

**PARTICIPATION AGREEMENT TO  
IMPLEMENT A COORDINATED  
TRANSIT SYSTEM AT SOUTH LAKE TAHOE**

Dated: May 1, 1998

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**PARTICIPATION AGREEMENT TO  
IMPLEMENT A COORDINATED  
TRANSIT SYSTEM AT SOUTH LAKE TAHOE**

HEAVENLY VALLEY, a limited partnership, dba HEAVENLY SKI RESORT (HSR), HARVEY'S TAHOE MANAGEMENT COMPANY, INC., LAKE TAHOE (HARVEY'S), HARRAH'S HOTEL CASINO, LAKE TAHOE (HARRAH'S), HORIZON HOTEL AND CASINO (HORIZON), LAKESIDE INN AND CASINO (LAKESIDE) (the Private Parties), THE CITY OF SOUTH LAKE TAHOE (CSLT), EL DORADO COUNTY, THE TAHOE TRANSPORTATION DISTRICT, and the TAHOE REGIONAL PLANNING AGENCY (TRPA) (the Public Parties), (the public and private parties are collectively referred to as the Parties) hereby agree effective as of May 1, 1998, as follows:

**RECITALS**

A. On October 1, 1995, certain parties executed that certain Memorandum of Understanding Creating a Public/Private Agreement to Mitigate Traffic and Air Quality Impacts by implementing certain elements of the Tahoe Regional Planning Agency Short-Range Transportation Program (CTS-MOU); and

B. The implementation thereof is based upon the public/private cooperative implementation of a fixed route and demand driven transit system described in that CTS-MOU as a Coordinated Transit System (CTS); and

C. The CTS-MOU describes a separate Participation Agreement to be entered into by and between the parties operating private demand driven transit systems, and those operating significant public transportation systems.

D. The private transit providers include HSR, HARVEY'S, HARRAH'S, HORIZON and LAKESIDE. (HARVEY'S, HARRAH'S, HORIZON and LAKESIDE are sometimes referred to as the "Participating Casinos".)

E. The public transit providers and local jurisdictions identified in the CTS-MOU include the CSLT, DOUGLAS COUNTY, and EL DORADO COUNTY.

F. On December 18, 1996, HSR, Harvey's, Harrah's, Lakeside, CSLT, Douglas County, El Dorado County, Area Transit Management, and TRPA executed that certain Memorandum of Understanding by and between Phase I Stakeholders Concerning Implementation of certain elements of the Tahoe Regional Planning Agency Short-Range

**Transportation Program.**

G. It is the intention of the Parties to create a voluntary public/private partnership to accomplish the cooperative implementation of an enhanced and coordinated public and private transit system on the South Shore in order to assist in the achievement and maintenance of TRPA's environmental thresholds, including without limitation, the air quality thresholds for vehicle miles traveled (VMT) and traffic volume reductions, in conjunction with certain proposed and pending projects and plans.

H. The Tahoe Regional Planning Compact (Compact), Article V, requires TRPA to adopt a regional plan, with a transportation element, which reduces dependency on the private automobile.

I. TRPA adopted a Regional Transportation Plan (RTP) in 1992, that was reaffirmed in 1994, which is designed to meet the mandates of the Compact, and the applicable air quality standards and thresholds. The TRPA air quality and transportation thresholds and the RTP are designed to reduce the VMT in the Region and to reduce traffic volumes on U.S. Highway 50, thereby reducing traffic congestion and improving traffic conditions.

J. The Tahoe Transportation District (TTD) is a Special Purpose District created by Article IX of the Compact. The TTD has broad and exclusive jurisdiction to coordinate and operate a regional transit system within the Lake Tahoe Basin and is qualified and eligible to apply for and receive state and federal grants.

K. TRPA has adopted several plans and approved project permits which incorporate elements of the RTP and which seek to further implement the transit provisions of the RTP, including the Short-Range Transit Program (SRTP).

L. Specifically, TRPA considers implementation of the RTP and the SRTP to be crucial to the achievement of TRPA's air quality and transportation goals, especially those relating to VMT and traffic volume reductions, and cooperative efforts between the Parties is an effective way to maximize the resources of the Region.

M. Various environmental and planning documents have studied the potential impacts of further development within the South Shore, including but not limited to:

1. The May, 1989, South Lake Tahoe Redevelopment Demonstration Plan and accompanying certified EIR/EIS;

2. The 1989 EIR/EIS certified for Redevelopment Project No. 1;
3. The 1995 certified EIR/EIS for the South Tahoe Public Utility District sewer connection facilities plan;
4. The 1996 certified supplement to the EIR/EIS for Redevelopment Project No. 1 (the Ski Run component);
5. The 1996 certified EIR/EIS for the Heavenly Ski Resort Master Plan;
6. The 1996 certified EIR/EIS for the Park Avenue project;
7. The 1997 draft EIR/EIS for Redevelopment Project No. 3.

N. Additional studies and plans have been specifically prepared in connection with the implementation of an enhanced and coordinated public and private transit system on the South Shore and are attached hereto and incorporated herein as the following exhibits:

- |           |  |
|-----------|--|
| Exhibit 1 | The Draft Final Report: South Shore Transit Coordination/Expansion Study, March 22, 1995 |
| Exhibit 2 | The final draft South Shore CTS Implementation Plan, September 14, 1995                  |
| Exhibit 3 | Coordinated Transit System Stakeholder Analysis, Final Report, December 30, 1996         |
| Exhibit 4 | Final CTS Operating Plan<br>March 23, 1998   |

O. Additional exhibits are attached hereto and made a part hereof and have been prepared to facilitate implementation of this Agreement. The additional exhibits are:

- |           |  |
|-----------|--|
| Exhibit 5 | CTS Vehicle Parameters   |
| Exhibit 6 | Coordinated Transit System Air Quality Mitigation Credit Program |
| Exhibit 7 | CTS-MCO Organizational Chart                                     |

- Exhibit 8                   CSLT Capital Asset Contributions  
(CSLT Inventory List)
  
- Exhibit 9                   Douglas County Capital Asset Contributions
  
- Exhibit 10                 El Dorado County Capital Asset Contributions
  
- Exhibit 11                 Tahoe Transportation District Capital Asset  
Contributions
  
- Exhibit 12                 HSR Vehicle Inventory

P.     The Parties agree that implementation of a transit program is desirable to address localized traffic impacts and that the joint and cooperative implementation of the CTS in the South Shore area is consistent with the Compact's goal of reducing dependency on the private automobile and is consistent with the RTP and SRTP.

Q.     The Parties acknowledge the implementation of the CTS will be a foundation for the evaluation, design and implementation of a fixed guideway system in accordance with Proposition 116, Cal. Public Utilities Code, §§ 9960, *et seq.* (Prop. 116). This Agreement does not make the Parties responsible for the implementation and financing of a fixed guideway system.

R.     The Parties intend by this Agreement to create a public/private partnership to implement the CTS and the Public Parties acknowledge that the implementation thereof satisfies an agreed upon package of air quality and traffic mitigation for the South Tahoe Public Utility District Future Sewer Connections Facilities Plan, modification of the previously permitted Ski Run component of Redevelopment Project No. 1; Heavenly Ski Resort's Master Plan; and the Park Avenue project sited at the intersection of U.S. Highway 50 and Park Avenue.

S.     The goals of the CTS are:

1.     Provision of a unified transit system for both visitors and residents on the South Shore;
  
2.     Implementation of a predominately market/demand driven, rather than schedule driven, transit system;
  
3.     Creation and maintenance of a transit system that treats all passengers

as guests;

4. Creation of a passenger interactive transit system that stands for, and promotes, the convenience of its passengers/guests;
5. Achievement of significant VMT reductions and reduced traffic volumes on U.S. Highway 50 consistent with the TRPA air quality thresholds; and
6. Identification of other sources of funding and contributions beyond those required hereunder by each of the Parties to fund the long term operating and capital costs of the CTS.

T. This Agreement evidences a substantial commitment by the Public and Private Parties to implement a unified transit system within the CTS service area to achieve the significant reductions in VMT and traffic volumes on U.S. Highway 50 mandated by Article V of the Compact and TRPA's air quality and transportation thresholds. The success of this unified transit system depends on broad-based participation and support, together with a governmental regulatory structure which will assure fair and efficient public transit service consistent with the environmental protection mandates of the Tahoe Regional Planning Compact. The power of TRPA to adopt a transportation plan for the region under Article V(c)(2) of the Compact and the power of the TTD to own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region authorizes these agencies working jointly to exercise regulatory authority as required to meet the terms of this Agreement and the Compact. For the term of this Agreement, TRPA and TTD shall exercise their governmental powers to promote public and private participation within the CTS service areas.

U. In further recognition of the cooperative commitment, the TRPA Governing Board hereby agrees that the Participating Casinos, El Dorado County and Douglas County shall be awarded TRPA Air Quality Mitigation Credits (AQMC) which may be immediately utilized by a Participating Casino, El Dorado County and Douglas County or banked for future use or transfer, as more fully set forth in Sections 7.0 to 7.2 hereof. HSR and the CSLT are not eligible to receive AQMC since their participation in the CTS system is in satisfaction of pre-existing permit obligations.

V. To implement and operate the CTS, the TTD shall contract with the CTS-MCO. CTS-MCO shall be the manager of the CTS. Pursuant to CTS-MCO's contract with the TTD, CTS-MCO shall contract with a transit provider(s)/dispatcher(s) to provide the transit services described in the CTS Operating Plan, Exhibit "4" hereof.

W. The foregoing recitals acknowledge certain regulatory goals and objectives pertaining to, among other things, Prop. 116, a Fixed Guideway System, the possible imposition of parking fees on existing properties sited within the CTS service area, as well as the general provisions of the CTS-MOU. The parties herein reserve their right to support, contest, and/or remain neutral with respect to the foregoing except to the extent a party is a signatory to the CTS-MOU and agreed otherwise.

NOW, THEREFORE, IT IS AGREED:

1.0 Definitions.

1.1 Air Quality Mitigation Credits (AQMC): Air Quality Mitigation Credits means offsets against TRPA's air quality mitigation fee assessed to mitigate quality impacts pursuant to Section 93.3D of the TRPA Code of Ordinances.

1.2 Compact: The Tahoe Regional Planning Compact, as amended and set forth in California Government Code Section 66801, Nevada Revised Statutes Chapter 277.200, are public law 96-551, 94STAT.3233 (December 19, 1980).

1.3 Coordinated Transit System: A public/private cooperative transit system incorporating fixed route and demand driven transit systems.

1.4 Coordinated Transit System Management Company (CTS-MCO): A not for profit Nevada corporation formed to transact the business of implementing, operating and managing the CTS system.

1.5 CTS Ground Operations: The date the CTS-MCO provides transit services for public ridership.

1.6 CTS-MOU: Coordinated Transit System Memorandum of Understanding Creating a Public/Private Agreement to Mitigate Traffic and Air Quality Impact dated October 1, 1995.

1.7 Initial Term: The two year period commencing upon the CTS-MCO's implementation of public transit.

1.8 Participating Casinos: Harvey's, Harrah's, Horizon and Lakeside.

1.9 Private Transit Providers: Heavenly Ski Resort (HSR); Harvey's Tahoe Management Company, Inc. (Harvey's); Harrah's Hotel Casino (Harrah's); Horizon Hotel

and Casino (Horizon); and Lakeside Inn and Casino (Lakeside).

1.10 Public Parties: City of South Lake Tahoe (CSLT), El Dorado County, The Tahoe Transportation District, and the Tahoe Regional Planning Agency (TRPA).

1.11 Public Transit Providers: City of South Lake Tahoe (CSLT); Douglas County and El Dorado County.

1.12 TRPA Regional Transportation Plan (RTP): A transportation plan adopted by TRPA in 1992, affirmed in 1994, designed to satisfy the requirements of the Compact and the applicable air quality standards and thresholds.

1.13 TRPA Short Range Transit Program (SRTP): The short range transit program adopted by TRPA, incorporating elements of TRPA's RTP, designed to implement the transit elements of the RTP.

1.14 Tahoe Transportation District (TTD): A special purpose district created pursuant to Article IX of the Compact empowered to exercise exclusive jurisdiction to coordinate and operate a regional transit system within the Lake Tahoe Basin.

1.15 Vehicle Miles Traveled (VMT): The total miles traveled by a motorized vehicle, or a number of motorized vehicles, within a specific area or over a specified period of time.

2.0 Term. The term of this Agreement shall be five (5) years from the commencement of the CTS ground operations and shall thereafter renew for successive one-year terms unless a Party or Parties provide notice of their intent to terminate not less than 120 days prior to expiration of the initial five-year term or any successive one-year term. For the purposes of this Agreement, "the commencement of the CTS ground operations" shall mean the commencement of centrally dispatched demand response/flex route transit services by the parties to this Agreement.

2.1 Early Withdrawal The provisions of Section 2.0 notwithstanding, a Party may withdraw from this Agreement after two (2) years from the commencement of CTS ground operations in accordance with Section 13.0 hereof.

3.0 Entity Formation. A not-for-profit Nevada corporation shall be formed to transact the business of the Parties. Articles of Incorporation and Bylaws shall be adopted and approved with the unanimous consent of the Board of Directors. This entity shall transact business as the CTS Management Company (CTS-MCO). The CTS-MCO shall be

an entity separate and apart from the parties to this Agreement.

3.1 Designated Representative. Each Party shall designate at least one (1), but not more than two (2), individuals authorized to transact business on its behalf. Each party appointing a member to the Board of Directors shall designate one alternate member to the Board of Directors authorized to transact business in place and instead of the appointed Board member. The Parties acknowledge that material decisions may require approval of a Parties' Board of Directors, or ownership prior to its authorized representative taking action.

4.0 CTS Start Up Capital. To facilitate the acquisition of the necessary interactive technology, the construction of transit kiosks and additional rolling stock required to implement the CTS System, TRPA has been awarded grant funding in the approximate sum of \$1,250,000.00 from the U.S. Environmental Protection Agency. In addition, TRPA has applied for an additional grant from the Federal Transportation Agency in the sum of \$1,256,505.00 appropriated to further fund initial CTS capital requirements. The CTS contributions to TRPA from HSR, the Park Avenue Project, Embassy Vacation Resorts, and the South Tahoe Public Utility District totaling approximately \$1,124,153.00 shall also be utilized for CTS start up costs. As subsequent CTS project specific contributions are made to TRPA, including but not limited to the on-going STPUD contributions, all such funds shall be utilized to fund the CTS System less any fund administration fees.

5.0 Contributions to CTS-MCO. The Parties shall contribute the capital and vehicles identified in Sections 5.1, 5.2, 5.3, 5.4 and 5.9 and/or operating capital set forth in Section 5.9.

5.1 Initial Contribution of Casino Vehicles. Casinos participating in the CTS System shall contribute seven (7) vehicles (or equivalent avoided lease cost) to the CTS-MCO during the first two (2) years of operations as follows:

Harvey's	3 vans
Harrah's	3 vans
Lakeside	<u>1 van</u>
	7 vans

For each one year of use, the contributing party shall receive a credit of \$13,000.00 per vehicle contributed, pursuant to Table L of Exhibit 4, increased annually by the CPI as more fully described in Section 5.5 below. Horizon shall contribute the sum of \$13,000.00 per year during the first two years, year two subject to the CPI as set forth above. The contribution by Horizon shall be utilized to lease an additional van for casino service,

resulting in a total of eight (8) vans dedicated to casino service. The decision to sell or lease vehicles to the CTS-MCO shall be at the option of the party making the contribution.

5.2 Additional Casino Vehicle Requirements. A minimum of twelve (12) vehicles are required to provide the levels of service and to meet the casino ridership demand as set forth in Tables A, E and F of Exhibit "4" during the first two years of operation. In addition to the eight (8) vehicles described in Section 5.1 above, CTS federal grants and local mitigation funds shall be used to purchase no less than five (5) new vehicles allocated to CTS casino service.

5.3 Initial Casino Vehicle Replacement Reserve. During the initial two years of this Agreement, in addition to the requirements set forth in Section 5.1, each Participating Casino shall contribute its prorata share (based on "first drop" subscriptions pursuant to Section 6.0, *infra*) toward the replacement reserve for the seven (7) publicly funded vehicles. The replacement reserve contribution is \$2,600.00 per vehicle per year adjusted by the CPI pursuant to Section 5.5. Although Horizon has elected to contribute \$13,000.00 annually during the initial two (2) years in lieu of a vehicle, Horizon shall also contribute its prorata share of the above-described replacement reserve.

5.4 Ongoing Casino Vehicle Replacement Contribution. Upon the second anniversary of CTS operations, the Participating Casinos' obligation to contribute or fund the eight (8) vehicles set forth in Section 5.1 shall expire, so long as sufficient state and federal grants are secured. If sufficient state and federal grants are not obtained, the Participating Casinos must unanimously agree to continue to contribute in accordance with Section 5.3 above, or alternatively, the Participating Casinos must unanimously agree to modify service and reduce their contributions accordingly. Thereafter, each Participating Casino shall contribute its prorata share (based on "first drop" subscriptions) toward the "local match" replacement reserve for vehicles (initially 12) allocated to casino service as determined annually by the CTS-MCO Board of Directors. This contribution is \$2,600.00 per vehicle per year, adjusted by the CPI pursuant to Section 5.6, throughout the term of this Agreement.

5.5 Vehicle Replacement Reserve. After the second anniversary of CTS ground operations, vehicle replacement reserves to the extent available (except the local match required by Section 5.4 above) shall be funded through a combination of operating revenues, state and federal grants and/or matching funds for public transportation, the ongoing casino vehicle replacement reserve required under Section 5.3 and/or capital contributions from new projects. The Parties shall not be obligated to make any contribution for additional replacement reserves during the term of this Agreement absent the unanimous vote of the contributing members.

5.6 CPI Adjustment for Vehicle Replacement and Reserves. Annual calculations pertaining to vehicle values, vehicle replacement reserves and/or "in lieu of vehicle" contributions shall be adjusted upon the first anniversary of this Agreement in an amount equal to the annual cost of living increase reflected in the U.S. Department of Labor Statistics Consumer Price Index for All Urban Consumers, S.F. - Oakland, California (all items), 1967=100, or in the absence thereof, a reasonable substitute for such index. Such escalation shall be according to a formula providing for the multiplication of the last year's change by a fraction, of which the numerator is the most recently published index, and the denominator the index for the month exactly twelve (12) months prior to the numerator index. Annual capital contributions for subsequent years shall be determined in accordance with Section 12.3 hereof. The CSLT and El Dorado County contributions are contingent upon TRPA annual allocation of California State Transportation Development Act funds.

5.7 Existing Rolling Stock Owned by Private Parties. Each Party may sell or lease transit vehicles it owns to the CTS-MCO for use in the CTS for the sum of One Dollar (\$1.00) for each vehicle sold or One Dollar (\$1.00) per year for each vehicle leased during the initial two year term of this Agreement.

5.7.1 Acceptance of Existing Private Rolling Stock. In accordance with Section 8.5.1.6, a "Vehicle Evaluation Subcommittee" (VEC), utilizing the criteria attached hereto as Exhibit 5, shall evaluate all private rolling stock offered for contribution. The VEC shall determine whether, and upon what conditions, CTS-MCO shall accept existing rolling stock for inclusion in the CTS-MCO fleet. Any party offering rolling stock that has been rejected by the VEC may appeal the VEC's decision to the CTS-MCO Board and the CTS-MCO Board's determination shall be final.

5.7.2 Vehicle Inspections. The VEC may require a third-party inspection of any vehicle offered for sale or lease. Reasonable inspection costs shall be paid for by the party offering the vehicle.

5.7.2.1 Rolling stock accepted for use in the CTS-MCO fleet shall be for an initial minimum term of two (2) years.

5.7.2.2 Existing rolling stock accepted for use shall be maintained at the sole cost and expense of the CTS-MCO or its contractor. The CTS-MCO or its contractor shall ensure that all scheduled and reasonable maintenance shall be performed for each vehicle accepted for use.

5.7.3 Return of Private Contributed Rolling Stock. No rolling stock shall be returned until the term use has expired or this Agreement terminates. If the CTS-MCO

desires to purchase a contributed vehicle, ninety (90) days prior to expiration of the initial term, the CTS-MCO shall give notice to the owner of its interest and the owner shall advise the CTS-MCO within fifteen (15) days if said vehicle is for sale. Terms of sale shall be negotiated and the VEC shall inspect and accept or reject the vehicle within fifteen (15) days.

5.7.3.1 In the event a contributed vehicle is returned after the initial term, the party contributing the vehicle shall acknowledge expiration of the lease term, if leased, or repurchase the vehicle for \$1.00, if previously sold to the CTS-MCO.

5.7.3.2 In the event a contributed vehicle is not accepted for use after the initial term, the party contributing the vehicle may authorize the CTS-MCO to trade in the vehicle in exchange for a credit equal to the trade-in value obtained. The trade-in value obtained shall be offset against the contributing party's obligation to contribute ongoing replacement reserve capital for subsequent operating years.

5.7.3.3 All automatic vehicle location equipment, communications equipment, and other equipment purchased by the CTS-MCO and installed on contributed vehicles shall be removed from contributed vehicles at CTS-MCO expense prior to return or trade-in. The CTS-MCO shall, at its cost and expense, repair any damage to vehicles resulting from the installation or removal of required equipment.

5.7.4 Upgrade of Vehicles. In the event the CTS-MCO Board of Directors determines it is within the CTS-MCO's best interest to replace a contributed vehicle during the initial term, the party that contributed the vehicle(s) may elect to receive a credit equal to the trade-in value of the vehicle, to the extent the trade-in value exceeds \$13,000.00 (as adjusted in accordance with the CPI described in Section 5.6 above). Any trade-in surplus shall be credited during the year of the transaction against the parties' annual operating funding obligation described in Section 5.10 below. Alternatively, the party that contributed the vehicle(s) may repurchase the vehicle for \$1.00 and furnish a replacement or, if leased to CTS-MCO, terminate the lease in exchange for payment to CTS-MCO equal to \$13,000.00, prorated over the unexpired term of use.

5.8 HSR Rolling Stock (First Two Years). For the first two years of CTS ground operations, HSR shall furnish all vehicles necessary to maintain CTS skier service to HSR locations. Initially, HSR shall retain title to its rolling stock along with the financial responsibility for the provision of the vehicles necessary to provide the CTS service prescribed in Exhibit 4. HSR rolling stock shall display the "Heavenly" logo in the style and dimensions as determined by HSR. HSR vehicles utilized during non-ski operations shall also display CTS-MCO identification in a form and dimension agreed upon between HSR and the CTS-MCO. Nothing herein shall be construed as imposing any additional mitigation

requirements upon HSR in connection with the implementation of its Master Plan, in excess of previously imposed permit conditions and conditions of approval.

5.8.1 HSR Rolling Stock (After Year Two). Upon the second anniversary of CTS ground operations, the vehicles required for skier transport to HSR locations served by CTS shall be funded through a combination of state and federal grants and/or matching funds for public transportation, and an ongoing HSR vehicle replacement reserve as defined under Section 5.8.2 and/or capital contributions from new projects. Title to replacement rolling stock shall be vested in CTS-MCO or the TTD. Replacement HSR rolling stock shall be available for year-round operations and general public service and shall meet the vehicle standard requirements as determined by the CTS-MCO Board from time to time. HSR replacement rolling stock shall bear the CTS paint scheme and standard vehicle identity, consistent with other CTS rolling stock, provided, that during periods of use for skier transport, the replacement rolling stock shall display the "Heavenly" logo in the style and dimensions as determined by HSR and the CTS-MCO. In the event insufficient grant/matching/operating/reserve funds are obtained, HSR shall make up the shortfall in either capital or vehicles necessary to achieve the HSR level of service requirements.

5.8.2 Ongoing HSR Vehicle Replacement Reserve. In addition to the vehicle requirements set forth in Section 5.8 above, HSR shall contribute its prorata share (based on rolling stock requirements for HSR service) of the 20% local match requirement for publicly funded vehicle replacement. The determination to replace HSR service vehicles shall be mutually agreed upon between HSR and CTS-MCO, based upon the need to maintain adequate, efficient, properly functioning and mechanically sound rolling stock in service, at all times. HSR shall deposit the required local match upon confirmation that grant funding for HSR service vehicles has been secured.

5.9 Initial Contribution of Publicly Owned Rolling Stock, Buildings and Other Capital Assets. Each public entity party shall lease or otherwise convey to CTS-MCO or TTD as appropriate for the term of this Agreement the publicly owned rolling stock, transit centers, maintenance buildings and facilities, and other capital assets presently used for transit purposes by the public entity. All such capital assets shall be accepted by CTS-MCO in the condition which they exist as of the date of transfer (damage and excessive physical deficiencies excepted). An asset inspection shall be conducted by the parties in order to document condition exceptions. The public entity shall enter into supplementary agreements or leases with CTS-MCO and/or TTD setting forth the specific terms under which such asset transfers shall occur, the requirements as to the type and amount of insurance coverage to be provided for each such asset and its operation, the standards to which the capital assets are to be maintained and the condition in which the assets will be returned upon termination of this Agreement. CTS-MCO and/or TTD shall assume the financial responsibilities, if

any, of the public entity party if such capital equipment is being acquired by means of a lease purchase agreement or similar financing device in consideration of receipt of the relevant funding source from the public entity party.

5.9.1 Replacement of Publicly Owned Vehicles and Capital Assets. All publicly owned vehicles and other capital assets leased or otherwise conveyed to CTS-MCO and/or TTD as above set forth shall be replaced, if at all, by the contributing public entity party during the term of this Agreement in accordance with its normal and customary practices for such replacement. Specifically, and without limitation, the contributions of the CSLT and TTD to vehicle and other capital asset replacement shall be made exclusively from monies provided by operating revenues, mitigation fees, state, federal and regional governmental entities for transit purposes. No other contribution shall be required by the CSLT or TTD under any circumstance. The CSLT will retain its current 2.5% franchise fee paid by Area Transit Management, as well as any current or future use fees paid by non-CTS public or private transit providers for use of CSLT transit facilities. CTS-MCO compensation for use of CSLT facilities shall be \$25,000 per annum and shall be deducted from local transportation funds received by the CSLT each year. The foregoing deduction has been offset from the CSLT contribution outlined in Section 5.10 below.

5.9.2 Transit Grant Funding. All public entity parties shall pass through to CTS-MCO any and all grant monies received for public transit purposes less any reasonable grant administration fees. The CTS-MCO capital reserve set forth in this Agreement shall be available to the public entity parties for use as matching funds for any such grants and to cover the administrative costs of application for such grants if not covered by the grant(s). Each public entity shall be entitled to the use of such capital reserve funds only to the extent of its share of such contributions.

5.9.3 Additional Grant Funding. During the life of the CTS, the TTD, or any successor authority or agency, and all public parties hereto, shall timely apply for applicable state and federal grants, subsidies, and other sources of funding to assist in the acquisition of replacement and additional rolling stock, computer hardware and software, automatic vehicle locators, telecommunications equipment, transit kiosks, bus stop facilities, furniture, fixtures, and other equipment required for the implementation and operation of the CTS system, as well as any funds, if available for operational costs.

5.9.4 No Public Entity General Fund Contribution. Contribution to funding of system operations by the public entity parties shall also be limited to operating revenues received, mitigation fees, and monies provided by other governmental entities for transit purposes. No general fund contributions shall be required by this Agreement for purposes of system operation. The CSLT shall retain a portion of transit operating funds for transit planning in the sum of \$33,000 per annum. The CSLT contribution set forth in Section 5.10 below is net of the \$33,000 per annum allocated to transit planning.

5.10 Contribution of Annual Operating Funds. The parties listed below shall contribute annual operating funding to the CTS-MCO as set forth in the budget at Page 18 of Exhibit 4. During the initial two years, each party shall contribute operating funding as follows:

<u>Party:</u>	<u>Operating Funding:</u>	<u>Vehicles:</u>
Heavenly	350,000	(See Exhibit 12)
Harvey's	246,740*	3
Harrah's	246,740*	3
Horizon	18,760*	(\$13,000 in lieu of payment)
Lakeside	18,760*	1
El Dorado County	142,100	(See Exhibit 10)
Douglas County	232,500	(See Exhibit 9)**
CSLT	<u>367,500***</u>	(See Exhibit 8)
	1,623,100	
	(plus \$13,000 in lieu)	
Grand total:	1,636,100	

\* These sums include the respective parties' annual replacement reserve for the seven (7) publicly funded vehicles to be acquired as more fully set forth in Section 5.2.

\*\* Minimum contribution of two (2) trolleys at date of Agreement.

\*\*\* Net after deduction of CSLT facility use fee and transit administration costs.

The parties acknowledge the foregoing sums are preliminary estimates based on Exhibit "4" and shall be subject to revision pursuant to Sections 12.2 and 12.3 hereof. Operating funds shall be contributed quarterly, in advance. Annual calculations pertaining to vehicle values, vehicle replacement reserves and/or "in lieu of vehicle" contributions shall be adjusted upon the first anniversary of this Agreement in an amount equal to the CPI as set forth in Section 5.6 above. Such escalation shall be according to a formula providing for the multiplication of the last year's change by a fraction, of which the numerator is the most recently published index, and the denominator the index for the month exactly twelve (12) months prior to the numerator index. Annual capital contributions for subsequent years shall be determined in accordance with Section 12.3 hereof. The CSLT and El Dorado County contributions are contingent upon the TRPA annual allocation of California State Transportation Development Act funds.

5.11 Operating Shortfall. If insufficient operating revenues, grant funding or new project contributions occurs, the CTS-MCO Board of Directors shall reduce the levels of service provided unless the Parties mutually agree to make additional contributions in order to maintain the existing level of service.

6.0 Participating Casinos "First Drop" Subscription. Unless otherwise unanimously agreed to by Harvey's, Harrah's, Horizon and Lakeside and subject to Section 6.1 below, the Casino drop-off shares during the first two years of this Agreement shall be as follows: Harvey's and Harrah's, 45% each; Horizon and Lakeside, 5% each. Harvey's, Harrah's, Horizon and Lakeside shall be referred to as "Participating Casinos". For the purposes of this Agreement, Casino drop-off shares shall be referred to as "first drops". All CTS transit vehicles delivering passengers to the Casinos shall rotate the first drop-off point at each Participating Casino to assure each Participating Casino the subscribed to percentage of first drops is achieved. First drops shall be monitored in accordance with Page 14 of Exhibit 4.

6.1 First Drop Annual Budget. 120 days prior to the initial CTS operating year, the Board of Directors shall identify the annual operating budget required for first drop service (first drop annual budget), and the allocation to each Participating Casino based on subscribed shares. 90 days prior to the second anniversary of implementation of the CTS, each Casino property shall be entitled to re-subscribe for the share of first drops previously subscribed and paid for. Nothing herein shall require a Participating Casino to subscribe for the full amount previously subscribed and paid for, provided, however, the minimum percentage of a first drop share that may be purchased is five percent (5%).

6.2 Fares. Passenger trips originating at a lodging property terminating at a Participating Casino and passenger trips originating at a Participating Casino and terminating at a lodging property shall be subject to the reduced fare of 50¢ for each one-way trip. The parties shall continue to review casino area fare structures and if the Participating Casinos and CTS-MCO Board agree to increase casino area fares, additional fare box revenue resulting therefrom shall be credited against the Casino Operating Funding contributions set forth in Section 5.10 hereof. All other passenger fares shall be in accordance with the Table C of Exhibit 4. The foregoing fares shall be adjusted, from time to time, in accordance with Section 8.5 hereof.

6.3 Subsequent Casino Participation. Non-Participating Casinos have declined to participate in this Agreement and have not subscribed to a first drop share. Vehicles dedicated to Casino service shall not provide service to Non-Participating Casinos. Non-Participating Casinos shall receive service from non-Casino service vehicles operating within the CTS System and Non-Participating Casino guests shall pay the Table C of Exhibit 4 fares for that service. In the event a Non-Participating Casino subsequently elects to participate in this Agreement and subscribe to a first drop share, a Non-Participating Casino may do so subject to the following terms and conditions:

- (a) the percentage of first drops available for subscription shall be

determined by the Participating Casinos in their sole and absolute discretion;

(b) the Non-Participating Casino(s) cost to subscribe for a share of the first drops shall be equal to the subscribed to percentage, pro-rated, plus twenty percent (20%);

(c) the Non-Participating Casino(s) shall not receive any Air Quality Mitigation Credits earned by the Participating Casinos under Section 7.1 hereof.

(d) such other terms and conditions as the Participating Casinos deem reasonable.

#### 6.4 Unallocated Shares.

(a) If after the first two years any Casino does not acquire all or at least 5% of their Allocated Share, all unsubscribed shares may be purchased by the Casinos participating in the CTS first drop program in proportion to their existing subscription. In the event a Participating Casino declines to purchase their pro-rata share of first drops, the remaining Participating Casinos may purchase all remaining unsubscribed shares, pro-rata.

(b) If after two years a Participating Casino elects not to purchase an Allocated Share and all shares are thereafter subscribed for that operational year, any Casino that does not purchase at least five percent (5%) of an allocated share shall not participate in the first drop program for that year.

7.0 Air Quality Mitigation Credits. In recognition of the Participating Casinos', El Dorado County and Douglas County's cooperative commitment to contribute capital and/or rolling stock to implement CTS, TRPA shall award each of the foregoing parties Air Quality Mitigation Credits (AQMC) as defined in Chapter 93 of the TRPA Code of Ordinances. The initial AQMC's shall be in an amount equal to each of these initial participants' projected share of vehicle trip reduction forecast for the first five years of the CTS operation. As more fully set forth in Exhibit 6, if during the initial five years, additional vehicle trip reductions occur, the parties shall receive commensurate AQMC's. The initial AQMC's shall be deemed earned upon: (1) the commencement of CTS ground operations; and (2) each of these participants initial contribution pursuant to Section 5.0 hereof. If CTS ground operations continue beyond the initial five-year term, TRPA may extend the credit program.

7.1 Banking of Mitigation Credits. The Participating Casinos, El Dorado County and Douglas County shall be entitled to the use of AQMC's awarded in accordance with Section 7.0 above, or each of these initial participants may bank their AQMC's for use in any future project(s) it may sponsor or may bank the AQMC's for future use or transfer to other parties for their use or transfer. The AQMC's shall be awarded to each of the initial participants in accordance with Exhibit 6 hereof.

7.2 Reimbursement of AQMC's Upon Early Termination. In the event a Participating Casino, El Dorado County or Douglas County elects to terminate participation in the CTS-MCO prior to the fifth anniversary of the commencement of CTS ground operations, the terminating party shall forfeit all unused AQMC's and to the extent utilized, pay to TRPA its prorata share of Air Quality Mitigation Fees pursuant to Chapter 93 of the TRPA Code of Ordinances, due for the unexpired portion of the initial five-year term.

8.0 CTS-MCO Management. The Parties identified in Section 8.3 below shall each appoint a member to the Board of Directors. The Board of Directors shall manage the affairs of the Company. The CTS-MCO Management shall be organized as set forth in Exhibit 7.

8.1 Board of Directors. Each Party to this Agreement shall designate a representative to the Board of Directors. In addition, one Board seat shall be allocated to a representative of Douglas County. Five (5) Board members shall be private party members and the remaining Board members shall be public party Board members. Board member affiliation shall be as set forth in Section 8.3 below. Members of the Board of Directors shall serve without compensation.

8.2 Voting Shares. Each Party shall be entitled to one (1) equal vote. Unless provided otherwise in this Agreement, Members may vote to amend or modify the provisions of this Agreement upon a 2/3's vote, except the composition and number of Board members. The composition and number of Board members may only be altered upon the unanimous vote of the members. Any proposal to amend or modify a provision of this Agreement shall be preceded by no less than fifteen (15) days written notice to the Members.

8.3 Composition of Board of Directors. The Board of Directors shall be composed of a representative from each of the following Parties:

- |             |                      |
|-------------|----------------------|
| 1. HSR      | 6. CSLT              |
| 2. Harvey's | 7. TRPA (non-voting) |
| 3. Harrah's | 8. TTD               |
| 4. Lakeside | 9. El Dorado County  |
| 5. Horizon  |                      |

In addition, a representative of Douglas County, as selected by the Douglas County Board of Commissioners, shall serve on the Board of Directors.

8.4 Quorum. A quorum of the Board of Directors shall consist of five (5) voting members, a majority of whom shall be authorized to transact business on behalf of the Company.

8.5 Powers of CTS-MCO. The CTS-MCO is authorized to do, in its own name, all acts necessary for the exercise of such common power for such purposes, including, but not limited to, the following: negotiate and contract with the TTD; submit its recommendation to the TTD for annual operating budgets consistent with its contract with the TTD; make recommendations concerning transit fares for the consideration of the TTD consistent with existing regulatory approvals; approve annual operating budgets consistent with the TTD contract and budget; approve transit fares consistent with existing regulatory approvals; to make and enter into contracts and leases, employ agencies and employees, to acquire, develop, maintain and operate the facilities of the CTS Transit System; to hold or dispose of property, to incur debt, liabilities or obligations and have the power to sue or be sued in its own name. Such powers shall be exercised in accordance with and in furtherance of the purpose of this Agreement. Nevertheless, expenditure of all grant funds is subject to grant conditions and limitations. Notwithstanding the generality of the foregoing, the CTS-MCO shall have no power to bind any of the parties to any monetary obligation whatsoever, unless expressly authorized by the individual party.

8.5.1 Committees and Subcommittees. The Board of Directors shall appoint the following standing committees and subcommittees: (a) Operations Committee; (b) Casino Transit Performance Standards Subcommittee; (c) Ski Transit Performance Standards Subcommittee; (d) Public Transit Performance Standards Subcommittee; (e) Special Needs Subcommittee; (f) Vehicle Evaluation Subcommittee; (g) Marketing Subcommittee; and (h) Advertising Committee. The Board of Directors may appoint such other committees and subcommittees as it deems appropriate. Each party to this Agreement shall be a member of at least one committee or subcommittee, as set forth in Sections 8.5.1.1 through 8.5.1.4 below.

8.5.1.1 Operations Committee. The Operations Committee shall be composed of one (1) member each from the Casino Performance Committee, Ski Performance Committee and Public Performance Committee. Two (2) subcommittee members shall constitute a quorum. The Executive Director shall chair the Operations Committee but shall not vote. The subcommittees set forth in Sections 8.5.1.2 through 8.5.1.6 below shall report to the Operations Committee, except as set forth in Section 8.5.1.6 below.

8.5.1.2 Casino Transit Performance Subcommittee. The Casino Transit Performance Subcommittee shall be composed of one (1) member each from each Participating Casino. Three (3) committee members shall constitute a quorum. This committee shall designate one member to serve as a member of the Operations Committee.

8.5.1.3 Ski Transit Performance Subcommittee. The Ski Transit Performance Subcommittee shall be composed of one (1) member from HSR executing this Agreement. This subcommittee shall designate one member to serve as a member of the Operations Committee.

8.5.1.4 Public Transit Performance Subcommittee. Each public party executing this Agreement shall designate one (1) representative to serve as a member of the Public Transit Performance Subcommittee. Three (3) subcommittee members shall constitute a quorum. This subcommittee shall designate one representative to serve as a member of the Operations Committee.

8.5.1.5 Special Needs Subcommittee. The Special Needs Subcommittee shall be composed of one member each from El Dorado County, CSLT, Douglas County, Tahoe Area Coordinating Counsel for the Disabled, Seniors, Inc., ALTA Sierra and the Casino Performance Committee. Four (4) subcommittee members shall constitute a quorum. The Executive Director shall chair this subcommittee and is not entitled to vote.

8.5.1.6 Vehicle Evaluation Subcommittee. The VEC shall be composed of one (1) representatives from Harvey's, one (1) representative from Harrah's, one (1) member of HSR Subcommittee, one (1) member of the Public Transit Performance Subcommittee, and one (1) representative of the CTS Operating Contractor. Three (3) subcommittee members shall constitute a quorum. The Executive Director shall chair the Operations Committee but shall not vote. A determination not to accept a vehicle for inclusion in the CTS vehicle fleet may be appealed directly to the Board of Directors.

8.5.1.7 Marketing Subcommittee. The Marketing Subcommittee shall be composed of one (1) member each from CSLT, HSR, Horizon, Harvey's, Harrah's Lakeside, South Shore Transit Management Association, and the Operating Contractor. Four (4) subcommittee members shall constitute a quorum. The Executive Director shall chair the subcommittee and is not entitled to vote.

8.5.1.8 Advertising Committee. The Advertising Committee shall be composed of three (3) members from Participating Casinos, one member from HSR and one member from the CSLT. Three committee members shall constitute a quorum. The

Advertising Committee shall report directly to the Board. The Executive Director shall chair the committee but shall not be entitled to vote.

8.6 Executive Director. The Executive Director shall oversee the day-to-day operation of the CTS; report to the Board of Directors; identify potential funding sources and assist in the application for grant funds; solicit and make recommendations for proposals for consideration by the Board of Directors including but not limited to the selection of an Operating Contractor for the CTS. The Executive Director shall be the Board of Director's liaison to the TTD and shall chair the Operations Committee and Special Needs Subcommittee.

9.0 Performance Standards. The CTS shall provide replacement transit service for the Participating Casinos (Casino Transit), ski and sightseer service for HSR (Ski Transit), and public transit for the CSLT, Douglas County and El Dorado County (Public Transit). All of the transit services shall be subject to the general performance standards set forth in Section 9.1 below and each of the transit specific services enumerated above shall be subject to the transit specific levels of service set forth below. The CTS-MCO shall maintain and allow access to records sufficient to satisfy all state and federal reporting requirements necessary to qualify for the utilization of public subsidies.

9.1 General Performance Standards. At all times while providing transit services, all CTS employees and CTS contractors and their employees having contact with the public, including but not limited to, dispatchers and bus drivers, shall wear CTS uniforms approved by the CTS-MCO. In addition, all CTS employees and CTS contractors and their employees shall comply with CTS grooming standards as adopted or revised from time to time and shall participate in all required training. Finally, all CTS employees, CTS contractors and their employees having contact with the public shall interact with the public in a courteous and responsive manner.

9.2 Casino Transit Level of Service Standards. Casino Transit shall meet the minimum performance standards set forth at Pages 3 and 4 of Exhibit 4.

9.3 Ski Transit Level of Service Standards. Ski Transit shall meet the minimum performance standards set for at Pages 7 and 8 of Exhibit 4.

9.4 Public Transit Level of Service Standards. Public Transit shall meet the minimum performance standards set forth at Pages 3, 4, and 7 of Exhibit 4.

10.0 Non-Competition. To attract and build ridership, the Parties agree that while a member of the CTS-MCO neither they, nor any entity related nor affiliated with them, shall

provide transit services within the CTS operating area that will compete with the transit services provided by the CTS. The Parties acknowledge that competition with the CTS service will undermine the success of the CTS. The TRPA and the TTD shall encourage transit services within the CTS operating area to participate in CTS. The obligation to refrain from competition shall terminate upon a party's withdrawal from the CTS-MCO.

10.1 Permitted Transit Activities. The prohibition of competition set forth in Section 10.0 above, shall not prevent a Party from owning and/or operating transit vehicles that provide non-competitive transit services, including but not limited to airport pick-up and delivery for charters, free shuttle service to timeshare properties outside of the CTS service area, and transportation for in-house groups to and from restaurants, golf courses, and special events.

11.0 Implementation. The CTS-MCO shall own or lease the rolling stock and computer hardware and software, as well as other assets necessary for the CTS operation and shall be the operator of the system under the provisions of Article IX of the Tahoe Regional Planning Compact. The TTD and CTS-MCO shall enter into a contract which authorizes the CTS-MCO to provide services necessary to the operation of the CTS system. TTD and TRPA shall, for the term of this Agreement, jointly exercise the authority granted them by Articles V and IX of the Compact to encourage transit providers operating within the CTS operating area to participate in CTS.

12.0 Accounts and Reports. The CTS-MCO shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the CTS-MCO shall be open to inspection at all reasonable times by representatives of the parties and/or appropriate federal agencies. The CTS-MCO, within 180 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the parties.

12.1 Financing - Fiscal Year. For the purposes of this Agreement, the term "fiscal year" shall mean the fiscal year as established from time to time by the parties.

12.2 Initial Operating Capital. At the time of submitting its first proposed annual budget and proposed capital improvement program to the parties hereto, the Board shall also submit an estimate of such initial operating capital and cash flow needs as may be required to sustain CTS-MCO operations, pending receipt of any revenues.

12.3 Annual Financial Support. 90 days prior to the second anniversary of the fiscal year, and each fiscal year thereafter, any party shall have the right to request a change in their level of service for the next fiscal year and shall submit such request to the Board in

writing. At the time of preparing the annual proposed operating budget and proposed capital expenditure budget, the Board shall determine the amount of financial support required by the parties for the ensuing fiscal year. The support required for the annual operating budget shall be apportioned among the parties hereto in accordance with Exhibit 4. The support required for the capital budget shall be apportioned among the parties hereto by the Board after consideration of:

- A. Funds available from federal grants and other sources;
- B. Requirements for capital expenditure for replacement and general system use; and
- C. Special capital costs required for equipment and facilities to provide additional or increased service within any area or service element operated by the CTS-MCO.

A proposed budget shall be submitted to each party to this Agreement for their consideration and comment prior to adoption of the final annual budget. Following the adoption of the final annual budget, the Board shall inform the parties of the Board's determination of financial support required for the fiscal year and the computation of the parties' proportional share pursuant to Exhibit 4.

13.0 Early Withdrawal. Upon the second anniversary of the commencement of CTS Ground Operations, any party to this Agreement, except Horizon, may elect to terminate participation in the CTS-MCO so long as the levels of service identified in Sections 9.1 through 9.4 are not met as to that withdrawing party for the first two years of operation, and so long as the withdrawal procedure set forth in Section 13.1(a) and (b) has been satisfied. Horizon may elect to terminate participation after two (2) years upon 120 days prior written notice, without further obligation.

13.1 Withdrawal. After the 5th anniversary of the commencement of CTS ground operations, any Party to this Agreement may elect to terminate participation in the CTS-MCO upon 120 days written notice prior to the expiration of the then existing fiscal term.

(a) The withdrawing party shall provide written notice of its intention to terminate at least one hundred twenty (120) days prior to the effective date of termination. The notice of intention to terminate shall also specify the alternative service, if any, the party seeking to terminate proposes to operate.

(b) Additionally, within thirty (30) days of such notice, the withdrawing

party shall meet and confer in good faith with the Board of Directors or with a subcommittee appointed by the Board of Directors. Each party to the meet and confer process agrees to use their best efforts to resolve the dispute in a manner that results in the continued participation in the CTS-MCO by the party seeking early termination. The meet and confer process shall conclude no later than sixty (60) days subsequent to the withdrawing party's written notice of intention to terminate.

(c) The early termination procedure described above shall only apply if a party desires to terminate its participation to the Agreement prior to the expiration of the five (5) year term of the Agreement set forth in Section 2.0 and is not available until the second anniversary of the commencement of CTS-MCO Ground Operations.

14.0 Operating Contractor. The parties hereby acknowledge that Area Transit Management, Inc. (ATM), has entered into a contract with CSLT, El Dorado County, and Douglas County to provide public transit services within their jurisdictions. ATM's contract with CSLT expires on September 30, 2003. ATM is also the transit provider for HSR and El Dorado County. ATM's contract with HSR expires September 28, 1998, and ATM's contract with El Dorado County expires June 30, 1998. The above-described contracts shall be referred to as "the existing contracts". The parties hereto acknowledge the existing contracts and hereby covenant and agree that CTS-MCO shall not interfere with nor induce a party to breach existing contracts with ATM. It is the intention of the parties to negotiate either an amendment to the existing contracts to designate ATM as the Operating Contractor for CTS-MCO up through and including September 30, 2003 or negotiate a superseding contract with ATM. CTS-MCO shall negotiate with ATM in good faith. In the event the parties and ATM are unable to enter into a mutually acceptable amendment or superseding contract, the CTS-MCO shall solicit competitive bids to provide those transit and dispatch services required for the implementation and operation of the CTS Transit System that are not provided under the existing contracts with ATM. If the existing contracts are not amended or superseded, the successful bidder shall be required to utilize its best efforts to work cooperatively with ATM.

15.0 Insurance.

15.1 The CTS-MCO Operating Contractor shall be required to obtain the following insurance policies prior to the commencement of operations, and shall name the CTS-MCO and its members as additional insureds:

15.1.1 Public liability in the minimum amount of five Million Dollars (\$5,000,000) for all transit vehicles.

15.1.2 Fire and Casualty Insurance on all transit stations, terminals, and kiosks and the contents thereof equal to the full value of all real and personal property which Operating Contractor is entitled to utilize under the terms of the Operating Agreement.

15.1.3 Collision and Comprehensive Insurance on all transit vehicles for their full replacement value.

15.1.4 Worker's Compensation Insurance for all of its employees.

15.2 The CTS-MCO shall require the Operating Contractor to provide the CTS-MCO with a Certificate of Insurance evidencing such coverage, and further providing that such insurance may not be canceled or allowed to lapse for non-renewal without thirty (30) days written notice to the CTS-MCO by certified mail.

15.3 The CTS-MCO shall require the Operating Contractor to provide insurance, both as to the amount and type of policies subject to the approval of the insurance brokers or risk managers of CSLT, Douglas County and El Dorado County, and shall further require said insurance to be in compliance with Section 2-56.1 of the CSLT Code. Any deductible on any policy shall be the responsibility of the Operating Contractor.

16.0 Hold Harmless.

16.1 Prior to the award of the CTS-MCO operating contract, CTS-MCO shall require the Operating Contractor to hold the CTS-MCO, and its members, boards, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as claims for property damage which may arise from the Operating Contractor's or any subcontractor's operations, whether such operations be by the Operating Contractor or any person acting as an agent or employee of the Operating Contractor, or any one or more persons directly or indirectly employed by, or acting as agent for, the Operating Contractor or any subcontractor or subcontractors. The Operating Contractor shall be required to hold the CTS-MCO, its members, boards, officers, agents and employees harmless from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and shall be required to provide worker's compensation and public liability and property damage insurance in such amounts and on such terms as the CTS-MCO deems reasonable.

16.2 No policies of insurance carried by the Operating Contractor shall be subject to cancellation except after notice to the CTS-MCO Executive Director, the TTD, and the CSLT City Attorney, El Dorado County Counsel, Douglas County District Attorney, by certified mail at least 30 days prior to the date of cancellation.

16.3 The Operating Contractor shall agree to defend the CTS-MCO, its elective and appointed officers and employees, from any suits or actions in law or equity which are caused or are alleged to have been caused by reasons of the Operating Contractor's operations, including the payment of all reasonable costs and attorney's fee incurred in such defense.

16.4 Notwithstanding and in addition to the insurance coverage provided above, CTS-MCO agrees to hold harmless, indemnify and defend the member entities, their officers, and employees from any liability arising from their entry into this Agreement and the performance or failure to perform any term or condition hereof by CTS-MCO, including the payment of reasonable costs of defense and attorney's fees. This indemnity shall not extend to the intentional torts or gross negligence of any individual member entity or its officers or employees.

17.0 Winding Up. If this Agreement is terminated, all property and equipment shall be distributed to the private parties; distribution to each private party shall be made in the same proportion as that reflected in the private parties' accumulated capital contribution accounts as shown in the Auditor's books of accounts. The property and equipment of the public entity parties shall be returned to them on the terms set forth in the Agreement provided for in Sections 17.1 and 17.2. A list of the present capital assets being contributed by the CSLT, Douglas County, El Dorado County and TTD are attached hereto as Exhibits 8, 9, 10 and 11 and, absent agreement to the contrary between CTS-MCO and/or TTD and the public transit providers those assets shall be returned to the public transit providers at the conclusion of the agreement in the same condition which they were provided, normal wear and tear, documented deficiencies, and depreciation excepted. Although Douglas County is not a signatory to this Agreement, its assets shall be returned in accordance with this Agreement. All other property and equipment leased to the CTS-MCO by a party shall be returned to the party leasing the property or equipment to the CTS-MCO. Cash may be accepted in lieu of property or equipment. Prior to winding up the affairs of the CTS-MCO, CTS-MCO shall secure public liability "tail coverage" to insure the Members against any and all claims that may have arisen prior to the cessation of service, with limits in the minimum sum as set forth in Section 15.1.1 above.

17.1 Disputed Value. If the parties cannot agree to the valuation of the property or to the manner of its distribution, the distribution or valuation shall be made by a panel of three (3) referees. One referee shall be selected and appointed by the public parties' and one referee shall be selected and appointed by the private parties, and the two referees shall appoint a neutral third referee.

17.2 Final Distribution. This Agreement shall not terminate until all property has been distributed in accordance with this provision, and the winding up of property hereunder shall be effected in the manner calculated to cause the least disruption of existing public transportation service.

18.0 Admission of New Non-Casino Members. New public and private members may be admitted on such terms and conditions as the CTS-MCO Board of Directors deems reasonable. The CTS-MCO Board of Directors shall work cooperatively with TRPA to encourage new membership.

19.0 Parties Liability: Each party to this Agreement, whether individually or collectively, does not assume, nor shall a party be deemed to assume, liability for:

A. Any act or omission of CTS-MCO, the TTD, or the Operating Contractor, or for any act of CTS-MCO's, the TTD's, or Operating Contractor's agents or employees.

B. The payment of wages, benefits, workman's compensation, indemnity, or other compensation to officers, or agents or employees of the CTS-MCO or the TTD or the Operating Contractor.

C. Any act or omission of any other party or any act or omission of another party's agents or employees.

20.0 Notices. All notices required hereunder shall be given in writing to the following addresses or such other addresses as the parties may designate by written notice:

To the Private Parties:

Heavenly Ski Resort  
P.O. Box 2180  
Stateline, NV 89449  
Attn: Dennis Harmon  
Fax No: 702/586-7056

Harvey's Tahoe Management Company, Inc.  
P.O. Box 128  
Stateline, NV 89449  
Attn: Sue Ewald  
Fax No: 702/588-0601

Harrah's Hotel Casino, Lake Tahoe  
P.O. Box 8  
Stateline, NV 89449  
Attn: General Manager  
Fax No: 702/586-6606

Horizon Hotel and Casino  
P.O. Box C  
Stateline, NV 89449  
Attn: Al Zajic  
Fax No: 702/588-3110

Lakeside Inn and Casino  
P.O. Box 5640  
Stateline, NV 89449  
Attn: Lon Rusk  
Fax No: 702/588-4092

To the CSLT: City of South Lake Tahoe:  
1052 Tata Lane  
South Lake Tahoe, CA 96150  
Attn: Sue Schlerf  
Fax No: 530/542-4054

To Douglas County: Douglas County  
P.O. Box 218  
Minden, NV 89423  
Attn: Dan Holler, County Manager  
Fax No: 702/782-6255

To El Dorado County: El Dorado County Dept. of Transportation  
2850 Fair Lane Court  
Placerville, CA 95607  
Attn: Randy Pesses, Deputy Director of Planning and Systems  
Fax No: 530/626-0387

To the TTD: Tahoe Transportation District  
Attn: Executive Director  
P.O. Box 10630  
Zephyr Cove, NV 89448  
Fax No.: 702/588-8295

To the TRPA: Tahoe Regional Planning Agency  
P.O. Box 1038  
308 Dorla Court  
Zephyr Cove, NV 89448-1038  
Attn: Executive Director  
Fax No: 702/588-4527

Notice shall be deemed received as follows: depending upon the method of transmittal: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. mail, certified, upon receipt requested, as of 72 hours after deposit in the U.S. mail.

21.0 General Provisions.

21.1. Authority to Enter Into Agreement. The parties have all requisite power and authority to conduct their business and to execute and deliver and to perform all of their obligations under this Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right and authority to enter into this Agreement so as to bind each respective party to perform the conditions contemplated herein.

21.2 El Dorado County Representative. El Dorado County's representative authorized to administrate this Agreement is Randy Pesses, Deputy Director of Planning and Systems.

21.3 Successor and Assigns. All the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto.

21.4 Waiver. No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by other parties shall give the other any contractual right by custom, estoppel, or otherwise. No waiver shall be binding unless executed in writing by the party making the waiver.

21.5 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same instrument.

21.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to this Agreement and it supersedes all prior and contemporaneous

agreements, representations, and understandings of the parties. No supplement, modification, or amendment to this Agreement shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

21.7 Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

21.8 Legal Representation. Each party warrants and represents it has been represented by the counsel of its choice in the negotiation and review of this Agreement. Each party acknowledges that Lewis S. Feldman of Feldman, Shaw & DeVore (collectively Feldman) has drafted this Agreement in consultation with the parties and their counsel. The parties agree no presumption shall arise from the drafting of this Agreement since each party, by and through its counsel, has had the opportunity to make changes and revisions herein. Each party hereby acknowledges that Feldman has not acted as its counsel in the drafting of this Agreement and further acknowledges that an attorney-client relationship has not arisen between Feldman and any party to this Agreement by reason of Feldman's drafting of this Agreement.

21.9 Arbitration of Disputes. If any claim or dispute arises under this Agreement, then such dispute shall be resolved by binding neutral arbitration in accordance with the rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties reserve their right to appeal from a judgment entered in accordance with the foregoing.

21.10 Applicable Law. This Agreement shall in all respects be governed by the laws of the State of Nevada as in effect at the time of this Agreement. Jurisdiction and venue shall be in Douglas County, Nevada.

21.11 Assignment. This Agreement shall not be assigned by any Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as set forth, effective the day and year first above written.

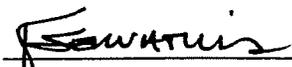
HEAVENLY VALLEY, LIMITED  
PARTNERSHIP, a Nevada Limited Partnership,

By: HEAVENLY CORPORATION, a  
Delaware Corporation, General Partner

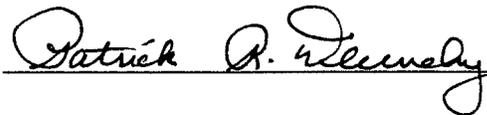
By: 

Dennis J. Harmon  
Vice President and Managing Director

HARVEY'S TAHOE MANAGEMENT  
COMPANY, INC.

By: 

HARRAH'S OPERATING COMPANY,  
INC., DBA HARRAH'S HOTEL CASINO  
LAKE TAHOE,

By: 

HORIZON HOTEL AND CASINO

By: 

LAKESIDE INN AND CASINO

By: 

THE CITY OF SOUTH LAKE TAHOE,

By: 

EL DORADO COUNTY,

By: John E Upton

THE TAHOE TRANSPORTATION  
DISTRICT,

By: Kevin Cole

TAHOE REGIONAL PLANNING AGENCY,

By: James W. Bartz

