Town Council Special Agenda

Wednesday, October 27, 2021, 4:00 p.m.
437 Old Mammoth Road, Suite Z, Mammoth Lakes

Members of the Town Council:

Mayor Bill Sauser, Mayor Pro Tem Lynda Salcido, Councilmember Kirk Stapp, Councilmember John Wentworth, Councilmember Sarah Rea

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

NOTE: This meeting will be conducted pursuant to the provisions of Assembly Bill 361 which amends certain requirements of the Ralph M. Brown Act. While Suite *Z* is still open to the public, it is strongly encouraged that you watch the Town Council meetings on the Town of Mammoth Lakes' website atwww.townofmammothlakes.ca.govor on the local government cable channel 18. Public comments can be submitted to the Town Clerk at clerk@townofmammothlakes.ca.gov. before and during the meeting.

ZOOM INFORMATION

Join from a PC, Mac, iPad, iPhone, or Android device:
Please type in or cut and paste in this URL to join. https://monocounty.zoom.us/s/92958002088
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 +1 301 715 8592 or +1 312 626 6799 or +1 646 876 9923
Webinar ID: 929 5800 2088
International numbers available: https://monocounty.zoom.us/u/acobwlnMsm

Public comments can also be given through Zoom by logging in or dialing in and raising your hand.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS

The Public Comment portion of the agenda provides the public with an opportunity to address the Town Council on matters not otherwise listed on the agenda. Under California law the Town Council is prohibited from generally discussing or taking action on items not included in the agenda; however, the Town Council may briefly respond to comments or questions from members of the public. Therefore, the Town Council 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 Mayor for the opportunity to be heard when the item comes up for Council consideration.

4. POLICY MATTERS

4.1. Consider the Town's Participation in the California Housing Accelerator Program for The Parcel.

5. STAFF PRESENTATIONS

5.1. Workshop on Allocation of TOT Revenues, Review of TBID and Short-Term Rentals.

6. ADJOURNMENT

The Town Council will adjourn to a regular meeting to be held on Wednesday, November 3, 2021 at 4:00 p.m.

Mammoth Lakes Town Council
Agenda Action Sheet

Title: Consider the Town's Participation in the California Housing Accelerator Program for The Parcel.

Council Meeting Date: 10/27/2021

Prepared by: Sandra Moberly, Community and Economic Development Director

Recommended Motion: Adopt a resolution authorizing the Town's participation in the California Housing Accelerator Program and authorize the Town Manage to file all required documentation.

Background

On October 5, 2021, the California Department of Housing and Community Development (HCD) announced the availability of $1.6 billion in California Housing Accelerator money for the purposes of supporting shovel-ready projects that are unable to move forward due to funding gaps that resulted from their inability to access tax-exempt bond allocations or low-income housing tax credits. The Parcel is considered a Tier 1 project for this program and is eligible to be in the first group of projects that will receive funding through this program.

Analysis:

The Town and our development partner, Pacific West Communities, have been seeking financing for Phase 1 of The Parcel project since February 2021. Applications for Low Income Housing Tax Credit (LIHTC) funding have been unsuccessful at this point due to the limited funding available through that program. The California Housing Accelerator funding is intended to fund projects that are eligible for LIHTC funding but have not received it at this point. HCD requires that the Town Council, as the Town will be a co-applicant for the funding, execute a resolution authorizing the application for the program and allowing the Town Manager to execute the loan documents on behalf of the Town. The resolution is included as Attachment 1 and the language in the resolution is standard template language from HCD which cannot be modified.

Financial Considerations:

California Housing Accelerator assistance will be in the form of forgivable loans, with terms of zero percent interest for 20 years, with no residual receipts or periodic payment requirements during the life of the California Housing Accelerator loan. Phase 1 of the Parcel will be fully funded with the award of the California Housing Accelerator loan.

Attachments

Attachment 1: Town Council Resolution 21-
Attachment 2: HCD Memorandum dated October 5, 2021
Attachment 3: HCD Slideshow dated September 24, 2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES AUTHORIZING THE TOWN'S PARTICIPATION IN THE CALIFORNIA HOUSING ACCELERATOR PROGRAM

CALIFORNIA HOUSING ACCELERATOR

RESOLUTION NO.:_____

THE PARCEL PHASE I

WHEREAS, the California Department of Housing and Community Development ("Department"), as authorized by Chapter 6.6 (commencing with Section 50672) of Part 2 of Division 31 of the Health and Safety Code, has issued a Project Solicitation and Guidelines, dated September 16, 2021, as amended on October 5, 2021, under its California Housing Accelerator program ("Solicitation");

WHEREAS, the Town of Mammoth Lakes (the "Town") is authorized and directed to submit an application in response to the Solicitation (the "Application"); and

WHEREAS, the Department will make a conditional commitment of California Housing Accelerator funds in reliance on the representations in that Application (the "California Housing Accelerator Loan").

NOW, THEREFORE, IT IS RESOLVED, that the Town is hereby authorized and directed to act in connection with the Department's award of the California Housing Accelerator Loan.

RESOLVED FURTHER: That in connection with the California Housing Accelerator Loan, the Town is authorized and directed to enter into, execute, and deliver an STD 213, Standard Agreement in an amount not to exceed $45,000,000, and any and all other documents required or deemed necessary or appropriate to secure the California Housing Accelerator Loan from the Department and to participate in the California Housing Accelerator program, and all amendments thereto (collectively, the "California Housing Accelerator Loan Documents").

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

RESOLVED FURTHER: That the Town Manager, or his or her authorized designee, is hereby authorized to act on behalf of the Town in connection with the California Housing Accelerator Loan, and, subject to approval by the Town Council of the Town of Mammoth Lakes, to execute the Application and the California Housing Accelerator Loan Documents on behalf of the Town.

Passed and adopted, effective as of October 27, 2021, by the consent of the Governing Body of Public Entity by the following vote:

___AYES ___NAYS

___ABSTAIN ___ABSENT

ATTEST:

Jamie Gray
Town Clerk

APPROVED BY:

Lynda Salcido
Mayor Pro Term

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF STATE FINANCIAL ASSISTANCE
2020 W. El Camino Avenue, Suite 670
Sacramento, CA 95833
(916) 263-2771
www.hcd.ca.gov

October 5, 2021

MEMORANDUM FOR: HCD Pipeline Project Sponsors

FROM: Jennifer Seeger, Deputy Director
Division of State Financial Assistance

SUBJECT: **California Housing Accelerator Project Solicitation (Amended) – Tier I**

The California Department of Housing and Community Development (Department or HCD) is announcing the availability of approximately $1.6 billion in California Housing Accelerator money for the purposes of supporting shovel-ready projects that, despite having received one or more awards from other HCD programs, are unable to move forward due to funding gaps that resulted from their inability to access tax-exempt bond allocations or low-income housing tax credits.

This project solicitation represents the first of two California Housing Accelerator solicitations. This solicitation is for projects prioritized as Tier I based on the criteria outlined below. It is the Department's intent to issue the Tier II Project Solicitation as soon as Tier I applications are processed and Tier I funding levels are finalized. Priorities for Tier II are currently under development and funding priorities for Tier II will be based on the outcomes of Tier I funding.

Background

A substantial share of the funding for HCD projects has traditionally been provided by equity raised from the sale of low-income housing tax credits, especially 4% tax credits. Due to various factors, these tax credits are now in short supply, which has delayed a number of shovel-ready projects with HCD awards. The purpose of the California Housing Accelerator is to enable these projects to quickly begin construction.

Funding available under this project solicitation is derived from the Coronavirus State Fiscal Recovery Fund (CSFRF), established by the federal American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2). Through the 2021–22 California state budget, the funds have been allocated to this program. The mechanism for accessing them is the same as for other federal programs; no bond sale or similar financial arrangements are involved.

Eligibility

Eligibility under this project solicitation is limited to HCD Pipeline Projects that meet the criteria for Tier I prioritization.

Specifically, Tier I projects must demonstrate:

- an award, issued on or after January 1, 2018, from at least one of the specified HCD multifamily housing programs,
- submittal of a CDLAC-TCAC Joint Application on or before July 1, 2021 which was unsuccessful in securing an allocation of bonds and tax credits, and
- evidence that, with a California Housing Accelerator award, the project will have complete financing and all entitlement approvals necessary to start construction within 180 days of award.

The Department has developed a list of the projects eligible for California Housing Accelerator funding. This list includes projects that potentially qualify under Tier I. This list, known as the "Multifamily Pipeline Tracker," is available on the Department's California Housing Accelerator webpage. Sponsors with concerns or questions about the information on this list should notify the Department at accelerator@hcd.ca.gov. The Department reserves the right to verify eligibility for California Housing Accelerator funding and for Tier I prioritization at the time of application.

Application Submittal and Award Timeframes

Tier I applications will be accepted via the Department's online application portal beginning October 5, 2021. Applications for Tier I will be accepted on an over-the-counter basis through November 3, 2021.

All application materials for Tier I projects **must be submitted electronically** via the application portal on the Department's website no later than **5:00 p.m. Pacific Standard Time on November 3, 2021.** Specific submittal instructions will be included in the application form, which is expected to be available on the website no later than September 30, 2021. Personal deliveries will not be accepted. No facsimiles, late submittals, incomplete applications, application revisions, courier deliveries, or walk-in application packages will be accepted.

Webinar and Technical Assistance

The Department will conduct an online application workshop. The California Housing Accelerator application and online workshop details will be posted on the Department's website accelerator.hcd.ca.gov. If you have any questions, please email accelerator@hcd.ca.gov.

Enclosure

CALIFORNIA HOUSING ACCELERATOR

TIER I

PROJECT SOLICITATION AND GUIDELINES

Gavin Newsom, Governor
State of California

Lourdes M. Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency

Gustavo Velasquez, Director
California Department of Housing and Community Development

2020 West El Camino Avenue, Suite 150, Sacramento, CA 95833
Telephone: 916-263-2771
Website: accelerator.hcd.ca.gov
Email: accelerator@hcd.ca.gov

October 5, 2021

Table of Contents

I. Overview 1

A. Funding Available 1

B. Tier I Timeline 1

C. Authorizing Legislation and Applicable Law 1

II. Program Requirements 2

A. Eligible Project 2

B. Eligible Applicants 3

C. Eligible Uses of Funds 3

D. Threshold Application Requirements 4

E. Funding Amounts and Terms 4

III. Other State and Federal Requirements 11

A. Article XXXIV **11**

B. Prevailing Wages **11**

C. Environmental Review **11**

D. Relocation **11**

E. Accessibility and Non-Discrimination **12**

F. Insurance Requirements **13**

IV. Appeals 13

A. Basis of appeals 13

B. Appeal process and deadlines 13

V. Award announcements and contracts 14

A. Award announcements 14

B. Disclosure of Application 14

VI. Other Terms and Conditions 14

A. Conflicts 14

VII. Definitions 14

I. Overview

A. Funding Available

The California Department of Housing and Community Development (Department or HCD) is announcing the California Housing Accelerator, which will make approximately $1.6 billion available to shovel-ready projects that, despite having received one or more awards from other HCD programs, are unable to move forward due to funding gaps that resulted from their inability to access tax-exempt bond allocations or low-income housing tax credits.

Funding available under this project solicitation is derived from the Coronavirus State Fiscal Recovery Fund (CSFRF), established by the federal American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2). Through the 2021-22 California state budget, the funds have been allocated to this program.

B. Tier I Timeline

This project solicitation represents the first of two California Housing Accelerator project solicitations. This project solicitation is for projects prioritized as Tier I based on criteria outlined below. Priorities for Tier II are currently under development. It is the Department's intent to issue the Tier II solicitation as soon as Tier I applications are processed and Tier I funding levels finalized.

Tier I Timeline	
Project Solicitation Release	October 5, 2021
Application Release	October 5, 2021
Application O-T-C Period	October 5 to November 3, 2021
Award Announcements	Continuously as applications are approved, but no later than December 6, 2021
Funds encumbered through an executed Standard Agreement	No later than June 30, 2024
Permanent Loan Conversion	No later than November 30, 2026

C. Authorizing Legislation and Applicable Law

Assembly Bill No. 140 (Chapter 111, Statutes of 2021), which was signed by Governor Newsom on July 19, 2021, created the statutory basis for the California Housing Accelerator by adding Chapter 6.6 (commencing with Section 50672) to Part 2 of Division 31 of the Health and Safety Code.

Health and Safety Code section 50672.3 states, "In order to expedite the development of qualified rental housing developments that are ready to proceed to construction except for obtaining tax credit or bond allocations from the California Tax Credit Allocation Committee and the California Debt Limit Allocation

Committee, the department may adopt guidelines to administer this chapter. Guidelines adopted pursuant to this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code)."

This project solicitation serves as the Department's guidelines for administration of the California Housing Accelerator. As such, the project solicitation and guidelines (collectively, Project Solicitation) establish the terms, conditions, forms, procedures, and other mechanisms that the Department deems necessary to exercise its powers and to perform its duties pursuant to the California Housing Accelerator. The matters set forth herein are regulatory mandates and are adopted as regulations that have the dignity of statutes. (*Ramirez v. Yosemite Water Company, Inc.* (1999) 20 Cal.4th 785, 799 [85 Cal.Rptr.2d 844].)

Any California Housing Accelerator awards will tie into the Existing HCD Commitment. Therefore, the regulations, guidelines, and other terms of the Existing HCD Commitment shall govern the Project's recorded regulatory agreement and other loan documents. California Housing Accelerator-specific terms, conditions, and restrictions will be expressly incorporated into the Existing HCD Commitment's loan documents. California Housing Accelerator-specific terms and conditions will be memorialized in either a separate Standard Agreement or in the Standard Agreement for the Existing HCD Commitment.

The Department will only amend this Project Solicitation as necessary and in accordance with the Department's guideline authority pursuant to Health and Safety Code section 50672.3.

II. Program Requirements

A. Eligible Project

1. To be eligible for a California Housing Accelerator Tier I award, the Project must have received an award letter from a multifamily housing program administered by the Department no earlier than January 1, 2018, and the award must not have expired, been terminated, or disencumbered, or been otherwise held to be void.

2. Qualifying HCD funding programs include the following:
   - Affordable Housing and Sustainable Communities Program
   - Community Development Block Grant Program – Disaster Recovery
   - HOME Investment Partnerships Program
   - Housing for a Healthy California Program
   - Infill Incentive Grant Program of 2007 (with an Existing HCD Commitment to a Qualifying Infill Project)
   - Infill Infrastructure Grant Program of 2019 (with an Existing HCD Commitment to a Qualifying Infill Project)
   - Joe Serna, Jr. Farmworker Housing Grant Program
   - Multifamily Housing Program

- National Housing Trust Fund
- No Place Like Home Program
- Supportive Housing Multifamily Housing Program
- Transit-Oriented Development Implementation Program
- Veterans Housing and Homelessness Prevention Program

Community Development Block Grant-Disaster Recovery (CDBG-DR) projects must have received a notice to proceed or conditional approval from HCD to be eligible for Tier I.

HCD assistance to a Qualifying Infill Area (QIA) under the Infill Incentive Grant Program of 2007 or the Infill Infrastructure Grant Program of 2019 does not, by itself, qualify a housing development within the QIA for California Housing Accelerator funding. Rather, a qualifying housing development within the QIA must meet the California Housing Accelerator's definition of a Qualified Rental Housing Development.

No Place Like Home projects funded directly by Alternative Process Counties do not qualify for an award under the California Housing Accelerator, unless they have an award from another qualifying HCD program.

3. The Applicant must have submitted a CDLAC-TCAC Joint Application, no later than July 1, 2021, and been denied. Applicants that have received and returned an allocation, or otherwise withdrew an application recommended for an allocation, are not eligible for an award under this Project Solicitation unless a subsequent application was submitted by July 1, 2021 that was unsuccessful.

B. Eligible Applicants

All California Housing Accelerator applications must be submitted by and include all Sponsors in connection with the Existing HCD Commitment. However, where there is a public agency co-Sponsor, the application may be submitted solely by the public agency's co-Sponsor(s), provided that the public agency agrees to become a co-Sponsor prior to construction loan closing by executing the Standard Agreement as a co-Sponsor.

C. Eligible Uses of Funds

California Housing Accelerator funds shall be used only for expenses that would be categorized as project costs by the federal low-income housing tax credit program, including, but not limited to, commercial costs and reasonable reserves. The Department reserves the right to disallow costs that do not constitute reasonable project costs, as determined by the Department in its sole and absolute discretion. The Department reserves the right, consistent with applicable law, to require prior written approval from the Department for all reserve withdrawals, whether the reserve was required by the Department or not.

D. Threshold Application Requirements

1. Demonstrate readiness to commence construction within 180 days of award. Applicants shall provide a written certification in their application, in form and substance satisfactory to the Department, confirming site control, entitlements, approved site plans, environmental clearances, and complete financing.

   For the purposes of the California Housing Accelerator, “commencement of construction” means the first land-disturbing activity associated with a project, including land preparation such as clearing, grading, and filling or the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

2. Submittal of the CDLAC-TCAC Joint Application prior to July 1, 2021.

3. Compliance with the requirements specified in this Project Solicitation.

4. Submittal of a complete California Housing Accelerator application, using unaltered application forms and including all required attachments.

5. Each private entity Applicant shall submit an authorizing resolution that, in the Department’s reasonable determination, materially comports with the California Housing Accelerator requirements and is legally sufficient. In addition, each private entity Applicant shall submit a complete set of its organizational documents (and all amendments thereto).

   Please note that the Department will not approve a California Housing Accelerator Standard Agreement until it receives a complete set of authorizing and organizational documents from the Applicant, as specified. This set of documents shall also include, as applicable, a legally sufficient authorizing resolution from any public agency Applicant.

E. Funding Amounts and Terms

1. Funds Available

The maximum amount of California Housing Accelerator funds available under this Project Solicitation, and subsequent solicitations for future tiers, is approximately $1.6 billion.

Pursuant to Health and Safety Code section 50672.2, subdivision (a)(2), $50 million shall be awarded to Projects with an award letter from the Joe Serna, Jr. Farmworker Housing Grant Program. The Department will reserve $50 million to achieve the statutorily mandated set-aside.

2. Maximum Award Amount

The maximum award amount for each project will be calculated using formulas shown in the California Housing Accelerator application. It will be based on the

tax credit equity shown in the Applicant's most recent CDLAC-TCAC Joint Application for tax-exempt bonds and tax credits. This amount will be adjusted to reflect the following:

a. Changes in construction costs, as supported by the California Construction Cost Index (CCCI) published by the California Department of General Services;

b. Changes in financing costs, based on the Department's estimate of the typical net cost of substituting California Housing Accelerator funds and taxable financing for tax credit equity and tax-exempt financing;

c. The Department's estimate of the typical incremental costs of prevailing wages, where California Housing Accelerator funds are the sole trigger for prevailing wage obligations, as supported by a legal opinion in form and substance acceptable to the Department in its reasonable discretion.

The maximum amount will also be decreased to reflect any decrease in developer fee resulting from the California Housing Accelerator limit on developer fees.

3. Application Evaluation Process and Criteria

Requests for California Housing Accelerator funds will be limited to Tier I eligible projects meeting all threshold requirements.

4. Application Fee

Per Health and Safety Code section 50672.2, subdivision (d)(1), the Department has established an application fee of $40,000.00 per California Housing Accelerator application. This refundable fee aims to discourage project application submissions for projects that are not shovel-ready. The fee will be fully refunded if the project meets the California Housing Accelerator's 180-day deadline for commencement of construction, or if the project obtains a tax credit allocation prior to commencement of construction and the California Housing Accelerator funds are disencumbered.

Applicants shall provide the Department with a check made payable to "HCD" in the foregoing amount. Applications submitted without this fee will not be considered for review. All checks for application fees shall be sent to the address specified below:

Department of Housing & Community Development
Attn: Accounts Receivable
California Housing Accelerator Fee: [Project Name]
2020 W. El Camino Avenue, Suite 300 | Sacramento, CA 95833

5. Type of Assistance

For all projects, California Housing Accelerator assistance will be in the form of forgivable loans, with terms of zero percent interest for 20 years, with no residual receipts or periodic payment requirements during the life of the California Housing Accelerator loan.

The loan will be forgiven by the Department at the end of the 20-year loan term as long as all of the following are true, as determined by the Department in its sole and absolute discretion:

- the Sponsor remains in good standing with the California Secretary of State,
- the Project is not in default under the terms of any of the Department's loan documents for that project, and
- negative points have not been assessed against the Sponsor during the previous five (5) years in connection with any Department-assisted project.

The California Housing Accelerator loan shall be subject to repayment if, during the 20-year term, the Project is (1) converted to market rate housing; or (2) sold or refinanced with a distribution of net equity.

California Housing Accelerator funds will be disbursed through escrow at the time of the Project's permanent financing closing.

If a California Housing Accelerator Applicant receives a Tier I funding award and has a pending application with CDLAC and/or TCAC, and that application is thereafter recommended to receive bonds and/or tax credits, the California Housing Accelerator funds must be returned to the Department and will be reallocated as part of a subsequent Tier II Project Solicitation. If a California Housing Accelerator Applicant withdraws a pending application from CDLAC and/or TCAC prior to or after receiving an award of California Housing Accelerator funds, that Applicant will no longer be eligible for California Housing Accelerator funding.

6. Developer Fee Limits

Total developer fee for a Project shall not exceed the lesser of: (a) $2,200,000; or (b) the sum of 15% of the project's unadjusted residential construction-related eligible basis, 5% of the project's unadjusted acquisition eligible basis and 15% of the eligible basis for the project's nonresidential costs.

7. Restrictions on Future Tax Credit Applications and Syndicating Losses

All California Housing Accelerator Sponsors are prohibited from applying for or receiving a tax credit allocation on a California Housing Accelerator funded Project for a period of 20 years from the California Housing Accelerator loan closing date for that Project. This prohibition will be memorialized, as appropriate, in all California Housing Accelerator terms and conditions.

If, following a California Housing Accelerator application and award, a Sponsor syndicates and sells a portion of their ownership interest to a partner or equivalent party seeking tax losses associated with the project, and such syndication was not set forth in the California Housing Accelerator application, nine-tenths of the gross proceeds of that sale shall be remitted to the Department as recaptured California Housing Accelerator funds. Exceptions to this requirement may be granted by the Department where a Sponsor demonstrates that such syndication proceeds would either (i) pay for the lowest reasonable development cost increase that is consistent with the project's original scope as identified in the original HCD application, or (ii) capitalize a services reserve for special needs projects. The Department's written approval of these exceptions is required prior to assignment, transfer, or conveyance of any ownership interest in the project.

8. Commencement of Construction Deadline

All California Housing Accelerator awarded projects must commence construction no later than **180 days from the date of award**. For the purposes of the California Housing Accelerator, commencement of construction means the first land-disturbing activity associated with a project, including land preparation such as clearing, grading, and filling, or the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. The Department may, in its sole and absolute discretion, extend this deadline due to conditions beyond the control of the Sponsor, for a period not to exceed 90 days.

Failure to meet the commencement of construction deadline, or any Department-approved extension, will result in the forfeiture of the application fee and the California Housing Accelerator award. Such failure will also cause the Department to assess negative points when scoring any future application by the Sponsor for Department funding, unless the Sponsor secures a CDLAC/TCAC allocation, and the California Housing Accelerator funds are disencumbered by the Department's deadline.

Within seven (7) months of award, the Sponsor shall submit documentary evidence to the Department that construction commenced within the statutory 180-day time period. If the Department extends the deadline for commencement of construction, as authorized, the Sponsor's deadline for submitting the foregoing documentary evidence shall be extended in the same increment as the extension for commencement of construction. Qualifying forms of documentary evidence include:

- Recordation of a notice of commencement,
- Date- and time-stamped photographs,
- Physical inspection report, or
- Other documentation subject to the approval of the Department.

Failure to submit qualifying documentary evidence within the specified timeframes may result in forfeiture of the application fee, forfeiture of the award,

and/or an assessment of negative points relative to any future application for Department funding.

9. Legal Documents

a. Standard Agreement

Upon the award of California Housing Accelerator funds to a project, the Department shall enter into one or more agreements with the Sponsor(s), including an STD 213, Standard Agreement, which shall encumber funds from the California Housing Accelerator, subject to specified conditions. The agreement or agreements shall include, but not be limited to, the following provisions:

i. A description of the approved Project and the permitted uses of funds;

ii. The amount and terms of the California Housing Accelerator loan;

iii. The income, occupancy, and rent restrictions to be imposed on the Project through a regulatory agreement recorded against the property of the Project;

iv. Performance milestones, and other progress metrics, governing the completion of the Project, along with the remedies available to the Department in the event of a failure to meet such milestones or metrics;

v. Special conditions imposed as part of the Department's approval of the Project;

vi. Terms and conditions required by federal and state law;

vii. Requirements for reporting to the Department;

viii. Remedies available to the Department in the event of a violation, breach, or default of the agreement; and

ix. Provisions regarding Sponsor liability. Specifically, the Sponsor will remain liable to the Department for compliance with and the performance of all California Housing Accelerator requirements regardless of any Department-approved transfer or assignment of interest. Likewise, each co-Sponsor will remain jointly and severally liable to the Department for compliance with and the performance of all California Housing Accelerator requirements regardless of any Department-approved transfer or assignment of interest.

The agreement will also include such other provisions as are necessary to ensure adherence to the objectives and requirements of the California Housing Accelerator.

b. Regulatory Restrictions and Loan Documentation

i. California Housing Accelerator terms, conditions, and restrictions will be expressly incorporated into the loan documents of the Existing HCD Commitment.

ii. The Department will append and incorporate an California Housing Accelerator exhibit into the Existing HCD Commitment's loan regulatory agreement to be recorded on the property. The exhibit will set forth the project's California Housing Accelerator-specific requirements, terms, and conditions. The exhibit will impose, for a 55-year period, the same income, occupancy, and rent restrictions that were represented in the Sponsor's most recent unsuccessful application to TCAC/CDLAC, and it will require the same service amenities that were represented in that application. The Department may, however, expressly approve alternative California Housing Accelerator restrictions and required service amenities for the purpose of maintaining consistency with the Existing HCD Commitment. The regulations, guidelines, and other terms of the Existing HCD Commitment shall govern the integrated regulatory agreement.

iii. California Housing Accelerator requirements, terms, and conditions will also be incorporated into the promissory note and deed of trust of the Existing HCD Commitment, as well as any other of the Existing HCD Commitment's loan documents, as necessary and appropriate. All such documents will be executed and recorded, as appropriate, at permanent financing close of escrow. For projects secured by leasehold security, leases must meet the requirements of UMR §8316, and both the borrower and the fee owner of the property must execute the Department's form template lease rider without modification. The lease rider amends the lease and must be recorded on the fee estate.

iv. Cross-Default. If, in connection with the California Housing Accelerator-funded Project, the Sponsor defaults in the performance or observance of any Department term, condition, or restriction during the term of any Department contract or regulatory period, and such default continues beyond any cure period provided with respect thereto, the Department will avail itself of any and all remedies available to it under any and all Department terms, conditions, restrictions, and agreements relative to the Project, to include those of the Existing HCD Commitment.

10. Reporting Requirements

In addition to the reports required in connection with the Existing HCD Commitment, Sponsor shall annually submit a report that details and certifies to the Department the following:

a. Project met all terms and conditions recorded in its regulatory agreement and any Department covenants;

b. no change in ownership or amendments to the organizational documents of the project has occurred during the reporting period;

c. no tax credits, tax-exempt bond funds, or federal grants or loans with interest rates below the applicable federal rate have been used in the project since it was placed-in-service;

d. services specified in the regulatory agreement were provided to the tenants during the reporting period; and

e. the Project met all the terms and conditions, and is not currently in default, of any lender financing to the Project.

In addition, the Sponsor shall report data on the households occupying the Project, including information on rents charged and project income and expenses, and shall provide information sufficient to determine whether any cash flow limitation in the Department's regulatory agreement has been met.

Sponsor shall also submit such other periodic reports as deemed necessary by the Department to monitor compliance with the regulatory agreement and all California Housing Accelerator requirements. Such reports include, without limitation, a schedule of rental income, in form and substance satisfactory to the Department. Sponsor shall also duly submit all information required by the U.S. Department of the Treasury, which administers the federal funds allocated to the California Housing Accelerator.

11. Defaults and Cancellations

In the event of a breach or violation by the Sponsor, the Department may give written notice to the Sponsor to cure the breach or violation. If the breach or violation is not cured to the satisfaction of the Department within a reasonable time period, the Department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

a. The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation, the appointment of a receiver to complete the project in accordance with California Housing Accelerator requirements, or the commencement of foreclosure proceedings under the power of sale clause in the deed of trust; and

b. The Department may seek such other remedies as may be available under the relevant agreement, at law, or in equity.

III. Other State and Federal Requirements

A. Article XXXIV

Article XXXIV, section 1 of the California Constitution (Article XXXIV) is not applicable to development that consists of the acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof, of lodging facilities or dwelling units using moneys appropriated and disbursed pursuant to Chapter 6.6 (commencing with Section 50672) of Part 2 of Division 31 of the Health and Safety Code. (Health & Saf. Code, § 37001, subd. (h)(4).) As such, Article XXXIV is not applicable to California Housing Accelerator-funded projects.

B. Prevailing Wages

Applicant's contemplated use of California Housing Accelerator funds is subject to California's prevailing wage law (Lab. Code, § 1720 et seq.). Applicants are urged to seek professional legal advice about the law's requirements. Prior to disbursing the California Housing Accelerator funds, the Department will require a certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and all Project Sponsors.

C. Environmental Review

Guidance by the U.S. Department of the Treasury indicates that an environmental review under the National Environmental Policy Act (NEPA) is not required as a result of California Housing Accelerator funding. However, California Housing Accelerator projects may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

The California Environmental Quality Act (CEQA) is still applicable to any award made under this program.

D. Relocation

Sponsor must comply with all applicable federal, state, and local relocation law. Pursuant to relocation law, a Sponsor must have a relocation plan prior to proceeding with any phase of a project or other activity that will result in the displacement of persons, businesses, or farm operations. To ensure that displaced persons or entities do not suffer a disproportionate impact as a result of projects which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law. In addition, before the California Housing Accelerator Standard Agreement will be executed, Sponsor must have either: (1) a Department-approved relocation plan; or (2) a Department-issued Certification Regarding Non-Application of Relocation Benefits and

Indemnification Agreement, which has been duly executed and approved by the Department. The Department will identify its submittal requirements for these relocation documents in the California Housing Accelerator application materials. Where the Sponsor's activities will or may result in displacement, the Sponsor's development budget shall include enough funds to pay all costs of relocation benefits and assistance. Any modifications to the foregoing process requirements must be approved in advance by the Department in writing.

E. Accessibility and Non-Discrimination

All projects must adhere to the accessibility requirements set forth in California Building Code (CBC) Chapter 11A and 11B, except as follows:

1. Instead of the minimum requirements established in 11B 233.3.1.1 and 11B 233.3.1.3, all new construction projects must provide a minimum of fifteen percent (15%) of the restricted units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and a minimum of ten percent (10%) of the restricted units with communications features, as defined in CBC 11B 809.5.

2. Rehabilitation projects shall provide a minimum of ten percent (10%) of the restricted units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and four percent (4%) with communications features, as defined in CBC 11B 809.5. The Department may approve a waiver of this requirement, provided that the Applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden. All waivers must be approved in advance by the Department.

3. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard.

Projects must also comply with the Americans with Disabilities Act of 1990 (ADA), Title II, and either the Uniform Federal Accessibility Standards (UFAS), Code of Federal Regulations (CFR) 24 CFR Part 8, or the U.S. Department of Housing and Urban Development's (HUD) modified version of the 2010 ADA Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, the Federal Register (F.R.) 79 F.R. 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessible units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the Project and be available in a sufficient range of sizes and amenities consistent with 24 CFR Part 8.26.

Sponsors shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly

prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this Project Solicitation.

Sponsors shall comply with the requirements of the ADA of 1990, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Civil Rights Act, Government Code section 11135, Section 504 of the Rehabilitation Act of 1973, and all regulations promulgated pursuant to those statutes, including 24 CFR Part 100, 24 CFR Part 8, and 28 CFR Part 35.

F. Insurance Requirements

The Sponsor shall obtain, and maintain for the term of the loan, hazard and liability insurance for the project in accordance with the Department's requirements, including flood insurance, if applicable. The Department must be named as a loss payee or an additional insured on all such policies. Such policies must also provide for notice to the Department in the event of any lapse of coverage and in the event of any claim thereunder. Prior to disbursement of the California Housing Accelerator loan, the Sponsor shall provide evidence satisfactory to the Department of compliance with these insurance requirements.

IV. Appeals

A. Basis of appeals

1. Applicants may appeal the Department’s written determination that an application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an award.

2. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant’s application (e.g., eligibility, award).

3. The appeal process provided herein applies solely to decisions of the Department made pursuant to this Project Solicitation.

B. Appeal process and deadlines

1. **Process**. To file an appeal, Applicants must submit to the Department a written appeal, which sets forth all relevant facts, arguments, and evidence in support of the appeal. Appeals are to be submitted to the Department at accelerator@hcd.ca.gov.

2. **Filing Deadline**. Appeals must be received by the Department no later than five (5) business days from the date of the Department’s written determination regarding the subject application.

3. **Decision**. The requirements of this Project Solicitation and all other applicable law will govern the Department's determination. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

V. Award announcements and contracts

A. Award announcements

The Department intends to announce awards as individual projects are approved, but not later than December 6, 2021.

B. Disclosure of Application

The application is a public record and is subject to disclosure pursuant to the California Public Records Act (CPRA) (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). After final California Housing Accelerator awards have been issued under this Project Solicitation, the Department may disclose any materials provided by the Applicant to any person making a request under the CPRA. The Department cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, and home addresses. By volunteering such information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

VI. Other Terms and Conditions

A. Conflicts

In the event of any conflict between the terms of this Project Solicitation and applicable state or federal law, the terms of the applicable state or federal law shall control. By submitting a California Housing Accelerator application to the Department, Applicants acknowledge that they have read and obtained legal advice regarding this Project Solicitation and all applicable state and federal laws, and that they fully understand the requirements thereof.

VII. Definitions

Below are the definitions for purposes of the California Housing Accelerator:

"Applicant" means the entity or entities applying to the Department for California Housing Accelerator funding of their Qualified Rental Housing Development. Such entity or entities must also be the Sponsor of the Qualified Rental Housing Development, except as allowed under II.B. of this Project Solicitation. Upon receiving an award of California Housing Accelerator funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the "Sponsor" for purposes of this Project Solicitation.

“Area Median Income” means the most recent applicable county median family income, adjusted by household size, published by the California Tax Credit Allocation Committee.

"Department" or “HCD” means the California Department of Housing and Community Development.

“Existing HCD Commitment” means the existing commitment of Department funds to the Qualified Rental Housing Development, as well as the Department loan program making that commitment.

“Homeless Household” means a household that meets one of the (1) – (4) criteria set forth at California Code of Regulations, title 4, section 10315, subdivision (b), unless the Existing HCD Commitment is based on a different definition of this or a similar term, in which case the definition associated with the Existing HCD Commitment shall apply.

“Project” or “Rental Housing Development” means the following: (i) a “qualified low-income housing project,” as defined in Section 42(g) of the Internal Revenue Code (26 U.S.C § 42(g)); or (ii) a Qualifying Infill Project, as defined under the Infill Incentive Grant Program of 2007 or the Infill Infrastructure Grant Program of 2019, that meets the requirements of those programs.

“Qualified Rental Housing Development” is defined in accordance with Health and Safety Code section 50672.1, subdivision (e), and means a rental housing development that received an award letter from any multifamily housing program administered by the Department.

“Sponsor" is defined in accordance with Health and Safety Code sections 50675.2 and 50669. The Sponsor may comprise one or more entities, and it shall include the local public agency that agrees to become a co-Sponsor prior to construction loan closing by executing the Standard Agreement as a co-Sponsor. Such entities shall, in their individual and collective capacity as the “Sponsor,” be bound by the California Housing Accelerator Standard Agreement and each and every one of the California Housing Accelerator terms, conditions, and restrictions.

“UMR” means the Uniform Multifamily Regulations (Cal. Code Regs., tit. 25, § 8300 et seq.), effective November 15, 2017, and as subsequently amended.

California Housing Accelerator

Tier I Solicitation Webinar
September 24, 2021

Today's Presenters

Jim Claybaugh, Program Manager

Stoyan Elitzin, HCD Specialist II

Michael Ostrow, HCD Representative II

Presentation Overview

1. Program Purpose and Implementation
2. Review Timeline
3. Review Project Solicitation and Guidelines
4. Discuss Tier 1 Eligibility
5. Review Application and Requirements
6. Receive Questions for Posting to Website

California Housing Accelerator

Program Purpose and Implementation

Clear

a backlog of pending developments waiting for bond allocations for 4% tax credits.



Maximize

investments made into HCD-awarded projects that are currently awaiting tax credits.



Reduce

the amount of time and money spent on producing new affordable housing.



Accelerate

development of housing for those most in need.



California Housing Accelerator

Program Purpose and Implementation

Funding Goals

- Reduce backlog of projects "stuck" in funding pipeline.
- Accelerate development of housing for those most in need.

Programmatic Requirements

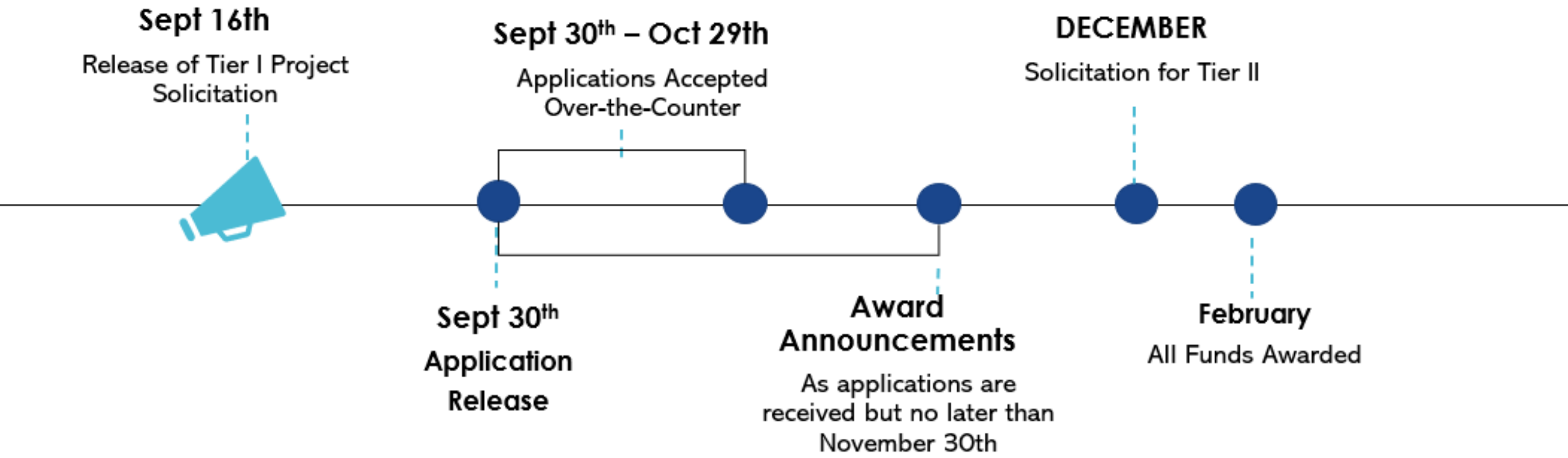
- Start construction within 180 days.
- Equity funding to be replaced will be based off most recent application with justification of any increases to be approved at discretion of HCD.

Streamlined Implementation

- Dedicated strike team for outreach and application reviews.
- Streamlined application with focus on updating information in prior applications – no need to repeat underwriting, etc.
- Amended standard agreement vs. new standard agreement.

California Housing Accelerator

Program Timeline



Project Solicitation & Guidelines

1. Funds Available
2. Eligible Project
3. Eligible Applicants
4. Threshold Requirements
5. Funding Amounts
6. Critical Milestones

Funds Available

1. Funds made available through the Coronavirus State Fiscal Recovery Fund and the American Rescue Plan Act of 2021
2. Total of $1.75 billion allocated to the Accelerator program through the 21-22 State Budget
3. $1.6 million available for local assistance
4. Funds to be awarded in two Tiers

Eligible Project – Tier I

1. **Received award from HCD multifamily housing program January 1, 2018 or later**
    a) **Award not expired, terminated, disencumbered**
2. **Applied for and denied a CDLAC-TCAC no later than July 1, 2021**
    a) **Applicant must not have received, then later returned allocation, or withdrew an application recommended for allocation**

Eligible Project – Tier I

Special Note re: IIG, NPLH and CDBG-DR

1. **Infill Infrastructure Grant (IIG) awards**
   a) **Identified QIP must also have an HCD award**
2. **No Place Like Home (NPLH) awards**
   a) **Projects with NPLH awards from Alternative Process Counties (APC) do not qualify unless project has other HCD award**
3. **CDBG-Disaster Recovery Multifamily awards**
   a) **Projects must have a Notice to Proceed or Conditional Approval from HCD**

Eligible Applicants – Tier I

1. **All applications must include all original applicants in the Existing HCD Commitment***
    a) **Existing HCD Commitment = existing award of HCD funds to the housing development**

Eligible Use of Funds – Tier I

1. **Funds shall only be used for costs eligible under the federal low-income housing tax credit program**
    a) **Department reserves the right to disallow costs determined unreasonable by the Department**
    b) **Department may also require written approval for reserve withdrawals**

Threshold Requirements – Tier I

1. **Application must document and demonstrate readiness to proceed within 180 days of award**
    a) **Application includes certification of Sponsor affirming readiness**
2. **CDLAC-TCAC joint application submitted prior to July 1, 2021**

Threshold Requirement (continued)

3. **Organization documents and authorizing resolutions that meet Department and program requirements**

    a) **Must be submitted for each private entity applicant that is a party to the Existing HCD Commitment**

    b) **Unsigned resolutions acceptable for application**

Important: Department will *NOT* execute a Standard Agreement until all org docs (including amendments) and signed resolutions are received.

Threshold Requirement (continued)

Resolution Requirements

All resolutions and loan authorizations require the following:

a) **Entity name, project name, name and title of signatory(ies)**

b) **Solicitation date, total $ amount**

c) **Verbiage that signers are authorized to sign SA**

d) **Meeting date authorizing resolution, votes taken**

e) **Attestation of validity of resolution and vote**

Maximum Award Amount

1. **Loan amount based on requested tax equity, then adjusted to reflect the following:**
    a) **Increases in construction costs based on DGS index**
    b) **Changes in financing costs as result of switching equity for debt financing**
    c) **Department's estimate of cost change due to prevailing wage and developer fee limit**

Application Review and Fee

1. **Project review limited to threshold requirements only**
2. **Application Fee per HSC 50672.2(d)(1)**
    a) **A refundable application fee – $40,000 – is required *at application***
    b) **Will be refunded after project commences construction within 180-day requirement or if credits or bonds subsequently secured.**

Assistance Type

1. **Forgivable 20-year, 0% loan, no residual receipts or other payments to HCD:**
2. **Requirements to forgive loan:**
    a) **Sponsor remains in good standing**
    b) **Project not in default**
    c) **No negative points assessed to the Sponsor in previous 5 years.**

Assistance Type (continued)

3. **Loan shall be repaid during 20-year term if:**
   a) **Project converted to market rate housing, or;**
   b) **Project sold or refinanced with a distribution of net equity**

Developer Fee Limits

1. **Maximum Developer Fee allowable is $2.2 million**
   a) **Dev fee paid from sources limited to the per-unit calculation in UMR 8312(a)**
   b) **Remaining dev fee paid from priority cash flow**

Tax Credit Application Limits

1. **Accelerator awards shall be returned if pending CDLAC and/or TCAC applications are successful (e.g. disaster tax credits)**
2. **Project Sponsors cannot apply for tax credits during the 20-year term of the loan.**
    a) **9/10th recapture required if Sponsor sells interest in the project to a partner for tax losses, with some exceptions**

Legal Documents

1. HCD Standard Agreement
2. Regulatory restrictions, loan documentation
3. Reporting requirements
4. Defaults (in case of)

Regulatory Restrictions

1. **Loan terms and restrictions will be incorporated into Existing HCD Commitment loan docs**
2. **Regulatory agreement recorded**
    a) **Same income, occupancy, and rent restrictions as CDLAC-TCAC application and HCD Commitment**
    b) **Existing HCD Commitment will govern**
3. **Promissory note, deed of trust**
4. **Cross-default**

Other State/Federal Requirements

1. **Article XXXIV – statutory exemption for ARPA funding programs**
2. **Prevailing Wages – if Accelerator funds are sole trigger for PW, it would be an eligible cost under this funding source.**
3. **Environmental Review**
4. **Relocation**
5. **Accessibility and Non-Discrimination**
6. **Insurance Requirements**

TOWN COUNCIL STAFF REPORT

Title: Workshop on Allocation of TOT Revenues, Review of TBID and Short-Term Rentals.

Meeting Date: October 27, 2021

Prepared by: Daniel C. Holler

RECOMMENDATION:

This is a workshop item with no formal recommendation. Council may provide comment and direction as appropriate.

BACKGROUND:

This report provides the framework for the Town Council to discuss the allocation of Transient Occupancy Tax (TOT) revenues, the Mammoth Lakes Tourism Improvement District (TBID), and the status of short-term rentals in the Town. The allocation of TOT revenues for specific purposes, the budget process and use the use of these funds has been an ongoing topic. The positive impact the TBID has provided for marketing/communications/media relations and support of air service is recognized. The growth in short-term rentals over the past several years and the impact this has on revenues, housing and the community has been discussed as well.

This report and the Council workshop are structured as a presentation and discussion item with no formal action recommended. Staff is looking for discussion, input, questions, and general direction in these areas to be fleshed out in more detail as desired. Each of the topics represent a substantial area for discussion, but they are interrelated.

ANALYSIS:

TOT Ballot Measures Review

The current Transient Occupancy Tax (TOT) rate is 13%. This rate was put in place through a series of voter approved ballot questions in 1986, 1994, 1996, 2002 and 2006. The ballot questions to increase the TOT rate were approved as general taxes, meaning the revenues may be used for any governmental purpose. The arguments and statements made as to the planned use of the tax revenue designed to gain support for the tax increases are referred to as "political commitments." This included, over time a commitment to use 1% for housing, 1% for transit and 2.5% for tourism and the remaining 8.5% for Town services, with 1.5% of the Town's amount committed to capital projects (community facilities).

The measures were passed as general taxes and include similar statements as provided in the 2002-A analysis as follows:

> "A Yes is a vote to increase the Transient Occupancy Tax rate from 10% to 12%. The increase in tax rate will provide additional general fund revenues both to maintain existing programs and to support future programs and services determined necessary by the Town Council."

The language for the 2002-A argument in favor stated the increase from 10% to 12% will:

> ". . . provide general fund revenues for, among other things, housing for local workers, recreational and municipal facilities for our residents, which our visitors will use, and additional marketing to ensure that existing businesses remain competitive with the resort corridor."

A 1% increase from 12% to 13% in 2006 had a political commitment for transit but was also passed as a general tax.

As noted, the statement that the tax may be used as "determined necessary by the Town Council" was clearly part of the ballot information provided to the voters. In 1986 the Council at the time committed the business license fees to support marketing. Starting in FY17-18 it was shifted back to general Town purposes. Exhibit 1 provides an overview of ballot measures and past adjustments to the allocation (political commitments) and use of the TOT revenue.

The last adjustment to the allocations of TOT revenues were for Tourism, Housing and Transit and not dedicated to a specific organization. The amount paid to each entity, Mammoth Lakes Tourism (MLT – includes the Chamber of Commerce), Mammoth Lakes Housing (MLH) and Eastern Sierra Transit Authority (ESTA) is based on contractual relationships. The allocation may be referred to as a % (such as 2.35% for Tourism) which is a reference to a share of the total 13% TOT rate, which is 2.35 points of the rate, or as a percentage of revenue or 18.077% of budgeted TOT revenue. The current allocation of TOT to these three areas, Tourism, Housing and Transit is based on the Town's adopted budget, with the remaining amount going to the Town, as follows:

Tourism 2.35 (Points)
Housing .85 (Point)
Transit .85 (Point)
Town 8.95 (Points)

Funds not granted to a specific agency or used in the specific area are held in designated reserves. The Town portion is used to support overall Town operations. Funds held in reserve by service area may be used by the Town for the same types of services (Tourism, Housing and Transit) or directed to other priorities. The use of reserve funds is at the ultimate discretion of the Town Council and may be used for any governmental purpose, as provided for in the approved ballot measures. Exhibit 1 provides information on the ballot measures, changes in the TOT rate over time and the various adjustments that have been made to the commitments of the designated TOT amounts (political commitments). The Town allocation is noted as there was an initial allocation of 1.5 points committed to community facilities.

Adjustments to the allocations was driven by economic conditions, the settlement of the MLLA lawsuit, and more recently Town Council priorities. Exhibit 1 outlines these changes. The

allocation of funds to agencies and/or purposes noted is referred to as political commitments and the TOT is often referred to as "Measure A" funding, as the ballot measures included a year and the letter A (i.e., Measure 2002 A). In 2006 Measure T was passed and the 1% increase in the TOT rate was committed to Transit, the rate was later adjusted to .85%. As part of the MLLA settlement the Town funded the vast majority of the settlement, with each of the areas also being reduced as outlined in Exhibit 1.

Town's Budget Strategy

For the past six years the Town has taken a conservative approach to budgeting. The budget process is designed to achieve Council priorities. To achieve these priorities, the budget reflects TOT revenues that may be substantially lower than prior year actuals would suggest as well as a conservative approach to other revenues and operating expenditures. The first priority is the financial health and stability of the Town to meet debt and operational obligations. This includes maintaining an "A" or better bond rating by Standard and Poors (S&P). The most current rating is an "A+" with a negative outlook. The outlook reflected the unknown impact of COVID and the concentration of the Town's revenues in the tourism industry. The Town's rating has improved from a "C" rating following the MLLA settlement in FY12-13 to the current rating.

The Town has established a specific reserve policy within the past couple of years, which is fully funded in accordance with the adopted policy. This includes a reserve for economic uncertainty (REU) equal to 20% of general fund revenue, an operating reserve (OR) set at a level equal to 5% of general fund revenues. A baseline amount is part of the policy which retains at a minimum, the current reserve levels. The policy defines the circumstances for the use of reserves as well. In addition, the Town has a contingency reserve of $100,000 funded from operating revenues each year and a debt reserve of $1.1 million, which represents 50% of the Town's annual general fund debt service payments. Funding of these reserves not only enhances the Town's bond rating, but provides the resources to respond to an emergency, to work through economic down turns, or to meet unforeseen needs or opportunities. As a recent example, the Town was able to adjust its budget to address the unknown impact of the COVID-19 pandemic. Actions taken by the Town to reduce costs, maintain core services, avoid layoffs, support the emergency response, and provide financial support to local businesses and families was possible due to the budgetary and strategic financial management actions put in place by the Council and Town staff.

The Town's budget reflects maintaining current levels of service, with strategic investments in facilities, equipment and staffing to meet specific areas of need. This has included the construction of a new police station, the upgrading of the Town's fleet (includes snow removal equipment), and new and upgraded equipment for public works and parks department. Staffing investment in Police, Public Works, Vehicle Maintenance, Parks, and limited administrative staff has been done slowly and linked to a conservative budget to ensure the positions are secured over time.

The budget process has provided funding to support capital investments. The process focuses on major capital projects being funded out of one-time savings/additional revenues. This reduces competition for limited resources in the budget process (or the over estimation of revenues) between operations and capital projects. The opportunity to focus on capital expenditures outside of operational demands and with a known amount of funds has resulted in a smoother process and more investment. The Town has reduced the amount of deferred maintenance dramatically in our

parks, community center, Town offices, streets, and by updating equipment. The ability to invest in excess of $1 million a year in roads, sidewalks and MUPs is a direct result of the budgeting process.

The recent investments in housing projects including the purchase of the 25-acre Parcel site, the purchase of units, the funding to construct new units and the ability to partner on projects is again directly the result of the Town's budget discipline, conservative approach and strategic investment in services, equipment, and capital projects. The success of the past several years and the planning for substantial investment in community, workforce housing is achieved in large part by limiting the upfront budgeting of TOT revenues. Town staff is also creative and successful in leveraging grants, use of restricted funds, and partnerships to achieve successful outcomes.

The Town's budget strategy is directly related to the allocation of TOT revenues, including the use of set percentages or "points" of TOT allocated to specific purposes and/or agencies. TOT is the focal point of the Town's financial discussions as it provides 60% of the Town's adopted budgeted revenues. The use of larger than budgeted TOT revenues, along with other revenues and cost savings provides funding for much of the investment described above. TOT also supports the areas of tourism (primarily through Mammoth Lakes Tourism); Transit services (primarily through ESTA) and housing (primarily community outreach through Mammoth Lakes Housing). Housing has become a multi-faceted program involving state and federal grants, Town levied fees, other state and federal programs, purchase of units, and Town investment in new project development. As noted, the investment in the Parcel, the single largest community housing project in the Town's history, would not be moving forward, but for the Town's financial investment.

TOT Allocations

Exhibit 1 walks through the initial and changes made to TOT allocations to agencies, for specific purposes and current allocations. The specific funding for Mammoth Lakes Tourism and Mammoth Lakes Housing is based on set contract amounts and paid quarterly. The allocation to ESTA is based on a contract tied to an hourly rate and number of service hours. Additional service hours requested are billed at the agreed upon rate. The initial amount of revenue available for each service area (Tourism, Housing, and Transit) is based upon the Town's adopted TOT revenue in the Fiscal Year budget. For FY21-22 this is $14.5 million.

There are three basic policy outcomes that are evident in past allocation of TOT revenues:

1) There is a commitment to fund Tourism, Housing and Transit related work
2) The revenues are part of the Town's General Fund and subject to Council action
3) Past Councils have adjusted the allocations based on different needs and conditions.

Current actions and funding allocations continue to support these policy outcomes. Over the past year the discussion included the options to adjust current funding allocations within the three service categories to meet competing priorities and community need. This includes greater support for affordable workforce community housing and the investment in capital infrastructure. While the current budget and allocation process have provided funding for these areas, the near-term (3-5 years) outlook is for a greater level of funding for housing, incremental increases in transit and ongoing need or infrastructure investment. These demands will need to balance with ongoing work programs and services that support work programs in each area.

The Town has experienced substantial growth in TOT revenues. The creation of the TBID in 2013 increased spending to attract visitors to Mammoth Lakes and the success of MLT in using TBID and TOT revenues for marketing related work had a positive result on visitation to Mammoth Lakes including extending visitation into traditionally slower seasons. Other factors contributed to the growth in TOT revenues including overall national and state economic expansion, private sector marketing, and a renewed emphasis on the outdoors by federal agencies. The addition of more events, focus on off peak marketing, increased pricing and economic growth added to increased visitation and revenue generation. The average annual collection of TOT revenues from FY06-07 through FY12-13 was $10.5 million. This average increased to $15.65 million from FY13-14 to FY19-20. A record amount of TOT revenue of $20.2M was received in FY18-19.

Tourism Funding

The TOT Allocation for tourism includes funding for MLT, inclusive of the Chamber of Commerce. Funding for MLT is based on the allocation of revenue generated based on 2.35 points of TOT in the adopted budget. The total allocated funds for FY21-22 are $2,671,200. Any funds more than the allocated amount are held in a "tourism reserve". The MLT Board and Town Council have recommended the reserve funds be used to support community housing projects in the near term, which is being done. The use of the reserves may be used by MLT upon request and approval of the Council. The Council may use the reserves after consulting with MLT but does not require MLT approval. The current agreement with MLT expires June 30, 2023. Any modification to the agreement would need to be done by mutual agreement or by action by the Town to terminate the current agreement and consider a new agreement.

MLT is also funded from TBID revenues (Tourism Business Improvement District) and MLT serves as the "owners association" for management and implementation of the TBID management plan. MLT serves in this role under contract with the Town. The TBID revenue is generated through a self-imposed fee on all tourism related businesses in the Town. The collection of TBID revenues started in September 2013 (FY 2013-14). The TBID was renewed in 2018 for a second 5-year term ending August 31, 2023. The Town retains 2% of the revenue collected to offset collection costs, processing, and enforcement. TBID revenue for FY21-22 is budgeted at $4,802,458. The TBID was established and operates under specific State statutes which are addressed in more detail below.

Housing Funding

The area of housing saw the most significant reduction in funding from adjusted allocations. Exhibit 1 provides details of the adjustments. The recalibration of the TOT allocations in FY17-18 was done in large part to add funding for housing programs. This was not simply a redirection of funds back to MLH as a partner but focused on Town efforts to support housing along with the ongoing work of MLH. These efforts resulted in the purchase of the Parcel, updates to local zoning codes, acquisition of units and more recently the setting aside of funding for specific projects and supporting the Parcel development plan. MLH and the Town continue to provide grant funds for first time home buyers, community outreach and education, preservation of deed restricted units, and the Town has proved financial assistance for MLH's Access Apartments project. The FY20-21 base funding for housing from TOT committed revenues is $948,077.

The Town's Housing program is supported by other restricted revenues from a variety of grants and dedicated fees. Grant programs are delivered through MLH. The majority of grants are directed towards first time, low income, home buyers. Grants have supported the rehabilitation of units and in response to the pandemic, supported keeping people in their homes. The Town provides a revolving loan fund to maintain deed restricted properties by supporting MLH through a buyback program used when homes cannot be sold by the owner to qualified low-income buyers. The program has $600,000 and is supported by the housing in-lieu fees and the General Fund. Mono County also provides a $300,000 loan fund. MLH receives $336,000 under their contract with the Town and receives program administrative and delivery funds from grant administration. MLH also provides services to other agencies and receives income from property ownership. The current contract expires June 30, 2022.

The Town has increased its level of funding for housing projects substantially beyond the political commitment or dedication of TOT revenues to housing. The need for affordable, community workforce housing has become a critical factor for the local business community. While the production of housing takes time, the Town will be investing over $8 million to support housing initiatives over a two-year time period, in addition to continuing current grant programs and providing support for the Parcel project. However, the current need for workforce housing will require additional investments, a mix of strategies, partnerships, and additional Town funding.

Transit Funding

Transit services in the Town are provided by the Eastern Sierra Transit Authority (ESTA). ESTA is a separate governmental Joint Powers Authority comprised of the Town of Mammoth Lakes, Mono County, Inyo County, and the City of Bishop. ESTA also has state and federal funding sources to help with operations and capital purchases. The fixed routes provided by ESTA's transit services in the Town are provided free of charge to the public. The service is supported through a contract with the Town, a contract with Mammoth Mountain Ski Area, and contracts for services provided to Reds Meadow/Devils Post Pile and special events. The Town also supports ESTA with dedicated transit revenues. ESTA contracts with the Town for services based on an hourly rate and expected hours of service. The rate and service hours are reviewed at least annually. Adjustments during the year may be made to service hours based on needs. The dedicated TOT revenue for FY21-22 is $948,077. The Town's transit program extends beyond just bus/trolley services. Using transit reserves and other funds, the Town provides vehicle maintenance, limited vehicle replacement funding, partners with ESTA on grants, and maintenance on transit shelters, replacement, and new shelters. ESTA is facing future financial challenges in operations and vehicle replacement and the planned electrification of the fleet and the means to support a new fleet. The contract with ESTA is renewed annually.

TOT Allocation Discussion

The current allocation and budget process has resulted in available revenues and savings that have been directed to priority projects including housing projects and capital projects. Funds have come from Town savings/revenues and the use of reserves within the Housing and Tourism areas. Transit reserves have been used for transit capital projects and vehicle replacement reserves. The need for additional funding for community housing was discussed as part of the FY21-22 budget development. A shift in a portion of the direct allocation to MLT was also discussed as part of the annual contract review and update. The MLT Contract was not adjusted. The Town has committed

substantial funding to housing projects as discussed above. There is no doubt that the demand for these limited resources has and will continue to exceed availability as the Town and other agencies define work programs.

Framework for Discussion

Staff is recommending the following general policy statements to guide Council discussion.

- First, the recognition of the need to continue to have dedicated funding for Transit, Housing and Tourism is recommended to continue.
- Second, a recognition that the allocation of a minimum of 4.05 points of TOT of the Town's budgeted revenues to these specific areas is to continue.
- Third, the recognition that over time circumstances change that requires a shift in the use of committed TOT revenues within the areas of Housing, Tourism and Transit is to be considered.
- Fourth, the recognition that TOT revenues are part of the Town's General Fund and subject to allocation by action of the Town Council, but there is not a recommendation to increase the general allocation for Town operational purposes.

The current allocations are tied to contractual agreements for service. However, the current agreements have also been driven as much or more by available revenue and history, and only more recently by setting expectations, goals, and deliverables. The funding for each area is linked to past conditions, needs and priorities. While agencies receiving funding need some certainty in their funding sources, the ability to shift a portion of funding to address needs is also there.

The first point of discussion is whether or not to simply continue with the status quo. This is simple and continues to lock in base funding levels, with some minor adjustments to contractual agreements. It allows the Council to use those funds above the base budget for defined priorities. The contractual process has improved in recent years but is mostly reflective of past and current programs and services, with limited measurable outcomes. The nature of the relationship between the Town and partners has resulted in a soft oversight role by the Town. The current process may be used to improve the agreements and set more defined expectations, but generally carries the current process and funding structure forward.

The current process may be further simplified at least for MLH and/or MLT to simply provide grant funding to support ongoing efforts. This would require the Council to make public purpose findings, adopt a resolution setting the amount and timing of payments. ESTA may still need the hourly rate-based funding operating as a regulated transit program. The amount provided in any given year may be tied to a set formula or simple Council action. This would eliminate the time and effort put into a service agreement and could include a few basic requirements related to the funding. This action would treat MLH and/or MLT similar to other non-profit organizations which receive funding for various purposes

The process to improve the contractual relationship started a few years ago and may be continued and improved. This allows for a more robust discussion and direction to the "contractors" as expectations, goals and priorities can be clarified and the outcomes expected by the Town can be expressed. This creates more individualized agreements and greater interaction with the Town. More defined goals, deliverables and outcomes improves collaborative reporting, focus and

measurable success. It moves beyond simply counting inputs and outputs. This process better links a funding level to an outcome as well.

Each partner does not need to be treated the same. For example, the funding for ESTA is a relatively straight forward calculation based on an hourly rate required for an hour of service. Setting headways, available seats, routes, times, ridership, and other service standards allow for measurable outcomes. For example, the overall outcome may be linked to a reduction in individual vehicle trips and increased ridership.

Regardless of process for securing services, the more difficult question is the allocation of funding to each service area. The use of set formulas simplifies the process, but may not reflect Council priorities, address expressed community needs and/or meet expected outcomes. For example, defining additional funding for housing projects is a strategic priority for Town Council. As noted above revenues from Town sources and reserves held in Housing and Tourism has been committed to housing programs.

Council will need to determine if the allocation process of TOT revenues should be modified. Modifications may be focused on specific service areas or more broadly. Considerations may include such options as:

Recalibrate the allocation of TOT points by service area and continue with current contract process. For example, the allocation to Tourism may be reduced to 2.05 points and both MLH and ESTA's allocation increased to 1 full point.

Define the total amount of revenue to be allocated based on 4.05 points and utilize the contract process to make final allocation to each service area.

Continue the current allocation method and make any changes based on contract negotiations.

If changes are made, staff recommends that the full allocation of the 4.05 point of TOT continue to be allocated across the three defined service areas of Tourism, Housing and Transit. Contract modification for MLH and Transit would be done as part of the contract renewal process. Changes to MLT's contract would require mutual agreement or termination of the current contract and negotiation of a new contract.

Mammoth Lakes Tourism Business Improvement District

The Mammoth Lakes Tourism Business Improvement District (TBID) went into effect September 2013 for a five-year term and has been extended for a five term, expiring on August 30, 2023. Discussions on renewal for a 5- or 10-year period will start soon. A copy of the current Management District Plan and State Statutes is attached for reference. The TBID has generated additional revenues for tourism related marketing activities and to support air service subsidy marketing. The plan outlines the use of the funds generated based on an estimated $4.5 million budget. The use of the funds is limited to activities as defined in the Plan and must provide a special benefit to the businesses that pay the assessments levied in the District.

The creation and renewal process of the TBID is governed by State Law under Streets and Highways Code Division 18. Parking, Part 7. Property and Business Improvement District Law of 1984 (as mended). The operation of the TBID is governed by a Council adopted Management District Plan (Plan), sections 36600 – 36671. The creation of a district may be initiated by a city council upon the submission of a petition proposed by business owners who will pay more than 50% of the assessments proposed to be levied (section 36621). Once approved the Plan is managed by an owners' association under contract with the Town (section 36612). The current owner's association is Mammoth Lakes Tourism (MLT). If the Plan states that a designed owners' association will provide the improvements, maintenance, and activities the council is required to contract with the designated nonprofit corporation to provide services (section 36651).

In the creation of the TBID the Town Council has taken a passive role through the required process in adopting required resolutions, conducting public hearings, and approving the levy of assessments. As a business owner driven process this approach recognizes the support by businesses for the creation of the district and the levy of assessments. However, the Council may take a more active role in the process as provided in section 36624 which allows for certain limited changes to the proposed district to be made following the public hearing to establish the district. Substantial changes would require the proposal to be reconsidered by the affected businesses. Once approved, the Owners' Association may request the City Council to modify the Plan (section 36635).

The District Plan requires the Owners' Association (MLT) to file an annual report with the Council pursuant to section 36650 at the end of each year of operation of the District. The specific section sets forth the minimum information that is to be included. The current agreement with MLT provides for a presentation on the previous year to be made in November. MLT is scheduled to present on November 17, 2021. Due to the inter-related work of MLT funded by TOT revenues, the report will include additional information on activities conducted by MLT.

As note above the combined work achieved with Town and TBID funding has had a positive impact on visitation to Mammoth Lakes and the resulting economic activity and Town revenues. The success of the TBID may be considered in modifying TOT allocations for Tourism, keeping in mind that the use of other Town revenues has greater application. TBID funds are restricted by the District Plan and must provide a special benefit to those businesses paying the TBID assessment. Council should also engage with MLT on the potential renewal of the TBID and indicate the level of participation desired prior to the proposal coming to Council for consideration.

Short Term Rentals

The growth in and role of short-term rentals (STRs) has been a point of discussion over the past several years. A concern over the expansion of STRs resulted in the passage of Measure Z which limited where STRs may be permitted. The Community Housing Action Plan and Housing Needs Assessment identified the transition of long-term rentals to short-term rentals as one factor in reducing the availability of community housing. The Town has a large number of STRs. However, the growth in the number of STRs was minor based on business license renewals in 2019 compared

to renewals in 2021. Renewals are completed on a calendar year basis. The total increase was 70 units from 4,990 to 5,060, with 38 of the units classified under the Hotel/Motel/Lodge category. The condominium category only increased by 5 units to 3,152 (category includes 461 condo hotel units). Business certificates for properties used for long-term rental increased by 161 units from 715 to 876. This includes businesses with two or more long-term rental units.

Communities facing housing challenges have looked to limit the number of STRS as one means to increase the supply of housing units for long-term use. Actions vary from complete bans, to localized limits based on zoning (i.e., Measure Z in Mammoth Lakes), and limiting the number of permitted units or placing limits on the number of nights a unit may be rented. If Council is interested in considering placing limits on STRs, the concepts considered need to be defined, such as placing a moratorium on new STR permits. Narrowing any requested action will allow staff time to provide additional information to consider prior to implementing any action.

Summary

As a workshop discussion, staff is not recommending any specific action be taken on the matters presented. Council direction on modifications to the allocation of TOT revenues is requested. If changes are requested additional analysis will be completed with the option for changes to be implemented effective next fiscal year. This will provide time to work with impacted partners (i.e., MLT, MLH, and ESTA).

Council should let staff know if there is a desire to be more engaged with the potential renewal of the TBID. Coordination with MLT will be required for this process.

Council direction regarding interest in looking at options to limit STRs is requested. If so, a review of options that may be considered can be prepared for additional consideration.

Ballot Measures Increasing Transient Occupancy Tax and Council Actions

The following provides a very brief review of ballot measures approved by voters to increase the Transient Occupancy Tax rate in the Town of Mammoth Lakes. Subsequent actions taken by past Councils to adjust the allocation and use of the TOT tax is also noted.

June 6, 2006 – Measure T
Shall the ordinance to increase the Transient Occupancy tax rate to thirteen percent be approved?
Measure T did two things:

1) Increased the TOT tax rate from 12% to 13%
2) It eliminated the June 30, 2011 sunset on 1% of the tax rate as approved by voters as part of the 96-A measure.
The impartial analysis of the measure provides for in part – "Additional revenues resulting from this tax rate will be placed in the general fund and will be used for both existing and future Town programs and services."

March 5, 2002 – Measure A
"Shall the ordinance to increase the Transient Occupancy tax rate by two percent be approved?
The Measure increased the TOT rate from 10% to 12%"

The impartial analysis of the measure provides for in part – "The increase in the tax rate will provide additional general fund revenues both to maintain existing programs and to support future programs and services as determined by the Town Council."

The Argument in Favor of the Measure includes in part: "Measure 2002A addresses unfunded capital needs by increasing the current bed tax from 10% to 12%. It will provide general fund revenues for, among other things, housing for local workers, recreational and municipal facilities for our residents, which our visitors use, and additional marketing to ensure that existing businesses remain competitive with the resort corridor."

March 26, 1996 – Measure 96-A
"Shall the ordinance which will extend the Utility Tax and Transient Occupancy Tax, and which will ratify prior collection of such taxes, be adopted?"

The Measure continued by voter approval an increased TOT rate of 10% and the Utility Tax at 2.5%.

The argument in favor of the Measure stated in part – "General Fund revenues are used for these and other general governmental services." The argument notes budget challenges and debt issuance for various public improvements, roads, and parks as reason to vote yes.

June 3, 1986 – Measure A
"Shall the Town of Mammoth Lakes increase revenues through 1) A revised business license formula 2) An increase in bed taxes. 3) An increase in thoroughfare funds: in order to support and enhance the year-round marketing program; new road construction and ongoing road maintenance 4) And a specific dollar commitment from Mammoth Mountain Ski area to improve and expand the public transit system?"

The impartial analysis of proposition A includes in part – "The basic priority projects identified by the Committee are as follows:

1. An expanded Town Marketing Program through the auspices of the Resort Association.
2 An expanded Public Transportation System adequate to provide convenient service to our residents and visitors.
3. Major Road Construction (Minaret Extension and Laurel Ave.) including signalization where necessary.
4. Major Street Rehabilitation."

". . . If authorized by the Town Council, the following specific obligations/commitments would be created with respect to the revenue areas identified above commencing June, 1986:

1. Approximately $150,000 in Business License Fees.
2 A 3% increase in Bed Tax for a change from 6% to 9%.
3. Approximately $500,000 from Mammoth Mountain Ski Area as its contribution to a Public Transit System
4. A $100.00 increase in the Major Thoroughfare Fees for each required parking space for all new commercial development; and a $50.00 increase for each required parking space for all new residential development.

The overall economic effect of the above revenue will be to create additional revenues to the Town of approximately $1,500,000 annually which will be used at the discretion of the Town Council to fund the priority projects listed above."

State of California Legislative Actions
During this time two State actions were taken that impacted voting requirements for general or specific purposes.

- Proposition 62 approved in 1986 and Proposition 218 approved in 1996 controls how a general or special tax is to be imposed by the voters. A general tax requires a 50% vote while a special tax requires 2/3s voter approval.

  Each of the ballot Measures presented to the Town of Mammoth Lakes votes to increase Transient Occupancy Tax was presented as "General Tax". Measures T and Measure 2002-A include the following language (96-A also included similar language for Prop 62):

- "This ordinance shall constitute voter approval pursuant to Proposition 62, Proposition 218 and any and all other voter-approval requirements. All tax revenues shall be deposited into the Town's General Fund and expended for general governmental purposes."

To gain support for the measures and to meet defined Town priorities past Town Councils committed to use the increased tax funds for specific purposes, referred to as "Political Commitments".

<u>TOT Political Commitments – 13% Rate (Points) – As of Measure 2006 A</u>
Housing – **1 point** of TOT
Tourism – **2.5 points** of TOT plus Business Tax Revenue
Transit – **1 point** of TOT
Total commitment: 4.5 Points of the current 13 Points TOT and Business Tax Revenue

Balance of TOT to TOML General Fund – 8.5 points of TOT

Note: **Community Facilities Funding** – **1.5 points** of TOT

- Incremental increase to 1.5 point to meet the Town's required funding for development impact fee supported capital projects (Resolution 07-37). This was suspended in FY08-09.

Economic Recession and MLLA Settlement

December 5, 2012: The financial restructuring plan adopted by the Town Council as part of the MLLA Settlement resulted in substantial one-time payments ($2.6+ M), the loss of Airport Lease revenue estimated at $111,000 (current year dollars) per year for 30 yrs., and a negotiated judgment payment of $2 million per year over 23 years. Adopted 12-05-12, Res. 12-71.

The financial restructuring modified the pre-existing political commitments to meet the funding requirements of the MLLA settlement, which extends over 23 years (2036). The impact on the Town for funding the settlement costs were substantial and taken into consideration on the allocation of TOT revenues, resulting in a significant reduction in the Town's operating budget.

Status/Changes to Political Commitments

FY08-09: The commitment to the 1.5 points for Community Facilities was suspended to fund Airport Operations, Airport litigation and Community Development operations.

FY12-13: Funding for Tourism was reduced by $215,562 as part of Town financial restructuring related to MLLA Settlement. Continued allocation of Business Tax revenues.

FY12-13: Funding for Transit was reduced by $148,678 as part of Town financial restructuring related to MLLA Settlement.

- Note: Transit allocations include Town administrative costs and include other revenues besides TOT.

FY12-13: Funding for Housing was reduced to the contract amount for MLH of $329,190. Previous annual debt payments of $272,349 were complete in FY12-13 and a set aside of $200,000 per year for payments of two housing loans totaling approximately $400,000 each which the Town was required to repay under certain terms. The two loans were paid in full.

- Note - Housing allocations included Town staff and consultant costs that ranged from $10,000 to $25,000 pending work program and included other revenues besides TOT.

The financial restructuring plan approved as part of the MLLA Settlement did not include the reinstatement of any of the reductions to the political commitments. The Town took on the majority of the debt payment and the ongoing loss of airport related revenues for the term of the settlement.

FY12-13: The creation of a Tourism Business Improvement District (TBID) was developed and began collecting assessments in September 2013. The TBID has been renewed for two five-year periods with the current extension through August 31, 2023.

FY17-18: The allocation of TOT revenue adjusted to address adjustments made due to the MLLA litigation, with a focus to shift additional revenues to housing. The adjustments resulted in the following adjustments to allocations:

Tourism – **2.35 points** of TOT (eliminated $215,678 reduction) and the allocation of Business Tax Revenue to Tourism was eliminated. Tourism allocation is based on the Town's adopted budget

(approx. 18.077% if revenue). The MLT allocation is reduced by funding for the Mammoth Lakes Chamber of Commerce, currently $300,000.

Housing – **.85 point** Approximately 6.5% of revenue of TOT was committed to housing purposes, including Town staffing support housing efforts with a focus on the Parcel. MLH agreement was retained at same level, with most recent agreement adding some additional revenue.

Transit – **.85 point** of TOT (eliminated $148,678 reduction). Transit is also supported by other restricted funding.

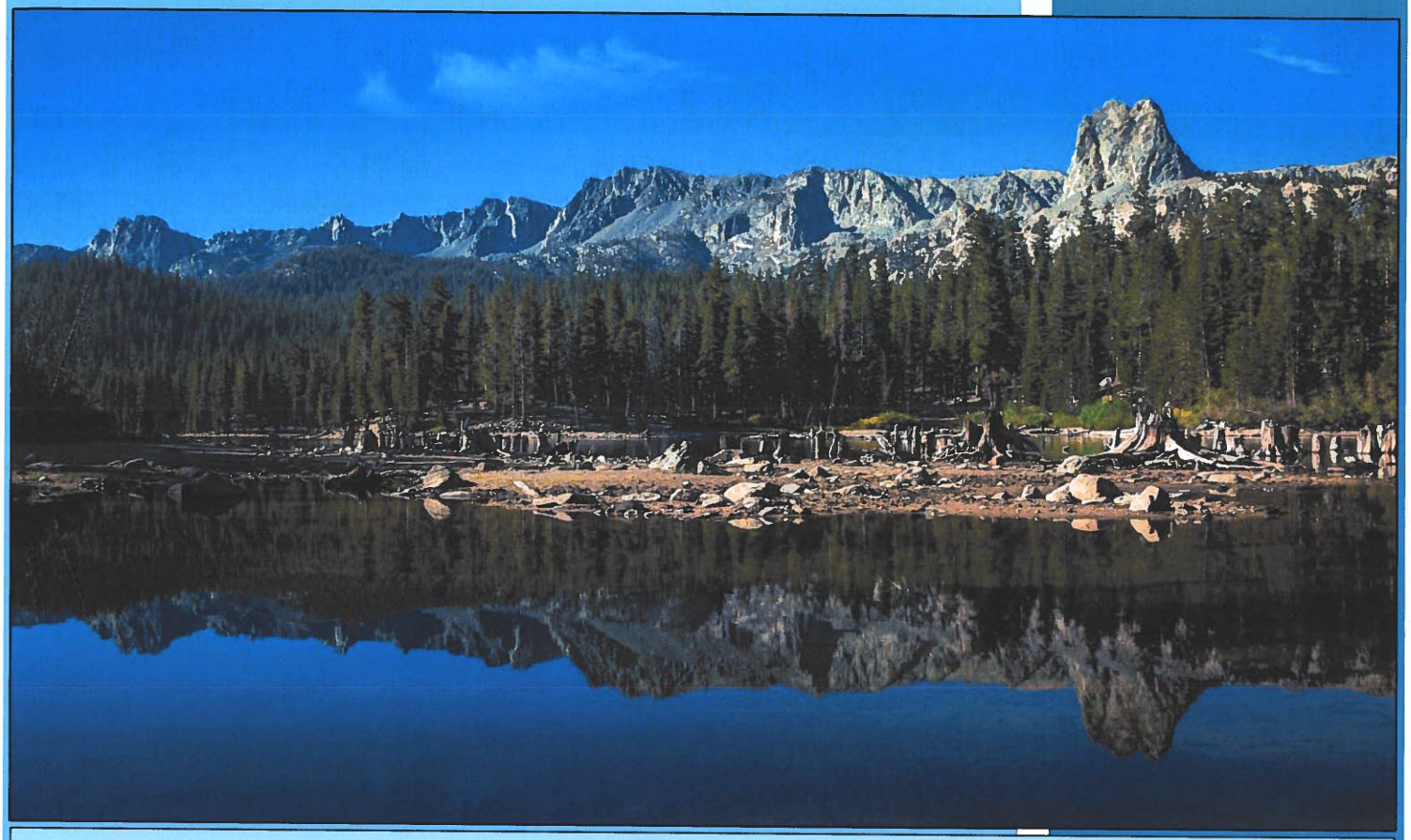
These adjustments had the effect of a slight reduction to MLT, held transit funding level, increased the amount of funding for housing and reduced town funding. The change in funding is relative as the process includes fixed dollar amounts and percentage allocations.

Total commitment: 4.05 Points of the current 13 Points to Tourism, Housing and Transit.
The allocations are based on adopted budget. Any revenue more than the adopted budget area held in designated reserves for the same categories, with the ability of the Town Council to use the funds for other purposes. For example, revenues from Tourism and Housing reserves have been committed to housing projects. The adjustment process made it clear that the dedication of revenue was for Tourism, Transit and Housing.

Balance of TOT to TOML General Fund – 8.95 points of TOT
The amount of TOT allocated to the Town is part of the Town's General Fund and is not tracked as a separate revenue with discrete expenditures. The allocation of larger than budgeted revenues include all revenues and savings within the General Fund. These funds have been used for housing projects, capital projects, funding of deferred maintenance, equipment replacement, snow removal, operational costs, funding of reserves, etc.

FY19-20: The revised commitment and allocation of TOT revenues was reviewed prior to approval of the FY19-20 budget (June 5, 2019) with action taken to continue with the updated allocation formula. The allocation to MLT was discussed during the FY21-22 budget and contract review with the current allocation continued, with a request for a timelier review process for FY22-23.

2018-2023



MAMMOTH LAKES TOURISM BUSINESS IMPROVEMENT DISTRICT

MANAGEMENT DISTRICT PLAN

Prepared pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq.

April 16, 2018

CONTENTS

I. OVERVIEW 2

II. BACKGROUND 4

IV. BOUNDARY 6

V. BUDGET AND SERVICES 8

A. Annual Service Plan 8
B. Annual Budget 10
C. California Constitutional Compliance 10
D. Assessment 12
E. Penalties and Interest 14
F. Time and Manner for Collecting Assessments 15

VI. GOVERNANCE 17

A. Owners' Association 17
B. Brown Act and California Public Records Act Compliance 17
C. Annual Report 17

APPENDIX 1 – LAW 18

APPENDIX 2 – ASSESSED BUSINESSES 18

APPENDIX 3 – APPEALS COMMITTEE 63

APPENDIX 4 – TOURISM ECONOMICS REPORT – MAMMOTH LAKES TOURISM BUSINESS IMPROVEMENT DISTRICT BUDGET ANALYSIS AND RECOMMENDATIONS 66

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I. OVERVIEW

Developed by Mammoth Lakes Tourism (MLT), the Mammoth Lakes Tourism Business Improvement District (MLTBID) is an assessment district proposed to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed businesses. The MLTBID was formed in 2013 by Mammoth Lakes Town Council for a five (5) year term ending August 31, 2018; tourism businesses now wish to renew it for an additional five (5) years.

Location: The renewed MLTBID includes all tourism businesses located within the boundaries of the Town of Mammoth Lakes, as shown on the map in Section IV. As used herein, the term "tourism business(es)" includes all tourism businesses: lodging businesses, restaurants, retail businesses, and ski resorts.

Services: The MLTBID is designed to provide specific benefits directly to payors by increasing tourism and commerce at assessed businesses. Sales, marketing, media relations and communications programs, and air service subsidy marketing programs will increase tourism and market payors as tourist, meeting and event destinations, thereby increasing tourism and commerce at assessed businesses.

Budget: The total MLTBID annual budget for the initial year of its five (5) year operation is anticipated to be approximately $4,500,000. This budget is expected to fluctuate as visitation does, but is not expected to significantly change over the MLTBID's term.

Rates: Based on the benefits received, the assessment rate will be tiered as indicated in the table below. The assessment is levied upon and is a direct obligation of the assessed tourism business. However, the assessed tourism business may, at its discretion, pass the assessment on to patrons. The amount of assessment, if passed on to each patron, shall be disclosed in advance and separately stated from the amount of consideration charged and any other applicable taxes, and each patron shall receive a receipt for payment from the business. Further detail on benefits can be found in Section V. Retail and restaurant businesses are divided into three tiers. All Restaurant and Retail businesses are assessed at the Tier 1 rate, unless and until an appeal is submitted and approved to be classified as Tier 2 or Tier 3.

- Tier 1 businesses are those which have at least $150,000 in annual gross revenue and receive at least half of that annual gross revenue from visitors;
- Tier 2 businesses are those which have between $50,000 to $149,999 in annual gross revenue, or which exceed $150,000 in annual gross revenue but do not receive at least half of that annual gross revenue from visitors; and
- Tier 3 businesses are those which have $49,999 or less in annual gross revenue.

Businesses situated within other businesses, such as restaurants located within a hotel or ski resort, will be assessed at the rate for that business type and not at the rate of the other business they are situated in. Certain revenues and businesses will not be assessed as described in Section V.

Business Type	Annual Assessment Rate
Lodging	1% of annual gross revenue
Ski Resorts	2% of daily and multi-day lift tickets for winter and summer activities, and ski school annual gross revenue

Retail – Tier 1	1.5% of annual gross revenue, including equipment and vehicle rentals
Retail – Tier 2*	$500 per year
Retail – Tier 3*	$50 per year
Restaurant – Tier 1	1.5% of annual gross revenue
Restaurant – Tier 2*	$500 per year
Restaurant – Tier 3*	$50 per year

*Only applicable upon submission and approval of an Appeal

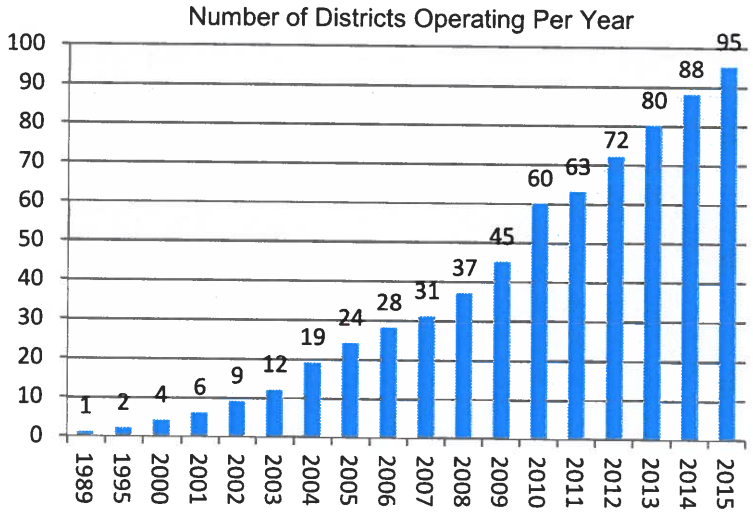
Collection: The Town of Mammoth Lakes will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from those tourism businesses that are assessed a percentage rate; and collecting the assessment on an annual basis in conjunction with renewal of business licenses or the appeal decision from those tourism businesses that are assessed a fixed amount. The Town of Mammoth Lakes shall take all reasonable efforts to collect the assessments from each tourism business.

Duration: The renewed MLTBID will have a five (5) year life, beginning September 1, 2018 through August 31, 2023. Once per year, beginning on the anniversary of district renewal, there is a 30-day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a Town Council hearing on district termination.

Management: Mammoth Lakes Tourism will continue to serve as the MLTBID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan, and must provide annual reports to the Town Council.

II. BACKGROUND

TBIDs are an evolution of the traditional Business Improvement District. The first TBID was formed in West Hollywood, California in 1989. Since then, over ninety California destinations have followed suit. In recent years, other states have begun adopting the California model – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TBID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TBIDs without a state law.



California's TBIDs collectively raise over $225 million for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Mammoth Lakes tourism businesses continue to invest in stable, tourism business-specific marketing programs.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow tourism business owners to organize their efforts to increase visitation and commerce at assessed tourism businesses. Tourism business owners within the TBID pay an assessment and those funds are used to provide services that increase visitation and commerce at assessed tourism businesses.

In California, TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. *The key difference between TBIDs and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to TBIDs:

- TBID funds cannot be diverted to general government programs;
- TBID funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.

III. ACCOMPLISHMENTS

The "Mammoth Lakes Tourism Business Improvement District Budget Analysis and Recommendations" report prepared by Tourism Economics in the fall of 2016 quantified performance metrics in the MLTBID. The full report is attached as Appendix 4. Key findings include:

- MLTBID funding has extended the capacity of Mammoth Lakes Tourism. Total marketing funding available to promote Mammoth Lakes has increased from just over $2 million in 2012/13 to more than $6 million in each of the past three years. Along with this increased funding has come added efficiencies. This is a product of incremental funding from MLTBID revenue going exclusively to marketing, sales, and interactive media;
- Competitiveness has been restored. Since the 2009/10 fiscal year, Mammoth Lakes has consistently lost market share on the basis of TOT collections and lodging revenue across a competitive set of regional destinations. In the 2015/16 fiscal year, Mammoth Lakes wiped out four years of market share declines;
- Hotel Sales and Transient Occupancy Tax (TOT) revenue has expanded rapidly. Over the last two years, since the introduction of the MLTBID, TOT has increased over 50%. This is an indicator that hotel sales have greatly increased;
- MLTBID investments are driving increases in TOT. Growth in TOT has been uneven for most of the past decade, with no growth from 2006 to 2013. The advent of increased MLTBID-funded marketing expenditures has coincided with a wave of growth, now in its third year;
- Retail sales are expanding. After several years of relatively slower growth in retail sales, the recent boost to sustained marketing efforts are likely drawing in more spending and helping to drive growth. Retail sales jumped 21.3% in FY2016, compare with 13.3% for the state overall;
- International markets are expanding. A boosted international presence by Mammoth Lakes Tourism is drawing more visitors from key markets such as the U.K., Australia, and China;
- ROI of MLTBID-funded promotions. Campaigns are successfully building awareness of Mammoth Lakes. In 2015/16, 44% of travelers in key visitor marketing were aware of MLT's campaigns. 3.2% of households in key Mammoth Lakes visitor markets who were aware of Mammoth Lakes Tourism advertising actually visited. This compares with just 1% among households that were unaware of the campaign – representing a 2.2 percentage point lift. Significant impacts are evident for the 2015/16 campaigns as well. Those households that were aware of Mammoth Lakes Tourism advertising were much more likely to visit Mammoth Lakes after each campaign;
- Earned media. By developing stories and content for the media, Mammoth Lakes Tourism is generating exposure well beyond its paid campaigns. The number of stories placed through direct Mammoth Lakes Tourism activities has nearly doubled over four years, reaching 137 media placements in the 2015/16 fiscal year. The number of impressions generated by these stories has increased more than seven-fold over this same period of time; and
- Other measures of Mammoth Lakes Tourism effectiveness. The Mammoth Lakes Welcome Center has experienced 14% growth in visitors in 2015/16. Social media has experienced large increases over a short period of time, including a nearly 300% increase of Instagram followers, a 111% increase in Twitter impressions, and a 227% increase in Facebook reach.

IV. BOUNDARY

The MLTBID will include all tourism businesses, existing and in the future, within the boundaries of the Town of Mammoth Lakes. As used herein, the term "tourism business(es)" includes all lodging businesses, restaurants, retail businesses, and ski resorts.

"Lodging business" means: any place, space or structure, or portion of any place, space or structure, which is or may be occupied, or intended or designed for occupancy by transients for purposes of sleeping, lodging or similar use in conformance with the Town of Mammoth Lakes' zoning regulations, and shall include, but not be limited to the following: hotel, hotel-motel, lodge, inn, dude ranch, apartment, apartment unit, condominium, condominium unit, triplex, duplex, single-family residence, vacation rental, any space rented through a home-sharing service, cooperative, mobile home, dormitory, roominghouse, camping site, space where camping or remaining overnight is permitted at a campground, recreational vehicle park, or other similar structure, facility or space. "Lodging business" shall not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, owner-occupied time share estate, owner-occupied time share use, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained or housed under legal restraint; housing owned or controlled by any educational institution and used exclusively by students and employees of such educational institutions, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by an organization having qualified for exemption from property taxes under the laws of the state of California; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by any employer exclusively for housing that employer's employees.

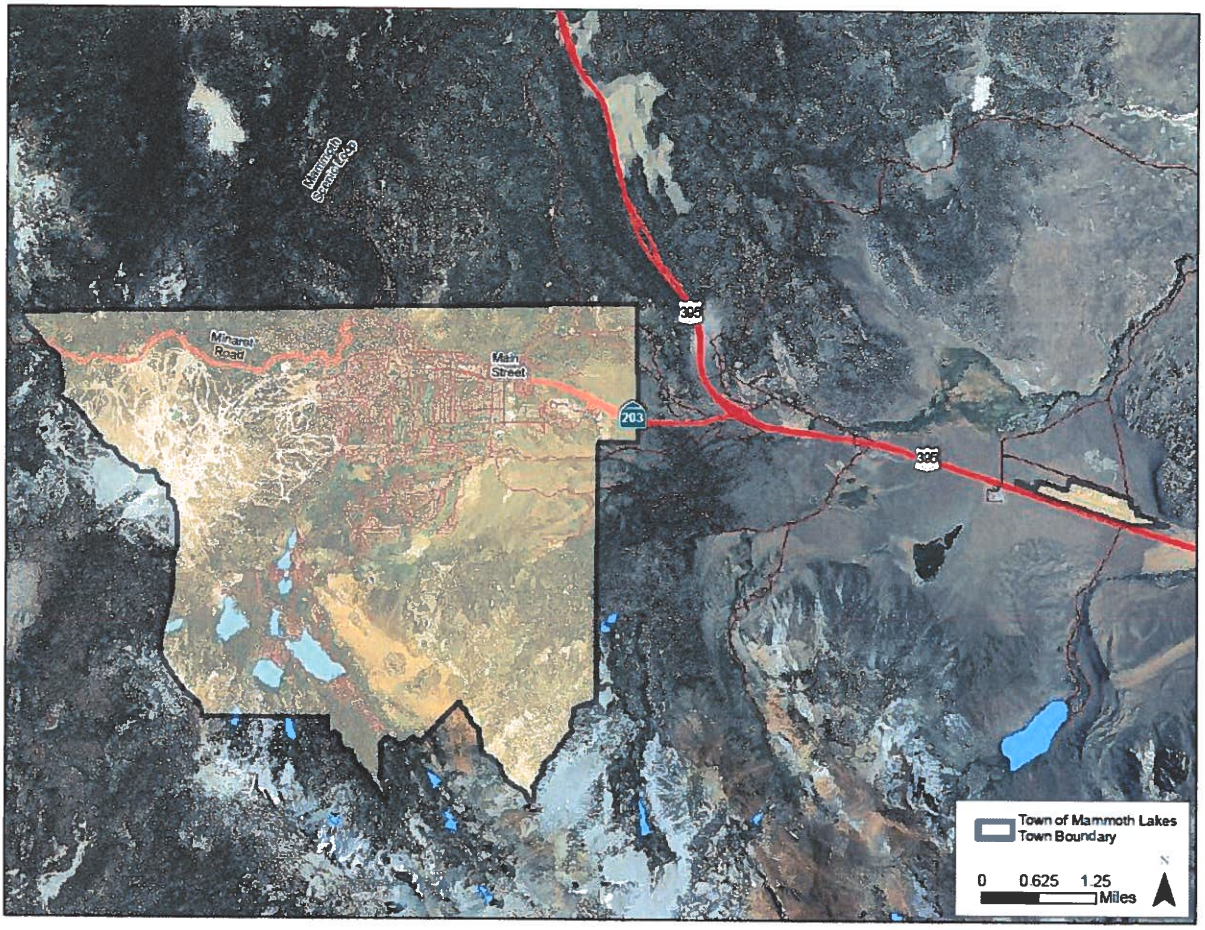
"Restaurant" means: a retail business selling ready-to-eat food and/or beverages (including alcoholic beverages) for on- or off-premise consumption. "Restaurant" includes eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption ("counter service"); and establishments where customers are served food at their tables for on-premises consumption ("table service"), that may also provide food for take-out. "Restaurant" includes micro-breweries where the sale and consumption of alcoholic beverages are subordinate to on-site food service and catering businesses or bakeries that have a storefront retail component.

"Retail business" means: any commercial establishment and/or vendor that is located within or doing business within the geographical limits of the Town of Mammoth Lakes and either (1) sells perishable or nonperishable goods including, but not limited to, clothing, food, recreational substances, and personal items directly to the customer that may be used on or off the retail business premises; or (2) rents goods, such as vehicles and equipment, directly to customers. "Retail business" does not include a restaurant, take-out food establishment, or any other business that receives ninety percent (90%) or more of its revenue from the sale of prepared food to be eaten on or off its premises.

"Ski resort" means: a facility that charges patrons for daily or multi-day access to facilities for skiing and snowboarding in the winter season and bike tours and other recreational activities that require a lift ticket in the summer season.

The boundary, as shown in the map on the following page, currently includes 931 tourism businesses. A complete listing of tourism businesses, current as of November 2016 within the renewed MLTBID

can be found in Appendix 2. Any lodging business, restaurant, retail business, or ski resort that begins doing business within the MLTBID after renewal will be subject to assessment in accordance with this Plan.



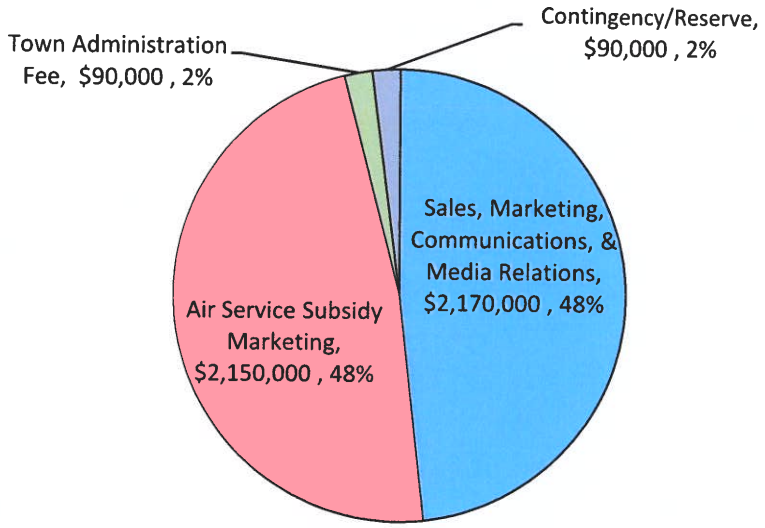
V. BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors, that are not provided to those not charged, and which do not exceed the reasonable cost to the Town of conferring the benefits or granting the privileges. The privileges and services provided with the MLTBID funds are sales, marketing, media relations and communications programs, and air service subsidy marketing programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit the assessed businesses. A detailed annual budget will be developed by the MLT staff and approved by the MLT Board of Directors. The table below illustrates the initial proposed annual budget allocations. The total estimated initial budget is $4,500,000.

Initial Estimated Annual Budget - $4,500,000



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the Town and the MLT board shall have the authority to adjust budget allocations between the categories by no more than twenty percent (20%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the MLTBID, any and all assessment funds may be used for the costs of defending the MLTBID.

Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the sales and marketing budget may include the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks will be paid for with non-assessment funds, such as Measure A funds. The costs of an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the services below will be determined by the MLT on an as-needed basis.

Sales, Marketing, Communications and Media relations

A sales and marketing program will promote assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Mammoth Lakes as a desirable place for overnight visits. The program will have the goal of increasing visitation and commerce at assessed businesses year round, with specific focus during need times, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive tourism and commerce at assessed businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive tourism and commerce at assessed businesses;
- Attendance of trade shows to promote assessed businesses;
- Development of tourism-related infrastructure designed to increase visitation and create or enhance a visitor experience that will encourage repeat visits to assessed businesses;
- Media relations and communications to drive tourism and commerce at assessed businesses;
- Sales blitzes to promote assessed businesses;
- Familiarization tours of assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists and group events to assessed businesses;
- Development and maintenance of a website designed to promote assessed businesses; and
- Education of tourism business management and Mammoth Lakes Tourism on marketing strategies best suited to meet the needs of assessed businesses in Mammoth Lakes.

Air Service Subsidy Marketing

The majority of passengers arriving in Mammoth Lakes via air are visitors; studies have shown that only seventeen to twenty percent (17-20%) of airline passengers are locals. Further detail on airline passengers in attached as Appendix 4. Tourist serving businesses depend on customers arriving via air, especially given the remote location of Mammoth Lakes when compared to the Southern California market which provides the bulk of its visitors. Air service subsidy marketing activities and improvements will be designed to increase the number of visitors arriving via air and patronizing assessed businesses. All advertising related to increased air service shall include only assessed businesses and mechanisms will be continued to refer those who respond to these advertising messages to assessed businesses. Funds may only be used to subsidize air service to Mammoth Lakes which increases access to assessed businesses. Services may also include development of air service and airport infrastructure which increase or improve visitor access to the assessed businesses in Mammoth Lakes.

To ensure the assessment funds dedicated to air services are providing a specific benefit to assessed businesses, they will be subject to the following restrictions. The MLTBID will not be the sole source of air service subsidies and efforts to develop air service and airport infrastructure; additional subsidies will be provided from various sources, including but not limited to Measure A funds, which will provide at least twenty percent (20%) of the cost of such efforts to account for local passengers.

Town Administration Fee
The Town of Mammoth Lakes shall retain two percent (2%) of the amount of assessment collected to cover its costs of collection, administration, and costs incurred in pursuing payment of delinquent assessments. Accounting of the two percent (2%) Town administration fee shall be included in the monthly reporting to MLT.

Contingency/Reserve
The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the MLT Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the MLT Board. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the MLT Board. The reserve fund may be used for the costs of renewing the District.

B. Annual Budget

The total five (5) year improvement and service plan budget is projected at approximately $4,500,000 annually, or $22,500,000 through 2023. This amount may fluctuate as sales and revenue increase at assessed businesses, but is not expected to change significantly over the term.

C. California Constitutional Compliance

The MLTBID assessment is not a property-based assessment subject to the requirements of Proposition 218. The Court has found, "Proposition 218 limited the term 'assessments' to levies on real property."[1] Rather, the MLTBID assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the MLTBID, a "specific benefit" and a "specific government service." Both require that the costs of benefits or services do not exceed the reasonable costs to the Town of conferring the benefits or providing the services.

1. Specific Benefit

Proposition 26 requires that assessment funds be expended on, "a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege."[2] The services in this Plan are designed to provide targeted benefits directly to assessed tourism businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific tourism businesses within the District. The activities described in this Plan are specifically targeted to increase commerce for assessed tourism businesses within the boundaries of the District, and are narrowly tailored. MLTBID funds will be used exclusively to provide the specific benefit of increased commerce directly to the assessees. Assessment funds shall not be used to feature non-assessed tourism businesses in MLTBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this District is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an

[1] *Jarvis v. the City of San Diego* 72 Cal App. 4th 230
[2] Cal. Const. art XIII C § 1(e)(1)

increase in commerce. The specific benefit of an increase in commerce for assessed tourism businesses will be provided only to tourism businesses paying the district assessment, with marketing, sales, media relations, and communications programs promoting tourism businesses paying the district assessment. The marketing, sales, media relations, and communications programs will be designed to increase commerce at each assessed tourism businesses. Because they are necessary to provide the marketing, sales, media relations, and communications programs that specifically benefit the assessed tourism businesses, the contingency/renewal services also provide the specific benefit of increased commerce to the assessed tourism businesses.

Although the District, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, "A specific benefit is not excluded from classification as a 'specific benefit' merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor."[3]

2. Specific Government Service

The assessment may also be utilized to provide, "a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product."[4] The legislature has recognized that marketing and promotions services like those to be provided by the MLTBID are government services within the meaning of Proposition 26[5]. Further, the legislature has determined that "a specific government service is not excluded from classification as a 'specific government service' merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor."[6]

3. Reasonable Cost

District services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by MLT, and reports submitted on an annual basis to the Town. Only assessed tourism businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed tourism businesses will not receive these, nor any other, district-funded services and benefits.

The District-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed tourism businesses receive incremental commerce, that portion of the promotion or program generating that commerce shall be paid with non-District funds. MLTBID funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates additional commerce for non-assessed businesses.

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[3] Government Code § 53758(a)
[4] Cal. Const. art XIII C § 1(e)(2)
[5] Government Code § 53758(b)
[6] Government Code § 53758(b)

D. Assessment

A business which engages in multiple activities will be assessed at the applicable rate for each activity as described below. For instance, if a business engages in retail and internet sales, it will pay the assessment on its retail activities only; or if a business engages in lodging and lift tickets, it will pay a one percent assessment on lodging revenue and a two percent assessment on lift ticket revenue.

1. Lodging Businesses

The annual assessment rate for lodging businesses is one percent (1%) of gross short-term (stays less than 31 days) room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days, nor on government employees on government business.

The Term "gross room rental revenue" as used herein means the charge for occupancy of any space in any lodging business and for all charges rendered in connection therewith, including but not limited to cleaning fees or resort fees, in the form of money, goods, services, or similar payment, including, but not limited to, all receipts, cash, credits, goods, property and services of any kind or nature, without any deduction whatsoever, provided that bona fide charges for food and beverages actually consumed shall not be considered gross room rental revenue. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes; nor shall the assessment be considered part of rent for tax purposes. Any other charges required to be paid for occupancy in a lodging business shall be considered gross room rental revenue.

2. Ski Resorts

In addition to assessments for any lodging, restaurant and retail businesses located on their premises, ski resorts shall be assessed for daily and multi-day lift tickets for winter and summer activities, and ski school revenue. The annual assessment for ski resorts is two percent (2%) of gross daily and multi-day lift tickets for winter and summer activities, and ski school revenues. Daily and multi-day lift tickets for winter and summer activities that are valid at multiple ski resorts will be assessed for that portion of the sales price that is attributable to the ski resort(s) within the MLTBID boundary.

Lift Tickets: Daily and multi-day lift tickets used at the resorts for winter and summer related activities within the MLTBID boundary shall be assessed by the MLTBID.

Third Party Consigners: In any instance where a ski resort consigns lift tickets to third party partners (such as lodging businesses) with the intent that those partners will resell those lift tickets within the MLTBID boundary, the ski resort shall be assessed for the total consigned priced from the third party partner based on the negotiated price of the consigned lift ticket.

Bundled Products: All ski school lessons/packages that are sold and occur within the MLTBID boundary shall be assessed by the MLTBID. For bundled ski resort/lodging products, the ski resort and lodging portions of the bundle will be proportionally assessed their respective MLTBID assessment rates.

The terms "gross lift ticket sales" and "gross ski school revenues" as used herein mean the amount of the consideration charged or chargeable to the patron for a ski resort lift ticket, or ski school, valued in money whether received in money, goods, labor, or otherwise, including

the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross lift ticket sales and ski school revenues shall not include any federal, state, or local taxes collected.

3. Restaurants and Retail Businesses – Tier 1

Tier 1 restaurants and retail businesses are those which have in excess of $150,000 in annual gross revenue and receive at least half of that gross revenue from visitors. The annual assessment rate for Tier 1 restaurants and retail businesses is one and one-half percent (1.5%) of gross sales, including equipment and vehicle rentals at retail establishments. Retail business assessments will not be collected on non-taxable food items for human consumption.

The term "gross revenue" as used herein means the amount of the consideration charged or chargeable to the patron for the purchase or rental of goods (including food and beverages at restaurants) valued in money, goods, labor, or otherwise, including the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross revenue shall not include any federal, state, or local taxes collected.

4. Restaurants and Retail Businesses – Tier 2

Tier 2 restaurants and retail businesses are those which have between $50,000 to $150,000 in annual gross revenue or do not receive at least fifty percent (50%) of their annual gross revenue from visitors. The annual assessment rate for Tier 2 restaurants and retail businesses is $500 per year. Any restaurant or retail business owner who believes their business should be categorized as a Tier 2 business must request a hearing with the MLT appeals committee as outlined in paragraph E(3) below.

The term "gross revenue" as used herein means the amount of the consideration charged or chargeable to the patron for the purchase or rental of goods (including food and beverages at restaurants) valued in money, goods, labor, or otherwise, including the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross revenue shall not include any federal, state, or local taxes collected.

5. Restaurants and Retail Businesses – Tier 3

Tier 3 restaurants and retail businesses are those which have $49,999 or less in annual gross revenue. The annual assessment rate for Tier 3 restaurants and retail businesses is $50 per year. Any restaurant or retail business owner who believes their business should be categorized as a Tier 3 business must request a hearing with the MLT appeals committee as outlined in paragraph E(3) below.

The term "gross revenue" as used herein means the amount of the consideration charged or chargeable to the patron for the purchase or rental of goods (including food and beverages at restaurants) valued in money, goods, labor, or otherwise, including the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross revenue shall not include any federal, state, or local taxes collected.

6. Non-Tourist Businesses

Lodging businesses, ski resorts, retail businesses and restaurants which can conclusively demonstrate that they do not receive any revenue from visitors, and therefore do not receive a specific benefit from the MLTBID activities, may be exempted from the assessment by requesting a hearing with the MLT appeals committee as outlined in paragraph E(3) below.

7. Nonprofit Organizations

The MLTBID activities are designed to increase commerce at tourist businesses in Mammoth Lakes. Because nonprofit organizations do not have a commercial component, they will not specifically benefit from MLTBID activities and will not be assessed. Any entity which believes they should be categorized as a nonprofit organization must request a hearing with the MLT appeals committee as outlined in paragraph E(3) below.

8. Internet Sales Businesses

The MLTBID activities are designed to increase commerce at tourist businesses in Mammoth Lakes. Because internet sales businesses, or the internet portion of a business that is otherwise assessed, do not consummate sales from in person customers (tourists), they will not specifically benefit from MLTBID activities that are designed to increase physical customers in Mammoth Lakes and will not be assessed. Any business owner who believes their business should be categorized as an internet sales business must request a hearing with the MLT appeals committee as outlined in paragraph E(3) below.

9. Wholesale Businesses

The MLTBID activities are designed to increase commerce at tourist businesses in Mammoth Lakes. Because wholesale businesses, or the wholesale portion of a business that is otherwise assessed, do not consummate sales from in person customers (tourists), they will not specifically benefit from MLTBID activities that are designed to increase physical customers in Mammoth Lakes and will not be assessed. Any business owner who believes their business should be categorized as a wholesale business must request a hearing with the MLT appeals committee as outlined in paragraph E(3) below.

10. Disclosure

The assessment is levied upon and is a direct obligation of the assessed tourism business. However, the assessed tourism business may, at its discretion, pass the assessment on to patrons. The amount of assessment, if passed on to each patron, shall be disclosed in advance and separately stated from the amount of consideration charged and any other applicable taxes, and each patron shall receive a receipt for payment from the business. The assessment shall be disclosed as the "MLTBID Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed tourism business even if it is passed on to patrons. The assessment shall not be considered revenue for any purposes, including calculation of transient occupancy taxes.

Bonds shall not be issued.

E. Penalties and Interest

Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. Original Delinquency

Any business which fails to pay any assessment due within the time required shall pay, in addition to the assessment and any such interest the assessment may accrue, an original delinquency penalty of ten dollars ($10.00) or fifteen percent (15%) of the amount of the assessment, whichever dollar amount is greater, provided, however, that any business which has not been late in paying any assessment within the preceding three calendar years shall, upon application of the business to the Town within fifteen (15) days after the date the

assessment first became due, pay and original delinquency penalty of ten dollars ($10.00) or a total of one percent (1%) per day of the amount of assessment due for each day the assessment is delinquent, whichever dollar amount is greater. Every penalty imposed and such interested that accrues, shall become part of the assessment required to be paid. Interest shall accrue on all delinquent assessments until paid.

2. Continued Delinquency

Any business which fails to pay any delinquent assessment, penalty, or interest on or after the next business day of the following assessment due date, shall pay an additional delinquency penalty, over above that provided for in the subsection 1 above, of ten dollars ($10.00) or fifteen percent (15%) of the amount of the assessment, penalties and interest due, whichever is greater.

If the assessment, penalties and interest are not paid within two (2) full remittance periods from the date on which the assessment became delinquent, the Town shall give notice to the business of its intention to initiate a collection action. Written notice shall be deemed given when a copy of the same is enclosed in a sealed envelope with postage thereon fully prepaid and certified in the United States mail and addressed to that address given by the business to the Town. The collection action may be initiated upon lapse of the fifteen (15) days period provided in the notice if all assessments, penalties, and interest are not paid in full within the fifteen (15) day period.

3. Interest

In addition to the penalties imposed, any business who fails to pay any assessment shall pay interest at the rate of one and one-half percent (1.5%) per month or fraction thereof on the amount of the assessment, inclusive of penalties, from the date on which the assessment first became delinquent, until paid.

4. Appeal to Mammoth Lakes Tourism

Any business that wishes to contest its Tier classification may appeal its classification to the MLT Appeals Committee. The MLT Appeals Committee is an ad hoc committee of the MLT Board. Details on the appeals process are provided in Appendix 3.

F. Time and Manner for Collecting Assessments

The MLTBID assessment will be implemented beginning September 1, 2018 and will continue for five (5) years through August 31, 2023. The Town of Mammoth Lakes will be responsible for collecting the assessment (including any delinquencies, penalties and interest) from each tourism business. The assessment will be collected on a monthly basis from those businesses that are assessed a percentage rate; and collected on an annual basis from those businesses that are assessed a fixed amount. The Town shall take all reasonable efforts to collect the assessments from each tourism business. The Town shall forward the assessments, less the two percent (2%) Town Administration Fee, collected to MLT. The Town of Mammoth Lakes will remit payment of MLTBID assessments collected to MLT within thirty (30) days of the close of the collection period as shown on the schedule below. If the deadline for payment of assessments (20th day of the month) is on a weekend or holiday, the deadline will be the next available business day.

Action	Timing	Example
Collection Period	Month 1	January 1-31

Month 1 Assessments Due to Town of Mammoth Lakes	No Later Than Day 20, Month 2	February 20
Assessments Due Considered Delinquent and Subject to Penalties and Interest	Day 21, Month 2	February 21
Town of Mammoth Lakes Remits Collected Assessments to MLT	30 Days After Close of Collection Period	March 2

VI. GOVERNANCE

A. Owners' Association

The Town Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the MLTBID as defined in Streets and Highways Code §36612. The Town Council has determined that Mammoth Lakes Tourism will continue to serve as the Owners' Association for the MLTBID.

The Mammoth Lakes Tourism board of directors will continue to represent the various assessed businesses. The board will include, at a minimum, the following directors:

- 1 director selected by the Town Council
- 1 director representing Mammoth Mountain Ski Area
- 1 director representing the Mammoth Lakes Chamber of Commerce
- 2 directors representing assessed lodging businesses
- 1 director representing an assessed retail business
- 1 director representing an assessed restaurant business
- 2 directors at-large with an interest in tourism

B. Brown Act and California Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the MLT board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. MLT is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the MLT Board shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

C. Annual Report

MLT shall present an annual report at the end of each year of operation to the Town Council pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

APPENDIX 1 – LAW

*** THIS DOCUMENT IS CURRENT THROUGH THE 2018 SUPPLEMENT ***
(ALL 2017 LEGISLATION)

STREETS AND HIGHWAYS CODE
DIVISION 18. PARKING
PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the "Property and Business Improvement District Law of 1994."

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

(a) Businesses located and operating within business districts in some of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.

(d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.

(e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:

(1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.

(2) Job creation.

(3) Business attraction.

(4) Business retention.

(5) Economic growth.

(6) New investments.

(f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.

(g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.

(h) The act amending this section is intended to provide the Legislature's guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.

(1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.

(2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the

incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. "Activities"

"Activities" means, but is not limited to, all of the following that benefit businesses or real property in the district:

(a) Promotion of public events.

(b) Furnishing of music in any public place.

(c) Promotion of tourism within the district.

(d) Marketing and economic development, including retail retention and recruitment.

(e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.

(f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. "Assessment"

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. "Business"

"Business" means all types of businesses and includes financial institutions and professions.

36608. "City"

"City" means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. "City council"

"City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. "Clerk"

"Clerk" means the clerk of the legislative body.

36609.5. "General benefit"

"General benefit" means, for purposes of a property-based district, any benefit that is not a "special benefit" as defined in Section 36615.5.

36610. "Improvement"

"Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

(a) Parking facilities.
(b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
(c) Trash receptacles and public restrooms.
(d) Lighting and heating facilities.
(e) Decorations.
(f) Parks.
(g) Fountains.
(h) Planting areas.
(i) Closing, opening, widening, or narrowing of existing streets.
(j) Facilities or equipment, or both, to enhance security of persons and property within the district.
(k) Ramps, sidewalks, plazas, and pedestrian malls.
(l) Rehabilitation or removal of existing structures.

36611. "Management district plan"; "Plan"

"Management district plan" or "plan" means a proposal as defined in Section 36622.

36612. "Owners' association"

"Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

36614. "Property"

"Property" means real property situated within a district.

36614.5. "Property and business improvement district"; "District"

"Property and business improvement district," or "district," means a property and business improvement district established pursuant to this part.

36614.6. "Property-based assessment"

"Property-based assessment" means any assessment made pursuant to this part upon real property.

36614.7. "Property-based district"

"Property-based district" means any district in which a city levies a property-based assessment.

36615. "Property owner"; "Business owner"; "Owner"

"Property owner" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. "Business owner" means any person recognized by the city as the owner of the business. "Owner" means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. "Special benefit"

"Special benefit" means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

36616. "Tenant"

"Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law

36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

(b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:

(1) A map showing the boundaries of the district.

(2) Information specifying where the complete management district plan can be obtained.

(3) Information specifying that the complete management district plan shall be furnished upon request.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.

(2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

(a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial

year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.

(m) In a property-based district, the total amount of general benefits, if any.

(n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(o) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36626. Resolution establishing district

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in Section 36625.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments

36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.
(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify

businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a)The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915

may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

(a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed

district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assessees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

From: Jennifer Walker
To: Clerk
Subject: public comment for Town Council meeting today
Date: Wednesday, October 27, 2021 1:14:16 PM

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[EXTERNAL EMAIL]

Let's incentivize homeowners to rent long term!

As acknowledged in the document "Workshop on Allocation of TOT Revenues, Review of TBID and Short-Term" prepared by Dan Holler this week, "The Town has experienced substantial growth in TOT revenues." Yet, at the same time, we face a shortage of long-term housing for our locals and workers. On page 9 he mentioned "Communities facing housing challenges have looked to limit the number of STRS as one means to increase the supply of housing units for long-term use." He only proposed ways to RESTRICT the rights of homeowners, but left out something our neighbors in Tahoe are doing already: rather than restrict the rights of homeowners, *INCENTIVIZE* them to offer long term leases instead of STRs. This shouldn't be a "new idea" to the town manager or the Town Council; these programs have already been discussed in local newspapers here in Town (see *The Sheet:* "This is how they do it." October 15, 2021).

Nearly every homeowner here in Town has a mortgage to pay, but if he or she could make the numbers work, many would happily switch to long term leases. Please review the recently passed "Long-Term Rental Incentive Grant Pilot Program" in South Lake Tahoe, as well as a similar program already up and running in Truckee. The core of these programs center around providing cash grants to encourage property owners to switch to longer leases. Example: homeowners sign a one-year lease with a renter and are paid $2,000 per person of the family in the home, up to $10,000.

The city of South Lake Tahoe is not even funding it: the $500K is coming from an allocation from the American Rescue Plan Act (ARPA). Imagine what the Town of Mammoth could accomplish if we put something like that into effect right away, before this winter. It can work fast: the program in Truckee started less than a year ago and has already placed 67 tenants with a cost of 37 grants so far.

The Town of Mammoth's surplus budget could be used to incentivize homeowners and improve the housing crisis NOW, not two to five years from now. I know many residents of Mammoth who would be thrilled to see the Town and MLT reallocate advertising dollars spent to "encourage people to come to already sold-out Mammoth" to grants that open up additional long term rental options in Town.

I ask the Council to discuss this tonight. Thank you.