

Mono County Community Development

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SB 35 STREAMLINED MULTIFAMILY REVIEW PROCESS APPLICATION

Senate Bill 35 (SB 35) provides a streamlined review process for eligible multifamily residential developments. A project may be eligible for the SB 35 Streamlined Multifamily Review Process if it meets all of the eligibility criteria per [Government Code §65913.4](#). See the SB 35 Guide to learn more about this state law and the SB 35 streamlined application process.

PROJECT INFORMATION

Site Address: _____ APN(s): _____

Project Name: _____ Gross Acres: _____

PRIMARY CONTACT INFORMATION

Name: _____ Contact: _____

Address: _____

Email: _____ Phone: _____

IF YOU CHECKED "NO" FOR ONE OR MORE ELIGIBILITY REQUIREMENT BELOW, YOUR PROJECT IS NOT ELIGIBLE FOR THE STREAMLINED MULTIFAMILY REVIEW PROCESS.

- I hereby certify that my project is eligible for the SB 35 streamlined multifamily review process pursuant to [Gov. Code §65913.4](#), as demonstrated in the eligibility checklist below, and request the streamlined review process for my project.
- I hereby certify that all required documents, as outlined in Section 2 - Required Documents, are attached to this application. For any Required Documents which are not applicable to this project, I have attached a detailed explanation of why the Required Documents are not applicable to my project.

Owner Name: _____ Signature: _____ Date _____

Applicant Name: _____ Signature: _____ Date _____

PLANNING DEPARTMENT USE ONLY

<i>PRE-APP#:</i>	<input type="checkbox"/> TRIBAL CONSULT COMPLETED	<i>CONSISTENCY DETERMINATION:</i>	<input type="checkbox"/> ELIGIBLE <input type="checkbox"/> NOT ELIGIBLE	<i>SUBMITTAL DATE:</i> / /
<i>APP#:</i>	<i>DETERMINATION DUE:</i> / /	<i>DETERMINATION DATE:</i> / /		<i>APPROVAL DUE:</i> / /

SECTION 1 - ELIGIBILITY REQUIREMENTS	YES	NO	N/A
1. The development is a multifamily residential development that contains two or more residential units (subd.(a)(1)).	<input type="checkbox"/>	<input type="checkbox"/>	
2. The site is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United State Census Bureau (subd.(a)(2)(A)).	<input type="checkbox"/>	<input type="checkbox"/>	
3. At least 75 percent of the perimeter of the site adjoins parcels that are developed with “urban uses” (subd.(a)(2)(B)). <ul style="list-style-type: none"> • <i>Parcels separated by a street or highway are considered adjoining (subd.(a)(2)(B)).</i> • <i>Per subd.(k)(12), “urban uses” includes current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.</i> 	<input type="checkbox"/>	<input type="checkbox"/>	
4. The site has a general plan designation that allows residential use or residential mixed-use development with at least two-thirds of the square footage¹ of the development designated for residential use (subd.(a)(2)(C)).	<input type="checkbox"/>	<input type="checkbox"/>	
5. The project meets all affordable housing requirements (subd.(a)(3)). <ul style="list-style-type: none"> • <i>Per subd.(a)(3), developments of 10 units or more must meet the following requirements:</i> <ol style="list-style-type: none"> 1) <i>At least 10% of units are affordable to households making below 80% of the Area Median Income,</i> 2) <i>All affordable units are built on-site AND</i> 3) <i>Deed-restricted as affordable (45 years for owner-occupied units or 55 years for rental units).</i> 	<input type="checkbox"/>	<input type="checkbox"/>	
6. The development is consistent with objective standards in effect at the time that the notice of intent² is submitted (subd.(a)(5)). <p style="margin-top: 10px;"><i>“Objective standards,” including “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	
7. The property IS NOT located within the following areas (subd.(a)(6)): <ul style="list-style-type: none"> <li style="width: 50%;"><i>• Coastal Zone</i> <li style="width: 50%;"><i>• Hazardous waste site</i> <li style="width: 50%;"><i>• Prime farmland or farmland of statewide importance, or land zoned or designated for agricultural protection or preservation by a local ballot measure</i> <li style="width: 50%;"><i>• FEMA-designated 100-year flood hazard area⁵</i> <li style="width: 50%;"><i>• Wetlands</i> <li style="width: 50%;"><i>• FEMA-designated floodway⁶</i> <li style="width: 50%;"><i>• Very high fire hazard severity zone³</i> <li style="width: 50%;"><i>• Lands identified for conservation in an adopted natural resource protection plan</i> <li style="width: 50%;"><i>• Earthquake fault zone⁴</i> <li style="width: 50%;"><i>• Habitat for state and federally protected species⁷</i> <li style="width: 50%;"><i>• Lands under conservation easement</i> 	<input type="checkbox"/>	<input type="checkbox"/>	

SECTION 1 - ELIGIBILITY REQUIREMENTS

YES NO N/A

<p>8. The development IS NOT located on a site where any of the following apply (subd.(a)(7)):</p>	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • <i>The development would require the demolition of the following types of housing:</i> <ul style="list-style-type: none"> ◦ <i>Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.</i> ◦ <i>Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.</i> ◦ <i>Housing that has been occupied by tenants within the past 10 years.</i> • <i>The site was previously used for housing that was occupied by tenants that was demolished within the last 10 years.</i> • <i>The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.</i> • <i>The property contains housing units that are occupied by tenants and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.</i> 			
<p>9. The project meets all labor requirements (subd.(a)(8)).</p>	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • <i>For projects with more than 10 units, the following labor restrictions apply:</i> <ol style="list-style-type: none"> 1) <i>The development must be considered a public work, or all workers must be paid at the prevailing wage.</i> • <i>For large projects of 50 units or more, the following labor restrictions apply⁹:</i> <ol style="list-style-type: none"> 1) <i>A skilled and trained workforce must be used AND</i> 2) <i>The applicant must either demonstrate that all contractors and subcontractors are subject to a project labor agreement requiring compliance with the skilled and trained workforce requirement OR the applicant must provide the County with a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.</i> 			
<p>10. If the development involves parcel subdivisions, mergers, or lot line adjustments, the project will: (1) provide prevailing wages AND (2) use low-income housing tax credit funding OR a skilled and trained workforce (subd.(a)(9)).</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>11. The development IS NOT located on a site governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act (subd.(a)(10)).</p>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>12. Tribal Consultation has been completed. Per GC §65913-65914.7, the County has 30 days from the Notice of Intent (NOI) submittal date to invite tribal consultation, and tribes have 30 days to respond. If any tribe requests consultation, the County has 30 days from the request to initiate consultation. There is no deadline to complete tribal consultation.</p>	<input type="checkbox"/>	<input type="checkbox"/>	

¹ Square footage of the development does not include underground space per subd.(a)(2)(C).

² Per subd.(b)(1)(A), the notice of intent shall be submitted in the form of the SB 330 Preliminary Application.

³ Does not apply to sites excluded from the specified hazard zones by a local agency, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development per subd.(a)(6)(D).

⁴ Does not apply if the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission, and by any local building department per subd.(a)(6)(F).

⁵ Does not apply if the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program per subd.(a)(6)(G).

⁶ Does not apply if the development has received a no-rise certification per subd.(a)(6)(H).

⁷ May require site visit from a County environmental planner to determine presence of protected species habitat.

⁸ A skilled and trained workforce is required for projects that are not 100% subsidized affordable housing as follows: until December 31, 2021, developments of 75 or more units. January 1, 2022 – December 31, 2023, developments of 50 or more units per subd.(a)(8).

SECTION 2 - REQUIRED DOCUMENTS

- Proposed Land Uses** – The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning district.
- Existing Uses** – The existing uses on the project site and identification of proposed major physical alterations to the property on which the project is to be located.
- Existing Residential Uses and Proposed Demolition** – The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.
- Below Market Rate Units** – The number of proposed below market rate units and their affordability levels.
- Density Bonus Units and Waivers/Concessions** – The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Government Code Section 65915.
- Parking** – The proposed number of parking spaces.
- Project Plans** – A site plan showing the location on the property. The site plan must include (1) North arrow, (2) scale (e.g., 1"=20', etc.), (3) all proposed uses, (4) location and name of all existing streets, surface waters and recorded easements, (5) dimensioned property lines/project boundary lines, (6) location and outside dimensions of proposed structures, driveways, roads, parking areas, landscaping and utilities, (7) distance between structures and setbacks to all property lines and surface waters, (8) contour lines if the property is in a flood zone, (9) location of surface waters within 50 feet of the property, (10) location of utility lines 115 kV or greater within 35 feet of property, (11) unusual site features (e.g., hilly terrain, drainages) on property, (12) Mitigation, Monitoring and Reporting Plan (MMRP), and (13) grading plan (if required--see thresholds below).
- Processing Agreement** – A signed Mono County processing agreement to allow Mono County to bill the applicant for time spent on the project. (attached)
- Grading Permit thresholds questionnaire** (attached) Any **other documents** which may be requested by the Mono County Community Development Department.

The project will not be eligible for streamlined, ministerial approval under SB 35 unless and until one of the circumstances stated in Government Code Section 65913.4(b)(3) applies.

GRADING PERMIT THRESHOLDS QUESTIONNAIRE:

- Will you remove the vegetation from more than 10,000 square feet of land?
- Will you excavate for an underground storage tank larger than 10,000 gallons?
- Will you excavate 200 or more cubic yards of soil and/or rock?
- Will your excavation be over four feet in depth at any point?
- Will your excavation be closer than two feet to any property line?
- Will any excavation slopes be steeper than 2:1 (horizontal to vertical)?
- Will your excavation slopes be bare soil without vegetation?
- Will you fill more than 200 cubic yards of soil and/or rock?
- Will you fill three feet or more in depth at any point?
- Will you fill closer than two feet to any property line?
- Will you fill on ground having a natural slope steeper than 5:1 (horizontal to vertical)?
- Will you construct a fill that has slopes steeper than 2:1 (horizontal to vertical)?
- Will your fill slopes be bare soil without vegetation?
- Will you excavate, fill, or clear on or within, any property such that soil or debris washed, eroded, or moved from the property by natural or artificial means creates a public nuisance or hazard on other property or road?
- Will you modify, re-direct, obstruct, divert, or interfere with natural or artificial surface drainage swales, ditches, gutters, or other improved or unimproved drainage channels or drainage ways?

**AGREEMENT FOR THE PROVISION OF PROJECT EVALUATION,
ENVIRONMENTAL REVIEW, AND PROCESSING SERVICES**

INTRODUCTION

WHEREAS, _____ (hereinafter referred to as "Applicant") proposes to engage in the following activities in Mono County: _____

(The activities proposed by Applicant are hereinafter referred to as the "Project.")

WHEREAS, the Mono County Code, General Plan, policies, regulations, and/or state laws or regulations require(s) that Applicant obtain the following permit(s) or other discretionary approval(s) from the Mono County Planning Commission, Board of Supervisors, or other County department or agency before Applicant may implement the proposed Project _____

_____ (hereinafter "the Discretionary Approval(s)").

WHEREAS, Applicant has applied OR has submitted pre-application materials to the Mono County _____ Department for the above-referenced discretionary approval(s) for the proposed Project.

WHEREAS, pursuant to the Mono County Code, General Plan, policies, regulations, and/or state laws or regulations, the Planning Commission, Community Development Department, Public Works Department, Environmental Health Department and/or the Board of Supervisors (the "Decision Maker(s)") have the responsibility for determining whether the discretionary approval(s) being sought by Applicant may be issued for the proposed project. The Decision Maker(s) also have responsibility for the County's compliance with the California Environmental Quality Act ("CEQA") in regard to the project application.

WHEREAS, County has determined that the Project may be subject to CEQA and thus that appropriate reports and documentation may need to be prepared, completed, and certified in compliance with CEQA before the Decision Maker(s) may consider the project application and the discretionary approval(s) being sought for the proposed Project.

WHEREAS, County may find it necessary or desirable to enter into contracts with independent contractors (hereinafter "Contractor or Contractors") to assist the County in the evaluation of the proposed Project and in the preparation of the CEQA reports and documentation.

WHEREAS, this Agreement sets forth the understanding between the Parties as to the roles and responsibilities of the Parties in evaluating the proposed Project, in processing the application(s) for the Discretionary Approvals, in preparing CEQA documentation, in retaining Contractors, and for payment by Applicant to County of all costs incurred by County in conducting these activities.

TERMS AND CONDITIONS

1. TERM.

The term of this Agreement shall commence on _____. This Agreement shall terminate

sixty (60) days from the final action (including any appeal to another County Decision Maker) being taken by the Decision Maker(s) either granting or denying the Discretionary Approval(s). The date of termination shall be sixty (60) days from the effective date of the final decision. Notwithstanding the foregoing, the obligation of the Applicant to defend, indemnify, and hold the County harmless, as provided in paragraph 8 of this Agreement, shall survive such termination. This Agreement may be sooner canceled or terminated as provided below.

2. SCOPE OF WORK.

The County shall perform the following services and work:

- evaluate the project application for completeness and provide any necessary consultation;
- evaluate the environmental impacts of the proposed Project;
- evaluate any other impacts or aspects of the Project pertinent to the County's evaluation of the proposed Project;
- prepare CEQA reports and documentation that address and analyze the proposed Project, including an Environmental Impact Report if deemed appropriate by the County;
- determine whether to approve the discretionary approval(s) sought with respect to the proposed Project.

3. PERFORMANCE OF WORK.

- A. Use of Employees and Contractors. County may perform work and services under this Agreement either by its own employees, or by using one or more Contractors retained by the County. County will have such work or services performed by employees or Contractors who are qualified to, and capable of, doing such work. County will determine which employee(s) and Contractors are qualified and capable to perform the work and services under this Agreement. Applicant has no right to designate, or require work or services to be performed by a particular County Department, class of County employee, specific County employee(s), or by Contractors. County need not obtain Applicant's approval prior to or after incurring any travel and/or per diem, or overtime expenses in performing work or services under this Agreement. Services and work provided by the County under this Agreement will be performed by County employees or Contractors in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, County Codes, regulations, and resolutions. Such laws, County Codes, regulations, and resolutions include, but are not limited to, those referred to in this Agreement.
- B. Selection of Contractors. County shall notify Applicant in advance of retaining a Contractor to perform services in regard to the proposed Project. Any Contractor who has not already been retained by the County to perform services in regard to the proposed Project shall be selected in a manner consistent with the guidelines set forth in the Mono County Environmental Handbook or may be selected utilizing an alternative procedure mutually acceptable to the parties hereto that is in compliance with County and other applicable law. The Mono County Community Development Director shall determine whether the Contractor, who will assist the County in the evaluation of the project and/or preparation of the CEQA reports and documentation, shall be selected in a manner consistent with the guidelines set forth in the Mono County Environmental Handbook or shall be selected through an alternative procedure. The Community Development Director shall also determine the selection procedure that will be employed with regard to retention of the

services of any other Contractor for the purpose of assisting their respective Departments in performing other work required by the County Code or other applicable County or state laws, regulations, or policies.

C. General Provisions Pertaining to Contracts.

- (1) Any contract between the County and a Contractor shall prohibit the Contractor from assisting in the preparation of engineering plans and/or construction designs for the proposed Project. No Contractor retained by the County shall have any financial or economic interest in the Community Development, design, construction or operation of the proposed Project. Prior to the execution of the contract(s) between the County and a Contractor, the Contractor shall execute a statement of financial interest that states that the Contractor has no financial or other interest in the outcome of the Project.
- (2) Any contract between the County and a Contractor shall require that the Contractor procure and maintain insurance for the protection and benefit of the Parties. Prior to the selection of a Contractor, the County will provide Applicant with its minimum insurance requirements for the contract.
- (3) Any contract between the County and a Contractor shall provide that the Contractor may only employ a subcontractor after receipt of prior approval by the County.
- (4) Any contract between the County and a Contractor shall provide that any subcontractor to be hired by the Contractor shall be required to furnish a statement of financial interest to the Contractor that states that the subcontractor has no financial or economic interest in the Community Development, design, construction or operation of the proposed Project. The Contractor shall be required to submit this statement to the County prior to the retention of the subcontractor.
- (5) County shall have authority to suspend work and to suspend payments to any Contractor if the contract work is not performed in a professional, cost effective and generally satisfactory manner. Any suspension of a Contractor for these reasons shall be in the form of a written notice concurrently provided to Applicant and the Contractor.

4. COUNTY COSTS, CONTRACTOR COSTS AND CONSIDERATION.

A. Amount of payment for services and work performed by County Employees. Applicant shall pay all County costs for all services and work performed by County employee(s) under this Agreement. The County's costs for these services and work shall be the sum of the following: (1) Employee Costs, (2) Overtime, (3) Travel Costs, and (4) Special Costs incurred by the County, as defined and described more fully below:

- (1) Employee Costs. Employee Costs shall be the County's actual costs of providing employees who provide work or services under this Agreement, including their hourly rates of pay (or pro rata portion of salary), fringe benefits, overtime (if applicable), and indirect costs such as overhead. Costs billed to Applicant shall be based on the hours that are actually spent by County employees performing such

work or services, rounded up or down to the nearest fifteen minutes.

- (2) Overtime. Where the circumstances of the services and work provided under this Agreement require a County employee to work in excess of eight (8) hours per day or 40 hours per week (in the case of an 8 hour per day employee), or 7 hours per day or 35 hours per week (in the case of a seven hour per day employee), and County is obligated by law or contract to compensate the employee for such work at a rate of one and one half (1.5) times their hourly rate of pay (hereinafter referred to as "overtime"), the hourly rate of pay for such overtime hours worked under this Agreement, used for purposes of determining Employee Costs, will be one and one half (1.5) times the employee's hourly rate of pay.
 - (3) Travel Costs. Travel and per diem costs shall be the actual costs incurred by the County when an employee travels and/or incurs per diem expenses in performing work under this Agreement. Actual costs to the County will be determined by the County policy then in effect that establishes travel and per diem reimbursement rates for County employees.
 - (4) Special Costs. Special costs are those costs incurred by the County that have been approved in advance by Applicant for the purchase of particular specialized equipment, supplies, tools and materials used by County in performing work or services under this Agreement.
- B. Amount of Payment for Services and Work Performed by Contractors. Applicant shall pay all of the County's costs for any Contractor retained by the County to perform services or work under this Agreement. The County's costs for these services and work shall be the actual cost to the County for the services and work.
- C. Project Fund. County shall establish a Project Fund (hereinafter referred to as "Project Fund") to administer all funds provided by Applicant to County pursuant to this Agreement: All costs incurred by County that arise from this Agreement will be paid from the Project Fund. Any money deposited in the Project Fund shall be used for no purpose other than the payment of these costs; however, within sixty days following the termination of this Agreement, and after payment has been made of all outstanding costs incurred by the County, any funds remaining in the Project Fund will be returned to Applicant. Applicant shall not be entitled to any interest on funds deposited and held in the Project Fund, nor shall County have any obligation to invest said funds on behalf of the Applicant. Nevertheless, in the event that the County itself actually earns any interest on such funds in its possession that can be reasonably traced or attributed to those funds, it shall, to the extent both legally permissible and reasonably practicable for the County Auditor-Controllers office, use its best efforts to pass said earned interest through to the Applicant by depositing or crediting it to the Project Fund. The Mono County Community Development Director, or his designee, shall be responsible for ensuring that all payments from Project Fund are made in the appropriate time and manner.
- D. Initial Deposit/Payments to County and Contractors. Within 15 days after the effective date of this Agreement, Applicant shall deposit with the County the sum of \$495.00. County shall immediately deposit the funds into the Project Fund. Thereafter, the County shall transfer to itself from the Project Fund an amount equal to any costs (plus overhead) when employee costs are billed to the project, for special costs incurred by the County, and for the costs of

Contractors retained by the County.

- E. Subsequent Payments. County shall submit to Applicant an itemized statement of the costs of all services and work performed by the County, any special costs incurred by the County, and the costs of any Contractor retained by the County. The statement shall typically be sent prior to a decision point (such as consideration by the Planning Commission or Board of Supervisors) and at project close, and will identify the date on which the services and work were performed, describe the nature of the services and work, itemize any travel or special costs incurred by County during the period, and provide copies of all Contractors invoices paid by the County during the period. Applicant shall make payment to County in the amount of the statement within twenty days of receipt of the statement. Upon receipt of a payment from Applicant, County shall immediately deposit the funds. If Applicant fails to make a payment in the amount of the statement to the County within the 20-calendar day period, County may cease all work and services under this Agreement until the funds have been provided.
- F. Limit Upon Amount Payable Under Agreement. Except for costs that may be required to be paid to County or others pursuant to Section 8 (Defense and Indemnification), the total sum of all payments made by Applicant to County for services and work performed under this Agreement shall not exceed the total of the following: (1) costs of County employees who perform services and work pursuant to this Agreement (including overtime, costs of fringe benefits, and travel costs), (2) special costs incurred by the County, (3) costs of services and work performed by any Contractors retained by County to perform work and services under this Agreement, and (4) overhead costs.
- G. Federal and State Taxes. Applicant will not withhold any federal or state income taxes or social security from any payments made by Applicant to County pursuant to this Agreement.

6. ADDITIONAL PROCEDURES AND OBLIGATIONS.

- A. The procedures that will be followed in preparing and processing the CEQA reports and documentation on the proposed Project are set forth in the Mono County Environmental Handbook.
- B. The Mono County Community Development Director shall establish a project working group composed of such County personnel as are deemed necessary. The working group will meet monthly, or more frequently if necessary, to provide internal staff communication and coordination in regard to the County's work on the proposed Project.
- C. Representatives of each party shall attend regular meetings with the other party, with federal, state, regional, and local agencies, with concerned groups, and attend other meetings as necessary, for the purpose of providing information concerning the proposed Project and work plan and receiving comments on the proposed Project and related environmental documents. County will notify Applicant of any meetings that are scheduled in regard to the Project. County will immediately notify Applicant of any matter raised by a federal, state, regional, or local agency that may require significant changes to the project proponent's application, or that may result in County incurring significant additional costs pursuant to this Agreement.
- D. County shall make the final determination as to the accuracy, inclusion, deletion, or revision

of any material, (including all issues, data, analyses, and conclusions) relating to evaluations of the Project and application(s) related thereto.

- E. The Parties shall identify, and protect from public disclosure, confidential or proprietary information (including data) as required by applicable laws.
- F. Any determination by the Planning Commission and/or Board of Supervisors as to whether the applied for discretionary approval(s) will be approved for the proposed Project shall be based upon the whole of the record including the CEQA reports and documentation, recommendations from county Departments, testimony from public hearings, and all relevant written evidence submitted on the Project.
- G. The Community Development Department will:
 - (1) As directed by the Mono County Community Development Director, either prepare and circulate a request for qualifications to appropriate Contractors for the preparation of the CEQA reports and documentation, or follow alternate Contractor selection procedures.
 - (2) In the event that it is determined to select a Contractor to assist the Community Development Department in performing its responsibilities under the County Code through the procedures set forth in the Mono County Environmental Handbook, the Community Development Department will:
 - a. Review any statements of qualifications received from Contractors interested in preparing the CEQA reports and documentation or in assisting the Community Development Department in performing its other responsibilities under the County Code, determine which Contractors are qualified to perform the requested services, and prepare and circulate a request for proposal to each Contractor deemed qualified.
 - b. Evaluate any proposals submitted for the preparation of the CEQA reports and documentation and/or for provision of other services in assisting the Community Development Department in performing its responsibilities under the County Code, determine the best proposals, and interview the Contractor or Contractors submitting the best proposals.
 - c. Select the most qualified Contractor or Contractors to prepare CEQA reports and documentation, and/or to provide other services in assisting the Community Development Department in performing its responsibilities under County Code.
 - (3) Manage the preparation of the CEQA reports and documentation, economic evaluation, project evaluation, and other work required of the Community Development Department by the Mono County Code, the Mono County General Plan, or California law.
 - (4) Prepare, or cause to be prepared by a contractor, all necessary documents and notices for the Planning Commission use for rendering decision on the Project application(s) and associated CEQA reports and documentation.

- (5) Provide staff assistance, or cause staff assistance to be provided by a contractor, to the applicable Commission/Board for the County with the responsibility for the County's compliance with CEQA and for certification of the adequacy of any CEQA reports and documentation for the proposed project.
- (6) Perform additional services in regard to the proposed Project as may be requested by the Planning Commission, the Board of Supervisors, or other decision-making county commission or official.

7. STATUS OF PARTIES.

- A. All acts of County, its agents, its Contractors, officers, and employees, relating to the performance of this Agreement, and all actions taken by the Applicant shall be performed as independent contractors, and not as agents, officers, or employees of Applicant or County. The parties have no authority to bind or incur any obligation on behalf of one another. No party to this agreement has the authority or responsibility to exercise any rights or power vested in the other parties to this agreement. No agent, officer, or employee of the any party to this Agreement is to be considered an employee of any other party to this agreement. This Agreement shall not, under any circumstances, be construed or considered to create an employer-employee relationship or a joint venture between County and Applicant. The County and the Applicant, its agents, officers, and employees are not, and at all times during the term of this Agreement shall not, represent or conduct themselves as employees of one another.
- B. County shall determine the method, details, and means of performing the work and services to be provided by County under this Agreement. County shall be responsible to Applicant only for the responsibilities and work specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to control with respect to the physical action or activities of Applicant in fulfillment of this Agreement.

8. DEFENSE AND INDEMNIFICATION.

- A. Applicant shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the County's acts or omissions with regard to its compliance with CEQA or other laws, with regard to the preparation and processing of the CEQA reports and documentation and with regard to the decision based thereon concerning the Project. Specifically, Applicant's obligation to defend, indemnify, and hold the County harmless specifically extends to any suit or challenge by any third party against the County that contests the legality or adequacy of the CEQA reports and documentation or the County's compliance with the requirements of CEQA or other laws. The Applicant will have the option to use Mono County legal counsel (which could include contracted attorneys) and pay the County for those fees or obtain outside counsel to handle such suit. In either case, the County will have the right to participate in settlement of any such suit or challenge. Should Applicant fail to defend, indemnify, and hold harmless County, County may discontinue the defense of any such litigation. Nothing in this Agreement shall be construed to waive or diminish either Party's right, or the right of a non-Party, to challenge any decision, or defend any challenge, arising out of the CEQA process.
- (1) Applicant's obligations to defend, indemnify, and hold the County, its agents,

officers, and employees harmless under the provisions of this paragraph shall include, but not be limited to:

- a. the costs of any judgments or awards against the County for damages, losses, litigation costs, or attorney's fees arising out of a suit or challenge contesting the adequacy of the CEQA reports and documentation and/or County's compliance with CEQA or other laws;
- b. the costs of any settlement representing damages, litigation costs, and attorney's fees to be paid to other parties arising out of a suit or challenge contesting the adequacy of the CEQA reports and documentation and/or the County's compliance with CEQA or other laws.

(2) As to any judgments, awards or settlement costs, all parties to this agreement, or persons hired by any party to this agreement, will proceed in good faith and with reasonable diligence to achieve a settlement or other disposition of the same that will minimize, to the extent reasonably practicable, Applicant's costs of defense and indemnification of County under this Agreement. Parties will consult with one another and give due consideration to all party's views prior to any such settlement of final disposition. County shall promptly notify Applicant of any claim, action, or proceeding brought pursuant to Government Code Section 66499.37 and shall cooperate fully in its defense.

- B. Applicant's obligations to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph are not limited to, or restricted by, any policy of insurance or contract limit.
- C. Applicant's obligations to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph will be effective regardless of whether a valid permit is in place or has been invalidated.

9. CANCELLATION/WITHDRAWAL OF APPLICATION.

- A. This Agreement may be canceled by Applicant without cause and at will for any reason by giving to County written notice of such intent to cancel. Cancellation of this Agreement shall be effective on the fifth business day following receipt of a written cancellation notice by County. Cancellation of this Agreement by Applicant shall act as a withdrawal by Applicant of its request for any approval from Mono County pertaining to the Project as described in this Agreement effective on the date of the cancellation.
- B. Upon receipt of notice of a cancellation, or upon the effective date of a termination by default, County shall terminate all contracts with Contractors and make final payment from the Project Fund to such Contractors. County also shall make final payment to itself for any other unpaid costs incurred by the County in providing services or work under this Agreement. Within sixty days of the cancellation or termination, County shall pay to Applicant any funds remaining in the Project Fund after the County has paid all Contractors, all costs incurred for work or services performed by County employees, and all special costs.
- C. A cancellation of this Agreement, or a termination of this Agreement by default as set forth in Section 11 below, shall not terminate Applicant's obligation to defend, indemnify, and hold the County harmless under the provisions of Section 8 of this Agreement.

10. **ASSIGNMENT.**

Applicant may assign its rights or delegate its duties under this Agreement at any time, to any party surviving a takeover or merger of the real property involved in this Agreement with Applicant providing that such party assumes in writing all of Applicant's obligations under this Agreement.

11. **DEFAULT.**

- A. If Applicant fails to pay County for the work and services performed by County in a timely manner, County may declare default, and notify Applicant in writing of the facts constituting such default. Within 30 days of service of such notification of default, Applicant may cure the default by paying to County all amounts owing to County for services and work. Service of a notice of default on the defaulting party and allowance of the thirty (30) calendar day period for the defaulting party to commence with diligence to cure such default shall be a condition precedent to any termination of this Agreement or to the bringing of any action based upon such default. If Applicant fails to make the payment within the 30-day period, County may deduct the amount owed from any available funds that remain in the Project Fund. Such deduction by County shall not cure Applicant's default unless the Applicant replenishes the Project Fund within thirty (30) calendar days from the day of withdrawal by the County. Applicant's default shall not be excused if insufficient funds remain in the Project Fund to cover the amount owed. If at the end of the 30-day period, Applicant has failed to make the required payment, County at its election, may terminate this Agreement by written notice thereof to the Applicant. A notice of Termination shall act as a withdrawal by Applicant of its request for any approval from Mono County pertaining to the Project as described in this Agreement effective on the date of the notice.
- B. Except for a failure to make a required payment as set forth in paragraph "A" above, if either Party should fail to comply with the other terms and conditions of this Agreement, the other party may declare default and notify the "defaulting" party in writing of the facts constituting such default. Upon making such written notification, the defaulting party will have thirty (30) calendar days to cure such default. A party shall be deemed to cure the default if within the time period set forth herein, the defaulting party begins and thereafter diligently continues to completion curing such default. Service of a notice of default on the defaulting party and allowance of the thirty (30) calendar day period for the defaulting party to commence with diligence to cure such default shall be a condition precedent to any termination of this Agreement or to the bringing of any action based upon such default. If any default is not cured or deemed cured hereunder, the non-defaulting party, at its election, may terminate this Agreement by written notice thereof to the defaulting party. A notice of Termination shall act as a withdrawal by Applicant of its request for any approval from Mono County pertaining to the Project as described in this Agreement effective on the date of the notice of default.

12. **WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is amended as described in Section 16 below.

13. **CONFIDENTIALITY.**

The County shall make every effort to keep information and records kept, maintained, or accessible by County in the course of performance under this Agreement as privileged, restricted, or confidential to the fullest extent possible while complying with applicable provisions of the federal, state, and county regulations.

14. **SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, County Code, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

15. **ATTORNEY'S FEES.**

If either of the Parties brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare a default, cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

16. **AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the Parties. Any modification, amendment or change shall be in written form and executed with the same formalities as this Agreement, and attached to the original Agreement.

17. **NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the term of this Agreement, which Applicant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Mono:

Applicant:

County Community Development Director
P.O. Box 347
Mammoth Lakes, CA 93546

18. **ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect.

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, _____.

COUNTY

By: _____

APPLICANT

By: _____

PROPERTY OWNER

By: _____