

MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: Thomas M. Miller, County Executive Officer
Submitted by: Jennifer Merchant, Principal Management Analyst

DATE: August 26, 2008

SUBJECT: Approve an agreement with the North Lake Tahoe Resort Association (NLTRA) in the amount of \$4,050,000 for Fiscal Year 2008-2009 to promote tourism and provide guidance to the Board of Supervisors on infrastructure project expenditures.

Action Requested

Approve an agreement with the North Lake Tahoe Resort Association (NLTRA) in the amount of \$4,050,000 for Fiscal Year 2008-2009 to promote tourism and provide guidance to the Board of Supervisors on infrastructure project expenditures.

Background

The NLTRA serves to help promote tourism and to provide guidance to the Board of Supervisors in funding infrastructure projects to enhance the built environment in North Lake Tahoe communities. The primary task of the NLTRA is to implement the 2004 North Lake Tahoe Tourism and Community Investment Master Plan (TCIMP), through marketing, transportation and infrastructure development efforts. Each year the County negotiates an agreement with the NLTRA for disbursement and expenditure of Transient Occupancy Tax (TOT) dollars for these purposes.

In an effort to further strengthen elements of the NLTRA agreement, a number of changes to the contract have been added this year. These changes, discussed in the following section, are reflected in the attached FY 2008-2009 Agreement Between the County of Placer and the North Lake Tahoe Resort Association and six attachments, including the Scope of Work, Proposed Payment Schedule, Tahoe TOT Budget, (Attachments A, B and C), as well as the Community Marketing Program Grant Funding Criteria, Marketing Performance Review and Memorandum- Adopted by the NLTRA Board, February 2003, (Attachments D, E and F), which accompany the agreement. The recommended contract amount will fund administrative costs, direct marketing, program research, visitor information and support services (most significantly transit services) and various infrastructure projects.

Issues

As indicated earlier, the FY 2008-2009 Contract has been amended through negotiations to reflect a more comprehensive approach to tourism marketing and infrastructure development while maintaining accountability to Placer County, the North Lake Tahoe community and the Resort Association's members and partners.

The most significant contract modification is a shift from a percentage-based funding formula to a fee for service contract. This modification will ensure continued attainment of tourism marketing and service goals, while also ensuring that County Services in Tahoe are maintained at acceptable levels. For FY 2008-2009, Tahoe area TOT funds collected in excess of those budgeted will be allocated to maintain Tahoe-specific services, such as public safety, hazardous vegetation abatement, biomass program development, and health and human services.

Other contract modifications have been made to continue contract compliance improvements, specifically in the areas of Infrastructure Fund draw-down, conflict of interest disclosure, the fiscal neutrality of reciprocal marketing agreements with outside jurisdiction partners and increased promotion of lodging and conference facilities within Placer County.

The Resort Association maintains a five-year (2008-2012), project planning document that prioritizes investment decisions through the life of the voter-approved two percent TOT increase. The document includes a mix of transportation and infrastructure projects and programs which have been established as priorities both in the Master Plan and through public workshops, and joint committee meetings with the NLTRA Board. Projects scheduled for review and funding consideration this year include the Lakeside Multipurpose Trail, Squaw Valley Visitor Information Center, Regional Wayfinding Signage, Homewood Class I Bike Trail, Tahoe City Historic Walking Tour and the Squaw Valley Olympic Ski Museum.

This contract also provides for financial support for the Kings Beach Commercial Core Improvement Project, the Tahoe City Transit Center, and increased levels of snow removal support for the Squaw Valley, Alpine Meadows and Northstar Ski Resorts. In addition, this contract provides for an increased level of support for the Placer County/Lake Tahoe Film Office.

This year's budget proposal and contract continues to acknowledge that continued transit service improvements are key to growing the tourism economy, along with a joint cooperative marketing effort with the Incline Village Crystal Bay Visitors Bureau that maximizes marketing dollars and eliminates duplicative brand development efforts.

Fiscal Impact

The annual NLTRA contract is funded with a negotiated share of transient occupancy tax revenues generated in the North Tahoe TOT area. For Fiscal Year 2008-2009, contract funding of \$4,050,000 is recommended. The contract final budget includes \$1,821,924 for marketing, \$1,193,425 for visitor support services/transportation and \$1,034,651 for capital improvements (infrastructure).

Attachments:

- **Agreement between the County of Placer and the North Lake Tahoe Resort Association
Including the following attachments:**
 - A. **Scope of Work with Placer County- FY 2008-2009**
 - B. **FY 2008-2009 Proposed Payment Schedule**
 - C. **FY 2008-2009 Tahoe TOT Budget**
 - D. **Community Marketing Program Grant Funding Criteria**
 - E. **Marketing Performance Reporting Document**
 - F. **Memorandum- Adopted by NLTRA Board, February 2003**

**DESCRIPTION: AGREEMENT BETWEEN THE COUNTY OF PLACER AND THE
NORTH LAKE TAHOE RESORT ASSOCIATION**

**THIS AGREEMENT MADE AND ENTERED INTO THIS 26th DAY OF
August, 2008 BY AND BETWEEN** the County of Placer, hereinafter referred to as
"COUNTY" and the North Lake Tahoe Resort Association, Inc., a California Nonprofit Public
Benefit Corporation, hereinafter referred to as "RESORT ASSOCIATION".

WHEREAS, the 1995 *North Lake Tahoe Tourism Development Master Plan*
recommended the consolidation of the Tahoe North Visitors and Convention Bureau and the
North Lake Tahoe Chamber of Commerce into a Resort Association; and,

WHEREAS, the *North Lake Tahoe Tourism Development Master Plan* recommended a
Resort Association to oversee a full spectrum of tourism management functions, including
marketing and visitor services, and the development, planning, and implementation of
transportation and infrastructure projects; and,

WHEREAS, the COUNTY is desirous of obtaining certain services as recommended
by the *North Lake Tahoe Tourism Development Master Plan*, and its successor plan, the *North Lake
Tahoe Tourism and Community Investment Master Plan*, approved by the Placer County Board of
Supervisors on July 26, 2004; and,

WHEREAS, the NORTH LAKE TAHOE RESORT ASSOCIATION, Inc., a California
Nonprofit Public Benefit Corporation, has been organized under the Nonprofit Public Benefit
Corporation Law for public purposes, to promote, enhance, reinvigorate, coordinate, and
direct tourism for the economic betterment of the North Lake Tahoe, California region, and is
willing to perform certain services for the COUNTY to implement the *North Lake Tahoe
Tourism and Community Investment Master Plan*.

NOW, THEREFORE, for and in consideration of the mutual promises and
agreements herein contained, it is agreed by and between the parties hereto as follows:

I. SCOPE OF WORK

RESORT ASSOCIATION shall perform the Scope of Work as set forth in Attachment A,
attached hereto and incorporated herein by reference. Without restricting or otherwise
limiting the work to be performed as described in Attachment A, it is agreed the intent of
this Agreement is that the RESORT ASSOCIATION shall, in performing the work, do the
following: 1) provide a full spectrum of management activities for tourism marketing and
visitor services for the Placer County businesses of the North Lake Tahoe region (These
services at times will include cooperative regional marketing efforts. Any regional marketing

efforts shall not result in a subsidy to participating external jurisdictions.); 2) undertake its activities to implement in full the *North Lake Tahoe Tourism and Community Investment Master Plan*; and, 3) assist with the planning, development, and implementation of necessary public infrastructure improvements in the Placer County portion of the North Lake Tahoe region.

The Scope of Work may be amended only upon written approval between the RESORT ASSOCIATION and the County Executive Officer; provided, however, that no such amendment shall increase the compensation paid hereunder without execution of a written amendment approved by the Board of Supervisors.

2. CONDUCT OF BUSINESS OF THE ASSOCIATION

- A. All board meetings of the RESORT ASSOCIATION shall be conducted in such a manner as to afford and encourage public attendance and participation. An agenda shall be prepared for each meeting of the board containing a brief general description of each item of business to be discussed or transacted at the meeting. No later than three (3) business days prior to the date of a meeting of the board, the agenda shall be posted at the meeting place and at other appropriate locations in the North Lake Tahoe community. The public shall be given an opportunity to attend each board meeting and to directly address the board on any item on the agenda and on the business of the RESORT ASSOCIATION generally.
- B. The RESORT ASSOCIATION need not discuss confidential matters involving litigation; attorney-client privileged matters, or personnel issues in public session. The RESORT ASSOCIATION shall make every effort to maximize public input into its decision-making process.
- C. To the extent monies received for projects and programs are expended by the RESORT ASSOCIATION or by a third party under grant from the RESORT ASSOCIATION for service and support in any amount greater than \$50,000, the RESORT ASSOCIATION shall utilize and require the third party to utilize a competitive bidding or procurement process. This process will ensure that the work is awarded in an impartial manner to the most responsive and best qualified contractor making certain that the projects and programs are accomplished in a cost-effective manner. This provision is not applicable to cooperative programs in which the RESORT ASSOCIATION is not a primary partner. Primary partner is defined as funding a 40 percent or greater share of service and support costs. This provision is also not applicable when service and support is being provided by a non-profit public benefit corporation that does not compete with other potential service providers. All service and support including initial pre-project planning and feasibility phases in an amount greater than \$50,000 must be accompanied by a scope of work and contract. This includes funds granted for cumulative or phased projects and programs.
- D. Conflict of Interest- February 1, 2009 deadline. The RESORT ASSOCIATION will ensure annual filing of Conflict of Interest statements by the Board of Directors and Executive staff members as required in the organization's bylaws. Board members

who have answered affirmatively to conflict questions posed in the annual statement shall not vote on contract or budgetary matters that are specifically related to the conflict. Statements shall include the actual or estimated dollar amount of the conflict and shall be distributed to all Board members and the COUNTY Executive Office no later than Feb. 1, 2009. In the case that a potential conflict occurs during the course of the year, the statement shall be updated prior to the next Board of Directors meeting.

- E. Infrastructure Reporting - The RESORT ASSOCIATION shall prepare a quarterly statement inclusive of date and amount of project approval, funds allocated and funds received by project, and total quarter end fund balance contained within the Quarterly Report and submitted following the format agreed to by the COUNTY within 45 days following the end of each quarter.
- F. Lodging Promotion- The RESORT ASSOCIATION Board of Directors shall maintain on an ongoing basis its previously implemented policy that enables all lodging properties in eastern Placer County to be listed under the lodging section of any and all websites developed and maintained with Placer County Transient Occupancy Tax funds.
- G. Conference Marketing and Booking- June 30, 2009 deadline- The RESORT ASSOCIATION shall not subsidize business development in non-Placer County jurisdictions, either through marketing, sales or other business activity promotion. The RESORT ASSOCIATION shall eliminate any and all Placer County fund allocation to Conference sales and marketing in external jurisdictions and maximize self-sustainability of the Conference Department by setting a 15 percent commission on leads generated for Douglas, El Dorado and Nevada counties no later than September 8, 2008. The RESORT ASSOCIATION shall appoint a subcommittee to review commission structure equitability improvements for Washoe County that are acceptable to Placer County. The Washoe County improvements shall be defined by January 1, 2009 and implemented no later than June 30, 2009. In the case that the timeline is not adhered to or an acceptable method of attaining equitability is not defined and implemented, the COUNTY shall impose a penalty equal to the amount of subsidy as determined by the COUNTY. Methods that should be considered include multi-level commission and fee structures.
- H. External Jurisdiction Marketing- The RESORT ASSOCIATION shall not subsidize business development in non-Placer County jurisdictions, either through marketing, sales or other business activity promotion. No later than September 8, 2008, the BOARD OF DIRECTORS shall develop a policy for review and approval by the County Executive Office that maintains and promotes cooperative marketing and other business development activities, but that does not result in an inequitable funding allocation to businesses not located within Placer County. The RESORT ASSOCIATION shall also obtain a signed agreement no later than January 1, 2009 that illustrates a plan for equitable funding share participation within one year from the date of the letter for any marketing or business development subsidy within non-

Placer County jurisdictions. If an acceptable policy is not developed and signed written agreement not obtained by the above deadline, and the RESORT ASSOCIATION does not cease providing said marketing and business development services, the COUNTY will withhold funding equal to the COUNTY-determined fair share subsidy for the service being provided from the related activity account providing the service.

1. Failure to comply with the actions in this section by the deadline dates identified will result in penalties defined in Section 5. G. 2.)

3. TERM AND TIME OF COMPLETION

The term of this agreement is from July 1, 2008 through June 30, 2009, and may be extended from year to year thereafter as provided in Section 12. RESORT ASSOCIATION agrees to complete all tasks and submit all reports and other duties as outlined within said Scope of Work.

4. PROGRESS REPORTS

RESORT ASSOCIATION shall submit such progress reports and information as may be requested by COUNTY, including, but not limited to, the following requirements:

- A. The RESORT ASSOCIATION shall provide quarterly written reports to COUNTY describing in general narrative form the work performed during that previous quarter under each of the categories set forth in the Scope of Work, including a summary recap of the budget expenditures for each such category as set forth in the Final Budget and for projects and programs as defined in the Scope of Work, and Return on Investment indicator data as outlined in the Marketing Performance Review document. The report shall describe the need to revise the Scope of Work to achieve the desired program objectives, if required, explain any unanticipated difficulties in achieving program objectives, and propose amendments to this Agreement as may be necessary to achieve the objectives of the parties. The RESORT ASSOCIATION shall provide a completed quarterly report to the CEO Tahoe Office no later than 45 days following the last day of each quarter. The COUNTY may request additional information regarding the activities of the RESORT ASSOCIATION, which shall be promptly provided.
- B. No later than May 31, 2009, the RESORT ASSOCIATION shall submit a Scope of Work and an accompanying budget request for the succeeding fiscal year. The request shall include any suggestions for improvement of the Scope of Work and program objectives, and identify the costs thereof, if any.
- C. Prior to submittal to the COUNTY, the proposed budget and Scope of Work shall be made available for public review and comment by the RESORT ASSOCIATION in public forums at the Board of Directors and the following committee meetings: Chamber of Commerce, Finance, Infrastructure, Marketing, and Transportation. All comments and

any response shall accompany the submittal to the COUNTY. Any RESORT ASSOCIATION partners, both public and private, who could be impacted by funding proposed to be included or excluded in the proposed budget will be notified in advance of the review and comment process.

- D. The RESORT ASSOCIATION shall have an annual audit of assets and liabilities performed and shall provide the same to the COUNTY within thirty (30) days of its completion. The COUNTY shall have the right to perform an audit of the financial records of the RESORT ASSOCIATION at its own cost at any time to verify payments and expenditures made under this Agreement. Upon request of the COUNTY, the RESORT ASSOCIATION agrees to make its financial record available to the COUNTY for any such review within a reasonable period of time.

5. COMPENSATION

A. MAXIMUM LIMIT

The RESORT ASSOCIATION'S total compensation, as set forth in Attachment B, shall reflect the amount approved annually in the Board of Supervisors Final Budget for the current fiscal year, as well as any subsequent budget revisions approved by the Board of Supervisors, and shall be based on funding availability and annually negotiated on a fee for service or percentage formula basis.

Funding availability is net of County services. The amount provided for County services shall be based on the FY 2004-2005 Final Budget (as approved by the Board of Supervisors in November of 2004). The allocation for County services will be increased each year by the Consumer Price Index for a period of 5 years (CPI adjustment will be applied beginning in FY 2005-2006):

The approved amount shall represent full compensation for those activities and tasks described in the "Scope of Work" set forth as Attachment A, as well as any approved amendments to the Scope of Work per Section 2 of this Agreement. All expenses of the RESORT ASSOCIATION, including any expert or professional assistance, any travel or per diem costs, any administrative services, and any capital expenditures necessary to complete the Scope of Work will be paid only from the money identified for each specific purpose, and within the limits set forth above.

B. INFRASTRUCTURE ACCOUNT

- 1) FY 2008-2009 charges for Overhead and Administration in the Infrastructure Account may be up to but not exceed \$157,500.
- 2) Other than Overhead and Administration expenses noted above, action by the Board of Supervisors is required for the expenditure of infrastructure funds based on recommendations of the NLTRA Infrastructure Committee to the Resort Association Board of Directors and approval of NLTRA recommendations by the

Board of Supervisors. No infrastructure funds shall be expended by NLTRA until Board of Supervisors approval is granted.

- 3) The NLTRA Infrastructure Committee shall continue to consist of twelve (12) members, with six appointed by the Board of Directors of the Resort Association, and six (6) appointed by the Placer County Board of Supervisors. At the end of a two-year term, either the Resort Association or the Board of Supervisors may reappoint members.
- 4) All interest on funds earned in the RESORT ASSOCIATION Infrastructure Account shall be applied back to the Infrastructure Account, allocated only to Infrastructure projects and not applied to other activity accounts. Expenditure of interest and carryover funds in the Infrastructure Account shall be in accordance with the approval process illustrated in Section B. 2). Any carryover from the previous fiscal year shall be allocated to each activity account based on the agreed to formula and shall not be expended by any other activity account. Fund balance shall be allocated to the activity account in which it originated.
- 5) Expenditure of Research and Planning funds allocated to the Infrastructure Account does not require Board of Supervisors approval, but shall be limited to expenditure on Research and Planning Activities that provide advance studies, concept or preliminary planning, technical fact-finding or analysis, data collection, community workshops, and public opinion surveys that lead toward the advancement of projects eligible for funding from the Infrastructure Account as outlined in the TCIMP, and as specified in the annual budget. A list of potential Research and Planning fund activities being considered for FY 2008-2009 is included in the Scope of Work, Attachment A.
- 6) Beginning in Fiscal Year 2006-2007, the RESORT ASSOCIATION shall over a three year period set aside \$2 million in Infrastructure Funds, in addition to the \$1.35 million already set aside of which \$650,000 has been expended, for a total project commitment of \$3.35 million, for expenditure on the Kings Beach Commercial Core Improvement Project. Beginning in Fiscal Year 2008-2009, the RESORT ASSOCIATION shall set aside a total of \$900,000 in Infrastructure Funds over a two year period (\$400,000 in year one and \$500,000 in year two), in addition to the initial \$3.35 million, for expenditure on the Kings Beach Commercial Core Improvement Project. The RESORT ASSOCIATION shall set aside \$500,000 during FY 2008-2009 for final design and construction of the Tahoe City Transit Center. The RESORT ASSOCIATION will also provide \$100,000 to the County Public Works Department to be used for enhanced snow removal services for the Squaw Valley, Alpine Meadows, and Northstar Ski Resorts. The funds will accrue to the Infrastructure Fund Account currently retained by the COUNTY.

C. MARKETING ACCOUNT

- 1) The Marketing Account shall maintain a total 15 percent reserve of the total budgeted expenditures to provide for fluctuations in the Transient Occupancy Tax

collected. The RESORT ASSOCIATION'S policy document on marketing reserve fund expenditure is included as Attachment F to this contract. If reserve funds are expended as called for in Attachment F, the funds will be reimbursed to the reserve account by the end of the following fiscal year.

- 2) No Transient Occupancy Tax dollars shall be used for the purpose of operating or maintaining Central Reservations functions of the Central Reservations Department.
- 3) In order to meet the Tourism and Community Investment Master Plan goal of "conducting more direct marketing and sales in cooperation and coordination with its member businesses and constituents," and consistent with Attachment A, Scope of Work, a Community Marketing program shall allocate \$60,000 toward the development of special projects and programs that promote visitation to communities. The Community Marketing program will set aside \$50,000 to be allocated only after consensus recommendation of the RESORT ASSOCIATION'S Chamber Advisory Committee to the North Tahoe Business Association, Tahoe City Downtown Association, West Shore Association, Northstar Village Retailers Association and the Squaw Valley Business Association, based on pre-determined criteria. Attachment D to this contract includes the criteria list, as well as monitoring information required to determine ROI. The recommendation must then be approved by a majority vote of the RESORT ASSOCIATION Board of Directors. The remaining \$10,000 balance will be distributed through a similarly-approved Special Events mini-grant process. The Chamber Advisory Committee will consist of one representative each from the North Tahoe Business Association, Tahoe City Downtown Association, West Shore Association, Northstar Village Retailers Association, Squaw Valley Business Association, the COUNTY, and at a minimum, one representative from the RESORT ASSOCIATION/North Lake Tahoe Chamber of Commerce. As part of its consideration for continuation of this program, the RESORT ASSOCIATION has codified this committee in its bylaws.
- 4) As identified in the Tourism and Community Investment Master Plan, the RESORT ASSOCIATION and PLACER COUNTY Executive Office Staff have developed and approved a mutually agreed upon set of Return on Investment indicators from the expenditure of all dollars expended by NLTRA for direct marketing promotion. The purpose of this requirement is to ascertain the effectiveness of the COUNTY'S investment in direct marketing and promotions services provided by the RESORT ASSOCIATION. As recommended in the Master Plan, the specific set of ROI indicators developed shall use measurable objectives and tracking mechanisms, so that RESORT ASSOCIATION marketing program expenditures, as recommended in the TCIMP, can be "measured, tracked, and evaluated based on ROI." The resultant Marketing Performance Review Document is included as Attachment E to this document. An ROI data and analysis report will be provided to the Placer County Executive Office based on specifications agreed to by the Placer County Executive Office as part of the Bi-seasonal Marketing Collateral Reports. The summer report (April- September) is due no later than 45 days following the last day of the first

quarter and the winter report (October- March) is due 45 days following the last day of the third quarter.

- 5) The RESORT ASSOCIATION has voted to enter into a Cooperative Marketing Agreement with the Incline Village Crystal Bay Visitors Bureau (IVCBVB). Consistent with the terms of the North Lake Tahoe Marketing Cooperative Participation Agreement between the RESORT ASSOCIATION and the IVCBVB, the following stipulations are also made part of this Agreement between the RESORT ASSOCIATION and the COUNTY.

a) No provision in the North Lake Tahoe Marketing Cooperative Participation Agreement shall be interpreted as to supersede or conflict with any provision of the current Agreement between the COUNTY and the RESORT ASSOCIATION as approved by the RESORT ASSOCIATION and the COUNTY.

b) The RESORT ASSOCIATION shall maintain and track a separate accounting of its Marketing and Administrative Expenditures as contributed to the Cooperative, along with an accounting of the combined Cooperative expenditures. Any and all administrative costs expended by the RESORT ASSOCIATION on behalf of the Cooperative and its partners shall be reimbursed to the RESORT ASSOCIATION by fair share allocation following review and approval by the COUNTY.

c) The RESORT ASSOCIATION shall include Marketing Performance Indicators based on the total annual expenditures of the North Lake Tahoe Marketing Cooperative as part of the RESORT ASSOCIATION'S adopted Marketing Performance Review Document, an updated copy of which shall be provided to Placer County as part of the RESORT ASSOCIATION'S Year End Report to Placer County.

d) Activities, including program oversight, and any decisions made by the Cooperative Marketing Committee, as defined in Section 8 of the North Lake Tahoe Marketing Cooperative Agreement, shall be consistent with the budget resources and marketing direction approved by the RESORT ASSOCIATION Board of Directors, in accordance with its approved Operating Procedures and Policies document.

D. VISITOR SUPPORT SERVICES ACCOUNT

- 1) Expenditure of Research and Planning funds allocated to the Visitor Support Services Account shall be limited to expenditure on Research and Planning Activities that provide advance studies, including plans, specifications and engineering, concept or preliminary planning, technical fact-finding or analysis, data collection, community workshops, and public opinion surveys that lead toward the advancement of projects eligible for funding from the Visitor Support Services Account as outlined in the

TCIMP. A list of potential Research and Planning fund activities being considered for FY 2007-2008 is included in the Scope of Work, Attachment A.

E. PAYMENT SCHEDULE

- 1.) Payments shall be made to the RESORT ASSOCIATION as set forth in Attachment B, entitled "Payment Schedule" for the term of this Agreement, predicated on the ongoing fulfillment of the terms of this Agreement, and based upon the receipt of progress reports as outlined in Section 4. The Payment Schedule for FY 2008-2009 will begin on September 15, 2008 or upon execution of this agreement. The Payment Schedule may be amended with the written approval of the County Executive Officer or his designee. Such amendment may include advance funding for administration, marketing, and transportation as mutually agreed upon by the parties; however, in no event shall such amendments create any additional liability to COUNTY, or additional compensation to RESORT ASSOCIATION without approval of the Board of Supervisors (i.e. any advance would be comprised of funds included within the NLTRA/Placer County budget and overall agreement amount).
- 2.) Apportionment to the Infrastructure Account held by the COUNTY will occur at such time as the Placer County Board of Supervisors approves of the RESORT ASSOCIATION recommended infrastructure projects. Distribution of funds to the RESORT ASSOCIATION for Infrastructure projects shall occur once per quarter based on anticipated project expenditures, and only after receipt and acceptance of a statement inclusive of previous project invoices, expenditures and balances in a format agreed to the COUNTY. The RESORT ASSOCIATION shall not carry an Infrastructure Account balance that exceeds the amount allocated in the quarterly payment by more than \$250,000. If funds in addition to those anticipated in the quarterly allocation request are required, an additional request for funds may be submitted to the COUNTY for review and approval. Distribution to the RESORT ASSOCIATION shall be consistent with project progress as mutually agreed upon. Payments for new infrastructure projects recommended by the RESORT ASSOCIATION and approved by the Board of Supervisors shall first be funded with any existing TOT funds held by the RESORT ASSOCIATION prior to additional payments to the RESORT ASSOCIATION from the COUNTY infrastructure fund.

F. POLITICAL CONTRIBUTIONS

The RESORT ASSOCIATION shall not use any funds received under this Agreement for political contributions of any type. The RESORT ASSOCIATION may use budgeted funds received under this Agreement to obtain legislative advocacy services, so long as those services are exclusively utilized in a manner consistent with the intent and purpose of this Agreement and the duly adopted policies of the COUNTY regarding any issue for which such services are obtained by the RESORT ASSOCIATION. Such efforts may include advocacy for state and federal funding to implement identified infrastructure projects, transit operations, and/or other legislative efforts consistent with the intent and purpose of this agreement that are allowable with respect to expenditure of public funds.

In the event that the RESORT ASSOCIATION engages in any other expenditures for legislative advocacy or political purposes utilizing its own funds, the RESORT ASSOCIATION shall certify upon the request of the COUNTY that all such expenditures are from funds other than those provided by this Agreement.

G. RIGHT TO WITHHOLD PROGRESS PAYMENTS

1. COUNTY, in its sole discretion, may withhold part or all of monthly payments, if the RESORT ASSOCIATION:
 - a) Does not comply with the requirements set forth in this Agreement; or,
 - b) Does not adhere to the Scope of Work, detailed work plans and key milestones for measuring progress; or,
 - c) Fails to take prompt and effective corrective action to remedy material variances from the Scope of Work, detailed work plans and key milestones for measuring progress.
2. In the event the RESORT ASSOCIATION fails to perform the following tasks in a timely manner, as prescribed below, the COUNTY will withhold a one (1) percent penalty of the total administration/overhead costs as outlined in the FY 2008-2009 budget, Attachment C, per occurrence.
 - a) Marketing Performance Indicator Data will be reported as part of the Bi-seasonal Marketing Collateral Reports, due to CEO Tahoe Office 45 days following the last day of the first (summer season) and third (winter season) quarters; and,
 - b) Quarterly Report due to CEO Tahoe Office no later than 45 days following the last day of each quarter; and,
 - c) Proposed Scope of Work for following fiscal year due to CEO Tahoe Office no later than May 31, 2009; and,
 - d) Proposed Budget for following fiscal year due to CEO Tahoe Office no later than May 31, 2009; and,
 - e) Actions completed as identified in Section 2. D-H., Conduct of the Resort Association,...
3. Payments shall not be withheld unless and until COUNTY:
 - a. Provides RESORT ASSOCIATION a written notice of intent to withhold payment; and,
 - b. Allows RESORT ASSOCIATION fifteen (15) calendar days to respond and/or take corrective action(s).

6. RECORDS

A) RESORT ASSOCIATION shall maintain at all times separate, complete, detailed records of the funds with regard to work performed under this Agreement in a form acceptable to COUNTY, according to generally accepted accounting and internal control principles. COUNTY shall have the right to inspect such records, including Board and Committee meeting agendas and minutes, at any reasonable time. Notwithstanding any other terms of this Agreement, no payments shall be made to RESORT ASSOCIATION until COUNTY is satisfied that work of such value has been rendered pursuant to this Agreement. Payments shall not be withheld unless and until COUNTY:

- 1) Provides RESORT ASSOCIATION a written notice of intent to withhold payment; and
- 2) Allows RESORT ASSOCIATION fifteen (15) calendar days to respond and/or take corrective action(s).

B) Records, progress reports, work papers, written or graphic material developed by RESORT ASSOCIATION in connection with its performance of services hereunder shall be, and shall remain after termination of this Agreement, the property of RESORT ASSOCIATION.

7. EMPLOYEES OF RESORT ASSOCIATION

All persons performing services for RESORT ASSOCIATION shall be independent contractors, or employees of RESORT ASSOCIATION and not employees of COUNTY. RESORT ASSOCIATION shall be solely responsible for the compensation of independent contractors and for the salaries and other applicable benefits, including Workers' Compensation, of all RESORT ASSOCIATION employees.

8. PERFORMANCE

The RESORT ASSOCIATION agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to high professional standards. Accordingly, RESORT ASSOCIATION, its agents and employees, shall not cause, through any oral or written statements, discredit to COUNTY, its officers, agents or employees.

9. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

The RESORT ASSOCIATION hereby agrees to protect, defend, indemnify, and hold COUNTY free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character, including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the COUNTY) and without

limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the Agreement. The RESORT ASSOCIATION agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demands, or suits at the sole expense of RESORT ASSOCIATION. THE RESORT ASSOCIATION also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against the RESORT ASSOCIATION or the COUNTY, or to enlarge in any way the RESORT ASSOCIATION's liability, but is intended solely to provide for indemnification of COUNTY from liability for damages or injuries to third persons or property arising from RESORT ASSOCIATION's performance pursuant to this Agreement.

10. INSURANCE

RESORT ASSOCIATION shall file with COUNTY, concurrently herewith, a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A: VII Showing.

A. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE

Consistent with Section 7, above, The RESORT ASSOCIATION shall provide Worker's Compensation insurance as required by applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 policy limit for bodily injury by disease, and \$1,000,000 each employee for bodily injury by disease.

If there is an exposure of injury to RESORT ASSOCIATION's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Workers' Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to The County of Placer." RESORT ASSOCIATION shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

B. GENERAL LIABILITY INSURANCE

- 1) Comprehensive General Liability or Commercial General Liability Insurance covering all operations by or on behalf of RESORT ASSOCIATION, providing

insurance for bodily injury and property damage liability for the limits of liability indicated below and including coverage for:

- a) Contractual liability insuring the obligations assumed by the RESORT ASSOCIATION in this Agreement.
- 2) One of the following forms is required:
 - a) Comprehensive General Liability;
 - b) Commercial General Liability (occurrence); or
 - c) Commercial General Liability (claims made).
- 3) If RESORT ASSOCIATION carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:
 - One million dollars (\$1,000,000) each occurrence
 - One million dollars (\$1,000,000) aggregate
- 4) If RESORT ASSOCIATION carries a Comprehensive General Liability (Occurrence) Policy:
 - a) The limits of liability shall be not less than:
 - One million dollars (\$1,000,000) each occurrence (combined single Limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) for Products-Completed Operations
 - One million dollars (\$1,000,000) General Aggregate
 - b) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million (\$2,000,000).

C. SPECIAL CLAIMS MADE POLICY FORM PROVISIONS:

RESORT ASSOCIATION shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

- 1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (Combined Single Limit for bodily injury and property damage)

- One million dollars (\$1,000,000) aggregate for Products Completed-Operations

-One million dollars (\$1,000,000) General Aggregate

- 2) The insurance coverage provided by RESORT ASSOCIATION shall contain language providing coverage up to six (6) months following the completion of this Agreement in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims made policy.

D. ENDORSEMENTS

Each Comprehensive or Commercial Liability policy shall be endorsed with the following specific language:

- 1) "The County of Placer, its officers, agents, employees and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement between the Resort Association and the County of Placer."
- 2) "The insurance provided by the RESORT ASSOCIATION, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs mandated by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- 3) "This policy shall not be canceled or materially changed without first giving thirty (30) days written notice to the County of Placer."

E. AUTOMOBILE LIABILITY INSURANCE

Automobile liability insurance covering bodily injury and property damage in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

11. CANCELLATION

This Agreement may be canceled by COUNTY or RESORT ASSOCIATION upon the giving of ninety (90) days advance written notice. Such notice shall be personally served or given by registered or certified United States Mail. In the event of cancellation by COUNTY or RESORT ASSOCIATION, RESORT ASSOCIATION shall be paid for all work performed and all reasonable expenses incurred to date of cancellation with any remaining unexpended funds returned to COUNTY.

12. AMENDMENTS - ANNUAL EXTENSIONS

12. AMENDMENTS - ANNUAL EXTENSIONS

This Agreement may be amended in writing. It is contemplated by the parties that the COUNTY will continue to contract for the services such as those set forth in the Scope of Work to be performed for the benefit of the North Lake Tahoe area on an annual basis, and that the RESORT ASSOCIATION will continue to be available, willing, and capable of providing such services on an annual basis. In the event the parties are agreeable to extending this Agreement, the Agreement may be extended by amending Sections 1 and 5 to set forth a new Scope of Work and new compensation and payment schedule for each succeeding year.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

COUNTY OF PLACER, "COUNTY"

By: _____
Jim Holmes
Chair, Board of Supervisors

Date: _____

**NORTH LAKE TAHOE RESORT ASSOCIATION,
"RESORT ASSOCIATION"**

By: Debbie Casey
Debbie Casey, Chairman, Board of Directors
North Lake Tahoe Resort Association

Date: 8/18/08

Approved as to Form:

By: _____
County Counsel

Date: _____

List of Attachments:

- A- Scope of Work
- B- Payment Schedule
- C- FY 2008-2009 Budget
- D- Community Marketing Program Eligibility Criteria
- E- Marketing Performance Review Document
- F- Marketing Reserve Account Policy

- E- Marketing Performance Review Document
- F- Marketing Reserve Account Policy