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Douglas County Manager

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MEMORANDUM OF UNDERSTANDING BETWEEN THE
TAHOE REGIONAL PLANNING AGENCY AND DOUGLAS COUNTY
REGARDING A LAND BANK DESIGNATION

BY *[Signature]*

This memorandum of understanding is entered between the Tahoe Regional Planning Agency (TRPA), a bi-state agency created under the Tahoe Regional Planning Compact and Douglas County (County), a political subdivision of the State of Nevada.

I. AUTHORITY

This memorandum of understanding is based upon the following laws, regulations, statutes, procedures and policies:

- A. Tahoe Regional Planning Compact, P.L. 96-551, 94 Stat. 3233 (1980), N.R.S. 277.200
- B. The TRPA Regional Plan as adopted by TRPA in Ordinance 87-9 on June 25, 1987, effective July 1, 1987, as it may be amended
- C. The TRPA Code of Ordinances and Plan Area Statements and Maps adopted in conjunction with the Regional Plan, as they may be amended (all chapter references below are to the Code of Ordinances)
- D. Chapters 277 and 354 of the Nevada Revised Statutes

II. DEFINITIONS

The following terms shall have the definitions set forth below for the purposes of this memorandum:

- A. Hydrologically related area. The term "hydrologically related area" shall refer to any one of the three hydrologically related areas designated by TRPA in the Regional Plan, as it may be amended from time to time, which are located in whole or in part in Douglas County.
- B. Lake Tahoe region or Lake Tahoe basin. The terms "Lake Tahoe region" or "Lake Tahoe basin" shall mean all that area described in Article 11 of the Tahoe Regional Planning Compact.
- C. Land coverage. The term "land coverage" shall refer to hard coverage, soft coverage or potential coverage, as defined in Chapter 2.
- D. Land coverage bank. The term "land coverage bank" shall mean a land bank as provided for in the Goals and Policies of the Regional Plan, and Chapters 20 and 38 of the TRPA Code of Ordinances, to be established by Douglas County for the purposes set forth below for that portion of the Lake Tahoe basin lying within Douglas County in the State of Nevada.

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E. Other development rights. The term "other development rights" which may be acquired, held and transferred in the land coverage bank, shall include residential development rights, and units of existing development, such as residential units, commercial floor area and tourist accommodation units.

F. Sensitive lands. The term "sensitive lands" shall mean lands identified as Land Capability Districts 1, 2, or 3, or stream environment zones, or lands within the backshore, as defined in Chapter 2.

III. PURPOSE

The purpose of this memorandum is to establish the respective duties and responsibilities of TRPA and Douglas County with respect to a land coverage bank to be operated by Douglas County for the Douglas County portion of the Lake Tahoe basin for the purposes set forth below and to set forth the procedures to be followed by TRPA and Douglas County with respect to the land coverage bank.

IV. JURISDICTION AND POWERS

Subject to all applicable laws of the State of Nevada, the Tahoe Regional Planning Compact, the Regional Plan and Code of Ordinances, Douglas County has been designated a land coverage bank for the purposes of: 1) providing mitigation for any public service or public outdoor recreation project by retiring and restoring hard or soft coverage or disturbed lands as provided in Chapter 20; and 2) selling and transferring land coverage or other development rights from any parcel in the inventory of the land coverage bank which is eligible to send coverage or other development rights to any parcel eligible to receive coverage and other development rights under Chapters 20 and 34 of the Code of Ordinances.

V. DUTIES

A. TRPA Duties

1. Transfers of coverage

Where Douglas County agrees to transfer coverage on behalf of a permit applicant through the land coverage bank, pursuant to chapter 20, TRPA shall, upon Douglas County's submittal of a land coverage transaction report:

a. Certify to Douglas County the amount and type of coverage or mitigation needed by the applicant; and,

b. Determine the eligibility of the sending and receiving parcels.

2. Transfers of other development rights

Where Douglas County agrees to transfer coverage on behalf of a permit applicant

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through the land coverage bank, pursuant to Chapter 34, TRPA shall upon the request of Douglas County:

- a. Verify the existing units or floor area on the sending parcel; and,
- b. Determine the eligibility for the project on the receiving parcel to receive the transferred development rights.

3. Public service or public outdoor recreation projects

Where Douglas County agrees to carry out mitigation for a public service or public outdoor recreation project, the procedures for transfers of coverage or other development rights above shall apply.

4. Funding

To the extent that Douglas County is eligible to receive the same, and, within the limits of available money, as well as its budget and grant allocation processes, TRPA, at its sole discretion, may provide funding to Douglas County for mitigation projects.

B. Douglas County Duties

1. Establishment of land coverage bank

Starting from the effective date of this memorandum, Douglas County shall take all necessary actions to activate the land coverage bank and shall proceed to identify land in each hydrologically related area appropriate for inclusion in the land bank. Douglas County may enter into agreements for the acquisition, by sale or otherwise, and transfer of land coverage or other development rights to parcels that have not already reached maximum allowable land coverage provided for in Chapter 20 or are otherwise approved for additional development by TRPA. TRPA shall not be a party to any such property transaction. Douglas County may purchase or otherwise acquire the land coverage or other development rights for land coverage bank inventory for later sale or transfer. Necessary actions by Douglas County to activate the land coverage bank will include, but not be limited to, development of a budget and plan for the administration of the same.

2. Transfers of coverage and other development rights

Douglas County shall submit a transaction report to TRPA prior to completion of the coverage transfer. The transaction report shall include the APN of the sending and receiving parcels, the amount and type of coverage to be transferred, and the hydrologically related area of the sending and receiving parcels. A transaction report shall not be required until such time as a transfer of coverage is proposed. Douglas County shall obtain a land capability and coverage verification prior to submittal of a transaction report to determine the amount and type of coverage allocated to the land coverage bank. For transfers of other development rights Douglas County shall submit a transaction report to TRPA prior to completion of the transfer. The transaction report shall contain the APN of the sending and receiving parcels, the amount

and type of development to be transferred and, for transfers of existing development, the TRPA-approved project (by TRPA file number) to which the development is being transferred. Douglas County shall obtain a verification of existing development from TRPA prior to submittal of a transaction report to determine the amount and type of development assigned to the land coverage bank.

3. Methods of retiring coverage and other development rights

- a. Areas containing potential coverage shall be retired by recording a deed restriction, in a form acceptable to TRPA, in which Douglas County, or the record owner of the parcel, consents to restriction of potential coverage in accordance with Chapter 34. The permanency of the restriction shall be determined by the IPES score or land capability of the sending parcel, as applicable, in accordance with Chapter 34.
- b. Soft coverage and disturbed lands shall be restored so as to cause the area to function in a natural or near natural state, with protection from further disturbance. Restoration activities may require a TRPA permit if not otherwise exempt from review. Douglas County shall obtain a land capability and coverage verification prior to restoration to determine the amount and type of restoration credit allocated to the land coverage bank.
- c. Hard coverage shall be restored by demolition and removal of all structures, pavement and impervious surfaces and further restored so as to cause the area to function in a natural or near natural state, with protection from further disturbance. Restoration activities may require a TRPA permit if not otherwise exempt from review. Douglas County shall obtain a land capability and coverage verification prior to restoration to determine the amount and type of restoration credit allocated to the land coverage bank.
- d. Within the boundaries of all areas on sensitive lands where hard or soft coverage is restored, Douglas County shall permanently extinguish all coverage through a deed restriction as described in (a) above.
- e. All coverage retirement carried out through the land bank shall be subject to TRPA inspection and review, including submittal of deed restrictions to TRPA upon recordation.
- f. Sending parcels from which a residential development right or existing development is transferred shall be restricted by recording a deed restriction, in a form acceptable to TRPA and in accordance with Chapter 34, in which Douglas County or the record owner of the parcel agrees to retirement of the transferred units of use or residential development right. The permanency of the restriction shall be determined by the IPES score or land capability of the sending parcel, as applicable, in accordance with Chapter 34. On parcels from which units of existing development have been transferred, the structures or facilities accounting for that use shall be removed or modified in accordance with Section 34.5 of the Code.

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4. Annual report

By September 30 of each year, Douglas County shall prepare and deliver to TRPA an annual report summarizing all transfers completed during the prior fiscal year. The annual report shall include for each transfer the following information: the assessor parcel numbers (APNs) of the sending and receiving parcels; the type (hard, soft or potential) and amount (sq. ft.) of coverage transferred; the cost per sq. ft. of coverage transferred; the amount and type of other development rights transferred and identification of the receiving project; and, for public service/public outdoor recreation project mitigation, a description of the restoration project. Douglas County shall also submit copies of the deed restrictions recorded for each transfer.

5. Douglas County accounts

Douglas County shall maintain an account, which shall be made available to TRPA upon request, of:

- a. All monies expended and received by Douglas County on behalf of the coverage bank.
- b. All properties within the inventory.
- c. All areas on which coverage has been restored or retired.
- d. Mitigation performed but not yet credited.
- e. Mitigation performed and credited.
- f. Other development rights held.

6. Coverage cost estimate

Douglas County shall submit to TRPA, upon request, an estimate of the per square foot cost of coverage for the preceding year. In computing the cost per square foot of coverage, Douglas County may use an average based on the cost of acquiring or retiring a given type of coverage in more than one hydrologically related area or in more than one coverage mitigation project.

C. Duration and Effective Date

This agreement shall be effective upon formal adoption by the governing bodies of the parties, and remain in effect for a period of twenty years, unless sooner terminated, as provided herein. Douglas County shall have the option of extending the agreement for an additional period of twenty years, which shall be exercised by adoption of a Resolution by the Board of County Commissioners and communicated to the Governing Board of the Tahoe Regional Planning Agency in advance of the expiration of the initial twenty year term.


VII TERMINATION/AMENDMENT

Either party upon ninety days advance notice in writing may terminate this memorandum of understanding. This memorandum of understanding may be amended by written agreement of the Douglas County Commissioners and the TRPA Governing Board. In the event this memorandum of understanding is terminated for any reason, none of the acts performed, or transactions executed pursuant to the terms hereof shall be nullified or affected in any way. Douglas County shall continue to carry out the duties of Section V, as well as related reporting obligations and TRPA shall continue to carry out the duties of Section V as well as related reported obligations, until all then pending transactions, and agreements entered in connection herewith, are fully performed and executed.

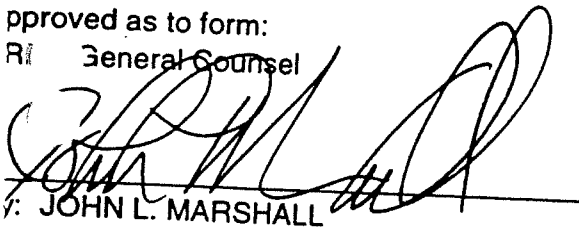
In witness whereof, the parties have entered into this memorandum of understanding.

Date: 4-3-00

TAHOE REGIONAL PLANNING AGENCY

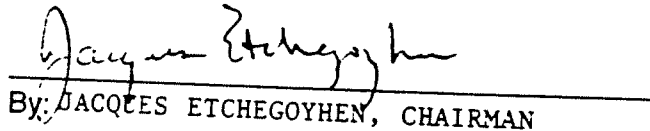

By: ~~JAMES W. BAETGE~~ JERRY WELLS

Approved as to form:
RI General Counsel

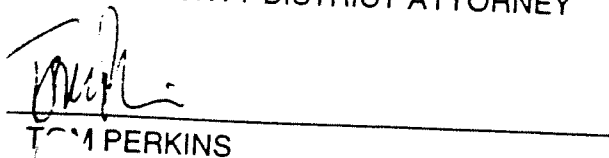

By: JOHN L. MARSHALL

Date: 08/9/99

DOUGLAS COUNTY BOARD OF COMMISSIONERS


By: JACQUES ETCHEGOYHEN, CHAIRMAN

Approved as to form:
DOUGLAS COUNTY DISTRICT ATTORNEY

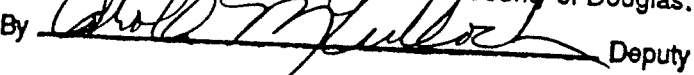

TOM PERKINS

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: April 11, 2000

B. REED Clerk of the 9th Judicial District Court of the State of Nevada, in and for the County of Douglas.

By  Deputy

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REQUESTED BY
DOUGLAS COUNTY
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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LINDA SLATER
RECORDER

\$ PAID DEPUTY