

FUNDING/REIMBURSEMENT AGREEMENT WITH THE CITY OF SOUTH LAKE TAHOE

THIS AGREEMENT made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and the City of South Lake Tahoe, whose principal place of business is 1901 Airport Road, South Lake Tahoe, CA 96150 (herein after referred to as "City")

Recitals

WHEREAS, County applied for FY 2009 Homeland Security Grant programs ("Grant"); and

WHEREAS, County was awarded grant funds in the amount of \$453,415, for the FY 2009 grant, which was included in the County Sheriff's Department Fiscal Year 2009 - 2012 budgets; and

WHEREAS, Grant provides funding for planning, equipment, training, exercises and management/administrative costs; and

WHEREAS, County, as the Operational Area lead agency, will receive the grant funds, purchase and loan equipment to other participating agencies, or reimburse agencies who purchase grant approved equipment; and

WHEREAS, as required by the Homeland Security Grant, on April 8, 2003 the County Board of Supervisors created an Approval Authority, representing the City of Placerville, City of South Lake Tahoe, Sheriff, Public Health, Environmental Management, and Fire Districts, on April 8, 2003, to distribute the Grant funds at the local level; and

WHEREAS, City is a local participating agency in the FY 2009 Homeland Security Grant program; and

WHEREAS, the Approval Authority has agreed to disburse an amount not to exceed \$70,000 in grant funds to the City, for City to purchase software, computer equipment and data relay costs for their Emergency Operations Center (EOC) Alliance EOC Component project (hereinafter referred to as the "Equipment");

NOW, THEREFORE, County and City mutually agree as follows:

ARTICLE I

Payment of Funds: County will reimburse City in an amount not to exceed \$70,000 solely for the purchase of Equipment within thirty (30) days after City presents an invoice, as well as documentation verifying that the City complied with grant purchasing guidelines to County. In no event shall County's obligation under this Agreement exceed \$70,000.

ARTICLE II

Use of Funds: City will use the funds to be reimbursed by County solely for the purchase of the Equipment. City is responsible for maintenance, repairs or any other costs incurred in accordance with grant purchasing guidelines related to the equipment. City shall purchase the Equipment directly from the supplier and shall take title directly without title passing through the County. City will purchase the Equipment by February 28, 2012, and present the County with an invoice for payment. In the event City does not purchase the Equipment by February 28, 2012 and invoice the County by March 30, 2012, or in the event City does not adhere to grant purchasing guidelines, County's obligation for payment shall be null and void, and upon written demand by County, City shall return any funds it has received from County and not spent on the Equipment to County within thirty (30) days of mailing of written demand of County.

City shall submit to County its statement of the total sum of an amount not to exceed \$70,000, identical to Attachment A, noting that the Equipment has been purchased. Such statement shall be signed under penalty of perjury by an authorized signatory of the City.

ARTICLE III

Term: This Agreement shall become effective when fully executed by both parties ("Effective Date") and shall expire when grant performance period expires, currently scheduled for April 30, 2012.

ARTICLE IV

Audit and Access to Records: The County shall have the right of access to any books, documents, papers, or other records which are pertinent to the Grant, in order to make audits, examinations, excerpts and transcripts. For a period of three (3) years after the termination of this Agreement, City will keep and maintain an accurate financial account, in accordance with generally accepted accounting principles, of all funds expended by the City with respect to the Equipment until notification is provided by the county that the State Homeland Security Grant Program has closed the grant and completed all audits and reviews. Such accounting records shall be available for inspection by the County's designee, during normal business hours at the offices of the City, or the offices of its financial consultant.

ARTICLE V

Compliance with Applicable Law and Grant Requirements: City has read and understands the Grant and will comply with and require any vendor of the Equipment to comply with all laws, regulations and guidance documents that apply to the Grant (Attachment B). City is responsible for ensuring that all purchases for goods and services must comply with grant purchasing guidelines. Specifically, City shall comply with 44 Code of Federal Regulations (CFR) Parts 13

and 17, OMB Circulars A-87, A102, A-133, E.O. 12372 and the current Administrative Requirements, Cost Principles, and Audit Requirements.

City agrees to maintain accountability of all items, mark or tag all individual items or sets costing over \$1,500 for inventory and control purposes, maintain or repair any items and ensure all CFR required record keeping. ID tag numbers, location of storage, and physical condition will be reported by City to the County at the time of purchase and at least once per year thereafter.

Items lost or destroyed within the Grant Performance Period must be replaced solely by the City at its own expense. City is responsible for ensuring that all items, regardless of cost, procured under this or any federal grant programs will be maintained and controlled for the useful life of the items, and any sale, disposal or planned destruction of said items will be done only upon receipt of written approval from the U.S. Department of Homeland Security or its delegated representative.

As federally funded equipment, the City agrees that equipment must be made available for mutual aid, as requested.

In the event an audit by the County or the State of California (CalEMA) determines the City failed to comply with these guidelines, the County shall provide written notification of the violation and the City may be required to reimburse the County for the total cost of the affected items.

ARTICLE VI

Independent Authority Liability: City is, and shall be at all times, deemed independent and shall be wholly responsible for the acts of the City's employees, associates, agents, and contractors, if any, in connection with the purchase of the Equipment.

ARTICLE VII

No Third Party Beneficiary: Nothing in this Agreement shall be construed to create any rights of any kind or nature in any other party not a named party to this Agreement.

ARTICLE VIII

Termination: County may terminate this Agreement in the event City becomes unable to substantially perform any terms or conditions of the Agreement. In the event of early termination of the Agreement, funds previously received from County shall be returned to County within thirty (30) days of termination.

ARTICLE IX

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Mail, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

COUNTY OF EL DORADO
360 Fair Lane
Placerville, CA 95667
ATTN: Asst. Deputy Director of OES

or to such other location as the County directs.

Notices to Authority shall be addressed as follows:

City of South Lake Tahoe
1901 Airport Road
South Lake Tahoe, CA 96150
ATTN: Tony O'Rourke, City Manager

or to such other location as the City directs.

ARTICLE X

Indemnity: The City shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the purchase of the Equipment or the use, operation and maintenance of the Equipment. This duty of City to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778.

This obligation to defend and indemnify the County shall survive the expiration or termination of this Agreement and shall remain in full force and effect. Within thirty (30) days after the Effective Date of this Agreement, City shall provide proof in a form satisfactory to the County's Risk Manger of participation in a self-insurance program, or proof of insurance sufficient to meet City's defense and indemnification obligations herein.

ARTICLE XI

Change to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said Amendment shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE XII

Administrator: The County Officer or employee with responsibility for administering this Agreement is John D'Agostini, Sheriff, or successor.

ARTICLE XIII

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XIV

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

ARTICLE XV

Venue: Any dispute resolution action arising out of this Agreement, including but not limited to litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Authority waives any removal rights it might have under Code of Civil Procedure Section 394.

ARTICLE XVI

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

ARTICLE XVII

Time is of the Essence: The parties hereto acknowledge and agree that time is of the essence.

REQUESTING DEPARTMENT CONCURRENCE:

By: _____ Dated: _____
John D'Agostini
Sheriff

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

COUNTY OF EL DORADO:

Dated: _____

By: _____
John R. Knight, Chair
Board of Supervisors

ATTEST:
Suzanne Allen de Sanchez, Clerk
of the Board of Supervisors

ATTEST:
Susan Alessi, City Clerk

By: _____ Date:
Deputy Clerk

By: _____
Susan Alessi, City Clerk
Dated: _____

CITY OF SOUTH LAKE TAHOE

Approved By: _____
Claire Fortier, Mayor

ATTACHMENT "A"

Dated: _____

Sheriff John D'Agostini
Sheriff Department
County of El Dorado
360 Fair Lane
Placerville, California 95667

Re: City of South Lake Tahoe
FY 2009 Homeland Security Grant Equipment- Alliance EOC

Dear Sheriff D'Agostini:

I certify that the City of South Lake Tahoe completed the following purchase of Alliance EOC equipment in accordance with grant purchasing guidelines and grant assurances (Attachment B).

(List Equipment):

Attached is the receipt for this Equipment. Please remit the reimbursement at your earliest convenience.

I declare under penalty of perjury under the laws of the State of California that the foregoing certification is true and correct. Executed on the date written above in El Dorado County, State of California.

City of South Lake Tahoe:

By: _____

(Print name & title)