ATTACHMENT J

AREA PLAN
MEMORANDUM OF UNDERSTANDING
BETWEEN the TAHOE REGIONAL PLANNING AGENCY and DOUGLAS COUNTY

This Memorandum of Understanding (MOU) is entered between the Tahoe Regional Planning Agency (TRPA) and Douglas County, herein referred to as "Public Entity." TRPA's authority to enter into this MOU with the Public Entity rests in Article VI (m) of the TRPA Compact (Public Law 96-551) and Sections 2.5 and 13.7 of the TRPA Code of Ordinances ("Code"). The Public Entity is authorized to enter into this MOU pursuant to Nevada Revised Statutes, Chapter 277, by and through its Board of County Commissioners. This South Shore Area Plan MOU shall become part of the TRPA Code under Sections 2.5 and 2.6 upon signing by TRPA and the Public Entity.

PART 1 – GENERAL PROVISIONS

COMMON OBJECTIVES	TRPA and the Public Entity (the "Parties) have a common objective to conserve the resources of the Lake Tahoe Region, achieve and maintain the environmental threshold carrying capacities and enhance the effectiveness of government through the efficient implementation of the TRPA Regional Plan and Area Plans
TERM OF AGREEMENT	This MOU is effective upon the signing of Attachment "A" by the Parties and shall remain in effect until terminated without cause by either party following a 60-day notice in writing. The Public Entity and TRPA will prepare procedural guidelines to implement this MOU.
DEFINITION OF TERMS	Terms in this MOU shall have the same meaning as they do in the TRPA Code.
INTERPRETATION AND SEVERABILITY	The provisions of this MOU are subject to the interpretation and severability provisions of Section 1.6 of the TRPA Code.
DISTRIBUTION OF FUNCTIONS	Activities authorized by TRPA under this MOU are described in Attachment B (Table of Delegated Activities within Area Plans) . Attachment B specifies the extent to which the activities within the Area Plan are delegated. All delegated activities shall be reviewed and approved in accordance with the TRPA Regional Plan and the Code. The Public Entity will not be delegated review and approval of those activities set forth in Attachments B until training has occurred and the Public Entity liaison has indicated in writing the specific date the Public Entity will be responsible for reviewing and approving the delegated activities in accordance with the TRPA

	Regional Plan and Code of Ordinances.
EXEMPT AND QUALIFIED EXEMPT ACTIVITIES PERFORMED BY PUBLIC ENTITY	Attachment C (Table of Exempt and Qualified Exempt Activities) describes activities performed by the Public Entity that are exempt from TRPA review and approval and modifies the scope of Exempt and Qualified Exempt activities otherwise allowed in Section 2.3 of the TRPA Code. Activities that are not delegated Exempt or Qualified Exempt are subject to the project review requirements of Section 2.2 of the Code and are subject to TRPA review and approval.
LOSS OF EXEMPTION	Any "exempt" or "qualified exempt" activity set forth herein shall be considered a "project" outside the scope and authorities granted under this MOU if the TRPA Executive Director determines that the activity may have a substantial effect on natural resources in the TRPA Region as defined in the TRPA Code.
COMMUNICATION	The Parties shall each designate a liaison for direct communication of matters related to this MOU. The Public Entity liaison and the TRPA MOU Coordinator shall meet at least once per year to review this MOU and to establish policy directives, training needs, and renew communications.
TRAINING	TRPA shall provide initial training to the Public Entity regarding the provisions of this MOU. Subsequent training shall be provided for matters affecting this MOU, including but not limited to: changes to the TRPA Code, Area Plans, Regional Plan; policy or procedural changes; and training needed for corrective actions or to clarify MOU provisions.
EXAMINATION OF RECORDS	Every record of activity under this MOU shall be open for examination in accordance with Article VI (o) of the TRPA Compact.
PROCEDURES FOR RESOLVING DISPUTES	In the event of a dispute or difference of interpretation regarding the terms or conditions of this MOU, resolution shall first be pursued by the MOU liaisons, and if the liaisons are unable to resolve the dispute then by the executive officers of the Parties. If the executive officers are unable to resolve a dispute, the TRPA Executive Director may terminate the MOU or recommend that the matter be heard by the TRPA Governing Board.
EMERGENCIES	The TRPA Rules of Procedure allows the TRPA Executive Director to issue an emergency permit for a situation or circumstance which poses immediate danger to life, property or the environment and demands immediate action in order to comply with the Compact,

Regional Plan, Code and/or Rules of Procedure. This MOU does not change the process for issuing an emergency permit.

AMENDMENT

This MOU may be amended from time to time by mutual agreement of the Parties in writing subject to Governing Board approval. Proposed amendments shall be presented to the liaisons (for approval by their respective agencies) as soon as possible to facilitate timely consideration of proposed amendments.

ASSIGNMENT

None of the authorities, duties or responsibilities set forth in this MOU shall be assigned, transferred or subcontracted to a party other than that named in Attachment A, without written consent by TRPA.

EXISTING MOU

This MOU replaces the April 23, 2012 MOU between Douglas County and TRPA.

ACTIVITIES REQUIRING TRPA APPROVAL

Projects and matters that meet one of the following criteria and that are also identified in Section 2.2.2 of the Code as requiring approval by the Governing Board or Hearings Officer shall be reviewed by TRPA:

A. All development within the High-Density Tourist District;
B. All development within the Shorezone of Lake Tahoe;
C. All development within the Conservation District;
D. All development within the Backcountry District;
E. All development within the Resort Recreation designation; and

F. All development meeting the criteria in the following table:

	Regional Center	Town Center	Not in Center
Residential	≥100,000 sq. ft.	≥ 50,000 sq. ft.	≥ 25,000 sq. ft.
Other	≥ 80,000 sq. ft.	≥ 40,000 sq. ft.	≥ 12,500 sq. ft.

(All measurements are new building floor area.)

Part 2 – PERFORMANCE STANDARDS

The following standards shall apply to activities authorized under this MOU. All activities shall be reviewed and approved in accordance with the TRPA Regional Plan, Code of Ordinances and Rules of Procedure. The Parties shall consult with each other regarding any uncertainties about these standards.

ENVIRONMENTAL DOCUMENTATION	Exempt and Qualified Exempt classes of projects are not required to complete a TRPA Initial Environmental Checklist for the activity pursuant to Section 3.3 of the TRPA Code. All other classes of projects shall be reviewed in accordance with the Environmental Documentation requirements of Chapter 3 of the TRPA Code and applicable sections of the Rules of Procedure. Environmental Documents prepared by the Public Entity shall be made available for comment by TRPA upon request.
SPECIAL CONDITIONS	The Public Entity shall administer all standards of the TRPA Regional Plan and Code as applicable to the activities authorized by this MOU in accordance with the provisions of this agreement. The Public Entity shall include special conditions of approval, as needed, to ensure approved projects are consistent with the Compact, Goals and Policies, Code, Rules of Procedure, Area Plans and mitigation requirements contained in the TRPA, *Regional Plan Update EIS,* certified by the TRPA Governing Board on December 12, 2012, and the TRPA/Tahoe Metropolitan Planning Organization (TMPO), *Mobility 2035: Regional Transportation Plan/Sustainable Communities Strategy EIR/EIS*, certified by the TMPO Board and the TRPA Governing Board on December 12, 2012. Nothing in this MOU shall be deemed to limit the land use regulatory powers of either the Public Entity or TRPA.
FEES AND SECURITIES	Public Entity shall be authorized to collect application and mitigation fees, security deposits, and other designated fees on behalf of TRPA in accordance with fee schedules to be provided to Public Entity by TRPA. Such fee schedules shall be sufficient in detail to provide specific information concerning fee calculation to assist Public Entity in performing fee collection activities. Furthermore, Public Entity shall be authorized to retain a percentage of all application fees collected to offset Public Entitiy's costs of administering the provisions of this MOU. Such percentage shall be mutually agreed upon in writing by TRPA and Public Entity, and may be amended from time to time by mutual agreement of the TRPA Executive Director and the County Manager. Public Entity agrees to provide one-tenth of

one percent (1/1000) of each building permit valuation to TRPA to be used for monitoring and reporting for areas covered by the Area Plan and where permits are delegated.

FINDINGS

The Public Entity agrees to make all findings required by the Compact, Regional Plan, Area Plan and Code for project, approval, and inclusions of special conditions not inconsistent with the Area Plan. The Public Entity shall keep, as part of their permanent permit files records, all written findings required in the Compact, Regional Plan, Area Plan and Code for the activities approved under this MOU.

MONITORING

On a quarterly basis, the Public Entity shall send to TRPA copies of all building permits issued. Such building permits shall be in a format approved by TRPA and shall contain and make clear the necessary development information TRPA needs to measure compliance with the terms of the Area Plan, such as additional land coverage, commercial floor area, residential units, or tourist accommodation units (TAUs). The MOU Procedural Guidelines shall include a permit monitoring schedule and permit information reporting requirements. A summary report outlining permit activities, including transfers of development, shall include the number and type of permits issued as well as the number and location of BMPs implemented through permits and TMDL implementation activities and other threshold benefits. The summary report shall be made available to the public. Douglas County shall participate in the annual accounting and reporting of Environmental Improvement Program (EIP) Performance Measures resulting from County efforts to implement the EIP.

RECORD KEEPING AND REPORTING

The Public Entity shall adhere to all provisions contained within TRPA Code Chapter 6, relating to accounting and tracking of coverage, allocations, and any other applicable procedures. All project accounting and tracking shall be completed by Public Entity and transmitted to TRPA to be included in its permanent accounting and tracking records. In carrying out the provisions of this MOU, Public Entity shall utilize hard copy or electronic tracking forms provided by TRPA to record all inspections, verifications, land coverage and commodity information and other project review activities. Public Entity shall submit completed tracking forms to TRPA on a monthly basis. The Public Entity shall also report Qualified Exempt (QE) activities undertaken by Douglas County to the TRPA MOU Coordinator on a TRPA reporting form at least three business days prior to commencement of activity in order for TRPA to determine the activity is consistent with the requirements of the MOU. The

	Public entity shall keep records of Exempt and Qualified Exempt activities commenced pursuant to this MOU for a period of 12 months following the cessation of the activity.
SITE INSPECTIONS	Public Entity shall perform site inspections to ensure that the projects and activities permitted under this MOU are constructed in accordance with the approved project, including installation of BMP's. The Public Entity shall have authority and responsibility to take any and all administrative steps to enforce the standards of the TRPA Code as authorized by this MOU, including the processing of Code violations involving unpermitted activities. TRPA will enforce BMPs associated with permits issued by TRPA and for BMP retrofits not associated with a TMDL stormwater load reduction plan and Douglas County will enforce BMPs associated with permits issued by the County and for properties identified in their TMDL Stormwater Load Reduction Plan(s).
VIOLATIONS	Upon discovery of a TRPA Code violation associated with a permit TRPA issued, Public Entity shall immediately notify the designated TRPA Code Administration staff in writing to coordinate compliance procedures. In addition to the Public Entity, TRPA may also perform inspections and determine if a violation exists. Settlements of TRPA Code violations involving civil penalties must be approved by TRPA. If a TRPA Code violation cannot be resolved on-site, the Public Entity shall contact TRPA to institute TRPA's formal notice of violation procedure. Upon final inspection, if the project has been constructed in accordance with the permit, Public Entity shall be authorized to release the security deposit to the project applicant.
UNUSUAL CIRCUMSTANCES	Any exempt activity set forth herein shall be considered a project requiring TRPA review if the TRPA Executive Director determines that, because of unusual circumstances or failure to comply with this MOU, the activity may have a substantial effect on the land, air, water, space, or any other natural resource of the region.
APPEAL ALLOWED	Final decisions on projects delegated to a Public Entity may be appealed to the TRPA. An appeal may only be filed by an aggrieved person as defined in Article VI(j)(3) of the Compact. Decisions by the Public Entity under independent local, state, or federal law are not the subject of this appeal process. Appeals shall meet the requirements of 13.9 (Appeals) of the Code of Ordinances.
NOTICE	The Public Entity shall give notice to TRPA of all projects delegated to the Public Entity in Area Plans that require notice to affected property owners pursuant to Article 12 of the TRPA Rules of Procedure, and shall give notice

to TRPA of all applications to amend a policy or ordinance that is part of the Area Plan. The notice shall be sent pursuant to Public Entity notification procedures; however, in all cases the notice shall be sent no less than 10 days prior to the hearing in order to provide TRPA with adequate time to review and comment, if desired, on the project.

INCORPORATION OF REGIONAL PLAN AMENDMENTS INTO AREA PLAN

If TRPA approves an amendment to the Regional Plan that would also require amendment of an Area Plan to maintain conformity, the Public Entity has one year to amend the Area Plan to demonstrate conformity with the TRPA amendment. If the Governing Board finds that the Public Entity failed to demonstrate conformity with the TRPA amendment following the one-year deadline, then the Board will identify the policies and/or zoning provisions in the Area Plan that are inconsistent and assume lead agency authority to amend those policies and provisions.

ATTACHMENT "A"

AREA PLAN
MEMOANDUM OF UNDERSTANDING
BETWEEN THE TAHOE REGIONAL PLANNING AGENCY AND DOUGLAS COUNTY

TRPA's authority to enter into this Memorandum of Understanding (MOU) with local entities rests in Article VI (m) of the TRPA Compact (Public Law 96-551) and Sections 2.5 and 2.6 of the TRPA Code of Ordinances. The authority of the Public Entity to enter into this MOU rests in *the Board of County Commissioners.*

This MOU shall become effective when signed by the parties listed below.

TAHOE REGIONAL PLANNING AGENCY

Date: _____ _____

By: Joanne Marchetta
Executive Director

DOUGLAS COUNTY

Date: _____ _____

By *Greg Lynn, Chairman*
Board of County Commissioners

Attachment "B"

DOUGLAS COUNTY - SOUTH SHORE AREA PLAN

Table of Delegated Activities Within Area Plan

Note: The activities described in this table are delegated to the Public Entity within Area Plans and shall be reviewed and approved in accordance with the TRPA Regional Plan and the Code. The activities do not require TRPA review and approval except as required by this Memorandum of Understanding.

Line No.	Activity Level*	Activity
		Residential
1		Residential Development outside of the following land use areas: High Density Tourist District, the Resort Recreation District, Conservation District, Shorezone, and Resort Recreation
2		Residential Development within a Town Center which does not exceed 50,000 square feet (for new buildable area)
3		Residential Development outside of a Town Center which does not exceed 25,000 square feet (for new buildable area)
4		Residential Projects which do not meet the criteria included in Section 2.2.2 of the TRPA Code
		Commercial/ Tourist Accommodation
5		Non-Residential Development outside of the following land use areas: High Density Tourist District, Resort Recreation District, Conservation District, Shorezone, and Resort Recreation
6		Non-Residential Development within the Mixed-Use Town Center which does not exceed 40,000 square feet (for new buildable area)
7		Non-Residential Development outside of the Mixed-Use Town Center which does not exceed 12,500 square feet (for new buildable area)
8		Commercial Projects which are not covered by Section 2.2.2 of the TRPA Code
		Public Service
9		Public Service projects which are not covered by Section 2.2.2 of the TRPA Code.
		Other
10		Recreation Projects which are not covered by Section 2.2.2 of the TRPA Code

* The County is delegated the review of Exempt and Qualified Exempt activities and activities that require a permit pursuant to the TRPA Code of Ordinances.

Attachment "C"

ACTIVITIES PERFORMED BY DOUGALS COUNTY THAT ARE EXEMPT FROM TRPA REVIEW AND APPROVAL COUNTY-WIDE

See April 12, 2012 Memorandum of Understanding for Public Works Providers between the Tahoe Regional Planning Agency and Douglas County.