was caused by sparks from a vehicle, the 2020 El Dorado Fire was caused by pyrotechnics at a gender-reveal celebration, and the 2020 Blue Ridge Fire was likely caused by a house fire. Placing more homes and people in and near high fire-prone areas only increases the potential likelihood of these ignition sources, as has been documented in multiple scientific studies (Balch et al., 2017; Bistinas et al., 2013; Keeley et al., 1999; Keeley & Fotheringham, 2003; Keeley & Syphard, 2018; Radeloff et al., 2018; Syphard et al., 2007, 2012, 2019).

Since 2016 more than 200 people in California have been killed in wildfires, more than 50,000 structures have been burned down, hundreds of thousands have had to evacuate their homes and endure power outages, and millions have been exposed to unhealthy levels of smoke and air pollution (CalFire 2023).[9] Although public utility companies (*i.e.*, PG&E and Southern California Edison) are altering operations in the form of power outages and blackouts during extreme weather conditions (Callahan et al., 2019; Fry, Dolan, et al., 2019; Krishnakumar et al., 2019), wildfires can still spark and spread quickly towards homes, as evidenced by the wildfires in Moraga (Hernández et al., 2019) and Saddleridge/Sylmar (Fry, Miller, et al., 2019). And the power outages themselves disproportionately burden our most vulnerable communities, including the elderly, poor, and disabled (Chabria & Luna, 2019), and can cause traffic jams and collisions (CBS San Francisco, 2019). Michael Wara, Director of the Climate and Energy Policy Program and a senior research scholar at the Stanford Woods Institute for the Environment, estimated that PG&E's power outage in Northern and Central California could have an economic impact of $2.5 billion in losses, with most of the burden on businesses (Callahan et al., 2019).

In 2018, the State officially recognized that introduction of low or intermediate density development in the wildland urban interface increases ignition risk. (OPR 2018 Final Statement of Reasons – Update to CEQA Guidelines Checklist]; see also *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 193 [recognizing potential for significant environment effects when project brings new development to a wildfire prone area].)

As another recent peer-reviewed study from Stanford University researchers explained, "Changing demographic factors have undoubtedly played a substantial role in community exposure and vulnerability—including the expansion of urban and suburban developments into the 'wildland-urban interface.'" (Goss et al. 2020.) In fact, development in the wildland-urban interface, like the proposed project, is responsible for the most buildings burned in California, despite less fuel. (Kramer et al. 2019.) Researchers have determined that growth in the wildland-urban interface "often results in more wildfire ignitions, putting more lives and houses at risk." (Radeloff et al. 2018.)

[9] These data are from annual CalFire Incident Reports, available at https://www.fire.ca.gov/incidents.

Developments with low/intermediate densities extending into habitats that are prone to fire have led to more frequent wildfires caused by human ignitions, and these types of developments have the highest chances of burning (Keeley et al. 1999; Keeley and Fotheringham 2003; Syphard et al. 2007; Syphard et al. 2013; Balch et al. 2017; Radeloff et al. 2018; Syphard et al. 2019). This can disrupt the natural fire regime and lead to a dangerous feedback loop of deadly fires and habitat destruction. Thus, developing housing in locations in California that currently have low or no density—such as the Project site—dramatically *increases* the number of fires and the amount of area burned. (*See* Keeley 2005; *see also* Syphard et al. 2013; Syphard et al. 2007 [stating that ninety-five percent of California's fires are caused by human activity].) Common anthropogenic causes of fire include arson/incendiary, equipment use, debris burning, smoking, vehicles, fireworks, electricity, and outdoor cooking. Additionally, structure fires can spread and initiate wildland fires.

As one California court recently put it when finding the County of San Diego's EIR for a residential development project inadequate on these very grounds:

> [T]here is no discussion in the EIR of whether or how adding 1400 new residents into the area will affect the likelihood of wildfires. Adding this many residents into the Harmony Grove Project area is bound to affect the likelihood of fire given that, according to one report, 95% of modern wildfires in California are started by people. . . .The EIR should have addressed the issue. Although the EIR discusses what will be done to deal with wildfires, it does not address how adding new residents will affect the potential for wildfires to start.

(*Elfin Forest Harmony Grove Town Council v. County of San Diego* San Diego Sup. Ct. Case No. 37-2018-00042927-CU-TT-CTL, minute order dated Feb. 20, 2020 [included as reference].) Similarly here the 2007 EIR failed to address this significant new information regarding how the Project will affect the potential for wildfires to start.

ii. New Information Reveals Heightened Public Health Risks from Wildfires.

Beyond assessing these changed circumstances, the revised EIR should take into account significant new information regarding wildfire impacts on local communities, as described below.

a. Increased Wildfire Risk Poses Health Concerns for the Surrounding Community.

First, new studies reveal the severity of health risks from wildfire. For example, wildfires place local communities at higher risk of increased occurrences of poor outdoor and indoor air quality from $PM_{2.5}$ from smoke, which can have both acute and long-term health effects that disproportionately affect vulnerable populations, like children, the elderly, those with underlying chronic disease, low-income communities, and communities of color. (Reid-Wainscoat et al., 2024.) In addition, epidemiologists recently found that increased exposure to wildfire smoke may

also be linked to higher rates of dementia. (B. Zhang et al., 2023; Z. Zhang et al., 2023.) Researchers further estimate that between 2008 and 2018 California wildfire smoke caused more than 50,000 premature deaths. (Connolly et al., 2024.)

b. New Information Suggests More Unintentional Ignitions Due to Development Increases Firefighting Costs and Strain on Firefighters.

Second, new information sheds light on the costs of wildfires for state and local authorities. Fire suppression costs in areas managed by the California Department of Forestry and Fire (Cal Fire) have skyrocketed from $114 million in the 2000-2001 fiscal year to close to $3 billion for the 2020-2021 and 2021-2022 fiscal years combined. (CalFire 2022.) During the 2022-2023 fiscal year, CalFire used an estimated $3.3 billion for wildfire protection and suppression. (LAO 2023.) This does not include the cost of lives lost, property damage, or clean up.

Climate change only adds to extreme weather and fire conditions, which, in combination with poorly planned development, has led to more ignitions and longer fire seasons, increasing strain on over-burdened firefighters and first responders. Wildland firefighters suffer disproportionately high rates of cancer and other serious diseases, likely due to extreme smoke exposure. (Hwang et al., 2023; Johnson & Lam, 2023.) In addition, the physical and mental fatigue of endlessly fighting fires and experiencing trauma have spurred new reports indicating rising rates of suicide and substance abuse among firefighters. (Cart, 2022.) The revised EIR must assess these impacts and include appropriate mitigation.

iii. The 2007 EIR's Fails to Describe Existing Wildfire Conditions on the Project Site and Must Now Include Changed Circumstances.

The 2007 EIR's assessment also fails to describe the project site's existing wildfire conditions, let alone the conditions that exist now. An EIR for a development project of this size and scope often uses modeling software, such as the industry-standard FlamMap, BehavePlus, or similar programs, to provide fire behavior modeling for the project site. The analysis typically includes descriptions of the project site's topography, fuel loads, and wind patterns, and uses those inputs to anticipate wildfire conditions under various scenarios. But here, in sharp contrast, the 2007 EIR fails to provide any of that information.

iv. A Revised EIR Must Mitigate the Project's Wildfire Impacts.

Finally, taking into account changed circumstances from heightened wildfire risk and new information regarding wildfire risks, the Town should accordingly add mitigation measures for wildfire risks. The revised EIR must also provide substantial evidence that the adopted mitigation measures will effectively reduce the project's impacts. (*League to Save Lake Tahoe v. County of Placer* (2022) 75 Cal.App.5th 63, 120-21; *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168-69.)

The March 18, 2025 Planning & Economic Development Commission Staff Report even admits that the heightened fire risk necessitates mitigation, stating: "With the recent devastating wildfires, it has illustrated the need for the proactive development of fire breaks to protect at-risk communities. The language in the Amended and Restated SDA requires the developer to work with the Fire District to construct a fire break through the Snowcreek VIII development area." However, this promise lacks the requisite analysis of changed circumstances and significant new information, as well as the specificity of mitigation measures CEQA requires. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173 [requiring concrete, specific, and enforceable mitigation measures].)

D. Numerous Species That May Occur in the Project Area Have Been Listed Since 2007.

The 2007 EIR's biological resources analysis and mitigation lacks information regarding changed circumstances and significant new information on species listed under the California Endangered Species Act (CESA) and the federal Endangered Species Act since 2007. In fact, the 2007 EIR's biological surveys were conducted *twenty years* ago on August 8-10, 2005, to assess the environmental conditions of the site and its surroundings and identify special-status species and sensitive habitats. Furthermore, citations in Biological Resources section are largely from the 1990s. The Town must revise and recirculate the EIR with updated conditions.

Since 2007, several species have gained protection under the California Endangered Species Act and federal Endangered Species Act that may be present in the Project location, including the Yosemite toad, Sierra Nevada yellow-legged frog, burrowing owl, Sierra Nevada red fox, and wolverine

First, the Sierra Nevada yellow-legged frog was listed as an endangered species under the ESA on April 29, 2014. (79 Fed. Reg. 24256 (April 29, 2014).) Designated critical habitat was then proposed on April 25, 2013 and finalized on August 26, 2016. (81 Fed. Reg. 59046.) Sierra Nevada yellow-legged frogs inhabit the lakes, ponds, marshes, meadows and streams at elevations ranging from 4,500 to 12,000 feet and are generally not found more than one meter (3.3 feet) from water, although along streams they have been observed more than 22m (71 ft) from the water and have been documented to travel up to 3.3 km (2.05 mi) along streams in a single season. (*Id*. at 24260.) The Sierra Nevada yellow-legged frog was historically abundant and ubiquitous across many of the higher elevations within the Sierra Nevada, but have disappeared from a large fraction of their historical range. (*Id*. at 24260-61.) Local population-level changes were first noticed in the early 1900s although they were still abundant at many sites, and population losses continued between the 1960s and 1990s, and have continued in recent decades. As a result, potential impacts to the Sierra Nevada yellow-legged frog must be assessed and mitigated before the Project can move forward.

Second, along with the Sierra Nevada yellow-legged frog, the Yosemite toad was listed as a threatened species under the ESA on April 29, 2014. (79 Fed. Reg. 24256 (April 29, 2014).)

Designated critical habitat is not far from the Project, in the Mammoth Lakes Basin. Yosemite toads are associated with wet meadows due to their breeding ecology and spend the majority of their lives in upland habitats adjacent to breeding meadows, often relying on moist upland areas such as seeps and springs as important non-breeding summer habitat. (*Id*. at 24285.) However, Yosemite toad adults use terrestrial habitats extensively and move an average of 275 m (902 ft) from their breeding meadows, and can move farther than 1 km (0.63 mi). (*Id*.) Eggs are typically laid in meadows and ephemeral pools immediately at snowmelt, followed by a period of about 40-50 days to metamorphosis. (*Id*.) Because Yosemite toads rely heavily on shallow, ephemeral water, they may be more sensitive to minor changes in habitat. *Id*. at 24288.

Yosemite toads historically ranged in the Sierra Nevada from the Blue Lakes region north of Ebbets Pass (Alpine county) to south of the Evolution Lake area (Fresno county), and spanned 1,460-3,630 m (4,790-11,910 ft) in elevation. (*Id*. at 24286.) The extent of the toad's range continues to be about the same, but population declines are thought to have occurred range-wide for the Yosemite toad. (*Id*. at 24288.) As a result, potential impacts to Yosemite toads must be assessed and mitigated before the Project can move forward.

Third, even more recently, on October 10, 2024, the California Department of Fish and Wildlife accepted a petition to list the Western Burrowing Owl as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. As a candidate species, the Western Burrowing Owl now has full protection of a threatened species under CESA. (See Cal. Fish & Game Code §§ 2074.4, 2085; Cal. Code Regs. tit. 14 § 783.1(b).)

The Western Burrowing Owl is a small ground-nesting bird of prairie and grassland habitats, forced to adapt to human-altered habitat as urban development and agriculture have spread. Burrowing owls largely rely upon burrows dug by burrowing mammals for nests, primarily those of ground squirrels in California. Where burrows are scarce, these owls may attempt to nest in pipes, culverts, or artificial nest boxes. Burrowing owls also frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats.

In California, preferred habitat for burrowing owls includes areas of short, sparse vegetation, such as grassy fields, vacant lots, and pastures, with useable burrows and foraging habitat proximity. Burrowing owls require open fields with adequate food supply for foraging habitat, low vegetative cover to watch for predators, and adequate roosting sites. These owls are often observed perching by their burrows or hunting insects, rodents, amphibians, or small birds in open fields.

Mono County falls within the burrowing owl's range,[10] and burrowing owls have been recently spotted throughout Mono County, photographed, and uploaded onto the eBird website.[11] As a result, potential impacts to burrowing owls must be assessed and mitigated before the Project can move forward.

Fourth, beyond these species, the Sierra Nevada red fox was listed as federally endangered in 2021 (86 Fed. Reg. 41743), and the wolverine was listed as federally threatened in 2023. (88 Fed. Reg. 83726.) A wolverine was spotted in Mammoth Lakes just two years ago in 2023 and could very well be impacted by the Project.[12]

In sum, the recent listing of these species provides significant new information and changed circumstances that a revised EIR must take into account.

E. The Town of Mammoth Lakes' Visitors Have Increased Since 2007, Resulting in Increased Traffic Congestion.

The 2007 EIR found the Project would result in less than significant impacts on traffic congestion. But the amount of traffic on Old Mammoth Road is much different in 2025 than 2007, especially considering substantial increases in tourism. Mammoth Lakes has gone from 2,323,979 visitor trips per year from 2015-16 to 3,939,221 from 2021-22.[13] As a result, Old Mammoth Road faces far more congestion now, which must be assessed and mitigated in a revised EIR due to changed circumstances.

IV. CONCLUSION

Thank you for the opportunity to submit comments on the Revised DA for Snowcreek VIII. I urge the Town to prepare a revised EIR that fully complies with CEQA and recirculate. Because significant new information has become available on many resource topics, the Town must re-evaluate and incorporate new circumstances as well as new research and studies on those impacts that have become available in the last 18 years.

Best,

Meredith

Meredith Stevenson
Mammoth Lakes, CA 93546
mlstevenson77@gmail.com

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[10] CDFW. Burrowing Owl Range Map. Available at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=1872

[11] Numerous examples of this documentation was submitted with these comments.

[12] https://www.sfgate.com/california-parks/article/second-wolverine-101-years-seen-california-18127753.php

[13] https://pub-townofmammothlakes.escribemeetings.com/filestream.ashx?DocumentId=28565

REFERENCES

Alexandre, P. M., Stewart, S. I., Keuler, N. S., Clayton, M. K., Mockrin, M. H., Bar-Massada, A., Syphard, A. D., & Radeloff, V. C. (2016). Factors related to building loss due to wildfires in the conterminous United States. *Ecological Applications*, *26*(7), 2323–2338.

Alexandre, P. M., Stewart, S. I., Mockrin, M. H., Keuler, N. S., Syphard, A. D., Bar-Massada, A., Clayton, M. K., & Radeloff, V. C. (2016). The relative impacts of vegetation, topography and spatial arrangement on building loss to wildfires in case studies of California and Colorado. *Landscape Ecology*, *31*(2), 415–430.

Balch, J. K., Bradley, B. A., Abatzoglou, J. T., Nagy, R. C., Fusco, E. J., & Mahood, A. L. (2017). Human-started wildfires expand the fire niche across the United States. *Proceedings of the National Academy of Sciences*, *114*(11), 2946–2951.

Bistinas, I., Oom, D., Sá, A. C. L., Harrison, S. P., Prentice, I. C., & Pereira, J. M. C. (2013). Relationships between human population density and burned area at continental and global scales. *PLoS ONE*, *8*(12), 1–12.

Bransford, S., Medina, J., & Del Real, J. A. (2018, July). Firefighters Reflect on a Job Now 'Twice as Violent'. *The New York Times*.

California Air Pollution Control Officers Association (CAPCOA). (June 2021.) FAQs: What Updates Are Included in CALEEMod Version 2020.4.0? Available at: https://www.aqmd.gov/caleemod/faqs#previous

California Air Pollution Control Officers Association (CAPCOA). (April 2022.) Comparison to CalEEMod Version 2020.4.0. Available at: https://www.caleemod.com/documents/user-guide/09_Appendix%20H.pdf

California Air Pollution Control Officers Association (CAPCOA). (December 2021.) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity. Available at: https://www.caleemod.com/documents/handbook/full_handbook.pdf

Callahan, M., Rossmann, R., & Schmitt, W. (2019, October 9). Winds pick up as PG&E shutoff enters second day. *Press Democrat*.

Cart, J. (2022, June 13). Trial by fire: The trauma of fighting California's wildfires. *Cal Matters*. https://calmatters.org/series/california-firefighters-trauma-wildfires/

CBS San Francisco. (2019, October 9). Power Outage Results In Multiple Crashes , Injuries At Santa Rosa Intersections. *CBS San Francisco*.

CDFW. Burrowing Owl Range Map. Available at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=1872

Chabria, A., & Luna, T. (2019). PG&E power outages bring darkness , stress and debt to California's poor and elderly. *Los Angeles Times*.

Climate Action Tracker, Public data – emissions pathways (November 2021). Available at: https://climateactiontracker.org/global/temperatures/.

Connolly, R., Marlier, M. E., Garcia-Gonzales, D. A., Wilkins, J., Su, J., Bekker, C., Jung, J., Bonilla, E., Burnett, R. T., Zhu, Y., & Jerrett, M. (2024). Mortality attributable to PM 2.5 from wildland fires in California from 2008 to 2018. *Science Advances*, *10*(23), eadl1252. https://doi.org/10.1126/sciadv.adl1252

Del Real, J. A., & Kang, I. (2018, July). California Today: The Increasing Strain on State Firefighters. *The New York Times*. https://www.nytimes.com/2018/07/30/us/california-today-firefighters.html

Fry, H., Dolan, M., Luna, T., & Serna, J. (2019, October 10). Gov. Newsom slams PG&E over 'unacceptable' power outages and failure to fix systems. *Los Angeles Times*.

Fry, H., Miller, L., Ormseth, M., & Serna, J. (2019, October 11). Saddleridge fire explodes to 4,700 acres , burns 25 homes in San Fernando Valley. *Los Angeles Times*.

Governor Newsom's Strike Force. (2019). *Wildfires and Climate Change: California's Energy Future*.

Hernández, L., Gafni, M., & Bauman, A. (2019). Moraga blaze 100% contained. *San Francisco Chronicle*.

Hwang, J., Chong, N.-S., Zhang, M., Agnew, R. J., Xu, C., Li, Z., & Xu, X. (2023). Face-to-face with scorching wildfire: Potential toxicant exposure and the health risks of smoke for wildland firefighters at the wildland-urban interface. *The Lancet Regional Health - Americas*, *21*, 100482.

IPCC. (2023). *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switze*rland, 184 pp., doi: 10.59327/IPCC/AR6-9789291691647.

IPCC, Hicke, J.A., S. Lucatello, L.D., Mortsch, J. Dawson, M. Domínguez Aguilar, C.A.F. Enquist, E.A. Gilmore, D.S. Gutzler, S. Harper, K. Holsman, E.B. Jewett, T.A. Kohler, and KA. Miller. (2022). North America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1929–2042, doi:10.1017/9781009325844.016.

Jay, A.K., et al. (2023). Fifth National Climate Assessment: Overview: Understanding Risks, Impacts, and Responses, U.S. Global Change Research Program, Washington, DC, USA, https://doi.org/10.7930/NCA5.2023.CH1

Johnson, J., & Lam. (2023, August 29). California's wildland firefighters are being poisoned by smoke. And we're doing little to protect them. *San Francisco Chronicle*. https://www.sfchronicle.com/projects/2023/firefighter-health/

Keeley, J. E., & Fotheringham, C. J. (2003). Impact of Past Present and Future Fire Regimes on North American Mediterranean Shrublands. In *Fire and climatic change in temperate ecosystems of the Western Americas* (pp. 218–262).

Keeley, J. E., Fotheringham, C. J., & Morais, M. (1999). Reexamining fire suppression impacts on brushland fire regimes. *Science*, *284*(5421), 1829–1832.

Keeley, J. E., & Syphard, A. D. (2018). Historical patterns of wildfire ignition sources in California ecosystems. *International Journal of Wildland Fire*, *27*(12), 781.

Kramer, H. A., Mockrin, M. H., Alexandre, P. M., & Radeloff, V. C. (2019). High wildfire damage in interface communities in California. *International Journal of Wildland Fire*, *28*(9), 641–650.

Krishnakumar, P., Welsh, B., & Murphy, R. (2019, October 9). Where SoCal Edison may shut off power in California. *Los Angeles Times*.

Radeloff, V. C., Helmers, D. P., Kramer, H. A., Mockrin, M. H., Alexandre, P. M., Bar-Massada, A., Butsic, V., Hawbaker, T. J., Martinuzzi, S., Syphard, A. D., & Stewart, S. I. (2018). Rapid growth of the US wildland-urban interface raises wildfire risk. *Proceedings of the National Academy of Sciences*, *115*(13), 3314–3319.

Syphard, A. D., Brennan, T. J., & Keeley, J. E. (2018). Chaparral Landscape Conversion in Southern California. In *Valuing Chaparral* (pp. 323–346).

Syphard, A. D., Keeley, J. E., Massada, A. Bar., Brennan, T. J., & Radeloff, V. C. (2012). Housing arrangement and location determine the likelihood of housing loss due to wildfire. *PLoS ONE*, *7*(3), e33954.

Syphard, A. D., Radeloff, V. C., Hawbaker, T. J., & Stewart, S. I. (2009). Conservation threats due to human-caused increases in fire frequency in mediterranean-climate ecosystems. *Conservation Biology*, *23*(3), 758–769.

Syphard, A. D., Rustigian-romsos, H., Mann, M., Conlisk, E., Moritz, M. A., & Ackerly, D. (2019). The relative influence of climate and housing development on current and projected future fire patterns and structure loss across three California landscapes. *Global Environmental Change*, *56*, 41–55.

Turco, M et al. (2023). Anthropogenic climate change impacts exacerbate summer forest fires in California. PNAS, Vol. 120 (No. 25). https://doi.org/10.1073/pnas.2213815120

Williams, J. N., Safford, H. D., Enstice, N., Steel, Z. L., & Paulson, A. K. (2023). High-severity burned area and proportion exceed historic conditions in Sierra Nevada, California, and adjacent ranges. *Ecosphere*, *14*(1), e4397.

Yap, T. A., Rose, J. P., Broderick, P., & Prabhala, A. (2021). *Built to Burn: California's Wildlands Developments Are Playing With Fire*.

Zhang, B., Weuve, J., Langa, K. M., D'Souza, J., Szpiro, A., Faul, J., Mendes De Leon, C., Gao, J., Kaufman, J. D., Sheppard, L., Lee, J., Kobayashi, L. C., Hirth, R., & Adar, S. D. (2023). Comparison of Particulate Air Pollution From Different Emission Sources and Incident Dementia in the US. *JAMA Internal Medicine*.

Zhang, Z., Chen, L., Wang, X., Wang, C., Yang, Y., Li, H., Cai, M., & Lin, H. (2023). Associations of Air Pollution and Genetic Risk With Incident Dementia: A Prospective Cohort Study. *American Journal of Epidemiology*, *192*(2), 182–194.

Town of Mammoth Lakes
Planning and Economic Development Commission
Agenda Action Sheet

Title: Consideration of Unmet Transit Needs within the Town of Mammoth Lakes for FY 25/26

Meeting Date: March 18, 2025

Prepared by: Haislip Hayes, PE Public Works Director
Phil Moores, ESTA Executive Director

Recommendation: Staff recommends the Planning & Economic Development Commission receive public input and provide feedback to staff regarding the evaluation of unmet needs in the Town of Mammoth Lakes and provide direction to staff regarding unmet needs or transit services.

Summary:

Please see the attached Staff Report

Town of Mammoth Lakes

Planning & Economic Development Commission Staff Report

Meeting Date: March 18, 2025

AGENDA TITLE: Consideration of Unmet Transit Needs within the Town of Mammoth Lakes for FY 25-26

REQUESTING DEPARTMENT:
Public Works / Eastern Sierra Transit Authority
Haislip Hayes, PE Public Works Director
Phil Moores, Executive Director, ESTA

OBJECTIVE:

1. Staff recommends the Planning & Economic Development Commission receive public input and provide feedback to staff regarding the evaluation of unmet needs in the Town of Mammoth Lakes and provide direction to staff regarding unmet needs or transit services.

BACKGROUND:

State law provides for a Citizen Participation Process that requires the Regional Transportation Planning Agency (the Mono County Local Transportation Commission [LTC] in the case of Mammoth Lakes) to hold at least one public hearing to ensure broad community participation and solicit the input of transit-dependent and transit-disadvantaged persons, including the elderly, disabled, and persons of limited means. A public hearing on unmet transit needs is also required prior to the LTC allocating any funds not directly related to public transportation services, specialized transportation services, or facilities provided for the exclusive use of pedestrians and bicycles. The purpose of the unmet needs hearing is to solicit comments on unmet transit needs that may exist within Mammoth Lakes and that might be reasonable to meet by establishing or contracting for new public transportation or specialized transportation services or by expanding existing services. To meet the public hearing requirement for both the Citizen Participation Process and unmet transit needs, and to facilitate public input on transit needs, the LTC has directed that Unmet Transit Needs assessments be conducted in coordination with the Regional Planning Advisory Committees (RPAC) for the County and the PEDC for the Town during the spring of each year. The input received at these sessions will be presented to the LTC for consideration at their meetings in April and May.

ANALYSIS/DISCUSSION:

The Mono County LTC defines the following terms relative to the unmet transit needs process.

- **Unmet Transit Needs**: A need of the Mono County elderly, disabled, low income, youth, and other transit-dependent groups for transit service that is currently not available and, if provided for, would enable the transit dependent person to obtain the basic necessities of life primarily within Mono County. "Necessities of life" are defined as trips necessary for medical and dental services, essential personal business, employment, social service appointment, shopping for food or clothing, and social and recreational purposes.
- **Reasonable to Meet**: Transit needs for the necessities of life which pertain to all public and/or specialized transportation services that:
    - Can be proven operationally feasible;
    - Can demonstrate community acceptance;
    - Would be available to the general public;
    - Can be proven to be economical; and
    - Can demonstrate cost effectiveness by meeting current fare box revenue requirements of the Mono LTC (10% of operating cost) within two years.

Prior to making allocations for transit service for FY 2025/26, the Mono County LTC must adopt a resolution regarding unmet transit needs. The resolution must include a finding that:

- there are no unmet needs, or
- there are no unmet transit needs that are reasonable to meet, or
- there are unmet transit needs, including needs that are reasonable to meet.

If the LTC finds that there are unmet transit needs, including needs that are reasonable to meet, then the unmet needs shall be funded before any allocation is made for streets and roads. It should be noted that the Mono County LTC has not allocated any transit funds to streets and roads within the last five years. This process does not require that unmet needs that are reasonable to meet be funded in place of transit service needs that are currently funded. However, it does provide a forum for such needs to be considered for funding.

The Eastern Sierra Transit Authority, in its role as the Consolidated Transportation Services Agency (CTSA) for Mono County and with assistance from LTC/County/Town staff, will attend Regional Planning Advisory Committee (RPAC) or community meetings in Antelope Valley, Bridgeport Valley, June Lake, and Mono Basin to solicit public input. Input from those meetings, as well as input from the Mammoth Lakes Planning & Economic Development Commission meeting will be submitted to the LTC for consideration of the annual unmet transit needs process in June.

RECOMMENDATION:

Staff recommends the Planning & Economic Development Commission receive public input and provide feedback to staff regarding the evaluation of unmet needs in the Town of Mammoth Lakes and provide direction to staff regarding unmet needs or transit services.

Town of Mammoth Lakes Planning and Economic Development Commission

Minutes of Regular Meeting

February 12, 2025, 9:00 a.m.
437 Old Mammoth Road, Suite Z, Mammoth Lakes

Members Present: Commissioner Greg Eckert, Commissioner Cynthia Fleming, Commissioner Lana Grand, Vice Chair Dawn Vereuck, Chair Michael Vanderhurst

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1. CALL TO ORDER

The Chair called the meeting to order at 9:00 a.m. in the Council Chamber, 437 Old Mammoth Road, Suite Z, Mammoth Lakes.

2. PLEDGE OF ALLEGIANCE

Senior Planner Kim Cooke led the flag salute.

3. PUBLIC COMMENTS

Public Works Director Haislip Hayes gave an update regarding Town operations during upcoming snowstorms. There was discussion among members of the Commission and staff.

4. PUBLIC HEARINGS

4.1 Consideration of District Zoning Amendment 24-001, Use Permit 24-004, and Tentative Tract Map 24-003 for a subsequent amendment to the Amended Phase One Clearwater Specific Plan (CSP) located at 164 Old Mammoth Road to modify the permitted uses for the

Amended Phase One CSP by adding Condominium Hotel uses subject to a use permit and subdivision map approval. The application includes a Tentative Tract Map for the subdivision of the twenty (20) units within the five four-plex structures ("Villas") into condominium hotel units that may be sold individually. The project was previously analyzed pursuant to the California Environmental Quality Act (CEQA) in the 2021 Addendum to the Clearwater Specific Plan Environmental Impact Report. A public hearing for this application was held on December 11, 2024, and concluded in a 2-1 vote, which was determined to be a "no action vote." A new public hearing on the item is required to reach a decision on the application.

The Chair opened the public hearing at 9:05 a.m.

Town Attorney Andrew Morris outlined the voting impacts for this item.

Commissioner Fleming recused herself due to a conflict and left the meeting at 9:08 a.m.

Senior Planner Kim Cooke gave a presentation outlining the information in the staff report.

Matt Merin, applicant, offered to answer questions from the Commission.

There was discussion among members of the Commission and staff.

Moved by Vice Chair Dawn Vereuck
Seconded by Commissioner Lana Grand

Adopt the Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and recommending to the Town Council approval of District Zoning Amendment 24-001, Use Permit 24-004, and Tentative Tract Map 24-003 as recommended by staff.

For (3): Commissioner Lana Grand, Vice Chair Dawn Vereuck, and Chair Michael Vanderhurst

Against (1): Commissioner Greg Eckert

Conflict (1): Commissioner Cynthia Fleming

Carried (3 to 1)

Commissioner Fleming returned to the meeting at 9:33 a.m.

4.2 Consideration of the First Amendment to the Snowcreek Development Agreement for property located within the Snowcreek VII and VIII project sites within the Snowcreek Master Plan area. The project was previously analyzed pursuant to the California Environmental Quality Act (CEQA) in the certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report and the Snowcreek VII Mitigated Negative Declaration. This item is being continued to the March 12, 2025 meeting.

This item was continued to March 12, 2025.

5. BUSINESS MATTERS

5.1 Consideration of Time Extension Request 24-003 for a three-year time extension of the Terra Blanca project entitlement (TTM 22-003 & DR 22-002) located at 3789 Main Street.

Assistant Planner Gina Montecallo gave a presentation outlining the information in the staff report. There was discussion among members of the Commission and staff.

Peter Diebitsch, applicant, outlined his reasons for the time extension request.

There was discussion among members of the Commission, staff, and Mr. Diebitsch.

Moved by Commissioner Greg Eckert
Seconded by Commissioner Lana Grand

Adopt the resolution making the required Municipal Code findings, and approving Time Extension Request 24-003 for a three-year extension of the Terra Blanca Development entitlement (TER 22-003 and DR 22-002) with modifications for a one-year extension instead of three years.

For (2): Commissioner Greg Eckert, and Commissioner Lana Grand

Against (3): Commissioner Cynthia Fleming, Vice Chair Dawn Vereuck, and Chair Michael Vanderhurst

Defeated (2 to 3)

Moved by Vice Chair Dawn Vereuck
Seconded by Commissioner Cynthia Fleming

Adopt the resolution making the required Municipal Code findings, and approving Time Extension Request 24-003 for a three-year extension of the Terra Blanca Development entitlement (TER 22-003 and DR 22-002) with conditions as recommended by staff.

For (3): Commissioner Cynthia Fleming, Vice Chair Dawn Vereuck, and Chair Michael Vanderhurst

Against (2): Commissioner Greg Eckert, and Commissioner Lana Grand

Carried (3 to 2)

6. CONSENT AGENDA

Moved by Commissioner Greg Eckert
Seconded by Vice Chair Dawn Vereuck

Approve the Consent Agenda.

For (5): Commissioner Greg Eckert, Commissioner Cynthia Fleming, Commissioner Lana Grand, Vice Chair Dawn Vereuck, and Chair Michael Vanderhurst

Carried (5 to 0)

6.1 Approve the minutes of the regular meeting of December 11, 2024.

6.2 Consider approval of Final Tract Map 22-002 for the "Limelight Hotel" development project.

6.3 Approve Final Tract Map 21-003 for the new 4-story, 101-room "Residence Inn boutique hotel by Marriott" development project located at 94 and 150 Berner Street.

7. COMMISSIONER REPORTS

Commissioner Eckert announced his resignation from the Planning and Economic Development Commission as soon as a replacement could be found,

and thanked staff and his fellow Commissioners. Chair Vanderhurst thanked Commissioner Eckert for his service.

8. DIRECTORS REPORT

Community and Economic Development Director Nolan Bobroff thanked Commissioner Eckert for his years of service. Mr. Bobroff announced that the Parcel Phase 1 was one hundred percent full. He gave an update regarding the Mammoth Creek Inn project. There was discussion among members of the Commission and staff.

9. ADJOURNMENT

The Commission adjourned the meeting at 9:52 a.m.

_____

Jamie Gray, Town Clerk

Town of Mammoth Lakes Planning and Economic Development Commission

Minutes of Regular Meeting

March 12, 2025, 9:00 a.m.
437 Old Mammoth Road, Suite Z, Mammoth Lakes

Members Absent: Commissioner Greg Eckert, Commissioner Cynthia Fleming, Commissioner Lana Grand, Vice Chair Dawn Vereuck, Chair Michael Vanderhurst

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1. CALL TO ORDER

The Town Clerk called the meeting to order at 9:00 a.m. in the Council Chamber, 437 Old Mammoth Road, Suite Z, Mammoth Lakes.

2. PUBLIC COMMENTS

There were no public comments given at this time.

3. PUBLIC HEARINGS

3.1 Consideration of the Amendment to the 2010 Snowcreek Development Agreement for property located within the Snowcreek VII and VIII project sites within the Snowcreek Master Plan area. The project was previously analyzed pursuant to the California Environmental Quality Act (CEQA) in the certified Snowcreek VIII, Snowcreek Master Plan Update – 2007 Project Final Environmental Impact Report and the Snowcreek VII Mitigated Negative Declaration. This item is being continued to a Special Planning and Economic Development Commission meeting on March 18, 2025.

The Town Clerk continued the public hearing to March 18, 2025.

3.2 Consideration of Unmet Transit Needs within the Town of Mammoth Lakes for FY 25/26. This item is being continued to a Special Planning and Economic Development Commission meeting on March 18, 2025.

The Town Clerk continued the public hearing to March 18, 2025.

4. ADJOURNMENT

The Town Clerk adjourned the meeting at 9:00 a.m.

Jamie Gray, Town Clerk